

## EXHIBIT 2

**SECTION I**  
**AMENDMENT TO THE**  
**“ADMINISTRATIVE RULES DOCUMENT: BROWARDNEXT”**

**ARTICLE 1**  
**“RULES AND REGULATIONS REGARDING AMENDMENT OF THE**  
**BROWARD COUNTY LAND USE PLAN”**

**RECOMMENDATIONS/ACTIONS**

**DATE**

- I. Planning Council Staff Recommendation November 27, 2018

It is recommended that the proposed revisions to the “Administrative Rules Document: BrowardNEXT” be approved. See Attachment 2.

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

- II. Planning Council Combined Executive and Land Use/Trafficways Committee Recommendation December 6, 2018

Approval per Planning Council staff recommendation, including update to reflect the Florida Department of Transportation comment regarding clarification of Article 1.2(A)(5).

- III. Planning Council Action December 6, 2018

Approval per the Combined Executive and Land Use/Trafficways Committee recommendation, including update to reflect the Florida Department of Transportation comment regarding clarification of Article 1.2(A)(5). (Vote of the board; Unanimous: 16-0; Blackwelder, Breslau, Brunson, Castillo, DiGiorgio, Ganz, Gomez, Good, Grosso, Hardin, Rich, Rosenof, Rosenzweig, Ryan, Williams and Stermer)

**SECTION II**  
**AMENDMENT TO THE**  
***“ADMINISTRATIVE RULES DOCUMENT: BROWARDNEXT”***

**ARTICLE 1**

**BACKGROUND INFORMATION**

Countywide planning was first established in Broward County with the passage of Chapter 59-1154, Laws of Florida, Special Acts of 1959, as amended, which created the Broward County Area Planning Board. With the passage of the Charter of Broward County, Florida (Charter) on November 5, 1974, the Broward County Planning Council was created and the enabling legislation of the Area Planning Board was repealed and its functions and responsibilities were transferred to, and vested in, the Council.

The Charter serves as the Constitution for Broward County Government. The Broward County Charter Review Commission (CRC) is appointed every 12 years and is authorized and empowered to conduct a comprehensive study of any or all phases of county government, including significant, regional, long-term, and complex issues facing Broward County. The recommendations of the CRC help determine the design of Broward County Government, and how it should function to best meet the needs of the people. Recommendations must be voted on by the electorate.

The most recent CRC met from 2015 to 2018. As the Planning Council is authorized by Article 8 of the Charter, the Planning Council was engaged to review Article 8 with the CRC. After a series of presentations and discussions, the CRC proposed two (2) amendments to Article 8 that were considered by the electorate on November 6, 2018, and approved:

- **Amendment:** Provides that the “Broward County Zoning Glossary” be contained within the Broward County Land Use Plan.  
**Required Action to Enact Revision:** None. The definitions section of the Broward County Land Use Plan exists and is amended from time to time;
- **Amendment:** Revises the Planning Council public hearing requirement from two (2) public hearings for amendments to the County Land Use Plan to “at least one (1) public hearing.”  
**Required Action to Enact Revision:** Amendment to the “Administrative Rules Document: BrowardNEXT” Article 1 to define the implementation.

See Attachment 1. The Charter Resolution is rendered effective immediately upon the filing of the report of the canvassing board with the Florida Department of State.

**SECTION III**  
**AMENDMENT TO THE**  
***“ADMINISTRATIVE RULES DOCUMENT: BROWARDNEXT”***

**ARTICLE 1**

**ANALYSIS**

As stated above, the amendment that revises the public hearing requirement from two (2) public hearings to at least one (1) public hearing will require an amendment to the “Administrative Rules Document: BrowardNEXT” (Rules), Article 1. The Rules are maintained, as per the requirements of the Broward County Land Use Plan (BCLUP), by the Broward County Planning Council for the purpose of providing direction, assistance and guidance to local governments, the general public, and Planning Council staff in implementing the BCLUP. Articles 1, 3 and 5 of the Rules are also approved and adopted by the Broward County Board of County Commissioners.

