

Catalyst Training Webinar:

The Live Local Act's Land Use Mandate for Affordable Housing in Commercial, Industrial, & Mixed-Use Areas

October 31,
2024



THE FLORIDA
HOUSING
COALITION



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About the Florida Housing Coalition

- Statewide nonprofit organization that is primarily a training and technical assistance provider to local governments and nonprofits on all things affordable housing
- Our work covers:
 - Compliance with local, state, and federal affordable housing programs
 - Affordable housing program design
 - Capacity building for nonprofit housing providers
 - Land use planning for affordable housing
 - Research & data gathering
- We can provide free training & technical assistance to you under the Catalyst Program

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Webinar Logistics

- All participants are on mute
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- Webinar is recorded
- PPT is provided as a handout
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Training Overview

- Introduction to the LLA's Land Use Mandate
- Best practices for implementing the preemption
- Examples of what communities have done to date
- Monitoring affordability compliance on LLA projects
- Guest speakers with experience using the tool for affordable housing developments

Summary of the Live Local Act's land use mandate – s. 125.01055(7)/s. 166.04151(7)



Land use mandate – Affordable housing in commercial, industrial, and mixed-use areas

Mandate contains certain **use, density, height, floor area ratio, administrative approval, parking, and other standards** for affordable housing developments if a proposed development meets the following criteria:

- Multifamily or mixed-use residential in any area zoned for **commercial, industrial, or mixed use**
- At least **40% of units are affordable rentals** for households up to **120% AMI** for at least **30 years**
- If mixed-use, **at least 65% of the total square footage must be residential**

Local government cannot require a development authorized under this preemption to obtain a zoning/land use change, special exception, conditional use approval, variance, or comp plan amendment for **use, density, floor area ratio, or height**.

Key themes when applying the LLA land use mandate statute

- There is no state agency tasked to enforce or provide guidance on the mandate.
- So . . . how is the statute enforced then?? Negotiations between local governments and developers and in the worst case scenario, private lawsuits.
- Affordable housing developers are not interested in suing local governments – if a local government has an unfavorable interpretation and the developer has exhausted all means of negotiation, more likely to build somewhere else than bring a lawsuit.
- As of Oct. 8, 2024 – there no precedent setting case law on the mandate.

Eligible Affordable Housing Developments

(7)(a) “A county (or municipality) must authorize multifamily and mixed-use residential as allowable uses in any area zoned for **commercial, industrial, or mixed use** if **at least 40 percent of the residential units in a proposed multifamily development are rental units that, for a period of 30 years, are affordable as defined in s. 420.0004. . . For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.**”

Eligibility criteria:

- 1) Must be in an area zoned for at least one of the three eligible uses.
- 2) At least 40 percent of the residential units must be affordable rentals to households up to 120% AMI.
- 3) Only applies to multifamily or mixed-use developments (no single-family).
- 4) If mixed-use, at least 65% of the square footage must be used for residential purposes.

What does it mean for an area to be zoned for “commercial, industrial, or mixed use?”

Differences in opinion statewide – these terms are not defined in the statute.

Could look to **Future Land Use designation**, **name of zoning district**, and **types of uses different zoning district allow**.

Some jurisdictions have proactively enacted local policies clearly stating which zone districts are eligible for use of the LLA land use mandate.



Eligible Zoning Districts	Commercial	Tourist	Downtown	Industrial, Research & Technology	US 19
Live Local Entitlements					
Density	75 units per acre ¹				
Intensity	N/A				3.75 FAR for properties located in the US 19 District
Height	1. Highest currently allowed via Minimum Standard (BCP) or Flexible Standard (FLS) Development for commercial or residential development within 1 mile of proposed eligible project, or 3 stories, whichever is higher. ² 2. If proposed eligible project is adjacent to, on two or more sides, a parcel zoned for single-family residential uses, containing at least 25 contiguous single-family homes, 150% of the tallest building on any property adjacent to the proposed project; the highest currently allowed height for property in the city's Community Development Code, or 3 stories, whichever is higher.				
Approval Process					
BCP and/or FLS	FLS ³	FLS ⁴	BCP/FLS ⁵	FLS ³	BCP/FLS ⁵
Currently Permitted Use (Y/N)	No	Yes	Yes	No	Yes
Flexible Standard Devt. (FLS) Standards					
Min. Lot Area (SF)	15,000	10,000	None	15,000	None
Min. Lot Width (ft.)	150	100	None	150	None
Front Setback (ft.)	25 min.	10-15 min.	Based on Frontage Type	25 min.	Based on street Frontage Type
Side Setback (ft.)	10 min.	10 min.	Based on Frontage Type	10 min.	Based on street Frontage Type
Rear Setback (ft.) ⁶	10-15 min.	10-20 min.	Based on Frontage Type	10-15 min.	Based on street Frontage Type
Off-Street Parking	2 per unit ⁷	2 per unit ⁷	1 per unit	2 per unit ⁷	1.5 per unit ⁷
Notes:					
1. Restrictions to density on parcels in the Downtown (D) District designated with the Neighborhood Infill Frontage (Appendix C, Figure 2. Regulating Plan - Street Types & Key Corners)					
2. If proposed project height is only available through Level One Flexible Standard Development (FLS) application, project must meet the applicable criteria for increased height. Height transitions established in Downtown and US 19 Districts apply.					
3. Not currently permitted in zoning district. Level One Flexible Standard Development (FLS) application required. May request flexibility (must meet criteria for attached dwellings in the High Density Residential (HDR) District in Section 2-503.B).					
4. Currently permitted in zoning district as Level One Flexible Standard Development (FLS) use. May continue to request existing flexibility (must meet criteria for attached dwellings in Section 2-802.C).					
5. Currently permitted in zoning district as Level One Minimum Standard Development (BCP) use and Level One Flexible Standard Development (FLS) use. May continue to request flexibility, if available in the district, through FLS application.					
6. The Building Code may require the rear setback on a waterfront lot to be at least 18 feet from a seawall.					
7. Parking reduction to 1.25 spaces per unit for certified affordable housing units may be requested where a project is within 1/4-mile (1,320 feet) of a transit stop. When reduced, must provide 0.5 long-term bike parking spaces per unit for which the parking ratio is reduced, unless private garages are provided. Market rate units must meet minimum parking standard for attached dwellings. The distance a site is from the transit stop shall be measured from the nearest point of exit from the parcel based upon the shortest route of ordinary pedestrian travel.					

