

Affordable Housing in Land Use: Live Local Act and Yes in God's Back Yard

Palm Beach County Bar Association's Local Government and Land Use Committee

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Provisions of the Live Local Act

- Property Tax Exemptions
- Funding Commitments
- Amendments to State Housing Strategy
- New Sales Tax Refund
- Expedited Permitting Procedures (FS 553.792)
- Rent Control Preemption (FS 125.0103, FS 166.043)
- Land Use Mandate



History of the Live Local Act

- March 29, 2023 – Live Local Act signed into law. Chapter 2023-17, Laws of Florida.
- Amended May 16, 2024. Chapter 2024-188, Laws of Florida.
- Amended July 1, 2025. Chapter 2025-172, Laws of Florida.



History of the Live Local Act

2023 – Live Local Act signed into law. Chapter 2023-17, Laws of Florida.

- Created land use mandates – entitling density, FAR, and height restriction benefits in commercial, industrial, or mixed-use zoning areas, if you capped 40% of units at 120% AMI for 30 years. 65% for residential purposes.
- Tax benefits – 75-100% ad valorem tax benefit depending on the level of affordability provided.
- Created “Hometown Hero Program” (FS 420.5096) authorizing first time buyers mortgage loan/assistance to community heroes (teachers, law enforcement).
- Required inventory list of government property that could be used for affordable housing.



History of the Live Local Act

2023 – Live Local Act signed into law. Chapter 2023-17, Laws of Florida.

- Exempted working waterfronts.
- Required right of first refusal and reversion of property not used for affordable housing.
- If local government designates less than 20% of land for commercial or industrial, only required to allow LLA projects if they are mixed-use residential.
- Required a rental market study for tax exemptions.
- State housing strategy – incentives to encourage the private sector to be the primary delivery vehicle for the development of affordable housing.



History of the Live Local Act

2023 – Live Local Act signed into law. Chapter 2023-17, Laws of Florida.

- State housing strategy:
 - Use of surplus housing.
 - Community-led planning – urban infill, flex zoning...
 - High-density, high-rise, mixed use.
 - Mixed-income projects.
 - Modern housing – manufactured homes, tiny homes, 3-d printed homes, and ADUs.
 - State funds only to LGs with incentives, financial assistance for housing, compliance with Ch. 163, FS.
 - Funding, development of data, websites, and goals.



History of the Live Local Act

Amended 2024. Chapter 2024-188, Laws of Florida.

- Defined “highest currently allowed density, floor area ratio, and height” as not including bonuses, variances, or special exceptions.
- Removed rental requirement for affordable units.
- Addressed height protections near single-family development (150%).
- Addressed administrative process – $\frac{1}{4}$ mile of military installation may not be administratively approved.
- Addressed parking requirement reductions for proximity to major transportation hub, alternate parking, TOD/TOA.



History of the Live Local Act

Amended 2024. Chapter 2024-188, Laws of Florida.

- Allows for administrative approval of bonuses, variances, conditional uses, special exceptions for height, density, FAR. Qualified bonuses must be administratively approved.
- Exempted airport-impacted areas.
 - $\frac{1}{4}$ mile from runway.
 - Airport noise zone.
 - Height restrictions in airport zoning regulations.



History of the Live Local Act

Amended 2024. Chapter 2024-188, Laws of Florida.

- LLA projects are conforming uses. If affordability period is violated, a time to cure must be provided. If cured is not made, the development must be treated as a non-conforming use.
- Prior applicants can submit a notice of intent to use LLA provisions.
- Clarifies valuation for tax exemptions.
- \$100 million in non-recurring funds for Hometown Hero Program implementation.



History of the Live Local Act

Amended 2025. Chapter 2025-172, Laws of Florida.

Amendments to FS 125.01055 and 166.04151:

- Added YIGB;
- clarifying application of land use mandate to “flexibly zoned area such as PUD that permits commercial, industrial or mixed use”;
- limits requirement for TDR in exchange for density entitlement;
- disallows counties from requiring more than 10% be non-residential;
- includes a time specific (July 1, 2023) for highest density/FAR/Height;
- addresses historic buildings/places in terms of density/architectural requirements.



