

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE IV (DOWNTOWN MASTER PLAN), SECTION 94-131 (INCENTIVE PROGRAMS – GENERAL), SECTION 94-132 (TRANSFER OF DEVELOPMENT RIGHTS PROGRAM), AND SECTION 94-133 (SPECIAL DISTRICT INCENTIVES) TO CREATE A SPECIAL INCENTIVE WITHIN THE QUADRILLE GARDEN DISTRICT FOR CLASS A OFFICE AND HOTELS; CREATING TABLE IV-55 BUILDING REQUIREMENTS-QGD 10-30; AMENDING FIGURE IV-35 (TDR SENDING AND RECEIVING SITES); DECLARING THESE AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, on June 29, 2009, the City Commission approved Ordinance Nos. 4212-09 and 4213-09 adopting the Downtown Master Plan Zoning Atlas and the Downtown Master Plan Urban Regulations; and

WHEREAS, the Downtown Master Plan Urban Regulations include specific requirements regarding the transfer of development rights program; and

WHEREAS, the transfer of development rights program establishes the sending sites, and the receiving sites requirements; and

WHEREAS, the City's Economic Development Strategy, dated April 2, 2014, calls for the City to target the construction of additional Class A office space in the Central Business district; and identifies the benefits of additional hotels that will enhance the tourist market and success of the Palm Beach County Convention Center; and

WHEREAS, while the City currently has four Class A office buildings in the downtown area comprising more than one million square feet of office space yet the available square footage in these buildings is virtually non-existent; and

WHEREAS, the City desires to expand the potential locations and provide incentives to encourage the development of Class A office and full-service hotel uses; and

WHEREAS, the increased height and development capacity does not result in an increase of the maximum allowable commercial intensity currently permitted in the Comprehensive Plan but simply increases the amount of TDRs that can be transferred to certain areas if Class A office uses and full-service hotel uses are provided; and

Language underlined added, and language stricken deleted.

Asterisks **** indicate language not amended which has been omitted to save space.

WHEREAS, the total development in the downtown is regulated by the Transportation Concurrency Exemption Area approvals granted through the approval of the Downtown Master Plan; and

WHEREAS, the City Commission desires to create an incentive within the Quadrille Garden District for Class A office and full-service hotel uses, complementing the existing Quadrille Business District Class A office and full-service hotel incentive.

WHEREAS, the Planning Board recommended approval (5-0) of this request to the City Commission after a Public Hearing on December 16, 2014; and

WHEREAS, the Downtown Action Committee recommended approval (6-1) of this request to the City Commission after a Public Hearing on January 14, 2015; and

WHEREAS, the public hearings were advertised in the Palm Beach Post, and proof of publication is housed in the Planning and Zoning Division records.,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article IV (Downtown Master Plan), Section 94-131 (Incentive Programs – General) is hereby amended at subsection (b)(7) which shall now read as follows. All other portions of this Section shall be unchanged.

Sec. 94-131. Incentive Programs—General.

(b) General standards.

- (1) Proposed developments using an incentive program shall be subject to all requirements and conditions of this chapter.
- (2) Proposed developments using an incentive program shall comply with the particular TDR receiving site designation indicated in Figure IV–35 and its corresponding incentive building requirement table, as set forth in Tables IV-41 through IV-53.
- (3) Multiple incentives may be used together in conjunction with development, unless otherwise prohibited by this chapter.
- (4) Total increases in height or FAR permitted by one or a combination of incentive programs shall not exceed the maximum height or FAR as established by Figure IV-35 and the corresponding incentive building requirement table.

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- (5) Designated historic properties, conservation districts, and properties eligible for historic designation, shall not be eligible for incentives which increase height or FAR, unless specifically authorized by Section 94-133(h). Lots which include eligible historic structures may be eligible for incentives, provided the subject historic property is preserved according to the secretary of interior standards, and integrated as part of the new development in a manner which maintains the integrity of the historic structure.
- (6) Lots on which buildings eligible for designation as historic structures exist as of the effective date of this regulation shall not be eligible for any incentive program if such eligible historic structures are demolished. The list indicating all the buildings eligible for historic designation within the downtown master plan area, created and maintained by the historic preservation planner, and updated from time to time, shall identify those lots which will not qualify for incentives if the existing building is demolished.
- (7) For properties indicated as containing a future ROW in Figure 3 4 of the Zoning Atlas, there is no obligation to dedicate such ROW unless the property owner elects to use the applicable incentive program. If an incentive program is used, the actual dedication of the future right of way shall occur prior to the issuance of the building permit for any portion of the development.

