



Memorandum

To: Honorable Mayor & City Commissioners
Through: Carmen Davis, City Manager
From: William Waters, Community Sustainability Director
Subject: Recently Enacted Live Local Act – Chapter 2023-17 - Senate Bill 102
Date: April 5, 2022

Chapter 2023-17, Laws of Florida, recently enacted by the Legislature (Live Local Act), will become effective July 1, 2023. This new legislation includes amendments to Section 166.04151, Florida Statutes, regarding municipal regulation of affordable housing. A major change is the addition of subsection (7) that requires a municipality to authorize multifamily and mixed-use residential projects, if the project meets certain qualifications, and only in areas zoned for commercial, industrial or mixed use (not residential zoning districts). Further, the new subsection also requires that approval of such projects must be made administratively without any further action of the governing body of the municipality, if the project complies with the municipality's LDRs for multifamily developments and is consistent with the comprehensive plan except for provisions establishing density, height, and land use.

Minimum Requirements to Qualify for the new Administrative Review Process:

- Forty percent (40%) of residential units must be income restricted for a period of at least 30 years.
- Affordable is defined in F.S. 420.004, which includes units from very low income (30% or less of area median income) to moderate income levels (120% of area median income).
- For a mixed-use project 65% of the of the total square footage must be residential.
- Development must be consistent with all other City requirements for new development except for land use, height and density, which are preempted by the new statutory established limits.

Land Development Regulations Not Impacted:

The new administrative review process without further action of the governing body of the municipality is only available if the project complies with the municipality's LDRs for multifamily developments and is consistent with the comprehensive plan with the exception of provisions establishing density, height, and land use.

The following is a list of all the requirements where developments must comply regardless of the approval process:

- Floor Area Ratio (FAR)
- Setbacks, including additional setbacks for stories above 30 ft and from rear property lines
- Wall Height at Side Setbacks
- Building Lot Coverage
- Overall impermeable surface area
- Major Thoroughfare Design Guidelines
- Historic Preservation Design Guidelines
- Landscaping
- Sustainable Site and Building Design Qualitative and Performance Standards
- Lake Worth Beach Affordable/Workforce Housing Program
- Sustainable Bonus Incentive Fees (Tier One)
- Parking
- Unit size

The potential density and height allowances permitted in the planned development districts would not apply as they are not considered “currently allowed” for multi-family development. Planned development districts function as customized zoning overlays and are only allowed through a special site-specific process that considers the unique site conditions of each development and allows for the relaxation of certain development requirements. Further, the statutes refer back to the City’s LDRs for all other requirements, which indicates the intent is to streamline the approval of affordable housing but not facilitate development that is incongruous with the scale and setbacks of standard zoning district requirements.

Density & Height Preemption – How it works:

The municipality may not require projects that qualify for administrative review to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment to facilitate the proposed projects under the statutorily allowed parameters, which include:

1. For mixed-use residential projects, at least 65% of the total square footage of the project must be used for residential purposes;
2. Density must be allowed at no less than the highest allowed density on any land in the municipality where residential development is allowed;
3. Height must be allowed at no less than the highest currently allowed height for a commercial or residential development in the municipality within 1 mile of the proposed project, or 3 stories, whichever is higher;
4. Reduced parking requirements must be considered if the project otherwise meeting the criteria under this subsection is located within ½ mile of a major transit stop and the major transit stop is accessible from the project; and

5. If the municipality designates less than 20% of the land in its jurisdiction for commercial or industrial purposes, the projects are required to be allowed by the municipality only if they are mixed-use residential.

The City of Lake Worth Beach will be impacted by this new legislation as both density and height will be preempted as consistent with the following analysis.

