CITY OF
FORT LAUDERDALE

All-America City

October 30, 2025

The Honorable James Uthmeier
Attorney General
The Capitol
Tallahassee, Florida 32399

RE: Request for Attorney General Opinion; Qualification of Residential and Planned Development Zoning Districts Under the Live Local Act

The Honorable Attorney General Uthmeier:

§16.01(3), Fla. Stat. (2025) provides that the Attorney General "may, upon the written requisition of a…officer of a county, municipality, other unit of local government... give an official opinion and legal advice in writing on any question of law relating to the official duties of the requesting officer."

Pursuant to this provision, and as an executive officer of the City of Fort Lauderdale, I respectfully request an opinion regarding the application of §166.04151, Florida Statutes (the "Live Local Act," or "Act"), specifically concerning the questions below:

QUESTIONS

Is a residential zoning district which permits both residential and hotel use as of right but only conditionally permits mixed use development, as that term may be defined in the municipality's land development regulations, considered "zoned for…mixed use" under the Act"?

Is the height of a building located within a "flexibly zoned area", such as a planned development zoning district, a "bonus, variance or other special exception" under the Act?

FACTS

Under the City of Fort Lauderdale's Unified Land Development Regulations ("ULDRs"), "mixed use development" is defined as "a development parcel which includes a mixture of residential dwelling units and business uses such as commercial retail sales, service or office uses" (ULDR Section 47-18.21). Within the City's residential zoning districts, "mixed use development" is listed as a *conditional use* which may be allowed

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only after compliance with all the conditions and standards for the location or operation of the use as provided in the ULDR and subject to a conditional use permit. However, the City's Residential High Rise/Multifamily/High Density District (RMH-60) allows both residential and hotel as *permitted uses* by right, whether developed individually or in combination. A copy of the City's Mixed-Use Development and RMH-60 code sections is enclosed for your reference.

As to the second question, the City's Planned Development (PDD) zoning district is categorized as an "additional zoning district" (ULDR Article XIII) under which other zoning districts such as the "Planned Unit Development" and "Uptown Urban Village Zoning Districts" are listed. The PDD is "intended to foster, encourage and provide for development incorporating urban design principles and elements that are not otherwise permitted under the Unified Land Development Regulations zoning districts and development standards" (ULDR Sec. 47-37.A.1). The ULDR more specifically defines a "PD (Planned Development)" as "a development on land under unified control as established by a recorded document that meets the criteria for a PDD as described in this Section 47-37A. Upon adoption of an ordinance approving the site plan and design characteristics that become the specific zoning regulations and standards for the land to which the PDD is applicable" (ULDR Section 47-37A.2).

Further, the City's PDD criteria and limitations provides that within a PDD "building height may be increased by an additional amount equivalent to one hundred and twenty-five (125) percent of the existing height identified in the underlying zoning district but in no case shall exceed three hundred (300) feet" (ULDR Section 47-37A.8.H). Once codified by ordinance, the PDD zoning district establishes the governing development standards for the property, including building height, in the same manner as any other zoning district within the City. The terms "bonus", "variance" or "special exception" as provided elsewhere in the ULDR are not used in the PDD ULDR section. The PDD code section is enclosed for your reference.

MEMORANDUM OF LAW

§166.04151(7)(a), Fla. Stat., requires municipalities to authorize multifamily and mixed-use residential as allowable uses in "*any area zoned for* commercial, industrial, or *mixed use*, and in portions of any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use". Section 166.04151(7)(n), Fla. Stat. defines "mixed use" as "any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories[.]" The Act provides that "commercial use" includes "public lodging establishments as described in s. 509.242(1)(a)."

At issue is whether a residential zoning district which allows both residential and hotel uses is "zoned for…mixed use" for purposes of the Act despite such residential zoning district only conditionally permitting "mixed use development" as that term is defined by the City's ULDRs.

It is understood that municipal ordinances are subordinate to state law and where a conflict exists between an ordinance and any controlling provision of a state statute, the issue is resolved in favor of the statute and against the ordinance. *City of Miami v. Rocio Corp.,* 404 So.2d 1066 (Fla. 3'd DCA 1981).

The next question is whether or not the term "highest currently allowed height" includes the height of any building located within a legislatively adopted planned development district. §166.04151(7)(d)1, Fla. Stat. states:

> "A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within 1 mile of the proposed development or three stories, whichever is higher. For purposes of this paragraph, the term "highest currently allowed height" *does not include* the height of any building that met the requirements of this subsection 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*."

The Act limits the height preemption by entitling qualified development to the municipality's "highest currently allowed height" for a building within one mile, *excluding* the height of any building authorized under the Act or 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.

Without any case law addressing the applicability of §166.04151(7)(d)1, Fla. Stat, the only available guidance resides in the rules of statutory interpretation. Pursuant to the doctrine of *in pari materia*, courts must construe related statutes together to determine legislative intent.

§166.04151(7)(a), Fla. Stat. describes "any flexibly zoned area such as a planned unit development" in the list of eligible zoning classifications in which a Live Local Act project may be located. The Act states in §166.04151(7)(n)4, Fla. Stat. that a "[p]lanned unit

development has the same meaning as provided in s. 163.3202(5)(b)", which provides the following:

> "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots."

A planned development is similarly a "flexibly zoned area" created pursuant to a local ordinance, resolution, or other final action approved by the local governing body, and in the case of the City, is approved by local ordinance and becomes the governing zoning regulations and standards for the land to which the planned development zoning classification is applicable.

As §166.04151(7)(d)1, Fla. Stat. does not expressly exclude the use of height of any building that is located within a "flexibly zoned area" as that term is legislatively used in section 125.01055(7)(a) and 166.04151(7)(a)", it could be inferred that any "bonus, variance, or other special exception for height provided in the local government's land development regulations as an incentive for development" are discretionary height incentives and not legislatively adopted flexibly zoned areas such as a planned unit or planned development district.

The City of Fort Lauderdale respectfully requests an Attorney General Opinion to answer the Questions noted above. Thank you in advance for your consideration of the foregoing questions.

Respectfully,

D'Wayne M. Spence
Interim City Attorney
City of Fort Lauderdale

Enclosures
CC: Rickelle Williams, City Manager
Chris Cooper, Assistant City Manager
Anthony Greg Fajardo, Director, Development Services

LIST OF EXHIBITS

Exhibit "1" Attorney General Opinion Certification

Exhibit "2" City of Fort Lauderdale's Residential High Rise/Multifamily/High Density District (RMH-60) Regulations

Exhibit "3" City of Fort Lauderdale's Mixed-Use Development Regulations

Exhibit "4" City of Fort Lauderdale's Planned Development (PDD) zoning district

Exhibit "5" Florida Statute §166.04151(7)(a) - Affordable housing

Exhibit "6" Florida Statute §163.3202(5)(b) - Land development regulations

Exhibit "7" *City of Miami v. Rocio Corp.*, 404 So.2d 1066 (Fla. 3'd DCA 1981)

Exhibit "1"

Attorney General Opinion Certification

The Attorney General expects that any person submitting an opinion request adhere to the same duty of candor owed by counsel to tribunals. See Rule 4-3.3, Rules Regulating the Florida Bar. The undersigned, submitting an opinion request to the Attorney General, certifies the following [each statement must either be checked or marked N/A ("not applicable")]:

1. ✓ The person or entity requesting an opinion from the Attorney General is one of the officers enumerated in section 16.01(3), Florida Statutes, and is not a private individual or entity.

2. N/A An opinion request submitted by a collegial body, meaning a board, council, commission, etc., is being made on behalf of a majority of such body pursuant to a vote by the entire body, and a copy of the resolution, minutes, or transcript approving the opinion request are attached. If the collegial body is represented by counsel, a copy of the opinion of counsel is attached.

3. N/A An opinion request submitted by a member of the Florida Legislature is not being made on behalf of a private person or entity and a copy of the opinion request has been submitted to the presiding officer of the member's chamber. The member has attempted to obtain an opinion of the general counsel of the member's chamber on the issue and a copy of any written opinion is attached.

4. ✓ The opinion request does not involve an issue or question pending before the courts in any matter known to the requesting party after conducting a reasonably diligent search.

5. ✓ The opinion request relates to the official duties of the requesting party.

6. ✓ The opinion request does not seek or require a determination of the constitutionality of an existing statute or ordinance.

7. ✓ The opinion request does not require an interpretation of federal law.

8. ✓ The opinion request does not require an interpretation solely of local codes, ordinances, or charters.

9. ✓ The opinion request does not involve an issue or question that falls within the jurisdiction of another state agency, such as the Florida Commission on Ethics or the Division of Elections.

10. ✓ The requesting party has determined that a declaratory statement from a state agency with jurisdiction over the applicable statutes would not adequately address the subject matter.

11. ✓ Based upon a reasonably diligent search, the opinion request does not involve matters addressed in proposed legislation currently before the Florida Legislature.

12. ✓ The opinion request does not involve an action that the official or agency has already taken or funds which have already been expended.

13. ✓ Based upon a reasonably diligent search, there are no known pending disputes, proceedings, challenges, or litigation relating to the subject of the opinion request.

14. ✓ The facts presented in the opinion request are true and correct to the best of the undersigned's knowledge.

15. ✓ All relevant and material facts known to the undersigned that might bear on the question or questions posed in the request have been included in the opinion request.

16. ✓ All entities known to have an interest in the outcome of the opinion request have been disclosed.

17. ✓ The opinion request includes a memorandum of law that contains an analysis of the issues, citations to relevant authorities, a statement of counsel's opinion if the request is submitted by an attorney, any previous legal opinions provided to the entity requesting the opinion, and any documents or diagrams that would be helpful to the Attorney General in responding to the request.

