



Incorporated 1925

ORDINANCE

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1
2 AN ORDINANCE OF THE CITY OF BOCA RATON
3 ESTABLISHING PROCEDURES AND REGULATIONS TO
4 IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES,
5 AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA
6 (LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF
7 STATUTORILY AUTHORIZED MIXED-USE RESIDENTIAL
8 DEVELOPMENT (INCLUDING AFFORDABLE HOUSING);
9 NOTING THE BUSINESS AND COMMERCIAL, INDUSTRIAL,
10 AND MISCELLANEOUS ZONING DISTRICTS IN WHICH THE
11 MIXED-USE DIRECTIVE IS APPLICABLE; PROVIDING LAND
12 DEVELOPMENT REGULATIONS (INCLUDING THOSE
13 GENERALLY APPLICABLE IN MULTIFAMILY ZONING
14 DISTRICTS AND PROVIDING AN ADMINISTRATIVE
15 APPROVAL PROCESS); NOTING THE STATUTORILY
16 MANDATED MAXIMUMS FOR DENSITY AND HEIGHT;
17 PROVIDING FOR SEVERABILITY; PROVIDING FOR
18 REPEALER; PROVIDING FOR CODIFICATION; PROVIDING
19 AN EFFECTIVE DATE (AM-23-07)

1 WHEREAS, Chapter 2023-17, Laws of Florida, known as the "Live Local Act of 2023, was
2 approved by the Governor on March 29, 2023, and will take effect on July 1, 2023 (the "Act"). The
3 Act imposes various obligations, including the requirement for a municipality to permit mixed-use
4 residential development as an allowable use in any area zoned for commercial, industrial, or
5 mixed use if at least 40 percent of the residential units are, for a period of at least 30 years,
6 affordable as defined in Section 420.0004, Florida Statutes; and

7 WHEREAS the Act specifically provides that Subsection 166.04151(7), Florida Statutes,
8 shall expire on October 1, 2033; and

9 WHEREAS, the following are the "commercial, industrial, and mixed use" zoning districts
10 of the City to which the Act applies: NCBD, R-B-1, B-1, B-2, B-3, B-4, C-1, MC, POI, City CG,
11 City CHO, LIRP, M-1, M-2, M-3, IG/S1, W-1, LIRP-5 (Museum Center), LB, PM-0.40, and VC;
12 and

13 WHEREAS, the above recital includes the LIRP and LIRP-5 (Museum Center) zoning
14 districts which are light industrial districts; such districts have been previously revised, but the
15 references in Section 28-301, Code of Ordinances, have not been updated. For convenience,
16 the revised, LIRP and LIRP-5 (Museum Center) are utilized herein (instead of the obsolete LIRP-
17 5 and LIRP-2.5); and

18 WHEREAS, Section 166.04151(7)(f), Florida Statutes, provides that, if a municipality has
19 designated less than 20 percent of the land area within its jurisdiction for commercial or industrial
20 use, it is only required to allow multifamily development pursuant to the Act as part of a mixed-
21 use development; and

22 WHEREAS, less than 20 percent of the land area of the City of Boca Raton is designated
23 for commercial and industrial use; and

24 WHEREAS, a mixed-use multifamily development pursuant to the Act ("MUMD") involves
25 a combination of residential and non-residential components, and a combination of dwelling units
26 that qualify as affordable housing and units that do not qualify as affordable housing; and

1 WHEREAS, to qualify as a mixed-use development, a meaningful non-residential
2 component in MUMDs is appropriate; and

3 WHEREAS, the Act requires that the residential component (both affordable and non-
4 affordable) of an MUMD must be a minimum of 65 percent of the total square footage of the
5 project; and

6 WHEREAS, the City Council has determined that 5,000 square feet, or 10 percent of the
7 total square footage of an MUMD, whichever is greater, as a non-residential component is both
8 meaningful and appropriate; and

9 WHEREAS, it is appropriate to include the statutorily permitted uses, and statutorily
10 mandated provisions for density and height in the City Code for ease of reference; and

11 WHEREAS, the City Council has determined that it is appropriate and in the public interest
12 (and that land development regulations for an MUMD should be comparable to the existing Code
13 regulations applicable to multifamily development in areas zoned for such use), to provide that
14 MUMDs are subject to existing regulations generally applicable to multifamily and mixed-use
15 developments, including regulations for minimum dwelling unit sizes, maximum intensity (FAR),
16 and setbacks; and