Density

The City currently allows multifamily in the MF-20, MF-30, FM-40 zoning districts and mixed-use residential projects in the MU-E, DT, MU-FH, MU-DH, MU-W, TOD-E and TOD-W zoning districts, with the relevant regulations as follows:

Zoning District	Maximum Density
MF-20	20 units per gross acre
MF-30	30 units per gross acre
MF-40	40 units per gross acre
MU-E	Consistent with MF-30
DT	Consistent with MF-40
MU-FH	Consistent with MF-20
MU-DH	Consistent with MF-20 on East side of Dixie Hwy; and with MF-30 on West side of Dixie Hwy
MU-W	Consistent with MF-20
TOD-E	Consistent with MF-40 or MU-E
TOD-W	Consistent with MF-40 or MU-E

The highest allowed density on any land in the City, where residential development is allowed, is identified in the MF-40 district, which is also used in the DT, TOD-E and TOD-W districts. **In accordance with provision #2, above, density consistent with MF-40 (40 dwelling units per acre) would be the maximum density for all projects that meet the criteria under this new legislation.**

Height

The maximum allowable height in every zoning district within the City is 30 ft, not to exceed 2 stores, by right and may be increased through participation in the Sustainable Bonus Incentive Program (SBIP). The City’s multifamily and multi-use zoning districts that have the opportunity for height exceeding 3 stories are as follows:

Zoning District	Height Limitation with Sustainable Bonus Incentive Program (Tier One)
MU-E	Additional 15 ft, not to exceed 4 stories, for lots west of the FEC Railroad Tracks and East of F Street
DT	Additional 15 ft, not to exceed 4 stories; or Additional 35 ft, not to exceed 6 stories, for lots East of Federal Hwy with the provision of a hotel or mixed-use hotel project of at least 50 rooms, requires conditional use permit

MU-DH West	Additional 15 ft, not to exceed 4 stories, for blocks fronting both Dixie Hwy and G Street or blocks adjacent to the AI district
MU-W	Additional 35 ft, not to exceed 6 stories, for blocks fronting 10 th Ave N; and Additional 15 ft, not to exceed 4 stories, for blocks fronting Lake Worth Road and blocks fronting 2 nd Ave N
TOD-E	Additional 25 ft, not to exceed 5 stories, with conditional land use and with inclusion of a transit station for location along Lake and Lucerne Avenues; or Without transit station, an additional height limited to 15 ft, not to exceed 4 stories; or Additional 15 ft, not to exceed 4 stories, with conditional land use and with inclusion of a transit station for locations along 10 th Ave N and 9 th Ave S; or Without transit station, an additional height limited to 5 ft, not to exceed 3 stories
TOD-W	Additional 25 ft, not to exceed 5 stories, with conditional land use and with inclusion of a transit station; or Without a transit station, additional height limited to 15 ft, not to exceed 4 stories

The City’s multifamily and mixed-use zoning districts that provide a maximum height of 3 stories with participation in Tier One of the SBIP were not listed in the table above as the highest currently allowed height in those districts is consistent with the minimum 3 stories provided for in the new legislation. The new legislation would allow for the increased height obtained through participation in the SBIP within a mile from where it is allowed by the City’s LDRs, if the proposed project meets the criteria under the statute and the SBIP. The table above lists the maximum height currently allowed in the City’s mixed-use zoning district.

Therefore, an application eligible for the new administrative approval process cannot exceed the highest currently allowed height within 1 mile of the proposed project from the zoning districts in the table, or 3 stories, whichever is higher. **The maximum height that could be administratively approved would typically be between 4 – 6 stories depending on the distance from the zoning district listed in the table above.** Any proposed project over two stories would have to satisfy the requirements of the SBIP including, paying the required SBIP incentive fees, even though the proposed project would be subject to administrative level review.

Parking

The City does not have a major transit stop, as defined in the City’s LDRs. Consequently, provision #4, above, does not apply within the City. All projects will be required to comply with the City’s parking requirements for multifamily or mixed-use residential projects, as applicable.

Additionally

The City has designated more than 20% of the land area within the City for commercial and industrial purposes. Therefore, provision #5, above, does not apply within the City.