

ORDINANCE NO. C-21-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, CREATING ARTICLE XII ENTITLED "TRANSFER OF DEVELOPMENT RIGHTS (TDR)"; SECTION 47-36.1, ENTITLED "TRANSFER OF DEVELOPMENT RIGHTS (TDR)"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a Transfer of Development Rights program will serve the public purpose of historic preservation; and

WHEREAS, the City Commission of the City of Fort Lauderdale wishes to adopt a Transfer of Development Rights program to provide a financial incentive for historically designated properties; and

WHEREAS, permitting owners of historic properties to transfer their development rights will foster development in areas that are more suitable for specific uses; and

WHEREAS, implementing the Transfer of Development Rights program is in the best interest of the health, safety, and welfare of the residents of the City of Fort Lauderdale.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

SECTION 2. That Article XII entitled "Transfer of Development Rights (TDR)", Section 47-36.1, entitled "Transfer of Development Rights (TDR)" of the City of Fort Lauderdale, Florida, Unified Land Development Regulations ("ULDR") is hereby created as follows:

Article XII - Transfer of Development Rights (TDR)

47-36.1. - Transfer of Development Rights (TDR)

A. Intent.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

1. It is the intent of this section to further a public purpose of preserving and protecting locally designated historic landmarks, landmark sites, archeological sites and contributing properties in historic districts by creating a process that permits the sale and transfer of unused development to a Receiving Site.
2. Designated Receiving Areas identified in this Section are suitable and preferred for growth and redevelopment.
3. Transfer of Development Rights are a voluntary option and not a requirement.

B. *Definitions.* The following words when used in this Section shall have the following meanings below. Words not defined herein shall be interpreted in accordance with Section 47-24.11 of the ULDR, or in the Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), as amended, or shall be interpreted by their common and ordinary meaning:

1. *Architectural Resource Survey.* The systematic process of identifying and recording buildings, structures, objects, districts, and sites located in the City of Fort Lauderdale that includes the architectural style, architectural integrity, and character of the buildings, sites, and structures. Surveys are on file with the Department of Sustainable Development.
2. *Certificate of Eligibility.* A document issued by the Department of Sustainable Development (“DSD”) to the eligible historic landmark, landmark site, archaeological site, or contributing property located within a historic district (proposed Sending Site), stipulating the amount of area and/or density available for transfer.
3. *Certificate of Transfer.* A document issued by the DSD that authorizes the transfer of specified unused Development Rights from a locally designated historic landmark, landmark site, archeological site, or contributing property within a historic district (Sending Site) to a Receiving Site. The Certificate of Transfer formally designates a Sending Site and a Receiving Site.
4. *Development Rights.* Unused floor area or density of a locally designated historic landmark, landmark site, archeological site, or contributing property within a historic district that are calculated in accordance with this Section.
5. *Eligible Historic Resource.* A property that meets the criteria in Section 47-36.1.C.5. of the ULDR that may be eligible to transfer Development Rights subject to the requirements in this Section.

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6. *Existing Conditions Report.* A report prepared by a registered architect or engineer that describes the current general condition of a locally designated historic landmark, landmark site, archeological site, or contributing property in a historic district that is applying for a Certificate of Transfer including but not limited to photographs, an architectural description; a summary of general observations; and a description of the condition for each architectural, structural, and mechanical element, and dated no later than thirty (30) days prior to the submission of a Certificate of Transfer Application.
7. *Gross Floor Area* (“floor area”). Refer to the definition in Section 47-2.C of the ULDR.
8. *Maintenance Plan.* A written document prepared by a registered architect or engineer and submitted by all of the owners of a historic landmark, historic site, archeological site, or “Contributing Property” in a historic district for the Transfer of Development Rights program, that identifies any existing deficiencies in the building along with a remediation plan for the short term, and which further identifies a plan for the cyclical maintenance of the building for the long term, and dated no later than thirty (90) days prior to the submission of any application under this Article.
9. *Receiving Areas.* City approved areas identified in Article XII of the ULDR that are authorized to receive Development Rights subject to the requirements in this Section.
10. *Receiving Sites.* A lot(s) of land as defined in Section 47-35.1 of the ULDR, located within a Receiving Area which have received Development Rights from a Sending Site through the purchase and Transfer of Development Rights in accordance with this Section.
11. *Sending Areas.* City approved areas identified in Article XII of the ULDR that are authorized to send Development Rights subject to the requirements in this Section.
12. *Sending Sites.* A building or lot(s) of land as defined in Section 47-35.1 of the ULDR, located within a Sending Area where its unused Development Rights have been transferred and sold in accordance with this Section.
13. *Transfer of Development Rights (“TDR”).* The sale and transfer of unused Development Rights by the owner(s) of a Sending Site to the owner(s) of a Receiving Site whereby the Development Rights of the Sending Site are extinguished and may be used or held by the Receiving Site.

