



Meeting Name: Town Council
Meeting Date: April 24, 2024
Prepared By: L. Rubin, Town Attorney
Item Title: Ordinance No. 782 – Implementation of Live Local Act (“Second Reading”)

DISCUSSION:

At the recommendation of the Planning and Zoning Board and with the approval of the Town Council, this office has prepared an Ordinance implementing the provisions of Chapter 2023-17, Laws of Florida, as codified in Section 166.04151(7), Florida Statutes, and known as the Live Local Act. The Act was intended to streamline and incentivize affordable housing developments within the State of Florida and preempts certain use, density, and height regulations for qualifying developments that provide for the establishment of affordable multi-family rental housing. Because less than twenty percent of the Town’s land area is designated for commercial or industrial use, all qualifying projects within the Town must be mixed-use residential, containing both residential and non-residential components. The Act requires **administrative approval** for mixed-use residential developments where at least forty percent (40%) of the residential units are, for a period of at least thirty years, affordable as defined in Section 420.004, Florida Statutes.

The purpose of the proposed Ordinance is to supplement and clarify the provisions of the Act for projects proposed within the Town and provides as follows:

1. Live local projects are permitted in each of the Town’s commercial zoning districts: Commercial General (CG), Commercial Office (CO), and Medical Commercial (MC).
2. All projects shall be reviewed by the Town’s Development Review Committee and shall be subject to the Site Plan and Appearance Review procedures and shall meet all criteria set forth in Article II, Division 4 of Chapter 34 (Zoning).
3. Upon receipt of an application, the Town shall notify the public by posting notice of the application on the Town website and providing notice to the public through the Town’s e-mail database. The notice shall indicate that copies of all application materials are available upon request.
4. The application shall be subject to administrative review and approval by the Planning and Zoning Director as required by the Act and shall only be approved if it meets all applicable land development regulations, including the Town’s community appearance standards. Additionally, the Director shall

determine whether the project is consistent with the Town's Comprehensive Development Plan, except those provisions expressly preempted by statute (relating to location within specified zoning districts, height, and density). The application shall also be subject to engineering review during the building permitting process.

5. The maximum height shall be limited to height permitted as of right (without any bonuses available via special exception or otherwise) for a residential or commercial project within the Town within one mile of the proposed project. The maximum height of any structure within the Town is twelve (12) stories and one hundred and thirty (130) feet (as permitted in the Residential High (RH) zoning district).
6. The maximum density is limited to maximum residential density permitted as of right for a residential or commercial project within the Town or eighteen (18) units per acre as permitted in the Residential High (RH) zoning district.
7. All projects shall have maximum of seventy-five percent of residential use based on total gross floor area consistent with the existing regulations governing mixed-use projects in commercial zoning districts.
8. If the project is utilizing the height and density permitted in the Residential High (RH) zoning district, the Town shall apply the building site area regulations for that district, including the expanded high-rise setbacks. For purely non-residential components or for mixed-use structures that do not exceed four stories or sixty feet in height, the project shall comply with the building site area regulations of the underlying zoning district.
9. The project shall provide two parking spaces per residential unit and one guest space for every seven units as required for residential projects within commercial zoning districts. Parking for the commercial uses shall meet the Code requirements. Because there are no major transit stops within the Town, the Town will not consider reduction in these requirements; however, the project may propose shared parking in accordance with the Code requirements. Approval of shared parking is not mandatory.
10. Affordable units and market units shall be located within the same structure. All common areas and amenities shall be accessible and available to all residents. Access to the required affordable dwelling units shall be provided through the same principal entrances utilized by all other dwelling units in the development. The square footage and number of bedrooms in the affordable dwelling units shall be proportional to the square footage and number of bedrooms in market rate dwelling units.
11. All residential and non-residential components shall be located on the same or unified lot.
12. The Town shall impose a condition of approval requiring that 40% of the units remain affordable for a period of 30 years and no permits shall be issued until the property owner executes and delivers to the Town, a covenant, declaration, or other deed restriction ensuring compliance. Additionally, the property owner shall provide to the Town, each year on January 15th, copies of all leases then in effect for the affordable units, together with such other documentation necessary to demonstrate that such leases meet the affordability criteria set forth in Section 420.0004, Florida Statutes.
13. Any aggrieved or adversely affected party may appeal any order, decision, or interpretation of the enforcement of these regulations to the Town Council, sitting as the Zoning Board of Adjustment and Appeals.