City of Clearwater's LLA policies

Planned Unit Developments (PUDs) & Live Local

- One of the more controversial aspects of LLA – does the Live Local Act’s land use mandate apply to PUDs that have a commercial, industrial, or mixed-use component?
- Localities that allow LLA to apply to PUDs: Orlando, Lee County, Coconut Creek, St. Johns County, Boca Raton

Arguments for PUD eligibility

Text of statute: mandate applies in “any area zoned for commercial, industrial, or mixed use”

Arguments against PUD eligibility

PUDs are a type of negotiated contract that cannot be unilaterally amended by the FL Legislature

Art I, s. 9 of Fla. Constitution: No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

What does “mixed-use” mean????

FL Attorney General issued an informal opinion in July 2024 on what constitutes a mixed-use area for purposes of Live Local

Conclusion of the AG opinion:

“Unless and until legislatively or judicially determined otherwise, it is my opinion that the particular name given by a municipality or County to a zoning classification, while potentially helpful for determine whether an area is in a “mixed use” zoning category, is merely one aspect worthy of consideration. A court . . . would likely look beyond a title and focus on whether the particular classification is similar to what has been historically and is normally understood to be a mixed use zoning classification. Local government land development and use regulations, along with other sources such as provisions in comprehensive plans or reviews of past practices, will be relevant in determining which specific areas are within mixed use zoning district classifications. Disagreements arising in that regard may, as appropriate, be settled by recourse to existing legal remedies available to resolve land use development disputes.”

What are these “preemption projects” entitled to?

(7)(a) “. . . Notwithstanding any other law, local ordinance, or regulation to the contrary, a county (or municipality) may not require a proposed multifamily development 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 this subsection.”

Rephrased:

- The height, zoning, and densities authorized under this new subsection are granted by-right, even if those standards conflict with the local government’s own height, zoning, and density regulations.

LLA Density Allowances

(7)(b) A local government may not restrict the density of a proposed development [below the highest currently allowed density on any land in the jurisdiction where residential development is allowed](#) under the locality's land development regulations.

The term “highest currently allowed density” does not include:

- The density of any building that was previously approved under the LLA land use mandate, or
- The density of any building that has received any bonus, variance, or other special exception for density provided in the [locality's] land development regulations as an incentive for development.”

LLA Height Allowances

(7)(d) A local government may not restrict the height of a proposed development authorized under this subsection **below the highest currently allowed height for a commercial or residential development** located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.

The term “highest currently allowed height” does not include:

- The height of any building that was previously approved under the LLA land use mandate, or
- The height of any building that has received any bonus, variance, or other special exception for height provided in the municipality’s land development regulations as an incentive for development.

LLA Height Allowances – exception for SF communities

(7)(d)2. A local government may restrict the height of a proposed development 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
- “Adjacent to” means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

What can the local government restrict the height 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 locality’s land development regulations, or
- 3 stories, whichever is higher.

LLA Floor Area Ratio Allowances (new as of 2024)

(7)(c) A local government may not restrict the floor area ratio of a proposed development below 150 percent of the highest currently allowed floor area ratio on any land in the city or county where development is allowed under the jurisdiction's land development regulations.

The term “highest currently allowed floor area ratio” does not include:

- The floor area ratio of any building that was previously approved under the LLA land use mandate, or
- The floor area ratio of any building that has received any bonus, variance, or other special exception for floor area ratio provided in the municipality's land development regulations as an incentive for development.

Notes

- If a local government does not regulate development using FAR, would not apply.
- Same provision as height and density allowance regarding bonus FAR and already approved LLA projects.

Required administrative approval

(7)(e) “A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the [locality] is required if the development satisfies the [locality’s] land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, floor area ratios, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements. A proposed development located within one-quarter mile of a military installation identified in s. 163.3175(2) may not be administratively approved. Each [locality] shall maintain on its website a policy containing procedures and expectations for administrative approval pursuant to this subsection.”

What does this mean?

- If a preemption project meets certain criteria, it must be administratively approved with no action from the city or county commission.
- If a preemption project does not meet existing LDRs or the comp plan, local government can require a public hearing and land use change.

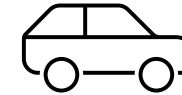
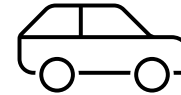
LDRs for multifamily developments in areas zoned for such use?

(7)(e) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the [locality] is required if the development satisfies the [locality's] land development regulations for multifamily developments in areas zoned for such use . . .

Notes

- Local governments should apply the multifamily regulations that facilitates the best use of the tool.
- Local governments can proactively adopt policies as to which MF regulations apply to LLA preemption projects.

LLA Parking Standards



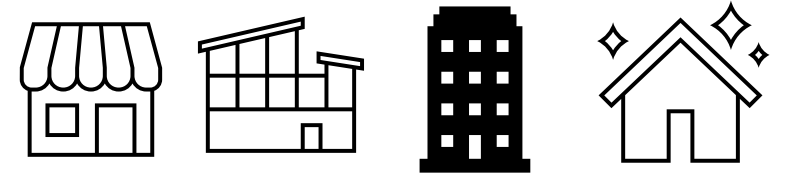
(7)(f)1. A jurisdiction **must consider** reducing parking requirements for a proposed development . . . if the development is located within one-half mile of a transit stop, as defined in the [jurisdiction's] land development code, and the transit stop is accessible from the development.

(7)(f)2. A jurisdiction must reduce parking requirements by at least 20 percent for a proposed development if the development:

- a. Is located within one-half mile of a major transportation hub that is accessible from the proposed development by safe, pedestrian-friendly means, such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other multimodal design features.
- b. Has available parking within 600 feet of the proposed development which may consist of options such as on-street parking, parking lots, or parking garages available for use by residents of the proposed development. However, a local government may not require that the available parking compensate for the reduction in parking requirements.

