



Staff Report

**File #:** LN-524

PLANNING AND ZONING BOARD

Meeting Date: OCTOBER 25, 2023

**Code Amendments Related to Senate Bill 102 (Live Local Act)**

**Request:** Ch. 155 Amendments for Live Local Act  
**P&Z#** N/A  
**Owner:** N/A  
**Project Location:** N/A  
**Folio Number:** N/A  
**Land Use Designation:** N/A  
**Zoning District:** N/A  
**Commission District:** N/A  
**Agent:** N/A  
**Project Planner:** Jean Dolan (954-786-4045 / jean.dolan@copbfl.com)

The law commonly known as Senate Bill 102 or the Live Local Act of 2023, codified into 166.04151(7) Florida Statutes, is significant in that it preempts all local government regulations associated with residential use, density and height in commercial, industrial and mixed use land use districts. Specifically, it does the following:

- (1) it allows multi-family residential rental units in any mixed use, commercial and/or industrial land use designation regardless of the applicable city’s regulations as long as at least 40% of the units are restricted to affordable housing (very low, low and/or moderate income). The Act does not apply to any residential land use categories;
- (2) it requires cities to approve residential development that is at least 40% affordable housing to be permitted at the highest density allowed in any residential or mixed use district in the City (in Pompano that is 90 du/ac) and allow it at the highest height in any zoning district within a half-mile of the site (this will generally be 105’). All other regulations of the underlying zoning district still apply (lot coverage, pervious/impervious, setbacks, multi-family design standards, parking, etc);
- (3) it requires minor amendments to our deconcentration of poverty regulations so that at least 40% of the housing units can be deed restricted to affordable housing in every location; and
- (4) it requires an administrative approval (minor site plan process - no public hearings) for affordable projects built under the Live Local Act regardless of size or location.

The attached code amendments are being proposed to address these issues.

(1) Allowing Residential Uses in Industrial Land Use:

There are no code amendments that will mitigate the incompatibility of residential in industrial areas, however, the City is proposing a code amendment to require any such project to be mixed use if it is not within a half-

mile of an existing full-service grocery store. This will help reduce the lack of commercial services to present and future residents in the areas where there are not acceptable levels of retail opportunities. It will also help implement the economic development objective and the following policy in our Comprehensive Plan:

***Policy 01.23.01***

*To create balanced communities, encourage the expansion of neighborhood-serving retail and office uses in areas dominated by the industrial, and manufacturing sectors if appropriate to better serve the local community.*

**(2) Further Defining Nonresidential Mixed Use Requirements:**

The proposed code amendments also define how much nonresidential will be required in a Live Local Act project. The Act stipulates that a minimum of 65% of the building area must be residential in a mixed use project. The proposed code amendment goes further to specify that the nonresidential requirement is a minimum of 50% of the ground floor of the buildings fronting on a primary public street, major pedestrian walkway or public space. This is consistent with the mixed use requirements in County Policy 2.16.4 (for properties 5-acres or less) which provides residential density by right for mixed income/mixed use projects on properties with a “commerce” land use designation.

**(3) Minor Amendments to our Deconcentration of Poverty Regulations:**

In relation to our ½ mile buffer area requirements to deconcentrate poverty, our maximum 50% deed restricted affordable is consistent with the Live Local Act because it describes a qualified residential project to be at least 40% affordable and we allow up to 50% deed restricted affordable maximum. The two areas in Pompano (the Dixie Highway Corridor and the Powerline corridor between Atlantic Boulevard and NW 15<sup>th</sup> Street) that are restricted to 20% deed restricted affordable are being amended to allow the same 50% affordable allowed in the other half-mile buffer areas to ensure compliance with the Live Local Act and consistency throughout the Code.

**(3) Administrative Approvals of all Live Local Act Projects:**

The Act requires all approvals of projects qualified under these regulations to be “administrative” which the City defines as a Minor Site Plan process (no public hearings). Code amendments are proposed to codify this requirement in the incentives for mixed use/mixed income projects in 155.4202.A and 155.2407.B.2

**(4) Definitions:**

Definitions for convenience store and grocery store have been added to implement the requirement that mixed use is required if the location is not served by a full service grocery store.

**Staff Recommendations:**

The Staff recommends approval of these amendments to ensure compliance with the Live Local Act of 2023.

