

ORDINANCE NO. _____

RELATING TO PLANNING AND ZONING; AMENDING CERTAIN PORTIONS OF THE LAND USE CODE, CHAPTER 23, ARTICLE II, ZONES, DIVISION 8, OVERLAY ZONES, SECTION 2.8.12, DOWNTOWN AREA INFILL INCENTIVE DISTRICT ZONE (IID); AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article II, Division 8, Section 2.8.12 is hereby amended to read as follows:

2.8.12 DOWNTOWN AREA INFILL INCENTIVE DISTRICT ZONE (IID)

2.8.12.1 Purpose. The primary purpose of the Downtown Area Infill Incentive District (IID) is to encourage redevelopment in the following ways:

- A. Encourage sustainable infill development that supports the creation of urban neighborhoods that are pedestrian and transit-oriented and benefits the IID, the major activity centers in the area, and the City as a whole.
- B. Address barriers to infill development in the Downtown Area Infill Incentive District such as incompatible development standards, and associated development ~~barrier~~-issues; and,
- C. Implement the IID purposes by offering development incentives permitting a modification of development regulations (MDR) as provided herein.

2.8.12.2 Establishment.

- A. The Downtown Infill Incentive District (IID) is an optional overlay zone. Individuals may choose the pre-existing underlying zoning or the IID.

Plans submitted pursuant to the IID shall comply with the provisions herein, as defined in Sec. 6.2.4.

B. The IID is comprised of two (2) subdistricts: the Greater Infill Incentive Subdistrict (GIIS) and the Downtown Core Subdistrict (DCS). The boundaries of the IID and subdistricts are described in Sec. 2.8.12.10 (See Illustrative Map 2.8.12.10-1). The exact boundaries of the IID overlay and subdistricts are identified on the official zoning map kept on file at the Planning and Development Services Department (PDSD) and the City Clerk.

C. Provisions specific to the GIIS and DCS are provided in Sections 2.8.12.4 (GIIS – Modification of Development Regulations) and 2.8.12.5 (DCS), respectively. Regardless of subdistrict, individuals choosing to submit plans pursuant to the IID must comply with Sections 2.8.12.6 (Design Criteria), 2.8.12.7 (IID Plan Requirement), and 2.8.12.8 (Review and Approval Procedures).

D. An IID Plan (Sec. 2.8.12.7) demonstrating compliance with applicable IID requirements is required.

E. An IID Plan cannot be used in conjunction with other waiver or modification provisions provided by the Land Use Code. Where the IID and Rio Nuevo and Downtown (RND) overlay zones overlap, applicants may select either the provisions of the IID or the RND Modification of Development Regulations, but not both. The provisions of the IID zone apply to properties within its boundaries.

F. Where the provisions of this section conflict with other sections of the Land Use Code, the provisions of this section shall control.

~~2.8.12.3 Boundaries and Map Established. The boundaries of the IID are described in Sec. 2.8.12.9 (See Illustrative Map 2.8.12.9-1). The exact boundaries of the IID overlay are identified on the official zoning maps kept on file in the offices of the Planning and Development Services Department and the City Clerks.~~

2.8.12.34 ~~MDR~~ Applicability. The provisions of this ordinance apply to the following development types located on property, including public or private rights-of-way, any portion of which is located within the IID zone: a change of use; expansion of an existing use or existing structure; or new development or a redevelopment project.

2.8.12.4 Greater Infill Incentive Subdistrict – Modification of Development Regulations (MDR)

A. Development regulations may be modified within the GIISD subdistrict zone. – This process shall be known as the Modification of Development Regulations (MDR).

B. Except as provided herein, the regulations in the following sections of Article III (Development Regulations) of the Land Use Code may be modified up to twenty-five percent (25%) of the dimension or amount permitted by the underlying zoning: Division 1, General Provisions; Division 2, Development Criteria; Division 3, Motor Vehicle & Bicycle Parking Requirements; Division 4, Off-Street Loading; and, Division 7, Landscaping and Screening Regulations.