(7)(f)3. A jurisdiction **must eliminate** parking requirements for a proposed mixed-use residential development authorized within an area recognized by the local government as a transit-oriented development or area.

LLA mixed-use residential developments



- Common issue: how should local governments regulate the non-residential component of a Live Local mandate project?
- How the statute regulates mixed-use developments:
 1. At least 65% of the total square footage must be used for residential purposes.
 2. Proposals within transit-oriented developments or areas (as defined by the locality) must be mixed-use residential and parking minimums must be eliminated.
 3. 20% Rule – municipalities with less than 20 percent of land designated as commercial or industrial can only approve mixed-use developments.
- Areas the statute does not regulate:
 - Types of non-residential uses within a LLA mixed-use development
 - Phasing of development
 - Horizontal or vertical integration
 - Common ownership
 - Maximum residential square footage
- Design local policies to facilitate the use of the tool for mixed-use projects.

Additional development bonuses

(7)(j)1. Nothing in this subsection precludes a local government from granting a bonus, variance, conditional use, or other special exception to height, density, or floor area ratio in addition to the height, density, and floor area ratio requirements in this subsection.

2. Nothing in this subsection precludes a proposed development authorized under this subsection from receiving a bonus for density, height, or floor area ratio pursuant to an ordinance or regulation of the jurisdiction where the proposed development is located if the proposed development satisfies the conditions to receive the bonus except for any condition which conflicts with this subsection. *If a proposed development qualifies for such bonus, the bonus must be administratively approved by the local government and no further action by the governing body of the municipality is required.*

All other state and local laws still apply . . .

(7)(i) “Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.”

What this means:

- Except for the standards governing use, density, height, floor area ratio, some parking requirements, and administrative approval, a preemption project must comply with all other state and local laws.
- This includes: setback requirements, open space, environmental, concurrency, etc.

LLA Land Use Mandate entitlement summary

Use	<ul style="list-style-type: none">• Multifamily or mixed-use areas zoned for commercial, industrial, or mixed-use without zoning or land use change
Density	<ul style="list-style-type: none">• Highest currently allowed density on any land in City or County where residential development is allowed
Height	<ul style="list-style-type: none">• Highest currently allowed height for a commercial or residential development within 1 mile of the proposed development or 3 stories, whichever is higher• Exception – if proposal is on two or more sides adjacent to SF zoned property within SF home development w/ at least 25 contiguous SF homes, local gov't. may limit height to the highest of the following:<ul style="list-style-type: none">• 150% of tallest building adjacent to development• Highest currently allowed height for the property based on LDRs• 3 stories

LLA Land Use Mandate entitlement summary

Floor Area Ratio	<ul style="list-style-type: none">• 150% of the highest currently allowed floor area ratio in the jurisdiction where development is allowed under the jurisdiction's LDRs
Parking	<ul style="list-style-type: none">• Reduction of at least 20% if proposal is 1) within ½ mile of a “major transportation hub”; and 2) has available parking within 600 feet• Elimination of parking requirements if proposal within an area recognized by the jurisdiction as a transit-oriented development or area• LG must “consider” reducing parking if project within ¼ mile of a transit stop as defined by the local code
Admin. Approval	<ul style="list-style-type: none">• Proposal must be administratively approved if proposal satisfies the LDRs and is otherwise consistent with the comp plan excepting density, floor area ratio, height, and use.• Local govt must post expectations for admin approval on its website.• If proposal also qualifies for a local entitlement bonus, bonus must be provided administratively.

LLA Land Use Mandate entitlement summary

Exceptions

- Parcels within a certain proximity to an airport runway.
- Admin approval not allowed for parcels within ¼ mile of a military installation as defined in in s. 163.3175(2).

Questions?



Data, Research, & Examples



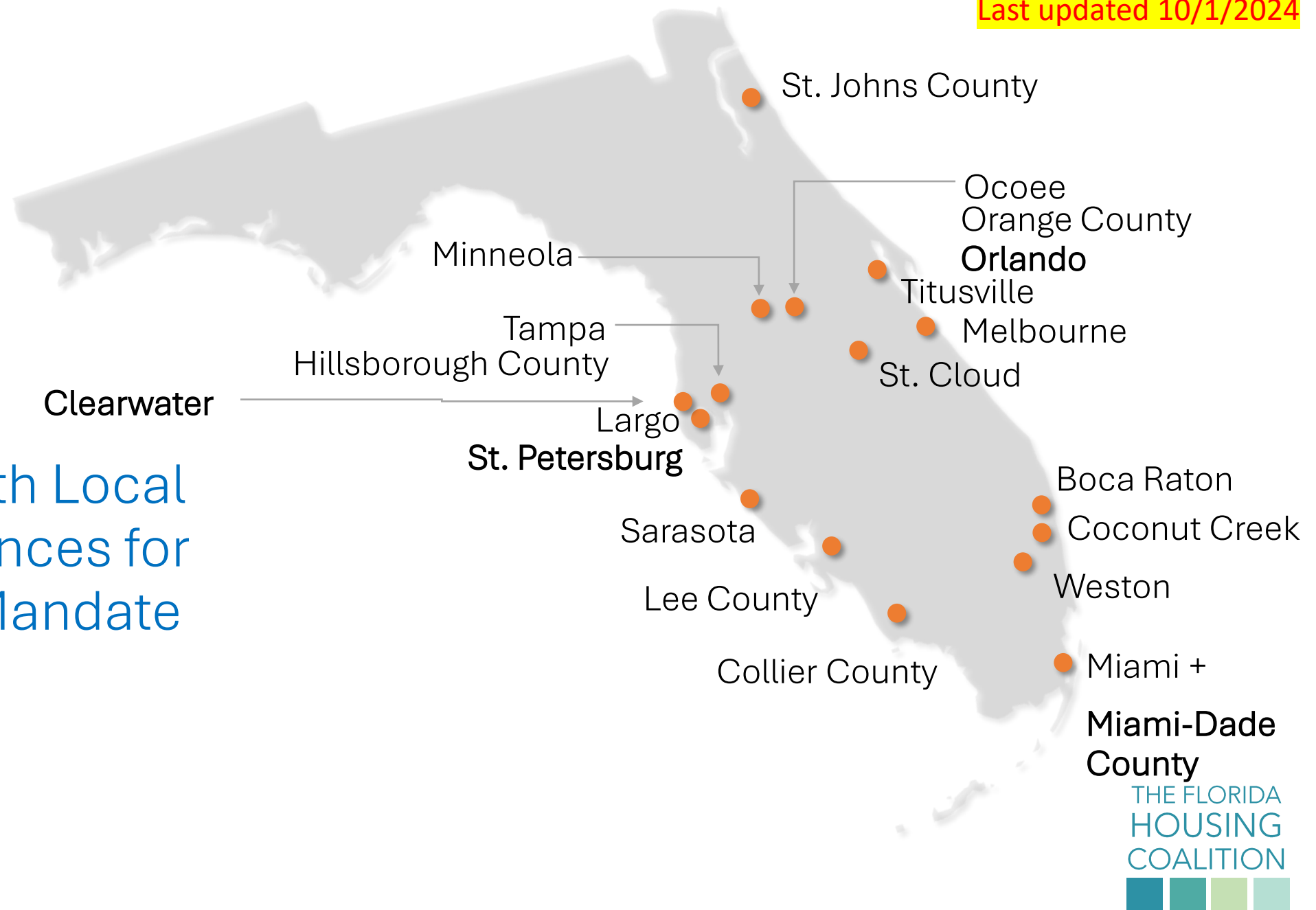
Being proactive: local policy considerations