17 WHEREAS, the Act provides that an MUMD must be reviewed through an administrative
18 process, and must be approved if the development satisfies the City's land development
19 regulations for multifamily developments in areas zoned for such use and is otherwise consistent
20 with the comprehensive plan (with the exception of provisions establishing allowable densities,
21 height, and land use). Since any administrative review must first determine compliance with the
22 applicable land development regulations, the City Council has determined that a site plan
23 submission pursuant to Chapter 28, Article II, Division 2 (the procedure applicable to applications
24 for multifamily development in multifamily zoning districts), Code of Ordinances, shall be required
25 for MUMDs; and
26

1 WHEREAS, the Act provides that the City must consider the possibility of reducing parking
2 requirements for an MUMD if the development is located within one-half mile of a major transit
3 stop, as defined in the City's land development code, and if the major transit stop is accessible
4 from the development. However, since the City's land development code does not presently
5 provide a definition of "major transit stop" or "accessible" in this specific context, it is appropriate
6 that definitions be provided; and

7 WHEREAS, the City is adopting the regulations contained within this Ordinance for the
8 implementation of the Act, which has an effective date of July 1, 2023, and has determined it is
9 appropriate for all applications for an MUMD to be processed in accordance with the regulations
10 contained within this Ordinance, and to apply these regulations to any application or submission
11 for an MUMD, regardless of the timing of such application or submission. Accordingly, it is the
12 City Council's intent that any application for an MUMD submitted after July 1, 2023, but before
13 the effective date of this Ordinance, shall (upon the adoption of this Ordinance, which shall
14 become immediately effective) be subject, and processed pursuant, to this Ordinance; and

15 WHEREAS, the Act contains self-executing provisions regarding MUMDs, specifically
16 regarding changes to the list of permitted or conditional uses in commercial or industrial zoning
17 districts, and regarding density and height regulations. Therefore, this Ordinance acknowledges
18 and incorporates such mandated provisions into the City's Code of Ordinance for ease of
19 reference; and

20 WHEREAS, it is the intention of the City to comply with the Act, by adoption of this
21 Ordinance; now therefore

22
23 THE CITY OF BOCA RATON HEREBY ORDAINS:
24

1 Section 1. Article XV, "Supplementary District Regulations," Division 14, "Live Local Act
2 of 2023 Affordable Housing," Chapter 28, "Zoning" (new Sections 28-1637 through 28-1640),
3 Code of Ordinances, is hereby created to read as follows:

4 **Article XV Supplementary District Regulations**

5 **Division 14. Live Local Act of 2023 Affordable Housing**

6 **Section 28-1637. Intent and Purpose; Expiration.**

7 (1) The purpose of this Division is to establish procedures and regulations for the
8 development of mixed-use multifamily developments, including affordable housing ("MUMD")
9 pursuant to the provisions of Subsection 166.04151(7), Florida Statutes, as created by Chapter
10 2023-17, Laws of Florida, the "Live Local Act of 2023" (the "Act"), which MUMD involves a
11 combination of residential and non-residential components, and a combination of dwelling units
12 that qualify as affordable housing and units that do not qualify as affordable housing, to
13 accomplish the following purposes:

14 a) Protect and promote the public health, safety, and general welfare of the residents of
15 the City;

16 b) Facilitate the orderly development of affordable multifamily housing in the City pursuant
17 to the Act;

18 c) Confirm that MUMDs proposed pursuant to the Act are required to be mixed-use
19 residential developments;

20 d) Specify the City zoning districts to which this Division is applicable and within which
21 MUMDs are authorized and may be approved administratively pursuant to the Act;

22 e) Confirm the land development regulations applicable to proposed MUMDs, and
23 acknowledge the statutory mandates regarding density, height, and land use;

24 f) Confirm minimum dwelling unit square footage in order to provide reasonable living
25 conditions;

1 g) Provide a minimum non-residential use floor area for MUMDs to provide a meaningful
2 mixed-use development and to reduce vehicle trips and vehicle miles traveled;

3 h. Confirm the maximum intensity (floor area ratio) for MUMDs applies to all square
4 footage within the development; and

5 i) Establish an administrative approval process for MUMDs, including provisions for
6 appeals of administrative decisions.

7 (2) Consistent with Section 166.04151(7), Florida Statutes, which expires October 1,
8 2033, this Division 14 also expires and becomes null and void on October 1, 2033.

