

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 154, "PLANNING," BY AMENDING SECTION 154.60, "DEFINITIONS," TO BE CONSISTENT WITH THE CHANGES MADE THROUGH THE "BROWARDNEXT" PROCESS AND ADOPTED INTO THE 2017 BROWARD COUNTY LAND USE PLAN; BY AMENDING SECTION 154.61, "RESERVE AND FLEXIBILITY UNITS," TO REMOVE REFERENCES TO RESERVE UNITS; DEFINE HOW THE NEW FLEXIBILITY AND REDEVELOPMENT UNITS ARE ALLOCATED TO PROPERTIES WITHIN THE CITY OF POMPANO BEACH THROUGH ADOPTION OF A RESIDENTIAL AND NONRESIDENTIAL FLEXIBILITY RECEIVING AREA MAP AND A REDEVELOPMENT UNIT RECEIVING AREA MAP; TO CLARIFY THE APPLICATION AND PROCESSING PROCEDURE AND THE REVIEW STANDARDS FOR APPROVAL OF A FLEXIBILITY ALLOCATION; TO ADD REDEVELOPMENT UNITS TO THE AFFORDABLE HOUSING REQUIREMENTS AND TO PROVIDE FOR AN IN LIEU OF FEE OPTION FOR THE AFFORDABLE HOUSING REQUIREMENT; BY CREATING SECTION 154.62, "NONRESIDENTIAL FLEXIBILITY," TO PROVIDE FOR THE USE OF NONRESIDENTIAL FLEXIBILITY; BY AMENDING SECTION 154.80, "AFFORDABLE HOUSING CONTRIBUTIONS," TO ADD AN IN LIEU OF FEE CONTRIBUTION FOR AFFORDABLE HOUSING REGULATIONS WITHIN CHAPTER 154; AND BY AMENDING CHAPTER 155, "ZONING CODE," BY AMENDING APPENDIX C: "FEE SCHEDULE," TO REVISE THE FEE SCHEDULE TO CONFORM TO AMENDMENTS MADE BY THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of its proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission has been held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had the opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 154.60, “Definitions,” of Chapter 154, “Planning,” of the City of Pompano Beach Code of Ordinances is amended to read as follows:

RESERVE AND FLEXIBILITY AND REDEVELOPMENT UNITS AND
NONRESIDENTIAL FLEXIBILITY

For the purpose of this subchapter the following words and phrases shall have the meanings herein set forth.

FLEXIBILITY UNIT. ~~The difference between the number of dwelling units permitted within a flexibility zone by the Broward County Future Land Use Plan Map and the number of dwelling units permitted within the flexibility zone by the city's certified Future Land Use Element.~~ Shall be equal to 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 of the total number of dwelling units permitted by the local government's certified future land use plan map.

RESERVE UNIT. ~~Additional permitted dwelling units equal up to two percent of the total number of dwelling units permitted within a flexibility zone by the Broward County Future Land Use Plan Map.~~

REDEVELOPMENT UNITS. Additional permitted dwelling units equal to three percent of the total number of dwelling units as established by the adoption of the 2017 BrowardNext Broward County Land Use Plan. Local governments may apply for redevelopment unit allocations as specified in the 2017 BrowardNext Land Use Plan, as may be amended from time-to-time. These units can be assigned to specific Redevelopment Unit Receiving Areas, which the City must establish, per the County's requirements, at the time of application for Redevelopment Units. Redevelopment Units can be requested when there are 250 or fewer flexibility units remaining for use by the City.

THE 5% RULE: NONRESIDENTIAL FLEXIBILITY. The Broward County Land Use Plan and the City of Pompano Beach Comprehensive Plan permit up to five percent of the area with a designated residential land use category to be used for neighborhood commercial uses without applying for a land use plan amendment, as identified and in accordance with the 2017 Broward County Land Use Plan, based on the rules established within the County's "Administrative Rules Document: 2017 Broward County Land Use Plan", as may be amended from time to time.

THE 10% RULE: RESIDENTIAL FLEXIBILITY. The Broward County Land Use Plan and the City of Pompano Beach Comprehensive Plan permit 10 percent the lands designated "Commerce" on the 2017 Broward County Land Use Plan Map to be used for residential use (with the application of flexibility or redevelopment units) without a City or County Land Use Plan Amendment in accordance with the rules established within the County's "Administrative Rules Document: Broward County Land Use Plan" and the Chapter 163, Florida Statutes plan adoption and amendment process.

SECTION 2. That Section 154.61, "Reserve and Flexibility Units," of Chapter 154, "Planning," of the City of Pompano Beach Code of Ordinances is amended to read as follows:

§ 154.61 RESERVE REDEVELOPMENT AND FLEXIBILITY UNITS.