History of the Live Local Act

Amended 2025. Chapter 2025-172, Laws of Florida.

Amendments to FS 125.01055 and 166.04151:

- Specifies administrative approval applies to quasi-judicial boards.
- Demolition must be administratively approved.
- Requires reduction of parking by 15% for development within $\frac{1}{4}$ mile of transit stop, $\frac{1}{2}$ mile of major transportation hub, or has parking within 600 feet.
- Allows development to include adjacent parcels.
- Allows expedited civil action with attorney's fees not-to-exceed \$250k, but no fees on fees.



History of the Live Local Act

Amended 2025. Chapter 2025-172, Laws of Florida.
Amendments to FS 125.01055 and 166.04151:

- Defines:
 - “commercial use”
 - “industrial use”
 - “mixed use”
 - “planned unit development”
- Adds to areas of exclusion: Wekiva Study Area, Everglades Protection Area.
- Prohibits building moratorium that delays LLA development – except for 90 days per 3-year period after assessment or moratoria for stormwater/floodwater management, potable water supply, sanitary sewer system.



History of the Live Local Act

Amended 2025. Chapter 2025-172, Laws of Florida.

Amendments to FS 125.01055 and 166.04151:

- Requires annual reporting to state land planning agency:

- Summary of litigation
- List of proposed/approved projects

Report is compiled by state LPA, provided to Governor, President of Senate, Speaker of House by Feb. 1.

- Allows prior applicants to submit a notice of intent to use changes in the act.



History of the Live Local Act

Amended 2025. Chapter 2025-172, Laws of Florida.

Creates Section 420.5098, FS:

- Public Sector and Hospital Employer-Sponsored Housing Policy.
 - Defines:
 - government entity
 - Hospital
 - Allows developers who receive federal tax credits or other affordable housing financing to create preferences for employees of hospitals, health care facilities, and governmental entities as long as the preferences conform to IRS requirements.



Provisions of the Act

- Land Use Mandate –
- Proposed development entitlements if:
 - Multi-family/mixed-use residential in any area zoned for commercial, industrial, or mixed use.
 - At least 40% of units are affordable rentals – up to 120% AMI for at least 30 years.
 - In the case of mixed-use, at least 65% of total square footage must be residential.



Provisions of the Act

- Land Use Mandate –
- Entitlements:
 - Use: Multi-family/mixed-use residential in any area zoned for commercial, industrial, or mixed use without a zoning or land use change.
 - Density: Highest currently allowed density on any land within LG where residential development is allowed.
 - Height: Highest currently allowed height for commercial/residential development within 1 mile of proposed development, or 3 stories, whichever is higher.



Provisions of the Act

- Land Use Mandate –
- Entitlements:
 - Floor Area Ratio: 150% of highest currently allowed floor area ratio.
 - Parking: 15% reduction if proposal is 1) within 1 mile of major transportation hub; 2) has available parking within 600 feet, or within $\frac{1}{4}$ mile of transit stop.
 - No parking requirements within TOD or TOA.



Provisions of the Act

- Land Use Mandate –
- Entitlements:
 - Admin Approval: Administrative approval if development satisfies LDRs for multifamily developments in areas zoned for multi-family and is otherwise consistent with comprehensive plan, excepting density, floor area ratio, height, and use.
 - Admin Approval: Local government must post notice of admin approval on website.
 - Admin Approval: Local entitlement bonuses should also be processed administratively.



Provisions of the Act

- Land Use Mandate –
- Entitlements:
 - Exceptions:
 - Development near airport runway, airport noise zone;
 - Development within $\frac{1}{4}$ mile of military installation;
 - Wekiva Study Area, or Everglades Protection Area.