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155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

A. Standards Applicable to Household Living Uses

1. Additional Standards for Implementation of Broward County Policy 2.16.3 and 2.16.4 and Section 154.61 Redevelopment and Flexibility Units and 166.04151(7) F.S. (aka SB 102, Live Local Act)

The following shall apply to any development that implements Broward County Policy 2.16.3 (additional density in Residential and Regional Activity Center, Local Activity Center, Transit-Oriented Corridor and Mixed-Use Residential Land Use) or Commercial Land Use if less than 10-acres) or 2.16.4 (residential density in Commercial, Regional Activity Center, Local Activity Center, Transit-Oriented Corridor and Mixed-Use Residential Land Use) and Section 154.61 (Redevelopment and Flexibility Units). This section will also apply to implementation of Florida Statutes 166.04151 (7) (Live Local Act) which allows mixed-income residential and mixed use development in Commercial, Industrial and Mixed Use Zoning Districts under certain conditions. The standards 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. Mixed income is defined as a combination of income restricted and unrestricted units.

a. Additional and Modified Development Standards

i. Height

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.

Florida Statutes 166.04151(7) projects may have the highest height of any commercial, residential or mixed use zoning district within one-mile of the proposed development site which will generally be 105'. All other projects approved under this code section will be limited to the height allowed by the underlying zoning district.

ii. Density

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.

Florida Statutes 166.04151(7) projects may have up to the highest density allowed in any residential or mixed use zoning district in the City (90 du/ac).

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iv. Maximum Lot Coverage

Multi-Family and Mixed-use development that incorporates mixed income residential may increase lot coverage by up to 20%.

v. 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.

vi. Setbacks and Building Placement

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vii. Standards for Commercial/Residential Mixed-Use Developments

(A) Mixed-Use / Mixed-Income Standards

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 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 (nonconvenience) grocery store within ½ mile of the project site.

Per Florida Statutes 166.04151(7), mixed use projects must demonstrate that 65% of the total building square footage (excluding parking structures) is dedicated to residential units and support facilities (lobby, trash room, etc.) and a minimum of 40% of the residential units must be deed restricted to affordable for 30-years. 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, nonaccessory commercial uses.

(1) 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.1.b.

(2) 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 ~~80%~~ 50% Non-Income Restricted Units. See incentives and implementation requirements set forth in Section 155.4202.A.1.b.

(3) 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.

(4) Exemption: The income mixing requirements are not applicable to the following:

(a) Any residential and/or mixed-use residential developments with approved Development Orders signed and dated prior to the passage of this ordinance, and/or active projects that have been reviewed by the Development Review Committee (DRC).

(b) 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).

(c) Affordable housing projects permanently restricted to home-ownership.

(B) 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.

(C) Commercial principal uses shall be limited to:

- (1) Eating or drinking establishments (including accessory outdoor seating areas);
- (2) Professional/Medical office; and
- (3) Retail sales and service uses.

viii. Access and Circulation

(A) Access priority shall be in the following order as feasible: cross access, alley, side-street, street front.

(B) Access is limited to one point per street frontage unless off an alley, as feasible.

(C) No vehicular use area or parking shall be permitted in front of the primary façade and the street.

(D) A primary entrance providing pedestrian access shall be provided on the primary façade.

(E) Off-Street Parking reductions

(1) 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. Multifamily dwelling units with three or more bedrooms will provide the parking required in Table 155.5102.D.1.

(2) 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.

b. Incentives and Reporting Requirements:

i. Incentives:

(A) 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.

(B) 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.

(C) Any development using the provisions of Florida Statutes 166.04151(7)(a.k.a., 2023 SB 102) is given the incentive by State Law to an administrative approval (155.2407.B.2 Minor Site Plan).

ii. Reporting:

(A) 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 commitments.

## 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

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.

A minor site plan is required for any residential project (mixed or single use) that is being approved under the requirements of Chapter 166.04151(7) F.S. (a.k.a., 2023 - SB 102).

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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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### Continuing Care Retirement Community

An integrated development that offers senior citizens a full continuum of housing options and assistance, ranging from fully independent dwelling units, to assistance with personal care in assisted living facilities, to long-term skilled nursing care in a nursing home facility.

### 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 opening hours and in a convenient 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.~~