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C. Designated Sending Area(s).

The following properties are hereby designated as Sending Areas:

1. Lots or buildings designated as historic landmarks by the City.
2. Lots designated as historic landmark sites by the City.
3. Lots designated as archeological sites by the City.
4. Lots or buildings located within a designated historic district identified as “contributing properties” in accordance with the City’s most recent applicable architectural resource survey adopted by Resolution of the Historic Preservation Board or identified as “contributing properties” in a designated historic district by Resolution of the City Commission.
5. Qualified as an Eligible Historic Resource after having met one of the following criteria:
 - a. Identified as a potential individual historic landmark, landmark site, or archaeological site in the City’s most recent applicable architectural resource survey adopted by a Resolution of the Historic Preservation Board; or
 - b. The building(s) or site is located within a potential historic district and the property has been identified as “contributing” in the City’s most recent applicable architectural resource survey adopted by the Historic Preservation Board; or
 - c. A building(s) or site that has been identified by the State Historic Preservation Officer as “eligible” for listing in the National Register of Historic Places in accordance with Section 267.031, Florida Statutes, as amended; or
 - d. A building(s) or site that is already listed in the National Register of Historic Places.

D. Designated Receiving Area(s).

1. The lots of land located in any of the following zoning districts are hereby designated as Receiving Areas for the purposes stated herein, only if they meet all the requirements in this section.
 - a. For the purpose of a transfer of density (dwelling units), the following zoning districts are Receiving Areas:
 - i. Uptown Urban Village (UUV-NE, UUV-NW, and UUV-SE) - A Receiving Site may receive additional dwelling units from a Sending Site(s) in accordance with this section. The density of a Receiving Site located within the Uptown Urban Village ((UUV-NE, UUV-NW, and UUV-SE) Receiving Areas may not exceed 60 dwelling units per acre, with the use of TDRs.
 - ii. Any lot of land located in a Unified Flex Zone - A maximum of 10 dwelling units per acre may be transferred to a Receiving Site located in the Unified Flex Zone.
 - b. For the purpose of a transfer of non-residential floor area, the following zoning districts are Receiving Areas:
 - i. RAC-UV
 - ii. RAC-RPO
 - iii. SRAC-SA(e)
 - iv. SRAC-SA(w)
 - v. NWRAC-Mue
 - vi. NWRAC-Muw
 - vii. UUV-NE
 - viii. UUV-NW
 - ix. UUV-SE
 - x. CB
 - xi. B-1
 - xii. B-2
 - xiii. B-3

E. Regulations for Receiving Areas.

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1. Except as provided in Section 47-36.1 of the ULDR, the lot(s) of land in Receiving Areas must comply with the applicable Zoning District requirements of the ULDR. Section 47-36.1 shall prevail in the event of conflict with any other provision of the ULDR.
2. A Receiving Area may not be located on the barrier island. In Article XII of the ULDR, the "barrier island" means any property located east of the Intracoastal Waterway within the boundaries of the City of Fort Lauderdale.
3. A Receiving Area may not be located within an adopted Adaptation Action Area (AAA) identified in the City's Community Investment Plan, as amended.
4. All Receiving Areas must comply with any applicable height requirements of the Federal Aviation Administration (FAA).
5. Properties that do not comply with the provisions in Sections 47-36.1.D and 47-36.1.E. of the ULDR, are not located within a Receiving Area and are not authorized to receive Development Rights.

