

# MEMORANDUM

Agenda Item No. 11(A)(14)

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**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** November 7, 2023

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution urging the Florida Legislature to adopt legislation amending section 125.01055, Florida Statutes, otherwise known as the "Live Local Act," to exempt transit-oriented development areas from the zoning, height, and density preemptions contained therein and from being used to determine the highest currently allowed height for other developments authorized by the Live Local Act

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.

  
Geri Bonzon-Keenan  
County Attorney

GBK/jp


MDC001



**MEMORANDUM**  
(Revised)

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Gen Bonzon-Keenan  
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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(14)  
11-7-23

RESOLUTION NO. \_\_\_\_\_

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ADOPT LEGISLATION AMENDING SECTION 125.01055, FLORIDA STATUTES, OTHERWISE KNOWN AS THE “LIVE LOCAL ACT,” TO EXEMPT TRANSIT-ORIENTED DEVELOPMENT AREAS FROM THE ZONING, HEIGHT, AND DENSITY PREEMPTIONS CONTAINED THEREIN AND FROM BEING USED TO DETERMINE THE HIGHEST CURRENTLY ALLOWED HEIGHT FOR OTHER DEVELOPMENTS AUTHORIZED BY THE LIVE LOCAL ACT

**WHEREAS**, during the 2022 session of the Florida Legislature, the Florida Legislature passed SB 102, otherwise known as the “Live Local Act”; and

**WHEREAS**, the Governor signed SB 102 into law on March 29, 2023, codified as Chapter 2023-17, Laws of Florida, and it became effective on July 1, 2023; and

**WHEREAS**, the Live Local Act included a comprehensive approach to address affordable housing; and

**WHEREAS**, one of the Live Local Act’s most significant provisions was amending section 125.01055, Florida Statutes, to require counties to administratively approve “multifamily and mixed-use residential” developments “in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units are, for a period of at least 30 years, affordable as defined by [Florida law],” under certain conditions; and

**WHEREAS**, as amended, subsection 125.01055(7) preempts counties from “restrict[ing] the density of a proposed development authorized under this subsection below the highest allowed density on any unincorporated land in the county where residential development is allowed”; and

**WHEREAS**, the highest allowed density in unincorporated Miami-Dade County is 250 residential units per acre; and

**WHEREAS**, as amended, subsection 125.01055(7) also preempts counties from “restrict[ing] the height of a proposed development below the highest currently allowed height for a commercial or residential development located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher”; and

**WHEREAS**, in certain areas of the County, for example both inside of and within a mile of the Downtown Kendall Urban Center Zoning District, the highest height allowed for a commercial or residential development is 25 stories, and neighborhoods located within a 1-mile radius include single-family neighborhoods where the maximum height is 35 feet (typically 2 stories); and

**WHEREAS**, Miami-Dade County’s Comprehensive Development Master Plan (CDMP) Land Use Element Policy LU-1A provides that “high intensity, well-designed urban centers shall be facilitated by Miami-Dade County at locations having high countywide multimodal accessibility”; and

**WHEREAS**, Objective LU-1 of the CDMP Land Use Element provides that “the configuration of Miami-Dade County’s urban growth through the year 2030 shall emphasize concentration and intensification of development around centers of activity, development of well-designed communities containing a variety of uses, housing types and public services, renewal and rehabilitation of blighted areas”; and

**WHEREAS**, CDMP Land Use Element Objective LU-7 provides that “Miami-Dade County shall require all new development and redevelopment in existing and planned transit corridors and urban centers to be planned and designed to promote transit-oriented development (TOD), and transit use, which mixes residential, retail, office, open space and public uses in a pedestrian and bicycle friendly environment that promotes the use of rapid transit services”; and

**WHEREAS**, since 1999, this Board has implemented the CDMP’s urban center and mixed-use strategies through area plans and charrettes and subsequent land development regulations for areas located along the CDMP’s existing and future rapid transit corridors, now known as the Strategic Miami Area Rapid Transit (SMART) Corridors; and

**WHEREAS**, notably, the County’s land development regulations for many of the County’s urban centers and other transit-oriented developments generally require that a percentage of each residential development with more than four units is reserved for affordable or workforce housing; and

**WHEREAS**, in designing its urban centers and implementing the comprehensive plan’s TOD policies, the County has historically solicited significant input from the communities surrounding urban centers; and

**WHEREAS**, in response to this public input from impacted constituents, the County purposefully designed, and continues to design, its various urban center zoning districts and other transit-related zoning districts to significantly increase height and density in close proximity to transit stations and to taper down, but still increase, height and density the further away a property is from a transit station and the closer it is to established single-family neighborhoods and other low-lying developments; and

**WHEREAS**, in doing so, the County sought to preserve peace and tranquility in single-family neighborhoods and neighborhood character; and

**WHEREAS**, the Live Local Act's preemptions on height and density regulations significantly disrupt the careful balance the County has struck in its regulations promoting transit-oriented development while also preserving the character of long-established neighborhoods; and

**WHEREAS**, an unintended consequence of the Live Local Act is thus to disrupt the CDMP's long-range goals and objectives for the promotion of transit-oriented developments, which developments are, moreover, generally required by the County Code to provide affordable or workforce housing; and

**WHEREAS**, to preserve the County's long-range planning goals to develop well-designed, high-density and high-intensity transit-oriented developments that are sensitive to their surrounding neighborhoods, this Board urges the Florida Legislature to enact legislation to amend section 125.01055, Florida Statutes, to exempt its planned urban center and other transit-oriented development zoning districts from the Live Local Act's zoning, height, and density preemptions; and

**WHEREAS**, in addition, using transit-oriented developments to determine the maximum allowable height within one mile of another proposed development, as the Live Local Act currently requires, will discourage local governments from approving transit-oriented developments at otherwise appropriate locations, for fear of the TOD resulting in wildly incompatible development being built next to lower-lying neighborhoods; and

**WHEREAS**, accordingly, the Live Local Act should be amended to exclude transit-oriented developments from being used to determine the highest currently allowed height as required by subsection 125.01055(7),

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

**Section 1.** This Board urges the Florida Legislature to adopt legislation amending section 125.01055, Florida Statutes, otherwise known as the “Live Local Act,” to exempt transit-oriented development areas from the zoning, height, and density preemptions contained therein and from being used to determine the highest currently allowed height for other developments authorized by the Live Local Act.

**Section 2.** This Board directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, and the Chair and remaining Members of the Miami-Dade County State Legislative Delegation.

**Section 3.** This Board directs the County’s state lobbyists to advocate for the passage of the legislation set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2024 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel Regalado. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 7<sup>th</sup> day of November, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Dennis A. Kerbel  
Melissa M. Gallo