



**REQUEST:**

Amendment to the City's Unified Land Development Regulations (ULDR); Proposed revisions to Section 47-13.20, Downtown Regional Activity Center Review Process and Special Regulations; and Section 47-38C, Education Mitigation; generally described as amendments for the Downtown Regional Activity Center to address the new 5,000 residential units.

<b>Case Number</b>	T17009
<b>Applicant</b>	City of Fort Lauderdale
<b>ULDR Sections</b>	47-13.20, Downtown RAC Review Process and Special Regulations 47-38C, Education Mitigation
<b>Notification Requirements</b>	10-day legal ad
<b>Action Required</b>	Recommend approval or denial to City Commission
<b>Authored By</b>	Jim Hetzel, Principal Planner

**BACKGROUND:**

The Downtown Regional Activity Center (RAC) is a land use category intended to encourage development and redevelopment in the City's Downtown urban center, which is an area of regional significance.

The maximum allowable residential density in the Downtown RAC is outlined in the City's Comprehensive Plan. The initial base density as identified in the City's 1989 Comprehensive Plan was established at 5,100 residential dwelling units. In 2003 and 2006, amendments to the Downtown RAC increased the allowable density from 5,100 dwelling units to 11,060 dwelling units. In 2008, as the economy began to improve, an influx of new development resulted in the allocation of the remaining dwelling units from the density pool. In order to address the availability of density, the City initiated a Land Use Plan Amendment (LUPA) application in 2014 to add 5,000 new residential units to the Downtown RAC. The LUPA was approved by Broward County in December 2015 and the City Commission held an adoption hearing to conduct final approval in January 2016.

As part of the LUPA approval, Broward County enacted conditions which included updating the Interlocal Agreement with Broward County, School Board of Broward County, and the City regarding education mitigation related to the impacts of the new 5,000 units. The City has an existing agreement reflecting previous LUPAs and worked extensively with the other agencies to amend the existing agreement, which was completed and recorded on March 31, 2017. With the agreement completed, staff is proposing text amendments to the ULDR for consistency in Downtown RAC dwelling unit allocation requirements.

**DESCRIPTION OF ULDR AMENDMENTS:**

**Section 47-13.20, Downtown Regional Activity Center Review Process and Special Regulations:**

The proposed language includes a new section regarding residential density to provide better clarity to the various amendments that have added dwelling units to the Downtown RAC. Essentially, the proposed language divides the density into the 1989 original base and Post 2003 Units, which includes any LUPAs from 2003 forward.

**Section 47-38C, Education Mitigation**

The proposed language includes revisions that align the ULDR language with the amendments to the Interlocal Agreement between Broward County, School Board of Broward County, and the City regarding education mitigation. Specifically, the language separates mitigation fee amounts for dwelling units associated with previously approved LUPAs and the new 5,000 units.

**Comprehensive Plan Consistency:**

The proposed amendments are consistent with the City's Comprehensive Plan. Staff has determined that the proposed amendment is generally consistent with the City's Comprehensive Plan Goals, Objectives and Policies, including the Future Land Use Element, Goal 1, Objective 1.14: Continue to utilize design guidelines and land development standards unique and specific to the Downtown Regional Activity Center (Downtown-RAC) area to promote quality development of a desirable nature in the City's Downtown.

**PLANNING & ZONING BOARD REVIEW OPTIONS:**

The Planning and Zoning Board, in its capacity as the Local Planning Agency, shall determine whether the proposed change is consistent with the City of Fort Lauderdale's Comprehensive Plan and whether the Planning and Zoning Board recommends approval of the proposed amendments to the City Commission.

**EXHIBITS:**

1. Exhibit 1, Proposed ULDR Section 47-13.20, Downtown Regional Activity Center Review Process and Special Regulations
2. Exhibit 2, Proposed ULDR 47-38C, Education Mitigation

Exhibit 1

Sec. 47-13.20. - Downtown RAC review process and special regulations.

A. Applicability. The following regulations shall apply to those uses permitted within the Downtown RAC district, as shown on the List of Permitted and Conditional Uses, Sections 47-13.10 to 47-13.14.

B. Density. The permitted density within the Downtown RAC is provided in the City of Fort Lauderdale Comprehensive Plan, Permitted Land Uses, as amended from time to time, and per Section 47-28, Flexibility Rules, and any other applicable provisions in the Unified Land Development Regulations.

1. Allocation of units.

a. The Department shall review development permits to ensure compliance with the maximum number of dwelling units.

b. Unit allocation shall be on a first come, first served basis and allocated at the time of site plan approval.

c. Upon expiration of approved site plan, the unused density shall be returned to the density pool from which density was allocated.

2. 1989 Density. Regulations for the assignment of the five thousand one hundred (5,100) dwelling units allocated by the 1989 Comprehensive Plan are provided in Sec. 47-13.20.C through Sec. 47-13.20.O.

3. Post 2003 Units. Dwelling units in excess of the five thousand one hundred (5,100) in the Downtown RAC, as certified by amendments to the Comprehensive Plan, shall be allocated in accordance with the following:

a. Application and Review Process. A development application shall be submitted to the Department as provided in ULDR, Section 47-24.1.

b. Criteria. An application for a development permit requesting the allocation of Post 2003 units shall be reviewed for compliance with the ULDR regulations, as applicable to the proposed development, and shall meet the Downtown Master Plan ("DMP") design guidelines or has proposed alternative designs which meet the intent of the DMP. In the event compliance with the ULDR would not permit consistency with the design guidelines, the design guidelines shall govern.

c. Effective Date. The development permit shall not take effect until the 15 day City Commission Request for Review has expired. Effective date shall be the 15 day expiration.

