



CITY OF BELLE ISLE, FL

Planning and Zoning Meeting

September 26, 2023

Updated:
Handout 9/26/23

To: Planning and Zoning Board
From: Planning Department
Subject: CS/SB 102 - Building, Zoning, and Land Development

Background: On July 1, 2023, the Live Local Act became state law, affecting the zoning and permitting process for cities and counties to review and approve affordable housing developments for ten years. During the City Council meeting on July 18, 2023, Commissioner Randy Holihan requested that the Planning and Zoning Board and City Staff review the current land development code regarding the Act.

City staff has begun researching the new law by following local planning discussions held by the Florida American Planning Association and the East Central Florida Regional Council and reviewing any new policy and code developments by local municipalities. The City's website, under the Planning and Zoning webpage, references the LLA statute and a brief overview of the permitting process for affordable housing development applications.

Based on the Future Land Map provided by RVI Planning, the combined total of the commercial and industrial land area represents 12.3 percent of Belle Isle. Under this new law, if a municipality has less than 20 percent of the land dedicated to commercial and industrial use, the affordable housing project must be approved as a mixed-use residential development. The City does not currently have a mixed-use zoning district. The new law impacts the city code requirements for density, height, and zoning use should they meet the affordable housing state requirements. Under section 54-4 (b), the code allows a high-density residential of 10.1 to 12 units per acre, and section 54-4 (c), allows commercial and professional office uses as 0.5 floor-to-area ratio. Under section 50-73 (a) the maximum height allowance for residential zones is 35 feet, commercial zones (C-1) are limited to 35 feet, and commercial zones (C-2 and C-3) are limited to 50 feet.

Important Zoning and Administrative Considerations per the Live Local Act:

1. Section 5 – 166.04151 Affordable Housing, subsections (6) and (7) a-i
2. Section 26 – 420.0003 State Housing Strategy, subsections (1), (2), and (3)
3. Section 38 – 553.792 Building Permit Application to Local Government

Staff Recommendation: For city staff to research and develop code and policy updates for the Board to consider to address the new Act. Staff recommendations include, but are not limited to:

1. Create definitions for mixed-use residential, urban infill, major transit stops, manufactured homes, and tiny homes.
2. Enact policy to ensure that affordable housing development(s) maintain its "affordability" status yearly for at least 30 years.
3. Establish architectural design guidelines or an overlay district for mixed-use developments.

- a. Example: The City of Winter Park outlines Architectural Design Guidelines for their Central Business District and adopted a new zoning district and comprehensive plan amendment for an Orange Avenue Overlay District.
4. Create an ordinance with application requirements for a site plan submission for an affordable housing project.

Alternatives: None

Attachments:

1. **City Council Agenda Item Cover Sheet (July 18th, 2023) –**

Update Florida League of Cities CS/SB 102 - Building, Zoning, and Land Development