Article 1 of the Rules outlines the rules and regulations regarding the amendment of the Broward County Land Use Plan. The referenced Charter amendment impacts Article 1.2 related to “Planning Council Reviews and Recommendations.”

Planning Council staff proposes the following rules regarding the circumstances in which a second public hearing would result:

**Proposal:** At its initial public hearing, the Planning Council takes an action to recommend denial of a proposed amendment.

**Example:** The Planning Council recommends denial at the first public hearing; the amendment would automatically be scheduled for a second public hearing.

**Proposal:** At its initial public hearing, the Planning Council takes an action to recommend approval subject to meeting specific criteria or policy prior to a second Planning Council public hearing.

**Example:** The Planning Council recommends approval of an amendment subject to meeting a policy related to transportation impacts prior to the second public hearing; the amendment would automatically be scheduled for a second public hearing.

**Proposal:** At its initial public hearing, the Planning Council votes by a majority of the members present with a minimum of six (6) affirmative votes for a second Planning Council public hearing.

**Example:** The Planning Council recommends approval of an amendment; however, there is extensive public input and a member makes a motion that is seconded and voted in the affirmative by the majority to schedule the item for a second public hearing.

**ANALYSIS** *(continued)*

**Proposal:** If the County Commission requests by a vote of the majority of members present to request a second Planning Council public hearing.

**Example:** During the transmittal consideration, the County Commission requests a second public hearing by the Planning Council.

**Proposal:** If an objection is issued during the State of Florida Chapter 163 review process.

**Example:** A State of Florida review agency issues an objection of an important state resource or facility that will be adversely impacted by the adopted plan or plan amendment during its Chapter 163 review; the amendment would be scheduled for a second Planning Council public hearing to address the objection prior to the scheduling of a County Commission public hearing to consider the adoption of the proposed amendment.

**Update: December 6, 2018:** Article 1.2(A)(5) was clarified to reflect a comment received by the Florida Department of Transportation. See Attachment 3.

**Proposal:** If a second public hearing is required by State law.

**Example:** If State of Florida Chapter 163 requires or is modified to require a second local planning agency public hearing.

See Attachment 2.

A future amendment to the Rules could be initiated if additional circumstances are identified at a later date or clarification is necessary.

**SECTION IV**  
**AMENDMENT TO THE**  
***“ADMINISTRATIVE RULES DOCUMENT: BROWARDNEXT”***

**ARTICLE 1**

**ATTACHMENTS**

1. Broward County Charter Review Commission Resolution No. 2018-003
2. Administrative Rules Document: BrowardNEXT Article 1

**Update: December 6, 2018:**

3. Email correspondence from Larry Hymowitz, Planning Specialist, Florida Department of Transportation District 4, to Barbara Blake Boy, Executive Director, Broward County Planning Council, dated November 29, 2018

# ATTACHMENT 1

## CRC RESOLUTION NO. 2018-003

A RESOLUTION OF THE BROWARD COUNTY CHARTER REVIEW COMMISSION ADOPTING A PROPOSED AMENDMENT TO SECTION 8.05 OF THE CHARTER OF BROWARD COUNTY, FLORIDA, ENTITLED, "BROWARD COUNTY PLANNING COUNCIL; POWERS AND FUNCTION"; PROVIDING FOR REVISIONS TO ADMINISTRATION OF PLANNING COUNCIL'S DUTIES BY PROVIDING FOR THE ZONING GLOSSARY TO BE CONTAINED IN THE COUNTY LAND USE PLAN, AND AT LEAST ONE PLANNING COUNCIL PUBLIC HEARING FOR LAND USE PLAN AMENDMENTS; PROVIDING FOR PRESENTATION TO THE ELECTORATE BY THE COUNTY COMMISSION AT A SPECIAL REFERENDUM ELECTION TO BE HELD IN CONJUNCTION WITH THE NOVEMBER 2018 GENERAL ELECTION; PROVIDING THE BALLOT TITLE AND SUMMARY OF THE CHIEF PURPOSE OF THE PROPOSED AMENDMENT; PROVIDING FOR THE COUNTY ATTORNEY TO RENUMBER AND RELETTER ARTICLES AND SECTIONS IN ORDER TO CONFORM THE AMENDMENTS TO THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, in accordance with Section 6.02 of the Broward County Charter, after two (2) public hearings and by an affirmative vote of at least thirteen (13) of the nineteen (19) members, the Broward County Charter Review Commission may submit a proposal to the Board of County Commissioners to amend or revise the Broward County Charter; and