A local policy or ordinance that clearly defines local interpretation of the land use mandate can be of great benefit to the affordable housing industry.

Things a LLA land use mandate policy could contain:

- Clear statement of eligible zoning districts
- Clear statement of maximum density and height allowances
- Certification process to identify eligible proposals (pre-application review, etc.)
- Clear statement of which multifamily regulations apply to receive administrative approval
- Compliance monitoring requirements

Jurisdictions with Local Policies/Ordinances for LLA Land Use Mandate



LLA land use tools in action

**Tracking the use of s. 125.01055(7)/166.04151(7), F.S. throughout Florida...*

- ~19,347 total units planned so far as a result of these new tools
- ~80 planned multifamily developments
- Most of these proposals would serve 40% @ 120% AMI

*Given the lack of statewide tracking and data requirements for Live Local preemption projects, these are approximate totals sourced via informal tracking mechanisms such as news alerts, local agendas, and word-of-mouth.

Live Local Act Mapping Dashboard



51

Total Known Projects

17k

Total Units

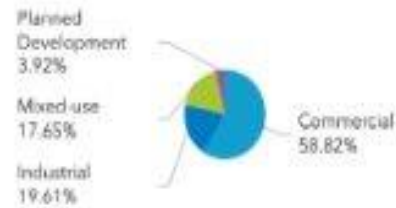
7.7k

Market Rate Units

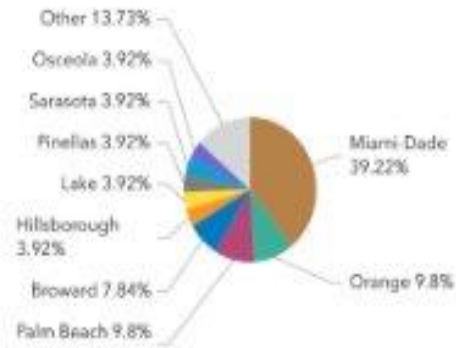
6.8k

Affordable Units

Projects by Zoning Category



Projects by County



FDEP, Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, NPS | The Florida Department of Revenue, the respective County Property Appraise... Powered by Esri

LLA land use tools in action – areas seeing highest utilization

- City of Miami (26 applications)
- Miami-Dade County (8 applications)
- Hillsborough County (7 applications)
- Orlando (3 applications)
- Osceola County (3 applications)
- Boca Raton (3 applications)
- Sarasota (2 applications)
- Miami Beach (2 applications)

LLA land use tools in action – jurisdictions with at least 1 application for approval

Plant City

Doral

Melbourne

St. Johns County

Martin County

Walton County

Osceola County

Orange City

Hialeah

Hollywood Beach

Minneola

Model City

Citrus County

Boca Raton

Boynton Beach

Bradenton

St. Petersburg

Sebring

Fort Lauderdale

Miami Gardens

Tavares

Largo

Kendall

Broward County

Pensacola

Brownsville

Oakland Park

Future research on the LLA land use mandate

This mandate is still in its very early days and is ripe for research opportunities including:

- Site analysis of LLA projects – proximity to community goods and away from high-risk areas
- Affordability - Incomes served & rents
- Pro forma analyses
- Local political implications for broader affordable housing policies

Guest Presenters



Guest Speakers



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Live Local Act

In partnership with the City of Sanibel, CHR aims to implement the Live Local Act at Library Way.



Vacant city-owned parcels on Library Way are an opportunity for mixed-use development. Several initial draft alternatives have been explored that begin to test layout/massing and potential mix of uses on the site.

TOWN CENTER: LIBRARY WAY

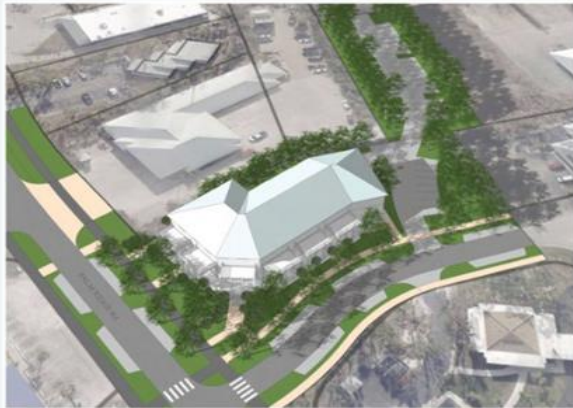


TWO STORY APARTMENT BUILDING, DETACHED COMMERCIAL

Number of Units:	12
Parking Spaces:	48
Commercial Area:	4000 sq. ft.
Avg. Unit Area:	800 sq. ft.
Commercial FAR:	7.5%



Note: This design layout includes porch/balcony encroachments into the front setback.

