

ORDINANCE NO. 2024-

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OPA- LOCKA, FLORIDA, CREATING A NEW ARTICLE XI OF THE CITY CODE OF ORDINANCES; RENUMBERING THE FOLLOWING SECTIONS; SPECIFICALLY ADOPTING CERTAIN PROVISIONS OF SENATE BILL 102, THE “LIVE LOCAL ACT” RELATING TO AFFORDABLE HOUSING; PROVIDING FOR THE ADMINISTRATIVE APPROVAL OF CERTAIN QUALIFIED PROJECTS CONTAINING AFFORDABLE HOUSING UNITS; AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Opa-Locka (“City”) recognizes the importance of residential and economic development in the City; and

WHEREAS, the State legislature recognizes the importance of providing quality housing to Florida residents; and

WHEREAS, in recognition of the need to provide quality and affordable housing to Florida residents, Senate Bill 102, also known as the Live Local Act (the “Act”) was adopted into law by the State legislature, effective July 1, 2023 and the Act will expire on October 1, 2033; and

WHEREAS, the Act preempts certain use, density, and height regulations and imposes various obligations, including the requirement for a municipality to permit mixed-use residential development as an allowable use in any area zoned for commercial, industrial, or mixed-use if at least forty percent (40%) of the residential units are affordable, as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years; and

WHEREAS, the benefits afforded by the Act are only available to developments that provide certain threshold levels of affordable multi-family housing, which housing units are further required to remain affordable for at least thirty (30) years, but the Act is silent on issued related to compliance reporting, monitoring, and enforcement of the mandatory affordability requirements applicable to these developments; and

WHEREAS, the City Commission has determined that it is appropriate and in the public interest to provide that projects proposed under the Act on Zoning Districts; Commercial: B-2 – Commercial Liberal, B-3 – Commercial Intensive; Industrial: I-1 – Light Industrial, IT-Innovation and Technology District; MXUOD-Corridor Mixed Use and HDOD-Historic Downtown Opa-Locka District; and

WHEREAS the Act provides that if a municipality has designated less than twenty percent (20%) of the land area within its jurisdiction for commercial or industrial use, it is only required to allow multi-family development pursuant to the Act as part of a mixed-use residential development; and

WHEREAS, given that less than twenty percent (20%) of the land area of the City is designated for commercial and industrial use, any development of land approved pursuant to the Act must consist of a mixed-use project; and

WHEREAS, the Act requires that an affordable housing project proposed under the Act must be administratively approved, without further action by the governing body, if the development satisfies the City’s land development regulations and is consistent with the City’s Comprehensive Plan, with the

exception of provisions establishing allowable densities, height, and land use (which are established in, and preempted by the Act) and complies with all other applicable requirements of state and local law; and

WHEREAS the Act provides that the City must consider the possibility of reducing parking requirements for projects developed under the Act if the project is located within one-half mile of a major transit stop, as defined in the City's Land Development Code, if the major transit stop is accessible from the development; and

WHEREAS the Act offers incentives to developers who want to build affordable housing, it also leaves certain matters to local discretion; and

WHEREAS, recognizing the importance of providing quality affordable housing to Opa-Locka residents, the City desires to adopt and implement certain elements of the Act into its Code of Ordinances ("Code") in order to codify regulations in an effort to encourage affordable housing development in the City; and

WHEREAS the City Commission finds and determines that updating the City's Code of Ordinance to implement the Live Local Act is in the best interest of the residents in the City of Opa-Locka; and

WHEREAS, at their duly noticed meeting and public hearing of _____, 2024 the City Commission considered the record, adopted findings and conclusions, and approved the proposed Ordinance on first reading; and

WHEREAS, at their subsequent duly noticed meeting and public hearing of _____, 2024, the City Commission on second reading adopted the Ordinance and recommended incorporation of same into the Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated into this Ordinance by reference.

SECTION 2. Amendment. The Code of Ordinance of the City of Opa-Locka, Florida, shall be amended by amending Chapter _____, to create Section _____, entitled "Qualifying Development Pursuant to Florida Statutes, Section 166.04151(7), Under the Live Local Act" to read as follows:

Section I . Qualifying Development Pursuant to Florida Statutes, Section 166.04151(7), Under the Live Local Act.

(a) **Intent and Purpose:** The purpose of this section is to establish procedures and regulations for the development of mixed-use affordable housing developments pursuant to the provisions of Section 166.04151(7), Florida Statutes, as created by Chapter 2023-17, Laws of Florida, the "Live Local Act" (the "Act"), which development involves a combination of residential and non-residential components, and a combination of dwelling units, at least forty percent (40%) of which must qualify as affordable housing units, as defined in Florida Statutes, Section 420.0004, to accomplish the following purposes:

(1) Protect and promote the public health, safety, and general welfare of the residents of the City.

- (2) Facilitate the orderly and efficient development of affordable multi-family housing in the City pursuant to the Act;
- (3) Confirm that qualifying developments proposed pursuant to the Act are mixed-use residential developments, as required by the Act, given that less than 20% of the City's land area is designated for commercial or industrial use; Per the City of Opa-Locka Comprehensive Master Plan, 26% of the land use in the City of Opa-Locka is Industrial and 11% of the land use is Commercial. This excludes residential, parks and civic land use. The Miami-Dade Opa-Locka Executive Airport is included under Civic land use.
- (4) Specify the City zoning districts to which this section is applicable and within which qualifying developments proposed pursuant to the Act are authorized and may be approved administratively pursuant to the Act;
- (5) Confirm the land development regulations applicable to proposed qualifying developments under the Act, including acknowledgment of the statutory mandates regarding use, height and density.
- (6) Provide the minimum non-residential floor area for qualifying developments proposed under the Act in order to ensure a meaningful mixed-use development to support community sustainability and to reduce vehicle trips and vehicle miles traveled; and
- (7) Establish and administrative approval process for qualifying developments under the Act.

(b) **Applicability.** Applications for a qualifying development pursuant to this section must be deemed complete prior to October 1, 2033. No applications for qualifying developments shall be accepted after October 1, 2033, unless the legislature extends or reenacts Section 166.04151(7), Florida Statutes and the city commission extends these deadlines accordingly. A qualifying development pursuant to the Live Local Act for a multifamily development is not required to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under Florida Statutes, Section 166.04151(7).

(c) **Definitions.**

1. *Qualifying development* shall mean a multiple-family mixed-use development proposed pursuant to Florida Statutes, Section 166.04151(7), with 65% of the total square footage used for residential purposes, at least 40% of which are affordable as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years, with the remaining thirty-five (35%) percentage of the total square footage dedicated to non-residential uses, as provided in the applicable zoning district.
2. *Unified Control* means all land included for purpose of development within a Planned Unit Development (PUD) district shall be under the control of the applicant (an individual, partnership, or corporation, or group of individuals, partnerships, or corporations). The applicant shall present satisfactory legal documents to constitute evidence of the unified control of the entire area, which shall be approved by the city attorney.
3. *Affordable* means monthly rents or monthly mortgage payments including taxes and insurance do not exceed thirty (30) percent of that amount which represents the percentage of the median annual gross income for the households. However, it is not the intent to limit an individual household's ability to devote more than thirty (30) percent of its income for housing, and housing for which a household devotes more than thirty (30) percent of its income shall be deemed affordable if the first institutional mortgage lender

is satisfied that the household can afford mortgage payments in excess of the thirty (30) percent benchmark.

