



LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

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Special Permitting Rules and Procedures for Live Local Act Affordable Housing Projects

Objective:

Implement Section 166.04151(7)(a), Florida Statutes (“Live Local Act”) allowing affordable housing in certain zoning districts through an administrative approval process.

Functions:

The policies below identify Palm Bay’s applicable zoning districts, density, intensity, mixed-use definitions, height limit, review process, and affordability requirements. These policies refer to relevant city code sections. The city code may be amended from time to time. To the extent there is a conflict between the city code and these policies, the city code shall prevail, except with respect to the allowable use, height, density and review procedures specifically provided herein.

1. Qualifying Zoning Districts

FUTURE LAND USE CATEGORY	ZONING DISTRICTS
CMU - Community Mixed Use	CMU – Community Mixed Use
UMU - Urban Mixed-Use	CMU – Community Mixed Use
	UMU – Urban Mixed Use
COM - Commercial	NC - Neighborhood Commercial
	CC - Community Commercial
	GC - General Commercial
	HC - Highway Commercial
IND - Industrial	LI - Light Industrial & Warehousing
	HI - Heavy Industrial

Qualifying Development

The City of Palm Bay requires a Qualifying Development to lie within one of the above listed zoning districts for eligibility. The development must:

- a. Propose a mixed-use residential project; and,
- b. Dedicate thirty-five percent (35%) of the total square footage to non-residential uses;



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and,

- c. Identify at least forty percent (40%) of the proposed multi-family residential units as affordable (as defined in Chapter 420.0004, F.S.) rental units, for a period of at least 30 years.

NOTE: The Live Local Act states that municipalities with less than twenty (20%) percent of commercial or industrial land area must administratively approve qualifying multi-family developments in any area zoned for commercial or industrial if the proposed multi-family development is a mixed-use residential project. Chapter 166.04151(7)(g), F.S.

The Palm Bay 2045 Comprehensive Plan, Table FLU-6 provides data for existing land use in the city-limits. The data reflects two percent (2%) of land area is being used for commercial, while two and four-tenths percent (2.4%) of land area is used for industrial purposes.

As such, any Live Local project proposed in Commercial and Industrial zoning districts must be a mixed-use project that proposes at least sixty-five percent (65%) of the total square footage for residential purposes.

Nonqualifying Developments

Regardless of future land use category or zoning district, lands within a Planned Unit Development (PUD) District do not qualify.

2. Procedures for Qualifying Developments

Applications for Qualifying Developments shall follow Chapter 172, Development Review Procedures of the Palm Bay Code of Ordinances.

- A. In order to ensure that affordable units are provided in a similar manner across all projects, affordable units must meet the following requirements: Affordable units must be located proportionally within the development site. In single-building development sites, affordable units must not be grouped in one portion of the building. In multi-building development sites, affordable units must be located in the majority of the buildings and must not be grouped in one building.
- B. All common areas and amenities must be accessible and available to all unit occupants (both affordable and market rate units).
- C. Access to affordable units must be provided through the same principal entrance(s) used by market rate units. An exterior door to an individual unit is exempt from this requirement.



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- D. The size and number of bedrooms in affordable units must be proportional to the size and number of bedrooms in the market rate units (e.g., if 30% of the market rate units are one-bedroom units, then approximately 30% of the affordable units must be one-bedroom units).
 - E. The finishes and building materials for both the interior and exterior of affordable units must be the same as those used for market rate units.
 - F. Additional fees such as laundry, parking, cable TV or other services must be charged at the same rate (or less) for affordable units as for market rate units.

Other than use, height and density, all other development standards, such as impervious surface, buffers and setbacks, shall meet the requirements of the RM-20, Multi-family Residential District.

3. Maximum Height Interpretations

The development must be allowed to meet the highest height currently allowed within one mile of the development or three stories, whichever is higher. The one-mile distance will be measured in a straight line from the property line of the proposed development to the property line of a developed or developable parcel. If the development is adjacent to certain parcels zoned for single family residential use, additional height restrictions may apply, pursuant to Chapter 166.04151(7)(d)(2.), F.S.