Respectfully submitted,

Requesting party

Name: D'Wayne Spence

Counsel to requesting party

Name: D'Wayne Spence

Florida Bar No. 869961

Sec. 47-5.1. List of districts.

A. *Residential zoning districts.*

1. RS-4.4 - Residential Single Family/Low Density District.
2. RS-8 - Residential Single Family/Low Medium Density District.
3. RD-15 - Residential Single Family Duplex/Medium Density District.
4. RDs-15 - Residential Single Family/Medium Density District
5. RC-15 - Residential Single Family Cluster Dwellings/Medium Density District.
6. RCs-15 - Residential Single Family/Medium Density District.
7. RM-15 - Residential Multifamily Low Rise/Medium Density District.
8. RMs-15 - Residential Low Rise Multifamily/Medium Density District.
9. RML-25 - Residential Multifamily Low Rise/Medium High Density District.
10. RMM-25 - Residential Multifamily Mid Rise/Medium High Density District.
11. RMH-25 - Residential Multifamily High Rise/Medium High Density District.
12. RMH-60 - Residential Multifamily High Rise/High Density District.
13. MHP - Mobile Home Park District.

B. *Residential office zoning districts.*

1. RO - Residential Office District. See Section 47-5.60.
2. ROA - Limited Residential Office District. See Section 47-5.60.
3. ROC - Planned Residential Office Districts. See Section 47-5.60.

(Ord. No. C-97-19, § 1(47-5.1), 6-18-97; Ord. No. C-99-27, § 1, 5-4-99)

Sec. 47-5.2. Intent and purpose of each district.

A. *Residential zoning districts.*

1. *RS-4.4* district is intended to provide areas within the city for single family detached residences and accessory uses. The RS-4.4 district has a maximum density of four and four-tenths (4.4) dwelling units per net acre, which is consistent with the density permitted by the residential low category of the city's comprehensive plan.

2. a. *RS-8* district is intended to provide areas within the city for single family detached residences and accessory uses. The RS-8 district has a maximum density of eight dwelling units per net acre, which is consistent with the density permitted by the residential low-medium category of the city's comprehensive plan.

b. *RS-8A* district is intended to preserve the existing character and integrity of RS-8 neighborhoods by reducing the potential for increased bulk, height and mass of single family detached residences which is permitted in an RS-8 zoning district. Further restriction on bulk, height and mass will promote the preservation of existing tree canopy and provide for additional landscaping.

3. *RD-15* district is intended to provide areas within the city for single family detached dwellings and for duplex units or two family residences where two units are either attached or semi-attached. The RD-15 district permits single family dwelling units including zero lot line dwellings and cluster dwellings designed in a manner that is compatible and complementary to the surrounding area. This provides for a more efficient use of land resources by allowing for a modification of yards to provide for innovative site design and open space on lots which, because of their size and/or configuration, could not be efficiently used otherwise. The RD-15 district has a maximum density of15 dwelling units per net acre, which is consistent with the density permitted by the residential medium category of the city's comprehensive plan.

4. *RC-15* district is intended to provide areas within the city for single family detached and attached residences and accessory uses. The RC-15 district is also intended to provide for a variety of one family residences, such as zero lot line dwellings, townhouses, and the clustering of dwellings, in a manner which provides for a more efficient use of land resources by allowing for a modification of yards, providing for innovative site design and open space on lots which, because of their size and/or configuration, could not be efficiently used otherwise. The RC-15 district has a maximum density of15 dwelling units per net acre, which is consistent with the density permitted by the residential medium category of the city's comprehensive plan.

5. *RDs-15, RCs-15, RMs-15* are zoning districts intended to limit new residential development to single family detached residences. Duplex, townhouse and multifamily uses that exist and are located on property that was zoned RD-15, RC-15 or RM-15 on April 21, 1998, can be redeveloped as duplex, townhouse or multifamily uses, subject to the provisions provided in Section 47-18.39.

6. *RM-15* district is intended to provide areas in the city for single family residences and low-rise multifamily residences in a manner which ensures, to the greatest extent possible, compatibility with adjacent development and existing residential neighborhoods. Parcels so designated shall serve as a transition from medium high and high density multifamily housing to single family neighborhoods, and shall be limited to locations on or within reasonable proximity to arterial or collector streets or generally near community facilities, office or commercial development. The RM-15 district has a maximum density of15 dwelling units per net acre, which is consistent with the residential medium category of the city's comprehensive plan.

7. *RML-25* district is intended for single family residences and low-rise multifamily residences and hotel/motels in a manner which ensures, to the greatest extent possible, compatibility with adjacent development and existing residential neighborhoods. Parcels so designated shall serve as a transition from high density multifamily housing and hotel development to single family neighborhoods, and shall be located in proximity to arterial or collector streets or near community facilities, office or commercial development. The RML-25 district has a maximum density of 25 dwelling units per net acre and a maximum density of 30 hotel/motel rooms per net acre, which is consistent with the density permitted by the residential medium high category of the city's comprehensive plan.

8. *RMM-25* district is intended for mid-rise multifamily residences and tourist accommodations. The RMM-25 district has a maximum density of 25 dwelling units per net acre and a maximum density of 30 hotel/motel or nursing home rooms per net acre, which is consistent with the residential medium high category of the city's comprehensive plan. Parcels so designated shall serve as a transition from medium high density multifamily housing and hotel development to single family and midrise multifamily residential neighborhoods and shall be located in proximity to arterial or collector streets or adjacent or near to commercial shopping and office facilities or services.

9. *RMH-25* district is intended for high-rise multifamily residences and tourist accommodations. Parcels so designated shall serve as a transition from medium high density multifamily housing and hotel development and single family and low to midrise multifamily residential neighborhoods and shall be located in proximity to arterial or collector streets or adjacent or near to commercial shopping and

office facilities or services. The RMH-25 district has a maximum density of 25 dwelling units per net acre and a maximum density of 30 hotel/motel or nursing home rooms per net acre, which is consistent with the residential medium high category of the city's comprehensive plan.

10. *RMH-60* district is intended for high-rise, high density multifamily residences and hotels. The RMH-60 district has a maximum density of 60 dwelling units per net acre and one hundred twenty (120) hotel/motel rooms per net acre, and eighty-seven (87) nursing home rooms per net acre which is consistent with the residential high category of the city's comprehensive plan.

11. *MHP* district is intended for the establishment of residential mobile home parks which are or will be convenient to major traffic arterials. Mobile home parks may be located in areas of the city that are west of the Seaboard Coast Line Railroad, at a maximum density of 25 dwelling units per net acre, consistent with the residential medium high category of the city's comprehensive plan.

B. *Residential office zoning districts.*

1. RO - Residential Office District: See Section 47-5.60.

2. ROA - Limited Residential Office District: See Section 47-5.60.

3. ROC - Planned Residential Office Districts: See Section 47-5.60.

(Ord. No. C-97-19, § 1(47-5.2), 6-18-97; Ord. No. C-99-27, § 2, 5-4-99; Ord. No. C-08-05, § 1, 2-5-08)

Sec. 47-5.21. List of permitted and conditional uses, RMH-60 Residential High Rise Multifamily/High Density District.

District Categories—Residential Dwellings, Lodging, Mixed Use Development. Public Purpose Facilities, Child Day Care Facilities, Nursing Homes, and Accessory Uses, Buildings and Structures.

A.	***PERMITTED USES***	***B.***	***CONDITIONAL USES:*** See Section 47-24.3.
Any use which is greater than 150 feet in height up to a maximum height of 300 feet, is a Conditional Use Permit subject to the Requirements of Section 47-24.3, Conditional Use Permit.			
1.	*Residential Uses*		
a.	Single Family Dwelling		
b.	Single Family Dwelling, Attached: Cluster, see Section 47-18.9.		
c.	Single Family Dwelling: Zero-lot-line, see Section 47-18.38.		
d.	Single Family Dwelling, Attached: Duplex/Two (2) Family Dwelling, see Section 47-18.45.		
e.	Single Family Dwelling, Attached: Townhouses, see Section 47-18.33.		
f.	Single Family Dwelling, Attached: Rowhouse, see Section 47-18.28.		
g.	Multifamily Dwelling: Coach Home, see Section 47-18.10.		
h.	Multifamily use		
i.	Community Residence, 3 residents maximum. See Sec. 47-18.47.		

j.	Community Residence, 4 to 10 residents; 1,000' distance separation. See Sec. 47-18.47.	Community Residence, 4 to 10 residents, less than 1,000' distance separation. See Sec. 47-18.47.	
k.	Multifamily Dwelling.	Community Residence, more than 10 residents. See Sec. 47-4-18.47/Community Residence, no license or certification available.	
2.	*Lodging*		
a.	Bed and Breakfast Dwelling, see Section 47-18.6.		
b.	Hotel, see Section 47-18.16.		
3.	*Mixed Use Development*		
		a.	Mixed Use Development, see Section 47-18.21.
4.	*Public Purpose Facilities*		
a. Active and Passive Park, see Section 47-18.44. b. Social Service Residential Facility, Level I, II, III, IV, see Section 47-18.32.		a. Helistop, see Section 47-18.14. b. Hospital. c. House of Worship, see Section 47-18.17. d. School. e. Social Service Residential Facility, Level V, see Section 47-18.32.	
5.	*Child Day Care Facilities*		
a.	Family Day Care Home, Small, Intermediate and Large Child Day Care Facility, see Section 47-18.8.	a.	Corporate/Employee Child Day Care Facility, see Section 47-18.8.
6.	*Nursing Home Facilities*		
		a.	Nursing Homes, see Section 47-18.23.
7.	*Accessory Uses, Buildings and Structures*		
a.	See Section 47-19.		
8.	*Urban Agriculture* See Section 47-18.41.		