2. **East Central Florida Regional Planning Council –**

Live Local Act Breakdown

3. **The Florida Senate – CS/SB 102 – Housing (Summary)**

<https://www.flsenate.gov/Committees/BillSummaries/2023/html/3068>

4. **CS/SB 102 – Bill Text**

<https://www.flsenate.gov/Session/Bill/2023/102/BillText/er/PDF>

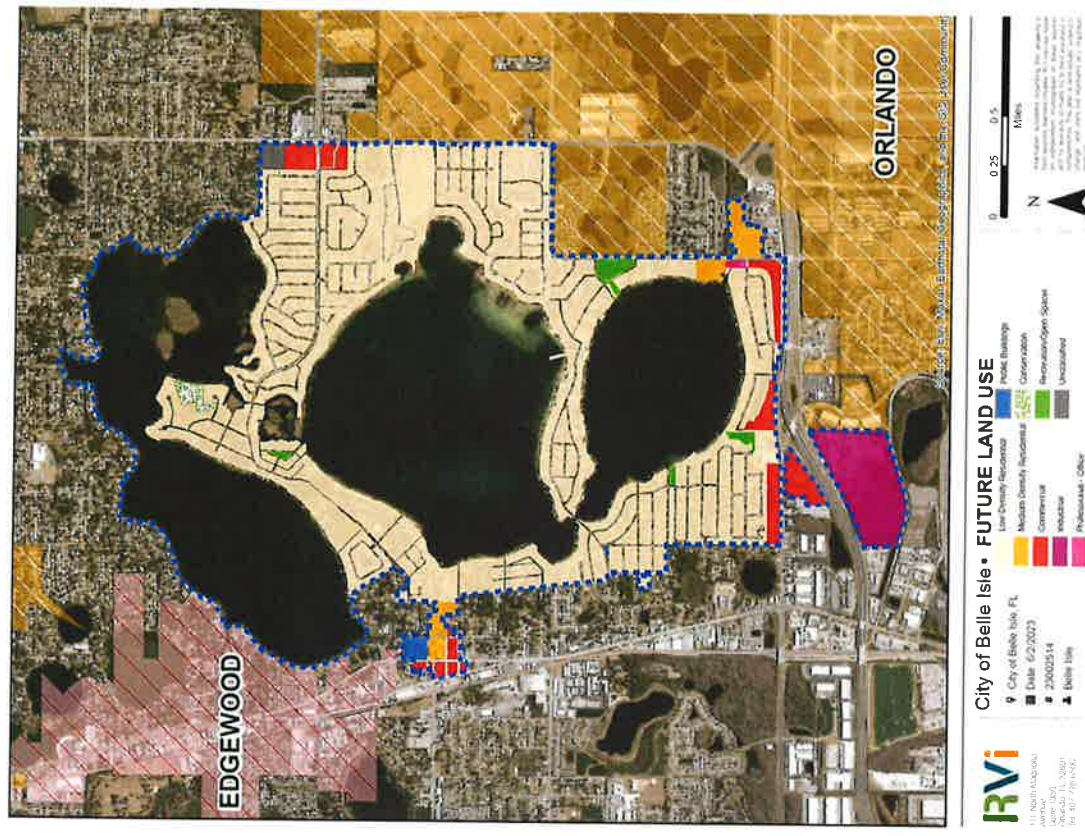
5. **RVi Planning – Overview of Belle Isle Future Land Use Map**

6. **City of Winter Park – Planning and Transportation Staff Report**

7. **City of Winter Park – Ordinance No. X – Amending Chapter 58 of LDC**

Overview of FLU Map

Category	Acreage (+/-)	Percentage
LDR	1039.2	80.6%
MDR	38.9	3%
COM	73.55	5.7%
IND	84.79	6.6%
PO	1.54	0.1%
PB	6.55	0.5%
CONS	8.76	0.8%
REC	14.87	1.1%
*UNC	20.46	1.6%



Staff Report

ZTA #23-08 Request of the City of Winter Park for: An Ordinance of the City of Winter Park, Florida amending Chapter 58, "Land Development Code", Article III, "Zoning" Section 58-84 "General provisions for non-residential zoning districts", to provide definitions and submittal and reporting requirements and other provisions for certification and implementation of development pursuant to the Live Local Act of Florida Statutes.

Background:

Effective, July 1, 2023 the Florida Legislature amended State Statutes to enact a Live Local Act in order to promote the construction of affordable housing. There are some facets of the Act that are positive including the express approval of inclusionary housing ordinances that can require affordable housing, as a component of housing projects in certain circumstances. However, there are certain terms in the Act that are not defined as to their meaning in the Act and other local zoning over-rides that are of concern in the Act.

In particular, the Act overrides local zoning regulations for any housing project, if that project includes a minimum of 40% of the units as affordable housing. In that case:

1. "A municipality must authorize multi-family and mixed-use residential as allowable uses in any area zoned for commercial, industrial or mixed use if at least 40% of the residential units are, for a period of 30 years, affordable as defined in S. 420.004. A municipality may not require a zoning or land use change, special exception, conditional use or comprehensive plan amendment for the building height, zoning and densities authorized under this section.
2. "A municipality may not restrict the density authorized by this section below the highest density on any land in the municipality where residential development is allowed."
3. "A municipality may not restrict the height below the highest currently allowed height for a commercial or residential development located within 1 mile of the proposed development or 3 stories."
4. "A proposed development must be administratively approved if the development satisfies the municipality's land development regulations for multi-family developments in areas zoned for such with the exceptions of densities and height."