4. **TRANSIT STOP**-A designated location that provides passengers access to the transit system and/or a point of transfer between transit routes.
5. **PLANNED UNIT DEVELOPMENT** --A planned unit development, or PUD, is a community of single-family homes, and sometimes condos or townhomes, where every homeowner belongs to a homeowner's association (HOA).
6. **AFFORDABLE HOUSING TRUST FUND (AHTF)** - The Affordable Housing Trust Fund will serve as a permanent, renewable, source of revenue to meet, in part, the housing needs of the residents of a municipality. The objective of the AHTF is to foster a housing supply accessible to a range of family incomes in developments assisted by the Trust Fund and to disperse affordable housing units throughout the City, in accordance with objectives, goals, and policies set within the housing elements of the Community Development Master Plan.
7. **DEVELOPMENT REVIEW COMMITTEE:** The City Commission hereby establishes a Development Review Committee, which shall be an advisory body to the Department of Planning and Community Development. Members of the Committee shall include Director of Planning and Community Development their Designee, Director of Public Works or their Designee, Director of Parks and Recreation or their Designee, Police Chief or their Designee, Director of Building or their Designee, Code Compliance Personnel / Designee, any intergovernmental agency representatives deemed necessary by the Director, and any other staff as deemed necessary.

(d) Zoning Districts Permitting Qualifying Developments:

TABLE OF REGULATIONS

	GENERAL DISTRICT TYPE	SPECIFIC ZONING DISTRICT
1	Commercial Zoning Districts	B-2 - Commercial Liberal; B-3 – Commercial Intensive;
2	Industrial Zoning Districts	I-1-Light Industrial; IT-INNOVATION & TECHNOLOGY OVERLAY DISTRICT
3	Mixed-Use Zoning Districts	MXUOD - CORRIDOR MIXED USE OVERLAY DISTRICT; HDOD - HISTORIC DOWNTOWN OPALOCKA DISTRICT

Section II. Applicable Development Regulations:

- (1) Unified Lot. All land included for the purposes of a qualifying development, including residential and non-residential components shall be under unified control.
- (2) (E) Unified Development.
- (3) Any proposed development authorized under this subsection which consists of contiguous parcels, parcels under common ownership, or control shall have all development rights established under this section including higher available density and height.
- (4) Upon application for rezoning, the applicant shall agree to the following:
 - (a) *To proceed with the qualifying development according to the provisions of this section and the affordability requirement as established by state law and a Developer Agreement.*
 - (b) To provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the city for completion of the development according to the plan approved at the time of site plan approval and for continuing operations and maintenance of such areas, functions, and facilities, which are not proposed to be provided, operated or maintained at public expense; and
 - (c) To bind their successors in title to any commitments made under the above. All agreements and evidence of unified control shall be reviewed by the city attorney and no site plan for a qualifying development shall be approved without verification by the City Manager and the City Attorney that such agreements and evidence of unified control meet the requirements of this section.

(5) Required residential use.

- a. Sixty-five percent (65%) of the total square footage of a qualifying development shall be used for residential purposes.
- b. Equivalency of affordable dwelling units.
 - (a) Affordable dwelling units and market rate units within a qualifying development shall be located within the same structure or shall be proportionately distributed between multiple structure, if such are proposed, such that every qualifying development structure contains both affordable and market rate units in equal proportions; in no event shall a qualifying development structure consist entirely of market rate units.
 - (b) All common areas and amenities within a qualifying development shall be accessible and available to all residents (both affordable and market rate units).
 - (c) Access to the required affordable dwelling units in a qualifying development shall be provided through the same principal entrance(s) utilized by all other dwelling units in the development, provided that for townhouse-style affordable dwelling units, each unit shall have its own entrance.
 - (d) The sizes and number of bedrooms in the affordable dwelling units shall be proportional to the sizes and number of bedrooms in the market rate units (e.g. for number of bedrooms, if twenty-five percent (25%) of the market rate units consist of two (2) bedrooms, then twenty-five percent (25%) of the affordable units shall also have two (2) bedrooms, etc. maintaining a proportional distribution across unit types and within each structure within the qualifying development.
 - (e) Affordable dwelling units shall be developed simultaneously with or prior to the development of the market rate units.

- (f) If the development is phased, the phasing plan shall provide for the construction of affordable units proportionately and concurrently with the market rate units.
- (g) The exterior appearance of affordable units shall be the same as the market rate units and shall provide exterior building materials and finishings of the same type and quality.
- (h) The interior building materials and finishes of the affordable units shall be the same type and quality as the market rate units, including but not limited to all electrical and plumbing fixtures, flooring, cabinetry, counter tops, and decorative finishes.

(6) Affordability Requirement:

- (a) Pursuant to Florida Statutes, Section 166.04151(7), at least forty percent (40%) of the multi-family residential units shall remain affordable, as defined in Florida Statutes, Section 420.0004, for a period of at least thirty (30) years. The property owner shall execute and deliver to the City for recordation in the public records, 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 requirement.
- (b) The developer shall provide documentation as requested by the City on an annual basis (calendar year) to verify that the units approved for a qualified development are in compliance with the affordability criteria for all units rented to ensure that forty-percent (40%) of the units have been utilized and rented as affordable units every year. Confirmation shall be provided on or before January 31, of every year for the preceding calendar year. Said documentation shall include but not be limited to rental amounts paid by the tenants, percentage of affordable units rented for the year, and market rate data.
- (c) Any violation of the affordability requirement shall result in a monetary penalty to be deposited in an Affordable Housing Trust Fund. Such monetary penalty shall be assessed as a daily fine in the amount of one-hundred and fifty (\$150.00) per day, per violation until proof of compliance has been provided to the city. The monetary penalty shall not be subject to mitigation or otherwise modified by any board, including but not limited to the code compliance special magistrate.
- (d) An approved qualifying development project which fails to maintain the required number of affordable dwelling units and does not comply with the affordable housing requirement of this section after notice and ninety (90) days to cure, shall be considered non-conforming as to all portions of the development that do not comply with use and development regulations applicable based on the assigned zoning designation.

(7) Required Non-Residential Use.

- (1.) Thirty-five percent (35%) of the total square footage of the qualifying development shall be devoted to principal non-residential used that are not dedicated to, or exclusively accessible by the on-site residential uses. Residential community amenities, or non-residential uses open only to residents of the qualifying development are not considered non-residential uses.

- (2.) Non-residential uses shall be limited to those uses permitted in the zoning district or land use regulations applicable to the land on which the qualified project is located.

(8) Standard for Development.

(1.) Maximum Density and Height.

The maximum density for any qualified project authorized under the Act may be approved with a density of up to one-hundred fifty (150) units per acre.

The maximum height for any qualified project authorized under the Act shall be the highest allowed height for a commercial or residential development located in the City of Opa-Locka within one (1) mile of the proposed development or three (3) stories, whichever is higher. The maximum height for the City of Opa-Locka is eight (8) stories, or 95 feet, per the maximum height allow for affordable housing or mixed-use development within the Corridor Mixed Use District. All height limitations up to 8 stories shall be subject to approval by the Federal Aviation Authority as applicable.

- (2.) **Parking Requirements.** For a qualified development authorized under the Act, the Director/Advisor for the Planning & Community Development Department and the City Manager may recommend a parking reduction of up to 1.25 spaces. The City Commission shall have the final approval for parking reduction.
Parking reductions shall be considered for a qualified development authorized under the Act for development located within one-half mile of a major transit stop and the major transit stop is accessible from the development.

(3.) Setbacks.

Front – 15 feet for non-mixed use projects
Front – 10 feet for mixed use projects
Side, Interior lot – 10 feet (mixed use and non-mixed use)
Side, Street – 10 feet (mixed use and non-mixed use)
Rear – 10 feet (mixed use and non-mixed use)

(4.) Minimum air conditioned dwelling unit size.