(Ord. No. C-97-19, § 1(47-5.3.9), 6-18-97; Ord. No. C-12-24, § 4, 7-10-12; Ord. No. C-15-36, § 1, 10-20-15; Ord. No. C-17-47, § 12, 1-3-18; Ord. No. C-18-11, § 4, 4-17-18)

Sec. 47-18.21. Mixed use development.

A. *Generally.* To encourage diversity of compatible land uses on the same development parcel, which uses may include a mixture of residential uses in conjunction with commercial retail sales, service or office uses, the city may permit mixed use development (MXU) as a conditional use, consistent with the provisions of the city's land use plan, and in accordance with the following requirements.

B. *Definitions.*

1. *Mixed use development.* A mixed use development is a development parcel which includes a mixture of residential dwelling units and business uses such as commercial retail sales, service or office uses. A mixed use development may consist of the following:

   a. *Mixed use—single use buildings.* A mixed use development which contains both residential and commercial business uses that are housed in separate buildings.

   b. *Mixed use—mixed use buildings.* A mixed use development which contains a mixture of residential and commercial business uses within the same building.

2. *Qualified Road.* Parcels located on Highway U.S. 1 and parcels with a future land use designation of Commercial, Employment Center, Industrial or Office Park fronting with direct access on a roadway classified as a State road or County arterial, per the Broward Highway Functional Classification map.

C. *Mixed use development on residential land use designated parcels.* The city may permit a mixed use development when the development site has a residential medium, residential medium high or residential high land use designation(s), when permitted by the zoning district, subject to the following:

1. *Residential medium land use.* On a development site which has a residential medium land use designation, subject to the following:

   a. The MXU shall be located in the same building and shall include residential uses only in conjunction with office use; and

   b. At least fifty percent (50) of the gross floor area of the MXU building shall be for residential uses; and

   c. Office uses shall be limited to the floor(s) of the building below the residential use.

2. *Residential medium high and residential high land use.* The city may permit a MXU when the development site has a residential medium high or residential high land use designation(s) subject to the following:

   a. The MXU shall be located in the same building and shall include residential uses in conjunction with retail sales or retail services or office uses; and

   b. At least fifty percent (50) of the gross floor area of the MXU building shall be for residential uses; and

   c. Business uses, as described in subsection F.3 shall be limited to the floor(s) of the building below the residential use.

3. *Locational limitations.* When located within a residential zoning district, mixed use development shall only be permitted on parcels abutting the following rights-of-way, and shall have a minimum lot frontage of fifty (50) feet with access from the following rights-of-way:

   a. N.W. 19th Street.

   b. Davie Boulevard (S.W. 12th St.) west of Federal Highway.

c. Miami Road.

d. Broward Boulevard.

e. Sistrunk Boulevard.

f. East Las Olas, where the parcel is not separated by a canal.

g. N.W. and N.E. 13th Street, between N.W. 9th Ave. and Federal Highway.

D. *Mixed use development on commercial land use designated parcels.* The city may permit a mixed use development when the development site has a commercial land use designation, subject to the following:

1. Approval of an allocation of available flexibility units, without the need to amend the city's land use plan or rezone land. For definition of flexibility units, see Section 47-28, Flexibility Rules.

or

Compliance with Broward County Land Use Plan Policy 2.16.4 and Section 47-23.16. of the ULDR, Affordable Housing Regulations.

2. The MXU shall include residential uses in conjunction with business uses as provided below in Section 47-18.21.F.3. of the ULDR.

3. Developments shall meet the following requirements:

a. At least fifty (50) percent of the ground floor of any portion of a building or development, excluding ingress and egress, facing a qualified road shall provide office and/or commercial uses.

b. Residential uses are prohibited from ground floor frontages facing a qualified road, except for vehicular ingress and egress and lobby access.

c. Portions of a development not facing a qualified road are not required, but encouraged, to provide office and/or business uses, except when abutting a residential zoning district.

4. For a development site that is less than five (5) acres in size, single use multifamily residential buildings are permitted in conjunction with onsite business uses subject to Section 47-18.21.D.3. of the ULDR. No single use residential building is permitted to front a qualified road.

5. For a development site that is greater than five (5) acres in size, single use multifamily residential buildings may be permitted in conjunction with onsite business uses subject to Section 47-18.21.D.3. of the ULDR, provided gross residential acreage does not exceed five (5) acres or forty (40) percent of the total gross acreage of the development site, whichever is greater. No single use residential building is permitted to front a qualified road.

E. *Mixed use development (MXU) on employment center land use designated parcels.* The city may permit a mixed use development when the development site has an employment center land use designation, subject to the following:

1. Approval of an allocation of available flexibility units. For definition of flexibility units, see Section 47-28, Flexibility Rules.

or

Compliance with Broward County Land Use Plan Policy 2.16.4 and Section 47.23.16. of the ULDR - Affordable Housing Regulations.

2. The MXU includes residential uses in conjunction with the business uses as provided below in Section 47-18.21.F.3. of the ULDR.

3. Developments shall meet the following requirements:

a. At least fifty (50) percent of the ground floor of any portion of a building or development, excluding ingress and egress, facing a qualified road shall provide office and/or commercial uses.

b. Residential uses are prohibited from ground floor frontages facing a qualified road, except for vehicular ingress and egress and lobby access.

c. Portions of a development not facing a qualified road are not required, but encouraged, to provide office and/or business uses, except when abutting a residential zoning district. No single use residential building is permitted to front a qualified road.

4. For a development site that is less than the ten (10) acres in size, single use residential buildings are permitted. No business uses are required.

5. For a development site that is greater than ten (10) acres in size, single use multifamily residential buildings may be permitted in conjunction with onsite business uses subject to Section 47-18.21.D.3. of the ULDR, provided gross residential acreage does not exceed the ten (10) acres or forty (40) percent of the total gross acreage of the development site, whichever is greater. No single use residential building is permitted to front a qualified road.

F. *Permitted uses.*

1. The residential and business uses permitted within a mixed use development are as provided by the zoning district where the mixed use development is located.

2. The residential density is limited as provided by the zoning district where the mixed use development is located unless flexibility units are allocated in accordance with Section 47-28. of the ULDR, Flexibility Rules, however, in no case shall residential density exceed fifty (50) dwelling units per gross acre, except where:

a. There exists a residential dwelling; and

b. The residential dwelling is located on property designated commercial on the city's land use plan; and

c. The dwelling was legally permitted at a density greater than fifty (50) units per gross acre;

or

d. The development is in compliance with Broward County Land Use Plan Policy 2.16.4. and Section 47-23.16, of the ULDR, Affordable Housing Regulations.

The maximum density for mixed use development east of the Intracoastal Waterway shall be twenty-five (25) units per gross acre.

3. The business uses permitted in an MXU are as follows:

a. When located in a residential zoning district, the aggregate of the business use or uses shall be no greater than an aggregate ten thousand (10,000) square feet in gross floor area:

i. *Commercial recreation:*

a) Indoor motion picture theater, less than five (5) screens.

ii. *Food and beverage service:*

a) Bakery store.

b) Bar, cocktail lounge, nightclub.

c) Cafeteria.

d) Candy, nuts store.

e) Delicatessen.

f) Food and beverage.

g) Fruit and produce store.

h) Grocery/food store.

i) Ice cream/yogurt store.

j) Liquor store.

k) Meat and poultry store.

l) Restaurant.

m) Seafood store.

n) Supermarket.

iii. *Retail Sales:*

a) Antiques store.

b) Apparel/clothing, accessories store.

c) Arts and crafts supplies store.

d) Art galleries, art studio.

e) Bait and tackle store.

f) Bicycle shop.

g) Book store.

h) Camera, photographic supplies store.

i) Card and stationery store.

j) Cigar, tobacco store.

k) Computer/software store.

l) Consignment, thrift store.

m) Cosmetic, sundries store.

n) Department store.

o) [*Reserved.*]

p) Fabric, needlework, yarn shop.

q) Flooring store.

r) Florist shop.

s) Furniture store.

t) Gifts, novelties, souvenirs store.

u) Glassware, china, pottery store.

v) Hardware store.

w) Hobby items, toys, games stores.

x) Holiday merchandise, outside sales, see Section 47-18.15. of the ULDR.

y) Household appliances store.

z) Jewelry store.

aa) Linen, bath, bedding store.

bb) Luggage, handbags, leather goods store.

cc) Music, musical instruments store.

dd) Newspapers, magazines store.

ee) Optical store.

ff) Paint, wallpaper store.

gg) Party supply store.

hh) Pet store.

hh-1) Pharmacy.

ii) Shoe store.

jj) Sporting goods store.

kk) Tapes, videos, music CD's stores.

iv. *Services/Office Facilities:*

a) Film processing store.

b) Copy center.

c) Formal wear, rental.

d) Hair salon.

e) Health and fitness center.

f) Instruction: fine arts, sports and recreation, dance, music, theater.

g) Interior decorator.

h) Mail, postage, fax service.

i) Massage therapist.

j) Medical clinic.

k) Nail salon.

l) Photographic studio.

m) Professional office.

n) Shoe repair, shoe shine.

o) Tailor, dressmaking store, direct to the customer.

p) Tanning salon.

q) Watch and jewelry repair.

b. The following business uses may be permitted to exceed ten thousand (10,000) square feet:

i. Department store.

ii. Offices.

c. Accessory Uses, Buildings and Structures, see also Section 47-19 of the ULDR.

i. Child day care facilities, as provided by the district where the mixed use development is located and subject to the requirements of Section 47-18.8. of the ULDR.

ii. Film processing when accessory to pharmacy or copy center.

iii. Outdoor dining and sidewalk café, see Section 47-19.9. of the ULDR.