~~An MDR may not be used in conjunction with waiver or modification provisions provided by other sections in the Land Use Code. Where the IID and RND overlap, applicants may select either the IID MDR or the RND MDR, but not both.~~

~~The MDR process applies to the following Land Use Code regulations, development types, land uses, and specific development criteria:~~

~~A.— The MDR process applies to the following sections of Article III of the Land Use Code: Division 1, General Provisions; Division 2, Development Criteria; Division 3, Motor Vehicle & Bicycle Parking Requirements; Division 4, Off-Street Loading; and, Division 7, Landscaping and Screening Regulations.~~

~~B.— An MDR may apply to the following development categories located on property, including public or private rights-of-way, any portion of which is located within the IID zone: a change of use; expansion of an existing use or existing structure; or new development or a redevelopment project.~~

~~C.— *MDR Land Uses.*~~

~~1.— A MDR application is limited to proposals with one or more of the following uses: Administrative and Professional Office; Alcoholic Beverage Service; Civic Assembly; Craftwork; Cultural; Educational Use: Instructional School; Educational Use: Postsecondary Institution; Entertainment; Attached Residential; Multifamily Residential; Food and Beverage Sales; Food Service; General Merchandise Sales; Mixed Use (a combination of the uses listed in this section and residential); Personal Service; and Travelers' Accommodation, Lodging.~~

~~2.— A use not listed above may be allowed if the Planning and Development Services Department Director deems the use to be in accordance with the purposes of the IID described in Sec. 2.8.12.1.~~

~~3. If drive-through service is provided, it may not interfere with pedestrian access to the site from the roadway.~~

~~D. MDR Development Criteria. The regulations listed in Section 2.8.12.4.A may be modified up to twenty-five percent (25%) of the dimension or amount permitted by the underlying zoning with the following exceptions where modifications may exceed this amount:~~

~~C. Exceptions. The following criteria may be modified in excess of twenty-five percent (25%) to the extent specified herein.~~

1. *Building height.* Building height may be increased up to sixty (60) feet unless the current zoning allows a greater height or where the ~~IIDMDR Conceptual~~ Plan's Development Transition Element requires less.
2. *Street perimeter yard.* Street perimeter yard requirements may be reduced or waived when ~~the Planning and Development Services Department~~ PDS determines that there is adequate sight visibility, no traffic safety issue created, and no privacy intrusion into existing residential property is created as provided in accordance with the MDR Conceptual Plan's Development Transition Element described in Sec 2.8.12.5.C.
3. *Parking.*
 - a. Parking may be reduced up to twenty-five (25) percent as required by Sec. 3.3.4 or modified per an agreement with the City's Parking Division. ~~modified per an agreement with the City's Parking Division, or as follows:~~
 - ~~i. Sec. 3.3.3.11 (New Uses Replacing Existing Uses);~~
 - ~~ii. Sec. 3.3.8.6 (Existing Development Sites);~~
 - ~~iii. Sec. 3.3.8.7 (Individual Parking Plan);~~
 - ~~iv. Sec. 3.3.6 (Parking Exceptions in the Downtown Redevelopment District) for those portions of the IID within the Downtown Redevelopment District; or,~~
 - ~~v. Exception to Secs. 2.8.12.4.D.3.a.i – iii. Restaurants and bars (Food Service or Alcoholic Beverage Service Uses) locating within existing structures may request a parking modification.~~
 - b. *Accessible Parking and Bicycle Facilities.* The number of accessible parking spaces required by the Americans with Disabilities Act and bicycle facilities shall not be reduced or

eliminated and shall be based on the number of motor vehicle parking spaces required prior to any modification.

c. Parking may be provided either solely by one of the following options or a combination of the following options:

- i. On-site;
- ii. Off-site within one-quarter (1/4) of a mile of the project site through a shared parking agreement with the City;
- iii. On-street on the same side of the street as the proposed use up to five (5) spaces on a collector or arterial street per approval by the City's Transportation Department; and/or
- iv. An in-lieu fee per an agreement with the City's Parking Division.

4. *Loading.* Off-street loading zone requirements may be reduced or waived if ~~the Planning and Development Services Department~~ PDS determines that no traffic safety issue is created.

5. *Solid Waste Collection.* On-site refuse collection container requirements governing access, type, and location may be modified if the Department of Environmental Services determines that no public health or traffic safety issue is created.

6. Landscaping and Screening.

a. A complete or partial exception to the Landscaping and Screening Requirements (Sec. 3.7) may be granted when shade is provided for pedestrians and customers, such as along sidewalks, pedestrian circulation paths, and outdoor patios, consistent with Development Standard 9-10.4.3.B.1 (Pedestrian Pathways in the RND).

b. The following types of landscaping and improvements may be used to comply with Sec. 2.8.12.4.C.6.a (Landscaping and Screening):

- i. Existing landscaping;
- ii. Shade trees in the right-of-way;
- iii. Green walls or green roofs; and/or
- iv. Shade structures, such as awnings.

- c. Where adjacent to single-family dwelling, detached, buffers and/or screening is required per Sec. 2.8.12.6.B (Development Transition).