(A) In conformance with the Comprehensive Plan, flexibility and ~~reserve redevelopment~~ units as defined in § 154.60 of this chapter, may be allocated to authorize multifamily dwellings for residential projects or mixed use projects on properties with commercial land use designations (limited to 10% of the total lands designated Commerce in the County's 2017 Land Use Plan) or additional units on properties with residential land use designations. Approval of ~~a transfer an~~ allocation of flexibility and ~~reserve redevelopment~~ units shall be achieved as outlined below.

(B) Distribution of flexibility and ~~reserve redevelopment~~ units.

(1) Available flexibility and ~~reserve redevelopment~~ units may be utilized by the city to rearrange residential densities consistent with the 2017 Broward County Land Use Plan provisions, as may be amended from time-to-time.

(2) Rearrangement of residential densities utilizing flexibility units will be administered within "flexibility zones." ~~The boundaries of and rules governing "flexibility zones" and rearrangement of residential densities therein, as referenced in the~~ The County Land Use Plan, effective as of June, 2017, approved through the BrowardNext process, identifies the entire boundary of Pompano Beach as one flexibility zone. The City can further restrict the area eligible to receive flex units through the adoption of a Residential and Nonresidential

Flexibility Receiving Area Map. The rules associated with the allocation of flexibility units are will be established within the Broward County Planning Council's "Administrative Rules Document" as referenced in the City's Comprehensive Plan.

(3) Additional residential density utilizing redevelopment units will be administered within specific redevelopment unit receiving areas as established on the Redevelopment Unit Receiving Area Map, which must be adopted by the City and submitted to the County when the City applies for redevelopment units per the 2017 BrowardNext County Land Use Plan policies.

(34) The maximum number of dwelling units permitted in a flexibility zone by the city Future Land Use Plan shall not exceed the number of dwelling units permitted in the flexibility zone by the Broward County Future Land Use Plan.

(C) Procedure for Residential and Nonresidential (Per 5% Rule: Residential to Commercial) Flexibility Allocation and procedure for allowing Commercial Uses in Industrial Land Use Category.

(1) Step 1: Application submittal. The applicant shall submit an application to the Development Services Director as follows:

(a) The application is in the form established by the Development Services Director;

(b) The application is accompanied by the application fee as specified in Chapter ~~154~~ 155, Appendix ~~A~~ C: Fee Schedule; and

...

(3) Step 3: Advisory body review and recommendation. Applicable to a recommendation by the Planning and Zoning Board based on the Application Review Standards listed in subsection (D) below. (Note: For applications requesting Commercial Uses in an Industrial Land Use Category, The P&Z Board will be the decision-making body and Step 3 will be the last step.)

...

(5) The availability of ~~reserve~~ redevelopment and flexibility units will become null and void upon the expiration of the time limits provided in the resolution allocating said flexibility and ~~reserve~~ redevelopment units. Time extensions may be granted for good cause shown if sufficient progress is demonstrated.

(D) Application review standards. An application shall only be approved on a finding that there is competent substantial evidence in the record that all of the following standards are met:

...

(2) The use of the ~~reserve~~ redevelopment and flexibility units; the establishment of nonresidential development within a residential land use designation; or the approval of commercial uses in an Industrial Land Use category will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

(3) ~~An~~ Applications for the use of residential flexibility or redevelopment units requires an agreement to provide affordable housing units per subsection (E) below or an in lieu of fee in accordance with Section 154.80, except that infill properties which are one-acre or less are exempt from this requirement.

(E) Affordable housing requirements.

...

(2) Purpose and intent. The purpose of this section is to promote the construction of affordable housing units in the city or the payment of funds in lieu of construction into the Local Affordable Housing Trust Fund through the allocation of flexibility and ~~reserve~~ redevelopment units.

(3) To be eligible for the allocation of flexibility and ~~reserve~~ or redevelopment units the applicant must agree to provide affordable housing units on the application site of any one type or combination of types. Each different type of affordable housing units has a ratio which indicates how many affordable housing units shall be constructed for a specified number of flexibility or ~~reserve~~ redevelopment units. The different types and their respective ratios are:

(a) Workforce housing: (100% to 120% median income), for every one workforce housing unit constructed, the applicant may be granted one flexibility or ~~reserve~~ redevelopment unit.

(b) Moderate income housing: (80% to 100% median income) for every one moderate income housing unit constructed, the applicant may be granted three flexibility or ~~reserve~~ redevelopment units.

(c) Low income housing: (up to 80% median income) for every one low income housing unit constructed, the applicant may be granted five flexibility or ~~reserve~~ redevelopment units.

Table 1 Allocation of Flex and Reserve Redevelopment Units for Projects Containing Workforce Housing		
Ratio of workforce housing units to market units: 1 workforce housing unit to 1 market unit		
Total number of housing units proposed	Number of workforce units	Number of market rate units
2	1	1
4	2	2
6	3	3
8	4	4
10	5	5
12	6	6
14	7	7
16	8	8
18	9	9
20	10	10
22	11	11
24	12	12
26	13	13
28	14	14
30	15	15
Note: For housing developments above 30 units continue with the formula above. For housing developments with number of units not shown above, the number of required moderate housing units shall be the resulting whole number of the total number of housing units divided by 2.		