**WHEREAS**, the Charter of Broward County, Florida mandates that all Charter amendments and revisions proposed by the Charter Review Commission must be submitted to

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Words in underscoring type are additions.

the County Commission no later than the first Tuesday in June of the year in which the term of the Charter Review Commission shall expire; and

**WHEREAS**, the Charter of Broward County, Florida provides that all amendments and revisions proposed by the Charter Review Commission must be presented by the County Commission to the electorate at the next general election;

**NOW, THEREFORE, BE IT RESOLVED BY THE BROWARD COUNTY CHARTER REVIEW COMMISSION:**

**SECTION 1:** That pursuant to Section 6.02 of the Charter of Broward County, Florida, the County Commission is hereby directed to place on the ballot for presentation to the electorate, at a special referendum election to be held in conjunction with the November 2018 General Election, a special referendum issue, the subject of which is proposed to amend Section 8.05, entitled “Broward County Planning Council,” to provide revisions to the administration of the Broward County Planning Council’s use of the zoning glossary and the holding of at least one (1) public hearing prior to consideration of a land use plan amendment, the full text of which is attached hereto and incorporated by reference as if fully set forth herein as **Exhibit "A"**.

**SECTION 2:** That the ballot title and summary for the proposed amendments/revisions as referred to above shall appear as follows:

**BROWARD COUNTY PLANNING COUNCIL**

**REVISIONS TO ZONING GLOSSARY AND PUBLIC HEARINGS**

Shall the Broward County Charter be amended to revise Section 8.05 related to the operation of the Broward County Planning Council to provide that the Broward County Zoning Glossary shall be contained within the County Land Use  
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Plan, and to further provide that the Broward County Planning Council shall hold no less than one (1) public hearing prior to consideration of a proposed land use plan or plan amendment?

YES FOR APPROVAL \_\_\_\_\_

NO FOR REJECTION \_\_\_\_\_

**SECTION 3:** That should a majority of electors voting on the above-referenced referendum election vote "YES," thereby approving the above ballot issue, attached **Exhibit "A"** shall become a part of the Charter of Broward County, Florida.

**SECTION 4:** That the County Attorney is hereby directed to insure that the appropriate numbers and/or letters are affixed to the Articles and Sections of the Charter in order to conform the Charter to the amendments if approved.

**SECTION 5:** That if any section, sentence, clause or phrase of this resolution is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

**SECTION 6:** That this resolution shall become effective immediately upon its adoption.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Thomas McDonald, Chairperson

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Samuel S. Goren, General Counsel

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**RECORD OF VOTE  
(CRC 2018-003)**

BUSCH	_____	McDONALD	_____
DAVIS	_____	MOSELEY	_____
DI PIETRO	_____	LETO	_____
FABRICIO	_____	NAVARRO	_____
FORMAN	_____	NORRIS-WEEKS	_____
GREENBERG	_____	PETTIS	_____
GUERRA	_____	REYES	_____
GUNZBURGER	_____	SMITH	_____
KANE	_____	WELLS	_____
MAYLOR	_____		

Resolution **CRC 2018-003** passed \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.