G. *Parking requirements.* The total number of required off-street parking spaces for an MXU shall be equal to the sum of the required parking for each use as if provided separately. See Section 47-20, Parking and Loading Requirements.

H. *Landscaping and open space requirements.* Street trees shall be planted and maintained along the street abutting the property where the MXU is located to provide a canopy effect. The type of street trees may include shade, flowering and palm trees. The trees shall be planted at a minimum height and size in accordance with the requirements of Section 47-21 of the ULDR, Landscape and Tree Preservation Requirements. The location and number of trees shall be determined by the department based on the height, bulk, shadow, mass and design of the structures on the site and the proposed development's compatibility to surrounding properties. Open space and landscaping shall be required in conjunction with residential uses in a mixed use development according to the following:

1. For mixed use development in a residential zoning district, landscaping shall be as required by Section 47-21.10 of the ULDR for the zoning district in which the mixed use development is located.

2. For development in a mixed use development in other than a residential zoning district, open space shall be required. Open space, for the purposes of this section, shall include all areas on the site not covered by structures, other than covered arcades, or not covered by vehicular use area. Covered arcades with a minimum width of ten (10) feet and at least one (1) side open to a street shall be credited towards open space requirements. The required open space shall include seating and shade provided by trees, canopies, or other unenclosed shade structures. A minimum of fifty percent (50) of the required open space shall be in living materials used in landscaping which areas may be above grade. At least forty percent (40) of the required open space shall be provided at-grade and the remaining open space shall be accessible to individual residential units or through a common area, or both. The total amount of open space required shall be calculated based on the size and density of the development, as follows:

a. For development of twenty-five (25) residential units or less, or developments of fifteen (15) dwelling units per acre or less density: a minimum of two hundred fifty (250) square feet of open space per unit;

b. For developments of between twenty-six (26) and one hundred (100) residential units, or developments of greater than fifteen (15) dwelling units per acre and up to twenty-five (25) dwelling units per acre density: a minimum of two hundred (200) square feet of open space per unit;

c. For developments of more than one hundred (100) residential units, or developments of greater than twenty-five (25) dwelling units per acre density: a minimum of one hundred fifty (150) square feet of open space per unit;

d. For developments which fall into more than one (1) of the above categories, the lesser open space requirement shall apply.

e. For the property located east of the Intracoastal Waterway, the percentage of landscape materials provided above grade as permitted by this section shall also be provided off-site in an area impacted by the development as determined by the development review committee or an owner shall be required to pay a cash equivalent to the city to be used to landscape a public area impacted by the development.

f. Developments shall be required to meet the vehicular use area requirements as provided in Section 47-21 of the ULDR, Landscape and Tree Preservation.

3. A mixed use development shall contain a public plaza open to the sky which includes pedestrian amenities such as landscaping, benches and fountains. The public plaza shall be a minimum size of one thousand four hundred (1,400) gross square feet and shall be located to provide the principal pedestrian access to the mixed use development. A covered arcade with a minimum width of ten (10) feet may substitute for up to fifty percent (50) of the above public plaza requirements.

I. *Dimensional requirements.* The dimensional requirements of a mixed use development shall be as follows:

1. *Density.* The density shall be the same as applies in the zoning district where the development is located.

2. *Minimum lot size.* Ten thousand (10,000) gross square feet.

3. *Maximum structure length.* Two hundred (200) feet for single use residential buildings.

4. *Maximum height.* The same as the district where the mixed use development is located.

5. *Minimum lot width.* One hundred (100) feet.

6. *Minimum floor area.* Four hundred (400) square feet for each multifamily dwelling unit.

7. *Yards.* Yards shall be the same as the district where the mixed use development is located.

J. *Sidewalk requirements.* A minimum seven-foot wide sidewalk along the street abutting the property proposed for an MXU in a location approved by the city engineer shall be required. Mixed use developments on property within a nonresidential zoning district lying east of the Intracoastal Waterway will be required to provide ten-foot sidewalks in a location and manner approved by the city engineer.

K. *Requirements for conditional review and approval.* In addition to the requirements established by this section, any mixed use development shall be subject to the requirements for a conditional use permit, as provided in Section 47-24.3. of the ULDR.

(Ord. No. C-97-19, § 1(47-18.20), 6-18-97; Ord. No. C-97-51, §§ 5, 6, 11-4-97; Ord. No. C-99-16, § 1, 3-16-99; Ord. No. C-01-10, § 2, 4-5-01; Ord. No. C-11-14, § 7, 6-21-11; Ord. No. C-23-10, § 3, 3-23-23)

ARTICLE. XIII. ADDITIONAL ZONING DISTRICTS

SECTION 47-37A. PLANNED DEVELOPMENT (PDD) DISTRICT

Sec. 47-37A.1. Intent and purpose.

The Planned Development (PDD) zoning district is intended to foster, encourage and provide for development incorporating urban design principles and elements that are not otherwise permitted under the Unified Land Development Regulations zoning districts and development standards. The PDD planning elements shall include the following:

A. Promotion of development that: (1) demonstrates substantial, significant and recognizable improvements to the neighboring community and city in general; (2) uses land resources more efficiently through compact building forms, infill development, and street design standards that encourage safety, sustainability, and multi-modal connectivity; and (3) promotes the best possible built environment based upon urban design principles resulting in high-quality urban development;

B. The standards and procedures provided in these district regulations are intended to: (1) Promote flexibility of design and permit diversification and integration of uses with a focus on the relationship of proposed buildings to neighboring properties, streets, and public spaces including massing, scale, facade treatment and articulation, with a particular focus on ground floor activity and the appropriate placement of pedestrian and vehicular entrances, parking and service that limit pedestrian and vehicular conflicts and create an exceptional urban environment, while concurrently establishing limitations and conditions as deemed necessary to be consistent with the City's Comprehensive Plan and to protect the health, safety and general welfare of the public; (2) Encourage and enhance neighborhood and community participation at the earliest pre-design opportunity and throughout the review process to minimize discord among the applicant and the affected neighborhood(s) and community; and (3) assure that adequate attention is given to the review process and the PDD limitations, in order to serve the specific purposes set forth herein and ensure that the PDD intent and purpose is met and benefits derived are balanced by the benefits to be derived by the neighborhood(s) and community.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.2. Definitions.

For the purpose of this section, the following definitions shall apply:

A. *Community.* Shall mean the surrounding land area, inclusive of right-of-ways, waterways and other public spaces within .25 miles from the outer boundaries of the proposed development.

B. *Development plan.* Shall mean the site plan, design plan and any and all conditions approved by ordinance rezoning to a PDD.

C. *Planned.* Shall mean that the character of the development is such that it utilizes a creative approach that could not otherwise be accomplished under the current ULDR regulations to meet the PDD intent, including specific elements.

D. *PD (Planned Development).* Shall mean a development on land under unified control as established by a recorded document that meets the criteria for a PDD as described in this Section 47-37A. Upon adoption of an ordinance approving the site plan and design characteristics that become the specific zoning regulations and standards for the land to which the PDD is applicable.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.3. Conditions for PDD rezoning.

In addition to the criteria provided in Section 47-24.4.D for a rezoning approval, the following conditions shall apply:

A. *Minimum area for a PDD zoning district.* The minimum land area required for an application to an a PDD district shall be two (2) acres, with the exception of land designated as Regional Activity Center which shall be a minimum of one-half (1/2) acre. The minimum area of two (2) acres may be reduced upon a finding of substantial public benefit or similar benefit over and above the application of the ULDR; No right-of-way vacations shall be considered, for the purpose of calculating the minimum two (2) acre requirement unless acceptable and like alternate pedestrian and/or multi-modal access is provided.

The restrictive covenants applicable to those portions of the lands set aside to achieve such benefits, which are not dedicated to the public, shall be subject to the provisions of subsection 47-37A.12 and any such agreement contemplated therein shall be recorded in the public records and be binding on the lands of the PDD development, and the obligation therein provided, if any, shall be fully insured by a bond or other means. The minimum area requirements contained in this section shall not apply to any PDD application pertaining to lands located within the Northwest Community Redevelopment Area.

B. *Consistency with the goals and objectives of plans adopted for the City's Regional Activity Centers.* For properties located in the City's Regional Activity Centers, the proposed development shall be consistent with the principles and guidelines of the respective existing and future master plans.

C. *Configuration of the PDD zoning district.* The tracts of land which comprise the PDD zoning district shall be abutting, with the exception of intervening minor streets or alleys.

D. *Entire tract under unified control.* An applicant must be the owner or owner's agent of the property with fee simple title.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.4. Uses permitted.

The uses permitted and combination thereof within the PDD district, shall be established at the time of rezoning to PDD and shall be consistent with the City's Comprehensive Plan.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.5. Application public outreach.

Prior to the filing of an application, the applicant shall provide an opportunity for input from the property owners of the community as follows:

A. *Notice.* Such notice shall clearly state that the purpose of the meeting is to introduce the proposed development concept for initial public input.

B. *Procedure.* At such public meeting, the intended applicant shall introduce the development concept, including a written executive summary explaining in general how the proposed development meets the required conditions and criteria for PDD pursuant to ULDR. After such presentation, members of the public shall be given an opportunity to comment.

