

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 155, “ZONING CODE,” OF THE POMPANO BEACH CODE OF ORDINANCES IN ACCORDANCE WITH SECTION 166.04151.(7), FLORIDA STATUTES; BY AMENDING SECTION 155.2407, “SITE PLAN,” TO PROVIDE THE REQUIRED ADMINISTRATIVE APPROVAL PROCESS FOR QUALIFIED LIVE LOCAL ACT PROJECTS; BY AMENDING SECTION 155.4202., “RESIDENTIAL: HOUSEHOLD LIVING USES,” BY DELETING SUBSECTION A, “STANDARDS APPLICABLE TO HOUSEHOLD LIVING USES” IN ITS ENTIRETY AND REPLACING IT WITH NEW SUBSECTION A, “MIXED INCOME RESIDENTIAL AND MIXED USE DENSITY BONUS POLICIES” TO RESTATE AND PROVIDE MIXED-INCOME HOUSING REQUIREMENTS AND POLICIES; AND BY AMENDING ARTICLE 9: DEFINITIONS AND INTERPRETATION, BY AMENDING PART 5, “TERMS AND USES DEFINED”, TO MODIFY AND PROVIDE ADDITIONAL DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida adopted Chapter 2023-17, Laws of Florida, effective July 1, 2023, known as the Live Local Act, which was later amended by the adoption of Chapter 2024-188, Laws of Florida, (the “Act”); and

WHEREAS, the Act preempts certain use, density, height, floor area ratio, and parking regulations and imposes various obligations, including the requirement for a municipality to permit multi-family and mixed-use residential development as a permitted use in any area zoned for commercial, industrial, or mixed-use if at least forty percent (40%) of the residential units are affordable, as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years; and

WHEREAS, the City Commission has determined that it is appropriate and in the public interest to provide that projects proposed under the Act on commercial or industrial zoned properties are subject to the development regulations in the multi-family residence zoning districts; and

WHEREAS, the Act provides that if a municipality has designated less than twenty percent (20%) of the land area within its jurisdiction for commercial or industrial use, it is only required to allow multi-family development pursuant to the Act as part of a mixed-use residential development; and

WHEREAS, given that less than twenty percent (20%) of the land area of the City is designated for commercial use, any development of land approved pursuant to the Act must consist of a mixed-use project; and

WHEREAS, the City is committed to providing a sustainable community for its residents and future generations, and ensuring an adequate tax base to support public services is an essential component of developing and maintaining such a sustainable community; and

WHEREAS, the City Commission has determined that a percentage of the total square footage on the ground floor of a project proposed under the Act as a non-residential component is both meaningful and appropriate in order to support required services and maintain residential affordability for City residents; and

WHEREAS, the Act requires that an affordable housing project proposed under the Act must be administratively approved without further action by any governing or appointed body if the development satisfies the City's land development regulations and is consistent with the City's Comprehensive Plan, with the exception of provisions establishing allowable densities, height, floor area ratio (FAR), parking and land use (which are established in, and preempted by, the Act), and complies with all other applicable requirements of state and local law; and

WHEREAS, the Act provides that the City must consider the possibility of reducing parking requirements for projects developed under the Act if the project is located near a transit stop accessible from the development; and

WHEREAS, the City Commission supports affordable housing and finds it necessary to revise the City Code in order to establish equitable regulations to implement the provisions of the Act; and

WHEREAS, the City is adopting the regulations contained within this ordinance to provide for implementation of the Act, which was effective as of July 1, 2023, and later amended, and has determined it is appropriate for all applications for projects under the Act to be processed in accordance with the regulations contained within this ordinance, and to apply these regulations to any application or submission for an application under the Act; and

WHEREAS, the City Commission finds and determines that updating the City's Code of Ordinances to implement the Live Local Act is in the best interest of the residents of Pompano Beach; and

WHEREAS, the Planning and Zoning Board has reviewed and recommended approval of the proposed code amendments; and

WHEREAS, in accordance with Florida Statutes Section 166.041(3)(c)2, advertisements have been published in a newspaper of general circulation in the City of Pompano Beach and of general interest and readership in the community, notifying the public of two public hearings on this proposed Ordinance; and

WHEREAS, two public hearings before the City Commission were held pursuant to the published notice described above, at which hearings the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

SECTION 2. That Section 155.2407., “Site Plan,” of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

155.2407. SITE PLAN

A. Purpose

The site plan provisions of this section are intended to ensure that the layout and general design of proposed development is compatible with surrounding uses and complies with all applicable standards in this Code and all other applicable city regulations. The purpose of this section is to establish the procedure and standards for review of site plans.