9 **Section 28-1638. Applicability; Zoning Districts permitting MUMDs; Conflicts.**

10 (1) MUMDs shall be permitted, and the regulations set forth in this Division shall be
11 applicable to MUMDs, only in the following zoning districts of the City:

12 Business and commercial districts:

13 NCBD – Neighborhood convenience business

14 R-B-1 – Motel business

15 B-1 – Local business

16 B-2 – Community business

17 B-3 – Central business

18 B-4 – General business

19 C-1 – Commercial

20 MC – Medical Center

21 POI – Professional, office, and institutional

22 City CG – Commercial general

23 City CHO – Commercial high office

24

25 Industrial districts:

26 LIRP – Light industrial research park

1 M-1 – Light industrial

2 M-2 – General industrial

3 M-3 – Manufacturing industrial

4 IG/S1 – Industrial general – Special district #1

5 W-1 – Warehouse district

6 LIRP-5 – Museum center district

7
8 Miscellaneous districts:

9 LB – Civic center and limited business

10 PM – 0.40 – Planned mobility 0.40

11 VC – Village Center

12 (2) In the event of a conflict between the regulations set forth herein and those set
13 forth in the business, commercial, or industrial zoning district in which an MUMD is proposed to
14 be located, the regulations set forth in this Division shall control to the extent of such conflict, and,
15 in the event of a conflict between the regulations set forth herein and those set forth in the
16 miscellaneous zoning district in which an MUMD is proposed to be located, the regulations set
17 forth in the specific miscellaneous zoning district shall control to the extent of such conflict. In the
18 event of a conflict between the regulations set forth herein and those set forth in Article XVII,
19 "Planned Development" (Sections 28-1686 through 28-1723, Code of Ordinances), for a planned
20 commercial development or a planned industrial development in connection with a proposed
21 MUMD, the applicable planned development regulations shall control to the extent of such conflict.

22 **Section 28-1639. Site Plan Requirements; Application and Fees; Administrative**
23 **Review Process; Appeals.**

24 1. For each proposed MUMD, an application for a site plan must be submitted in
25 accordance with the requirements of Chapter 28, Art. II, Division 2, Code of Ordinances, including
26 all information required.

1 2. The fee for administrative review of the application shall be the same fee as set
2 forth in the municipal facilities and services user fee schedule of the City of Boca Raton for
3 applications for a PMD set forth in Article XVII, Division 8.

4 3. Administrative review of the site plan application shall be conducted pursuant to
5 the provisions for minor site plan amendments of Section 28-54(1), Code of Ordinances; provided,
6 however, planning and zoning board review shall not be required or conducted.

7 4. Public notice for an application for an MUMD shall be the same as required for a
8 minor site plan amendment pursuant to Subsection 28-53(2).

9 5. Administrative review of an application for an MUMD shall be conducted by the
10 development services director in accordance with the provisions of Section 28-9, Code of
11 Ordinances.

12 6. The development services director's decision on an application for an MUMD shall
13 be final. Either the applicant, or an aggrieved party (as such is defined in Subsection 28-10(4)(ii))
14 who disagrees with the final decision of the development services director, may file an appeal to
15 the City Council in accordance with Section 28-10. Provided however, the appellant need only file
16 a timely notification of appeal and such appeal shall be heard at the next City Council meeting
17 that is at least two weeks after the filing of the appeal.

18 **Section 28-1640. Land Development Regulations for MUMDs.**

19 1. Maximum floor area of total development. The floor area of all development within
20 an MUMD, including the total floor area of all residential use and the total floor area of all non-
21 residential use, shall be limited to the maximum floor area ratio (FAR) of the underlying business,
22 commercial, industrial, or miscellaneous zoning district in which the MUMD is located. For
23 purposes of this subsection 1, the terms "floor area" and "floor area ratio" (FAR) shall have the
24 meanings set forth in Subsection 28-307(2).

25 2. Required residential and non-residential uses. At least 65 percent of the total
26 square footage of an MUMD shall be used for residential purposes. Lobby, service areas, and

1 amenity areas exclusively serving the residential uses of the MUMD shall be considered
2 residential square footage. At least 5,000 square feet, or 10 percent of the total square footage of
3 the MUMD, whichever is greater, shall be devoted to main or principal (and not accessory) non-
4 residential uses. A minimum of 5,000 square feet of such non-residential uses shall be located on
5 the ground floor of the MUMD. Common ground floor lobby, service areas, and amenity areas
6 shall be proportionately allocated to the residential and non-residential square footage
7 requirements.

8 3. Mixed-use character of development. All residential and non-residential
9 components of an MUMD shall be located on the same plot (and/or on one unified plot).

10 4. Minimum plot size. The minimum plot size for an MUMD shall be 25,000 square
11 feet.