F. Certificate of Eligibility.

1. Application for Certificate of Eligibility. An application for a Certificate of Eligibility must be submitted for a proposed Sending Site to the DSD, prior to the submission of an application for a Certificate of Transfer for the same property. The application must include the following information and the applicant must pay all the required fees at the applicant's own expense:
 - a. Name, address, telephone number of applicant or authorized representative for applicant; and
 - b. If the applicant is not the owner, a notarized letter from all the owners of the proposed Sending Site authorizing the applicant to apply for a Certificate of Eligibility on all of the owners' behalf; and
 - c. Proof of ownership (deed) of the property proposed as a Sending Site; and
 - d. Legal description of the property proposed as a Sending Site from Broward County Official Records; and

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- e. Existing Land Use Designation of the property proposed as a Sending Site; and
 - f. Existing Zoning of the property proposed as a Sending Site; and
 - g. Calculations of the Development Rights of the proposed Sending Site; and
 - h. Floor plans of the proposed Sending Site signed and sealed by an architect or engineer licensed to practice in the State of Florida, if applying to transfer non-designated floor area; and
 - i. A current signed and sealed property survey of the property proposed as a Sending Site (dated no later than 6 months prior to the date of submission of the Certificate of Eligibility application), which is signed and sealed by a licensed professional surveyor, authorized to engage in the practice of surveying and mapping in the State of Florida in accordance with Chapter 472, Florida Statutes, as amended; and
 - j. Resolution designating the property (proposed as a Sending Site) as either a historic landmark, landmark site, or archeological site, if applicable; and
 - k. A copy of a resolution passed by the City Commission or Historic Preservation Board adopting the most recent applicable architectural resource survey that identifies the proposed Sending Site as a "Contributing Property" located within a historic district, if applicable; and
 - l. A narrative must be provided by the applicant explaining how the criteria in Section 47-36.1.F.3. of the ULDR are met.
2. Calculation of available Development Rights from Sending Site.
- a. Development Rights. Unused Development Rights that may be transferred to a Receiving Site must be calculated as follows:
 - i. Floor area. Existing gross floor area of the Sending Site will be subtracted from the calculation of permitted gross floor area of the Sending Site per the ULDR incorporating setbacks, stepbacks, FAR, and all other requirements. The applicant shall submit calculations for the Development Rights along with signed and sealed floor plans to the DSD.

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- ii. Density. Unused density on a Sending Site may be transferred to a Receiving Site rounding down to the nearest whole number. Total available density is based upon the gross acreage of the entire site.
 - a) Available density for residential units will be the calculation of the maximum residential units permitted on the Sending Site subtracted by the number of existing residential units on the Sending Site.
 - b) The conversion of existing hotel units to residential units for the purposes of the density TDR calculation shall be the difference between the number of permitted residential units divided by the number of permitted hotel units as specified in the ULDR per each zoning district for the Sending Site. This number will be multiplied by the difference between the number of permitted hotel units and the number of existing hotel units.
 - 1. For zoning districts in the Central Beach Regional Activity Center that do not have maximum density, the maximum density shall be capped at 48 residential units per acre and 90 hotel units per acre.
- b. Partially designated properties. If a Sending Site has been partially designated as a landmark, landmark site, or archaeological site, only the designated portion of the property may be included in the calculation of floor area or density that may be transferred to a Receiving Site.
- 3. Criteria for Certificate of Eligibility. An application for Certificate of Eligibility must meet the following criteria:
 - a. The applicant must provide a complete application with all required documentation as outlined in Section 47-36.1.F. of the ULDR; and
 - b. The proposed Sending Site must be located within a Sending Area in accordance with Section 47-36.1.C. of the ULDR; and
 - c. The Development Rights of the proposed Sending Site must be correctly calculated and meet the requirements of the most recently adopted ULDR and Comprehensive Plan.