Efficiency – 500 square feet
One Bedroom - 625 square feet
Two Bedroom – 750 square feet
Three Bedroom – 1000 square feet

(5.) Regulatory Compliance.

- (1.) In addition to the provisions set forth herein, qualifying developments shall comply with all other applicable land development code development regulations.
- (2.) All aspects of the qualifying development shall be consistent with the City's Comprehensive Plan, with the exception of provisions establishing allowable use, height, and density.
- (3.) Qualifying developments shall comply with all other applicable state and local laws and regulations.

(9) Site Plan Review Procedures:

- (a) **Pre-plan Review:** Applications submitted pursuant to Florida Statutes, Section 166.04151(7), shall be reviewed in a pre-plan review process with the Director/Advisor for the Planning & Community Development Department, or the designee to conform general compliance with the requirements of Florida Statutes, Section 166.04151(7), under the Live Local Act, the land use designations, zoning and application provisions of the City code and Florida Statutes, Section 166.04151(7), as may be amended from time to time.
- (b) **Application:** The applicant shall submit the proposed site plan to the Director/Advisor for the Planning & Community Development Department, or the designee. The application shall include.
 - a. All information and in a form as provided by the City for site plans.
 - b. Dwelling unit breakdown, including the number of bedrooms and unit sizes.
 - c. Color rendering of all building elevations.
 - d. An affidavit of Commitment in a form approved by the city, to record a covenant detailing the affordable housing restrictions and ensuring compliance with the monitoring requirements. The covenant shall detail income mix and required affordability, with a release provision ensuring that the covenant is in place for thirty (30) years from the date of issuance for the certificate of occupancy (CO). The City Commission may release the covenant at the end of the thirty-year affordability period if the developer has been in compliance with the affordability criteria during the thirty-year affordability restriction period.
 - e. Legal documents shall be provided demonstrating unified control of the proposed development site and providing for maintenance and cross access easement as may be applicable.
 - f. A specific purpose survey shall be provided demonstrating the one (1) mile distance for any proposed height determination. A statement of the comparative site evaluation being utilized for the height justification shall be provided.
 - g. Notations shall be made on all submittals identifying the project as a Live Local Act project pursuant to Florida Statutes, Section 166.04151(7).
 - h. A table, or tables and graphics indicating the ratio of residential and non-residential square footage and affordable and market rate residential units shall be provided.
 - i. The Director/Advisor for the Planning & Community Development Department and the City Manager shall amend the fee schedule to include fees for projects submitted as a Live Local Act project.
 - j. The site plan review committee shall review the application and shall provide written recommendations to the Director/Advisor for the Planning & Community Development Department or designee, according to the review schedule established by the city manager, as said fee schedule may be amended from time to time.
 - k. The applicant will be notified in writing of comments concerning the site plan submission. Revisions, additions, or corrections will be reviewed together by the Director/Advisor for the Planning & Community Development Department or designee, the site plan review committee and the applicant. Required revisions and any other information required shall be resubmitted by the applicant within thirty (30) days of the review. Failure of any applicant to submit information or revised plans as required above shall result in cancellation of the application unless an extension is agreed to by the applicant and the Director/Advisor for the Planning & Community Development Department. Applicants may withdraw an application at any time.
 - l. The Director/Advisor for the Planning & Community Development Department or the Development Review Committee shall review site plan, review committee comments, applicant responses, final proposed plans and façade rendering, and

based on compliance with the City's land development regulations, comprehensive plan, and applicable state laws, shall approve, approve with conditions, or deny the final site plan and issue a written development order, including findings supporting the decision. A decision may be appealed to the City Commission.

- m. The restrictive covenant shall be executed and recorded prior to issuance of vertical permits for construction. The developer shall pay for all recording costs.
- n. The City Commission shall determine how much money will be set aside for qualifying developments. The City Manager shall have the authority to allocate up to \$25,000.00 per qualified development.

Section 3: Conflicts. All ordinances or parts of ordinance, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4: Severability. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or work be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 5: Codification. The provisions of this ordinance shall be codified within the Code of Ordinance of the City of Opa-Locka, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 6: Effective Date. This Ordinance shall become effective on the passage on second and final reading.

PASSED FIRST READING ON THIS _____ DAY OF _____ 2024.

PASSED SECOND READING ON THIS _____ DAY OF _____ 2024.

John Taylor, Mayor

ATTEST:

Joanna Flores, City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Burnadette Norris-Weeks, P.A.
City Attorney

Moved by: _____

Seconded by: _____

VOTE:

Commissioner Bass	_____
Commissioner Kelley	_____
Commissioner Williams	_____
Vice Mayor Ervin	_____
Mayor Taylor	_____



City of Opa-locka Agenda Cover Memo

Department Director:	Gregory D. Gay			Department Director Signature:			
City Manager:	Darvin Williams			CM Signature			
Commission Meeting Date:	June 26, 2024		Item Type: <small>(Enter X in box)</small>	Resolution	Ordinance		Other
Fiscal Impact: <small>(Enter X in box)</small>	Yes	No	Ordinance Reading: <small>(Enter X in box)</small>	1st Reading		2nd Reading	
				X		X	
		X	Public Hearing: <small>(Enter X in box)</small>	Yes	No	Yes	No
				X		X	
Funding Source: <small>Account# :</small> N/A	<small>(Enter Fund & Dept)</small> Ex: See Financial Impact section below		Advertising Requirement: <small>(Enter X in box)</small>	Yes		No	
				X			
ILA Required: <small>(Enter X in box)</small>	Yes	No	RFP/RFQ/Bid#:				
		X	N/A				
Strategic Plan Related <small>(Enter X in box)</small>	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: <small>(list the specific objective/strategy this item will address)</small>			
	X		Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input checked="" type="checkbox"/> Communication <input type="checkbox"/>				
Sponsor Name	City Manager		Department: Planning & Community Development	City Manager			

Short Title:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, CREATING A NEW ARTICLE XI OF THE CITY CODE OF ORDINANCES RENUMBERING THE SECTIONS FOLLOWING: SPECIFICALLY ADOPTING CERTAIN PROVISIONS OF SENATE BILL102, THE "LIVE LOCAL ACT" RELATING TO AFFORDABLE HOUSING; PROVIDING FOR THE ADMINISTRATIVE APPROVAL OF CERTAIN QUALIFIED PROJECTS CONTAINING AFFORDABLE HOUSING UNITS: AUTHORIZING THE CITY MNAGER TO TAKE CERTAIN ACTIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

"Live Local Act" requires local government to make multifamily and mixed-use residential developments allowable uses in areas zoned commercial, industrial, and mixed use if at least 40% of the proposed development's multifamily residential rental units are affordable as defined under state law for at least 30 years. This Landmark Legislation preempts local government from taking several actions that might hinder the development of residential units authorized by 'Live Local Act'.

- Prohibits local government from requiring a proposed Multifamily Housing development obtain a zoning change, land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under sections 125.01055 and 166.04151 of the statutes.
- Requires mixed-use residential Multifamily Housing developments have at least 65% of the total square footage dedicated for residential purposes.
- Removes zoning decision-making authority from local government boards by requiring that Multifamily Housing development be administratively approved if the development complies with regulations for multifamily developments in areas zoned for such uses and is consistent with the comprehensive plan, except for provisions establishing allowable densities, height, and land use.

Financial Impact:

The City Commission shall determine how much money will be set aside for qualifying developments. The City Manager shall have the authority to allocate up to \$25,000.00 per qualified development.

Proposed Action:

Staff recommends approval of this Ordinance.