B. Applicability

There are two types of Site Plans authorized by this Code: Major Site Plans and Minor Site Plans.

1. Major Site Plan

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2. Minor Site Plan

a. Unless exempted in accordance with subsection 3 below, a development order for a Minor Site Plan in accordance with this section is required before issuance of a Zoning Compliance Permit for any development other than those for which a Major Site Plan is required in accordance with subsection 1 above.

b. Any residential project (mixed or single use) developed in accordance with the requirements of Section 166.04151(7), Florida Statutes, shall be subject to a minor site plan approval process. The site plan will be administratively approved without a public hearing.

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SECTION 3. That Section 155.4202., Residential: Household Living Uses, of "Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach shall be amended

by deleting subsection A. of Section 155.4202., “Residential: Household Living Uses” in its entirety and replacing it to read as follows:

155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

A. Mixed Income Residential and Mixed Use Density Bonus Policies

1. Mixed Income and Mixed Use Residential Density Bonuses are intended to encourage economic revitalization through redevelopment that is mixed use/mixed income, transit/pedestrian oriented, compatible with adjacent uses, and encourages corridor beautification. Further, such bonuses are conditioned on the developer or purchaser providing, in a manner acceptable to the city, guarantees, as a minimum, through the use of restrictive covenants, that the affordability of the bonus units will be maintained for a period of at least thirty (30) years for rental housing and at least thirty (30) years for owner-occupied housing. The following policies may be utilized:
 - a. Broward County Affordable Housing Density Bonus Policies 2.16.3 and 2.16.4
 - b. Section 154.61 Redevelopment and Flexibility Units
 - c. Section 166.04151(7), Florida Statutes, as amended. The development of residential and mixed-use affordable housing developments pursuant to the provisions of Section 166.04151(7), Florida Statutes (“Live Local Act projects”) involves a combination of residential and non-residential components, and a combination of dwelling units, at least forty percent (40%) of which must qualify as affordable housing units, as defined in Section 420.0004, Florida Statutes, to accomplish the following purposes:
 - i. Protect and promote the public health, safety, and general welfare of the residents of the city;
 - ii. Facilitate the orderly and efficient development of affordable housing in the city pursuant to the Act;
 - iii. Acknowledge the statutory preemptions regarding use, height, density, FAR and parking under the Act;

- iv. Provide the minimum non-residential floor area for mixed use developments under this Act are the same as for other mixed-use projects in the city; and
- v. Establish an administrative approval process for qualifying developments under the Act.
- vi. The Act does not apply to Airport-impacted areas such as the Airpark Overlay District as defined in Section 155.3707, and as provided in Section 333.03, Florida Statutes.
- vii. Applications for a Live Local Act project must be deemed complete prior to October 1, 2033. No applications for such projects shall be accepted after October 1, 2033 unless the Florida Legislature extends or reenacts Section 166.04151(7), Florida Statutes.

2. Development Standards Applicable to all Density Bonus Policies

a. Height

- i. All developments greater than 35' in height must result in an effective transition of heights from abutting low-density residential (20 units per acre or less) development to the tallest portion of the development. The effective transition of heights is intended to demonstrate compatibility of heights with abutting low-density residential development and to demonstrate that the tallest portions of the development are appropriately located including a gradual and incremental increase in height that is proportionally tiered and reasonably distributed.
- ii. Live Local Act projects may have the highest height of any commercial, residential or mixed-use zoning district within one mile of the proposed development site or as otherwise limited by the Act, when adjacent to single-family homes on two sides. Allowable height, therefore, will be determined on a site-specific basis for Live Local Act projects. The highest height allowed does not include the height of any building that has received any bonus, variance, or other special exception for density provided in the

city’s land development regulations as an incentive for development.

- iii. If the Live Local Act project is adjacent to, on two or more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes, the height of the proposed development is limited to 150 percent of the tallest building on any property adjacent to the Live Local Act project, the highest currently allowed height for the property provided in the city’s land development regulations, or 3 stories, whichever is higher. For the purposes of this paragraph, the term “adjacent to” means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

b. Density

- i. Development parcels with two or more density area designations shall unify for development purposes and may cluster units within the most intense density area of the development parcel.
- ii. Live Local Act projects may have up to the highest density allowed in any residential or mixed-use zoning district under the city’s land development regulations. The highest density allowed does not include the density of any building that has received any bonus, variance, or other special exception for density provided in the city’s land development regulations as an incentive for development.