- d. A Sending Site applying for a Certificate of Eligibility as an Eligible Historic Resource may be issued a Certificate of Eligibility and will be subject to the following conditions:
- i. Prior to applying for a Certificate of Transfer, the Eligible Historic Resource must be designated as a landmark, landmark site, or archaeological site in accordance with Section 47-24.11.C. of the ULDR; or
- ii. If the Eligible Historic Resource is located within a potential historic district, the district must be designated by the City Commission prior to the submission of an application for a Certificate of Transfer and the Eligible Historic Resource must be identified as a "Contributing Property" in the most recent applicable architectural resource survey adopted by the City Commission or the Historic Preservation Board that identifies the proposed Sending Site as a "Contributing Property" located within a historic district.

4. Application Review Process.

- a. Determination of application completeness. The DSD shall determine within thirty (30) days of the application submittal whether the application is complete and shall notify the applicant of any missing documentation or additional information requested by the DSD in writing.
- b. If an applicant fails to provide additional information as requested in writing by the DSD within thirty (30) days of the request, the application shall be deemed withdrawn.
- c. The DSD shall review the application and determine whether the application meets the criteria as provided in Section 47-36.1.F.
- d. If the DSD determines that the application meets the criteria for a Certificate of Eligibility as provided in Section 47-36.1.F., the DSD shall approve the application and the Historic Preservation Planner shall issue a Certificate of Eligibility.
- e. If the DSD determines that the application does not meet the criteria as provided in this Section 47-36.1.F., the DSD shall deny the application and the Historic Preservation Planner shall issue a letter of denial to the applicant.

5. A Certificate of Eligibility will expire eighteen (18) months after issuance and may not be relied upon for determining Development Rights. An expired certificate of eligibility may not be included in an application for a Certificate of Transfer.

6. Appeal of an application for a Certificate of Eligibility. If an application for a Certificate of Eligibility is denied, the applicant may file an appeal in accordance with the following procedure:
 - a. The applicant must file an appeal no later than thirty (30) days after the date of the letter of denial.

 - b. The applicant must include all of the following documents in its appeal:
 - i. A letter addressed to the City Clerk and to the Director of the DSD requesting an appeal. The letter must include the case number, applicant's name, address, and phone number, property owner(s)'s name, address, and phone number, date of denial, and must specify the grounds for the appeal; and

 - ii. If the applicant is not the owner, a notarized letter from all of the owners of each property authorizing the applicant to appeal the application for a Certificate of Eligibility on all of the owners' behalf; and

 - iii. All documents and papers submitted to the city prior to the denial of the application, letter of denial, and the application. The applicant must provide these documents at their own expense.

 - c. Other than the documents required in Section 47-36.1.F.6.b. of the ULDR, any other documents submitted by the applicant after the DSD issued its denial, will not be made a part of the record on appeal.

 - d. Upon receipt of an appeal, the Director of the DSD or his or her designee shall compile the record consisting of the documents and papers submitted by the applicant, the application, and schedule the appeal for a Planning and Zoning Board meeting within sixty (60) days.

 - e. The Director of the DSD or his or her designee shall transmit the record to the Planning and Zoning Board.

- f. The Planning and Zoning Board will determine whether there was a departure from the essential requirements of law in the decision made regarding the application; or whether competent substantial evidence does not exist to support the decision.
- g. If the Planning and Zoning Board determines that there was not a departure from the essential requirements of law or that competent substantial evidence exists to support the decision, then the decision will be upheld. If the Planning and Zoning Board finds that there was a departure from the essential requirements of the law or that competent substantial evidence does not exist to support the decision, then the Planning and Zoning Board will reject the decision of the DSD denying the application and approve the application.
- h. An appeal from the decision of the Planning and Zoning Board must be made to the applicable state court in accordance with Florida law within thirty (30) days after the rendition of the Planning and Zoning Board's decision.

G. Development Rights Available for Transfer to Receiving Sites.

- 1. Floor Area. Receiving Sites may incorporate additional floor area by increasing the height in accordance with Table 1 below:

TABLE 1: RECEIVING AREAS THAT MAY RECEIVE ADDITIONAL SQUARE FOOTAGE OF NON-RESIDENTIAL FLOOR AREA

	<u>RAC-UV</u> <u>RAC-RPO</u>	<u>SRAC-S Ae;</u> <u>SRAC-S Aw</u>	<u>NWRAC-</u> <u>Mue</u>	<u>NWRAC-</u> <u>Muw</u>	<u>UUV-NE</u> <u>UUV-NW</u> <u>UUV-SE</u>	<u>CB; B-1;</u> <u>B-2; B-3</u>
<u>Additional Height Allowable with TDR</u>	3 Stories (Note A)	25 feet	25 feet	12 feet	45 feet	12 feet

Note A: Three (3) stories is equal to 35 feet.