**BROWARD COUNTY CHARTER REVIEW COMMISSION**

Attest: \_\_\_\_\_  
Carlos Verney, Executive Director

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## EXHIBIT "A"

### ARTICLE VIII – LAND USE PLANNING

#### Section 8.05 BROWARD COUNTY PLANNING COUNCIL; POWERS AND FUNCTION

\* \* \*

- C. The Planning Council shall adopt, and amend from time to time, a uniform countywide general zoning glossary of terms in consultation with other governmental entities. The zoning glossary shall be contained in the County Land Use Plan, as may be amended from time to time. Other governmental entities within the County may specify specific prohibited or permitted uses or various other restrictions as may be deemed necessary to be in the best interest of the governmental entity.
- D. A governmental entity shall submit to the Planning Council its land use plan, or amendments thereto, for review. No later than sixty (60) days from the date of submission, the Planning Council shall hold a public hearing to consider that plan for inclusion in the County Land Use Plan and/or certification. The Planning Council shall take into consideration such factors as: professional service employed, consideration given to utilities and adjoining areas with regard to impact on roads and general environmental quality, sufficient notice to surrounding areas and proper opportunity for the public to review and comment on the proposed Plan. The Planning Council may, at this hearing or a subsequent regular meeting, by a simple majority of its membership, adopt or reject such inclusion and/or certification of, or amendment to, such governmental land use plan. The Planning Council shall state its reasons for rejection, alterations or modifications in writing to the affected governmental entity. Following at least one (1) public hearing at which the proposed amendment is considered, ~~the Planning Council may propose amendments to the County Land Use Plan at any time.~~ ~~after consideration at two (2) public hearings.~~

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                  Words in underscored type are additions.**

# ATTACHMENT 2

## ARTICLE 1

### RULES AND REGULATIONS REGARDING AMENDMENT OF THE BROWARD COUNTY LAND USE PLAN

These rules and regulations are promulgated in accord with the provisions of the Broward County Land Use Plan.

#### 1.1 REQUEST FOR AMENDMENTS

- (A) A local government may submit to the Planning Council a proposal(s) for amending the Broward County Land Use Plan. The request shall be transmitted to the Executive Director of the Planning Council and must include the following, unless submitted in accordance with Article 1.1(A)(4) below:
- (1) The local government's Local Planning Agency (LPA) recommendation on the requested amendment;
  - (2) The local governing body's recommendation on the requested amendment. A public hearing is not required, but the governing body must make a recommendation by resolution or motion at a public meeting. The County Commission is not required to make a recommendation to the Planning Council; and
  - (3) All materials outlined in the Planning Council's "Plan Amendment Requirements and Procedures" (Appendix 1).
  - (4) Requests may be transmitted to the Executive Director of the Planning Council by the municipal governing body, or one of the following municipal officials: Mayor or equivalent or municipal manager or equivalent, prior to the actions referenced in Articles 1.1(A)(1) and (2), subject to all of the following:
    - (a) Submittal of all materials outlined in the Planning Council's "Plan Amendment Requirements and Procedures" (Appendix 1);
    - (b) The municipal local planning agency and the municipal governing body must make a recommendation on the proposed amendment by resolution or motion at a public meeting at least 21 days prior to the first Planning Council public hearing;
    - (c) Amendment applications shall be automatically withdrawn if the municipality takes action to deny the amendment, or substantially alters the submitted amendment proposal, such as proposing land use categories differing from the original submittal, or more intense permitted uses;
    - (d) Amendment applications shall be automatically withdrawn if the municipal local planning agency and the municipal governing body do not make a recommendation on the proposed amendment by resolution or motion at a public meeting within four (4) months of receipt of an application under Article 1.1(A)(4); and
    - (e) Amendment applications shall be subject to the applicable Planning Council processing fee, with no refund option.

