

1236.1 Subject: Special Permitting Rules and Procedures for Live Local Act Affordable Housing Projects

Objective:

Implement Florida's Live Local Act allowing affordable housing in certain zoning districts through administrative approval processes.

Authority:

This procedure amended by City Council June 24, 2024, Item A-02.

Direction:

The Economic Development Department Director, as an Appointed Official, serves at the pleasure of the Mayor and receives direction through the Chief Administrative Officer (CAO) or designee.

Functions:

The policies below identify Orlando'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

The following terms, as further defined in City Code Chapter 66 apply.

Commercial Zoning District:

- MU-1, MU-2 Mixed Use Corridor Districts
- AC-1, AC-2, AC-3, AC-3A, AC-N Activity Center Districts
- The following land use classifications qualify as a commercial or industrial district:
 - Southeast Sector Plan: Town Center, Village Center, Airport Support District Medium Intensity (ASD-1), Airport Support District High Intensity (ASD-2)
 - Baldwin Park: Village Center Core, Village Center General

Industrial Zoning District:

- I-C Industrial-Commercial District.
- I-G General Industrial District.
- I-P Industrial Park District.

Qualifying Developments:

Developments in the above defined zoning districts, wherein at least forty percent (40%) of the residential units are multifamily rental units that are affordable, as defined by Florida law, for a period of at least thirty (30) years.

Nonqualifying Developments:

Regardless of zoning district, developments within the airport noise zone identified in the Aircraft Noise / Lane Use Control Zone Map (Sec. 58 Part 2, 2R, Figure 7A of the Land Development Code) do not qualify.

Developments near a runway within one-quarter of a mile laterally from the runway edge and within an area that is the width of one-quarter of a mile extending at right angles from the end of the runway for a distance of 10,000 feet of any existing airport runway or planned airport runway do not qualify.

2. Special Permitting Rules and Procedures for Qualifying Developments

Qualifying Developments are eligible to submit an application regarding enhanced use, height and density allowances as permitted under Florida law.

Other than use, height and density, all other development standards, such as impervious surface, buffers and setbacks, shall meet the requirements of the zoning district the project is located in.

Some planned developments (PDs) may qualify as a commercial or industrial zoning district if the underlying zoning matches the zoning districts defined in this policy. For large PDs, it is possible that more than one underlying zoning district applies, and therefore this policy may apply only to portions of the PD. If the PD does not include an underlying zoning district, then the future land use category will be applied.

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.

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

If Airport Zoning regulations limit the height of the building to less than the requested amount, the Airport Zoning regulations shall apply.

4. Maximum Density and Intensity Interpretations

The development must be allowed to meet the highest density allowed in the City, which is 200 dwelling units per acre.

The development will not exceed 150 percent of the highest Floor Area Ratio allowed within the City, which is 4.0 FAR. This applies to the entire square footage of the building, not just the non-residential portion.

Applications for a density bonus must meet all criteria of City Code Chapter 58, Part 6, including but not limited to neighborhood compatibility criteria.

5. Parking

Parking requirements will be determined based on the property's proximity to public transit and available parking.

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 of the total square footage (excluding any structured parking garage) 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

All Qualifying Development project applications qualify for administrative review. Such application must be submitted prior to submittal of a building permit. It will be reviewed administratively, and the application will be distributed to all Technical Review Committee (TRC) members for comment. After review, the applicant will receive a letter from the Planning Official in response, including conditions of approval that must be met for building permit review. The application fee is the fee for an administrative master plan.

The master plan may also include a request for a modification of standards per City Code Section 65.334-1.

If the site is located in an area that requires Historic Preservation Board review or Appearance Review Board review, the project must meet all standards of such boards. The review may be wrapped into the administrative master plan, or if details are not yet sufficient for review, may be submitted separately for staff review. No public hearing at these boards is required.

If a site needs a variance that requires review by the Board of Zoning Adjustment or needs alternative development standards that would necessitate Planned Development (PD) zoning review by the Municipal Planning Board, such requests must be reviewed by the relevant board(s). Any requests for alternative development standards such as parking reductions, reduced setbacks, buffers, signage or other development standards must be reviewed by the appropriate City Board.

If an applicant has questions about the applicability of this policy, and would like guidance from staff before preparing an administrative master plan application, the applicant may request a planning official determination to determine if the site is a Qualifying Development.

If the applicant disagrees with the written findings of the Planning Official, the decision may be appealed to the Municipal Planning Board pursuant to City Code Chapter 65, Part 2G (Planning and Zoning Appeals).

8. Monitoring Affordability

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.
- All common areas and amenities must be accessible and available to all unit occupants (both affordable and market rate units).
- 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.
- 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).
- 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.
- 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.

In order 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 to the City such 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.

Forms:

None.

Committee Responsibilities:

None.

Reference:

This procedure was adopted on June 24, 2024.

Effective Date:

This procedure effective June 24, 2024.