c. Floor Area Per Dwelling Unit

<i>Table 155.4202.A.2.c.: Floor area per dwelling unit, minimum (square feet) (applies to 2.16.3, 2.16.4 and Live Local projects)</i>		
MF	Efficiency Units	450
	1 Bedroom	575

	2 Bedroom	750
	3 Bedroom	850
	Additional Bedroom	100

- d. Maximum Lot Coverage. Multi-Family and Mixed-use development that incorporates mixed income residential may increase lot coverage by up to 20%.
- e. Minimum Pervious Area. Multi-Family and Mixed-use development that incorporates mixed income residential may reduce the pervious area requirement to 10% of the total lot area. Landscaping and stormwater retention requirements still apply.
- f. Setbacks and Building Placement.

<i>Table 155.4202.A.2.f.: Setbacks and Building Placement</i>		
		<i>Along Policy 2.16.4 Eligible Corridors</i>
Front / Street Side Setback	Minimum	0 feet
	Maximum	20 feet
Build-to Zone (minimum)		60%
Interior Side Setback (minimum)		0 feet
Rear (minimum)		20 feet
<p>Note: Build-to Zone is the area on a lot located between the minimum and maximum setback that must contain a principal structure. A Courtyard, Plaza, or Forecourt may occupy the otherwise required build-to-zone, if the space is publicly accessible, providing building access and a pedestrian connection to the existing city street grid. Fenestration requirements for abutting facades still apply. Rear Setback may be reduced to 5 ft where the rear yard abuts an improved and dedicated public alley at least 20 ft wide or a public street. Refer to the underlying zoning district for requirements on streets unrelated to 2.16.4 corridors.</p>		

- g. Standards for Commercial/Residential Mixed-Use Developments
 - i. Mixed-Use / Mixed-Income Standards

- (A) The incorporation of high-activity nonresidential uses such as retail shops and restaurants at street level is encouraged along those building facades abutting or most visible from a transit corridor, other major arterial or collector street, major pedestrian walkway, or public space. Mixed Use development is required in any project approved under this code section that is not served by a full-service (non-convenience) grocery store within ½ mile of the project site and is visible from a transit corridor, other major arterial or collector street, major pedestrian walkway, or public space. When mixed use is required, a minimum of 50% of the ground floor of the building(s) fronting a primary public street, major pedestrian walkway or public space must be dedicated to nonresidential, non-accessory, commercial uses.
- (B) Live Local Act mixed use projects must demonstrate that a minimum of sixty-five percent (65%) of the total building square footage (excluding parking structures) is dedicated to residential units and support facilities (e.g., lobby and trash room) and a minimum of forty percent (40%) of the residential units must be deed restricted to affordable for 30-years.
- (C) All new development projects with a residential component within One-half Mile Radius of an Income Restricted Housing Development must include a minimum of 50% Non-Income Restricted Units. See incentives and implementation requirements within Section 155.4202.A.3.
- (D) All new residential and mixed-use development projects with a residential component along Dixie Highway (between city limits) and North Powerline Road (between Atlantic Boulevard and NW 15th Street) must include a minimum of 60% Non-Income Restricted Units. See incentives and

implementation requirements set forth in Section 155.4202.A.3.

- (E) When using County Policy 2.16.4, commercial and residential mixed-use shall be required and uses shall be mixed within the same building or horizontally on the same parcel.
 - (F) Exemption: The income mixing requirements are not applicable to the following:
 - (1) Any residential and/or mixed-use residential developments with approved Development Orders signed and dated prior to the passage of the original version of this ordinance, or active projects that were reviewed by the Development Review Committee (DRC) prior to the passage of the original version of this ordinance.
 - (2) Any property owned, at least in part, as of the date of the passage of this ordinance, by an entity that is required by the Florida Statutes or Federal Law to construct only income-restricted affordable housing (examples include, but are not limited to, the Housing Authority of Pompano Beach).
 - (3) Affordable housing projects permanently restricted to homeownership.
- ii. Vertically integrated commercial uses shall be limited to floors below those used for residential uses, with exception for a top floor/rooftop eating or drinking establishment.
 - iii. Commercial principal uses shall be limited to:

- (A) Eating or drinking establishments (including accessory outdoor seating areas);
- (B) Professional/Medical office; and
- (C) Retail sales and service uses.

h. Access and Circulation

- i. Access priority shall be in the following order as feasible: cross access, alley, side street, street front.
- ii. Access is limited to one point per street frontage unless off an alley, as feasible.
- iii. No vehicular use area or parking shall be permitted in front of the primary façade and the street.
- iv. A primary entrance providing pedestrian access shall be provided on the primary façade.
- v. Off-Street Parking reductions.
 - (A) Multifamily dwellings with two bedrooms or less shall provide a minimum of one off-street parking space per 1,000 square feet of gross floor area, with a minimum of one off-street parking space per unit and 1 guest space per 5 units. Multifamily dwelling units with three or more bedrooms will provide the parking required in Table 155.5102.D.1.
 - (B) On-street parking, along the corresponding frontage lines touching the adjacent sidewalk to the property, may be used to satisfy a portion of the off-street parking requirements for all uses.