- 2. Maximum Height. Unless permitted by Section 47-36.1 of the ULDR, the Receiving Site may not utilize TDRs to exceed the maximum allowable height in Sections 47-6.20, 47-13.21, 47-13.30, 47-13.31, 47-37B.5, of the ULDR.

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a. *Downtown RAC and Uptown Urban Village.* No structure may exceed a height limitation two and one-half times the height of the maximum height of the neighboring zoning district for a distance equal to mid-block of the development site or for a depth of two hundred (200) feet as measured from the zoning district boundary abutting the zoning district of the development, whichever is less.

3. *Density.*

a. Receiving Areas identified in Section 47-36.1.D. of the ULDR for the purpose of receiving density (dwelling units) are eligible to receive from a Sending Site up to an additional 10 dwelling units per acre.

b. Receiving Sites obtaining additional dwelling units through the TDR program must maintain a minimum unit size of 400 square feet per dwelling unit.

4. *Comprehensive Plan.* The floor area and FAR of the Receiving Site shall not exceed that allowed by the City of Fort Lauderdale Comprehensive Plan for the applicable land use category.

H. *Certificate of Transfer.*

1. An application for a Certificate of Transfer shall be made to the DSD. One application must be completed and executed by at least two applicants. At least one applicant must represent the owner(s) of the Sending Site and at least one applicant must represent the owner(s) of the Receiving Site. If the same entity or person(s) owns the proposed Sending Site and Receiving Site, then that entity or person(s) may be represented by one applicant.

2. The Certificate of Transfer shall serve as a document formally designating a Sending Site and a Receiving Site.

3. The application for a Certificate of Transfer must include all the following information and the applicants must pay for any fees required at their own expense:

a. Sending Site Information Required:

i. Name, address, telephone number of applicant and authorized representative(s) for applicant, if applicable; and

- ii. If the applicant is not the owner, a notarized letter from all of the owners of the property proposed as a Sending Site authorizing the applicant to apply for a Certificate of Transfer on all of the owners' behalf; and
 - iii. Proof of ownership (deed) of the property proposed as a Sending Site; and
 - iv. Certificate of Eligibility issued by the City that is dated no later than 18 months prior to the date of submission of the application for a Certificate of Transfer; and
 - v. If the Certificate of Eligibility was issued to an Eligible Historic Resource, the applicant must also provide a copy of a City Resolution designating the Eligible Historic Resource as a Historic Landmark, Landmark Site, Building, or Archaeological Site, or the Eligible Historic Resource must be located in a designated Historic District and identified as a "Contributing Property" by a City Resolution; and
 - vi. Existing Conditions Report; and
 - vii. Maintenance Plan; and
 - viii. Opinion of title and title report for the property proposed as a Sending Site; and
 - ix. A restrictive covenant signed by all the owners of the proposed Sending Site which includes all the restrictions required in Section 47-36.1.H. of the ULDR; and
 - x. Affidavit signed by all owners of the property proposed as a Sending Site stating that the property does not have any residual Development Rights that jeopardize the preservation and protection of the historic or archeological features of the property. The affidavit must be notarized; and
- b. Receiving Site Information Required:
- i. Name, address, telephone number of applicant or authorized representative for applicant; and