7. Floor Area Ratio (FAR). A complete exception to FAR requirements may be granted.

8. Pedestrian Access. Pedestrian access requirements may be waived, except where required by the Americans with Disabilities Act.

D. *GIIS Land Uses.*

1. A proposed use must be permitted by the underlying zoning and is limited to proposals with one or more of the following uses: Administrative and Professional Office; Alcoholic Beverage Service; Civic Assembly; Craftwork; Cultural; Educational Use: Instructional School; Educational Use: Postsecondary Institution; Entertainment; Attached Residential; Multifamily Residential; Food and Beverage Sales; Food Service; General Merchandise Sales; Mixed Use (a combination of the uses listed in this section and residential); Personal Service; and Travelers' Accommodation, Lodging.

2. An IID proposal with a use not listed above may be allowed if the proposed use is permitted by the underlying zoning and if the PDSD Director (Director) deems the proposed use to be in accordance with Sec. 2.8.12.1 (Purpose).

2.8.12.5 Downtown Core Subdistrict (DCS).

A. *Requirements.* Development within the DCS shall comply with the following:

1. Permitted uses of the underlying zoning; and

2. Maximum building height may be increased up to sixty (60) feet unless the current zoning allows a greater height or where the IID Plan's Development Transition Element requires less.

3. Demolition and façade alteration requirements of the Rio Nuevo and Downtown Zone (Sec. 2.8.10); and,

4. When provided, landscaping shall be in accordance with the City's drought-tolerant plant list.

B. Exemptions. Development within the DCS is exempted from the following requirements unless the Director makes a finding that public safety, health, or welfare will be jeopardized.

1. Sec. 2.8.3 (Major Streets and Routes Setback Zone)
2. Sec. 2.8.10 (Rio Nuevo and Downtown Zone), except as provided in Sec. 2.8.12.5 (DCS Requirements)
3. Sec. 3.2.6 (Perimeter Yards), except when the development is adjacent to single family residential
4. Sec. 3.2.9 (Lot Coverage)
5. Sec. 3.2.10 (Residential Density Calculations)
6. Sec. 3.2.11 (Floor Area Ratio Calculation)
7. Sec. 3.2.14 (Lots)
8. Sec. 3.3 (Motor Vehicle and Bicycle Parking Requirements)
9. Sec. 3.4 (Off-Street Loading)
10. Sec. 3.7 (Landscaping and Screening Regulations, except as required by Sec. 2.8.12.6.B (Development Transition Element)
11. Sec. 3.8.1 Native Plant Preservation
12. Pedestrian Access. On-site pedestrian access is waived, except where required by the Americans with Disabilities Act.
13. Solid Waste Collection. On-site refuse collection container requirements governing access, type, and location may be modified if the Department of Environmental Services determines that no public health or traffic safety issue is created.

2.8.12.6 Design Criteria. IID Plans, regardless of subdistrict, must demonstrate compliance with the following:

A. Streetscape Design

1. Pedestrian-orientation. Projects shall be pedestrian-oriented and comply with all of the following criteria:

- a. New construction shall have architectural elements/details at the first two (2) floor levels; and,
 - b. Buildings shall provide windows, window displays, or visible activity on the ground floor for at least fifty (50) percent of frontage; and,
 - c. A single plane of façade shall be no longer than fifty feet without architectural detail; and
 - d. Front doors shall be visible or identifiable from the street and visually highlighted by graphics, lighting, or similar features; and,
 - e. Parking areas for comprehensive development or redevelopment of a site shall be located at the rear or side of the building. Changes of use and expansion of existing structures may use the site's current parking configuration; and,
 - f. Parking structures shall be designed so that parked vehicles are screened from view at street level, through incorporation of design elements including, but not limited to, pedestrian arcades, occupied space, or display space; and,
 - g. Existing sidewalk widths shall be maintained so as to provide effective, accessible, connectivity to adjoining properties. Sidewalks may be widened to accommodate a project's design characteristics. Where no sidewalks exist, sidewalks shall be provided; and,
 - h. To the extent practicable, bus pull-outs shall be provided where bus stops are currently located; and,
 - i. If drive-through service is proposed, it may not interfere with pedestrian access to the site from the roadway.
2. Shade. Except as provided herein, shade shall be provided for at least fifty (50%) percent of all sidewalks and pedestrian access paths as measured at 2:00 p.m. on June 21 when the sun is eighty-two degrees (82°) above the horizon. Shade may be provided by trees, arcades, canopies, or shade structures. The use of plantings and shade structures in the City right-of-way is permitted to meet this standard. The shade provided by a building may serve to meet this guideline.

