

## EXHIBIT 2

### RESOLUTION NO. 2014 -

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO AFFORDABLE HOUSING POLICIES; APPROVING AND ADOPTING CHANGES TO THE ADMINISTRATIVE RULES DOCUMENT: BROWARD COUNTY LAND USE PLAN ("ADMINISTRATIVE RULES DOCUMENT"), CREATING A NEW ARTICLE 10 TO BE ENTITLED "RULES FOR IMPLEMENTATION AND ADMINISTRATION OF BROWARD COUNTY LAND USE PLAN POLICY 1.07.07," PROVIDING FOR INTENT, DESCRIPTION OF TERMS, AND COUNTY STAFF GUIDELINES AND REVIEW PROCEDURES FOR LAND USE PLAN AMENDMENTS SUBJECT TO POLICY 1.07.07; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE RULES DOCUMENT, AND AN EFFECTIVE DATE.

WHEREAS, the Administrative Rules Document: Broward County Land Use Plan ("Administrative Rules Document") provides rules and regulations for the purpose of providing assistance and guidance to local government entities and the general public, and direction to Broward County Planning Council ("Planning Council") staff, in implementing the Broward County Land Use Plan; and

WHEREAS, on November 12, 2013, the Broward County Board of County Commissioners ("Board") approved the initiation of an amendment to the Administrative Rules Document to establish rules, guidelines, procedures, and methodologies for implementation of Policy 1.07.07 of the Broward County Land Use Plan, regarding affordable housing; and

WHEREAS, public workshops were held regarding the proposed amendment on December 17, 2013, and March 10, 2014; and

WHEREAS, a Joint Affordable Housing Workshop consisting of representatives from the Board, the Broward League of Cities, and the Planning Council was held on

1 January 29, 2014, at which time each entity made appointments from its membership to  
2 an Affordable Housing Working Group to review the proposed amendment and make  
3 recommendations to its membership, the Planning Council, and the Board; and

4 WHEREAS, on March 17, 2014, the Affordable Housing Working Group held a  
5 public workshop; and

6 WHEREAS, at its meeting of March 27, 2014, the Planning Council  
7 recommended to the Board that it approve the amendment to the Administrative Rules  
8 Document, creating Article 10, "Rules for Implementation and Administration of Broward  
9 County Land Use Plan Policy 1.07.07"; and

10 WHEREAS, the Board of County Commissioners deems it to be in the best  
11 interests of the residents of Broward County to approve the amendment to the  
12 Administrative Rules Document: Broward County Land Use Plan as set forth herein,  
13 NOW, THEREFORE,

14 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
15 BROWARD COUNTY, FLORIDA;

16 Section 1. The Administrative Rules Document: Broward County Land Use  
17 Plan is hereby amended to create Article 10, "Rules for Implementation and  
18 Administration of Broward County Land Use Plan Policy 1.07.07," to read as set forth in  
19 Exhibit 1, attached hereto.

20 Section 2. SEVERABILITY.

21 If any portion of this Resolution is determined by any Court to be invalid, the  
22 invalid portion shall be stricken, and such striking shall not affect the validity of the  
23 remainder of this Resolution. If any Court determines that this Resolution, or any  
24 portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies),

property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

**Section 3. INCLUSION IN THE ADMINISTRATIVE RULES DOCUMENT.**

It is the intention of the Board that the provisions of this Resolution shall become and be made a part of the Administrative Rules Document: Broward County Land Use Plan; and that the sections of this Resolution be renumbered or relettered and the word "resolution" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

## Section 4. EFFECTIVE DATE.

This Resolution shall become effective upon adoption.

ADOPTED this                      day of                      , 2014.

Approved as to form and legal sufficiency:  
Joni Armstrong Coffey, County Attorney

By: /s/ Maite Azcoitia 3/27/14  
Maite Azcoitia (date)  
Deputy County Attorney

MA/gmb  
#14-401.10  
03/27/14  
AdminRuleArt10Reso2

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

# EXHIBIT A

## **SECTION I** **AMENDMENT TO THE** **“ADMINISTRATIVE RULES DOCUMENT:** **BROWARD COUNTY LAND USE PLAN”**

### **ARTICLE 10** **“RULES FOR IMPLEMENTATION AND ADMINISTRATION OF BROWARD COUNTY LAND** **USE PLAN POLICY 1.07.07”**

<b><u>RECOMMENDATIONS/ACTIONS</u></b>	<b><u>DATE</u></b>
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<b><i>I.</i></b>	<b><u>Planning Council Staff Recommendation</u></b>	<b><u>January 14, 2014</u></b>
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It is recommended that the proposed revisions to the “Administrative Rules Document” be approved.

