

AN ORDINANCE CREATING SECTION 47.37A AND AMENDING SECTION 47-37 OF ARTICLE XIII, CHAPTER 47 OF THE CODE OF ORDINANCES TITLED UNIFIED LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE CREATION OF THE INNOVATIVE DEVELOPMENT DISTRICT; PROVIDING FOR RETENTION AND APPLICATION OF THE PLANNED UNIT DEVELOPMENT REGULATIONS FOR APPLICATIONS APPROVED PRIOR TO THE EFFECTIVE DATE HEREOF; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. CREATION: Section 47-37A of the Code of Ordinances is hereby created to read as follows:

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

The Innovative Development (ID) zoning district is intended to foster, encourage and provide for development incorporating innovative elements that are not otherwise permitted under the Unified Land Development zoning districts and development standards. The ID 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 promote the best possible environment;
- 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, façade 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 assure that adequate attention is given to the review process and the ID limitations, in order to serve the specific purposes set forth herein and ensure that the ID intent and purpose is met and benefits derived are balanced by the benefits to be derived by the neighborhood(s) and community.

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 an ID.
- C. *Innovative*. 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 ID intent, including specific elements.
- D. *ID (Innovative Development)*. Shall mean a development on land under unified control as established by a recorded document that meets the criteria for an ID 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 ID is applicable.

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

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

- A. *Minimum area for an ID zoning district*. The minimum land area required for an application to an ID district shall be two (2) acres, with the exception of land designated as Regional Activity Center which shall be a minimum of one (1) acre. In determining the minimum acreage, no improved land area shall be included, unless such improvements are to be demolished or submitted to a substantially different use than the existing use of such improvements (e.g. a church, fire station or office building submitted to residential use); provided, however, in consideration of the dedication to the public or, alternatively, the setting aside for the benefit of the residents or occupants of the proposed ID development of 20% of the lands within the ID development to be used for general public open space, or an amenity that has significant artistic, cultural or environmental value, maintained by the applicant and not utilized towards meeting the City's park impact fee requirements. 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 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 sub-section 47-37A.12 and any such agreement contemplated therein shall be recorded in the public records and be binding on the lands of the ID 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 ID application pertaining to lands located within the North-West CRA.

- 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 ID zoning district.* The tracts of land which comprise the ID 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.

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

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

Sec. 47-37A.5. Pre-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 ID pursuant to ULDR. After such presentation, members of the public shall be given an opportunity to comment.

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 ID:

- A. An ID written narrative describing the proposed ID, which includes:
 - 1. The general design concept for the ID 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 ID and how the proposed development complies with the intent and purpose of the ID district described in Sub-section 47-37A.1; and
 - 3. Identification of those aspects of the ID that are not in compliance with the current zoning requirements, and why the proposal presents a better overall project describing said benefits, and proposed ID'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 ID meets adequacy requirements as provided in Sec. 47-25.2
- E. A description of the proposed phasing of construction of the ID, 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 3-dimensional views in context with the surrounding area, and indicating building outlines.

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 ID shall be as established by ordinance approving an ID based on the criteria provided in this Section 47-37A.
- B. *Parking.* Off-street parking requirements provided in Sec. 47-20.2, may be reduced for any use proposed in the ID 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.
- D. Development Agreement shall provide for maintenance and other issues with bond assurances.

Sec. 47-37A.8. – ID Criteria.

In addition to the criteria outlined herein, the following additional development criteria 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.

Sec. 47-37A.9. - ID Public Improvement Examples

The proposed ID 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;

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

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

- A. A pre-application conference with the department shall be required prior to submitting an ID 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 ID rezoning application shall be reviewed in accordance with Sec. 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 ID 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. Any decision or action by a lower body such as the development review committee, historic preservation board or planning and zoning board with regard to development of an ID which decision or action could be appealed or be subject to City Commission request for review shall act as a recommendation and the decision or action shall be considered by the City Commission as part of the review of the ID zoning district. Notwithstanding the provisions of Section 47-24, the application shall be subject to two quasi-judicial proceedings in which it will be the burden of the applicant to demonstrate by

competent, substantial evidence in the record, compliance with the provisions hereof.

- C. No ID rezoning application shall be approved except on the affirmative vote of a super majority of four (4) members of the City Commission.

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

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

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

Flexibility or reserve units may be allocated to an ID at the time of the ID rezoning approval.

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 ID. 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 ID 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.

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

The ID 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 ID shall be recorded in the public records of Broward County at applicant's expense. Unless otherwise provided in the approved ID 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 ID. Any provision of an approved ID zoning district shall prevail when any provision elsewhere in the ULDR shall conflict.

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

- A. If the applicant wishes to change to a use that was not approved as part of the ID 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 ID previously approved as part of a rezoning to ID, such amendment shall be done in accordance with the provisions for amending a site plan level IV, as provided in Sec. 4724.2.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 47-37A.

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

Unless a phasing plan is approved as part of the ID approval, the provisions of Sec.47-24.1.M.1,2,3 and 4 shall apply as to the expiration of the ID approval. In the event the ID approval expires, the ID 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 ID development plan, the portion of the property not developed prior to the expiration of the ID approval shall revert to the previous zoning district, without further action and the provision herein shall be included in the adopted ID ordinance.

Sec. 47-37 – Planned Unit Development (PUD) District.

This section applies only for purposes of amendments to development applications on property entirely within a PUD zoning district as of the effective date of this ordinance. No applications for rezoning to PUD on parcels of land designated as any other zoning district shall be accepted or processed.

Sec. 47-37.3 – Conditions for PUD Rezoning.

E. *Applicability.* The proposed development is to be located on property entirely within a PUD zoning district as of the effective date of this ordinance. No applications for rezoning to PUD on parcels of land designated as any other zoning district shall be accepted or processed.

SECTION 37A CONFLICT:

All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 37A. SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 37A. INCLUSION IN CODE:

It is the intention of the City Commission of the City of Fort Lauderdale that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Fort Lauderdale and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 37A. EFFECTIVE DATE:

This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING IN FULL ON THE _____ DAY OF _____, 2012.

PASSED ON SECOND READING BY TITLE ONLY THE _____ DAY OF _____, 2012.

ADOPTED AND PASSED BY THE CITY COMMISSION OF THE CITY OF LAUDERDALE

AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 2012.

JOHN P. "JACK" SEILER, MAYOR

ATTEST:

JONDA K. JOSEPH, CITY CLERK