12 5. Minimum required yards.

13 a) Front – 25 feet

14 b) Rear – 25 feet

15 c) Sides – 15 feet

16 These yard requirements shall be applicable to the site's perimeter for all buildings on the
17 development site. Separation between buildings on the development site shall be as required by
18 the Florida Building Code, as adopted in Chapter 19, Code of Ordinances, and the Florida Fire
19 Prevention Code, as adopted in Chapter 7, Code of Ordinances.

20 6. Additional required yards.

21 a) Supplemental to the minimum required yards set forth above, an additional yard
22 shall be required from any plot line abutting either a single-family residential zoning district or
23 existing single-family residential uses, which shall be 1 foot of additional yard for each 2 feet of
24 building height above 25 feet.

1 b) Supplemental to the minimum required front yard set forth above, any portion of a
2 building that is above 50 feet in height shall be set back from the front plot line an additional 1 foot
3 for each 15 feet in height greater than 50 feet.

4 7. Landscaped areas. All required yards shall be landscaped, except for those areas
5 where driveways and/or sidewalks leading to a structure on the premises are permitted. The
6 landscaping may include trees, shrubs, hedges flower beds, and lawn areas planted in
7 accordance with the approved landscape plan. All landscaped areas shall be regularly
8 maintained at all times in a healthy growing condition, in a neat and orderly appearance, and free
9 of refuse and debris.

10 8. Minimum floor area of dwelling units. The minimum floor area for all dwelling units
11 (both affordable and non-affordable) within an MUMD shall be as follows:

12 a) Efficiency: 400 square feet

13 b) 1 Bedroom: 550 square feet

14 c) 2 Bedrooms: 750 square feet

15 9. Open/green space. The minimum open/green space required on all MUMD
16 developments shall be 25%. Plazas, paver driveways that are posted with signs that identify the
17 driveway as a joint vehicular and pedestrian way, sidewalks, covered arcades, gazebos, and other
18 hardscape areas may be counted towards satisfying the minimum open space/green space
19 requirements. In no event shall any portion of a parking area, including any planter islands, be
20 counted as open/green space.

21 10. Accessory buildings. Buildings that are accessory to an MUMD shall be governed
22 by the provisions of Section 28-1295, Code of Ordinances.

23 11. Parking. For an MUMD, parking shall be provided as required by Chapter 28,
24 Article XVI, Code of Ordinances. As part of its consideration of the site plan required pursuant to
25 section 28-1639, an application for MUMD may include a request for up to a 5-percent reduction

1 in the total parking requirements, and such request (or lesser reduction) may be granted if all of
2 the following are satisfied:

3 (a) the MUMD is located within a one-half mile radius of a passenger rail or intercity
4 bus station or a transit hub where two or more transit routes converge (a "major transit stop"), as
5 determined by the city, which may include, but are not limited to: rail; fixed guideway; streetcar;
6 or bus systems on dedicated facilities or available roadway connections;

7 (b) there is a continuous public sidewalk or multi-use path from the proposed MUMD
8 to the major transit stop (or the proposed MUMD will provide such continuous path); and

9 (c) the proposed MUMD provides onsite and offsite enhancements to pathways and
10 sidewalks to support pedestrian comfort and other improvements/techniques to achieve the same
11 goal, including, but not limited to: incorporating canopy trees; distinctive pavement; identity,
12 wayfinding, and directional signage; transit infrastructure; and shaded rest areas furnished with
13 appropriate street furniture.

14 12. Equivalency of affordable dwelling units. Affordable dwelling units and market rate
15 units within an MUMD shall be located within the same structure or shall be proportionately
16 distributed between multiple structures, if such are proposed; in no event shall an MUMD structure
17 consist entirely of market rate units. All common areas and amenities within an MUMD shall be
18 accessible and available to all residents (both affordable and market rate units) Access to the
19 required affordable dwelling units in an MUMD shall be provided through the same principal
20 entrance(s) utilized by all other dwelling units in the development; provided that for townhouse-
21 style affordable dwelling units, each unit shall have its own entrance. Additionally, the type of
22 affordable dwelling units (by number of bedrooms) and quantity of such affordable dwelling units
23 in an MUMD shall be approximately proportional to the type of market rate units (by number of
24 bedrooms) and quantity of such market rate units in the MUMD. For purposes herein,
25 "approximately proportional" shall mean that the percentage of each type of unit among the
26 affordable dwelling units shall be within 5 percentage points of the percentage of each type of unit

1 among the market rate dwelling units (e.g. if 25 percent of the market rate units are two-bedroom
2 units, then between 20 percent and 30 percent of the affordable units shall also be two-bedroom
3 units, etc., maintaining an approximately proportional distribution of affordable and market rate
4 units and unit types within the MUMD). Provided, however, that if the total number of affordable
5 dwelling units is such that 5 percent results in less than a full unit, then "approximately
6 proportional" shall mean a difference of one unit.