B. C. General design ~~and density standards~~. Development in any RAC district is subject to the following standards:

1. *First floor exterior walls parallel to public rights-of-way.* First floor exterior walls parallel to any public rights-of-way within RAC districts shall not be permitted to extend for more than twenty (20) feet, unless such walls contain windows, doors, recesses of four (4) feet or more, or other transparent or decorative elements.

2. *Roof lines.* Roof lines within the RAC-CC and RAC-AS districts shall be designed with sloping roofs or stepped roof forms. Flat roofs may be permitted, but must have a parapet facing any street front. Mechanical roof-top equipment must be screened from all grade-level views within any RAC district.

3. *Design criteria.* Within all RAC districts principal structures shall provide a minimum of four (4) of the following architectural features: variation in rooflines, terracing, cantilevering, angling,

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balconies, arcades, cornices, architectural ornamentation, color and material banding, or courtyards, plazas or landscaped areas which encourage pedestrian interaction between the development site and public areas. Every façade of a principal structure shall contain at least three (3) of the above architectural features.

~~4.—Density.~~

~~a.—Density within the entire Downtown RAC is limited to a total of five thousand one hundred (5,100) dwelling units. Additional dwelling units above this limit may be permitted as provided in the City of Fort Lauderdale Comprehensive Plan, as amended from time to time, as per Section 47-28, Flexibility Rules, and any other applicable provisions in the Unified Land Development Regulations. DRC review shall assure compliance with the maximum number of dwelling units permitted. The department is responsible for monitoring the availability of density. Regulations for the assignment of the five thousand one hundred (5,100) dwelling units allocated by the 1989 Comprehensive Plan are provided in this subsection a., and shall be allocated at the time of site plan approval on a first come, first served basis. Unused density shall be returned to the density pool upon expiration of approved site plans.~~

~~b.—Dwelling units in excess of the five thousand one hundred (5,100) in the Downtown RAC as certified by the Comprehensive Plan amendments of 2003 and 2007 (hereinafter referred to as "post 2003 du's") shall be allocated in accordance with the following:~~

~~1.—Application. An application for a development permit that requires the allocation of post 2003 du's shall, in addition to meeting all of the requirements as provided in the ULDR for the type and location of the development proposed, shall include additional information that shows how the proposed development meets the criteria provided in subsection 3. of this subsection b.~~

~~2.—Review process. An application for a development permit that requires the allocation of post 2003 du's shall be submitted to the same body and go through the same review process as required by the ULDR for the proposed development. The action of the body approving the development permit that includes the allocation of post 2003 du's shall not take effect until the application is reviewed and approved by the City Commission.~~

~~3.—Criteria. An application for a development permit that includes the allocation of post 2003 du's shall be reviewed for compliance with the criteria applicable to the proposed development as provided in the ULDR. The development shall also be reviewed to determine if the development is consistent with the design guidelines or has proposed alternative designs which meet the intent of the design guidelines provided in the Downtown Master Plan ("DMP") and any subsequent amendments to the DMP. In the event compliance with the ULDR would not permit consistency with the design guidelines, the design guidelines shall govern.~~

~~4.—Effective date and expiration date of approval. The allocation of post 2003 du's shall take effect at the time the development permit takes effect as provided in the ULDR. The allocation of dwelling units shall expire upon expiration of the development permit in accordance with the ULDR.~~

~~e.4. Density in the RAC-TMU District. Building sites within the RAC-TMU shall be eligible to apply for additional dwelling units above twenty-five (25) dwelling units per net acre, subject to the review criteria as provided in Section 47-25.3, Neighborhood Compatibility.~~

~~5-5. RAC fencing. Within the RAC districts, chain-link fencing shall not be permitted along any pedestrian priority or image street. In all other areas of the RAC, any chain-link fencing shall be black or green vinyl coated. Temporary fencing may be permitted pursuant to Section 47-19.5.~~

6. The provisions of this subsection ~~CB~~ shall not apply to an existing structure in existence on the effective date (June 28, 1997) of the ULDR unless such structures are voluntarily demolished by

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more than fifty percent (50%) of the total gross floor area of the building or more than fifty percent (50%) of its replacement value.

**G-D** *Parking regulations.*

1. Off-street parking regulations are as provided in Section 47-20, Parking and Loading Requirements, except as provided herein:
  - a. *RAC-CC and RAC-AS districts.* Development within the RAC-CC and RAC-AS districts shall be exempt from providing off-street parking requirements, except for a nonresidential use on a parcel located within one hundred (100) feet of a parcel zoned RAC-UV, RAC-RPO, or RAC-TMU.
  - b. *RAC-UV, RAC-WMU, and RAC-RPO districts.* RAC-UV, RAC-WMU and RAC-RPO district residential parking requirements are reduced from the general parking requirements as provided in Table 3, Section 47-20, Parking and Loading Requirements.
  - c. *Vehicular use area regulations.* A vehicular use area within any RAC district constructed after the effective date (June 28, 1997) of the ULDR, shall not be located within fifty (50) feet of a pedestrian priority or image street, or the seawall or high water mark of the New River, except as provided in subsection C.1.d. Curbcuts providing access to parking areas shall be located on streets other than pedestrian priority and image streets or on alleys, except where a property only has access from a pedestrian priority or image street, or it is determined based on a traffic study that access from a pedestrian priority street or image street is necessary for safe and efficient vehicular and pedestrian circulation.
  - d. A vehicular use area that is either:
    - i. On a parcel within the RAC-TMU district; or
    - ii. That is less than one hundred twenty-five (125) feet in depth; or
    - iii. Less than fifteen thousand (15,000) square feet in area; or
    - iv. Is located along Federal Highway;need only provide a minimum of a twenty (20) foot setback from pedestrian priority or image streets, or from the seawall or high water mark of the New River.
2. *Parking garage.* The minimum design standards for a parking garage are:
  - a. Sloped garage ramps facing and within one hundred (100) feet of pedestrian priority and image streets and the seawall or high water mark of the New River shall have ornamental grating or other architectural features which screen the sloped ramp from view from the pedestrian priority and image street.
  - b. Parked vehicles shall be screened from view from abutting public rights-of-way, excluding alleys. Screening may be provided by intervening buildings, architectural detailing such as ornamental grating, or landscaping.
  - c. Pedestrian walkways shall be provided between a parking garage and any principal or accessory building it serves and to abutting public spaces.
  - d. A parking garage shall meet the following architectural guidelines:
    - i. When a parking garage is provided for a principal structure on the same plot, the design of the parking garage shall complement and contain architectural features consistent with the principal structure, or
    - ii. When a parking garage is the principal use on a plot, it shall be designed so that the uppermost parapet or roof of the parking garage contains elevational changes averaging at least three (3) feet in height and ten (10) feet in length every fifty (50) horizontal feet or less.