This item will be presented to the Land Use/Trafficways Committee immediately preceding the Planning Council meeting. The Committee’s recommendation will be presented at the Council meeting.

<b><i>II.</i></b>	<b><u>Planning Council Land Use/Trafficways Committee Recommendation</u></b>	<b><u>January 23, 2014</u></b>
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Defer the item to the February 27, 2014, Planning Council public hearing.

<b><i>III.</i></b>	<b><u>Planning Council Recommendation</u></b>	<b><u>January 23, 2014</u></b>
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Deferred the proposed “Administrative Rules Document” revisions per the Land Use/Trafficways Committee Recommendation to the February 27, 2014, Planning Council public hearing. (Vote of the Board: 15-0: Bascombe, Boccard, Furr, Good, Graham, Hobby, Kaplan, Kiar, Lazarow, Long, Mack, Ryan, Steffens, Stermer and Castro)

<b><i>IV.</i></b>	<b><u>Planning Council Staff Recommendation</u></b>	<b><u>February 18, 2014</u></b>
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Planning Council staff recommends that the Council defer the item to its March 27, 2014, meeting, based on the follow up discussions scheduled for March 10 and March 12, 2014.

<b><i>V.</i></b>	<b><u>Planning Council Recommendation</u></b>	<b><u>February 27, 2014</u></b>
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Deferred to the March 27, 2014, Planning Council public hearing per Planning Council staff recommendation. (Vote of the Board: 16-0: Aronson, Bascombe, de Jesus, DuBose, Furr, Graham, Hobby, Kaplan, Kiar, Lazarow, Long, Mack, Ryan, Steffens, Stermer and Castro)

<b><i>VI.</i></b>	<b><u>Planning Council Staff Recommendation</u></b>	<b><u>March 18, 2014</u></b>
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**It is recommended that the proposed revisions to the “Administrative Rules Document” be approved. See Attachment.**

Further, the recommendation should delineate the Council’s position regarding the in-lieu of fee payment per unit as **either Option 1:** 1.25% of hard construction costs of the residential project **or Option 2:** one dollar (\$1.00) per gross square foot (gross floor area) of the residential dwelling unit, as outlined in **Page 5 of Attachment**.

This item will be presented to the Land Use/Trafficways Committee immediately preceding the Planning Council meeting. The Committee’s recommendation will be presented at the Council meeting.

**RECOMMENDATIONS/ACTIONS (continued)**

**DATE**

**VII. Planning Council Land Use/Trafficways Committee Recommendation** **March 27, 2014**

Approval per Planning Council staff recommendation of March 18, 2014, with an additional recommendation that Option 2 be utilized for the in-lieu of fee payment per unit (one dollar (\$1.00) per gross square foot (gross floor area) of the residential dwelling unit).

**VIII. Planning Council Recommendation** **March 27, 2014**

Approval per Planning Council Land Use/Trafficways Committee recommendation. (Vote of the Board: 15-2; Yes: Aronson, Bascombe, Blattner, Boccard, de Jesus, Furr, Good, Graham, Hobby, Long, Mack, Ryan, Steffens, Stermer and Castro. No: DuBose and Kaplan.)

# ATTACHMENT

## UPDATED PROPOSAL

March 18, 2014

### ADMINISTRATIVE RULES DOCUMENT: BROWARD COUNTY LAND USE PLAN PROPOSED ARTICLE 10

#### RULES FOR IMPLEMENTATION AND ADMINISTRATION OF BROWARD COUNTY LAND USE PLAN POLICY 1.07.07

##### 10.1 INTENT

These administrative rules address the following: 1) to provide guidelines to local governments for submittal of an affordable housing study, report or information and strategy to demonstrate compliance with Policy 1.07.07 of the Broward County Land Use Plan; and 2) to provide “default” criteria for those applicants who wish to offer mitigation as part of the Broward County Land Use Plan amendment or other applicable application process. The primary purpose of Policy 1.07.07 is for local governments to approve an affordable housing study, report or information and strategy that are in compliance with the Policy. For those applications which meet the Policy via a local government study, report or information and strategy, County staff will issue comments that do not recommend additional mitigation from the applicant or local government.

##### 10.2 BROWARD COUNTY LAND USE PLAN POLICY 1.07.07

For amendments which propose to add 100 or more residential dwelling units to the existing densities approved by the Broward County Land Use Plan. Broward County and affected municipalities shall coordinate and cooperate to implement the affected municipality’s chosen policies, methods and programs to achieve and/or maintain a sufficient supply of affordable housing.

Broward County shall accept from the affected municipality those professionally accepted methodologies, policies, and best available data and analysis, which the municipality has used to define affordable housing needs and solutions within the municipality.