- ii. If the applicant is not the owner, a notarized letter from all of the owners of the property proposed as a Receiving Site authorizing the applicant to apply for a Certificate of Transfer on all of the owners' behalf; and
 - iii. Proof of ownership (deed) of the property proposed as a Receiving Site; and
 - iv. A current signed and sealed property survey of the property proposed as a Receiving Site (dated no later than six months from the date of submission of the application for a Certificate of Transfer), which is signed and sealed by a licensed professional surveyor, authorized to engage in the practice of surveying and mapping in the State of Florida in accordance with Chapter 472, Florida Statutes, as amended; and
 - v. Provide a unity of title recorded in the Public Records of Broward County for the property proposed as a Receiving Site, if the property is located on multiple lots; and
 - vi. Existing Land Use Designation of the property proposed as a Receiving Site; and
 - vii. Existing Zoning of the property proposed as a Receiving Site; and
 - viii. Opinion of title and title report for the property proposed as a Receiving Site; and
- c. Additional items to be included in application submittal:
- i. Draft of a Certificate of Transfer; and
 - ii. Sales contract. Submission of a copy of the unexecuted sales contract for the TDR between all of the buyer(s) and seller(s) of the TDR. The sales contract is not effective until the date that a Certificate of Transfer has been approved by the City; and
 - iii. Letter of intent outlining intended use of TDRs at proposed Receiving Site; and

- iv. A narrative explaining how the criteria in Section 47-36.1.H. of the ULDR are met.

I. The application for a Certificate of Transfer must meet all of the following criteria for approval:

1. The applicant must provide a complete application with all required documentation as outlined in Section 47-36.1.H. of the ULDR; and
2. Sending Site criteria that must be met:
 - a. The property proposed as Sending Site must be located in a Sending Area identified Section 47-36.1.C. of the ULDR; and
 - b. The property proposed as a Sending Site must not have modifications to the floor area or density after the issuance of an unexpired Certificate of Eligibility; and
 - c. No city liens or code violations must be on the property proposed as a Sending Site; and
 - d. The Property proposed as a Sending Site must be designated by a City Resolution designating the Sending Site as a Historic Landmark, Landmark Site, Building, or archaeological site, or the Sending Site must be located in a designated Historic District and identified as a "Contributing Property" by Resolution of the City Commission or Historic Preservation Board; and
 - e. The property proposed as a Sending Site must not have any residual Development Rights that jeopardize the preservation and protection of the historic or archeological features of the property; and
 - f. The Development Rights of the property proposed as a Sending Site must be unused; and
 - g. The Development Rights of the proposed Sending Site must be correctly calculated and meet the requirements of the most recently adopted ULDR and Comprehensive Plan; and
 - h. The restrictive covenant must include all of the following restrictions on the property proposed as a Sending Site:

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- i. The Sending Site will be maintained to a standard consistent with the City of Fort Lauderdale's standards for "Forty (40) year recertification"; and
- ii. Long-term maintenance of the Sending Site as outlined in the Maintenance Plan will be binding on all existing owners and any subsequent owners; and
- iii. The Development Rights sold and transferred by the Sending Site shall remain a restriction on the Development Rights of the existing owners and subsequent owners of the Sending Site in perpetuity even if any building(s) on the Sending Site are demolished; and

- i. The applicant must prove that the Transfer of Development Rights from the Sending Site to the Receiving Site will result in the accomplishment of a public purpose of preserving and protecting historic or archeological properties; and
- j. The Maintenance Plan must be dated no later than ninety (90) days prior to the submission of the application for a Certificate of Transfer and must be prepared by a registered architect or engineer licensed in the State of Florida; and
- k. The Maintenance Plan must describe the historic landmark, historic site, archeological site, or contributing property in a historic district in detail and must identify any existing deficiencies in the building and site along with a remediation plan for the short term, and also outline a plan for the cyclical maintenance of the building and site for the long term; and
- l. The Maintenance Plan must sufficiently outline plans for continued preservation of the Sending Site; and
- m. The Existing Conditions Report must be dated no later than thirty (30) days prior to the submission of the application for a Certificate of Transfer and prepared by a registered architect or engineer licensed in the State of Florida; and
- n. The Existing Conditions Report must describe in detail the current general condition of a locally designated historic landmark, landmark site, archeological site, or contributing property located within a historic district and the Existing Conditions Report must include an architectural description; photographs, a

summary of general observations; and a description of the condition for each architectural, structural, and mechanical element.