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**D-E** *Open space for residential uses.* For development in the RAC districts, except for RAC-CC, open space shall be required for residential uses. Open space, for the purposes of this section, shall include all areas on the site not covered by structures, other than covered arcades, or not covered by vehicular use area. Covered arcades with a minimum width of ten (10) feet and at least one (1) side open to a street shall be credited towards open space requirements. The required open space shall include seating and shade provided by trees, canopies, or other unenclosed shade structures. A minimum of fifty percent (50%) of the required open space shall be in landscaping. At least forty percent (40%) of the required open space shall be provided at-grade and the remaining open space shall be accessible to individual residential units or through a common area, or both. The total amount of open space required shall be calculated based on the size and density of the development, as follows:

1. For developments of fifty (50) residential units or less, or developments of twenty-five (25) dwelling units per acre or less density: A minimum of two hundred (200) square feet of open space per unit;
2. For developments of between fifty-one (51) and one hundred fifty (150) residential units, or developments of greater than twenty-five (25) dwelling units per acre and up to sixty (60) dwelling units per acre density: A minimum of one hundred fifty (150) square feet of open space per unit;
3. For developments of more than one hundred fifty (150) residential units, or developments of greater than sixty (60) dwelling units per acre density: A minimum of one hundred (100) square feet of open space per unit;
4. For developments which fall into more than one (1) of the above categories, the lesser open space requirement shall apply.

**E-F** *RAC landscape requirements.* Surface parking lots within the RAC district shall meet the landscape requirements for vehicular use areas as specified in Section 47-21, Landscaping and Tree Preservation Requirements.

**F-G** *Signs.* Sign requirements are:

1. Downtown RAC district signs shall be as permitted in the central beach area zoning district pursuant to Section 47-22.4.C.13, except that message center signs and time and temperature signs shall be permitted, as provided in Section 47-22, Sign Requirements.
2. *Amortization period.* All signs in the RAC zoning districts shall comply with these sign code provisions within five (5) years of the effective date (June 28, 1997) of the ULDR.

**G-H** *Street and waterway treatment.* There are hereby identified streets and a waterfront corridor located within the downtown RAC which are currently accommodating, or are intended to accommodate, intensive pedestrian traffic, or which serve as major pedestrian streets and major vehicular entryways, or major gateways into the downtown, and which will, therefore, require adjacent development to accommodate said pedestrian and vehicular usage and aesthetic considerations. The streets and waterfront corridor are identified below:

1. *Pedestrian priority streets.*
  - a. Las Olas Boulevard, from Brickell Ave. to the east RAC boundary.
  - b. Brickell Avenue, from Las Olas Blvd. to S.W. 2nd Street.
  - c. S.W. 2nd Street, from Brickell Ave., West to S.W. 7th Ave.
  - d. Andrews Avenue, from Broward Blvd. to Las Olas Blvd.
  - e. S.E. 6th Street, from Andrews Ave. to S.E. 3rd Ave.
  - f. S.E. 5th Avenue from Las Olas Blvd. to the New River.

Special regulations for pedestrian priority streets are provided in subsection H.

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### 2. *Image streets.*

- a. N.E./N.W. 6th Street (Sistrunk Boulevard), from the FEC rail line to Federal Highway.
- b. N.E./S.E. 3rd Avenue from N.E. 6th Street to S.E. 6th Street.
- c. Andrews Ave. from Flagler Dr. to Broward Blvd. and from Las Olas Blvd. South to RAC boundary.
- d. Broward Boulevard from S.W./N.W. 7th Avenue to N.E./S.E. 8th Avenue.
- e. Federal Highway from N.E. 6th Street to S.E. 2nd Street.

Special regulations for image streets are provided in subsection I.

### 3. *New River waterfront corridor.* Special regulations for the New River waterfront corridor are provided in subsection J.

### 4. *All other RAC streets.* All streets other than those included as pedestrian priority and image streets within the boundaries of the downtown RAC. Special regulations for these streets are provided in subsection K.

