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**Meeting Name:** Town Council  
**Meeting Date:** April 24, 2024  
**Prepared By:** L. Rubin, Town Attorney  
**Item Title:** Ordinance No. 782 – Implementation of Live Local Act (“Second Reading”)

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#### **DISCUSSION:**

At the recommendation of the Planning and Zoning Board and with the approval of the Town Council, this office has prepared an Ordinance implementing the provisions of Chapter 2023-17, Laws of Florida, as codified in Section 166.04151(7), Florida Statutes, and known as the Live Local Act. The Act was intended to streamline and incentivize affordable housing developments within the State of Florida and preempts certain use, density, and height regulations for qualifying developments that provide for the establishment of affordable multi-family rental housing. Because less than twenty percent of the Town’s land area is designated for commercial or industrial use, all qualifying projects within the Town must be mixed-use residential, containing both residential and non-residential components. The Act requires **administrative approval** for mixed-use residential developments where at least forty percent (40%) of the residential units are, for a period of at least thirty years, affordable as defined in Section 420.004, Florida Statutes.

The purpose of the proposed Ordinance is to supplement and clarify the provisions of the Act for projects proposed within the Town and provides as follows:

1. Live local projects are permitted in each of the Town’s commercial zoning districts: Commercial General (CG), Commercial Office (CO), and Medical Commercial (MC).
2. All projects shall be reviewed by the Town’s Development Review Committee and shall be subject to the Site Plan and Appearance Review procedures and shall meet all criteria set forth in Article II, Division 4 of Chapter 34 (Zoning).
3. Upon receipt of an application, the Town shall notify the public by posting notice of the application on the Town website and providing notice to the public through the Town’s e-mail database. The notice shall indicate that copies of all application materials are available upon request.
4. The application shall be subject to administrative review and approval by the Planning and Zoning Director as required by the Act and shall only be approved if it meets all applicable land development regulations, including the Town’s community appearance standards. Additionally, the Director shall

determine whether the project is consistent with the Town's Comprehensive Development Plan, except those provisions expressly preempted by statute (relating to location within specified zoning districts, height, and density). The application shall also be subject to engineering review during the building permitting process.

5. The maximum height shall be limited to height permitted as of right (without any bonuses available via special exception or otherwise) for a residential or commercial project within the Town within one mile of the proposed project. The maximum height of any structure within the Town is twelve (12) stories and one hundred and thirty (130) feet (as permitted in the Residential High (RH) zoning district).

6. The maximum density is limited to maximum residential density permitted as of right for a residential or commercial project within the Town or eighteen (18) units per acre as permitted in the Residential High (RH) zoning district.

7. All projects shall have maximum of seventy-five percent of residential use based on total gross floor area consistent with the existing regulations governing mixed-use projects in commercial zoning districts.

8. If the project is utilizing the height and density permitted in the Residential High (RH) zoning district, the Town shall apply the building site area regulations for that district, including the expanded high-rise setbacks. For purely non-residential components or for mixed-use structures that do not exceed four stories or sixty feet in height, the project shall comply with the building site area regulations of the underlying zoning district.

9. The project shall provide two parking spaces per residential unit and one guest space for every seven units as required for residential projects within commercial zoning districts. Parking for the commercial uses shall meet the Code requirements. Because there are no major transit stops within the Town, the Town will not consider reduction in these requirements; however, the project may propose shared parking in accordance with the Code requirements. Approval of shared parking is not mandatory.

10. Affordable units and market units shall be located within the same structure. All common areas and amenities shall be accessible and available to all residents. Access to the required affordable dwelling units shall be provided through the same principal entrances utilized by all other dwelling units in the development. The square footage and number of bedrooms in the affordable dwelling units shall be proportional to the square footage and number of bedrooms in market rate dwelling units.

