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Staff

SB 102 / Live Local Act Implementation

The purpose of this website is to provide you with a proposed set of rules and processes for implementing SB 102, otherwise known as the "Live Local Act" ("Act"). **Please check back often as these guidelines will be refined as we work through the initial round of SB 102 projects.**

The Act provides that a development project qualifies if it:

1. Is "in any area zoned for commercial, industrial, or mixed use";
2. Provides at least 40% of residential units as affordable as defined in State law at 120% of area median income for 30 years or more;
3. Contains 65% or more residential use by square footage (if mixed use); and
4. The project is not designated as recreational and commercial working waterfront ("CWW") in the jurisdiction's comprehensive plan.

The Act

A qualifying project is then granted, administratively:

1. The highest density allowed in the jurisdiction, which is 1000 dwelling units per acre;
2. The height permitted within 1 mile "for a commercial or residential development"; and
3. If located in a zone without multifamily use, such use is permitted by right, unless T3.

The following Miami 21 Transect Zones are considered commercial, industrial, or mixed use and qualify under the Act: T4-L, T4-O, T5-L, T5-O, T6-R, T6-L, T6-O, CS, CI, CI-HD, D1, D2, and D3 (unless designated as CWW in the Miami Comprehensive Neighborhood Plan ("MCNP")). All T3 zones as well as T4-R and T5-R do not qualify under the Act as they do not permit mixed use.

Because the Act preempts only density, height, and allowable uses (i.e. allowing multifamily in areas where it is not normally allowed), all other aspects of Miami 21 and the MCNP continue to apply, including Floor Lot Ratio limits where applicable. More specific applications of each aspect of Miami 21 to projects qualifying under the Act are as follows:

the Act

Height: Height will be determined using the comparator property within 1 mile so long as that property permits a commercial or residential use. A qualifying project's height is taken from the comparator site. However, the subject property's proximity to other zones may modify the ability to use such height. As an example, a subject site that is zoned T5-O within one mile of a T6-8 comparator site that shares a lot line with a CS zone (precluding the ability to obtain bonus height) limits the qualifying project to 8 stories.

This applies as well to setbacks, tower separation, and all other design aspects that regulate the building at a particular height. Because Miami 21 defines Building Height as "The vertical extent of a Building measured in Stories", regulations that affect the building depending on its Height continue to apply. In other words, because Height is imported from a comparator site, the rules regulating that height, or vertical extent, continue to control.

As an example, a subject site is zoned T5-O and abuts a T3 zone. The comparator site is T6-8-O.

Floor Lot Ratio ("FLR") / Intensity: Because the Act does not specifically preempt FLR or intensity, the Office of Zoning is without authority to permit a qualifying project to use a larger FLR from a comparator site.

Zone-specific Issues with FLR

1. Because the T4-L and T4-O zones correspond to the Low Density Restricted Commercial category of the MCNP, the limitation that the nonresidential portion of the development be no more than 3 times the net lot area continues to apply. This is not anticipated to cause a problem for qualifying projects as the Act already requires that 65% or more of the project be residential.
2. The CI zone takes its development characteristics from the most restrictive abutting transect. Although the height regulations for CI are preempted by the Act, the requirement that the property be developed in accordance with the most restrictive abutting zone continues to apply. This includes MCNP FLR limitations. A CI-zoned property abutting a T3, T4-R, or T5-R property does not qualify under the Act.
3. D1 zones, corresponding to the Light Industrial MCNP designation, has a maximum FLR of 10 times the net lot area. D2 and D3 zones (assuming it is not a disqualifying CWW property), corresponding to the Industrial MCNP designation, is limited to 8 times the net lot area.

Zones that don't permit multifamily are required to use all other design aspects of the T6 zone, including access, parking requirements, setbacks, and the like as the Act requires that the City apply its multifamily regulations to these zones.

the Act

Waivers: The Act seeks to allow these projects by right. Miami 21 permits projects such as these in a by right fashion. Use of the Act for a project does not preclude an application for Waivers. However, at that point the project will not proceed by right and will require notice per Miami 21. Waivers for lot coverage and floorplate dimensions will be more heavily scrutinized for adherence to Art. 4 Table 12 given the increased development capacity permitted by the Act. Additional height should obviate the need for horizontal relief from such requirements in most instances save for providing parking, internal circulation, and the absolute measurements that accompany it.

Warrants: Especially in mixed-use projects, Warrants (also known as conditional use permits) shall follow the process for receiving approvals. Examples include non-residential uses included in mixed-use projects that may include outdoor dining, etc.

UDRB: Similar to other administratively processed affordable housing projects, the project may be subject to UDRB, per Miami 21 Code, Section 7.1.1.2.A.10.

This ensures that the aesthetics and design quality are maintained consistently for similar projects.

Lastly, the following is a checklist of what materials and information will be needed for a project qualifying under the Act:

1. A covenant with HCD certification as to the income mix and required affordability, with a release provision that the covenant is in place for 30 years from TCO or CO and may only be released earlier by bringing the project into full compliance with Miami 21 or a successor zoning ordinance.
2. A specific purpose survey demonstrating the 1-mile distance (unless the comparator site is so obviously close to render this unnecessary) with a brief analysis of the comparator site (its zoning, availability for bonus height, if sought, etc.).
3. Easily visible notes on the zoning legend indicating this is an SB 102 project, especially where the project deviates from the transect's usual limitations.
4. A table, with a diagram, indicating the ratio of 65%+ residential to any other use, if there is another use.
5. Verification that the property is not CWW.