

Legislation Text

File #: LN-524, **Version:** 2

PLANNING AND ZONING BOARD

Meeting Date: JUNE 26, 2024

Code Amendments Related to 2024 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
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The law commonly known as the Live Local Act (SB 102), codified into 166.04151(7) Florida Statutes and then amended by SB 328 which was signed by the Governor on May 16, 2024, is significant in that it preempts all local government regulations associated with residential use, density, height, FAR and parking in commercial, industrial and mixed-use land use districts.

Specifically, it does the following:

- (1) it allows multi-family residential 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 rental and 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'). This height preemption has been modified slightly if the proposed development site is adjacent to SF homes on two sides. All other regulations of the underlying zoning district still apply (lot coverage, pervious/impervious, setbacks, multi-family design standards, 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;
- (4) it requires an administrative approval (minor site plan process - no public hearings by elected or appointed bodies) for affordable projects built under the Live Local Act regardless of size or location; and
- (5) it does not apply to any areas affected by Chapter 333.03 F.S (Airpark Overlay District). We interpret this to mean that any project needing an Airpark Obstruction Permit will not be eligible for development under the

Live Local Act.

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 as 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 15th Street) that were restricted to 20% deed restricted affordable are being amended to allow the minimum required 40% affordable to ensure compliance with the Live Local Act and consistency throughout the Code.

(4) 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

(5) Parking Elimination in Transit Oriented Districts and 20% Reduction Near Major Transit Hubs:

The proposed code amendments acknowledge these State Law requirements and add requirements in Section 155.4202.A.1.c.ii “Reporting” that will require annual reports regarding any parking commitments made as part of the project’s approval along with monitoring of the affordable housing requirements.

(6) Exemption for any Area affected by 333.03 F.S which is those areas affected by the Airpark Overlay District:

This exemption is noted in the new code section 155.4202.A.1.b.i.F. Since the statement is very general in the law, we are interpreting it to mean that any project needing an Airpark Obstruction Permit will not be eligible for development under the Live Local Act.

(7) 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.

The definition of Major Transit Hub and Mixed Income Development have also been added for clarity.

Staff Recommendations:

The Staff recommends approval of these amendments to ensure compliance with the Live Local Act as amended in 2024.

PROPOSED TEXT AMENDMENTS FOR THE 2024 LIVE LOCAL ACT

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.

The minor site plan process is required for any residential project (mixed or single use) that is being approved under the requirements of Section 166.04151 (7), Florida Statutes known as the Live Local Act, Chapter 2023-17, Laws of Florida and will not include public hearings before any appointed or elected body.

155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

A. Standards Applicable to Household Living Uses

1. Additional Standards for Implementation of Broward County Policy 1.16.3 and 2.16.4 and Section 154.61 Redevelopment And Flexibility Units Mixed-Income Housing (applies to all mixed-income projects under 2.16.3, 2.16.4 and Live Local, unless otherwise specified.)

a. Broward County Policy 2.16.3 and 2.16.4 and Section 154.61 Redevelopment and Flexibility Units

The following shall apply to any development that implements Broward County Policy 2.16.3 (additional density in 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). These 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.

b. Section 166.04151(7), Florida Statutes - The Live Local Act)

i. The purpose of this section is to establish procedures and regulations for the development of mixed-use affordable housing developments pursuant to the provisions of Section 166.04151(7), Florida Statutes, which development may involve 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:

- (A) Protect and promote the public health, safety, and general welfare of the residents of the city;
 - (B) Facilitate the orderly and efficient development of affordable housing in the city pursuant to the Act;
 - (C) Acknowledge the statutory preemptions regarding use, height, density, FAR and parking under the Act;
 - (D) Provide the minimum non-residential floor area for mixed use developments under this Act are the same as for other mixed-use projects allowed under the code; and
 - (E) Establish an administrative approval process for qualifying developments under the Act.
 - (F) Acknowledge the Live Local Act does not apply to Airport -impacted areas as defined in s. 333.03 F.S. In the city of Pompano Beach, the affected areas include the airport surfaces associated with both Pompano Airpark and Fort Lauderdale Executive Airport per the Airpark Overlay District governed by Section 155.3707.
- ii. Applications for a qualifying development pursuant to this section must be deemed complete prior to October 1, 2033. No applications for qualifying developments shall be accepted after October 1, 2033 unless the Florida Legislature extends or reenacts Section 166.04151(7), Florida Statutes, and the city commission extends these deadlines accordingly.

ac. Additional and Modified Development Standards

i. Height (applies to 2.16.3, 2.16.4 and Live Local projects unless specified as exclusive to Live Local)

(A) 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.

(B) 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 Live Local Act when adjacent to single-family homes on two sides. Allowable height, therefore, will be determined on a site-specific basis for Live Local projects.

ii. Density

(A) 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.

(B) 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 not including bonuses which is 90 units per acre. The city does not regulate Floor Area Ratio (FAR), however, requirements of the Live Local Act will apply if the city incorporates FAR requirements into the zoning code in the future.

iii. Floor Area Per Dwelling Unit

<i>Table 155.4202.A.1.a.iii: Floor area per dwelling unit, minimum (square feet) (applies to 2.16.3, 2.16.4 and Live Local mixed income projects)</i>		
MF	Efficiency Units	450
	1 Bedroom	575
	2 Bedroom	750
	3 Bedroom	850
	Additional Bedroom	100

iv. Maximum Lot Coverage (*applies to 2.16.3, 2.16.4 and Live Local mixed income projects*)

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

v. Minimum Pervious Area (*applies to 2.16.3, 2.16.4 and Live Local mixed income projects*)

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 (*applies to 2.16.3, 2.16.4 and Live Local mixed income projects*)

Table 155.4202.A.1.a.vi: Setbacks and Building Placement

		<i>Along Policy 2.16.4 Eligible Corridor</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

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.

vii. Standards for Commercial/Residential Mixed-Use Developments (*applies to 2.16.3, 2.16.4 and Live Local projects unless specified*)

as exclusive to Live Local)

(A) Mixed-Use / Mixed-Income Standards

- (1) 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.
- (2) 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.
- (~~4~~3) 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~~c.
- (24) 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%~~ 60% Non-Income Restricted Units. See incentives and implementation requirements set forth in Section 155.4202.A.1.~~b~~c.
- (35) 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.

(46) 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 the original version of this ordinance, and/or active projects that ~~have been~~ were reviewed by the Development Review Committee (DRC) prior to the passage of the original version of this ordinance.

(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).

viii. Access and Circulation (applies to all 2.16.3, 2.16.4 and Live Local projects)

(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) Mixed Income Off-Street Parking reductions (cannot be combined with Live Local Act parking preemptions)

(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.

bc. 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, Mixed Income project as a principal use, regardless of underlying zoning district regulation.

(C) Any development using the provisions of the Live Local Act is given the incentive by State Law to an administrative approval (Section 155.2407.B.2, Minor Site Plan) with no public hearings before an elected or appointed body.

(D) The Live Local Act allows for no parking if mixed use in a Transit Oriented District.

(E) The Live Local Act allows for a 20% parking reduction if within a half-mile of a “major transit hub” with alternative parking available within 600 feet.

(F) Incentives provided by the Live Local Act do not include incentives received in accordance with any bonus or variance provided for in the City’s land development regulations.

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, parking and any other qualifying commitments.

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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 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.

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Maintenance Guarantee

Cash or other surety provided by an applicant to ensure the maintenance of constructed or installed public infrastructure or required private site features pending their acceptance or for a specified time period.

Major Transit Hub

Per the Live Local Act, means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options.

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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.