

## Agenda Item 7 (Legislative Hearing)

### Land Development Code Text Amendments

DEV2023-577

LDC Text Amendment

Live Local Act

## STAFF REPORT

**DATE:** January 5, 2024 **UPDATED**

**TO:** Planning Board Members

**FROM:** Doug Gutierrez AICP, Planning Manager

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### AMENDMENT REQUEST

A request by the Growth Management and Planning Department, to amend Article 6, Section 6.22.G – Affordable Housing, of the Land Development Code, to add the Implementation of Live Local Act, SB 102 (2023), eligibility criteria, procedures, and standards.

### BACKGROUND

This item, which is a follow-up to a recent City Commission discussion, is intended to provide clarity and “fill in the gaps” to address issues not expressly addressed by the Live Local Act.

### PROPOSED LDC TEXT AMENDMENT

Staff has received a request to implement certain zoning related provisions of the Live Local Act.

### **Sec. 6.22. Affordable housing.**

\*\*\* [omitted text not affected by this ordinance]

G. Implementation of Live Local Act, SB 102 (2023). The following provisions are in implementation of the Act:

1. For purposes of implementing certain zoning-related provisions of Fla. Stat. s. 166.04151(7), with respect to multifamily and mixed-use residential affordable housing as further described therein, the following eligibility criteria, procedures, and standards shall apply:
  - a. The development rights afforded by this statutory provision, including the right to city administrative approval and the imposition of restrictions on the application of city density and height limitations, apply only to properties zoned for commercial, industrial, or mixed use. No other properties are eligible. Among those properties excluded from eligibility are properties subject to a PD (planned development) or PD-RD (planned development-redevelopment), unless the PD or PD-RD agreement for the property specifically provides for such applicability; and properties zoned for or use primarily or solely as a golf course or developed as a golf course. **For purposes herein, the term golf course includes driving ranges, practice putting greens, and golf practice areas, whether developed as part of a golf course or as stand-alone facilities.**

- b. An applicant seeking to avail itself of the rights afforded by this statutory provision, shall be required to execute and record a Declaration of Covenants and Restrictions/Land Use Restriction Agreement (the “LURA”) documenting the project’s affordability (and where applicable in the City’s discretion, providing for verification of documentation at the applicant’s cost), in a form provided by or acceptable to the City Attorney, recorded at the property owner’s sole cost. The LURA shall have a 40 (forty) year term naming the City as a party whose release or authorization to modify the LURA shall be required to allow the cancellation or modification to be effective. Proof of recordation in the public records of Volusia County must be provided to the City and shall be a prerequisite to issuance of building permits.
- c. Except for height and density, a project eligible for the development rights provided by this statutory provision must comply with all other applicable development standards established in the Land Development Code, including, but not limited to, use specific standards, lot and dimensional standards, and all other regulations pertaining to site design, storm water retention, Base Floor Elevation (BFE) and compensating storage. Any project that would conflict with an applicable provision of the comprehensive plan, or with applicable development standards, is not eligible for the development rights provided by this statutory provision.
- d. For a proposed project that is eligible for the development rights under the Live Local Act or any successor legislation, upon issuance of building permits and for so long as the project is under construction, the developer will post notice on the property using a poster provided by the City that will include reference to the Live Local Act and affordable housing.

### **TEXT AMENDMENT REVIEW STANDARDS**

The purpose of Section 3.4.B.1 is to provide a uniform means for amending the text of the Land Development Code whenever the public necessity, convenience, general welfare, comprehensive plan, or appropriate land use practices justify or require doing so.

**The advisability of amending the text of this Code is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the City Commission shall weigh the relevance of and consider whether and the extent to which the proposed amendment:**

**Is consistent with the comprehensive plan;**

**a. Is consistent with the comprehensive plan;**

The proposed text amendments are consistent with the comprehensive plan.

**b. Is not in conflict with any provision of this Code or the Code of Ordinances;**

Staff has reviewed the proposed text amendment and determined that if approved, the amendment will not conflict with any provisions of this Code or the Code of Ordinances.

**c. Is required by changed conditions;**

Staff has reviewed the proposed text amendment and determined the amendment addresses the Live Local Act.

**d. Addresses a demonstrated community need;**

Staff has reviewed the proposed text amendment and determined the amendment addresses community need.

- e. **Is consistent with the purpose and intent of the zoning districts in this Code, or would improve compatibility among uses and would ensure efficient development within the city;**

N/A

- f. **Would result in a logical and orderly development pattern; and**

N/A.

- g. **Would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.**

Staff does not anticipate any environmental impacts with the proposed text amendment.

### **RECOMMENDATION**

Based on staff analysis and review of the above standards, approval of the requested text amendments concerning the Live Local Act Article 6.22 is recommended. A majority vote of the Planning Board members present and voting is required to recommend approval to the City Commission.