Attachment:

Draft Ordinance

ORDINANCE NO. 2024-

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OPA- LOCKA, FLORIDA, CREATING A NEW ARTICLE XI OF THE CITY CODE OF ORDINANCES; RENUMBERING THE SECTIONS FOLLOWING; SPECIFICALLY ADOPTING CERTAIN PROVISIONS OF SENATE BILL 102, THE “LIVE LOCAL ACT” RELATING TO AFFORDABLE HOUSING; PROVIDING FOR THE ADMINISTRATIVE APPROVAL OF CERTAIN QUALIFIED PROJECTS CONTAINING AFFORDABLE HOUSING UNITS; AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS the City of Opa Locka (“City”) recognizes the importance of residential and economic development in the City; and

WHEREAS the State legislature recognizes the importance of providing quality housing to Florida residents; and

WHEREAS, in recognition of the need to provide quality and affordable housing to Florida residents, Senate Bill 102, also known as the Live Local Act (the “Act”) was adopted into law by the State legislature, effective July 1, 2023 and the Act will expire on October 1, 2033; and

WHEREAS, the Act preempts certain use, density, and height regulations and imposes various obligations, including the requirement for a municipality to permit mixed-use residential development as an allowable use in any area zoned for commercial, industrial, or mixed-use if at least forty percent (40%) of the residential units are affordable, as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years; and

WHEREAS the benefits afforded by the Act are only available to developments that provide certain threshold levels of affordable multi-family housing, which housing units are further required to remain affordable for at least thirty (30) years, but the Act is silent on issued related to compliance reporting, monitoring, and enforcement of the mandatory affordability requirements applicable to these developments; and

WHEREAS, the City Commission has determined that it is appropriate and in the public interest to provide that projects proposed under the Act on Zoning Districts; Commercial: B-2 – Commercial Liberal, B-3 – Commercial Intensive; Industrial: I-1 – Light Industrial, IT-Innovation and Technology District; MXUOD-Corridor Mixed Use and HDOD-Historic Downtown Opa-locka District

WHEREAS the Act provides that if a municipality has designated less than twenty percent (20%) of the land area within its jurisdiction for commercial or industrial use, it is only required to allow multi-family development pursuant to the Act as part of a mixed-use residential development; and

WHEREAS, given that less than twenty percent (20%) of the land area of the City is designated for commercial and industrial use, any development of land approved pursuant to the Act must consist of a mixed-use project; and

WHEREAS, the Act requires that an affordable housing project proposed under the Act must be administratively approved, without further action by the governing body, if the development satisfies the City’s land development regulations and is consistent with the City’s Comprehensive Plan, with the

exception of provisions establishing allowable densities, height, and land use (which are established in, and preempted by the Act) and complies with all other applicable requirements of state and local law; and

WHEREAS the Act provides that the City must consider the possibility of reducing parking requirements for projects developed under the Act if the project is located within one-half mile of a major transit stop, as defined in the City's Land Development Code, if the major transit stop is accessible from the development.

WHEREAS the Act offers incentives to developers who want to build affordable housing, it also leaves certain matters to local discretion; and

WHEREAS, recognizing the importance of providing quality affordable housing to Opa-Locka residents, the City desires to adopt and implement certain elements of the Act into its Code of Ordinances ("Code") in order to codify regulations in an effort to encourage affordable housing development in the City; and

WHEREAS the City Commission finds and determines that updating the City's Code of Ordinance to implement the Live Local Act is in the best interest of the residents in the City of Opa-Locka; and

WHEREAS, at their duly noticed meeting and public hearing of _____, 2023 the City Commission considered the record, adopted findings and conclusions, and approved the proposed Ordinance on first reading; and

WHEREAS, at their subsequent duly noticed meeting and public hearing of _____, 2024, the City Commission on second reading adopted the Ordinance and recommended incorporation of same into the Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated into this Ordinance by reference.

SECTION 2. Amendment. The Code of Ordinance of the City of Opa-Locka, Florida, shall be amended by amending Chapter _____, to create Section _____, entitled "Qualifying Development Pursuant to Florida Statutes, Section 166.04151(7), Under the Live Local Act" to read as follows:

Section I . Qualifying Development Pursuant to Florida Statutes, Section 166.04151(7), Under the Live Local Act.

(a) **Intent and Purpose:** The purpose of this section is to establish procedures and regulations for the development of mixed-use affordable housing developments pursuant to the provisions of Section 166.04151(7), Florida Statutes, as created by Chapter 2023-17, Laws of Florida, the "Live Local Act" (the "Act), which development involves a combination of residential and non-residential components, and a combination of dwelling units, at least forty percent (40%) of which must qualify as affordable housing units, as defined in Florida Statutes, Section 420.0004, to accomplish the following purposes:

(1) Protect and promote the public health, safety, and general welfare of the residents of the City.

- (2) Facilitate the orderly and efficient development of affordable multi-family housing in the City pursuant to the Act;
- (3) Confirm that qualifying developments proposed pursuant to the Act are mixed-use residential developments, as required by the Act, given that less than 20% of the City's land area is designated for commercial or industrial use; Per the City of Opa-locka Comprehensive Master Plan, 26% of the land use in the City of Opa-locka is Industrial and 11% of the land use is Commercial. This excludes residential, parks and civic land use. The Miami-Dade Opa-locka Executive Airport is included under Civic land use.
- (4) Specify the City zoning districts to which this section is applicable and within which qualifying developments proposed pursuant to the Act are authorized and may be approved administratively pursuant to the Act;
- (5) Confirm the land development regulations applicable to proposed qualifying developments under the Act, including acknowledgment of the statutory mandates regarding use, height and density.
- (6) Provide the minimum non-residential floor area for qualifying developments proposed under the Act in order to ensure a meaningful mixed-use development to support community sustainability and to reduce vehicle trips and vehicle miles traveled; and
- (7) Establish and administrative approval process for qualifying developments under the Act.

(b) **Applicability.** Applications for a qualifying development pursuant to this section must be deemed complete prior to October 1, 2033. No applications for qualifying developments shall be accepted after October 1, 2033, unless the legislature extends or reenacts Section 166.04151(7), Florida Statutes and the city commission extends these deadlines accordingly. A qualifying development pursuant to the Live Local Act for a multifamily development is not required to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under Florida Statutes, Section 166.04151(7).

(c) **Definitions.**

1. *Qualifying development* shall mean a multiple-family mixed-use development proposed pursuant to Florida Statutes, Section 166.04151(7), with 65% of the total square footage used for residential purposes, at least 40% of which are affordable as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years, with the remaining thirty-five (35%) percentage of the total square footage dedicated to non-residential uses, as provided in the applicable zoning district.
2. *Unified Control* means all land included for purpose of development within a Planned Unit Development (PUD) district shall be under the control of the applicant (an individual, partnership, or corporation, or group of individuals, partnerships, or corporations). The applicant shall present satisfactory legal documents to constitute evidence of the unified control of the entire area, which shall be approved by the city attorney.
3. *Affordable* means monthly rents or monthly mortgage payments including taxes and insurance do not exceed thirty (30) percent of that amount which represents the percentage of the median annual gross income for the households. However, it is not the intent to limit an individual household's ability to devote more than thirty (30) percent of its income for housing, and housing for which a household devotes more than thirty (30) percent of its income shall be deemed affordable if the first institutional mortgage lender

is satisfied that the household can afford mortgage payments in excess of the thirty (30) percent benchmark.