The first purpose of this Ordinance is to provide definitions as to terms used in the Act that are otherwise not defined in order to avoid legal debates between developers and the City as to the meaning of such terms. The City needs to be proactive in defining such terms as the City understands their meaning to be.

The second purpose of this Ordinance is to provide an application and certification process with submittal requirements in order to certify that the proposed housing development does provide such affordable housing as required, submits commitment to do such, and provides such information or reporting requirements during the operation of the housing development. Otherwise, under the Act, one can declare that they are providing affordable housing but never demonstrate how they are doing such at any time during the initial approval process, during construction or operation for the 30 years required. There also are no penalties within the Act

for non-compliance.

Most cities in Florida are enacting similar Ordinances as proposed by staff. We have borrowed liberally from the regulations adopted by the City of Tampa.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA
AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE
III, "ZONING" SECTION 58-84 "GENERAL PROVISIONS FOR
NON-RESIDENTIAL ZONING DISTRICTS", TO PROVIDE
DEFINITIONS AND SUBMITTAL AND REPORTING
REQUIREMENTS AND OTHER PROVISIONS FOR CERTIFICATION
AND IMPLEMENTATION OF DEVELOPMENT PURSUANT TO THE
LIVE LOCAL ACT, PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

WHEREAS, the City Commission of the City of Winter Park deems it necessary for the general welfare of the City to amend the City of Winter Park Land Development Code as set forth in this Ordinance in order to provide certification standards and implementation criteria for development proposed in conformance with the Live Local Act of Florida Statutes;

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida;

WHEREAS, the City Commission hereby finds that the land development regulations adopted herein are consistent with the Comprehensive Plan;

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Winter Park, Florida, after due notice and public hearing, that:

SECTION 1. That Chapter 58 "Land Development Code", Article III, "Zoning" of the Code of Ordinances, Section 58-84 "General provisions for non-residential zoning districts" is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

Sec. 58-84. General provisions for non-residential zoning districts.

(hh) General provisions for development proposed in conformance with the Live Local Act of Florida Statutes.

- (a) **Definitions.** For the purposes of this subsection, the following definitions are provided for terminology not defined in Florida Statutes with respect to implementation consistent with the Winter Park Land Development Code:

Allowed as used in Fla Stat. 166.0415 shall mean as allowed under the provisions of the city land development code at the time of a proposal is submitted for development subject to Fla Stat. 166.0415 and shall not mean as allowed historically back in time previous to the present.

Commercial as used in Fla. Stat. 166.0415 shall mean only the commercial zoning districts of the city which are only properties zoned C-1, C-3, C-3A and PD-OC as used in Ravaudage, and no other zoning district.

Height within one mile as used in Fla Stat. 166.0415 shall mean one mile as can be traveled by human beings along the public streets of the city within the normal permitted lanes of travel from the center point of the proposed development site and shall not mean a straight-line distance as a bird might be able to travel.

Highest allowed density as used in Fla Stat. 166.0415 shall mean 17 units per acre as this is the highest residential density currently allowed and is expressed in units per acre and shall not mean density as used elsewhere in Chapter 166 Fla Stat. when referring to intensity terminology applied to floor area ratio.

Highest currently allowed height as used in Fla Stat. 166.0415 shall only mean such height allowed by right within the municipality and not heights allowed if such height would require conditional use approval under the city land development code based upon the size in square footage of the project proposed project under the Live Local Act.

Industrial as used in Fla Stat 166.0415 shall mean only the industrial I-1 zoning district of the city and no other zoning district.

Mixed Use as used in Fla Sta. 166,0415 shall not apply in the City, as no mixed use zoning district exists within the city.