C. *Public participation.* A PDD application is subject to Public Participation requirements pursuant to Section 47-27.4.

D. *Development review committee (DRC) meeting.* Applicant shall conduct a community public meeting after the application has been evaluated at a DRC meeting.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.6. Application requirements.

In addition to the application requirements for a rezoning and a site plan level IV permit in accordance with 47-24.2. and 47-24.4., the following shall be submitted as a part of an application for PDD:

A. A PDD written narrative describing the proposed PDD, which includes:

1. The general design concept for the PDD including, but not limited to, the proposed site design, how it integrates and relates to the proposed uses, context and existing development in the surrounding community;

2. Description of the innovative design aspects of the proposed PDD and how the proposed development complies with the intent and purpose of the PDD district described in Subsection 47-37A.1.; and

3. Identification of those aspects of the PDD that are not in compliance with the current zoning requirements, and why the proposal presents a better overall project describing said benefits, and proposed PDD's innovative characteristics.

B. A context plan of the surrounding land area, inclusive of right-of-ways, waterways and other public spaces, indicating proposed development and outline of all nearby properties with structures outlined, uses and approximate heights labeled (in floors), including existing setbacks, drive isle(s), and sidewalk(s) dimensions.

C. The number and type of dwelling units, and square footage of all proposed uses and buildings on site, including dwelling unit per net acre calculations.

D. A description of how the proposed PDD meets adequacy requirements as provided in Section 47-25.2.

E. A description of the proposed phasing of construction of the PDD, if applicable, identifying the general schedule and specific improvements associated with each phase, the estimated start date, an estimated completion date, and shall be in accordance with the provisions for site plan expiration as provided in Section 47-24.1.M. The completion of all public improvements must be secured by a bond to be provided by the applicant, including a demolition bond to permit any unfinished phase to be demolished by the city.

F. Aerial oblique perspectives of the project in context with adjacent properties and surroundings from opposing views, showing clear and accurate three-dimensional views in context with the surrounding area, and indicating building outlines.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.7. Performance standards for permitted uses.

A. The permitted principal and accessory uses, height, bulk, shadow, open space, yards, setbacks, separation between buildings, floor area ratio, density, design concept and standards, signs, landscaping, parking bufferyards, fences and all other development standards for the PDD shall be as established by ordinance approving a PDD based on the criteria provided in this Section 47-37A.

B. Parking. Off-street parking requirements provided in Section 47-20.2, may be reduced for any use proposed in the PDD subject to the criteria provided in Section 47-20.3.A.5, Reductions and Exemptions criteria. All parking reductions to be granted must be based on an identifiable plan to mitigate all negative impacts which may be associated with such reduction. Parking requirements shall be project-driven and may be reduced proportionally to the degree that shared uses, pedestrian connections, and other modes of transportation provide alternatives to vehicular trips.

C. Areas proposed for common ownership shall be subject to the required unified control document to be recorded in the public records of Broward County. Restrictive covenants, required easements, dedication of public open space shall be recorded in the public records of Broward County.

D. Development agreement shall provide for maintenance and other issues with bond assurances.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.8. PDD criteria and limitations.

In addition to the criteria outlined herein, the following additional development criteria and limitations shall apply:

A. Land uses within the development shall be appropriate in their proposed location, compatible with their relationship to each other, and with uses and activities on abutting and nearby properties; and

B. While a mix of uses is encouraged, uses that create an inherent negative impact, such as excessive noise, odors, pollution, dust, or similar effects on adjacent uses shall be avoided. Generally, residential, office, hotel, restaurant, retail and other community-serving uses provide opportunities for successful combinations that help to create a vibrant and dynamic living environment with a variety of destinations offering goods and services in close proximity; and

C. Where a proposed use is of larger scale and mass than existing adjacent uses, the design of the structure shall place significant consideration to transition, architectural articulation, superior lining with habitable space and screening of parking garage structures; effective transition between higher and lower density uses; or allow incompatible adjacent land uses to be developed in a manner that is not possible using a conventional zoning approach; and

D. Street sections shall provide ample pedestrian access with continuous sidewalks and shade tree canopy balancing parking requirements with other mobility options and promote shared access between properties and uses; and

E. Street and alley vacations shall not be considered unless the applicant demonstrates no decrease to the pedestrian and functional connectivity previously provided and increases options for pedestrian and/or multimodal connectivity; and

F. Residential density shall be limited to fifty dwelling units per acre (50 du/ac) or when applicable, the maximum residential density permitted by the underlying land use designation or portion thereof; and

G. Floor area ratio (FAR) for nonresidential intensity within the PDD shall be limited to a FAR of three (3) times the parcel size; and

H. Building height may be increased by an additional amount equivalent to one hundred and twenty-five (125) percent of the existing height identified in the underlying zoning district but in no case shall exceed three hundred (300) feet.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.9. PDD public improvement examples.

The proposed PDD zoning ordinance shall promote development that demonstrates substantial, significant and recognizable improvements and a long-term beneficial effect to the neighboring community and the city as a whole. Examples of the noted public improvements can include:

A. Preservation/reuse of historically significant structures not otherwise protected;

B. Provision of a walkable mixed use neighborhood center that can reduce driving requirements for existing residential neighborhoods including incorporation of complete streets criteria in streetscape design; parking requirements may be reduced proportionally to the degree that reduced parking is justified by multi-modal connectivity as an alternative to vehicular trips;

C. Superior architectural design, placement and orientation of buildings and attainment of Leadership in Energy and Environmental Design - Neighborhood Development (LEED ND) certification for the development or LEED certification of individual buildings and/or other similar state, national or city-recognized programs;

D. Provision of public facilities and public open space such as plazas, parks, provision for waterfront public access, greenway features, etc. and may include amenities such as playgrounds, special event space, etc. where the quality and programming of the space shall be emphasized over quantity;

E. Landscaping shall be provided in a manner which maximizes tree canopy, emphasizes native vegetation, improves the aesthetic appearance, and provides opportunities for storm water infiltration;

F. Preservation or restoration of environmental or natural resources that would not otherwise be protected, including environmental remediation/brownfield redevelopment; and

G. Other public improvements and benefits that are established as part of the development plan but are not otherwise required of an applicant such as off-site infrastructure improvements.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.10. Review process.

The review process for a rezoning to PDD district is as follows:

A. A pre-application conference with the department shall be required prior to submitting a PDD rezoning application. The purpose of the pre-application conference is to allow the applicant and staff to discuss the proposed design concept of the development plan and how it complies with the conditions and criteria specified in this section, as well as the review process.

B. Rezoning application review. The PDD rezoning application shall be reviewed in accordance with Section 47-24.4.C. As part of the approval of the rezoning, offsite and on-site conditions may be imposed if the condition is necessary to ensure that the development meets the requirements of Section 47-37A; ensures that the PDD is compatible with the neighborhood; mitigates any adverse impacts which arise in connection with the approval of the rezoning or any continuation thereof. Conditions for approval may relate to any aspect of the development, including, but not limited to,

height, bulk, shadow, mass and design of any structure, parking, access, public transit and landscaping requirements.

C. No PDD rezoning application shall be approved except on the affirmative vote of a super majority of four (4) members of the city commission.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.11. Building permits.

No building permits shall be issued prior to the recording of the ordinance rezoning to PDD. All building permits issued must be in conformance with the approved PDD zoning district.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.12. Flexibility units.

Flexibility units may be allocated to a PDD at the time of the PDD rezoning approval subject to the development site being located in the Unified Flex Map. A development site located outside the boundaries of the Unified Flex Map are not eligible for flex units but may be permitted affordable housing flex units.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.13. Agreements.

The applicant shall execute such agreements, easements and other documents necessary with regard to the implementation of any conditions imposed with regard to the PDD. Such documents may include, but are not limited to, contracts, covenants, deed restrictions and sureties and bonds acceptable to the city for completion of the development according to the plans approved at the time of rezoning to PDD and for continuing operation and maintenance of such areas, functions, and facilities including soft and hard landscaping and other amenities which are not proposed to be provided, operated or maintained at public expense.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.14. Effect of PDD zoning.

The PDD site plan and design narrative as provided in Section 47-37A.1.a. and b., as approved by the city commission including such conditions as necessary to ensure that the development meets the criteria of this section, shall, upon adoption by ordinance, be the specific zoning regulations for the property rezoned thereby and bind the property with the full force and effect of specific zoning regulations. The ordinance rezoning to PDD shall be recorded in the public records of Broward County at applicant's expense. Unless otherwise provided in the approved PDD zoning district ordinance, the provisions of the ULDR with general applicability to development within the city shall apply as requirements of the development of property rezoned to PDD. Any provision of an approved PDD zoning district shall prevail when any provision elsewhere in the ULDR shall conflict.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.15. Amendments to approved PDD development plans.

A. If the applicant wishes to change to a use that was not approved as part of the PDD zoning district, a new application for rezoning must be approved in accordance with the provisions of this section. If the applicant

wishes to amend a site plan or design narrative or any other aspect of a PDD previously approved as part of a rezoning to PDD, such amendment shall be done in accordance with the provisions for amending a site plan level IV, as provided in Section 47-24.2.A.5, Development permits and procedures.

B. In the event a development has received previous approval, as a PUD, any requests for an amendment to such PUD shall comply with the provisions of the PUD regulations otherwise set forth in Section 47-37.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Sec. 47-37A.16. Expiration and extension.