4. **TRANSIT STOP-A** designated location that provides passengers access to the transit system and/or a point of transfer between transit routes.
5. **PLANNED UNIT DEVELOPMENT** --A planned unit development, or PUD, is a community of single-family homes, and sometimes condos or townhomes, where every homeowner belongs to a homeowner's association (HOA).
6. **AFFORDABLE HOUSING TRUST FUND (AHTF)** - The Affordable Housing Trust Fund will serve as a permanent, renewable, source of revenue to meet, in part, the housing needs of the residents of a municipality. The objective of the AHTF is to foster a housing supply accessible to a range of family incomes in developments assisted by the Trust Fund and to disperse affordable housing units throughout the City, in accordance with objectives, goals, and policies set within the housing elements of the Community Development Master Plan.
7. **DEVELOPMENT REVIEW COMMITTEE:** The City Commission hereby establishes a Development Review Committee, which shall be an advisory body to the Department of Planning and Community Development. Members of the Committee shall include Director of Planning and Community Development their Designee, Director of Public Works or their Designee, Director of Parks and Recreation or their Designee, Police Chief or their Designee, Director of Building or their Designee, Code Compliance Personnel / Designee, any intergovernmental agency representatives deemed necessary by the Director, and any other staff as deemed necessary.

(d) Zoning Districts Permitting Qualifying Developments:

TABLE OF REGULATIONS

	GENERAL DISTRICT TYPE	SPECIFIC ZONING DISTRICT
1	Commercial Zoning Districts	B-2 - Commercial Liberal; B-3 – Commercial Intensive;
2	Industrial Zoning Districts	I-1-Light Industrial; IT-INNOVATION & TECHNOLOGY OVERLAY DISTRICT
3	Mixed-Use Zoning Districts	MXUOD - CORRIDOR MIXED USE OVERLAY DISTRICT; HDOD - HISTORIC DOWNTOWN OPALOCKA DISTRICT

Section II. Applicable Development Regulations:

- (1) Unified Lot. All land included for the purposes of a qualifying development, including residential and non-residential components shall be under unified control.
 - (2) (E) Unified Development.
 - (3) Any proposed development authorized under this subsection which consists of contiguous parcels, parcels under common ownership, or control shall have all development rights established under this section including higher available density and height.
 - (4) Upon application for rezoning, the applicant shall agree to the following:
 - (a) *To proceed with the qualifying development according to the provisions of this section and the affordability requirement as established by state law and a Developer Agreement.*
 - (b) To provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the city for completion of the development according to the plan approved at the time of site plan approval and for continuing operations and maintenance of such areas, functions, and facilities, which are not proposed to be provided, operated or maintained at public expense; and
 - (c) To bind their successors in title to any commitments made under the above. All agreements and evidence of unified control shall be reviewed by the city attorney and no site plan for a qualifying development shall be approved without verification by the City Manager and the City Attorney that such agreements and evidence of unified control meet the requirements of this section.
- (5) Required residential use.**
- a. Sixty-five percent (65%) of the total square footage of a qualifying development shall be used for residential purposes.
 - b. Equivalency of affordable dwelling units.
 - (a) Affordable dwelling units and market rate units within a qualifying development shall be located within the same structure or shall be proportionately distributed between multiple structure, if such are proposed, such that every qualifying development structure contains both affordable and market rate units in equal proportions; in no event shall a qualifying development structure consist entirely of market rate units.
 - (b) All common areas and amenities within a qualifying development shall be accessible and available to all residents (both affordable and market rate units).
 - (c) Access to the required affordable dwelling units in a qualifying development shall be provided through the same principal entrance(s) utilized by all other dwelling units in the development, provided that for townhouse-style affordable dwelling units, each unit shall have its own entrance.
 - (d) The sizes and number of bedrooms in the affordable dwelling units shall be proportional to the sizes and number of bedrooms in the market rate units (e.g. for number of bedrooms, if twenty-five percent (25%) of the market rate units consist of two (2) bedrooms, then twenty-five percent (25%) of the affordable units shall also have two (2) bedrooms, etc. maintaining a proportional distribution across unit types and within each structure within the qualifying development.
 - (e) Affordable dwelling units shall be developed simultaneously with or prior to the development of the market rate units.

- (f) If the development is phased, the phasing plan shall provide for the construction of affordable units proportionately and concurrently with the market rate units.
- (g) The exterior appearance of affordable units shall be the same as the market rate units and shall provide exterior building materials and finishings of the same type and quality.
- (h) The interior building materials and finishes of the affordable units shall be the same type and quality as the market rate units, including but not limited to all electrical and plumbing fixtures, flooring, cabinetry, counter tops, and decorative finishes.

(6) Affordability Requirement:

- (a) Pursuant to Florida Statutes, Section 166.04151(7), at least forty percent (40%) of the multi-family residential units shall remain affordable, as defined in Florida Statutes, Section 420.0004, for a period of at least thirty (30) years. The property owner shall execute and deliver to the City for recordation in the public records, 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 requirement.
- (b) The developer shall provide documentation as requested by the City on an annual basis (calendar year) to verify that the units approved for a qualified development are in compliance with the affordability criteria for all units rented to ensure that forty-percent (40%) of the units have been utilized and rented as affordable units every year. Confirmation shall be provided on or before January 31, of every year for the preceding calendar year. Said documentation shall include but not be limited to rental amounts paid by the tenants, percentage of affordable units rented for the year, and market rate data.
- (c) Any violation of the affordability requirement shall result in a monetary penalty to be deposited in an Affordable Housing Trust Fund. Such monetary penalty shall be assessed as a daily fine in the amount of one-hundred and fifty (\$150.00) per day, per violation until proof of compliance has been provided to the city. The monetary penalty shall not be subject to mitigation or otherwise modified by any board, including but not limited to the code compliance special magistrate.
- (d) An approved qualifying development project which fails to maintain the required number of affordable dwelling units and does not comply with the affordable housing requirement of this section after notice and ninety (90) days to cure, shall be considered non-conforming as to all portions of the development that do not comply with use and development regulations applicable based on the assigned zoning designation.

(7) Required Non-Residential Use.

- (1.) Thirty-five percent (35%) of the total square footage of the qualifying development shall be devoted to principal non-residential used that are not dedicated to, or exclusively accessible by the on-site residential uses. Residential community amenities, or non-residential uses open only to residents of the qualifying development are not considered non-residential uses.

- (2.) Non-residential uses shall be limited to those uses permitted in the zoning district or land use regulations applicable to the land on which the qualified project is located.

(8) Standard for Development.

(1.) Maximum Density and Height.

The maximum density for any qualified project authorized under the Act may be approved with a density of up to one-hundred fifty (150) units per acre.

The maximum height for any qualified project authorized under the Act shall be the highest allowed height for a commercial or residential development located in the City of Opa-locka within one (1) mile of the proposed development or three (3) stories, whichever is higher. The maximum height for the City of Opa-locka is eight (8) stories, or 95 feet, per the maximum height allow for affordable housing or mixed-use development within the Corridor Mixed Use District. All height limitations up to 8 stories shall be subject to approval by the Federal Aviation Authority as applicable.

- (2.) **Parking Requirements.** For a qualified development authorized under the Act, the Director/Advisor for the Planning & Community Development Department and the City Manager may recommend a parking reduction of up to 1.25 spaces. The City Commission shall have the final approval for parking reduction. Parking reductions shall be considered for a qualified development authorized under the Act for development located within one-half mile of a major transit stop and the major transit stop is accessible from the development.

(3.) Setbacks.

Front – 15 feet for non-mixed use projects

Front – 10 feet for mixed use projects

Side, Interior lot – 10 feet (mixed use and non-mixed use)

Side, Street – 10 feet (mixed use and non-mixed use)

Rear – 10 feet (mixed use and non-mixed use)

(4.) Minimum air conditioned dwelling unit size.

Efficiency – 500 square feet

One Bedroom - 625 square feet

Two Bedroom – 750 square feet

Three Bedroom – 1000 square feet

(5.) Regulatory Compliance.

