

Section 23.3-4. Inclusionary as to Permitted Use.

The intent of this chapter is that it be "inclusionary." That is, principal uses, accessory uses, and conditional uses specifically stated for each zoning district shall be the only uses permitted. Any use proposed within any given zoning district which is not a stated use or use type within said district is expressly prohibited. Questions of whether a use is of a type listed shall be interpreted by either the Planning and Zoning Board or the Historic Resources Preservation Board, but no use variance shall be approved.

Section 23.3-20. TOD-W - Transit Oriented Development West.

a) *Intent.* The TOD-W Transit Oriented Development West District is designed for the area south of Lake Worth Road, northeast of Lake Osborne, and west of I-95 and the CSX railway tracks. The TOD-W district is intended to promote compact, mixed-use development, including multiple-family residential, office and retail, near proposed or existing transportation infrastructure.

b) *Use restrictions and development regulations for multiple-family residential uses in the TOD-W district.* Multiple-family residential uses may be established and expanded in the TOD-W district subject to the provisions of section 23.3-12. Minimum living area shall be as follows:

- (1) Efficiency units: four hundred (400) square feet.
- (2) One-bedroom units: six hundred (600) square feet.
- (3) Two-bedroom units: seven hundred fifty (750) square feet.
- (4) Three-bedroom units: nine hundred (900) square feet.
- (5) Four-bedroom units: one thousand three hundred fifty (1,350) square feet.

c) *Use restrictions for nonresidential uses in the TOD-W district.* Refer to Permitted Use Table at Section 23.3-6 for complete list of uses.

1. Principal nonresidential uses permitted by right.
 - A. Commercial Uses – Low Intensity.
 - B. Office Uses – Low Intensity.
 - C. Retail Uses – Low Intensity.
 - D. Personal Services Uses – Low Intensity.
 - E. Cultural & Artisanal Arts Uses – Low Intensity.
 - F. Institutional Uses – Low Intensity.
 - G. Open air retail sales only on private property (see definition).
 - H. Essential services.
 - I. Mixed-use developments, consisting of retail, office or residential.
2. Principal uses permitted as either administrative or conditional uses.
 - A. Commercial Uses – Medium to High Intensity.
 - B. Office Uses – Medium to High Intensity.
 - C. Retail Uses – Medium to High Intensity.
 - D. Personal Services Uses – Medium to High Intensity.
 - E. Cultural & Artisanal Arts Uses – Medium to High Intensity.

- F. Institutional Uses – Medium to High Intensity.
 - G. Parking facilities, including temporary.
 - H. Places of worship (see Article 4, Development Standards).
 - I. Daycare Centers.
 - J. Hotels, subject to the following requirement for new hotel construction:
 Each guest room and bath unit shall have a minimum area of two hundred fifty (250) square feet measured from the interior face of the exterior walls and the interior face of the dividing walls of the unit.
3. Accessory nonresidential uses permitted by right.
 - A. Home occupations.
 - B. Any use accessory to and customarily incidental to a principal use permitted by right.
 4. Accessory uses permitted as either administrative or conditional uses.
 - A. Day care centers and nursery school uses accessory to places of worship.
 - B. Residential apartments as secondary uses in structures with office or retail uses as primary use on the ground floor.
 - C. Any use accessory to and customarily incidental to a principal use permitted as either an administrative or conditional use.
 - D. Communication Towers if incorporated into a building.

d) *Development regulations for uses permitted by right.*

Lot Area		13,000 sq. ft. with max density 1 d.u. per each 1,085 sq. ft. net lot area
		Max density 40 dwelling units per gross acre of 43,560 sq. ft., minimum of 1,085 sq. ft. per unit.
Lot Width		100 ft.
Height	Primary	30 ft. (not to exceed 2 stories) *Additional 25 ft of height under Sustainable Bonus Incentive program with inclusion of a transit station (not to exceed 5 stories) and requires a conditional land use. Without transit station additional height limited to 15 ft (not to exceed 4 stories).
	Accessory	24 ft. (not to exceed 2 stories)
Setback	Front	10 ft. minimum not to exceed 22 ft.
	Rear	15 ft. or 10% of lot depth when next to residential zoning district. 10 ft. in general. 5 ft. for accessory structure
	Side	10 ft. on street and 0 ft. on