Unless a phasing plan is approved as part of the PDD approval, the provisions of Section 47-24.1.M.1., 2., 3. and 4 shall apply as to the expiration of the PDD approval. In the event the PDD approval expires, the PDD approval shall be deemed null and void, unless the same shall be extended by the city commission, but only for demonstrable hardship beyond the applicant's reasonable control. Upon expiration of the PDD development plan, the portion of the property not developed prior to the expiration of the PDD approval shall revert to the previous zoning district, without further action and the provision herein shall be included in the adopted PDD ordinance.

(Ord. No. C-13-42, § 2, 10-1-13; Ord. No. C-19-04, § 1, 5-7-19)

Exhibit "5"

Select Year: 2025 Go

The 2025 Florida Statutes

Title XII MUNICIPALITIES | Chapter 166 MUNICIPALITIES | View Entire Chapter

166.04151 Affordable housing.—

(1) Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

(2) An inclusionary housing ordinance may require a developer to provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units.

(3) An affordable housing linkage fee ordinance may require the payment of a flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

(4) In exchange for a developer fulfilling the requirements of subsection (2) or, for residential or mixed-use residential development, the requirements of subsection (3), a municipality must provide incentives to fully offset all costs to the developer of its affordable housing contribution or linkage fee. Such incentives may include, but are not limited to:

(a) Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning;

(b) Reducing or waiving fees, such as impact fees or water and sewer charges; or

(c) Granting other incentives.

[1](5) Subsection (4) does not apply in an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code.

[1](6) Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, including, but not limited to, a mixed-use residential development, on any parcel zoned for commercial or industrial use, or on any parcel, including any contiguous parcel connected thereto, which is owned by a religious institution as defined in s. 170.201(2) which contains a house of public worship, regardless of underlying zoning, so long as at least 10 percent of the units included in the project are for housing that is affordable. The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

[1](7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use, and in portions of any flexibly zoned area such as a planned unit development permitted 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 at least 30 years, are affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, transfer of density or development units, amendment to a development of regional impact, amendment to a municipal charter, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of

the total square footage must be used for residential purposes. The municipality may not require that more than 10 percent of the total square footage of such mixed-use residential projects be used for nonresidential purposes.

(b) A municipality may not restrict the density of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, density on any land in the municipality where residential development is allowed under the municipality's land development regulations. For purposes of this paragraph, the term "highest currently allowed density" does not include the density of any building that met the requirements of this subsection or the density of any building that has received any bonus, variance, or other special exception for density provided in the municipality's land development regulations as an incentive for development. For purposes of this paragraph, "highest currently allowed, or allowed on July 1, 2023," means whichever is least restrictive at the time of development.

(c) A municipality may not restrict the floor area ratio of a proposed development authorized under this subsection below 150 percent of the highest currently allowed, or allowed on July 1, 2023, floor area ratio on any land in the municipality where development is allowed under the municipality's land development regulations. For purposes of this paragraph, the term "highest currently allowed floor area ratio" does not include the floor area ratio of any building that met the requirements of this subsection 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. For purposes of this subsection, the term "floor area ratio" includes floor lot ratio and lot coverage.

(d)1. A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within 1 mile of the proposed development or three stories, whichever is higher. For purposes of this paragraph, the term "highest currently allowed height" does not include the height of any building that met the requirements of this subsection 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.

2. If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes, the municipality may restrict the height of the proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed, or allowed on July 1, 2023, height for the property provided in the municipality's land development regulations, or three stories, whichever is higher, not to exceed 10 stories. For the purposes of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road or body of water, including manmade lakes or ponds. For a proposed development located within a municipality within an area of critical state concern as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code, the term "story" includes only the habitable space above the base flood elevation as designated by the Federal Emergency Management Agency in the most current Flood Insurance Rate Map. A story may not exceed 10 feet in height measured from finished floor to finished floor, including space for mechanical equipment. The highest story may not exceed 10 feet from finished floor to the top plate.

3. If the proposed development is on a parcel with a contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000, or is on a parcel with a structure or building individually listed in the National Register of Historic Places, the municipality may restrict the height of the proposed development to the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within three-fourths of a mile of the proposed development or three stories, whichever is higher. The term "highest currently allowed" in this paragraph includes the maximum height allowed for any building in a zoning district irrespective of any conditions.

(e)1. A proposed development authorized under this subsection must be administratively approved without further action by the governing body of the municipality or any quasi-judicial or administrative board or reviewing body if the development satisfies the municipality'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 municipality shall maintain on its website a policy containing procedures and expectations for administrative approval pursuant to this subsection. For purposes of this paragraph, the term "allowable density" means the density prescribed for the property in accordance with this subsection without additional requirements to procure and transfer density units or development units from other properties.

2. The municipality must administratively approve the demolition of an existing structure associated with a proposed development under this subsection, without further action by the governing body of the municipality or any quasi-judicial or administrative board or reviewing body, if the proposed demolition otherwise complies with all state and local regulations.

3. If the proposed development is on a parcel with a contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000, or is on a parcel with a structure or building individually listed in the National Register of Historic Places, the municipality may administratively require the proposed development to comply with local regulations relating to architectural design, such as facade replication, provided it does not affect height, floor area ratio, 2 or density of the proposed development.

(f)1. A municipality must, upon request of an applicant, reduce parking requirements for a proposed development authorized under this subsection by 15 percent if the development:

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

b. 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; or

c. 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 municipality may not require that the available parking compensate for the reduction in parking requirements.

2. A municipality must eliminate parking requirements for a proposed mixed-use residential development authorized under this subsection within an area recognized by the municipality as a transit-oriented development or area, as provided in paragraph (h).

3. For purposes of this paragraph, the term "major transportation hub" means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options.

(g) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.

(h) A proposed development authorized under this subsection which is located within a transit-oriented development or area, as recognized by the municipality, must be mixed-use residential and otherwise comply with requirements of the municipality's regulations applicable to the transit-oriented development or area except for use, height, density, floor area ratio, and parking as provided in this subsection or as otherwise agreed to by the municipality and the applicant for the development.

(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.

(j)1. Nothing in this subsection precludes a municipality 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 municipality and no further action by the governing body of the municipality is required.

(k) Notwithstanding any other law or local ordinance or regulation to the contrary, a municipality may allow an adjacent parcel of land to be included within a proposed multifamily development authorized under this subsection.

(l) The court shall give any civil action filed against a municipality for a violation of this subsection priority over other pending cases and render a preliminary or final decision as expeditiously as possible.

(m) If a civil action is filed against a municipality for a violation of this subsection, the court must assess and award reasonable attorney fees and costs to the prevailing party. An award of reasonable attorney fees or costs pursuant to this subsection may not exceed $250,000. In addition, a prevailing party may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs.

(n) As used in this subsection, the term:

1. "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; public lodging establishments as described in s. 509.242(1)(a); food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include home-based businesses or cottage food operations undertaken on residential property, public lodging establishments as described in s. 509.242(1)(c), or uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated.

2. "Industrial use" means activities associated with the manufacture, assembly, processing, or storage of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as automobile manufacturing or repair, boat manufacturing or repair, junk yards, meat packing facilities, citrus processing and packing facilities, produce processing and packing facilities, electrical generating plants, water treatment plants, sewage treatment plants, and solid waste disposal sites. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered industrial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not industrial use, irrespective of how they are operated.

3. "Mixed use" means any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not mixed use, irrespective of how they are operated.

4. "Planned unit development" has the same meaning as provided in s. 163.3202(5)(b).

(o) This subsection does not apply to:

1. Airport-impacted areas as provided in s. 333.03.

2. Property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial.

3. The Wekiva Study Area, as described in s. 369.316.

4. The Everglades Protection Area, as defined in s. 373.4592(2).

(p) This subsection expires October 1, 2033.

(8) Any development authorized under paragraph (7)(a) must be treated as a conforming use even after the expiration of subsection (7) and the development's affordability period as provided in paragraph (7)(a), notwithstanding the municipality's comprehensive plan, future land use designation, or zoning. If at any point during the development's affordability period the development violates the affordability period requirement provided in paragraph (7)(a), the development must be allowed a reasonable time to cure such violation. If the violation is not cured within a reasonable time, the development must be treated as a nonconforming use.

(9)(a) Except as provided in paragraphs (b) and (d), a municipality may not enforce a building moratorium that has the effect of delaying the permitting or construction of a multifamily residential or mixed-use residential development authorized under subsection (7).

(b) A municipality may, by ordinance, impose or enforce such a building moratorium for no more than 90 days in any 3-year period. Before adoption of such a building moratorium, the municipality shall prepare or cause to be prepared an assessment of the municipality's need for affordable housing at the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, including projections of such need for the next 5 years. This assessment must be posted on the municipality's website by the date the notice of proposed enactment is published and must be presented at the same public meeting at which the proposed ordinance imposing the building moratorium is adopted by the governing body of the municipality. This assessment must be included in the business impact estimate for the ordinance imposing such a moratorium required by s. 166.041(4).

(c) If a civil action is filed against a municipality for a violation of this subsection, the court must assess and award reasonable attorney fees and costs to the prevailing party. An award of reasonable attorney fees or costs pursuant to this subsection may not exceed $250,000. In addition, a prevailing party may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs.

(d) This subsection does not apply to moratoria imposed or enforced to address stormwater or flood water management, to address the supply of potable water, or due to the necessary repair of sanitary sewer systems, if such moratoria apply equally to all types of multifamily or mixed-use residential development.

(10)(a) Beginning November 1, 2026, each municipality must provide an annual report to the state land planning agency which includes:

1. A summary of litigation relating to subsection (7) that was initiated, remains pending, or was resolved during the previous fiscal year.