ACTION OF PLANNING AND ZONING BOARD:

The Planning and Zoning Board unanimously recommended approval of the Ordinance with three revisions. First, the Board requesting the addition of a “guidance statement” regarding interpretation of the new regulations. This guidance statement has been incorporated in Section 34-1325(c) and directs Town Staff to interpret the regulations “in a manner that would best preserve the town’s small-town, coastal character and its commitment to environmental preservation.” Second, the Board suggested that public notice of an application be provided within forty-eight (48) hours of the submission of an application, and Section 34-1326(b) has been revised to incorporate this change. Finally, given the pending legislation amending the statutory preemption, a new Section 34-1331 has been added to provide that in the event of a change in state law that affords the Town greater regulatory authority and/or the ability to restrict Live Local Act developments in a manner that is more consistent with the Town’s current character and zoning code regulations, the Town shall expeditiously move forward with revising the regulations and the revised regulations shall apply to any project for which administrative development approval has not yet been issued.

ACTION ON FIRST READING:

At its February 28, 2024 meeting, the Town Council unanimously adopted the Ordinance on first reading. Based on public comments and Council discussion, the section addressing subsequent changes to state law has been streamlined and revised to include changes to the Town’s underlying zoning regulations:

Sec. 34-1331. Changes to state law and town zoning regulations.

(a) In the event of a change in state law that affords the town greater regulatory authority over projects submitted pursuant to the Act, the town shall amend this division to reflect such change. However, all applicants are hereby placed on notice that all projects for which administrative development approval has not been issued shall comply with the revised regulations even if the town has not yet formally adopted amendments to this division to reflect the change.

(b) In the event of a change in the town’s zoning regulations applicable to projects submitted pursuant to the Act, including but not limited to revisions to the underlying building site area regulations and parking requirements, all applicants are hereby placed on notice that all projects for which administrative development approval has not been issued shall comply with the revised regulations even if the town has not yet adopted formally amendments to this division to reflect the change.

PENDING LEGISLATION:

During its most recent session, the Florida Legislature passed Senate Bill 328, modifying the provisions of Section 166.04151(7), Florida Statutes. The bill clarifies that density is the maximum density (or floor area ratio) currently permitted under the municipality’s land development regulations without consideration of any bonuses, variances, or other special exceptions. Similarly, the maximum allowed height does not include the height of any building constructed pursuant to the Live Local Act or the height of any building that has received a bonus, variance, or other special exception. This language is already reflected in the Ordinance. Additionally, the bill adds the following language:

If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes, the municipality may restrict the height of the

proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property provided in the municipality's land development regulations, or 3 stories, whichever is higher. For the purposes of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

Further, the bill requires that the municipality reduce the parking requirements by at least twenty percent if the development: (a) is located within one-half mile of major transportation hub accessible from the proposed development by sidewalks, crosswalks, elevated pedestrian or bike paths, or other multi-modal design features; or (b) has available parking within 600 feet of the proposed development (such as available on-street parking, parking lots, or parking garages). A major transportation hub means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of transportation options.

Finally, the bill tweaks the language to provide that a project qualifies under the Act if at least 40 percent of the residential units in a proposed residential multi-family development are rental units that are affordable for a period of at least 30 years. The entire project is not required to consist of rental units.

As of April 17, 2024, the Governor had not yet signed SB 328 into law.