SECTION 2: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article IV (Downtown Master Plan), Section 94-132 (Transfer of Development Rights Program) is hereby amended at subsection (e)(4) which shall read as follows. All other portions of this Section shall be unchanged.

Sec. 94-132. Transfer of Development Rights Program

(e) *Receiving site requirements.* To be eligible as a receiving site, a property shall comply with the following conditions:

- (1) The property is depicted as a TDR receiving site on Figure IV-35.
- (2) The maximum number of development rights which a receiving site can receive is shown in Figure IV-35 and the corresponding incentive building requirements table for the subdistrict.
- (3) For properties on which future ROW is indicated on Figure IV-35, and that elect to use an incentive program, the following requirements apply:
 - a. Any new ROW setback and/or land dedication indicated in Figure 4 of the Zoning Atlas shall be provided as required in the corresponding incentive building requirement table. The setback area and/or land dedications shall become part of the public right-of-way.

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- b. The setback area and/or land dedications may be included as part of the lot area for the purposes of calculating the FAR.
 - c. The setback area and/or land dedications shall be excluded as part of all other building requirement calculations.
 - d. Underground parking shall be permitted under the new ROW setback and/or land dedication.
 - e. Proposed developments shall not be permitted to build over the new ROW setback and/or land dedication.
- (4) For properties designated as a QBD-8(25), ~~or~~ QBD-10(25), or QGD-10(30) TDR receiving site, TDR eligibility is restricted to the development of a class A office or a full service hotel according to Section 94-133(c) and (d).
- (5) The amount of development rights that can be transferred to a receiving site is calculated by multiplying the lot area by the additional FAR allowed in the corresponding incentive building requirement table as indicated by Figure IV-35.
- (6) Proposed developments which receive site plan approval utilizing the benefits of the TDR program must obtain DAC approval for the transfer of development rights and must possess the certificate of transfer before the site plan approval expires.

SECTION 3: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article IV (Downtown Master Plan), Section 94-133 (Special District Incentives) is hereby amended at subsections (b), (c), (d) and (e) which shall read as follows. All other portions of this Section shall be unchanged.

Sec. 94-133. Special District Incentives.

(b) Special district incentives requirements.

- a. The proposed development shall comply with all the receiving site requirements in section 94-132(e).
- b. The proposed development shall obtain city commission authorization for the conveyance of city-owned development rights as a requirement of site plan approval, if City-owned TDRs are utilized. If the site plan approval expires prior to commencement of construction, the development rights transferred by the city ~~at no cost~~ are forfeited and revert back to the city.
- c. The proposed development shall comply with all additional requirements applicable to the special incentive.

Language underlined added, and language stricken deleted.

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(c) *Quadrille Business District class A office incentive.* The city may transfer development rights ~~at no cost~~ for a proposed development which meets each of the following requirements:

- (1) The property is designated as QBD-8(25) of QBD-10(25) on Figure IV-35.
- (2) The proposed development shall comply will all the subdistrict requirements and shall not exceed the maximum FAR and height allowed by Table IV- 41 or Table IV-43.
- (3) A minimum of 60% of the proposed development's gross building area shall be dedicated to class A office use. In no event shall the gross building area dedicated to class A office use be less than 200,000 square feet.
- (4) The city's TDRs shall be dedicated for use as class A office space only.
- (5) Additional TDRs may be purchased for other uses as long as the total gross building area does not exceed the maximum FAR and height allowed by Table 41 or Table 43.