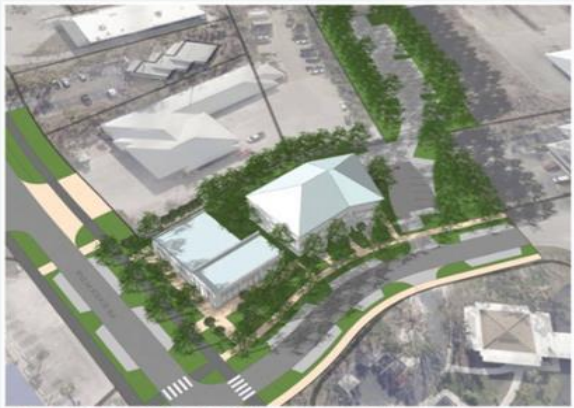


MIXED USE BUILDING

Number of Units:	12
Parking:	48
Commercial Area:	10,232 sq. ft.
Avg. Unit Area:	700 sq. ft.
Commercial FAR:	20%



Note: This design layout includes porch/balcony encroachments into the front setback.



TWO-STOREY APARTMENT BUILDING, DETACHED COMMERCIAL

Number of Units:	12
Parking Spaces:	48
Commercial Area:	4450 sq. ft.
Avg. Unit Area:	800 sq. ft.
Commercial FAR:	8.5%



Note: This design layout includes porch/balcony encroachments into the front setback and reduced commercial setback. Dry floodproofing could be used to allow commercial uses at the same level as the sidewalk.

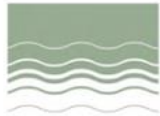


TWO SMALL APARTMENT BUILDINGS, DETACHED COMMERCIAL

Number Units:	12-16
Parking:	68 (Shared)
Commercial Area:	4000 sq. ft.
Avg. Unit Area:	1000 sq. ft.
Commercial FAR:	7.5%



Note: This design layout includes porch/balcony encroachments into the front setback and reduced commercial setback. Dry floodproofing could be used to allow commercial uses at the same level as the sidewalk.



Coastal Florida Recovery & Resiliency Partnership Project (R2P2)

CITY OF SANIBEL Infill Building on Library Way

For more information:



coastalFLR2P2.com



DRAFT JULY 2024





Hillpointe
Minneola Project photos



Hillpointe
Existing Properties



Hillpointe
Existing Properties

Live Local Act 2023 vs. 2024

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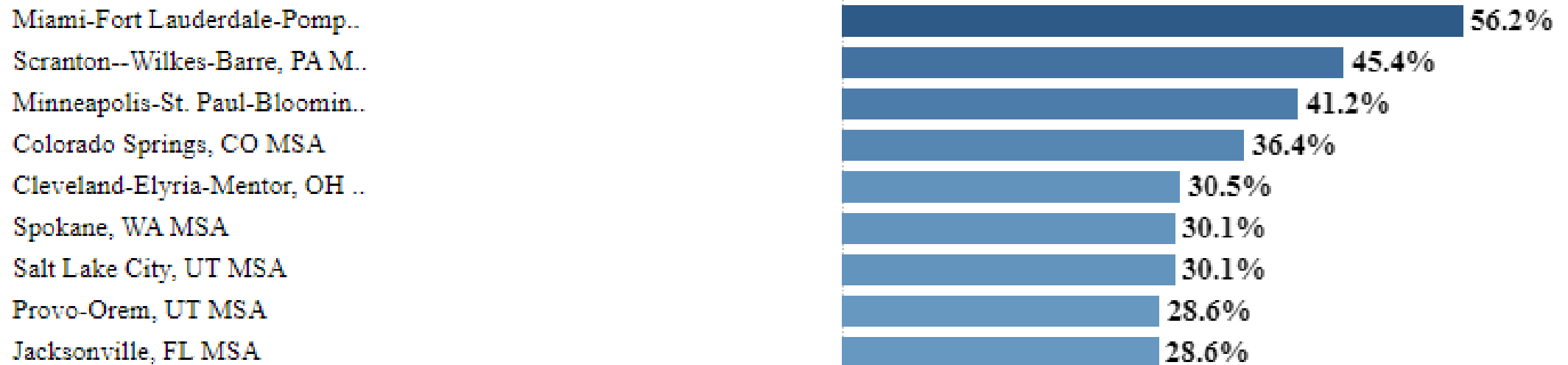
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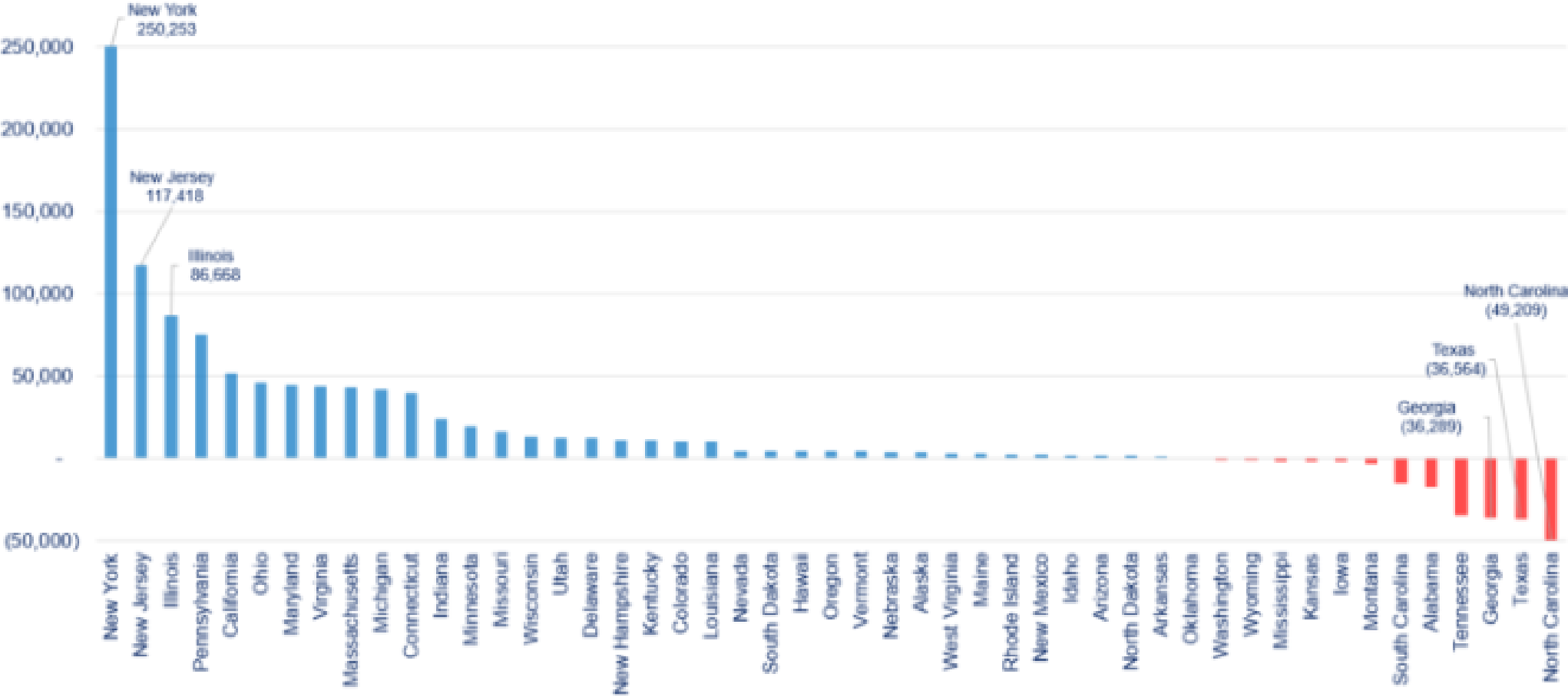