RECOMMENDATION:

Staff recommends that the Town Council review Ordinance No. 782 and consider adoption on second and final reading.

TOWN OF JUNO BEACH, FLORIDA

ORDINANCE NO. 782

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA AMENDING CHAPTER 34, "ZONING," OF THE TOWN CODE OF ORDINANCES BY AMENDING ARTICLE IV, "SUPPLEMENTAL REGULATIONS," TO ADOPT A NEW DIVISION 18, "LIVE LOCAL ACT," TO IMPLEMENT CHAPTER 2023-17, LAWS OF FLORIDA; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, on March 29, 2023, the Governor signed into law Senate Bill 102, "Live Local Act," codified by Chapter 2023-17, Laws of Florida ("Act"), which is intended to streamline and incentivize affordable housing developments with the State of Florida; and

WHEREAS, the Act preempts certain use, density, and height regulations for qualifying developments that provide for the establishment of affordable multi-family rental housing in commercial, industrial, and mixed-use areas; and

WHEREAS, notwithstanding such preemption, the Town retains its home rule authority to establish land development regulations to implement the Act and adopt regulations that are not expressly preempted by the Act; and

WHEREAS, the Act provides that if a municipality has designated less than twenty percent of its land area within its jurisdictional boundaries for commercial or industrial use, the municipality is only required to allow multi-family affordable housing as part of a mixed-use development; and

WHEREAS, because less than twenty percent of the land area within the Town is designated for commercial or industrial uses, any development submitted pursuant to the Act must consist of a mixed-use residential project as defined in the Act; and

WHEREAS, the Town's Planning and Zoning Board has conducted a public hearing on this Ordinance and has provided its recommendation to the Town Council; and

WHEREAS, the Town Council has determined that adoption of this Ordinance is in the best interests of the general welfare of the residents and property owners of the Town of Juno Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA as follows:

Section 1. The foregoing "Whereas" clauses are hereby ratified as true and confirmed and are incorporated herein.

Section 2. The Town Council hereby amends Article IV, "Supplemental Regulations," of Chapter 34, "Zoning," of the Town Code of Ordinance by adopting a new Division 18, "Live Local Act," to read as follows (additional language underlined):

1
2 **DIVISION 18. LIVE LOCAL ACT**
3

4 **Sec. 34-1325. Applicability and intent.**
5

6 (a) The provisions of this division shall apply to all applications for
7 the development of land for mixed-use projects with affordable multi-family
8 residential units pursuant to Live Local Act, as set forth in Section
9 166.04151(7), Florida Statutes (“Act”).

10
11 (b) Such projects shall only be permitted in the Commercial General
12 (CG), Commercial Office (CO), and Medical Commercial (MC) zoning districts.
13

14 (c) The intent of these regulations is to establish a regulatory
15 framework for consideration of projects submitted pursuant to the Act. In
16 adopting these regulations, the town council recognizes that there may be
17 some ambiguity or need for additional interpretation. To the extent not
18 expressly preempted by state law, town staff is directed to interpret these
19 regulations in a manner that would best preserve the town’s small-town,
20 coastal character and its commitment to environmental preservation.
21

22 **Sec. 34-1326. Procedure.**
23

24 (a) All projects shall be reviewed by the town’s development review
25 committee and shall be subject to the site plan and appearance review
26 procedures and shall meet all criteria set forth in article II, division 4 of this
27 chapter.
28

29 (b) Within forty-eight (48) hours of receipt of an application for
30 development approval, the town shall notify the public by posting notice of the
31 application on the Town website and providing notice to the public through the
32 Town’s e-mail database. The notice shall indicate that copies of all application
33 materials shall be provided upon request.
34

35 (c) The application shall be subject to administrative review as
36 required by the Act, and the project shall be approved by the planning and
37 zoning director only if it meets all applicable land development regulations,
38 including the community appearance standards set forth in division 14 of article
39 II of this chapter, and the requirements of this division. The director shall
40 further determine that the project is consistent with the provisions of the
41 comprehensive development plan, except those provisions expressly
42 preempted by Section 166.04151(7), Florida Statutes, relating to location with
43 specified zoning districts, height, and density.
44

45 (d) The application shall be subject to engineering review and

1 approval during the building permitting process in the same manner as any
2 other development application.

