

**Live Local Act Administrative Review Procedure**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, AT CHAPTER 2, ENTITLED “ADMINISTRATION AND REVIEW PROCEDURES,” ARTICLE V, “REZONINGS AND DEVELOPMENT APPROVALS,” TO ESTABLISH SECTION 2.5.5, ENTITLED “DEVELOPMENT APPROVALS UNDER THE LIVE LOCAL ACT,” TO ESTABLISH REGULATIONS AND PROCEDURES FOR THE REVIEW AND APPROVAL OF DEVELOPMENTS PURSUANT TO THE LIVE LOCAL ACT (INCLUDING SECTION 166.04151(7), FLORIDA STATUTES); AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Land Use and Housing Elements of the Miami Beach Comprehensive Plan include policies to incentivize the development and retention of workforce and affordable housing; and

**WHEREAS**, the City of Miami Beach (the “City”) finds that there is a shortage of affordable rentals within the City limits; and

**WHEREAS**, in 2023, the Governor signed into law Senate Bill 102, known as the “Live Local Act,” codified at Chapter 2023-17, Laws of Florida, which is broad ranging legislation intended to streamline and incentivize affordable housing developments within the State of Florida (the “Act”); and

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

**WHEREAS**, these preemptions are set forth in Section 166.04151(7), Florida Statutes; and

**WHEREAS**, the City Commission supports affordable housing and finds it necessary to revise the City Code in order to implement the provisions of the Act and establish equitable regulations for the development of mixed income projects; and

**WHEREAS**, the Act provides that, if a municipality has designated less than 20 percent 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**, approximately 11 percent of the land area within the City of Miami Beach is designated for commercial or industrial use; and

**WHEREAS**, given that less than 20 percent 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 residential project as defined in the Act; and

**WHEREAS**, the Act requires that “a municipality must consider reducing parking requirements for a proposed development authorized under this subsection if the development is

located within one-half mile of a major transit stop, as defined in the municipality's land development code, and the major transit stop is accessible from the development"; and

**WHEREAS**, the Miami Beach Resiliency Code provides reduced parking requirements for workforce and affordable housing units; and

**WHEREAS**, the Act provides that, except as otherwise provided for within the Act, development authorized under the Act must comply with all applicable state and local laws and regulations; and

**WHEREAS**, the amendments set forth below are necessary to accomplish all of the above objectives.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.** Chapter 2 of the Miami Beach Resiliency Code, entitled "Administration and Review Procedures," Article 5, "Rezoning and Development Approvals," is hereby amended to establish Section 2.5.5, entitled "Development Approvals Under the Live Local Act," as follows:

**CHAPTER 2**  
**ADMINISTRATION AND REVIEW PROCEDURES**

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**ARTICLE V – Rezoning and Development Approvals**

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**2.5.5 Development Approvals Under the Live Local Act**

**2.5.5.1 Applicability**

1. Generally. The provisions of this section shall apply to any application for the development of land authorized under Section 166.04151(7), Florida Statutes, known as the Live Local Act. Except as otherwise provided, any application for development approval shall comply with all applicable procedures and requirements of the City Code and Land Development Regulations.
2. Affected areas. Only properties within the zoning districts listed below are eligible for the zoning incentives in Section 166.04151(7), Florida Statutes:
  1. CD-1, Commercial, low intensity
  2. CD-2, Commercial, medium intensity
  3. CD-3, Commercial, high intensity
  4. MXE, Mixed use entertainment
  5. TC-1, North Beach Town Center core
  6. TC-2, North Beach Town Center mixed-use

7. TC-C, North Beach Town Center-Central Core
8. C-PS1, Commercial limited mixed use
9. C-PS2, Commercial general mixed use
10. C-PS3, Commercial intensive mixed use
11. C-PS4, Commercial intensive phased bayside
12. RM-PS1, Residential mixed-use development
13. I-1, Industrial, light

#### **2.5.5.2 Affordability commitment.**

Pursuant to Section 166.04151(7), Florida Statutes, at least 40 percent of the multi-family residential dwelling units in a qualifying project shall remain affordable, as defined in Section 420.0004, Florida Statutes, for a period of at least 30 years. This requirement shall be incorporated as a condition of any administrative approval. Furthermore, as a prerequisite to the issuance of a building permit, the property owner shall execute and deliver to the City for recordation in the public records, in a form approved by the City Attorney, a declaration of restrictive covenants in favor of the City ensuring compliance with this affordability requirement.