US CHANGE OF INBOUND MOVES (2019-22)

Areas are sorted by % change of inbound moves between 2019 and 2022 (high to low)



Florida Net Migration 2023



NEW YORK POST

New York falls behind Florida in jobs for first time in 40 years

By **Ariel Zilber**

February 3, 2023 | 1:16pm | Updated



GDP GROWTH 10%



15TH LARGEST ECONOMY IN WORLD



UNEMPLOY 3.3% (MIAMI-DADE 2.1%)



MIAMI-DADE MEDIAN INCOME +30% (2021-24)



140+ MILLION VISITORS (2023 RECORD)



MORE FERRARIS IN MIAMI THAN ITALY





The New York Times

The least affordable was Miami, where the median-priced home costs \$598,000 and would require a monthly payment of \$3,183 to cover mortgage and taxes — more than 85 percent of the local median household income of \$44,581 (or \$3,715 a month). Los Angeles and New York followed — no surprise given their steep home prices.

103% PRICE INCREASE IN 4 YEARS

Single Family Homes Price Appreciation in Miami-Dade, Broward & Palm Beach Counties

Source: MLS



Avg. Sales Price



Achilles' heel

(uh-KIL-eez heel) *noun*

A seemingly small but critical weakness in an otherwise strong position.



Wordsmith.org



100% BIPARTISAN SUPPORT

2023

Senate
40 – 0

House
103– 6

2024

Senate
40 – 0

House
112– 1

ZONING: 2024 LIVE LOCAL

ZONING 2024 LIVE LOCAL BENEFITS

Process	Administrative approval
Height	Max zoned height within 1-mile in municipality
Density	Max unit density permitted anywhere in municipality
Floor Area	150% of max floor area ratio (FAR) permitted anywhere in municipality
Uses	Allows multifamily and mixed-use in any areas zoned for commercial, industrial or mixed-use
Ownership	Allows market rate multifamily units for sale
Bonuses	Bonuses for height, density and FAR must also be administratively approved
Parking	No parking required for Transit Oriented Development (TOD) and 20% parking reduction within 1/2 mile of Major Transportation Hub

ZONING 2024 LIVE LOCAL QUALIFICATIONS

Rent	40% of multifamily development rented at 120% AMI for 30 years
Uses	Max 35% non-residential component
Standards	Comply with all non-Live Local Act regulations (setbacks, open space, etc.)
Areas	Limited to any area zoned for commercial, industrial or mixed-use. Zoning benefits not permitted in airport flight paths or noise contour areas.
Height	Adjacency, on 2 or more sides, to single-family zoned development of at least 25 contiguous homes, limits to: currently allowed height, 3 stories or 150% of tallest adjacent building, whichever is higher

TAXES: 2024 LIVE LOCAL

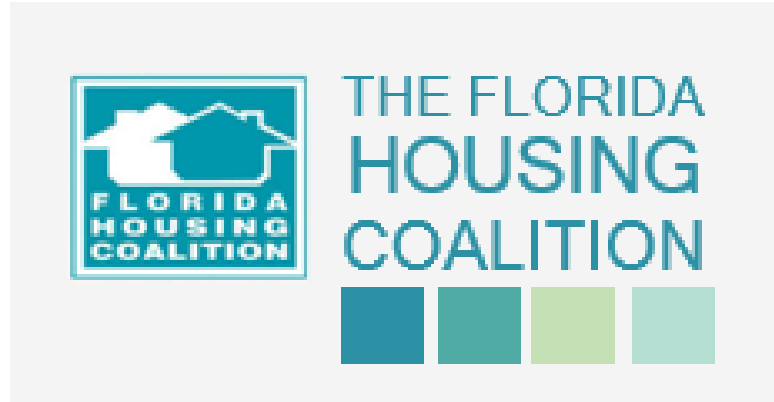
TAX 2024 LIVE LOCAL BENEFITS

75% Tax Exemption	Minimum 71 units rented up to 120% AMI or 90% of market rate rents and household income up to 120% AMI
100% Tax Exemption	Portion of 71 units rented up to 80% AMI or 90% of market rate rents and household income up to 80% AMI
Value Determination	Includes proportionate share of residential common areas and land value

TAX 2024 LIVE LOCAL QUALIFICATIONS

Minimum Units/Rents	Minimum 71 units rented up to 120% AMI or 90% of market rate rents
Newly Constructed	Improvement substantially completed within 5 years of submission
Areas	Permitted in all areas regardless of zoning or airport proximity
Certification	Sworn statement restricting qualified rents and income for 3 years
Expiration	Applies to 2024 tax roll and sunsets December 31, 2059
Opt-Out	Tax Opt-Out permitted if Florida Shimberg study finds surplus of affordable units. Miami-Dade, Broward, Palm Beach and Monroe County MSA's do not qualify for opt-out.