2. A list of all projects proposed or approved under subsection (7) during the previous fiscal year. For each project, the report must include, at a minimum, the project's size, density, and intensity and the total number of units proposed, including the number of affordable units and associated targeted household incomes.

(b) The state land planning agency shall compile the information received under this subsection and submit the information to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually by February 1.

History.—s. 15, ch. 2001-252; s. 9, ch. 2019-165; s. 6, ch. 2020-27; s. 2, ch. 2022-176; s. 5, ch. 2023-17; s. 2, ch. 2024-188; s. 2, ch. 2025-172.

[1]**Note.**—Section 43, ch. 2023-17, provides:

"(1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under s. 120.54(4), Florida Statutes, for the purpose of implementing provisions related to the Live Local Program created by this act. Notwithstanding any other law, emergency rules adopted under this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

"(2) This section expires July 1, 2026."

[2]**Note.**—The word "or" was substituted for the word "of" by the editors to conform to context.

Exhibit "6"

Select Year: 2025 Go

The 2025 Florida Statutes

Title XI	Chapter 163	View Entire Chapter
COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	INTERGOVERNMENTAL PROGRAMS	

163.3202 Land development regulations.—

(1) Within 1 year after submission of its comprehensive plan or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

(a) Regulate the subdivision of land.

(b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.

(c) Provide for protection of potable water wellfields.

(d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.

(e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.

(f) Regulate signage.

(g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government's comprehensive plan.

(h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

(i) Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.

(j) Incorporate preexisting development orders identified pursuant to s. 163.3167(3).

(3) This section shall be construed to encourage the use of innovative land development regulations which include provisions such as transfer of development rights, incentive and inclusionary zoning, planned unit development, impact fees, and performance zoning. These and all other such regulations shall be combined and compiled into a single land development code for the jurisdiction. A general zoning code shall not be required if a local government's adopted land development regulations meet the requirements of this section.

(4) The state land planning agency may require a local government to submit one or more land development regulations if it has reasonable grounds to believe that a local government has totally failed to adopt any one or more of the land development regulations required by this section. Once the state land planning agency determines after review and consultation with local government whether the local government has adopted regulations required by this section, the state land planning agency shall notify the local government in writing within 30 calendar days after receipt of the regulations from the local government. If the state land planning agency determines that the local government has failed to adopt regulations required by this section, it may institute an

action in circuit court to require adoption of these regulations. This action shall not review compliance of adopted regulations with this section or consistency with locally adopted plans.

(5)(a) Land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling unless:

1. The dwelling is listed in the National Register of Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;

2. The regulations are adopted in order to implement the National Flood Insurance Program;

3. The regulations are adopted pursuant to and in compliance with chapter 553;

4. The dwelling is located in a community redevelopment area, as defined in s. 163.340(10);

5. The regulations are required to ensure protection of coastal wildlife in compliance with s. 161.052, s. 161.053, s. 161.0531, s. 161.085, s. 161.163, or chapter 373;

6. The dwelling is located in a planned unit development or master planned community created pursuant to a local ordinance, resolution, or other final action approved by the local governing body before July 1, 2023; or

7. The dwelling is located within the jurisdiction of a local government that has a design review board or an architectural review board created before January 1, 2020.

(b) For purposes of this subsection, the term:

1. "Building design elements" means the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

2. "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots.

(c) This subsection does not affect the validity or enforceability of private covenants or other contractual agreements relating to building design elements.

(6) Land development regulations relating to any characteristic of development other than use, or intensity or density of use, do not apply to Florida College System institutions as defined in s. 1000.21(5).

(7) The state land planning agency shall adopt rules for review and schedules for adoption of land development regulations.

History.—s. 14, ch. 85-55; s. 12, ch. 86-191; s. 14, ch. 93-206; s. 7, ch. 95-322; s. 6, ch. 96-416; s. 5, ch. 98-146; s. 20, ch. 2009-96; s. 188, ch. 2010-102; s. 6, ch. 2011-4; s. 6, ch. 2011-15; s. 1, ch. 2014-218; s. 6, ch. 2019-165; s. 1, ch. 2021-201; s. 3, ch. 2023-31; s. 3, ch. 2023-115; s. 11, ch. 2024-2.

Exhibit "7"

404 So.2d 1066

CITY OF MIAMI BEACH, Appellant, v. ROCIO CORP., a Florida Corporation, and Rida Corp., a Florida Corp., andCarriage House Associates, a California General Partnership, consisting ofHarvey Rosen, David Rosen, Lawrence Kates and Arthur Burdorf, Appellees.

No. 80-626.

District Court of Appeal of Florida, Third District.

April 7, 1981.

John A. Ritter, City Atty., and Thomas M. Pflaum and Karen Alterman, Asst. City Attys., for appellant.

Lincoln Diaz-Balarat, Miami Shores, Legal Services of Greater Miami, Inc., for the City of Miami Beach as amicus curiae.

Nancy A. Cousins, City Atty., and Leonard Lubart, Asst. City Atty., for the City of Hollywood as amicus curiae.

Young, Stern & Tannenbaum and Norman Malinski, N. Miami Beach, for appellees.

Before HENDRY and BASKIN, JJ., and VANN, HAROLD R. (Ret.), Associate Judge.

PER CURIAM.

Cognizant of hardships endured by Miami Beach apartment residents when landlords repeatedly converted rental units into condominiums without regard to the growing apartment shortage, the City of Miami Beach enacted emergency ordinances designed to forestall the crisis [1] it perceived as **[*1067]** inevitable if landlords were permitted to convert their remaining apartments. The ordinances delayed conversions by extending leases and by creating a ninety-day moratorium on conversions. In this appeal by the City 2 from a trial court order enjoining the City from enforcing the ordinances, we address the preliminary issues 3 considered by the trial court upon stipulation of the parties: first, whether the subject of condominium conversion was preempted by the Florida Condominium Act, chapter 718, Florida Statutes (1979); and second, whether the ordinances conflict with the Florida Condominium Act. Either preemption of the subject by the state or conflict with state law would invalidate the ordinances. The trial court found that both preemption and conflict existed. Upon consideration of both issues, we hold that the state did not expressly preempt the subject of condominium conversion; we hold, however, that the City was properly enjoined from enforcing the ordinances because they conflict with state law. We affirm on that ground.

Ordinance No. 79-2169 provides that a developer may convert a rental unit into a condominium provided that each tenant shall have the right to extend an expiring lease for a period up to eighteen months. In the ordinance, the city commission declares that leases allowing landlords or developers at their option to terminate leases upon less than eighteen months notice to the tenant are against public policy. Ordinance No. 80-2197 prohibits an owner of multi-family housing units from converting rental housing to condominium units for a period of ninety days from the date of the ordinance. Ordinance No. 80-2201 corrects scrivener errors in Ordinance No. 80-2197. 4

First, the City of Miami Beach contends that the legislature did not expressly preempt the subject of condominium conversion and that absent express preemption to the state, the City is free to enact ordinances restricting condominium conversion under the authority it derives from the Municipal Home Rule Powers Act, chapter 166, Florida Statutes (1979).

Next, the City argues that the ordinances in question are not in conflict with state law, but instead impose restrictions on activity already regulated by the state. It contends, therefore, that the ordinances supplement rather than conflict with state restrictions and are permissible municipal enactments. On this point we disagree.

1. Preemption.

Municipalities derive their powers from the Florida Constitution. Article VIII, Section 2(b), Florida Constitution (1968) provides:

Powers. Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

The extent of municipal power or home rule has been questioned in the courts. In City of Miami Beach v. Fleetwood Hotel, Inc., 261 So.2d 801 (Fla.1972), the supreme court held that the constitutionally provided powers were insufficient to permit a municipality to enact a rent control ordinance absent enabling legislation. In apparent response to City of Miami Beach v. Fleetwood Hotel, Inc., supra, the Florida Legislature, in 1973, clarified the scope of municipal home rule and expressed a legislative purpose to remove limitations on the exercise of home rule powers by enacting the Municipal **[*1068]** Home Rule Powers Act, ch. 73-129, Laws of Fla. (codified at ch. 166, Fla.Stat. (1973)). It acknowledged that municipalities may enact legislation on any subject upon which the state legislature may act unless expressly prohibited by law.

166.021 Powers.

(1) As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.

(2) "Municipal purpose" means any activity or power which may be exercised by the state or its political subdivisions.

The legislature recognized certain exceptions:

(3) The Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:

(a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;

(b) Any subject expressly prohibited by the Constitution;

(c) Any subject expressly preempted to state or county government by the Constitution or by general law; and

(d) Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.

(4) The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the Constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the Constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited.

§ 166.021, Fla.Stat. (1979).

The City of Miami Beach then enacted another rent control ordinance under the expanded authority afforded by section 166.021(1). In an action challenging the new ordinance, the supreme court in City of Miami Beach v. Forte Towers, Inc., 305 So.2d 764 (Fla.1974), ruled that municipalities now possessed the power to enact such ordinances except when expressly prohibited by law, stating:

Ch. 73-129 is a broad grant of power to municipalities in recognition and implementation of the provisions of Art. VIII, § 2(b), Fla.Const. [1] It should be so construed as to effectuate that purpose where possible. 2 It provides, in new F.S. § 166.021(1), that municipalities shall have the governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services; it further enables them to exercise any power for municipal services, except when expressly prohibited by law.

305 So.2d at 766 (footnotes omitted); see Juergensmeyer and Gragg, Limiting Population Growth in Florida and the Nation: The Constitutional Issues, 26 U.Fla.L.Rev. 758, 764 (1974).