3
4 **Sec. 34-1327. Limitations on height and density.**

5
6 (a) Height. Pursuant to Section 166.04151(7), Florida Statutes, the
7 maximum height permitted shall be limited to the height permitted as of right
8 for a commercial or residential project within the town within one (1) mile of the
9 proposed development without consideration of any bonuses or modifications
10 permitted through the special exception process or otherwise. In no event
11 shall the height of any structure exceed twelve (12) stories and one hundred
12 and thirty (130) feet.

13
14 (b) Density. Pursuant to Section 166.04151(7), Florida Statutes, the
15 maximum density permitted shall be limited to density permitted as of right for
16 a residential project within the town without consideration of any bonuses or
17 modifications permitted through the special exception process or otherwise.
18 In no event shall the residential density of any proposed development exceed
19 eighteen (18) units per acre.

20
21 **Sec. 34-1328. Development standards and criteria.**

22
23 (a) Required mix of uses. Consistent with the existing regulations
24 governing mixed-use projects within the town’s commercial zoning districts, all
25 projects submitted pursuant to this division shall have a maximum of seventy-
26 five (75) percent of residential use based on total gross floor area.

27
28 (b) Building site area regulations.

29
30 1. If the project is utilizing the height and density permitted
31 in the town’s Residential High (RH) zoning district, the
32 following site area regulations shall apply:

- 33
- 34 a. Minimum total area: 40,000 square feet;
- 35 b. Minimum lot width: 150 feet;
- 36 c. Minimum lot depth: 200 feet;
- 37 d. Front set yard setback: 30 feet from street line;
- 38 e. Side yard setback: 35 feet with one side having a
39 minimum of 15 feet;
- 40 f. Rear yard setback: 30 feet;
- 41 g. Minimum floor space per dwelling unit: 1,000
42 square feet of habitable space for a one bedroom;
43 1,200 square feet of habitable space for a two
44 bedroom; and 1,400 square feet of habitable space
45 for three or more bedrooms;

- 1 h. Maximum building dimension: 150 feet, provided,
- 2 however that along the building face having the
- 3 maximum dimension, said dimension may be
- 4 increased to no more than 175 feet;
- 5 i. Maximum lot coverage: 50%; and
- 6 j. Minimum landscaped open space: 15% of lot area.

7

8 In addition to the foregoing, all structures exceeding two

9 (2) stories shall comply with the high-rise setback, which

10 requires thirty (30) feet from all property lines and an

11 additional five (5) feet of setback at ground level for each

12 additional story beyond the first two stories up to a

13 maximum of sixty (60) feet. For those lots having a width

14 of two hundred (200) feet or less as recorded in the office

15 of the county property appraiser, the maximum setbacks

16 shall not exceed fifty (50) feet; however, the maximum

17 building dimension on such lots shall not exceed one

18 hundred and fifty (150) feet.

- 19
- 20 2. For purely non-residential components of the project or
- 21 mixed-use structures where the height does not exceed
- 22 four (4) stories and sixty (60) feet, the project shall comply
- 23 with the building site area regulations of the applicable
- 24 commercial zoning district.

25

26 (c) *Parking.* The project shall provide for two (2) spaces per

27 residential unit and one (1) guest space for every seven (7) units as required

28 for residential uses in commercial zoning districts. The parking for commercial

29 uses shall be governed by division 4 of article IV of this chapter. Due to the

30 lack of any major transit stops in the town, no parking reductions shall be

31 considered. However, the project may propose, for consideration and

32 approval by the town, shared parking in accordance with the criteria governing

33 the minimum parking requirements for mixed-use projects in the town's

34 commercial zoning districts.