Provisions of the Act

- Expedited Permitting Procedures (FS 553.792)
- Building permit application to local government
 - Specific timeframes to respond to building permit applications based on size.
 - 60 days for multifamily not exceeding 50 units; site plan approvals and subdivision plans not requiring public hearing or public notice.



How LLA is Being Used – FHC’s Scoring & Dashboard

- Florida Housing Coalition – state nonprofit organization providing technical/training assistants to local governments/non-profits on affordable housing.
 - Map known sites intended for LLA.
 - Track use of LLA for affordable development.
 - Analyze sites for “Housing Suitability” – Scoring and Dashboard available.
 - Scoring considers – proximity to amenities; buffers for “disamenities”; job scores.



How LLA is Being Used – FHC's Scoring & Dashboard

- Florida Housing Coalition reported as of March 2025:
 - 31,691 total proposed units
 - 106 proposed MF and MU developments
 - 84 – commercial zoned properties (80%)
 - 13 – industrial zoned properties
 - 9 – mixed use zoned properties
 - 3 PUDs
 - Most providing 40%at 120% AMI



How LLA is Being Used – FHC's Scoring & Dashboard

- Florida Housing Coalition reported as of March 2025:
 - 29 proposals in City of Miami
 - 13 proposals in Miami-Dade County
 - 10 proposals in Miami Beach
 - 7 proposals in Hillsborough County
 - 5 proposals in Fort Lauderdale
 - 3 proposals each in Cape Coral, Orlando, Osceola



Challenges & Interpretations

- AGO Opinions

- *Informal Opinion to Eve Boutis, City Dania Beach – July 20, 2023.*

Addressed interpretation regarding commercial, industrial, mixed-use districts. Focused on “zoned for” language as a limitation on classification, rather than permitted use.

- *AGO Letter to Representative Vicki L. Lopez, July 12, 2024.*

What constitutes a mixed-used district – is it the title or function?

Answer: name is helpful, but not dispositive. Question is what is the district similar to, and what is normally understood to be mixed use.



Challenges & Interpretations

- Hollywood Case: *Astrid 2, LLC, et. al. v. City of Hollywood*, CACE-25-000426 (Broward County, Florida)

17-story mixed use project, 282 units, 114 units of affordable housing- 120% AMI, 35,100 sq ft commercial uses. 3 buildings – 1 mixed use, 1 parking, 1 restaurants and roof pool.

Expended \$1 million in consultant fees.



Challenges & Interpretations

- Hollywood Case: *Astrid 2, LLC, et. al. v. City of Hollywood*, CACE-25-000426 (Broward County, Florida)

Denied because:

- Improper comparator for height.
- Said district was government use, not commercial/industrial/mixed used.
- Said commercial in government use was not “by right.”



Challenges & Interpretations

- Hollywood Case: *Astrid 2, LLC, et. al. v. City of Hollywood*, CACE-25-000426 (Broward County, Florida)
- Complaint: 1 count for Declaratory Judgment.
- *Currently the subject of a motion for summary judgment by the City of Hollywood based on the height comparator question.*



Challenges & Interpretations

- Bal Harbour Case.
- Bal Harbour Shops, LLC – January 2024, filed plans to build 3 towers, 275 feet tall, on top of Bal Harbour Shops.
- Include 70-room hotel, 600 residential units. 40% “workforce housing.”
- Brought declaratory judgment suit to prohibit Village from applying supermajority vote on height restrictions.



Challenges & Interpretations

- Bal Harbour Case.
- Case was abated to allow for FLUEDRA proceedings and “global mediation.”
- Plaintiff has moved to dissolve the abatement, and the City has opposed it saying mediation has not reached impasse.



Sources and Resources

- Scoring Live Local, An Early Look at the Suitability of Sites Using the LLA's Land Use Mandate, March 31, 2025, Florida Housing Coalition (PowerPoint).
- Affordable Housing Policies in Florida, 2024, Report 24-10, December 2024 (Office of Program Policy Analysis and Government Accountability).



Thank you.

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