LIVE LOCAL DEVELOPMENT PIPELINE



- ~17,020 total units planned
- ~53 planned multifamily developments
- Miami-Dade County (10 applications)
- City of Miami (5 applications)
- City of Orlando (4 applications)
- Hillsborough County (2 applications)
- Orange County (2 applications)
- City of Sarasota (2 applications)
- 26 other jurisdictions (1 application)

LIVE LOCAL TAX EXEMPTION



- 2024 – 117 applications
- 8 taxing authorities opted out
- Opt out vesting

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- Return on Cost increases 0.3% to 1%
 - Largest exemption \$1.4M
 - Average \$300-\$500K

Case 1: Miami Infill TOD



LIVE LOCAL ACT	BEFORE	AFTER
UNITS	48	112
120% AMI	0	112
SQUARE FEET	112,000	77,000
STORIES	12	8
PARKING	77	6

Case 2: Miami Wynwood



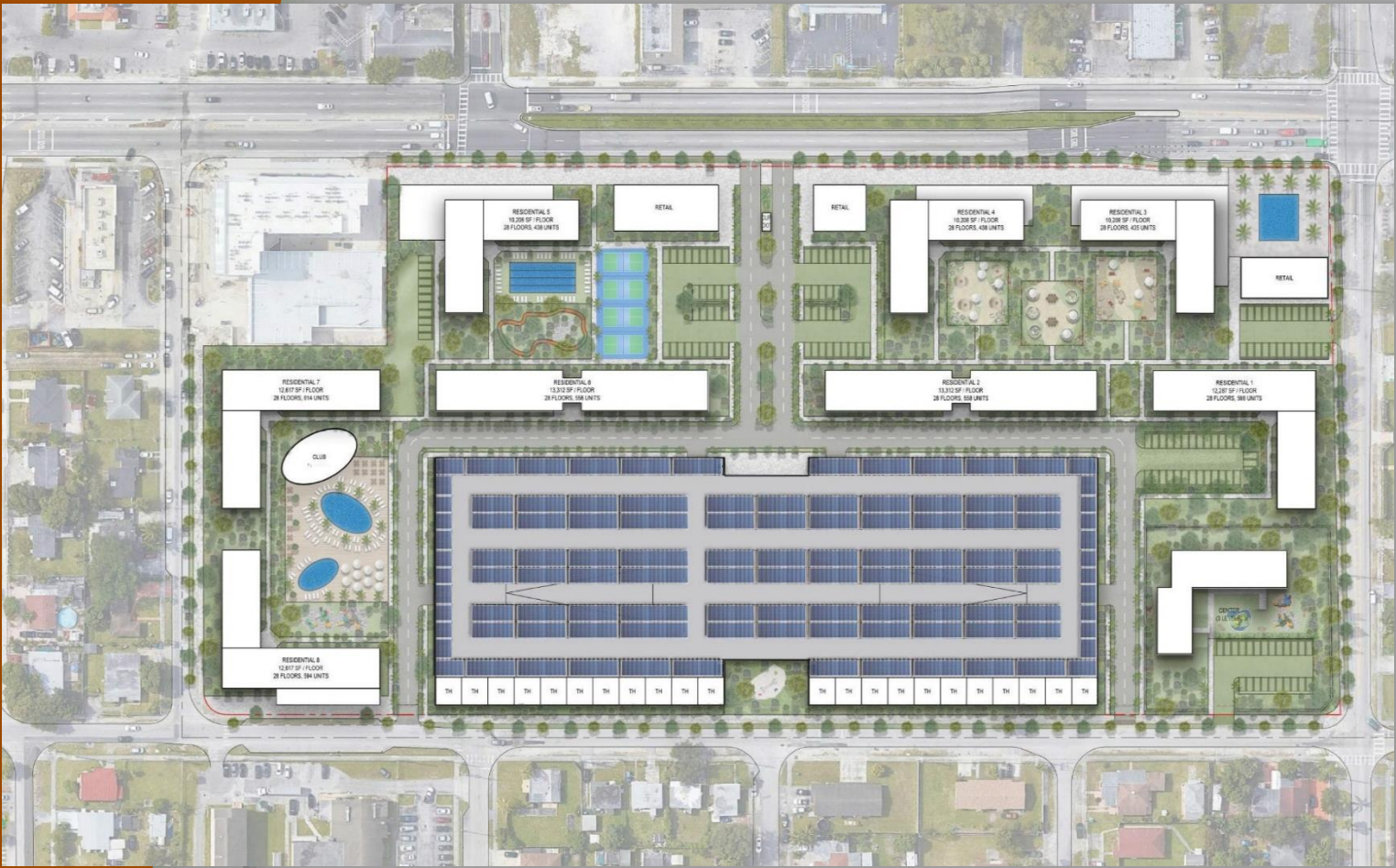
LIVE LOCAL ACT	BEFORE	AFTER
UNITS	203	600
120% AMI	0	240
SQUARE FEET	425,000	919,000
STORIES	8	36