**H.J** *Pedestrian priority streets.* Development of property located abutting pedestrian priority streets shall meet the following requirements:

#### 1. *Building frontage setback requirement.*

- a. A minimum of seventy-five percent (75%) of the linear frontage of a parcel along the pedestrian priority street shall be occupied by a ground floor building wall located ten (10) feet from the front property line. All other portions of the building shall be located a minimum of five (5) feet from the property line, except as provided for in subsection H.9. Support columns may be located in the ten (10) foot ground floor setback, provided their combined width does not exceed twenty-five percent (25%) of the linear dimension of the front building wall. The minimum linear frontage and ten (10) foot ground floor building wall requirement of this subsection shall not apply to automotive service stations where allowed within the RAC or to development along Federal Highway, but the requirement of subsection K.1.a shall apply.
- b. *Modification of building frontage setback requirements within the RAC-TMU district.* Building frontage setback requirements for the RAC-TMU may be modified by the DRC to require greater setbacks above those specified in subsection H.1.a, subject to the review criteria as provided in Section 47-25.3, Neighborhood Compatibility, as provided in Section 47-25.3.A.3.e.iii. Setbacks may also be modified by the DRC for building sites within the RAC-TMU that apply for additional dwelling units above twenty-five (25) dwelling units per net acre, and shall also be subject to the review criteria as provided in Section 47-25.3, as provided in Section 47-25.3.A.3.e.ii.

#### 2. *General setback and setback requirements.* Portions of the structure located more than nine (9) feet above the sidewalk shall be subject to the setbacks as required in subsection H.9. Non-load-bearing walls or fences of no greater than forty-two (42) inches in height may be permitted in the setback or stepback areas. An increase in the setbacks may be required for pedestrian amenities, such as public plazas as defined in Section 47-9, X district, pedestrian entries, outdoor dining areas and similar public use areas, or landscaping, as approved by the DRC.

#### 3. *First floor uses.* A minimum of seventy-five percent (75%) of the building front along a pedestrian priority street required as provided in subsection H.1.a for a depth of at least twenty (20) feet from the building front shall be used for retail sales, retail banking, residential uses, food and beverage, commercial recreation, governmental facility, service use (not including professional office), public museum or art gallery, or other public cultural facility accessible to the public and occupants of the building in which the use is located.

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4. *First floor transparency.* A minimum of thirty-five percent (35%) of the first floor façade of a building along a pedestrian priority street shall utilize transparent elements, such as windows, doors, and other fenestration.
5. *Awnings, canopies, arcades.* Awnings, canopies or arcades shall be required over all doors, windows and other transparent elements provided to satisfy the provisions of subsection H.4, along a pedestrian priority street. The height of the awnings, canopies or arcades shall be between eight (8) feet and twelve (12) feet, and shall be a minimum of four (4) feet in depth. Such elements shall not be subject to the ten (10) foot setback requirement identified in subsection H.1.a.
6. *Cornice.* A cornice shall be provided on the side of a building along a pedestrian priority street at a minimum of twelve (12) feet above the sidewalk or at a height similar to the cornice on an abutting property, but in no case shall the cornice exceed thirty-five (35) feet or two (2) floor levels whichever is less in height.
7. *Street trees.* Street trees as defined by Section 47-21.2, Landscaping and Tree Preservation, shall be provided as follows:
  - a. Shade trees shall be provided at least every forty (40) lineal feet along the area fronting the pedestrian priority street. Palm trees or ornamental trees may be permitted when existing or proposed physical conditions may prevent the proper growth of the shade tree, as determined by the DRC, at least every twenty (20) lineal feet along the frontage. All trees shall satisfy the following standards at the time of planting:
    - i. Shade trees: Minimum fourteen (14) feet height and eight (8) foot spread, with minimum six (6) foot ground clearance.
    - ii. Palm trees: Minimum eighteen (18) foot height, with a minimum of eight (8) feet of wood.
    - iii. Ornamental trees: Minimum twelve (12) feet in height and six (6) foot spread, with a minimum six (6) foot ground clearance.
  - b. Root zone and pervious surface areas shall be provided as follows:
    - i. Areca, Carpenteria, Cocothrinax, Phychospermia, Rhapis, Sabal, and Washingtonia: No less than nine (9) square feet of pervious surface area and no dimension less than three (3) feet.
    - ii. All other shade or ornamental: No less than sixty-four (64) square feet of pervious surface area and no dimension less than eight (8) feet.
    - iii. All other palm types: No less than twenty-five (25) square feet of pervious surface area and no dimension less than five (5) feet.

Pervious surface area, for purposes of this requirement, may be provided through open planting beds, tree grates, sand-set pavers, or any combination thereof.
  - c. The DRC may permit alternative landscape treatment along the frontage of a pedestrian priority street where pedestrian entries to plazas or principal structures are provided. Specimen palm plantings or other landscape design treatments may be installed to complement the architectural design of the structure or plaza in lieu of shade trees, limited to no more than fifty percent (50%) of the plot frontage on a pedestrian priority street.
8. *Location of street trees.* The requirements for street trees, as provided herein, may be located within the public right-of-way, as approved by the entity with jurisdiction over the abutting right-of-way.
9. *Building step-backs.* Step-backs shall be provided in a building to provide for air and light at the street level on the side of a building along a pedestrian priority street as follows:



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- a. At the cornice required by subsection H.6 (between twelve (12) feet and thirty-five (35) feet), a step-back of at least ten (10) feet.
  - b. At a level between the 4th and 10th floors, an additional step-back of at least ten (10) feet, or multiple step-backs which total a minimum of at least ten (10) feet.
  - c. In lieu of strict application of subsections H.9.a and b, an applicant may propose an alternative design which satisfies the intent of providing air and light at the street level, subject to review and approval of the DRC.
10. New buildings, additions to existing buildings or any development of a site on a parcel located on one (1) or more pedestrian priority street(s) or image street(s), must meet all of the ULDR requirements applicable to one (1) of such streets, and all of the requirements of any of the other streets when the development is within fifty (50) feet of the edge of the street closest to the development; however, the requirement for a ground floor building wall along seventy-five percent (75%) of the linear frontage of the parcel (subsection H.1.a) may be provided in phases in accordance with an approved site plan. These requirements shall not apply to buildings or additions with less than five hundred (500) square feet of floor area; however, in all cases, regardless of the size and type of development, the street tree requirements of subsection H.7 shall apply to all pedestrian priority and image streets.
11. The provisions of this subsection H shall not apply to structures in existence on the effective date (June 28, 1997) of the ULDR unless such structures are voluntarily demolished by more than fifty percent (50%) of the total gross floor area of the building or more than fifty percent (50%) of its replacement value.

