ARTICLE 2

FLEXIBILITY RULES AND REGULATIONS

2.1 FLEXIBILITY UNITS

(A) Flexibility units, as defined in Section IV.B., "Residential Use" of the Broward County Land Use Plan, mean 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 flexibility zone by a 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 13.01.10 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) Flexibility units may not be transferred to other flexibility zones except as provided for by Article 5 “Special Residential Facilities” and Article 8 “Affordable Housing Density Bonuses”.

(4) 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.

(5) 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 charts” of the certified local land use plan.

(6) 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 Administrative Rules Document.
2.2 RESERVE UNITS

(A) Reserve units, as defined in Section IV.B., "Residential Use", of the Broward County Land Use Plan, mean additional permitted dwelling units equal to two percent (2%) of the total number of dwelling units permitted within a flexibility zone by the Broward County Land Use Plan.

(B) A local government may include provisions for reserve units within their certified land use plan and establish a reserve unit pool. Assignment of reserve units is subject to all of the following rules and regulations:

1. Assignment of reserve units shall be subject to meeting the provisions of Policy 13.01.10 of the Broward County Land Use Plan concerning compatibility with adjacent land uses and impacts on public schools;

2. Reserve units may not be transferred between flexibility zones except as provided for by Article 5 “Special Residential Facilities” and Article 8 “Affordable Housing Density Bonuses”.

3. A chart or charts reflecting the number of reserve units within a flexibility zone shall be approved by the Planning Council at the time of (re)certification of the local land use plan.

4. Upon assignment of reserve units to a parcel of land, 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.

5. Upon annexation of land, the affected local government may submit revised reserve unit charts, which reflect such annexation and include unassigned reserve units, concurrent with or subsequent to a request for (re)certification of the local land use plan by the Planning Council.

6. Upon deannexation or contraction of lands, the affected local government shall submit revised reserve unit charts which reflect such deannexation to the Broward County Planning Council for recertification.

7. The number of reserve units assigned to a parcel designated for residential use may not exceed 100% of the maximum number of dwelling units indicated for the parcel by the local land use plan map, except as provided for by Article 8 “Affordable Housing Density Bonuses”.

8. In no instance shall a density of greater than fifty (50) dwelling units per gross acre be permitted.
(9) The Planning Council, upon determination that a local government has failed to report assignment of reserve units in a timely or sufficient manner or has assigned reserve 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 Administrative Rules Document.

2.3 REARRANGEMENT OF RESIDENTIAL DENSITY

(A) A local land use plan map may show a different arrangement of residential acreage in a flexibility zone than that shown for the same flexibility zone 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 in the flexibility zone results from the rearrangement.

(2) When a parcel of land is split by a flexibility zone boundary but is within a single local government, residential density may be redistributed within the parcel without regard to the flexibility zone boundary.

(3) 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.

(4) 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.

2.4 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 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.
2.5 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 in a flexibility zone than that shown for the same flexibility zone on the Broward County Land Use Plan, if consistent with all of the following provisions:

(1) The land designated “Commercial” within a flexibility zone on the Broward County Land Use Plan (see POLICY 2.04.05 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 or reserve units in compliance with the provisions of Section 2.1 (Flexibility Units) or Section 2.2 (Reserve Units), of this Administrative Rules 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 in the flexibility zone 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 within a flexibility zone to be used for neighborhood office and/or retail sales of merchandise or services, subject to compliance with Policy 13.01.10 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 13.01.10 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.
A mixed residential and retail sales or office land use may be permitted by the local land use plan in areas designated for “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.

A mixed residential and office land use may be permitted by the local land use plan in areas designated for “Medium” residential density on the Broward County Land Use Plan Map, 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 offices; and

b. At least fifty percent (50%) of the area in a building shall be used for residences.

A residential and/or commercial land use may be permitted by the local land use plan in areas designated “Commercial” on the Broward County Land Use Plan Map, subject to the following:

a. The local government shall apply available flexibility and/or reserve units in compliance with Articles 2.1 and 2.2 of this Administrative Rules Document; and

b. For parcels 5 acres in size or less, free standing multi-family residential uses are permitted; and/or

c. For mixed commercial/residential developments greater than 5 acres in size, free standing multi-family residential uses are permitted provided that the gross residential acreage does not exceed 5 acres or 40% of the total gross acreage of the commercially designated parcel, whichever is greater, and that the entire mixed residential/commercial development be governed by specific zoning regulations that establish criteria to ensure proper integration and compatibility of land uses within and surrounding the development.
(6) The local land use plan may permit up to twenty percent (20%) of the area designated for “Industrial” use on the Broward County Land Use Plan within a flexibility zone to be used for commercial and retail business uses including hotels, motels and similar lodging, subject to compliance with Policy 13.01.10 of the Broward County Land Use Plan.

This twenty percent (20%) industrial-to-commercial flexibility rule may be applied by the local government through (re)zoning or other official action, subject to compliance with Policy 13.01.10 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 industrial permitted uses section of the local land use plan.

(7) The local land use plan may permit up to twenty percent (20%) of the area designated for “Employment Center” use on the Broward County Land Use Plan within a flexibility zone to be used for commercial and retail business uses, subject to compliance with Policy 13.01.10 of the Broward County Land Use Plan.

This twenty percent (20%) employment center-to-commercial flexibility rule may be applied by the local government through (re)zoning or other official action, subject to compliance with Policy 13.01.10 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 employment center permitted uses section of the local land use plan.

(8) 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.

2.6 RESIDENTIAL USES IN “AGRICULTURAL” / “RURAL RANCHES” LANDS

(A) This section provides for exceptions to the residential density restrictions within the “Agricultural” and “Rural Ranches” land use category 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 smaller than two (2) net acres or smaller 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

a. 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 net acres, and

b. has received the approval of the applicable agency for a sewage disposal system.

Article 2.1 – Amended October 23, 2008
Article 2.6 - Amended June 29, 1989