

ARTICLE 3

FLEXIBILITY, REDEVELOPMENT UNITS AND SPECIAL RESIDENTIAL FACILITIES

3.1 UNIFIED FLEXIBILITY ZONES

The Broward County Land Use Plan map shall be divided by municipal boundaries, known as “unified flexibility zones,” for the purpose of determining the amount of flexibility available for use within the unified area, such as “flexibility units,” “reserve units,” “redevelopment units,” and acreage within land use plan categories.

A local government’s certified land use plan may permit the rearrangement of, within limits specified by the Broward County Land Use Plan, land uses and residential densities within its municipal unified flexibility zone.

Rearrangement of land uses and residential densities within a flexibility zone by a local government consistent with the limits specified by the Broward County Land Use Plan and this document may require (re)certification by the Planning Council, but does not require an amendment to the Broward County Land Use Plan.

3.2 FLEXIBILITY UNITS

- (A) Flexibility units, as defined in Section 2, “Definitions” of the Broward County Land Use Plan, shall equal the difference between the number of dwelling units permitted within a flexibility zone by the Broward County Land Use Plan and the number of dwelling units permitted within the local government’s certified future land use plan map, plus additional remaining permitted dwelling units, fixed at the adoption date of the 2017 Broward County Land Use Plan and formerly defined as “Reserve Units” which were equal to two percent (2%) of the total number of dwelling units permitted by the local government’s certified future land use plan map.
- (B) Assignment of flexibility units by a local government is subject to all of the following rules and regulations:
 - (1) Assignment of flexibility units shall be subject to meeting the provisions of Policy 2.10.1 of the Broward County Land Use Plan concerning compatibility with adjacent land uses and impacts on public schools;
 - (2) Flexibility units must be assigned by the municipality, at a minimum, through (re)zoning or other official action. An amendment to the local land use plan may be required by the applicable municipality.

- (3) Upon assignment of flexibility units, the local government shall notify the Planning Council in writing and submit revised charts, as contained within the certified local land use plan, which reflect the current total.
- (4) Flexibility units shall not be assigned from areas circumscribed by dashed lines on the Broward County Land Use Plan, nor be reflected within the “flexibility unit chart” of the certified local land use plan.
- (5) The Planning Council, upon determination that a local government has failed to report assignment of flexibility units in a timely or sufficient manner or has assigned flexibility units improperly, shall take such actions as may be necessary and proper, including decertification of the local land use plan, to enforce the requirements of the Broward County Land Use Plan and this document.

3.3 REDEVELOPMENT UNITS

- (A) Redevelopment units, as defined in Section 2, “Definitions,” of the Broward County Land Use Plan, means additional permitted dwelling units equal to three percent (3%) of the total number of dwelling units as established by the adoption of the 2017 BrowardNext Broward County Land Use Plan.
- (B) Municipalities that have fewer than 250 combined “flexibility units” or “redevelopment units” may apply to the Broward County Planning Council for the allocation of “redevelopment units” in allocations of 500 dwelling units, or 10% of the number of dwelling units permitted by the certified municipal land use plan, whichever is less.
- (C) The number of units per application may be increased to 750, or 15% of the number of dwelling units permitted by the certified municipal land use plan, whichever is less, if the municipality demonstrates a commitment for at least 10% very-low or low affordable housing, with a legally enforceable mechanism for a minimum period of 15 years.
- (D) Assignment of redevelopment units by a local government shall be subject to meeting the provisions and criteria of Policy 2.35.1 of the Broward County Land Use Plan.
- (E) Upon assignment of redevelopment units, the local government shall notify the Planning Council in writing and submit revised charts, in the format certified by the Planning Council, which reflect the current total.

- (F) The Planning Council, upon determination that a local government has failed to report assignment of redevelopment units in a timely or sufficient manner or has assigned redevelopment units improperly, shall take such actions as may be necessary and proper, including decertification of the local land use plan, to enforce the requirements of the Broward County Land Use Plan and this document.

3.4 COMPATIBILITY REVIEW CRITERIA

- (A) Compatibility determinations required per Policy 2.10.1 of the Broward County Land Use Plan shall be based upon the following considerations:
 - (1) The density and intensity of the land use(s) resulting from the application of flexibility.
 - (2) The density and intensity of existing and planned land uses adjacent to the site.
 - (3) Comprehensive plan requirements, land development code provisions, zoning regulations, adopted design guidelines or other measures in place to ensure compatibility.
 - (4) Impact of proposed increases in residential density on public school enrollments and capacity, including consideration of any proposed mitigation for density increases impacting overcrowded schools.
 - (5) Impact on public beach access, including any reduction in public access points or public rights-of-way providing access to the beach.
- (B) For allocations of flexibility or redevelopment units to sites east of the Intracoastal Waterway which may impact access to public beaches, the allocating municipality shall notify the County Commission or its designee of proposed municipal allocations of flexibility which would alter an existing public access point or public right-of-way providing access to the beach.
- (C) For allocations of flexibility or redevelopment units to sites which are contiguous to another municipality:
 - (1) The allocating municipality shall notify applicable contiguous municipalities and the County Commission or its designee of a proposed municipal allocation of flexibility.
 - (2) After receipt of the above notice, a contiguous municipality has 30 days to notify the County Commission or its designee and the allocating municipality of a request for a compatibility review.