- (b) **Process for Approval.** The approval process for a qualifying development located within an eligible zoning district, shall include payment of a fee, and if application is not made by the owner of record, then a contract or agreement to purchase (that permits black-out of the financial purchase details) but is clear as to dates of effectiveness and due diligence periods, an application on a form provided by the city, site development plans, and affidavit of commitment to City of Winter Park's Affordable Housing standards for income qualification, monitoring, and inspection during the full minimum 30 years of operation including acknowledgement of the auditing requirements for eligibility of all tenants living within the designated affordable housing units in order to establish compliance with the provisions of the Live Local Act and penalties for non-compliance as further outlined below. Upon application, the city shall complete a sufficiency review of the materials submitted and provide a response that the application is complete or specifically what items are still required at a date sixty (60) days after submittal. The applicant shall then provide the items that are required for the sufficiency review which shall then begin another sufficiency review period that shall be completed at a date sixty (60) days following re-submittal and so on until a complete application is provided. A contract to purchase must be in full force and effect during the sufficiency and review periods established within this Section. If any due diligence period or other contract matter expires within such time periods, then the city shall not begin or complete the sufficiency review or application review.

- (c) **Minimum Requirements.** The minimum requirements for certification of compliance with the Live Local Act are as follows:

Site Development Plan which includes the following:

1. Scale, date, and north arrow.
2. Legal Description of the property.
3. Site Data Table including gross square footage of the site and project, total impervious coverage and principal setbacks.
4. Dimensioned location, size, height and use of all proposed structures.
5. Project units, number of affordable units per area median income, and affordability period.
6. Label uses of adjacent parcels.
7. Location, dimension and method of buffering from adjacent uses.
8. Location and method of screening of refuse stations, storage areas and off-street parking and loading areas.
9. Method of stormwater retention.
10. Location, size and total amount of greenspace.
11. Tree table with tree retention and applicable mitigation.
12. The location, width, pavement type, right-of-way name and other related appurtenances of all public rights-of-way adjoining, traversing or proximate to the site.
13. Location and dimensions of proposed project ingress/egress, parking and service areas, including typical parking space dimensions.
14. Vehicle Use Area buffering adjacent to rights of way.
15. Southern Florida Building Code definitions for types of construction proposed and existing.
16. Proposed means of vehicular and pedestrian access from the site(s) within the development to adjacent streets and/or alleys, showing all existing and proposed curb cuts and sidewalks.
17. Building Elevations (4-sided) for each proposed building.
18. Commitment to complete a transportation study prior to issuance of the building permit.
19. Any other information required under the specific site plan districts pertaining to this article or which may be required, when commensurate with the intent and purpose of this Code, by city reviewing staff.
20. An affidavit confirming a 30-year commitment to provide affordable housing

and monetary cap on all rent charges including any and all other fees as may be assessed to the occupants of units deemed to be affordable, such that all rents and fees shall not exceed 30% of the gross revenue of all occupants of affordable units; affidavit attesting to agreement and acceptance as to the annual audit requirements by a certified public accounting firm attesting to satisfaction of the such income and total rental fees and affidavit attesting to agreement and understanding that violations of such commitments shall be subject to a fine of no less than \$5,000.00 per day for each violation determined by the annual audit and for each day the annual audit is not received by the city after March 1st of every year and affidavit agreement that any such fines shall constitute a lien on said property if not paid to the city within 60 days of receipt of the audit by the city by March 1st of every year and agreement to reimburse the city for any legal expenses in the enforcement of these provisions.