Table 2 Allocation of Flex and Reserve Redevelopment Units for Projects Containing Moderate Housing		
Ratio of workforce housing units to market units: 1 moderate housing unit to 3 market units		
Total number of housing units proposed	Number of moderate units	Number of market rate units
4	1	3
8	2	6
12	3	9
16	4	12
20	5	15
24	6	18
28	7	21
32	8	24
36	9	27
40	10	30
44	11	33
48	12	36

52	13	39
Note: For housing developments above 50 units continue with the formula above. For housing developments with number of units not shown above, the number of required moderate housing units shall be the resulting whole number of the total number of housing units divided by 4.		

<p align="center">Table 3 Allocation of Flex and Reserve <u>Redevelopment</u> Units for Projects Containing Low Income Housing</p>		
<p align="center">Ratio of low income housing units to market units: 5 low income housing units to 1 market unit</p>		
Total number of housing units proposed	Number of low income units	Number of market rate units
6	1	5
12	2	10
18	3	15
24	4	20
30	5	25
Note: For housing developments above 30 units continue with the formula above. For housing developments with number of units not shown above, the number of required low income housing units shall be the resulting whole number of the total number of housing units divided by 6.		

...

(5) Affordable housing units must be constructed according to the following guidelines:

(a) The unit mix (bedroom count per unit) of the affordable housing units should be proportional to the unit mix (bedroom count per unit) of the flexibility or ~~reserve~~ redevelopment units.

...

(7) All of the affordable housing units shall receive certificates of occupancy before the final 10% of the flexibility ~~and reserve~~ or redevelopment units obtain certificates of occupancy.

SECTION 3. That Section 154.62, “Nonresidential Flexibility,” of Chapter 154, “Planning,” of the City of Pompano Beach Code of Ordinances is created to read as follows:

§ 154.62 NONRESIDENTIAL FLEXIBILITY.

(A) In conformance with the Comprehensive Plan, nonresidential flexibility based on the five percent rule for Residential to Commercial Flex as defined in § 154.60 of this chapter, may be allocated to authorize neighborhood commercial projects or mixed use projects on properties with a residential land use designation. Approval of nonresidential flexibility shall be achieved as outlined above in Section 154.61(C).

(B) Distribution of nonresidential flexibility.

(1) Available nonresidential flexibility in accordance with the five percent rule may be utilized by the City to allow nonresidential development in a residential land use category without a City or County land use plan amendment subject to the 2017 Broward County Land Use Plan provisions, as may be amended from time-to-time.

(2) Nonresidential flexibility will be administered within "flexibility zones." The County Land Use Plan effective as of June 2017, approved through the Broward Next process, identifies the entire boundary of Pompano Beach as one flexibility zone. The City can further restrict the area eligible to receive nonresidential flexibility through the adoption of a Residential and Nonresidential Flexibility Receiving Area Map. The rules associated with the allocation of residential and nonresidential flexibility are established within the Broward County Planning Council's "Administrative Rules Document" as referenced in the City's Comprehensive Plan.

SECTION 4. That Section 154.80, "Affordable Housing Contributions," of Chapter 154, "Planning," of the City of Pompano Beach Code of Ordinances is amended to read as follows:

§ 154.80 AFFORDABLE HOUSING CONTRIBUTIONS.

(A) In lieu of providing affordable housing units on-site or off-site as required by regulations within Chapter 154 and Chapter 155 (Zoning) or pursuant to a land use plan amendment, a property owner may elect to contribute a fee in lieu of to be deposited into the city's Local Affordable Housing Trust Fund. If this in lieu of option is taken for the allocation of flex or redevelopment units, the in lieu of fee will apply to every flex and redevelopment unit allocated to the project that is not classified as affordable in accordance with the requirements in Section 154.62(E).

...

SECTION 5. That Appendix C: Fee Schedule of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

APPENDIX C: FEE SCHEDULE

The following are the applicable fees for Applications for Development in the city.

...

TYPE OF APPLICATION	FEE
VII. FLEXIBILITY	
A. Submission of a written request for a determination as to the availability of surplus dwelling units. <u>Application for allocation of flexibility or redevelopment units.</u>	\$1,765 plus \$120 per acre
B. Requests for time extension or reaffirmation of the initial allocation of surplus dwelling flexibility or redevelopment units.	\$1,765 plus \$120 per acre
C. <u>Request for Residential to Commercial flexibility (when not associated done concurrent with a rezoning).</u>	\$1,110 <u>\$1,765</u> plus \$120 per acre
<u>D. Request for Commercial Use in Industrial Land Use Category (when not done concurrent with rezoning, process required is DRC and P&Z only).</u>	<u>\$1,110</u>

SECTION 6. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2017.

PASSED SECOND READING this _____ day of _____, 2017.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

/jrm
9/5/17
ord/ch154/2017-313