11. All residential and non-residential components shall be located on the same or unified lot.

12. The Town shall impose a condition of approval requiring that 40% of the units remain affordable for a period of 30 years and no permits shall be issued until the property owner executes and delivers to the Town, a covenant, declaration, or other deed restriction ensuring compliance. Additionally, the property owner shall provide to the Town, each year on January 15<sup>th</sup>, copies of all leases then in effect for the affordable units, together with such other documentation necessary to demonstrate that such leases meet the affordability criteria set forth in Section 420.0004, Florida Statutes.

13. Any aggrieved or adversely affected party may appeal any order, decision, or interpretation of the enforcement of these regulations to the Town Council, sitting as the Zoning Board of Adjustment and Appeals.

## **ACTION OF PLANNING AND ZONING BOARD:**

The Planning and Zoning Board unanimously recommended approval of the Ordinance with three revisions. First, the Board requesting the addition of a “guidance statement” regarding interpretation of the new regulations. This guidance statement has been incorporated in Section 34-1325(c) and directs Town Staff to interpret the regulations “in a manner that would best preserve the town’s small-town, coastal character and its commitment to environmental preservation.” Second, the Board suggested that public notice of an application be provided within forty-eight (48) hours of the submission of an application, and Section 34-1326(b) has been revised to incorporate this change. Finally, given the pending legislation amending the statutory preemption, a new Section 34-1331 has been added to provide that in the event of a change in state law that affords the Town greater regulatory authority and/or the ability to restrict Live Local Act developments in a manner that is more consistent with the Town’s current character and zoning code regulations, the Town shall expeditiously move forward with revising the regulations and the revised regulations shall apply to any project for which administrative development approval has not yet been issued.

## **ACTION ON FIRST READING:**

At its February 28, 2024 meeting, the Town Council unanimously adopted the Ordinance on first reading. Based on public comments and Council discussion, the section addressing subsequent changes to state law has been streamlined and revised to include changes to the Town’s underlying zoning regulations:

### **Sec. 34-1331. Changes to state law and town zoning regulations.**

(a) In the event of a change in state law that affords the town greater regulatory authority over projects submitted pursuant to the Act, the town shall amend this division to reflect such change. However, all applicants are hereby placed on notice that all projects for which administrative development approval has not been issued shall comply with the revised regulations even if the town has not yet formally adopted amendments to this division to reflect the change.

(b) In the event of a change in the town’s zoning regulations applicable to projects submitted pursuant to the Act, including but not limited to revisions to the underlying building site area regulations and parking requirements, all applicants are hereby placed on notice that all projects for which administrative development approval has not been issued shall comply with the revised regulations even if the town has not yet adopted formally amendments to this division to reflect the change.

## **PENDING LEGISLATION:**

During its most recent session, the Florida Legislature passed Senate Bill 328, modifying the provisions of Section 166.04151(7), Florida Statutes. The bill clarifies that density is the maximum density (or floor area ratio) currently permitted under the municipality’s land development regulations without consideration of any bonuses, variances, or other special exceptions. Similarly, the maximum allowed height does not include the height of any building constructed pursuant to the Live Local Act or the height of any building that has received a bonus, variance, or other special exception. This language is already reflected in the Ordinance. Additionally, the bill adds the following language:

If the proposed development 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 municipality may restrict the height of the

proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property provided in the municipality'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.

Further, the bill requires that the municipality reduce the parking requirements by at least twenty percent if the development: (a) is located within one-half mile of major transportation hub accessible from the proposed development by sidewalks, crosswalks, elevated pedestrian or bike paths, or other multi-modal design features; or (b) has available parking within 600 feet of the proposed development (such as available on-street parking, parking lots, or parking garages). A major transportation hub means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of transportation options.

Finally, the bill tweaks the language to provide that a project qualifies under the Act if at least 40 percent of the residential units in a proposed residential multi-family development are rental units that are affordable for a period of at least 30 years. The entire project is not required to consist of rental units.

As of April 17, 2024, the Governor had not yet signed SB 328 into law.

**RECOMMENDATION:**

Staff recommends that the Town Council review Ordinance No. 782 and consider adoption on second and final reading.