**Notes:** Underlined and ~~Struck through~~ wording are proposed revisions subsequent to the December 18 proposal. *Italicized* words are proposed revisions/options subsequent to the March 12 proposal and March 17 Tri-Party Committee meeting. Also note that proposed Article 10.6 regarding procedures for potential implementation of BCLUP text amendment PCT 13-1 has been deleted.

In addressing amendments which propose to add 100 or more residential dwelling units to the existing densities approved by the Broward County Land Use Plan, the municipality, without limitation, may include consideration and implementation of the following affordable housing strategies:

- a. programs and policies involving mechanisms such as, but not limited to, impact fees, in-lieu fees, and/or public funds, in which the municipality, and/or Broward County, and/or other appropriate agencies/entities (including, but not limited to, major employers), provide for the construction or supply of affordable housing;
- b. programs and policies involving mechanisms such as, but not limited to, impact fees, in-lieu fees, and/or public funds, in which the municipality, and/or Broward County, and/or other appropriate agencies entities (including, but not limited to, major employers), provide funding to facilitate the affordable purchase or renting of housing;
- c. programs and policies in which the municipality and/or Broward County, and/or other appropriate agencies, facilitate the maintenance of the existing supply of affordable housing stock, if any;
- d. property tax abatement programs aimed at preserving or creating affordable housing;
- e. streamlined and reduced-cost permitting procedures for affordable housing;
- f. specific minimum set-aside requirements for new affordable housing construction;
- g. use of appropriate existing public lands, or public land-banking, to facilitate an affordable housing supply;
- h. programs and policies to facilitate the development and use of municipal and/or Broward County affordable housing density bonus provisions;

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- i. land development regulations which promote the availability of affordable housing such as reduced lot size and floor area for dwelling units, construction of zero lot line and cluster housing, vertical integration of residential units with non-residential uses, and the allowance of accessory dwelling units;
- j. the existing supply of affordable housing.

The affected municipality shall demonstrate compliance with this Policy at the time of the County's consideration of the applicable land use plan amendment, by establishing that the municipality has implemented or ensured adoption of appropriate policy and program measures to implement the affected municipality's chosen policies, methods and programs to achieve and/or maintain a sufficient supply of affordable housing as defined by the municipality's data and analysis.

For the purposes of this Policy, the term "affordable housing" shall include the meaning as defined by the Broward County Land Use Plan. The median annual income estimate should be updated at least yearly.

### 10.3 DESCRIPTION OF SELECT TERMS USED IN POLICY 1.07.07

The following are descriptions of select terms used in Policy 1.07.07 as they relate to implementation of the Policy.

**Professionally Accepted Methodologies, Policies and Best Available Data and Analysis:** Used to prepare a study, report, or information submitted by the local governing body which includes estimates of the existing and projected supply of affordable housing (i.e. "very low," "low" and "moderate") within the local government boundary in comparison to the estimated affordable housing supply that is needed to achieve and/or maintain a sufficient supply.

~~Existing and projected employees working within the boundaries of the local government must be considered.~~ An example of an assessment would be estimating existing and projected residents ~~and employees~~ within the local government who are at 80% area adjusted median income in comparison to the projected supply to meet the housing needs of such.

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Projected supply and needs for affordable housing must be consistent with a minimum 5 year planning horizon, but no greater than the adopted planning horizon of the local government comprehensive plan.

The projected demand and supply may consider the existing and projected availability of affordable housing within 3 miles within a contiguous local government, subject to approval by such contiguous local government.

Data and methodologies must be consistent with those sources widely used and accepted by the professional community who conduct research and analysis concerning affordable housing. Example sources include the Countywide Affordable Housing Needs Assessment, data from the University of Florida's Shimberg Center, Census/American Survey Data, and the Fort Lauderdale Board of Realtors median home prices by product type (single family, condominium, etc.).

**In-Lieu:** Refers to monies paid to the local government by developers when affordable housing is not included on-site in a development in compliance with a standard adopted by the local government.

Broward County will use 15% of project housing units as a default guideline for an affordable housing standard within proposed residential development subject to Policy 1.07.07; however, a local government may officially adopt a different standard. However, if the standard is lower than 15% the local government must demonstrate that the proposed level is consistent with demand in the applicable area.

Such monies must be used by the local government to fund affordable housing construction and/or programs. In-lieu monies shall be sufficient to provide for the availability of affordable housing consistent with the standard set by the local government.