Case 3: County SMART Plan Corridor



LIVE LOCAL ACT	BEFORE	AFTER
UNITS	67	420
120% AMI	7	210
SQUARE FEET	50,442	484,311
STORIES	2	27

Case 4: County Urban Center



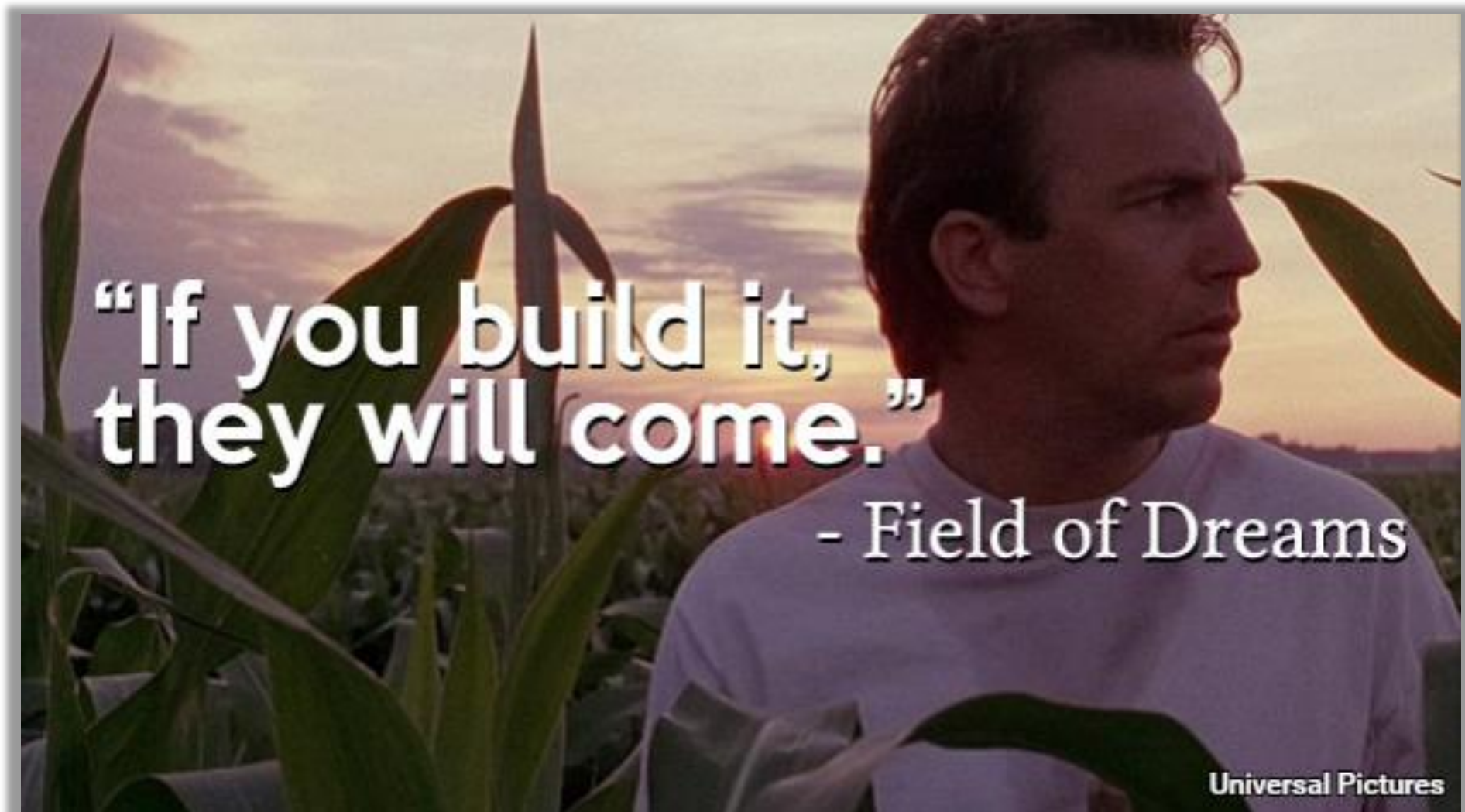
LIVE LOCAL ACT	BEFORE	AFTER
UNITS	1,556	4,138
120% AMI	156	4,138
SQUARE FEET	554,058	2,500,000
STORIES	21	28











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Compliance Monitoring





- The LLA land use mandate statute is silent on compliance monitoring.
- No sample forms nor tracking system are provided (no state agency tasked to provide guidance).
- Yet, affordable units built with the tool must be rented at affordable rates for at least 30 years.
- Local government has discretion to craft a compliance monitoring plan that is best for city/county staff and the affordable housing industry.



LLA Compliance Monitoring

- LLA did not provide funding for local compliance monitoring
- Choose a monitoring process that is manageable
- There is no state-level supervision of monitoring
- Consider staff capacity

Rental Compliance Monitoring is Nothing New (to many local governments)

- Property management staff are expected to document and calculate income eligibility
- Each year staff must monitor, usually because of SHIP or HOME investments
- Communicate with Property Management Staff
- Review income eligibility and rent affordability
- Address noncompliance



Past Rental Monitoring: How is this Different?

- LLA ‘Preemption Project’ is rental housing that may have no subsidy (like SHIP, Housing Credits)
- No state/federal oversight - Only the local government checks for compliance
- **Sampling is acceptable.** Example—in a property with 12 affordable residential units, you could monitor only one third of them.
- **Flexibility in Frequency:** You may choose not to monitor every year. Instead, consider every other year or every third year.
- **Self-certification is acceptable.**
- No utility allowance.



Options for Monitoring: Do It Yourself

- Funded by the local government department budget
- Funded with a fee paid by the developer
 - The fee must be commensurate with the staff time involved in monitoring

Example- Calculating FHFC's compliance monitoring fees

- A base fee of \$183/month
- Plus \$11.24 per affordable unit/month
- Plus \$2,046 with an automatic increase of 3% per year



Options for Monitoring: Self-Certification with monitoring fees

- Consider: rely on self-certification of affordable rents and household incomes
- In the agreement with the property owner, put income verification onus on property owner and require annual reports demonstrating compliance
- City/County then reviews annual reports with authority to do further review
- Only charge a compliance monitoring fee if city/county needs to examine records further



Options for Monitoring: Contract Out the Work

- Contract out following city or county procurement procedures
- Contract out letting the developer choose their third-party monitoring group and pay annually for this service.



What Types of Penalties Could Be Imposed?

- Liquidated Damages – Pay \$__ for every violation.
- Restitution Damages – Pay back the overage of rent
- Probation period – You cannot do business with the local government for __ number of years.
- Specific Performance - A requirement to come back into compliance



For more information

- Through the Affordable Housing Catalyst Program, we can provide free technical assistance to local governments to help develop a compliance monitoring plan that works for you.
- Also, see this webinar from 11/6/23 on our website at <https://www.flhousing.org/webinar-recordings/>.



Questions?



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