		interior lot.
		Roof overhangs shall not exceed more than 2 feet.
	Bonus Height and Stories	<p>For all stories above the second story, both the front façade and rear façade must be set back an additional distance beyond the minimum.</p> <p>A. Front Façade for third story and above must have front setback of eight (8) to twelve (12) feet in addition to minimum.</p> <p>B. Rear façade for third floor and above must have rear setback of eight (8) to twelve (12) feet in addition to minimum.</p> <p>C. Additional height and stories setback along Major Thoroughfares: buildings in excess of thirty five (35) feet in height shall provide an additional setback of between eight (8) and twelve (12) feet for facades facing a Major Thoroughfare.</p>
Living Area	Single-Family	800 sq. ft. first dwelling
		400 sq. ft. second dwelling
	Multiple-family	400 sq. ft. Eff.
		600 sq. ft. 1BR
		750 sq. ft. 2BR
		900 sq. ft. 3BR
	1,350 sq. ft. 4BR	
Accessory Structure Limitations	The total area for accessory structures is limited to 40% of the principal structure area or 1,000 sq. ft., whichever is less.	
Impermeable Surface Total	<p>A. Small lot - 65%</p> <p>B. Medium lot –65%</p> <p>C. Large Lot – 65%</p>	
Maximum Lot Coverage for all	<p>A. Lots up to 4,999 sq. ft. (small lot) – 60%</p> <p>B. Lots 5,000 sq. ft. to 7,499 sq. ft.</p>	

Buildings	(medium lot) – 55% C. Lots over 7,500 sq. ft. (large lot) – 50%
Maximum Wall Heights at Side Setback	30'-0" wall height at setback.
	55'-0" for additional stories with sustainable incentive including transit station. 45'-0" otherwise.
Floor Area Ratio (F.A.R.) Limitation	Maximum F.A.R. is 2.6.
	The F.A.R. shall be 1.60 for lots up to 4,999 sq. ft.; 1.55 for lots between 5,000 sq. ft. and 7,499 sq. ft.; and 1.50 for lots 7,500 sq. ft. and greater.
	0.50 of additional F.A.R. shall be granted under the Sustainable Bonus Incentive Program.
	0.50 of additional F.A.R. shall be granted under the Sustainable Bonus Incentive Program for the inclusion of a public transit station.

1. Minimum lot dimension.
 - A. Minimum lot area: thirteen thousand (13,000) square feet.
 - B. Minimum lot width: one hundred (100) feet.
2. Maximum height of buildings.
 - A. Principal building: thirty (30) feet and not to exceed two (2) stories.
 - B. Additional twenty five (25) feet in height shall be granted under the Sustainable Bonus Incentive Program not to exceed five (5) stories. Must include a public transit station to achieve five (5) stories and requires a conditional land use. Without transit station, additional height limited to fifteen (15) feet not to exceed four (4) stories.
 - C. Garages and other accessory buildings: twenty four (24) feet.
3. Minimum height of buildings. On properties fronting Lake Worth Road the minimum height of buildings shall be twenty four (24) feet.
4. Minimum setbacks for buildings.
 - A. Minimum front setback:
 - (1) From Lake Worth Road right-of-way: twenty (20) feet. This setback shall apply to parking as well as buildings.
 - (2) From all other thoroughfare right-of-way lines: ten (10) feet
 - (3) Front setback can be increased by eight (8), ten (10) or twelve (12) feet if the building provides an open arcade or public plaza.
 - B. Minimum side setback:
 - (1) Ten (10) feet in general.
 - (2) For lots up to one hundred (100) feet: ten percent (10%) of lot width with a minimum of three (3) feet.