| **K** *Image streets.* Development of property located abutting image streets shall satisfy the following regulations:

1. *Building frontage setback requirement.* As provided in subsection H.1.
2. *General setback and setback requirements.* As provided in subsection H.2.
3. *First floor transparency.* As provided in subsection H.4.
4. *Awnings, canopies, arcades.* As provided in subsection H.5.
5. *Cornice.* As provided in subsection H.6.
6. *Street trees.* As provided in subsection H.7.
7. *Location of street trees.* As provided in subsection H.8.
8. *Building step-backs.* As provided in subsection H.9.
9. New buildings, additions to existing buildings or any development of a site on a parcel located on one (1) or more pedestrian priority street(s) or image street(s), must meet all of the ULDR requirements applicable to one (1) of such streets, and all of the requirements of any of the other streets if the development is within fifty (50) feet of the edge of the street closest to the development; however, the requirement for a ground floor building wall along seventy-five (75%) of the linear frontage of the parcel (subsection H.1.a) may be provided in phases in accordance with an approved site plan. These requirements shall not apply to buildings or additions with less than five hundred (500) square feet of floor area; however, in all cases, regardless of the size and type of development, the street tree requirements of subsection H.7 shall apply to all pedestrian priority and image streets.
10. The provisions of this subsection I shall not apply to an existing structure in existence on the date of adoption of the ULDR unless such structures are voluntarily demolished by more than fifty percent (50%) of the total gross floor area of the building or more than fifty percent (50%) of its replacement value.

| **L** *New River Waterfront Corridor.* Except in the RAC-TMU zoning district as provided in subsection J.3., development on parcels located within one hundred (100) feet of the New River shall be

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reviewed pursuant to the process for a site plan level IV development permit (section 47-24.2) without planning and zoning board review, and shall be required to meet the following regulations:

1. Within the RAC-CC and RAC-AS districts a principal structure shall provide a minimum sixty (60) foot setback from the seawall or the high water mark of the river's edge if no seawall exists, or less if the existing right-of-way or easement is less than sixty (60) feet in width, but in no case shall there be less than a forty-five (45) foot setback, except for the following:

- a. A residential use or marine-related use as specified in sections 47-13.10 and 47-13.11, Boats, Watercraft and Marinas, that have portions of structures devoted to those uses that are no higher than thirty-five (35) feet in height may encroach within the setback specified above, but shall in no case be less than twenty (20) feet from the seawall or the high water mark, if no seawall exists.

If the minimum or greater setbacks specified in subsection J.1. are provided, the development plan shall be reviewed giving consideration to the location, size, height, design, character and ground floor utilization of any structure or use, including appurtenances; access and circulation for vehicles and pedestrians, streets, open spaces, relationship to adjacent property, proximity to New River and other factors conducive to development and preservation of a high quality downtown regional activity center district. No approval shall be given to the setbacks shown on the development plan unless a determination is made that the setbacks conform to all applicable provisions of the ULDR, including the requirements of section 47-13, Downtown Regional Activity Center Districts, that the safety and convenience of the public are properly provided for and that adequate protection and separation are provided for contiguous property and other property in the vicinity. Approval of the setbacks of a development plan may be conditioned by imposing one (1) or more setback requirements exceeding the minimum requirements.

- b. Within the RAC-CC and RAC-AS districts, structures may provide less than the minimum setback specified in subsection J.1., above or exceed the thirty-five (35) foot height limitation, as specified above, if approved in accordance with the requirements of a site plan level IV development permit, (section 47-24.2) without planning and zoning board review, subject to the review criteria as provided in section 47-25.3, Neighborhood Compatibility, as provided in section 47-25.3.A.3.e.iii, and the following additional criteria and limitations are met:
  - i. Principal structures shall provide a minimum of one (1) or more setbacks totaling a minimum of twenty (20) feet, between a height of twelve (12) feet and fifty-five (55) feet.
  - ii. No portion of a structure in excess of thirty-five (35) feet in height shall encroach upon a 1:1 height-to-setback plane, as measured from a line twenty (20) feet from the seawall or high water mark, if no seawall exists, up to a height of ninety-five (95) feet. Portions of structures above ninety-five (95) feet in height may proceed vertically without additional setback, subject to the provisions of subsection J.2.c.
  - iii. Principal structures shall also provide a minimum of five (5) of the following architectural features: variation in rooflines, terracing, cantilevering, angling, balconies, arcades, cornices, architectural ornamentation, color and material banding, or courtyards, plazas or landscaped areas which encourage pedestrian interaction between the development site and the New River.

### 2. *Additional criteria.*

- a. Within the RAC-CC and RAC-AS districts only, when the development is located along North or South New River Drive or the Riverwalk Linear Park, it shall comply with regulations for Pedestrian Priority Streets, Section 47-13.4.G, whereby reference to "pedestrian priority street" shall apply to the New River Waterfront Corridor.