In light of these developments, we must decide whether condominium conversion is a subject "expressly preempted to state ... government" and therefore excepted from the City's powers under section 166.021(3)(c). See also City of Temple Terrace v. Hillsborough Association for Retarded Citizens, Inc., 322 So.2d 571 (Fla. 2d DCA 1975), aff'd, 332 So.2d 610 (Fla.1976); City of Miami Beach v. Forte Towers, Inc., supra. The Florida legislature has spoken on the subject of condominium conversion in Chapter 718, Florida Statutes (1979), which defines as its purpose: **[*1069]**

(1) To give statutory recognition to the condominium form of ownership of real property.

(2) To establish procedures for the creation, sale, and operation of condominiums.

Every condominium created and existing in this state shall be subject to the provisions of this chapter.

§ 718.102(1), (2), Fla.Stat. (1979). Nowhere, either in its statements of purpose or other provisions, does chapter 718 expressly preempt 5 the subject to the state. 6

Appellees argue that section 718.507, which prohibits laws concerning use, location, placement and construction of buildings, subject to the condominium form of ownership, preempts the subject. We disagree. The language of that section when read as a whole, Florida Jai Alai, Inc. V. Lake Howell Water & Reclamation District, 274 So.2d 522 (Fla.1973), is clearly not a statement of preemption, but is instead a prohibition against condominium discrimination. The plain language of a statute must be read to mean what it says. Carson v. Miller, 370 So.2d 10 (Fla.1979); Phil's Yellow Taxi Co. v. Carter, 134 So.2d 230 (Fla.1961).

We conclude that the legislature has expressed its purpose to afford municipalities home rule with the exception of preempted subjects. We find no preemption of the subject of condominium conversion. The City is therefore permitted to exercise its power on that subject unless otherwise precluded.

2. Conflict.

One impediment to constitutionally derived legislative powers of municipalities occurs when the municipality enacts ordinances which conflict with state law. City of Miami Beach v. Fleetwood Hotel, Inc., supra; see Fla.St.U.L.Rev. 137, 148-49 (1975); cf. City of Miami Beach v. Frankel, 363 So.2d 555 (Fla.1978) (Authority granted by general law can be restricted by general law). Municipal ordinances are inferior to state law and must fail when conflict arises. Rinzler v. Carson, 262 So.2d 661 (Fla.1972); City of Miami Beach v. Fleetwood Hotel, Inc., supra; City of Wilton Manors v. Starling, 121 So.2d 172 (Fla. 2d DCA 1960); 1979 Op.Att'y Gen.Fla. 079-71 (August 10, 1979); 1975 Op.Att'y Gen.Fla. 075-164 (June, 9, 1975); 3 Fla.St.U.L.Rev. 137, 148-49 (1975). Contra 1976 Op.Att'y Gen.Fla. 076-212 (November 10, 1976).

In Rinzler v. Carson, supra, the court declared:

Municipal ordinances are inferior in stature and subordinate to the laws of the state. Accordingly, an ordinance must not conflict with any controlling provision of a state statute, and if any doubt exists as to the extent of a power attempted to be exercised which may affect the operation of a state statute, the doubt is to be resolved against the ordinance and in favor of the statute. A municipality cannot forbid what the legislature has expressly licensed, authorized or required, nor may it authorize what the legislature has expressly forbidden. 23 Fla.Jur., Municipal Corporations, Section 93, p. 116; State ex rel. Baker v. McCarthy (1936) 122 Fla. 749, 166 So. 280; Wilton Manors v. Starling (1960, Fla.App.), 121 So.2d 172; Baltimore v. Sitnick, 254 Md. 303, 255 A.2d 376. In order for a municipal ordinance to prohibit that which is allowed by the general laws of the state there must be an express legislative grant by the state to the municipality authorizing such prohibition. McQuillin, Municipal Corporations, Vol. 5, Section 15.20.

262 So.2d at 668. The City maintains, however, that Rinzler v. Carson, supra, and City of Miami Beach v. Fleetwood Hotel, Inc., supra, which provide for resolution of conflict questions by favoring state law over **[*1070]** municipal ordinances, no longer have vitality. The City argues that the passage in 1973 of chapter 166, Florida Statutes, Municipal Home Rule Powers Act, and the opinion of the court in City of Miami Beach v. Forte Towers, Inc., supra, provide municipalities with formerly absent power.

Although the legislature has extended municipal powers in the Municipal Home Rule Powers Act, the issue of conflict with state law has not been addressed. In City of Miami Beach v. Forte Towers, Inc., supra, the court overruled Fleetwood only with regard to the derivation of powers. The principle that a municipal ordinance is inferior to state law remains undisturbed. Although legislation may be concurrent, enacted by both state and local governments in areas not preempted by the state, concurrent legislation enacted by municipalities may not conflict with state law. If conflict arises, state law prevails. Cf. Board of County Commissioners of Dade County v. Wilson, 386 So.2d 556 (Fla.1980) (the enabling constitutional language of the Dade County Home Rule Charter provides that in the event of a conflict between a county ordinance and the Florida Constitution or general law, general law prevails). An ordinance which supplements a statute's restriction of rights may coexist with that statute, Eliott Advertising Co. v. Metropolitan Dade County, 425 F.2d 1141 (5th Cir. 1970); Jordan Chapel Freewill Baptist Church v. Dade County, 334 So.2d 661 (Fla. 3d DCA 1976), whereas an ordinance which countermands rights provided by statute must fail. Scavella v. Fernandez, 371 So.2d 535 (Fla. 3d DCA 1979).

Do the ordinances in question conflict with state law? The final judgment permanently enjoining the enforcement of the subject ordinances specified that conflict existed between the ordinances and sections 718.105, 718.107, 718.402, 718.501, 718.502, 718.503, 718.504, and 718.507 of the Condominium Act. The purpose of the Condominium Act, Section 718.102(1), is "to give statutory recognition to the condominium form of ownership of real property and to establish procedures for the creation, sale, and operation of condominiums." The statute does not restrict rights, but instead provides rights.

A comparison of the Condominium Act and the ordinances in question reveals apparent conflict:

A. s718.105: Recording of Declaration. Ordinance No. 80-2197 (1) When excuted as required by (as amended) prohibits filing § 718.104, a declaration together of Declaration of Condominium with all exhibits and all amendments for conversion for 90 days. is entitled to recordation as an agreement relating to the conveyance of land. B. Section 718.107 pertains to "Restraints upon separation and partition of common elements." C. Section 718.402 permits "conversion Ordinance No. 80-2197, s3 (as of existing improvements to amended) prohibits as unlawful condominium." the converting of rental apartments for 90 days. Section 178.402 (2) (a) permits a Ordinance No. 79-2169,s17A-29 tenancy to expire no later than provides that a tenancy can 180 days from date of notice to expire no later than 18 months the tenant of the intended conversion. after notice to the tenant. Section 718.402 (3) (a) prohibits Ordinance No. 79-2169, s17A-30 cancellations of leases upon prohibits cancellation of less than 120 days notice (with leases upon less than 18 months some exceptions). notice. D. Section 718.501 delegates the Ordinance No. 80-2197, s5 (as power to enforce the provisions amended) gives the city power of chapter 718 to the Division to enforce the prohibition of Florida Land Sales and against creating condominiums. Condominiums. E. Section 718.502 requires filing Ordinance No. 80-2197, s3 (as with the Division of Florida amended) prohibits filing of Land Sales and Condominiums Declaration as unlawful for prior to sales or lease. 90 days. F. Section 718.503 provides disclosure Ordinance No. 80-2197, s3 (as requirements prior to amended) prohibits sale or sale. conversion for 90 days. G. Section 718.504 regulates the Ordinance No. 80-2197, s3 (as prospectus or offering circular. amended) prohibits sale or conversion for 90 days. H. Section 718.507 prohibits and Ordinance Nos. 80-2197 (as law, ordinance or regulation amended) and 79-2169 regulate which establishes any requirement buildings which are or may concerning the use, location, be used as condominiums. placement or construction of buildings or other improvements which are or may be used as condominiums.

Appellant's contention that the Condominium Act merely regulates and therefore permits the City to impose a supplementary burden consistent with statutory purposes, see Scavella v. Fernandez, supra, is without merit. When conduct permitted by state law is prohibited by local ordinance, citizens become hopelessly entangled in a web of government. Under the circumstances presented in this case, the local ordinances must yield to state statutes if stability in government is to prevail.

In conclusion, we hold that the subject of condominium conversion has not been expressly preempted by the state. The City of Miami Beach has been authorized to enact ordinances relating to condominium conversion provided they do not conflict with state law. Because the challenged ordinances conflict with state law, the trial court correctly enjoined their enforcement.

Affirmed.

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1 The Florida Legislature recently recognized the problem and enacted the Roth Act, ch. 80-3, Laws of Fla., which amends the Condominium Act by permitting renters to extend leases for a prescribed number of days. The new legislation authorizes counties to permit additional extensions by ordinance under certain circumstances.

2 The problem exists not only in Miami Beach but throughout the state as well. The City of Hollywood, Florida and Legal Services of Greater Miami, Inc. have filed amicus-curiae briefs in support of the position advanced by the City of Miami Beach.

3 Other issues were reserved for future determination.

4 The injunction refers to Ordinance No. 80-2220. The parties have stipulated that 80-2201 is the correct number.

5 We are aware that preemption may be implied from comprehensive state coverage of the subject. 6 E. McQuillin, The Law of Municipal Corporations § 21.34, at 250 (3d ed. 1980). Chapter 166, however, requires "express preemption".

6 See generally Deal, Post-Mortem-Home Rule, Fla.Municipal Rec., Nov.1980, at 2.