- (3) For lots wider than one hundred (100) feet: twenty (20) feet or ten percent (10%) of lot width, whichever is less.
- C. Minimum rear setback:
 - (1) Ten (10) feet in general.
 - (2) For lots next to residential zoning districts: fifteen (15) feet or ten percent (10%) of lot depth, whichever is greater.
 - (3) For accessory structures: five (5) feet.
- D. Additional height and stories setback for sustainable incentive: buildings in excess of thirty (30) feet in height in addition to sustainable incentive shall provide an additional front and rear setback of between eight (8) and twelve (12) feet to the minimum required front and rear setbacks.
- E. Additional height and stories setback along Major Thoroughfares: buildings in excess of thirty (30) feet in height shall provide an additional setback of between eight (8) and twelve (12) feet for facades facing a Major Thoroughfare.
- F. Awnings shall be exempt from the front and side street setback regulations. Awnings may project over public property to a point of not more than two (2) feet back from the face of the curb. Second story awning(s) installations shall project no more than five (5) feet from the building.
- 5. Maximum impermeable surface. The maximum impermeable surface shall be:
 - A. Sixty five percent (65%) of the lots up to 4,999 sq. ft.;
 - B. Sixty five percent (65%) for lots between 5,000 sq. ft. and 7,499 sq. ft.; and
 - C. Sixty five percent (65%) for lots 7,500 sq. ft. and greater.
- 6. Maximum impermeable surface for all structures: The maximum impermeable surface shall be:
 - A. Sixty percent (60%) for lots up to 4,999 sq. ft.;
 - B. Fifty five percent (55%) for lots between 5,000 sq. ft. and 7,499 sq. ft.; and
 - C. Fifty percent (50%) for lots 7,500 sq. ft. and greater.
- 7. Floor Area Ratio (F.A.R.) limitations: Maximum F.A.R. is 2.60. The F.A.R. shall be:
 - A. 1.60 for lots up to 4,999 sq. ft.(small lot);
 - B. 1.55 for lots between 5,000 sq. ft. and 7,499 sq. ft.(medium lot); and
 - C. 1.50 for lots 7,500 sq. ft. and greater (large lot).
 - D. An additional 0.50 of F.A.R. shall be granted under the Sustainable Bonus Incentive Program.
 - E. An additional 0.50 of F.A.R. shall be granted under the Sustainable Bonus Incentive program with the inclusion of a public transit station.
- 8. Accessory structures. All accessory structures shall not exceed forty percent (40%) of the gross floor area of the principal structure, excluding approved prefabricated metal storage buildings totaling no more than 144 square feet.
- 9. Location of accessory buildings, pools, etc.: Accessory buildings, pools and similar structures shall be allowed within the rear or side yards of a double front or corner lot between the main structure and a public street, provided that minimum setbacks are maintained.
- 10. Required street trees. Street trees shall be installed at a minimum of every twenty five (25) feet of frontage. Approved native species shall be used.

11. Required garbage storage rooms. Buildings shall have garbage storage rooms which are integral to the building, but are directly accessible through outside doors to municipal garbage and trash collection crews.
12. Ground floor regulations. Ground floor uses must be habitable and active, such as office, residential or retail, and shall not include parking or mechanical uses. However, residential uses shall not be permitted along Lake Worth Road.
13. Parking. Parking in the TOD-W district shall comply with the requirements for Core Area parking and shared parking in Article 4, Supplemental Regulations.
14. Major thoroughfare design guidelines. Additional developmental regulations are applicable to certain locations in this district pursuant to the major thoroughfare guidelines adopted by Ord. No. 2001-27. The design guidelines for major thoroughfares are contained in pages 33 through 58 inclusive of the booklet “Design Guidelines for Old Town Historic District and Major Thoroughfares” prepared by Abell Garcia Architects, dated May, 2001, as amended. See also section 23.2-31.

e) *Locational and development regulations for uses permitted as either administrative or conditional uses.* Uses permitted as conditional uses shall be regulated pursuant to the requirements of sections 23.2-28 and 23.2-29 Article 4, Development Standards.