(d) *Quadrille Business District full service hotel incentive.* The city may transfer development rights ~~at no cost~~ for a proposed development which meets each of the following requirements:

- (1) The QBD full service hotel incentive shall be applicable to the first two full service hotels which apply for formal site plan review in compliance with the requirements of this chapter. Failure to comply with the formal site plan requirements and approval time frames shall disqualify the proposed development.
- (2) The property is designated as QBD-8(25) or QBD 10-(25) on Figure IV-35.
- (3) The proposed development shall comply will all the subdistrict requirements and shall not exceed maximum FAR and height allowed by Table 41 or Table 43.
- (4) The proposed development shall include a full service hotel.
- (5) The city's TDRs shall be dedicated for use as a full service hotel only.
- (6) Additional TDRs may be purchased for other uses as long as the total gross building area does not exceed the maximum FAR and height allowed by Table 41 or Table 43.

~~(e) *Quadrille Garden District hotel incentive.* The city may transfer development rights at no cost for a proposed development which meets the following requirements:~~

- ~~(1) The property is designated as QGD 10(15) on Figure IV 35.~~
- ~~(2) The proposed development shall comply will all the subdistrict requirements and shall not exceed the maximum FAR and height allowed by Table IV 49.~~
- ~~(3) The total amount of TDRs provided by the city shall not exceed one half of the additional gross building area allowed by the additional FAR indicated by Table IV 49.~~
- ~~(4) The proposed development shall include a hotel with a minimum of 100 rooms.~~

Language underlined added, and language stricken deleted.

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~~(5) The city's TDRs shall be developed as hotel use only.~~

~~(6) Additional TDRs may be purchased for other uses as long as the maximum FAR does not exceed the maximum FAR allowed by Table IV-49 for QGD 10-15 story receiving sites.~~

(e) Quadrille Garden District Class A office and hotel incentive. Properties may purchase transfer development rights for a proposed development which meets the following requirements:

(2) The property is designated as QGD-10(30) on Figure IV-35.

(2) The proposed development shall comply with all the subdistrict requirements and shall not exceed the maximum FAR and height allowed by Table IV-55.

(3) The proposed development shall include a minimum 200,000 square feet of Class A office building, or a full service hotel. If both uses are provided, the maximum height allowed can be increased from 25 stories and 380 feet to 30 stories and 455 feet.

(4) The city, at its own discretion, may negotiate the sale of city-owned TDRs to eligible sites for the construction of class A office uses and full service hotels.

(5) TDRs may be purchased from historic eligible sending sites or eligible open spaces sending sites.

SECTION 4: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article IV (Downtown Master Plan), is hereby amended to add Table IV-55: Building Requirements-QGD 10-30 which establishes the building requirement for the new QGD 10-30 TDR receiving sites as set forth in Exhibit A.

SECTION 5: Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances of the City of West Palm Beach, Article IV (Downtown Master Plan), is hereby amended to amend and replace Figure IV-35, TDR Sending and Receiving Sites, which shall now appear as set forth in Exhibit B.

SECTION 6: The City Commission of the City of West Palm Beach hereby finds and determines that the amendments described in this Ordinance are consistent with the Comprehensive Plan of the City adopted pursuant to Sections 163.3161, et seq., Florida Statutes.

Language underlined added, and language stricken deleted.

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SECTION 7: The City Commission of the City of West Palm Beach hereby finds and determines that the amendments described in this Ordinance are consistent with the standards set forth in Section 94-32 of the Zoning and Land Development Regulations.

SECTION 8: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 9: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 10: Authority is hereby granted to codify the text amendments to the Code of Ordinances ordained in Sections 2, 3, 4, 5 and 6 of this Ordinance.

SECTION 11: This Ordinance shall become effective in accordance with law.