- (B) Any person may request a local government to formally submit to the Planning Council a proposal for an amendment to the Broward County Land Use Plan. The local governing body shall transmit the amendment to the Planning Council in accordance with Article 1.1(A) of this document.
- (C) A local government may submit to the Planning Council a proposal for amending the Broward County Land Use Plan at the following times:
  - (1) During the certification of its local land use plan, and
  - (2) During the filing periods established by the Broward County Planning Council pursuant to applicable County and/or State law.
  - (3) The County Commission may request the Planning Council initiate an amendment to the Broward County Land Use Plan at any time. The Planning Council shall consider the request and if it initiates the amendment, public hearings shall be scheduled consistent with Chapters 163.3184 and 163.3187 Florida Statutes.
  - (6) The Planning Council may initiate an amendment to the Broward County Land Use Plan by majority vote at a regularly scheduled or special meeting. The Planning Council shall hold at least ~~two (2)~~ one (1) public hearings on the amendment consistent with the requirements of Articles 1.2(A) and (B) of this document. The Planning Council may withdraw a Council initiated amendment at any time prior to its transmittal to the Broward County Commission.

## 1.2 PLANNING COUNCIL REVIEWS AND RECOMMENDATIONS

- (A) The Planning Council shall hold a public hearing with due public notice on each proposed amendment to the Broward County Land Use Plan submitted in accordance with the requirements of Article 1.1(A) or (B) of this document and pursuant to Chapter 163.3174 Florida Statutes. The Planning Council shall make a recommendation on each proposal and submit its recommendation to the Broward County Commission. A second public hearing will be required in the following circumstances:
  - (1) At its initial public hearing, the Planning Council takes an action to recommend denial of a proposed amendment; or
  - (2) At its initial public hearing, the Planning Council takes an action to recommend approval subject to meeting specific criteria or policy prior to a second Planning Council public hearing; or
  - (3) At its initial public hearing, the Planning Council votes by a majority of the members present with a minimum of six (6) affirmative votes for a second Planning Council public hearing; or
  - (4) If the County Commission requests by a vote of the majority of members present to request a second Planning Council public hearing; or
  - (5) If an objection **or comment on adverse impacts to important state resources or facilities** is issued during the State of Florida Chapter 163 review process; or
  - (6) If State of Florida Chapter 163 requires or is modified to require a second local planning agency public hearing.

- (B) A courtesy notice of the time, date, place and purpose of the Planning Council's first public hearing on a Broward County Land Use Plan amendment shall be provided to the property owner and surrounding property owners within a 300 foot radius of the amendment site. Individual notices shall be mailed fifteen (15) days in advance of the first scheduled public hearing. Notice to a registered condominium association shall be considered notice to all individual unit owners of that condominium. The Planning Council, upon approval by a majority vote of the members present, may specifically waive any portion of this provision.

These notice procedures are established in the interest of enlightened land use recommendations by the Planning Council and are not a legal obligation of the Planning Council. Failure on the part of the Planning Council to send, or the property owner to receive, an individual notice shall not constitute cause for action against the Planning Council or any local government.

- (C) Following receipt of comments from applicable State review agencies or a small-scale amendment, pursuant to Chapter 163 Florida Statutes, the Planning Council shall either schedule the amendment for consideration of adoption by the County Commission or hold a second public hearing, if required by Article 1.2(A) above, and make a final recommendation. This recommendation shall be transmitted to the Broward County Commission.

### **1.3 COUNTY COMMISSION ADOPTION OF AMENDMENTS**

- (A) The County Commission shall upon receipt of a recommendation from the Broward County Planning Council, hold a public hearing on an amendment request pursuant to Chapter 163.3184(15) Florida Statutes regarding transmittal of a recommendation on the amendment to the applicable State of Florida review agencies. Transmittal shall be by affirmative vote of a majority of the membership of the Commission. If an amendment request does not receive the required affirmative vote, the request is denied and the amendment shall not be transmitted.
- (B) Following receipt of applicable State review agency comments and a ~~final~~ recommendation from the Planning Council per the requirements of Article 1.2, the County Commission shall hold a public hearing pursuant to Chapter 163.3184(15) Florida Statutes and take final action on an amendment request. Adoption of an amendment shall be by affirmative vote of a majority of the membership of the County Commission.