3. Incentives and Reporting Requirements:

- a. Incentives:

- i. All development projects in a commercial land use category that utilize Broward County Policy 2.16.3 or 2.16.4 shall receive up to a 50% zoning density bonus. They may also apply for minor variations, or adjustments, to certain dimensional or numerical standards of this Code based on specific criteria as detailed in Section 155.2421., ADMINISTRATIVE ADJUSTMENT.
 - ii. Any developments fronting on Dixie Hwy between SW 3rd Street and SW 6th Street shall be permitted to include Multi-Family Residential as part of a Mixed-Use project as a principal use, regardless of underlying zoning district regulation.
 - iii. The Act allows for no parking if a mixed-use project is in a Transit Oriented District. This incentive can not be combined with the off-street parking reductions in 155.4202.A.2.h.v.A.
 - iv. The Act allows for a 20% parking reduction if within a half-mile of a “major transportation hub” with alternative parking available within 600 feet. The term “major transportation hub” means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options.
- b. Reporting:
- i. Owners of development projects that are subject to this section must provide an annual report in a form acceptable to the city verifying compliance with the income, parking and any other qualifying commitments.
 - ii. If, at any time, a development authorized under the Act violates the affordability period requirement provided in the Act, the development will be allowed a reasonable time, as determined by the City, to cure such violation. If the violation is not cured within a reasonable time, as determined by the City, the development will be treated as a nonconforming use.

SECTION 4. That Section 155, Article 9, Part 5, “Terms and Uses Defined,” of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 9: DEFINITIONS AND INTERPRETATION

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PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

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CONTRACTOR'S OFFICE

A building or portion of a building used by a building, heating, plumbing, electrical, or other development contractor both as an office and for the storage of a limited quantity of materials, supplies, and equipment inside the building. If outdoor storage of materials, supplies, or equipment is associated with the office, the use is considered a contractor's storage yard.

CONVENIENCE STORE

A store with extended operating hours and in an accessible location, stocking a range of household goods, with limited groceries dominated by prepackaged drinks and snacks.

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GREENWAY

A series of passages and open spaces, primarily in the road right-of-way, intended to form interconnected walkways providing recreation and pedestrian connectivity within a TO District typically featuring landscaped and improved pedestrian and/or bicycle related features.

GROCERY OR CONVENIENCE (NONCONVENIENCE) STORE

A retail establishment engaged in the sale of food and foodstuffs, sundries, tobacco products, beer, wine, papers and magazines. A large (+15,000 SF) self-service store selling a full range of fresh foods including a comprehensive selection of fresh fruits, vegetables and greens, fresh milk, eggs and other dairy products, various types and cuts of meat and poultry products, ingredients for home cooking and baking, deli meats and salads, and other household goods.

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MINIATURE GOLF COURSE

A recreational facility for the playing of a novelty version of golf with a putter, typically with artificial playing surfaces and theme-oriented obstacles such as bridges and tunnels.

MIXED INCOME HOUSING DEVELOPMENT

A project with a combination of income restricted and unrestricted units.

MIXED-USE DEVELOPMENT

Development containing two or more principal uses from different use classifications (Residential, Institutional, Commercial, or Industrial) or from two or more significantly different use categories within the same use classification (e.g., offices and retail sales and services), where the uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access. An example of a vertically integrated mixed-use development might be a building with retail sales and serve uses at ground level, offices (including institutional offices) on second and third floors, and multifamily residential dwelling units on upper floors. An example of a horizontally integrated mixed-use development might be an office/industrial park containing office buildings side-by-side with buildings housing light industrial or industrial support uses. Note: To be considered mixed use in any TO Zoning District, the project must include a residential component per Section 155.3501.B.1.

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SECTION 5. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2024.

PASSED SECOND READING this _____ day of _____, 2024.

REX HARDIN, MAYOR

ATTEST:

KERVIN ALFRED, CITY CLERK

JES:mcm

7/15/24
L:ord/ch155/2024-163