- (3) Upon receipt of a request for a compatibility review by a contiguous municipality, Broward County will notify the allocating municipality within 15 days that the County will be conducting a compatibility review.
- (D) For allocations of flexibility or redevelopment units to sites adjacent to an Environmentally Sensitive Land, Broward County or regional park as defined within the Broward County Comprehensive Plan:
- (1) The allocating municipality shall notify the County Commission or its designee of the proposed allocation of flexibility.
 - (2) After receipt of the municipal notice, the County Commission or its designee shall have 45 days to notify the municipality if a review is required upon a finding that such proposed municipal allocation of flexibility may be incompatible with the Environmentally Sensitive Land, Broward County or regional park.
 - (3) Broward County shall provide all Broward municipalities with a map identifying the Environmentally Sensitive Lands, Broward County and regional parks which are subject to these provisions.
 - (4) For the purpose of this section, adjacent is defined as attached; located within 500 feet; or separated only by streets and highways, canals and rivers, or easements.
- (E) Compatibility review determinations shall be made by the County Commission following a public hearing. County staff shall complete the staff report on each application and schedule the public hearing within 8 weeks of receiving a completed application.
- (F) Broward County shall provide reasonable notice of the County's compatibility review public hearings. The County shall give at least 10 days' notice in a newspaper of general circulation indicating the location and size of the property, future land use designation and proposed number of flexibility or redevelopment units.

3.5 INCREASE AND DECREASE OF COMMERCIAL AND RESIDENTIAL ACREAGE

- (A) A certified local land use plan may allow a different arrangement of commercial and residential acreage than that shown on the Broward County Land Use Plan, if consistent with all of the following provisions:
- (1) The land designated "Commerce" on the Broward County Land Use Plan (see Policy 2.3.4 of the Broward County Land Use Plan) may be decreased by twenty percent (20%) and (re)designated to a land use category consistent with the residential land use categories of the Broward County Land Use Plan. (Re)designation to a residential land use category is subject to the following rules and regulations:

- a. The local government must assign available flexibility units or redevelopment units in compliance with the provisions of Section 3.2 (Flexibility Units) or Section 3.3 (Redevelopment Units), of this document; or
 - b. The local government must correspondingly reduce, within the local land use element, the density of a residential area so that the total number of permitted dwelling units allowed within the municipality is not increased.
- (2) The local land use plan may permit up to five percent (5%) of the area designated for residential use on the Broward County Land Use Plan to be used for offices and/or neighborhood retail sales of merchandise or services, subject to compliance with Policy 2.10.1 of the Broward County Land Use Plan. No such contiguous area may exceed ten (10) acres in size. For the purpose of this provision, contiguous is defined as: attached; located within 500 feet; or separated only by streets and highways, canals and rivers, or easements.

This five percent (5%) residential-to-commercial flexibility rule may be applied by the local government through (re)zoning or other official action, subject to compliance with Policy 2.10.1 of the Broward County Land Use Plan, and does not require an amendment to the local land use plan map if the provision is certified by the Planning Council within the residential permitted uses section of the local land use plan.

- (3) A mixed residential and retail sales or office land use may be permitted by the local land use plan in areas designated for “Medium,” “Medium-High” or “High” residential density on the Broward County Land Use Plan, subject to the local land use plan providing:
- a. That no more than fifty percent (50%) of the floor area in a building shall be used for retail sales or offices; and
 - b. At least fifty percent (50%) of the area in a building shall be used for residences.
- (4) Residential and/or mixed commercial/residential developments may be permitted by the local land use plan in areas designated “Commerce” on the Broward County Land Use Plan Map, subject to the following:
- a. The local government shall apply available flexibility and/or redevelopment units in compliance with Articles 3.2 and 3.3 of this document; and

- b. For parcels up to ten (10) acres in size, free-standing multi-family residential uses or mixed commercial/residential developments are permitted; and
 - c. For parcels up to twenty (20) acres in size, free-standing multi-family residential uses or mixed commercial/residential developments that include a minimum of 15% affordable housing restricted to such use for a minimum of 15 years are permitted; and
 - d. Within areas east of the Intracoastal Waterway, in no instance shall the residential density exceed 25 dwelling units per acre or 100% of the maximum number of dwelling units indicated for the parcel by the local land use plan map, whichever resulting residential density is less; and
 - e. In no instance shall the total residential uses exceed 20% of the land area designated "Commerce" or "Commercial" within the municipality.
- (5) The arrangement of land use designations must produce a reasonable development pattern. Criteria for reasonableness shall include compatibility of adjacent land uses and suitability of parcels for various development patterns.