Exhibit A

TABLE IV- 55: BUILDING REQUIREMENTS – QGD-10 – 30 STORY RECEIVING SITES

1) <u>ADDITIONAL FAR</u>					
<u>All Lot Frontages</u>			<u>An additional 2.75. For a maximum of 5.5</u>		
2) <u>ADDITIONAL HEIGHT</u>					
<u>An additional 20 stories or 300' whichever is less; 20 (300'). For a maximum of 30 stories or 455' whichever is less; 30 (455')</u>					
3) <u>SETBACKS</u>					
<u>STREET DESIGNATION/</u> <u>SIDE/</u> <u>REAR</u>	<u>STORIES</u>				
	<u>TYPICAL SETBACKS</u>		<u>CONDITIONAL SETBACKS</u>		
	<u>GROUND TO 30 (455')</u>		<u>RESIDENTIAL</u> <u>USES ON GROUND</u> <u>FLOOR</u> <u>MINIMUM</u>	<u>ABOVE 3 (50')</u> <u>PARKING USES</u> <u>ONLY</u> <u>MINIMUM</u>	<u>ABOVE 7</u> <u>(110')</u> <u>MINIMUM</u>
	<u>MINIMUM</u>	<u>MAXIMUM</u>			
<u>Avenue</u>	<u>16'</u>	<u>30'</u>	<u>23'</u>	<u>31'</u>	<u>---</u>
<u>Primary Pedestrian</u>	<u>16'</u>	<u>30'</u>	<u>23'</u>	<u>31'</u>	<u>---</u>
<u>Dixie Highway</u>	<u>12'</u>	<u>35'</u>	<u>19'</u>	<u>27'</u>	<u>66'</u>
<u>Secondary</u>	<u>12'</u>	<u>35'</u>	<u>19'</u>	<u>27'</u>	<u>---</u>
<u>Side Interior</u>	<u>0' or NFPA</u>	<u>---</u>	<u>0' or NFPA</u>	<u>---</u>	<u>20' *</u>
<u>Rear</u>	<u>5'</u>	<u>---</u>	<u>5'</u>	<u>---</u>	<u>---</u>
<u>* 0' for lots with lot frontages < 110'. Also, 0' for portions of facades that abut existing buildings on adjacent lots.</u>					
4) <u>MAXIMUM BUILDING FOOTPRINT</u>					
<u>STORIES</u>	<u>LOT AREA</u>				
	<u><50,000SF</u>		<u>50,000SF – 80,000SF</u>	<u>>80,000SF</u>	
	<u>87%</u>		<u>84%</u>	<u>82%</u>	
	<u>90%</u>		<u>87%</u>	<u>85%</u>	
			<u>60%</u>	<u>55%</u>	
<u>Tower: 8 to 30 (455')</u>			<u>55%</u>	<u>50%</u>	
<u>* The maximum building footprint may be adjusted in compliance with section 94-109.</u>					
5) <u>MINIMUM OPEN SPACE</u>					
<u>TYPE</u>	<u>LOT AREA</u>				
	<u><50,000SF</u>	<u>50,000SF – 80,000SF</u>	<u>>80,000SF</u>		
<u>Public</u>	<u>---</u>	<u>3%</u>	<u>5%*</u>		
<u>Semi-Public</u>	<u>When Residential Uses on Ground Floor: Walk-up gardens shall be provided.</u>				
<u>Private</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>		
<u>*Open space shall be provided adjacent to the building entrance, and shall be consolidated into one single open spaces.</u>					
6) <u>MINIMUM ACTIVE USES</u>					
<u>STREET DESIGNATION</u>	<u>GROUND FLOOR</u>		<u>LINERS: 2 TO 5 STORIES (68')</u>		
<u>Avenue</u>	<u>60%</u>		<u>60%</u>		
<u>Primary Pedestrian</u>	<u>80%*</u>		<u>60%</u>		
<u>Dixie Highway</u>	<u>80%</u>		<u>60%</u>		
<u>Secondary</u>	<u>30%</u>		<u>---</u>		
<u>Evernia Street</u>	<u>60%</u>		<u>60%</u>		
<u>* 65% for lots with buildable lot frontage ≤ 250'</u>					
7) <u>MINIMUM TRANSPARENCY FOR ACTIVE USES ON GROUND FLOOR</u>					
<u>STREET DESIGNATION</u>	<u>PERCENTAGE OF TRANSPARENCY</u>				
<u>Avenue</u>	<u>50%</u>				
<u>Primary Pedestrian</u>	<u>50%</u>				
<u>Secondary</u>	<u>30%</u>				
8) <u>MINIMUM ACTIVE USE LINER DEPTH</u>					
<u>ACTIVE USE</u>	<u>GROUND FLOOR</u>		<u>LINERS: 2 TO 5 STORIES (68')</u>		
<u>Commercial</u>	<u>25'</u>		<u>20'</u>		
<u>Residential</u>	<u>15'</u>		<u>15'</u>		

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Exhibit B

**FIGURE IV-35
TDR SENDING AND RECEIVING SITES**