### **1.4 EFFECT OF A BROWARD COUNTY LAND USE PLAN AMENDMENT ON A LOCAL CERTIFIED LAND USE PLAN**

- (A) Upon adoption of any amendment to the Broward County Land Use Plan by the County Commission, the Planning Council Executive Director shall notify, in writing, the chief elected official of the affected local government(s) of such action and that (re)certification of the local land use plan may be necessary to incorporate the Broward County Land Use Plan amendment into the local land use plan as per Section 1.4(C) of this document. The Planning Council shall determine, upon the request of the affected local government(s), whether the affected certified land use plan(s) remain in substantial conformity with the Broward County Land Use Plan as amended. Upon such request by the affected local government(s), the Planning Council shall determine whether:

- (1) The certified land use plan is in substantial conformity with the Broward County Land Use Plan as amended and shall continue as the effective land use plan; or
  - (2) The certified land use plan or a portion thereof is no longer in substantial conformity with the Broward County Land Use Plan, as amended. Following a public hearing with due public notice, the Council shall consider decertifying the entire certified plan or portions of the certified plan.
- (B) When the Planning Council determines that a certified land use plan is no longer in substantial conformity with the Broward County Land Use Plan as amended but that de-certification of only a portion of the certified land use plan is necessary to achieve substantial conformity, then only that portion shall be de-certified.
- (C) A local government may submit to the Planning Council proposed amendments to its local land use plan for recertification in the same manner described for the initial certification of local land use plans in Article 2.1 of this document. After recertification by the Planning Council, the recertified land use plan shall again become the effective land use plan for the local government.

#### **1.5 EFFECTIVE DATE OF AN AMENDMENT TO THE BROWARD COUNTY LAND USE PLAN**

An amendment to the Broward County Land Use Plan shall take effect as provided by law. The local government's zoning shall comply with the plan amendment. Nothing therein shall prohibit a local government from adopting more restrictive zoning than provided for by the permitted uses of the Broward County Land Use Plan, as amended, or a certified local land use plan.

Note: Proposed additions and deletions are presented in underline and ~~strike-through~~ format. Double-underlined and **highlighted** words are proposed additions based on the Florida Department of Transportation District Four comments dated November 29, 2018.

## ATTACHMENT 3

**From:** [Blake Boy, Barbara](#)  
**To:** [Von Stetina, Deanne](#)  
**Subject:** Fw: Broward County Charter Amendment - Article VIII - Broward County Planning Council  
**Date:** Thursday, November 29, 2018 8:21:20 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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**From:** Hymowitz, Larry <Larry.Hymowitz@dot.state.fl.us>  
**Sent:** Thursday, November 29, 2018 9:09 AM  
**To:** Blake Boy, Barbara  
**Cc:** Carver, Jennifer; Bush, Lois; Li, Shi-Chiang; Fasiska, Christine; Patel, Mayur  
**Subject:** RE: Broward County Charter Amendment - Article VIII - Broward County Planning Council

Hi Barbara. Could you assist me in clarifying part of the proposed Administrative Rules changes in response to the County Charter amendment passing?

Below it indicates that if an objection to an amendment is issued by the State (presuming from any review agency), a second Planning Council public hearing will be required. Since our agency, and presumably others, do not use the term objection in our comment letters, I recommend that the language be changed to use comments instead. A comment, if not resolved prior to adoption, could form the basis for a review agency challenge of the amendment pursuant to Section 163.3184(5), F.S. Comments should not be confused with technical assistance comments, which would not form the basis of a challenge to the amendment.

I hope the language can be modified to avoid potential confusion in the future.

Thank you.

Larry Hymowitz

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