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- b. Within the RAC-CC district only, all principal structures located on the south side of the New River shall provide a minimum setback as required so as to not produce a shadow pattern that shadows a point on the river's edge for more than four (4) hours between the hours of 9:00 a.m. and 4:00 p.m. on March 21 (spring equinox).
  - c. Within the RAC-CC district only, ground level design and amenities shall functionally and visually coordinate with and complement existing public improvements along the New River adjacent or abutting the development site, including pedestrian access and landscaping.
3. Within the RAC-TMU district only, any structure shall provide minimum setbacks from the seawall or high water mark of the river's edge, if no seawall exists, as approved pursuant to Site Plan Level III development permit, section 47-24.2, subject to the review criteria as provided in section 47-25.3, Neighborhood Compatibility, as provided in section 47-25.3.A.3.e.iii.

| **K.M.** *All other RAC district streets.* Development of property located abutting all streets within the RAC districts other than pedestrian priority or image streets shall satisfy the following regulations:

1. *Setback.*
  - a. A minimum setback of five (5) feet shall be provided from the property line along the street.
  - b. *Modification of setback requirements within the RAC-TMU district.* Setback requirements for the RAC-TMU may be modified to require greater setbacks above those specified in subsection K.1.a, subject to approval of a site plan level II permit and the review criteria provided in Section 47-25.3.A.3.e.iii, Neighborhood Compatibility. Setbacks may also be modified for building sites within the RAC-TMU that apply for additional dwelling units above twenty-five (25) dwelling units per net acre, subject to approval of a site plan level II permit and the review criteria as provided in Section 47-25.3.A.3.e.ii.
2. *Street trees.* As provided in subsection H.7.
3. *Location of street trees.* As provided in subsection H.8.

| **L.N.** *Effect of other ULDR provisions.* Unless otherwise provided in this Section 47-13, the provisions of the ULDR with general applicability to development within the city shall apply as requirements of the development of property within the district described in this Section 47-13. However, any provision of this Section 47-13 shall prevail to the extent of such conflict.

| **M.O.** [ *Site Plan Level II.* ]

1. A Site Plan Level II approval of a development for which a site plan has been approved by the City Commission, or which has been the subject of an agreement with the City shall not be final until thirty (30) days after final DRC approval and then only if no motion is adopted by the City Commission seeking to review the application pursuant to the process provided in Section 47-26.A.2 of the ULDR. The action of the DRC shall be final and effective after the expiration of the thirty-day period if no action is taken by the City Commission.
2. Approval of all other Site Plan Level II developments within the RAC shall not be final until thirty (30) days after preliminary DRC approval and then only if no motion is adopted by the City Commission seeking to review the application pursuant to the process provided in Section 47-26.A.2 of the ULDR. A motion seeking to review an application pursuant to this subsection 2. shall only be approved if it is found by the City Commission that DRC has misapplied or failed to apply one or more requirements of the ULDR or the City's Comprehensive Plan in approving the application.

(Ord. No. C-97-19, § 1(47-13.4), 6-18-97; Ord. No. C-97-65, § 1, 12-16-97; Ord. No. C-99-7, § 1, 2-16-99; Ord. No. C-99-15, § 1, 3-16-99; Ord. No. C-99-20, § 2, 3-16-99; Ord. No. C-99-75, § 1, 12-21-99; Ord. No. C-99-76, § 5, 11-16-99; Ord. No. C-00-57, § 1, 10-17-00; Ord. No. C-01-17, § 2, 5-1-01; Ord. No. C-03-19, § 3, 4-22-03; Ord. No. C-04-4, § 3, 1-21-04; Ord. No. C-04-

Exhibit 1

33, § 1, 7-7-04; Ord. No. C-07-101, § 1, 11-20-07; Ord. No. C-07-107, § 1, 12-4-07; [Ord. No. C-13-16, § 1, 6-4-13](#))

Exhibit 2

ARTICLE XIV. - ADDITIONAL DEVELOPMENT REQUIREMENTS

SECTION 47-38. - FEES.

SECTION 47-38C. - EDUCATION MITIGATION.

Sec. 47-38C.1. - Findings and purpose.

- (a) The City Commission of the City of Fort Lauderdale finds and determines that residential development activity within the city will create additional demand and need for school facilities within the city; and
- (b) The city commission finds that because new residential development creates a need for public school facilities it should be subject to a fee representing its proportionate share of the cost of school facilities needed to service the growth and development activity.
- (c) The city commission adopts this section 47-38C. to impose education mitigation fees for public school facilities.
- (d) The city commission finds that the proposed amendment is consistent with and furthers the goals, objectives and policies of the Intergovernmental Element and Public Facilities School Element of the City of Fort Lauderdale Comprehensive Plan.
- (e) Pursuant to the Public School Facilities Element of the City Comprehensive Plan (PSFE) and the Amended Interlocal Agreement for Public School Facility Planning (ILA), the city, in collaboration with Broward County and the School Board of Broward County (school board), shall ensure that public school facilities will be available for current and future students consistent with available financial resources and adopted level of service standards and that such facilities are available concurrent with the impact of proposed residential development.

(Ord. No. C-06-36, § 3, 10-17-06; Ord. No. C-09-04, § 1, 1-21-09)

Sec. 47-38C.2. - Fee imposed, applicability.