Exception. The Director may approve an IID Plan providing less than fifty (50) percent shade where compliance is not feasible due to a project site's location and/or building orientation and the applicant has made a reasonable attempt to comply with this criterion.

3. Modifications to historic buildings shall complement the overall context of the historically designated buildings in the project's Development Zone and respect the architectural integrity of the historic façade. Historic replication is discouraged in favor of design inspired by traditional precedents such as scale, materials, and exterior openings;

~~2.8.12.5—MDR Conceptual Plan Requirement.~~ An MDR application must include an MDR Conceptual Plan that contains a Streetscape Element and a Development Transition Element (if adjacent to existing residential uses).

~~A. Streetscape Element.~~ The MDR Conceptual Plan shall include the following streetscape elements as provided below.

~~1. Required Streetscape Elements.~~ The MDR Conceptual Plan shall contain the following:

~~a. A pedestrian-oriented streetscape using documented best urban design addressing:~~

~~i. Pedestrian proximity to buildings—locating buildings adjacent or near to sidewalks;~~

~~ii. Pedestrian amenities—using such techniques as public seating and display areas;~~

~~iii. Appropriate sidewalk width—using appropriate width for the property that creates effective connectivity to adjoining properties' pedestrian ways;~~

~~iv. Shade for pedestrians—using landscaping, colonnaded building, or other shading devices.~~

~~b. Parking areas shall be located at the rear or the side of the building.~~

~~c. Buildings shall provide ground floor display windows along street frontages and pedestrian entrances from the street.~~

~~d. The project should facilitate a cohesive urban context when historically designated buildings are within its Development Zone.~~

~~e. To the extent practicable, bus pull-outs shall be provided where bus stops are currently located.~~

~~2. Additional Streetscape Elements Requirement. The MDR Conceptual Plan shall contain at least one of the following features:~~

~~a. Pedestrian lighting along the sidewalk facing an arterial or collector street. City endorsed streetscape plans, such as those depicted in the Downtown Urban Design Reference Manual, or a nationally recognized best practices book or manual shall be used as a guideline.~~

~~b. Green wall or green roof design are integrated into the building construction to reduce heat generation from building surfaces that otherwise would raise urban atmospheric temperature due to potential building's solar heat absorption as approved by the Planning and Development Services Department Director. Green wall and green roof design refers to a wall or roof that is partially or completely covered with vegetation and, in some cases, soil or inorganic growing medium.~~

~~c. Other design features that are documented in writing as a best practice of transit/pedestrian-oriented development.~~

~~B. Development Transition Element. The purpose of the Development Transition criteria is to mitigate excessive visual and noise intrusion and other similar public health and safety concerns that may be created by the proposed project. When the p~~

~~Projects is adjacent to existing single family dwellings, detached residential developments shall comply with the following criteria: a Development Transition Element is required as part of the MDR Conceptual Plan.~~

~~1. Projects Portions of the project building closest to existing residential development shall demonstrate be sensitivity through proposed use and design to the scale and height of theadjacent residential development as follows:~~

~~a. Within thirty (30) feet of an applicable property line(s), proposed buildings shall not exceed twenty-five (25) feet in height. Should an alternate standard be allowed in addition to this one?; and,~~

~~b. Solar access to adjacent residential structures shall be protected in compliance with Sec. 3.2.12 (Solar~~

~~Considerations) maximize natural light access, privacy, considerations and,~~

~~noise abatement as required.~~

2. Windows ~~at or above the~~ second ~~or higher~~ stories of a structure shall be located or treated to reduce views into ~~the buildings of adjacent residential buildings~~ property and yard areas. ~~This feature may be waived where the angle of view from the project's building into the adjacent residential building is obstructed by screening or the slope of the angle.; and,~~
3. Balconies shall be oriented away from residential property ~~or positioned so that screening or the slope of the angle obstructs the view angle into the adjacent residential building.; and,~~
4. Buffers and/or screening consistent with the purpose of this section shall be provided ~~used~~ between any new development and existing residential properties and shall include features such as, but not limited to, landscaping, walls, and architecturally decorative features.

C. Other Criteria

1G. Utilities. ~~An MDR Conceptual Plans~~ shall include information on the layout and demonstrate availability of utilities such as water, wastewater, natural gas, electric and telecommunication utilities.