7 13. Affordability commitment. Pursuant to the Act, at least 40 percent of the residential
8 units within a proposed MUMD shall be "affordable" as defined in Section 420.0004, Florida
9 Statutes, and shall remain affordable for a period of at least 30 years. This requirement shall be
10 incorporated as a condition into any administrative approval of an MUMD. Furthermore, as a
11 prerequisite to the issuance of a building permit, the property owner shall execute and deliver to
12 the City for recordation in the public records, on a form approved by the City Attorney, a deed
13 restriction in favor of the City ensuring compliance with, and enforcement of, this affordability
14 requirement. Additionally, the property owner shall provide to the City, each year on January 15,
15 copies of all leases then in effect for the affordable units, together with such other documentation
16 necessary to demonstrate that such leases meet the affordability criteria as set forth in Section
17 420.0004, Florida Statutes.

18 14. Compliance with land development regulations and Comprehensive Plan
19 consistency. In addition to the provisions set forth herein, MUMDs shall comply with all other land
20 development regulations applicable to multifamily developments in multifamily residential zoning
21 districts or with all other land development regulations applicable to mixed use developments in
22 the miscellaneous zoning districts, as applicable, and shall be consistent with all provisions of the
23 Comprehensive Plan, with the exception of provisions establishing allowable density, height and
24 land use. To the extent the land development regulations applicable to multifamily development
25 in multifamily residential zoning districts may vary among such districts, the most restrictive
26 regulations shall apply.

1 15. Compliance with applicable laws and regulations. In addition to the provisions set
2 forth herein, MUMDs shall comply with all other applicable state and local laws and regulations.

3 16. Maximum density; maximum height. With respect to the residential component of
4 an MUMD, the maximum density shall be the highest allowed density on any land in the City
5 where residential development is allowed. The maximum height shall be the highest currently
6 allowed for a commercial or residential development within the City and within 1 mile of the
7 proposed development, or 3 stories, whichever is higher. When determining "highest allowed
8 density" or "highest currently allowed height," the following shall not be considered: (i)
9 development of an MUMD pursuant to the Act / Chapter 28, Article XV, Division 14; (ii)
10 development that is not in compliance with the current zoning code (such as non-conforming
11 structures); or (iii) development with increased height or increased density, if any, allowed as a
12 bonus or incentive (including, without limitation, additional height for enhanced design within the
13 DDRI).

14 Section 2. The City is adopting the regulations contained within this Ordinance for the
15 implementation of the Act, which has an effective date of July 1, 2023, and has determined it is
16 appropriate for all applications for an MUMD to be processed in accordance with the regulations
17 contained within this Ordinance, and to apply these regulations to any application or submission
18 for an MUMD, regardless of the timing of such application or submission. Accordingly, it is the
19 City Council's intent that any application for an MUMD submitted after July 1, 2023, but before
20 the effective date of this Ordinance, shall (upon the adoption of this Ordinance, which shall
21 become immediately effective) be subject, and processed pursuant, to this Ordinance.

22 Section 3. If any section, subsection, clause or provision of this ordinance is held invalid,
23 the remainder shall not be affected by such invalidity.

24 Section 4. All ordinances and resolutions or parts of ordinances and resolutions and all
25 sections and parts of sections in conflict herewith shall be and hereby are repealed.

Section 5. Codification of Section 1 of this ordinance in the City Code of Ordinances is hereby authorized and directed.

Section 6. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Boca Raton this 11th day of October, 2023.

CITY OF BOCA RATON, FLORIDA

ATTEST:

Mary Siddons
Mary Siddons, City Clerk

Scott Singer
Scott Singer, Mayor

Approved as to form:


Diana Grub Frieser
City Attorney

COUNCIL MEMBER	YES	NO	ABSTAINED
MAYOR SCOTT SINGER	✓		
DEPUTY MAYOR MONICA MAYOTTE	✓		
COUNCIL MEMBER YVETTE DRUCKER	✓		
COUNCIL MEMBER FRAN NACHLAS	✓		
COUNCIL MEMBER MARC WIGDER	✓		