- (a) Educational mitigation requirement for residential development. Any application for a building permit for one (1) or more new residential units is subject to educational mitigation requirements as provided herein. ~~The location and cost to be imposed on specified units is as follows:~~
  - (1) Downtown Regional Activity Center (Downtown RAC).
    - A. ~~The three thousand (3,000) dwelling units as certified by Broward County and approved for allocation for development by the city commission to be provided in section 47-13 of the ULDR (hereinafter referred to as the DRAC 06/3000 du's.) Residential units are subject to the Education Mitigation Agreement executed between the City, School Board of Broward County, and Broward County, as amended from time to time.~~
    - B. ~~Amount. The student station costs for units in the DRAC shall be an amount equivalent to the amounts shown on the student station cost factor as the same is amended, per residential unit. The amount shall be determined by the state of Florida's cost per student station schedule in effect at the time of application for building permit, but not less than one thousand one hundred ninety five dollars (\$1,195.00) as determined by the school board's evaluation of the impact of the transferred units on over-capacity schools. The mitigation amount per residential unit shall be outlined in the Education Mitigation Agreement, as approved and amended from time to time. The mitigation amount per residential unit shall be based on following:~~

Exhibit 2

- 1) Residential units allocated from the Downtown RAC land use amendment for 3,000 units, as adopted in 2006, shall pay a mitigation amount not less than one thousand four hundred forty nine dollars (\$1,449.00) per unit.
  - 2) Residential units allocated from the Downtown RAC land use amendment for 5,000 units, as adopted in 2017, shall pay a minimum cost per unit based upon the January 2016 school impact fee for mid-rise and high-rise units, and an actual cost per unit at time of payment based upon the Broward County Education Impact Fee schedule applicable at time of payment review.
- C. On or before the issuance of a building permit by city for any of the dwelling units referenced in the Education Mitigation Agreement subsection (1) of this section, the applicant shall pay to the school board an amount equal to the cost per dwelling unit (regardless of residential types or bedroom mix) as derived from the cost per student station for each RAC dwelling unit, as provided below the amount determined for compliance with the Education Mitigation Agreement as described above in Section 47-38C.2(a)(1).B.-
- D. County determination of adequacy required. The applicant shall present documentation of the payment and notice to the city prior to submission of an application for a building permit. The city shall not issue a building permit or certificate of occupancy for residential development within the Downtown RAC, without first receiving proof that Broward County has determined that the student station cost was paid as required and that the payment was adequate.
- E. Notice to school board. The city shall notify the superintendent of the school board or his or her designee of approval of any site plan or plat for residential development within the Downtown RAC, which notice shall include the location of the project and the number and type of dwelling units.
- (2) Other areas except Downtown RAC.
- A. Applications subject to a public school concurrency determination. The city shall not approve an application for a plat, replat, plat note amendment, findings of adequacy or any development plan (an "application"), that generates one (1) or more students or is not exempt or vested from the requirements of public school concurrency (hereinafter referred to as a "residential development"), until the school board has reported that the school concurrency requirement has been satisfied.
- B. Exemptions and vested development.
- 1) The following residential applications shall be exempt from the requirements of public school concurrency:
    - a. An application which generates less than one (1) student at each level in the relevant concurrency service area (CSA). Such development shall be subject to the payment of school impact fees.
    - b. An application for age restricted communities with no permanent residents under the age of eighteen (18). Exemption for an aged restricted community shall only be available subject to a recorded restrictive covenant prohibiting the residence of school aged children in a manner not inconsistent with federal, state or local law or regulations.
    - c. A Development of Regional Impact (DRI) with a development order issued before the effective date of Senate Bill 360 (July 1, 2005) or an application submitted before May 1, 2005.
    - d. As may otherwise be exempted by Florida Statutes.
  - 2) The following residential applications shall be vested from the requirements of public school concurrency:

Exhibit 2

- a. An application located within a previously approved comprehensive plan amendment or rezoning which is subject to a mitigation agreement in accordance with the following:
    1. The mitigation to address the impact of the new students anticipated from the development has been accepted by the school board consistent with School Board Policy 1161, entitled "Growth Management", as may be amended from time to time; and
    2. A declaration of restrictive covenant has been properly executed and recorded by the developer, or the development is located within a boundary area that is subject to an executed and recorded tri-party agreement consistent with School Board Policy 1161, as may be amended from time to time; and
    3. The applicant provides a letter from the school board or other evidence acceptable to the county verifying 1. and 2. above. Other evidence may include documentation as specified in the tri-party agreement.
  - b. An application which includes property located within a plat or is the subject of a development agreement for which school impacts have been satisfied for the dwelling units included in the proposed application. This includes any application approved between February 2, 1979 and the effective date of the Public School Facilities Element of the Comprehensive Plan and this section, which have not expired. In the transmittal of an application to the school board, the city shall include written information indicating that the units in the application are vested.
  - c. An application that has received final approval, and which has not expired, prior to the effective date of the Public School Facilities Element of the city's Comprehensive Plan.
- 3) To be exempt or vested from the requirements of public school concurrency, an applicant seeking such a determination shall be required to submit documentation with the application which shall include written evidence sufficient to verify that the subject development meets the exemptions stated herein, and as such, is exempt from the requirements of public school concurrency.
- C. Level of service standards. The level of service standard (LOS) shall be one hundred ten (110) percent of the permanent Florida Inventory of School Housing (FISH) capacity for each Concurrency Service Area (CSA). The LOS shall be achieved and maintained within the period covered by the five-year schedule of capital improvements contained in the effective School Board Five-Year Adopted District Educational Facilities Plan (DEFP).
  - D. Concurrency service areas (CSA's). The areas for the implementation of public school concurrency in Broward County shall be known as concurrency service areas (CSA), and such CSA's shall be the approved school boundaries for elementary, middle and high schools as annually adopted by the school board. For the purposes of public school concurrency, such CSA's shall be effective on the first day of the school year, and end on the last day before the beginning of the next school year.
  - E. Student generation rates. The Broward County adopted student generation rate(s) contained in the Broward County Land Development Code Section 5-182(m)(6) "Student Generation Rates," as amended, shall be utilized to determine the potential student impact anticipated from the residential development proposed in submitted applications.
  - F. Review Procedure.
    1. Public School Impact Application (PSIA). Any applicant submitting a development application with a residential component, that is not exempt or vested, is subject to public school concurrency and shall be required to submit a public school impact application (PSIA) for review by the school board. Evidence of acceptance of the PSIA

## Exhibit 2

and payment of the applicable application fee to the school board shall be required prior to acceptance of the development application by the city.