21. A statement indicating the petitioners' commitment to comply with specific chapters of the City Code applicable to the project (i.e., tree and landscaping, fire, etc.) at the time of permitting.
 22. Compliance with all land development regulations applicable to the zoning district in which the project is proposed, except only as otherwise preempted by the Live Local Act with respect to height.
- (d) **Project Narrative.** Application shall contain a narrative which demonstrates compliance with section 166.04151(7)(a)-(g), Florida Statutes.
- (e) **Affidavit of Commitment and Restrictive Covenants.** As a condition of approval and prior to any site or building permits for the project being requested or obtained, the applicant (and the property owner, if different from the applicant) must execute and have recorded in the public records of Orange County, Florida, an Affidavit of Commitment and Restrictive Covenants. Such Affidavit of Commitment and Restrictive Covenants shall: (i) have terms acceptable to the city, (ii) run with and be binding upon the land for no less than thirty (30) years from the issuance of a certificate of occupancy for the last principal structure of the project (iii) be enforceable by the city; (iv) detail the affordable housing and project conditions and restrictions required by this section, the Live Local Act and on the approval of the project; (v) provide for monitoring, and compliance requirements; and (vi) provide for the city's enforcement remedies. Mortgage holders will be required to execute and record a subordination of their lien interest to such Affidavit of Commitment and Restrictive Covenants prior to or simultaneously with the recording of the Affidavit of Commitment and Restrictive Covenants. The city will provide the monitoring and compliance forms upon submittal of the application, deemed complete and sufficient.
- (f) **Equivalent Treatment of all Dwelling Unit Requirements.** As a condition of approval prior to any site or building permits for the project being requested or obtained, such project must demonstrate and commit that all affordable

dwelling units and market rate dwelling units shall be located within the same structure. all common areas and amenities shall be accessible and available to all residents (both affordable and market rate dwelling units). access to the required affordable dwelling units shall be provided through the same principal entrance(s) utilized by all other dwelling units in the development. in addition, the sizes and number of bedrooms in the affordable dwelling units shall be proportional to the square footage and number of bedrooms in the market rate dwelling units (e.g., for number of bedrooms, if 25 percent of the market rate dwelling units consist of two bedrooms, then 25 percent of the affordable dwelling units shall also have two bedrooms.

- (g) **Agent Authorization.** An affidavit with the property owner's notarized authorization.
- (h) **Timeframe for Review and Issuance of Approval:** Upon receipt of a complete application, the city will complete its review and provide a response sixty (60) days from receipt of such materials as required by this subsection.
- (i) **Fee:** The fee for a qualifying development will be \$2642.00 plus \$111/acre or portion thereof or as otherwise amended within the adopted Fee Schedule from time to time by the City Commission at public hearing.
- (j) **Duration of Approval:** An approval received through this process shall be effective for three (3) months from the date of approval. The application process and certification of compliance with the live local act shall begin again if a building permit has not been issued by the city within six (6) months of an approval under this section.

SECTION 2. CODIFICATION. Section 1 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances.

SECTION 3. SEVERABILITY. The divisions, sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection, section, or division of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, sections, and divisions of this Ordinance. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

SECTION 4. CONFLICTS. In the event of a conflict between this Ordinance and any other ordinance of the City of Winter Park, this Ordinance shall control to the extent of such conflict.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and in accordance with Florida law.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida held in City Hall, Winter Park, on this ____ day of _____ 2023.

By: _____
Mayor Phil Anderson

ATTEST:

By: _____
Rene Cranis, City Clerk

Orange County, Florida

2022 Income Limits

Area Median (Family) Income \$80,100

HOUSE- HOLD SIZE	INCOME CATEGORY			
	EXTREMELY LOW	VERY LOW	LOW	MODERATE
	(30% OF MEDIAN)	(50% OF MEDIAN)	(80% OF MEDIAN)	(120% OF MEDIAN)
1	\$17,400	\$29,050	\$46,450	\$69,720
2	\$19,900	\$33,200	\$53,050	\$79,680
3	\$23,030	\$37,350	\$59,700	\$89,640
4	\$27,750	\$41,450	\$66,300	\$99,480
5	\$32,470	\$44,800	\$71,650	\$107,520
6	\$37,190	\$48,100	\$76,950	\$115,440
7	\$41,910	\$51,400	\$82,250	\$123,360
8	\$46,630	\$54,750	\$87,550	\$131,400

Orange County Housing and Community Development Division

Effective: April 18, 2022