Specially approved height limits in a PUD or approved by a Conditional Use Permit that are different than what the underlying zoning allows will not be considered as part of the one-mile distance height limit review. The standard height limit associated with the underlying zoning will be used.

4. Maximum Density and Intensity Interpretations

The development must be allowed to meet up to the highest density allowed in the City, which is 40 dwelling units per acre.

The development will not exceed 150 percent (150%) of the highest Floor Area Ratio allowed within the City, which is 5.0 FAR. This applies to the entire square footage of the building, not just the non-residential portion.

Applications that qualify for the Live Local Act are not eligible for the incentives offered in City Code Chapter 173, Part 5.



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5. Parking

Parking requirements will be determined based on the property's proximity to public transit and available parking. Chapter 166.04151(7)(f), F.S.

6. Mixed-Use Residential Projects

In order to determine the percentage of the building that is residential, all lobbies, services areas, and amenity areas exclusively serving the residential use shall be considered residential square footage. Shared lobbies, services areas, and amenity areas shall be proportionally allocated between the residential and non-residential square footage requirements.

At least 65 percent (65%) of the total square footage (excluding any structured parking) must be used for residential purposes.

The state statutes do not specifically provide exemptions from the Comprehensive Plan or Zoning Codes for non-residential uses; therefore, non-residential uses must meet the criteria of the underlying zoning district.

7. Administrative Review Process

The application review process and application fees for the administrative review will follow Sec. 172.027, Master Site Plan for Mixed-Use Districts. The Live Local proposal must be initiated with a request for a pre-application conference to determine qualification.

If an applicant has questions about the applicability of this policy and would like guidance from staff before preparing a site plan application, the applicant may request (in writing) a determination from the City Manager or designee to determine if the site is a Qualifying Development. Such request will be submitted by using the process for a Zoning Verification Letter request.

If the applicant disagrees with the written findings of the Planning Official, the decision may be appealed to the Planning and Zoning Board, pursuant to City Code Chapter 172, Part 2 (General Procedures, Sec. 172.014 Appeals).

All Qualifying Development project applications will receive administrative review. Such application must be submitted prior to submittal of a building permit. In addition to the standard site plan submittal requirements, the requirements for a Master Site Plan for Mixed-Use Districts are stated in Section 172.027(B).



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Plan review and approval includes the following steps:

- A. The Land Development, Fire, Utilities, Police and Public Works staff reviews the plans and returns comments to the Planning Specialist. Review process will follow Florida Statute 166.033 Development Permits and Orders.
- B. The Planning Specialist compiles all comments and emails them to the contact person listed on the site plan application, to the owner, and the engineer of record, if different from the contact person.
- C. The Engineer of record shall respond to each of staff's comments in the order in which the comments are provided.
- D. Revised site plans, landscape plans, or other information needed to satisfy the comments shall be submitted with the written responses in the same quantities as the number of reviewers.
- E. The site plan will be approved when all staff comments have been satisfied. For site plan approval, seven (7) sets of site plans will be required. (One (1) Final sets for each: Owner, Contractor, Engineer of Record, City Inspections, Public Works, Utilities, and Land Development Division).

If a site needs a variance that requires review by the Planning and Zoning Board, such requests must be reviewed by the relevant board(s). Any requests for alternative development standards such as reduced setbacks, buffers, signage or other development standards must be reviewed by the appropriate City Board and/or City Council.

8. Monitoring Affordability

To ensure that units remain affordable for the entire 30-year duration of the affordability requirement, all projects will be subject to a requirement for a restrictive covenant. The property owner shall execute and deliver to the City, on a form approved by the City attorney, a covenant, declaration of restriction, or other deed restriction in favor of the City ensuring compliance with the affordability requirements. The document must be approved and executed prior to the issuance of a building permit and must be recorded at the applicant's expense.

During the affordability period, the property owner shall submit documentation necessary to demonstrate that the affordable units meet the affordability criteria as set forth in Section 420.0004, Florida Statutes, pursuant to a schedule to be established as part of the site plan review to the City (Palm Bay Community and Economic Development Department).