2. School Capacity Availability Determination Letter (SCAD).
  - a. No application for a residential development or amendments thereto shall be approved by the city, unless the residential development is exempt or vested from the requirements of public school concurrency, until a school capacity availability determination (SCAD) Letter has been received from the school board confirming that capacity is available, or if capacity is not available, that proportionate share mitigation has been accepted by the school board. The school board shall send the SCAD Letter to the applicant, the Broward County Development Management Division if the application relates to a plat, and the city, no later than forty-five (45) days after acceptance of the completed PSIA.
  - b. The school board shall determine the potential student impact from proposed residential development on the applicable CSA by performing the review procedure specified in School Board Policy 1161, as amended.
  - c. If the school board reviews an application and determines that sufficient permanent capacity is available at the adopted LOS standard to accommodate students anticipated from the development, the school board shall issue a SCAD Letter indicating that adequate school facilities exist to accommodate the student impact and that the proposed development satisfies public school concurrency requirements.
  - d. If the SCAD Letter states that the development has not satisfied public school concurrency requirements, the SCAD Letter shall state the basis for such determination, and the applicant shall have thirty (30) days to propose proportionate share mitigation to the school board.
  - e. If the applicant proposes proportionate share mitigation within the thirty-day (30) deadline, upon the subsequent acceptance of the proposed mitigation by the school board, and upon the execution of a legally binding document among the school board, the city, and the applicant, an amended SCAD Letter shall state that adequate capacity anticipated from the accepted proportionate share mitigation will be available to accommodate the student impact anticipated from the proposed development and that the proposed development satisfies public school concurrency requirements. The total amount committed for any mitigation option shall not be less than the school impact fees due for the proposed units as calculated based upon the adopted school impact fee schedule provided in section 5-182(m)(3) of the Broward County Code of Ordinances, as amended. The school impact fee for the development shall be considered included in the total proportionate share mitigation amount due or paid. If the school board does not accept the proportionate share mitigation, the amended SCAD Letter shall state the basis upon which the mitigation proposal(s) was rejected and why the development is not in compliance with public school concurrency requirements.
  - f. An applicant adversely impacted by a SCAD determination may appeal such determination by written request to the school board within the designated thirty-day (30) time period. A timely request for an appeal shall stay the requirement for an applicant to propose proportionate share mitigation until the appeal has been resolved.
  - g. If an application or approval expires, the SCAD Letter will no longer be valid.
- G. Expiration of concurrency/vesting.



## Exhibit 2

1. The public school concurrency approval for a residential development plan which shall be considered vested, unless the site plan approval expires as provided for within the City Code.
2. The public school concurrency approval for a plat shall be considered vested for up to five (5) years beginning from the date the developer received approval from Broward County. Vesting of a residential application beyond the five (5) years requires that one (1) of the following conditions are met within the five-year (5) period: 1) the issuance of a building permit for a principal building and first inspection approval or 2) substantial completion of project water lines, sewer lines and the rock base for internal roads. If the development was denied, the board shall deduct students associated with the development from its database.

(Ord. No. C-06-36, § 3, 10-17-06; Ord. No. C-09-04, § 1, 1-21-09)

**CITY OF FORT LAUDERDALE**  
**PLANNING AND ZONING BOARD ACTING AS THE LOCAL PLANNING AGENCY**  
**(LPA)**  
**NOTICE OF PUBLIC HEARING**  
**AMENDMENTS TO THE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR)**

NOTICE IS HEREBY GIVEN that the Planning and Zoning Board acting as the Local Planning Agency (LPA) of the City of Fort Lauderdale, as well as the Planning and Zoning Board, shall hold a public hearing on Wednesday, July 19, 2017 at 6:30 PM or as soon thereafter as the same may be heard in the City Commission Chambers, City Hall, 1<sup>st</sup> floor, 100 North Andrews Avenue, Fort Lauderdale, Florida to amend the City of Fort Lauderdale Unified Land Development Regulations, (ULDR) as follows:

Case T17009 is an amendment to address the review process and special regulations for the new 5,000 residential units added to Downtown Regional Activity Center (Downtown RAC) land use designation, and the amendment outlines the education mitigation fees for such units.

Specifically:

Amending Section 47-13.20, Downtown RAC Review Process and Special Regulations; and Section 47-38C, Education Mitigation.

All interested persons may appear at said meeting and be heard with respect to the proposed amendments. Information on this amendment may be obtained from the Department of Sustainable Development, Urban Design & Planning division, 700 N.W. 19 Avenue, Fort Lauderdale, Florida, during normal business hours.

Jeff Modarelli, City Clerk  
City of Fort Lauderdale

If any person decides to appeal any decision made with respect to any matter considered at this public meeting or hearing, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you desire auxiliary services to assist in viewing or hearing the meetings or reading agendas and minutes for the meetings, please contact the City Clerk at 954-828-5002, and arrangements will be made to provide these services for you. A turnkey video system is also available for your use during this meeting.

Publish on **July 7, 2017** as a legal classified ad.

Please provide proof to [nmartin@fortlauderdale.gov](mailto:nmartin@fortlauderdale.gov)

And Affidavit of Publication to: City of Ft. Lauderdale  
100 N. Andrews Ave.  
Fort Lauderdale, FL 33301

cc: City Clerk  
Finance AIP  
Planner  
Case File