#### **2.5.5.3 Site plan approval.**

- a. Site Plan Approval Prior to Building Permit. Site plan approval by the Planning Director for development that qualifies for the zoning incentives set forth in Section 166.0451(7), Florida Statutes, shall be required prior to the submittal of an application for a building permit.
- b. Minimum Notice Requirements. A minimum 30-day mail notice shall be required for all properties within 375 feet of the property that is the subject of the application. The applicant shall be responsible for satisfying this 30-day mail notice requirement (including all associated costs). Additionally, a copy of the application and all exhibits shall be transmitted electronically to all registered neighborhood association(s) in the affected area. For properties located within a local historic district, a copy of the application and exhibits shall be transmitted electronically to the Miami Design Preservation League (MDPL).
- c. Administrative Review of Site Plans. Site plan approval for development that complies with Section 166.0451(7), Florida Statutes, this section, and all other applicable requirements of the Land Development Regulations and Comprehensive Plan shall be subject to administrative approval by the Planning Director. The Planning Director may issue an applicable Certificate of Appropriateness, Design Review Approval Order, or Conditional Use Permit, for projects that comply with the requirements of this section.
- d. Variations and Waivers. Any applicant that seeks a waiver or variance from the Land Development Regulations shall not be eligible for administrative review of a site plan by the Planning Director.

- e. Warrants. Any applicant that seeks a warrant from the City Commission shall not be eligible for administrative review of a site plan by the Planning Director.
- f. Conditional Uses. Only conditional use permit applications for Neighborhood Impact Structures or Neighborhood Impact Lots shall be eligible for administrative review of a site plan by the Planning Director. All other conditional uses shall require the review and approval of the Planning Board.

#### **2.5.5.4 Density.**

Any development that qualifies for the zoning incentives in Section 166.0451(7), Florida Statutes, shall not exceed the highest allowed density permitted under Section 166.04151(7), Florida Statutes.

#### **2.5.5.5 Height.**

Any development that qualifies for the zoning incentives in Section 166.0451(7), Florida Statutes, shall not exceed the maximum height permitted under Section 166.04151(7), Florida Statutes.

#### **2.5.5.6 Development standards and criteria.**

Any development that qualifies for the zoning incentives in Section 166.0451(7), Florida Statutes, shall comply with the following:

- a. Equivalent Treatment of all Dwelling Unit Requirements. All affordable and workforce dwelling units and market-rate dwelling units shall be located within the same site. All common areas and amenities shall be accessible and available to all residents (i.e. residents of both affordable and market rate dwelling units). Access to the required affordable dwelling units shall be provided through the same principal entrance(s) utilized by all other dwelling units in the development.
- b. Mixed-Use Residential. Any development that is administratively approved pursuant to this section shall consist of a mixed-use residential project in accordance with the provisions of Section 166.04151(7), Florida Statutes.
- c. Unified Lot. All residential and non-residential components of the site plan shall be located on the same lot or unified development site.
- d. Compliance with Land Development Regulations and Comprehensive Plan. No development shall be administratively approved unless and until the Planning Director has determined that the site plan complies with all applicable provisions of the Land Development Regulations, except to the limited extent that any such provisions are preempted by Section 166.04151(7), Florida Statutes. For example, but without limitation, each site plan shall be subject to the maximum intensity (floor area and floor area ratio) for the underlying zoning district, and all other applicable requirements of the Land Development Regulations.
- e. Compliance with Comprehensive Plan. No development shall be administratively approved unless and until the Planning Director has determined that the site plan complies with all applicable provisions of the Comprehensive Plan, except to the limit extent that

any such provisions are preempted by Section 166.04151(7), Florida Statutes. For example, but without limitation, each site plan shall be subject to public facility levels of service, concurrency review, and the City's mobility fee, and all other applicable requirements of the Comprehensive Plan.

f. Criteria. No development shall be administratively approved unless and until the Planning Director has determined that the site plan complies with the following:

1. The design review or certificate of appropriateness criteria, as applicable;
2. The conditional use criteria, as applicable;
3. The sustainability and resiliency criteria, as applicable;
4. Other criteria contained in the Resiliency Code, as applicable; and
5. Other criteria contained in the Comprehensive Plan, as applicable.

#### **2.5.5.7 Appeals.**

Any appeal of the decision of the planning director shall be filed pursuant to the requirements of chapter 2, article IX of these Land Development Regulations.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

**SECTION 3. CODIFICATION.** It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. SEVERABILITY.** If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

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Steven Meiner  
Mayor

First Reading: December 13, 2023

Second Reading: January \_\_, 2024

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

12-4-23  
\_\_\_\_\_  
Date

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