35

36 (d) *Equivalent treatment of all dwelling units.* All affordable dwelling

37 units and market rate dwelling units shall be located within the same structure.

38 All common areas and amenities shall be accessible and available to all

39 residents of the development. Access to the required affordable dwelling units

40 shall be provided through the same principal entrances utilized by all other

41 dwelling units in the development. Additionally, the overall square footage and

42 number of bedrooms in the affordable dwelling units shall be proportional to

43 the overall square footage and number of bedrooms in the market rate dwelling

44 units. By way of example, if twenty-five (25) percent of the market rate dwelling

45 units consist of two bedrooms, then twenty-five (25) percent of the affordable

1 dwelling units shall have two bedrooms, and the affordable dwelling units shall
2 be similar in size to the market rate dwelling units.

3
4 (e) *Unified lot.* All residential and non-residential components of the
5 site plan shall be located on the same or unified lot.

6
7 **Sec. 34-1329. Affordability.**

8
9 (a) Pursuant to Section 166.04151(7), Florida Statutes, at least forty
10 (40) percent of the multi-family residential units shall remain affordable, as
11 defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30)
12 years. This requirement shall be incorporated as a condition into any
13 administrative approval. Furthermore, as prerequisite to the issuance of a
14 building permit, the applicant shall execute and deliver to the town for
15 recordation in the public records, on a form approved by the town attorney, a
16 covenant, declaration, or other deed restriction in favor of the town ensuring
17 compliance with this affordability requirement.

18
19 (b) The applicant shall provide to the town, on January 15th of each
20 year subsequent to the town's issuance of a certificate of occupancy for the
21 project, copies of all leases then in effect for the affordable units, together with
22 such documentation necessary to demonstrate that such leases meet the
23 affordability criteria set forth in Section 420.0004, Florida Statutes.

24
25 **Sec. 34-1330. Appeals.**

26
27 Any aggrieved or adversely affected party may appeal an administrative
28 order, decision, approval, or interpretation in the enforcement of the
29 regulations of this division to the zoning board of adjustment and appeals in
30 accordance with section 34-66 of the town code.

31
32 **Sec. 34-1331. Changes to state law and town zoning regulations.**

33
34 (a) In the event of a change in state law that affords the town greater
35 regulatory authority over projects submitted pursuant to the Act, the town shall
36 amend this division to reflect such change. However, all applicants are hereby
37 placed on notice that all projects for which administrative development
38 approval has not been issued shall comply with the revised regulations even if
39 the town has not yet formally adopted amendments to this division to reflect
40 the change.

41
42 (b) In the event of a change in the town's zoning regulations
43 applicable to projects submitted pursuant to the Act, including but not limited
44 to revisions to the underlying building site area regulations and parking
45 requirements, all applicants are hereby placed on notice that all projects for

which administrative development approval has not been issued shall comply with the revised regulations even if the town has not yet formally adopted amendments to this division to reflect the change.

Section 3. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Juno Beach. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

Section 4. If any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5. All ordinances or parts of ordinances of the Town of Juno Beach, Florida, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall be effective immediately upon adoption.

FIRST READING this 28th day of February, 2024.

SECOND, FINAL READING AND ADOPTION this 24th day of April, 2024.

AYE

NAY

PEGGY WHEELER, MAYOR

AYE

NAY

DD HALPERN, VICE MAYOR

AYE

NAY

MARIANNE HOSTA, VICE MAYOR PRO TEM

AYE

NAY

JACOB ROSENGARTEN, COUNCILMEMBER

AYE

NAY

DIANA DAVIS, COUNCILMEMBER

ATTEST:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CAITLIN COPELAND-RODRIGUEZ
TOWN CLERK

LEONARD G. RUBIN
TOWN ATTORNEY