- (1.) In addition to the provisions set forth herein, qualifying developments shall comply with all other applicable land development code development regulations.
- (2.) All aspects of the qualifying development shall be consistent with the City's Comprehensive Plan, with the exception of provisions establishing allowable use, height, and density.
- (3.) Qualifying developments shall comply with all other applicable state and local laws and regulations.

(9) Site Plan Review Procedures:

- (a) **Pre-plan Review:** Applications submitted pursuant to Florida Statutes, Section 166.04151(7), shall be reviewed in a pre-plan review process with the Director/Advisor for the Planning & Community Development Department, or the designee to conform general compliance with the requirements of Florida Statutes, Section 166.04151(7), under the Live Local Act, the land use designations, zoning and application provisions of the City code and Florida Statutes, Section 166.04151(7), as may be amended from time to time.
- (b) **Application:** The applicant shall submit the proposed site plan to the Director/Advisor for the Planning & Community Development Department, or the designee. The application shall include.
 - a. All information and in a form as provided by the City for site plans.
 - b. Dwelling unit breakdown, including the number of bedrooms and unit sizes.
 - c. Color rendering of all building elevations.
 - d. An affidavit of Commitment in a form approved by the city, to record a covenant detailing the affordable housing restrictions and ensuring compliance with the monitoring requirements. The covenant shall detail income mix and required affordability, with a release provision ensuring that the covenant is in place for thirty (30) years from the date of issuance for the certificate of occupancy (CO). The City Commission may release the covenant at the end of the thirty-year affordability period if the developer has been in compliance with the affordability criteria during the thirty-year affordability restriction period.
 - e. Legal documents shall be provided demonstrating unified control of the proposed development site and providing for maintenance and cross access easement as may be applicable.
 - f. A specific purpose survey shall be provided demonstrating the one (1) mile distance for any proposed height determination. A statement of the comparative site evaluation being utilized for the height justification shall be provided.
 - g. Notations shall be made on all submittals identifying the project as a Live Local Act project pursuant to Florida Statutes, Section 166.04151(7).
 - h. A table, or tables and graphics indicating the ratio of residential and non-residential square footage and affordable and market rate residential units shall be provided.
 - i. The Director/Advisor for the Planning & Community Development Department and the City Manager shall amend the fee schedule to include fees for projects submitted as a Live Local Act project.
 - j. The site plan review committee shall review the application and shall provide written recommendations to the Director/Advisor for the Planning & Community Development Department or designee, according to the review schedule established by the city manager, as said fee schedule may be amended from time to time.
 - k. The applicant will be notified in writing of comments concerning the site plan submission. Revisions, additions, or corrections will be reviewed together by the Director/Advisor for the Planning & Community Development Department or designee, the site plan review committee and the applicant. Required revisions and any other information required shall be resubmitted by the applicant within thirty (30) days of the review. Failure of any applicant to submit information or revised plans as required above shall result in cancellation of the application unless an extension is agreed to by the applicant and the Director/Advisor for the Planning & Community Development Department. Applicants may withdraw an application at any time.
 - l. The Director/Advisor for the Planning & Community Development Department or the ~~designee~~ Development Review Committee shall review site plan, review

committee comments, applicant responses, final proposed plans and façade rendering, and based on compliance with the City’s land development regulations, comprehensive plan, and applicable state laws, shall approve, approve with conditions, or deny the final site plan and issue a written development order, including findings supporting the decision. A decision may be appealed to the City Commission.

- m. The restrictive covenant shall be executed and recorded prior to issuance of vertical permits for construction. The developer shall pay for all recording costs.
- n. The City Commission shall determine how much money will be set aside for qualifying developments. The City Manager shall have the authority to allocate up to \$25,000.00 per qualified development.

Section 3: ___Conflicts. All ordinances or parts of ordinance, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4: ___Severability. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or work be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 5: ___Codification. The provisions of this ordinance shall be codified within the Code of Ordinance of the City of Opa-Locka, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 6: ___Effective Date. This Ordinance shall become effective on the passage on second and final reading.

PASSED FIRST READING ON THIS DAY OF 2024.

PASSED SECOND READING ON THIS DAY OF 2024.

John Taylor, Mayor

ATTEST:

Joanna Flores, City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Burnadette Norris-Weeks, P.A.
City Attorney

Moved by: _____

Seconded by: _____

VOTE:

Commissioner Williams

Commissioner Kelley

Commissioner Bass

Vice Mayor Ervin

Mayor Taylor



AFFORDABLE HOUSING-SENATE BILL 102 (SB 102)

The PCD Staff have examined this Landmark Legislation in its entirety and have adduced the following:

Governor Ron DeSantis recently signed into law Senate Bill 102, the Live Local Act, which officially took effect on July 1, 2023. This new law allocates \$711 million toward affordable housing initiatives statewide. However, SB 102 was far more than an appropriations bill. It incentivizes the development of affordable housing and eliminates barriers to the development of housing. The new law has implications for both developers and local governments.

Changes to Local Government Land Development Codes

SB 102 makes several changes to Florida law impacting how local governments can treat certain proposed affordable housing developments. It also changes what policies local governments may enact to address housing. These changes align with the Florida Legislature's substantial rewrite of section 420.0003, Florida Statutes, which encourages private development of affordable housing. That section requires local governments to provide incentives, such as density bonus incentives, to encourage the private sector to be the primary driver for developing affordable housing.

- **Rent Control:** SB 102 amends sections 125.0103 and 166.043, Florida Statutes, to remove local government authority to enact rent control. Previously, local governments could enact rent control measures via a referendum for a period not exceeding one year in instances where such controls were necessary and proper to eliminate an existing housing emergency so grave as to constitute a serious menace to the general public. The preemption of rent control included in SB 102 was in part a response to a recent rent control referendum approved by Orange County voters but subsequently invalidated by the courts.

- **Development Incentives:** SB 102 makes several changes to sections 125.01055 and 166.04151, Florida Statutes, which will preempt local governments from enacting policies that would hinder the development of certain affordable housing projects. These changes sunset October 1, 2033.

SB 102 requires local governments make multifamily and mixed-use residential allowable uses in areas zoned commercial, industrial, or mixed use if at least 40% of the proposed development's multifamily residential rental units are affordable as defined under state law for at least 30 years (Affordable Multifamily Housing). SB 102 preempts local governments from taking several actions that might hinder the development of Affordable Multifamily Housing:

- Prohibits local governments from requiring a proposed Affordable Multifamily Housing development obtain a zoning change, land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under sections 125.01055 and 166.04151.
- Requires mixed-use residential Affordable Multifamily Housing projects have at least 65% of the total square footage dedicated for residential purposes.
- Prohibits local governments from restricting the density of a proposed development of Affordable Multifamily Housing below the highest allowed density of any land under its jurisdiction where residential development is allowed.
- Prohibits local governments from restricting the height of a proposed Affordable Multifamily Housing development below the highest height for a commercial or residential development located in its jurisdiction within one mile of the proposed development or three stories, whichever is higher.
- Removes zoning decision-making authority from local governing boards by requiring that Affordable Multifamily Housing development be administratively approved if the development complies with regulations for multifamily developments in areas zoned for such uses and is consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use.
- Requires local governments consider parking reductions for proposed Affordable Multifamily Housing developments where the development is a half mile from a major transit stop that is accessible from the development.
- Requires those municipalities that designate fewer than 20% of their land area for commercial or industrial uses authorize a proposed mixed-use residential Affordable Multifamily Housing projects in areas zoned for commercial or industrial uses.