3.6 REQUIREMENTS FOR SUBMITTAL OF DATA FROM UNITS OF LOCAL GOVERNMENT

Pursuant to Section 2 of the Broward County Land Use Plan, units of local government shall prepare and transmit to the Planning Council the following information within the time periods specified. This information may be transmitted in any form approved by the Planning Council Executive Director.

- (A) By January 31 of each year, an official of each local government shall transmit to the Planning Council an annual report providing updated information regarding the utilization of the Residential and Non-Residential Flexibility Rules of the Broward County Land Use Plan. The report shall include the following information, as applicable:
- (1) Total number of acres designated residential, commercial, industrial and employment center within the municipal boundary.
 - (2) Total number of residential, industrial and employment center acres allocated for commercial use through assignment of flexibility in the previous calendar year.

- (3) Total number of residential, industrial and employment center acres allocated for commercial use through assignment of flexibility which includes all previous yearly allocations.
 - (4) Total number of flexibility units and redevelopment units allocated in the previous calendar year to residential or non-residential designated lands which did not require an amendment to the local land use plan map.
 - (5) Total number of flexibility units and redevelopment units allocated, including all previous yearly allocations to residential or non-residential designated lands which did not require an amendment to the local land use plan map.
- (B) Upon determination by the Planning Council that a local government has failed to comply with the requirements of this Article, the Planning Council may decertify the local land use element or applicable portions thereof, in accordance with the provisions of Article 2 of this document.

3.7 REARRANGEMENT OF RESIDENTIAL DENSITY

- (A) A local land use plan map may show a different arrangement of residential acreage than that shown on the Broward County Land Use Plan, subject to all of the following rules and regulations:
- (1) The local government shall demonstrate to the Planning Council that no increase in the total number of permitted dwelling units results from the rearrangement.
 - (2) The density assigned to an area circumscribed by a dashed line on the Broward County Land Use Plan shall not be reassigned outside the dashed line.
 - (3) A rearrangement of land use designations must produce a reasonable development pattern. Criteria for reasonableness shall include compatibility of adjacent land uses and suitability of parcels for various development patterns.

3.8 DEVELOPED AREAS

- (A) Zoning that is consistent with the established density of a developed area shall be in substantial conformity with the Broward County Land Use Plan so long as the local land use plan, the zoning and the applicable land development regulations do not permit any density higher than fifty (50) dwelling units per gross acre.

For the purpose of these rules and regulations, a developed area means a residential zoning district in which the predominant character had been established as of November 22, 1977, by existing buildings, buildings under construction, or by active building permits.

3.9 RESIDENTIAL USES IN AGRICULTURAL/RURAL RANCHES LAND USE CATEGORIES

- (A) This section provides for exceptions to the residential density restrictions within the Agricultural and Rural Ranches land use categories of the Broward County Land Use Plan consistent with Broward County Ordinance No. 79-34. Land designated Agricultural or Rural Ranches may be permitted one (1) dwelling unit on parcels less than two (2) net acres or less than two and one-half (2½) gross acres if:
- (1) The parcel is specifically designated on a plat approved by the Board of County Commissioners prior to May 16, 1979; or
 - (2) The parcel was of public record prior to May 16, 1979, and has not been at any time since the effective date of Broward County Ordinance No. 79-34 (May 30, 1979) contiguous with another parcel or parcels in common ownership which could be combined into a single parcel of at least two (2) net acres, and has received the approval of the applicable agency for a sewage disposal system.

3.10 SPECIAL RESIDENTIAL FACILITIES

Provisions for Special Residential Facilities, such as adult care living facilities, foster care facilities and group homes, are included within Section 2 of the Broward County Land Use Plan consistent with Broward County Ordinance No. 85-92. Definitions, permitted locations and density standards are found in Section 2 of the Broward County Land Use Plan.

- (A) Local governments may utilize the Special Residential Facilities provisions of the Broward County Land Use Plan regardless of whether such provisions are incorporated within the certified local land use plan.
- (B) Each local government may permit a maximum of one hundred (100) bonus sleeping rooms within the local governmental boundary permanently dedicated to a special residential facility(s) use, without an additional allocation of density, subject to meeting the requirements this section.
- (C) If a local government has not incorporated the Special Residential Facilities provisions of the Broward County Land Use Plan within its certified local land use plan, written approval of the Planning Council Executive Director is required, prior to approval by a local government, for special residential facilities projects involving the following:
- (1) Projects requiring the allocation of flexibility units or redevelopment units;
 - (2) Projects involving allocation of all or a portion of the one hundred (100) bonus sleeping rooms for which the local government does not have to assign density, per Section 3.10(B) above.

- (D) Upon allocation of flexibility units or redevelopment units to a parcel of land, the local government shall submit revised flexibility charts in the format certified by the Planning Council which reflect the current totals.
- (E) Upon allocation of bonus sleeping rooms to a parcel of land per Section 3.10(B) above, the local government shall notify the Planning Council in writing and submit a chart which reflects the remaining total in a format approved by the Planning Council Executive Director.
- (F) In no instance shall a density exceeding 100 sleeping rooms per gross acre be permitted.