3. Receiving Site criteria that must be met:

- a. The property proposed as a Receiving Site must be in a Receiving Area identified in Section 47-36.1.D. of the ULDR and comply with the requirements in Sections 47-36.1.D. and 47-36.1.E. of the ULDR; and
- b. No city liens or code violations must be on the property proposed as a Receiving Site; and
- c. The property proposed as a Receiving Site must be compatible with adjacent existing and planned land uses; and
- d. The property proposed as a Receiving Site must have public facilities and services (e.g. portable water, sanitary sewer, solid waste, transportation, etc.) that will be adequate, consistent with adopted level of service standards; and
- e. The property proposed as a Receiving Site must meet the City and County storm evacuation standards; and
- f. The property proposed as a Receiving Site must not negatively impact environmental and historic resources.

J. Review process - Certificate of Transfer.

1. Determination of application completeness. The DSD shall determine within thirty (30) days of the application submittal whether the application is complete and shall notify the applicant of any missing documentation or additional information requested by the department in writing.
2. If an applicant fails to provide additional information as requested in writing by the DSD within thirty (30) days of the request, the application shall be deemed withdrawn.
3. An Application for a Certificate of Transfer shall be reviewed by the Development Review Committee ("DRC") subject to the criteria in Section 47-36.1 of the ULDR.

4. The DRC shall determine whether the application meets the standards and requirements of the ULDR. After the receipt of a complete application, the DRC shall conduct a meeting to consider the application and the applicant shall have an opportunity to be heard in accordance with the rules of procedure adopted by the DRC. The DRC shall forward its comments for inclusion in the DRC report. The DRC shall provide the applicant with a written report of the comments and recommendations to be discussed at the meeting regarding compliance with the standards and requirements of the ULDR.
5. If the DRC determines that the application for a Certificate of Transfer meets the standards and requirements of the ULDR, the application will be approved, and the Certificate of Transfer will be issued. The Certificate of Transfer will be signed by the Director of the DSD or his or her designee.
6. If the DRC determines that the application for a Certificate of Transfer does not meet the criteria in Section 47-36.1, the application shall be denied. The Director of the DSD or his or her designee will issue written notice of the denial to the applicant.

K. *Appeal of Application for Certificate of Transfer.*

1. An appeal may be filed by the applicant if the application for a Certificate of Transfer is denied in accordance with the following procedure:
 - a. The applicant must file an appeal no later than thirty (30) days after the date of the written notice of denial.
 - b. The applicant must include all of the following documents in the appeal:
 - i. A letter addressed to the City Clerk and to the Director of the DSD requesting an appeal. The letter must include the case number, applicant's name, address, and phone number, property owner(s)'s name, address, and phone number, date of denial, and must specify the grounds for the appeal; and
 - ii. If the applicant is not the owner, a notarized letter from all of the owners of each property authorizing the applicant to appeal the application for a Certificate of Transfer on all of the owners' behalf; and

iii. All documents and papers submitted by the applicant to the DRC, transcripts, staff comments, letter of denial, the application, and recommendations from the City. The applicant must provide these documents at its own expense.

2. Other than the documents required in Section 47-36.1.H and 47-36.1.I. of the ULDR, any other documents submitted by the applicant after the DRC issued its denial, will not be made a part of the record on appeal.

3. Upon receipt of an appeal, the Director of the DSD or his or her designee shall compile the record consisting of the documents, papers, transcripts, minutes, the application, and any documents submitted by the applicant that were considered by the DRC, and schedule the appeal for a Planning and Zoning Board meeting within sixty (60) days.

The Director of the DSD or his or her designee shall transmit the record to the Planning and Zoning Board.

4. The Planning and Zoning Board must determine whether there was a departure from the essential requirements of law in the proceedings appealed; or whether competent substantial evidence does not exist to support the decision.

5. If the Planning and Zoning Board determines that there was not a departure from the essential requirements of law or that competent substantial evidence exists to support the decision, then the decision will be upheld. If the Planning and Zoning Board finds that there was a departure from the essential requirements of the law or that competent substantial evidence does not exist to support the decision, then the Planning and Zoning Board will reject the decision of the DRC denying the application and approve the application.

6. An appeal from the decision of the Planning and Zoning Board must be made to the applicable state court in accordance with Florida law within thirty (30) days after the rendition of the Planning and Zoning Board's decision.