The amendments to these sections also remove the prohibition on developers of affordable housing receiving funds from the State Apartment Incentive Loan (SAIL) Program provided that 10% of the units are dedicated for affordable housing.

Local Government Administration and Affordable Housing

SB 102 amends sections 125.379 and 166.0451, Florida Statutes, and requires local governments list real property owned in fee simple by any dependent special district within that local government's jurisdiction that is appropriate for affordable housing, as well as requiring the inventory list of properties be publicly available on the local governments' websites. Those properties may now also be used for affordable housing through a long-term land lease requiring the development and maintenance of affordable housing. SB 102's amendments to these sections also encourage ordinances adopting best practices for surplus land programs. These best practices include establishing eligibility criteria for the receipt or purchase of surplus land by developers, making the process for requesting surplus lands publicly available, and ensuring long-term affordability through ground leases by retaining the right of first refusal to purchase property that would be sold or offered at market rate and by requiring the reversion of property not used for affordable housing within a certain time frame.

SB 102 amends section 553.792, Florida Statutes, to require local governments maintain a policy containing the procedures and expectations for expedited processing of building permits and development orders that are required to be expedited on the local governments' websites.

Taxes

SB 102 also seeks to encourage the development of affordable housing by lessening the associated tax burden.

- **Ad Valorem Property Tax Exemptions:** SB 102 enacts two separate ad valorem tax exemptions available to owners of property used for Affordable Multifamily Housing developments under sections 196.1978(3) and section 196.1979, Florida Statutes. A taxpayer may only receive one of these exemptions.
 1. **Sections 196.1978(3):** Section 796.7978(3), Florida Statutes, makes portions of property in a multifamily project eligible for a tax exemption by deeming such property to be used for a charitable purpose. To be eligible, the property must provide affordable housing to those meeting the income limitations. The property must be within a multifamily project containing more than 70 units dedicated to affordable housing that was substantially completed within five 5 years before the taxpayer's first submission of a request for certification or an application for a property tax exemption. The affordable housing units must be rented for an amount that does not exceed the lesser of the multifamily rental programs income as promulgated by the

Florida Housing Finance Corporation (FHFC) or the rental market study, which the taxpayer is required to complete.

This section requires that qualified property which is available to house those whose annual household income is above 80% and below 120% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA), or for households in a county that is not within an MSA, receive an ad valorem property tax exemption of 75% of the property's assessed value. However, if the property is used to house those with income that does not exceed 80% of the median annual adjusted gross income for households within the MSA or county, then the property is 100% exempt from ad valorem property taxes.

2. **Section 196.1979:** Permits local governments to adopt an ordinance exempting portions of property used to provide affordable housing by deeming the property as being used for a charitable purpose. To qualify for this exemption, the portions of the property must be used to house those whose annual household income is either less than 30% or between 30% and 60% of the median annual adjusted gross income for households within the MSA or the county where the person or family resides if not residing within an MSA. The property must also be within a multifamily project with at least 50 residential units, 20% of which are used to provide affordable housing. The affordable housing units must be rented for an amount that does not exceed the lesser of the multifamily rental programs income as promulgated by the FHFC or the rental market study, which the taxpayer is required to complete. The development may not have more than three local code citations in the last 24 months, nor may the development have any non-remedied code violations or unpaid code-related charges.

If all the residential units in a multifamily development are not affordable housing, then the property's exemption may be up to 75% of the assessed value of each residential unit providing affordable housing. If all the residential units are affordable, then the exemption may be up to 100% of the assessed value on the multifamily residential units providing affordable housing.

- **Sales, Rental, Use, Consumption, Distribution, and Storage Tax Exemption:** SB 102 amends section 212.08, Florida Statutes, by creating a tax exemption for affordable housing building materials. Affordable housing building materials include all tangible personal property that becomes a component of the newly constructed residential units in an affordable housing development. To receive this exemption the person claiming the exemption must file an application with the Florida Department of Revenue (DOR) and include all the application materials listed in this section, which includes invoices showing the actual cost of the building materials and sales tax paid. Local governments and nonprofits that pay for building materials from community development block grant funds, funds from the State Housing Initiatives Partnership (SHIP) Program, and the like may also apply for this exemption. Applications must

be submitted within six months after the eligible residential unit is deemed substantially completed by the local building code inspector. Only one exemption through a refund on paid taxes may be claimed per eligible residential unit. Such refunds will not be granted unless the amount of the refund is between \$500 and the lesser of \$5,000 or 97.5% of the Florida sales or use tax paid.

- **Live Local Corporate Income and Franchise Tax Credit:** SB 102 creates section 220.1878 Florida Statutes, which provides a corporate income and franchise tax credit of 100% for eligible contributions to the Live Local Program as codified in section 420.50872, Florida Statutes. This credit may be applied against any tax due for a taxable year under Chapter 220, Florida Statutes. The taxpayer must apply for the credit after the application of any other allowable credits. The taxpayer must make the contribution before the taxpayer is required to file a return. This credit must be reduced by the difference between the amount of federal corporate income tax, considering this credit granted, and the amount of federal corporate income tax without application of this credit. But this credit does not reduce the amount of tax due to for purposes of determining whether the taxpayer complied the requirement to pay tentative taxes. The tax credit cap amount is \$100 million per fiscal year.

Those looking to take advantage of this tax credit must apply to DOR Approved tax credits may be carried forward for a period not to exceed 10 years. If a taxpayer wishes to convey, transfer, assign, or carry forward a tax credit to another entity, it may only do so if the taxpayer conveys, assigns, or transfers all of its assets in the same transaction. The taxpayer must notify DOR before transferring, conveying, or assigning the tax credit to another member within an affiliated group of corporations.

State Programs

SB 102 amends section 201.15, Florida Statutes, diverting the lesser of 8% or the remainder of taxes collected or \$150 million each fiscal year to fund the State Housing Trust Fund (Trust Fund). SB 102 also creates section 420.50871 Florida Statutes, which directs funds derived from these increased revenues to the Trust Fund to be distributed by the FHFC for innovative affordable housing projects. That section directs the FHFC to allocate the funds toward competitive applications for affordable housing projects. Seventy percent of the funds shall go toward projects that redevelop existing affordable housing or construct such housing near existing redeveloped affordable housing, address urban infill, provide for mixed use of the location, or provide housing near military installations. The remaining 30% of the funds shall go to projects that propose using or leasing public lands for affordable housing, addressing the housing needs of young adults that have aged out.

of foster care, meet the needs of the elderly, or provide housing to meet the needs in areas of rural opportunity. Section 201.15, Florida Statutes, sunsets July 7, 2033, and section 420.50877, Florida Statutes, sunsets June 30, 2033.

SB 102 amends section 288.707, Florida Statutes, authorizing the Governor to approve funding recommendations by Enterprise Florida for state or local public infrastructure project to facilitate the development or construction of affordable housing. SB 102 also substantially re-wrote section 420.0003, Florida Statutes, which outlines Florida's policy regarding state-funded development. That section now emphasizes minimizing sprawl and the separation of housing from employment and services. It also requires public-private partnerships emphasize production and preservation of affordable housing and requires existing affordable housing stock be preserved and improved.

SB 102 creates the Florida Hometown Hero Program, codifying it in section 420.5096, Florida Statutes. The program allows borrowers to apply to the FHFC for a loan to reduce their down payment and closing costs by at least \$70,000 and up to 5% of the first mortgage loan not exceeding \$35,000. The program requires that these loans be made at a 0% interest rate and be available for the term of the first mortgage. The borrower must seek to purchase the home as his or her primary residence, be a first-time homebuyer unless the borrower is in the armed services or Florida National Guard, be a Florida resident, and be employed fulltime by a Florida-based employer or self-employed.