2. Conservation. ~~Applicants shall provide information on how the design and construction, to the extent practicable, will reduce water and energy consumption beyond what is required by current code.~~

~~D. Alternative.~~ ~~A City approved urban design plan, such as the Downtown Links Plan, within the IID may substitute for an MDR conceptual plan. The Planning and Development Services Department Director may request additional information from the applicant where details may be lacking to adequately review the conceptual plan for compliance with Sections 2.8.12.5.A, B, and C.~~

2.8.12.76 IIDMDR Conceptual Plan RequirementContent.

A. Requirements. Use of the provisions of the IID, as opposed to pre-existing zoning, requires plan approval by PDSD regardless of IID subdistrict.

1. Applicants must submit an IID Plan in compliance with applicable IID and subdistrict requirements.

2. Except as provided herein, Aa-MDR Conceptual Plan must be prepared in compliance with Development Standard 2-021.02.0 (Development Package). Additionally, applicants are required to provide elevations demonstrating compliance with Secs. 2.8.12.65.A and B.

B. *Revisions.* An applicant may request ~~to omit or~~ modificationsy to an MDR Conceptual Plan submittal requirements, or that the Plan requirement be waived, subject to the following:

1a. The applicant must specifically identify ~~which~~the submittal requirement(s) for which is requested for omission or a modification or waiver is requested and provide a rationale for the requestchange.

2b. ~~The Planning and Development Services Department~~The Director shall determine whether to ~~grant~~accept the request. In making ~~this~~a decision, the director shall consider: the purpose statements of the Downtown Area Infill Incentive District Plan, ~~and~~ applicable General Plan, and area plan policies. The Director's Aa approval of ~~the~~ request hereunder is not, nor shall it be construed as the, does not represent the department's endorsement or approval of any rezoning request or the project design.

C. Exception. A City-approved urban design plan, such as the Downtown Links Plan, may substitute for an IID Plan for development within the IID. The Director may request additional information from an applicant where a conceptual plan is lacking sufficient detail to provide for adequate review, in compliance with Sections 2.8.12.6.A, B, and C.

2.8.12.87 Review and Approval Procedures. ~~The Planning and Development Services Department~~PDS shall administer ~~the IID Plan~~ review procedures ~~of the MDR conceptual plan process~~.

A. *Procedure.*

1. For development within the GIS, R requests for MDRs shall be processed according to the Development Compliance Code, Sections 23A-50 and 23A-51.

2. For development within the DCS, IID Plans shall be processed according to the Development Compliance Code, Sec. 23A-34 (Development Plan Review), with the exception that a pre-application conference is required. IID Plans within the DCS shall be reviewed and considered for approval within thirty (30) working

days of PDSD accepting the application or approval of demolition and/or façade alteration plans when required of projects within the Rio Nuevo and Downtown Zone, whichever is applicable.

~~A. Findings. The Planning and Development Services Department Director may only grant an MDR if he/she finds:~~

- ~~1. The MDR Conceptual Plan and requested modifications meet the purpose statements described in Sec. 2.8.12; and~~
- ~~2. The project benefits adjacent property and the surrounding area by the redevelopment of the existing site and surrounding area in a way consistent with the goals of the Downtown Infill Incentive District Plan; and~~
- ~~3. The MDR Conceptual Plan does not create significant adverse effects on adjacent residential property including excessive noise, glare, odors, vibrations, fumes, traffic hazards directly impacting adjacent property, and other similar public health and safety concerns; and~~
- ~~4. The project building does not significantly impede solar energy options to adjacent properties; and~~
- ~~5. —~~
- ~~6. The MDR Conceptual Plan supports a safe streetscape coordinated with adjoining properties; and~~
- ~~7. Considering the scale of the property, the proposal reflects an effective implementation of documented streetscape design best practices; and~~
- ~~8. —~~
- ~~9. The MDR Conceptual Plan is reflective of City objectives concerning the use of drought tolerant and native landscaping; and~~
- ~~10. The development is in a form and scale consistent with urban surroundings; and~~
- 9.1.** For an MDR Conceptual Plan that involves a parking reduction, the project will not cause excessive drive through traffic or habitual parking within an adjacent residential neighborhood.

~~C.B. —~~ An amendment or revision to an approved IIDMDR Conceptual Plan shall be subject to the same procedure as the initial approval.

~~D.C. —~~ The City may accept a concurrent submittal of the IIDMDR Conceptual Plan and corresponding development plan or subdivision plat.

2.8.12.~~89~~ IID District Termination. The provisions of LUC 2.8.12 Downtown Area Infill Incentive District shall end on January ~~31~~, 201~~24~~, unless Mayor and Council extend the date by separate ordinance.

2.8.12.~~109~~ Illustrative Map.

RESERVED

SECTION 2. The map of the Downtown Area Infill Incentive District Zone (IID) overlay boundaries, attached as Exhibit A to this ordinance, is hereby adopted.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, _____.