*Should the local government and developer agree to an in-lieu of fee, the local government shall have the sole and absolute discretion regarding how and where said payment shall be utilized, consistent with its housing policies and programs and shall not be subject to review by the Broward County Commission. If the local government and developer agree to an in-lieu of fee and direct the funds to Broward County, the Broward County Commission shall have sole and absolute discretion regarding how and where said payment shall be utilized, consistent with its housing policies and programs.*

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**In-Lieu (continued)**

The in-lieu methodology identifies the costs associated with achieving the development of affordable housing units within the local government. For example, an in-lieu methodology may be calculated at a rate per gross square foot per new market rate residential unit. As an alternative example, the in-lieu methodology may be based on a percentage of the costs of construction or sales price of all new market rate units within a project.

Broward County will use

**OPTION 1:** *1.25% of hard construction costs of the residential project*

**OPTION 2:** *one dollar (\$1) per gross square foot (gross floor area) of the residential dwelling unit*

as a default guideline in the review of in-lieu methodologies for all additional market rate units within a project; however, a local government may officially approve, as part of their affordable housing report and strategy, a different standard and program utilizing professionally accepted methodologies, policies and best available data and analysis.

**Hard Construction Costs:** For the purposes of implementing the above referenced 1.25% default guideline, hard construction costs are sometimes referred to as the “bricks-and-mortar costs” and represent the actual amounts paid to the construction contractors to erect the building. Normally, all fixed and built-in equipment, including heating/ventilation/air conditioning (HVAC), food service equipment, built-in cabinets, etc., are considered part of the hard costs because they are provided under the prime construction contract. Generally, “moveable” furniture, furnishings, and special equipment are provided under separate nonprime contracts and, therefore, are not typically considered part of hard construction costs. Hard costs do not include estimated land value, profit margin, or “soft costs,” such as planning and permitting. It is anticipated that “hard construction costs” generally capture between 60% and 70% of total project costs. Broward County staff shall review and confirm the estimated hard construction costs submitted by the developer utilizing existing and customary procedures in this regard.

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**In-Lieu (continued)**

**Gross Square Footage (Gross Floor Area):** *The sum (in square feet) of the area of each floor level, measured from principal outside faces of exterior walls, including, but not limited to, basements, corridors, hallways, utility areas, elevators, storage rooms, stair cases, and mezzanines, but not including architectural projections. Included are areas that have floor surfaces with clear standing head room (6 feet, 6 inches minimum) regardless of their use. This definition includes areas which are not enclosed, but roofed; however, it does not include unroofed areas.*

10.4 COUNTY STAFF GUIDELINES: DETERMINATIONS OF APPLICATION CONSISTENCY WITH POLICY 1.07.07

- (A) The local government shall provide an estimate of the existing and projected supply of affordable housing within the local government's boundaries in comparison to the estimated affordable housing supply that is needed to achieve and/or maintain a sufficient supply. ~~Existing and projected employees working within the boundaries of the local government must also be considered.~~
- (B) The local government must demonstrate how its chosen affordable housing strategy will satisfactorily achieve and/or maintain a sufficient supply consistent with the local government's planning horizon.
- (C) The study, report, or information submitted by the local governing body addressing Article 10.3 (A) and (B) must be based on professionally accepted methodologies, policies and best available data and analysis consistent with Article 10.2.
- (D) At a minimum, if a deficit of affordable housing is projected or assumed, Broward County will use 15% of additional project housing units as a default guideline for an affordable housing standard within proposed residential development subject to Policy 1.07.07; however, a local government may officially approve, as part of their affordable housing report and strategy, a different standard and program utilizing professionally accepted methodologies, policies and best available data and analysis.
- (E) A study, report, or information submitted by the local government which has been determined by the County to be in compliance with Policy 1.07.07 shall be valid for the consideration of subsequent land use plan amendments for a period of 18 months from the date the study, report or analysis was submitted to Broward County for review.

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10.5 REVIEW PROCEDURES FOR LAND USE PLAN AMENDMENTS SUBJECT TO POLICY 1.07.07

- (A) After an application for a Broward County land use plan amendment has been received by the Broward County Planning Council, the Planning Council staff shall determine if the application is subject to Policy 1.07.07.
- (B) If a land use plan amendment application is subject to Policy 1.07.07, Planning Council staff shall forward the application to the Broward County Environmental Protection and Growth Management Department and request comments in a timeframe consistent with the Planning Council's standard land use plan amendment review schedule.
- (C) If Broward County staff issues a determination that a land use plan amendment application is not in compliance with Policy 1.07.07, Broward County staff shall specify in writing the reasons for such determination.
- (D) Determinations issued by Broward County staff regarding Policy 1.07.07 shall be forwarded to the Planning Council staff and shall be made a part of the land use plan amendment report.

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