On the Horizon

While SB 102 has a number of provisions that took effect July 1, 2023, it also directs state agencies and local governments to take action. For example, section 420.0003, Florida Statutes, encourages local governments to adopt ordinances to promote innovative housing solutions, such as utilizing publicly held land to develop affordable housing. That section also encourages local governments to engage in community led planning focusing on urban infill, flexible zoning, redevelopment of commercial property into mixed-use property resiliency, and furthering development with preexisting public services. It encourages the development of policies that maximize high-density, high-rise, and mixed-use, as well as mixed-income projects. It even encourages the development of policies to modernize housing specifically naming things such as tiny homes, 3D-printed homes, and accessory dwelling units.

Additionally, SB 102's amendments to sections 725.379 and 766.0457, Florida Statutes, encourage local governments to enact ordinances adopting best practices for surplus land programs. These best practices include establishing eligibility criteria for the receipt or purchase of surplus land by developers, making the process for requesting surplus lands publicly available, and ensuring long-term affordability through ground leases by retaining the right of first refusal to purchase property that would be sold or offered at market rate and by requiring the reversion of property not used for

affordable housing within a certain time frame Local governments that wish to enact an ordinance... providing for an ad valorem tax exemption under section 796.7979, Florida Statutes, will have to do so in accordance with the provisions and restrictions setout in that section.

SB 102 also directs FHFC to adopt rules relating to the ad valorem exemption available under section 196.7978(3) Florida Statutes. It directs DOR to adopt rules governing the administration of the tax exemptions under sections 212.08 and 220.1878, Florida Statutes. These rules must comply with SB 102's newly enacted provisions.

START TIME: 7:24 p.m.
END TIME: 8:23 p.m.

PLANNING ZONING MEETING
ROLL CALL VOTING SHEET

AGENDA		ITEM I		ITEM II		ITEM III - CASE 1		ITEM III - CASE 2		ITEM III - CASE 3	
06-04-2024 MEETING		ROLL CALL INVOCATION AND PLEDGE		APPROVAL OF MINUTES FROM 05/07/2024		CONDITIONAL USE INDOOR SHOOTING RANGE		SPECIAL EXCEPTION CAR DEALERSHIP		ORDINANCE "LIVE LOCAL ACT"	
RESULTS				minutes Passed		Item Passed		Item Passed		Item Passed	
MEMBERS		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
BOARD MEMBER GERMANE BARNES			✓								
BOARD MEMBER CLAUDIENNE HIBBERT SMITH		✓		✓		✓		✓		✓	
BOARD MEMBER AUDREY DOMINGUEZ		✓		✓		✓		✓		✓	
BOARD MEMBER DAWN MANGHAM			✓								
BOARD MEMBER ALDO MATA		✓		✓		✓		✓		✓	
CHAIRMAN ELIO GUERRERO		✓		✓		✓		✓		✓	
DISPOSITION / COMMENTS											
AGENDA		ITEM IV - CASE 4		ITEM V - 5		ITEM VI - 6		ITEM VII - 7		ITEM VIII - 8	
06-04-2024 MEETING											
RESULTS											
MEMBERS		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
BOARD MEMBER GERMANE BARNES											
BOARD MEMBER CLAUDIENNE HIBBERT SMITH											
BOARD MEMBER AUDREY DOMINGUEZ											
BOARD MEMBER DAWN MANGHAM											
BOARD MEMBER ALDO MATA											
CHAIRMAN ELIO GUERRERO											

CITY OF OPA-LOCKA

The City of Bright Opportunities



PLANNING & ZONING MEETING Agenda

**Tuesday, June 4, 2024
7:00 PM**

*Commission Chamber
780 Fisherman Street, 3rd Floor
Opa-locka, FL 33054*

Planning and Zoning Board

Elio Guerrero, Chairman

Germane Barnes, Board Member

Audrey Dominguez, Board Member

Dawn Mangham, Board Member

Aldo Mata, Board Member

Claudienne Hibbert Smith, Board Member

NOTE: All persons speaking shall come forward and give your full name and address, and the name and address of the organization you are representing.

There is a three (3) minute time limit for speaker/citizens forum and participation at all city commission meetings and public hearings. Your cooperation is appreciated in observing the three (3) minute time limit policy. If your matter requires more than three (3) minutes, please arrange a meeting or an appointment with the City Clerk prior to the commission meeting. City of Opa-locka Code of Ordinances Section 2-57

DECORUM POLICY

Any person making impertinent or slanderous remarks or who become boisterous while addressing the commission, shall be declared to be out of order by the presiding officer, and shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission be granted by the majority vote of the commission members. City of Opa-locka Code of Ordinances Section 2-58

NOTICE TO ALL LOBBYISTS

Any person appearing in a paid or remunerated representative capacity before the city staff, boards, committees and the City Commission is required to register with the City Clerk before engaging in lobbying activities. *City of Opa-locka Code of Ordinances Section 2-18*

FLORIDA STATUTES, CHAPTER 285.0105

"If a person decides to appeal any decision made by the Board, Agency or Commission with respect to the proceedings, and that, for such purpose, that person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

PROCEDURES FOR PUBLIC PARTICIPATION

How to watch the meeting

Members of the public can watch public meetings and public hearings at <https://www.youtube.com/user/CityofOpaLocka>

City Commission Meetings are held in-person while allowing virtual participation. Members of the public wishing to address the Commission may do so in person or virtually.

To participate virtually, please register by 7:00 p.m. on the scheduled meeting date via the City of Opa-locka website at www.opalockafl.gov.

CITY OF OPA-LOCKA
"The City of Bright Opportunities"

AGENDA
PLANNING & ZONING MEETING
June 4, 2024
7:00 PM

1. ROLL CALL:

2. INVOCATION:

3. PLEDGE OF ALLEGIANCE:

4. APPROVAL OF MINUTES:

Meeting Minutes - May 7, 2024

5. PUBLIC HEARING:

1. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, PROVIDING APPROVAL OF THE CONDITIONAL USE REQUEST TO OPERATE AN INDOOR SHOOTING RANGE OR ARMORY ON THE PROPERTY LOCATED AT 13449 NW 42ND AVENUE AND IDENTIFIED BY FOLIO 08-2129-016-0010 IN THE LIBERAL INDUSTRIAL (I-3) ZONING DISTRICT AND WITHIN THE CORRIDOR MIXED USE OVERLAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.
2. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, PROVIDING APPROVAL OF THE SPECIAL EXCEPTION REQUEST TO OPERATE A CAR DEALERSHIP ON THE PROPERTY LOCATED AT 2695 NW 141ST STREET, AND IDENTIFIED BY FOLIOS 08-2122-000-0120 IN THE COMMERCIAL LIBERAL (B-2) ZONING DISTRICT AND WITHIN THE CORRIDOR MIXED USE OVERLAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.
3. AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, CREATING A NEW ARTICLE XI OF THE CITY CODE OF ORDINANCES; RENUMBERING THE FOLLOWING SECTIONS; SPECIFICALLY ADOPTING CERTAIN PROVISIONS OF SENATE BILL 102, THE "LIVE LOCAL ACT" RELATING TO AFFORDABLE HOUSING; PROVIDING FOR THE ADMINISTRATIVE APPROVAL OF CERTAIN QUALIFIED PROJECTS CONTAINING AFFORDABLE HOUSING UNITS; AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING

FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN
EFFECTIVE DATE.

6. ADJOURNMENT:

For further information, please contact the Planning and Community Development
Department Board Clerk by email at dcheng@opalockafl.gov or by telephone at (305) 953-
2868 Ext 1504.