L. *Issuance of Certificate of Transfer.*

1. *Issuance.* The DSD will issue a Certificate of Transfer for the Development Rights after final DRC approval of the application for a Certificate of Transfer.

2. *Certificate of Transfer.* The Certificate of Transfer will officially designate a Sending Site and a Receiving Site. The Certificate of Transfer will also delineate the number of dwelling units (if applicable) transferred to the Receiving Site and the amount of square footage (if applicable) transferred to the Receiving Site.
 3. After an application has been approved, the DSD shall notify the applicant to pick-up the documents to be recorded in the public records of Broward County.
 4. The Development Rights listed in the Certificate of Transfer will prevail in the event of a conflict between the Development Rights listed in a fully executed sales contract and the Development Rights in the Certificate of Transfer.
- M. *Recording of Certificate of Transfer.* The Certificate of Transfer must run with the land of the Receiving Site and must be recorded within 30 days after its approval by the City, in the Public Records of Broward County at the expense of the owner(s) of the Receiving Site. A certified copy of the recorded Certificate of Transfer must be furnished by the owner(s) of the Receiving Site to the DSD within 30 days after the date that it is recorded in the Public Records.
- N. *Effective Date of TDR.* The Development Rights are deemed transferred to the Receiving Site on the date that a fully executed Certificate of Transfer is recorded in the Public Records of Broward County.
- O. *Recording of restrictive covenant.* The restrictive covenant must run with the land of the Sending Site and must be recorded in the Public Records of Broward County at the owner(s) of the Sending Site's expense within 30 days after the Certificate of Transfer is approved by the City. A certified copy of the recorded restrictive covenant must be furnished by the owner(s) of the Sending Site to the DSD within 30 days after the date that it is recorded in the Public Records.
- P. *Restrictive Covenant.* The restrictions contained in the restrictive covenant shall bind all existing and future owners of the Sending Site.
- Q. *Development Rights Sold and Transferred to a Sending Site.* The Development Rights that are sold and transferred by the Sending Site to the Receiving Site, shall remain on the Receiving Site in perpetuity, subject to the City's Unified Land Development Regulations, City's Comprehensive Plan, and the Broward County Land Use Plan. Once development rights are transferred to a Receiving Site, the Receiving Site may not transfer its development rights to any other property, unless prior to the transfer, the owner of the Receiving Site

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applies for and obtains a Certificate of Eligibility and Certificate of Transfer for the designation of the Receiving Site as a Sending Site and the property meets the criteria as a Sending Site. In the event that a Receiving Site becomes a Sending Site and its Development Rights are transferred in accordance with Section 47-36.1.Q. of the ULDR, the development rights will no longer remain in perpetuity and will be considered extinguished from the Receiving Site.

R. *Future Development of Sending Site.* In addition to the requirements herein, future development of the Sending Site will be governed by the restrictive covenant, zoning regulations, City Comprehensive Plan, and Broward County Land Use Plan in effect at the time of the development.

S. *Development Permits and Certificates of Transfer.*

1. Applications for development permits for Sending Sites and Receiving Sites must include an opinion of title and title report of the property that is the subject of the development permit application. The opinion of title and title report must be paid for at the applicant's expense. The title report must include a copy of the recorded restrictive covenant and recorded Certificate of Transfer. The opinion of title and title report must not be older than six (6) months on the date that the application for a development permit is submitted.
2. All proposed developments utilizing TDRs must comply with all the requirements for development permits in accordance with Section 47-24 of the ULDR.
3. Developments utilizing TDRs must also meet applicable neighborhood compatibility requirements, be compatible with adjacent existing and planned land uses and must be compliant with master plans adopted in the ULDR or meet the intent of the design guidelines included in drafted master plans developed by the Department of Sustainable Development.
4. The purchase of a TDR does not guarantee a use or a development permit. Uses and development permits are subject to all other applicable development regulations in the ULDR.

SECTION 3. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

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SECTION 4. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. That this Ordinance shall be in full force and effect thirty days after final passage and adoption.

PASSED FIRST READING this _____ day of _____, 2021.

PASSED SECOND READING this _____ day of _____, 2021.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI