

Chapter 19

PLANNING AND DEVELOPMENT*

* **Cross References:** Review committee, § 2-71; city departments created, § 2-126; alcoholic beverages, Ch. 3; proximity of alcoholic beverage establishments, § 3-2; proximity of establishments to houses of worship, schools, § 3-3; proximity of alcoholic beverage establishments to child care centers, § 3-4; buildings and building regulations, Ch. 5; numbering of buildings, § 5-1; fire limits, § 5-2; use of underground cables in new developments, § 5-3; building standards, § 5-41 et seq.; building slab elevations, § 5-43; utility department and city engineer must approve utility installations and on-site paving and drainage plans on all site plans where designing approval is required before a building permit is issued, § 5-44; exterior screening of delivery pallets and containers required, § 5-45; driveways and parking lots, § 5-151 et seq.; code enforcement, Ch. 6; flood prevention, Ch. 9; compliance with flood prevention ordinance mandatory, § 9-8; drainage requirements, § 9-56 et seq.; plats cannot be approved without submission and approval of a drainage plan, § 9-57; placement of survey stakes in designated drainage areas, § 9-66; landscaping, Ch. 13; landscaping planning and review board, § 13-16 et seq.; landscaping requirements for areas adjacent to public rights-of-way, § 13-37; interior landscaping required for parking areas, § 13-40; cutting, trimming, removal of trees, § 13-44; marine structures, wharfs and activities, Ch. 15; seawalls, § 15-51 et seq.; docks, § 15-71 et seq.; lake and canal excavations, § 15-91 et seq.; permit required before lake and canal excavations, § 15-91; noises, Ch. 16; development permit, § 20-46 et seq.; site data records, § 20-16 et seq.; drainage facilities, § 20-176 et seq.; platting, Ch. 20; signs and advertising, Ch. 22; streets, sidewalks, bridges and other public places, Ch. 23; streets, § 23-21 et seq.; numbering and naming of streets prior to issuance of building permit, § 23-22; sidewalks, § 23-121 et seq.; parks and playgrounds, § 23-171 et seq.; traffic and vehicles, Ch. 25; utilities, Ch. 26; zoning, Ch. 27; parking of commercial vehicles prohibited in certain areas, § 25-43; parking of house trailers and mobile homes in certain areas prohibited, § 25-44; parking of boats, boat trailers, airboats, golf carts, horse trailers, swamp buggies and utility trailers prohibited in certain areas, § 25-45; industrial construction or farm equipment prohibited in certain areas, § 25-46; sewer use, § 26-121 et seq.; utility systems in subdivisions, § 26-146 et seq.; community development, Ch. 28.

State Law References: Local Government Comprehensive Planning Act, F.S. § 163.3161 et seq.

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Art. II. Comprehensive Planning, §§ 19-16--19-69

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ARTICLE I.

IN GENERAL

Sec. 19-1. Sales offices of residentially zoned developments to post notice of availability of public information.

All sales offices for the sale of residentially zoned developments shall have posted on a wall, for conspicuous public viewing, a sign, which shall be no less than eighteen (18) by twenty-four (24) inches and which shall read as follows in letters being not less than one (1) inch in height with a quarter inch stroke in

width:

"NOTICE"

INFORMATION CONCERNING ZONING AND ROADS IS AVAILABLE AT THE PLANNING DEPT.,
PLANTATION, CITY HALL.
(Code 1964, § 18 1/2-10)

Secs. 19-2--19-15. Reserved.

ARTICLE II.

COMPREHENSIVE PLANNING*

* **State Law References:** Local Government Comprehensive Planning and Land Development Act, F.S. § 163.3161 et seq.

DIVISION 1.

GENERALLY

Secs. 19-16--19-30. Reserved.

DIVISION 2.

PLANNING AND ZONING BOARD, LOCAL PLANNING AGENCY*

* **Editors Note:** Ord. No. 2222, § 1, adopted May 31, 2000, provided that the zoning board and comprehensive planning board be consolidated into one planning and zoning board, and that the terms "zoning board", "comprehensive planning board", and "planning board" be changed to read "planning and zoning board" throughout the Code. Such changes will be made as pages are necessarily affected through the supplement service.

Cross References: Boards, commissions and committees, § 2-31 et seq.

Sec. 19-31. Created.

There is hereby created the planning and zoning board. This planning and zoning board shall perform the duties set forth in this chapter 19, in chapter 27, and in other sections of this Code and the City Charter.
(Code 1964, § 18 1/2-1(a); Ord. No. 2222, §§ 1, 2, 5-31-2000)

Sec. 19-32. Membership, quorum.

(a) The regular voting members of the planning and zoning board shall be seven (7) in number, all of whom shall be residents of Plantation and appointed as specified in section 2-32 of the City Code of Ordinances. Each appointee shall serve during the appointor's term of office.

(b) In addition to the seven (7) regular voting members of the planning and zoning board, there shall

also be seven (7) alternate members, all of whom shall be citizens of the city.

- (1) The mayor and each member of the council shall appoint one (1) alternate member. The seventh alternate member shall be appointed on a rotation basis similar to the seventh regular voting member's appointment rotation, so that (absent a trade), the elected official which appoints the seventh regular voting member shall be the elected official that appoints the seventh alternate member.
- (2) Each alternate member shall serve in lieu of the corresponding appointed regular voting member as an acting regular voting member, when such regular voting member is absent from any planning and zoning board meeting. In the event that both a regular and the corresponding alternate members are absent from a planning and zoning board meeting, another alternate member shall be seated on a rotation basis according to the seat number of the alternate member's appointor (in such case, the mayor shall be considered as occupying seat number six (6)).
- (3) When acting as a regular voting planning and zoning board member, an alternate member shall be able to exercise the full powers and authority held by any other regular voting planning and zoning board member.
- (4) All alternate members shall be encouraged to attend every planning and zoning board meeting.
- (5) Each alternate member shall serve at the pleasure of such alternate member's appointor. Subject to the preceding sentence and regardless of when appointed, an alternate member shall serve for a term co-extensive with the then remaining term of such alternate member's appointor (so that whenever such appointor's term expires or otherwise ends, the alternate member's term of service shall also expire or otherwise end).

(c) A quorum shall consist of four (4) members. A minimum of four (4) affirmative votes is necessary for passage of an item considered by the planning and zoning board.
(Code 1964, § 18 1/2-1(b), (c); Ord. No. 1545, § 1, 4-6-88; Ord. No. 1564, § 1, 6-29-88; Ord. No. 2162, § 6, 5-13-98; Ord. No. 2222, §§ 1, 3, 5-31-2000)

Sec. 19-33. Meetings, proposals, filing dates.

Section 27-21 and section 27-22 of the Code of Ordinances contain provisions concerning planning and zoning board meetings, proposals, and filing dates.
(Code 1964, § 18 1/2-1(d); Ord. No. 2222, §§ 1, 4, 5-31-2000)

Sec. 19-34. Intent, purpose and procedures of local planning agency.

(a) The planning and zoning board shall serve as the local planning agency and assume the duties of such agency as set forth in the Local Government Comprehensive Planning Act and such other or additional duties as the city council may from time to time direct or as may be imposed upon the agency under either the present act or future modifications or amendments thereto. The aforesaid planning and zoning board shall prepare the plan for the city and shall make recommendations on such city plan to the city council which shall

then have the prerogative of adopting such plan and all elements or portions thereof, and making such amendments, modifications, or changes to the comprehensive city plan as recommended by the planning and zoning board as the city council would deem appropriate.

(b) The proper city officials are hereby directed to officially inform the division of state planning and the South Florida Regional Planning Agency of the designation of the newly created planning and zoning board as the local planning agency for the city as that title of local planning agency is defined under the state act.

(c) The planning and zoning board as set out herein shall choose from its ranks any officers and shall set its rules of procedures and its meeting dates. All meetings of this agency shall be public meetings and its records shall be public records.

(d) The city shall provide suitable accommodations for such meetings at the city hall and shall otherwise provide secretarial help and transcription machines to assist in the preparation of and keeping of minutes of these meetings. The city board shall be funded by the city council as a budgetary item in the adoption of the city's budget and shall adopt a fee charge, subject to approval by the city council as to amount, for all copies of minutes, reviews, regulations, criteria or other data compiled by the city board. (Code 1964, § 18 1/2-2; Ord. No. 1959, § 1, 9-22-93; Ord. No. 2222, § 1, 5-31-2000)

Sec. 19-35. City board to be advisory body to city council in comprehensive planning.

The relationship of the planning and zoning board to the city council shall be advisory in both the initial adoption of the city plan called for by the state act and in subsequent periodic reviews of same and in reviews and recommendations of land developments regulations, codes, or amendments thereto as such terms are defined by the state act.

(Code 1964, § 18 1/2-3; Ord. No. 2222, § 1, 5-31-2000)

Sec. 19-36. Duties of the planning and zoning board.

(a) The duties and responsibilities of the planning and zoning board shall be to hold public meetings and develop a comprehensive city plan meeting the requirements of the state act. Once the plan has been recommended by the agency and adopted by the city council, the planning and zoning board shall also consider amendments of such adopted comprehensive city plan, element or portion thereof, and make specific policy advice on such amendments for the city council's guidance, and shall further consider any amendment to any land development regulation or land development code as said terms are used in the state act, so that the city council may have the benefit of the board's advice on such matters.

(b) The planning and zoning board shall also appoint a member as representing Plantation on the Broward County Technical Advisory Committee to coordinate technical elements of the comprehensive plans, elements and portions thereof of the various comprehensive plans being created in Broward County.

(c) The board, as Plantation's local advisory agency under the state act, shall prepare periodic reports on the city plan once adopted or elements thereof at least once every five (5) years after adoption of the plan or elements thereof and make recommendations on any amendments or modifications that should then be made by the city council to the adopted city plan or element thereof as well as submitting the city council such additional

reports as the city council may deem appropriate upon the request of the city council for same.

(d) The city planning and zoning board as the city's local planning agency under the state act shall perform all other functions, duties, and have all other powers and responsibilities as set forth and established in the state act for local planning agencies.
(Code 1964, § 18 1/2-4; Ord. No. 1959, § 2, 9-22-93; Ord. No. 2222, § 1, 5-31-2000)

Sec. 19-37. Areas and jurisdiction.

The area of study and jurisdiction for the city plan to be developed by the city and to be recommended by the board shall include all of the area now or hereafter within the city and any unincorporated areas not within the city but adjacent or adjoining it which may be included in the areas of jurisdiction for the city plan if the city council and the county commission agree on:

- (1) The boundaries of the areas.
- (2) The procedures for joint actions in the preparation and adoption of the city plan for the areas.
- (3) The procedures for the administration of land development regulations or the land development code applicable thereto as the terms are defined in the state act.
- (4) The manner of representation on any joint body, agency or instrument that may be created under this section.

(Code 1964, § 18 1/2-5)

Secs. 19-38--19-50. Reserved.

DIVISION 3.

COMPREHENSIVE PLAN*

* **Cross References:** Platting, Ch. 20; signs and advertising, Ch. 22; streets, sidewalks, bridges and other public places, Ch. 23; traffic and vehicles, Ch. 25; utilities, Ch. 26; zoning, Ch. 27.

State Law References: Local Government Comprehensive Planning Act, F.S. § 163.3101 et seq.

Sec. 19-51. The comprehensive plan.

(a) The city plan shall consist of materials in such descriptive form, written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the plan area.

(b) The several elements of the city plan shall be consistent and the coordination of the several elements of the plan shall be a major objective of the planning process.

(c) The city plan shall be economically feasible. The economic assumptions upon which the plan is based and any amendments thereto shall be analyzed and shall be set out as a part of the plan. Those elements of

the city plan that require the expenditure of public funds for capital improvements shall carry fiscal proposals relating thereto, including, but not limited to, the estimated costs, the priority ranking relative to other proposed capital expenditures, and the proposed funding sources and methods of repayment of same if such funding sources entail borrowing of funds.

(d) Coordination of the city plan with the comprehensive plans of adjacent cities and of the county shall be a major objective of the comprehensive planning process as provided herein. In the comprehensive plan or element as adopted, the city council shall include a specific policy statement indicating the relationship of the proposed development to the city's study area, to the comprehensive plans of adjacent cities and of the county as such adopted plans or plans and preparation may exist.

(e) The city plan and its elements shall contain policy recommendations for the implementation of the plan and its elements upon adoption.
(Code 1964, § 18 1/2-6(a)-(e))

Sec. 19-52. Future land use element.

The city plan shall include a future land use plan element to be adopted by the county commission under the prerogatives given such commission under the county charter. If the power shall be abrogated or ruled no longer effective by either a referendum vote of the people of the county or a court of competent jurisdiction or should the county commission fail to adopt such future land use element within the time specified by the state act, then the planning and zoning board shall recommend, advise and promulgate a future land use plan element and the city council shall adopt a future land use plan element as part of its city plan. The future land use plan element shall designate proposed future general distribution location and extent of the use of land for housing, business, industry, agriculture, recreation, conservation, education, public buildings, and grounds, and other public facilities and other categories of the public and private uses of land. The future land use plan shall include a statement of the standards to be followed in the control and distribution of population, densities, and building and structure intensity as recommended for the various portions of the study area. The future land use plan may designate areas for future plan development use involving combinations of types of uses for which special regulations may be necessary to insure development in accord with the principles and standards of the state act.

(Code 1964, § 18 1/2-6(f); Ord. No. 2222, § 1, 5-31-2000)

Sec. 19-53. Traffic circulation element.

The city plan shall include a traffic circulation element consisting of the types, locations and extent of existing and proposed major thoroughfares and transportation routes.

(Code 1964, § 18 1/2-6(g))

Cross References: Traffic and vehicles, Ch. 25.

Sec. 19-54. Sanitary sewer, solid waste, drainage and potable water element.

The city plan shall include a general sanitary sewer, solid waste, drainage, and potable water element correlated to the principles and guidelines for the future land use and indicating methods to provide for future potable water and drainage and sanitary sewer and solid waste requirements for the study area. This element may be detailed engineering plan for such facilities. This element shall describe the problems and the needs and the general facilities that will be required for the solution of these problems and these needs.

(Code 1964, § 18 1/2-6(h))

Cross References: Utilities, Ch. 26.

Sec. 19-55. Conservation element.

The city plan shall include a conservation element providing for the conservation, development, utilization and protection of natural resources in the study area, including air, water, estuarine marshes, soils, flood plans, waterways, forests fisheries and wildlife, minerals, and other natural and environmental resources. The city does not fall within a coastal zone as same is defined by the Coastal Zone Management Act of 1972, Volume 16, United State Code § 1453(a). However, due to salt water intrusion of parts of the city's waterways it may in the future have upland estuarine marshes and thus reserves the privilege in future modifications of its city plan, once same is duly adopted under the state act, to include a coastal zone protection element as the element is more fully defined under the state act.

(Code 1964, § 18 1/2-6(h))

Sec. 19-56. Recreation and open space element.

The city plan shall include a recreation and open space element indicating a comprehensive system of public and private sites for recreation including but not limited to natural reservations, parks, playgrounds, golf courses, tennis courts, horse rings, parkways, and other recreational facilities, including open spaces.

(Code 1964, § 18 1/2-6(j))

Cross References: Parks and playgrounds, § 23-171 et seq.

Sec. 19-57. Housing element.

The city plan shall include a housing element consisting of standards, plans and principles to be followed in the provision of housing for existing residents and the anticipated population growth of the study area; the elimination of substandard dwelling conditions; the improvement of existing housing; the provision of adequate sites for future housing including housing for low and moderate income families and for mobile homes with supporting infrastructure and community facilities as described in F.S. § 163.3177(6)(c), (e) and (f) and section 7, as well as providing a provision for relocation of housing, identification of housing for purposes of conservation, rehabilitation or replacement; and formulation of housing implementation programs.

(Code 1964, § 18 1/2-6(k))

Sec. 19-58. Intergovernmental coordination element.

The city plan shall contain an intergovernmental coordination element showing relationships and stating principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing services but not having regulatory authority over the use of land, with the comprehensive plans of adjacent municipalities, of the county or adjacent counties, of the region and of the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist. This element of the local comprehensive plan shall demonstrate consideration of the particular effects of the local plan when adopted upon the development of adjacent municipalities, of the county or adjacent counties, of the region, or on the state comprehensive plan, as the case may require.

(Code 1964, § 18 1/2-6(l))

Sec. 19-59. Utility element.

The city plan shall contain a utility element in conformance with the ten (10) year site plan of the Florida Electric Power Plant Siting Act F.S. chapter 403, Part II.

(Code 1964, § 18 1/2-6(m))

Cross References: Utilities, Ch. 26.

Sec. 19-60. Data.

All elements of the city plan shall be based upon data appropriate to the element involved. Surveys and studies utilized in the preparation of the city plan shall not be deemed a part of the city plan unless adopted as a part of it. Copies of such studies, surveys and supporting documents shall be made available to public inspection and copies of such plans shall be made available to the public upon payment of the fees set by the council and recommendation of the planning and zoning board.

(Code 1964, § 18 1/2-6(n); Ord. No. 2222, § 1, 5-31-2000)

Sec. 19-61. Mass transit system element.

The city currently has a population of some forty thousand two hundred (40,200) people. At such time as the population of the city exceeds fifty thousand (50,000), then on subsequent revisions or amendments of its comprehensive city plan, it shall contain a mass transit element showing proposed methods for the moving of people, rights-of-way, terminals, related facilities, fiscal considerations for the accomplishment of the element and intergovernmental coordinated plans for port, aviation and related facilities.

(Code 1964, § 18 1/2-6(o))

Cross References: Traffic and vehicles, Ch. 25.

Sec. 19-62. Historical and scenic preservation element.

The comprehensive city plan may include a historical and scenic preservation element setting out plans and programs for its structures or lands in the area having historical, archaeological, architectural, scenic or similar significance as well as plans for the creation of a local archive where significant memorabilia, photographs, and like material having historical relation to the past history of the city may be preserved and displayed.

(Code 1964, § 18 1/2-6(p))

Sec. 19-63. Optional elements.

(a) The comprehensive city plan may include other optional elements including but not limited to the following elements as same as hereinafter set forth and as same are more fully defined in the state act, to wit:

- (1) An element for circulation of nonautomotive vehicular and pedestrian traffic, including bikeways, exercise trails, riding facilities, and any and all other aspects of recreational circulation;
- (2) An element for off-street parking facilities for motor vehicles and the fiscal considerations for the accomplishment of such element;

- (3) An element for public buildings and related facilities with coordination of such buildings and facilities with other governmental units such as school boards or hospital authorities having public development and service responsibilities, but not having land development regulatory authority;
- (4) A community design element;
- (5) A redevelopment element consisting of plans and programs for the redevelopment of slums and blighted locations in the area;
- (6) A safety element for the protection of residents and property from man-made or natural catastrophe;
- (7) An economic element setting forth principles and guidelines for the employment of manpower and utilization within the area of commercial and industrial development.

(b) The comprehensive city plan shall also include such other elements as may be peculiar to and necessary for the area concerned; added to the comprehensive plan by the city council either with or without the recommendation of the city board, and as may become mandatory or permissive in subsequent amendments to the state act.

(Code 1964, § 18 1/2-6(q), (r))

State Law References: Similar provisions, F.S. § 163.3177.

Sec. 19-64. Reviews and amendments of city plan.

(a) The planning program shall be a continuing and ongoing process. All amendments to the city plan shall be in accordance with this article and the provisions governing amendments as set forth in the state act. The planning and zoning board shall prepare periodic reports on the city plan to be sent to the city council at least once every five (5) years after the adoption of the city plan and the city council may request reports to be transmitted at lesser intervals by simple direction to the chairman of the city board. These periodic reports shall represent an assessment and an evaluation of the success or the failure of the city plan or element or portions thereof, and shall contain appropriate statements using words, maps, illustrations or other forms related to:

- (1) The major problems of development, physical deterioration, in the location of land uses and the social and economic effects of such uses in the area.
 - (2) The conditions of each element in the city plan at the time of adoption and at the date of the report.
 - (3) The city plan objectives as compared with actual results at the date of the report.
 - (4) The extent to which unanticipated and unforeseen problems and opportunities occurred between the date of adoption and the date of report.
- (b) The reports provided for herein may also suggest changes or amendments in the city plan or

elements or portions thereof including reformulated objectives, policies and standards.

(c) The comprehensive plan or any element thereof including the land use master plan or land use master plan map may be amended from time to time by the city council upon request of a property owner or on council initiative.

No proposed land use amendment on a parcel of land which failed to pass city council on either first or second reading of an ordinance pertaining thereunto (on all or any portion of a parcel on which such denial was voted by the council) may be submitted for reconsideration by the planning and zoning board and the city council until at least one (1) year from the date of last consideration by the city council or the planning and zoning board, whichever occurred last.

(Code 1964, § 18 1/2-7; Ord. No. 1528, § 1, 1-13-88; Ord. No. 1959, § 3, 9-22-93; Ord. No. 2222, § 1, 5-31-2000)

State Law References: Similar provisions, F.S. § 163.3191.

Sec. 19-65. Legal status of city plan.

(a) After the city plan or any element or portion thereof has been adopted in conformity with law, all development undertaken by and all actions taken in regard to development orders or permits including development orders of regional impact (DRIS) on land covered by such an or any element thereof shall be consistent with such plan or element as adopted. All land development regulations enacted or amended shall also be consistent with the adopted city plan or element or portion thereof.

(b) After the adoption of the city plan or element or portion thereof by the city council, no land development order or land development regulation or land development code or amendment thereto shall be adopted by the city council until such order, regulation, code or amendment has been referred to the city board for review and recommendation. As to the relationship of such proposal to the adopted city plan or element or portion thereof, said recommendations shall be made within a reasonable time but not later than two (2) months of the time of reference. If a recommendation is not made within this time provided, the city council may act upon the adoption of the order, regulation, code or amendment notwithstanding the omission of a recommendation from the city's local planning agency, the city board.

(Code 1964, § 18 1/2-8)

State Law References: Similar provisions, F.S. § 163.3194.;oh5;

Sec. 19-66. Notice provisions for matters pertaining to comprehensive planning.

(a) *Intent and purpose.* State statutory, preemptive law provides minimum, mandatory notice requirements for certain types of planning and zoning board and city council public hearings. It is the intent of this section to supplement the preemptive state statutory notice provisions. The provisions of subsections (b)(1) and (2), are directory as opposed to mandatory, and as such, a failure to comply with the provisions of this section shall not affect the validity of the measures. While the provisions of subsection (b)(3) are not directory, a failure to comply with such provisions shall not affect the validity of the measure if substantial compliance is achieved. The planning and zoning board or city council may require additional, reasonable notice prior to completing consideration of a matter.

(b) *Notice.*

- (1) Whenever the planning and zoning board considers at public hearing(s) an amendment to a land development regulation, as defined in F.S. § 163.3213(2)(b), (1993), or its successor, the city clerk should advertise at least one (1) public hearing by placing a notice in a newspaper of general circulation within the city, one (1) time approximately ten (10) calendar days prior to the planning and zoning board meeting. In addition, the city clerk should post the agenda for at least one (1) public hearing at which the amendment is to be considered for at least three (3) calendar days prior to the hearing. Notwithstanding anything to the contrary, the provisions of this subsection (1) applies only to amendments which are not initiated by the city. The notifications provisions set forth above may be all completed for one (1) public hearing, or some of the provisions may be completed for one (1) public hearing and other provisions may be completed for a different public hearing.
- (2) Whenever the planning and zoning board or city council considers at public hearing(s) changing the future land use plan designation (or an assignment of flexibility) for a specific parcel of property, or whenever the planning and zoning board considers at public hearing(s) an application to change the zoning map designation of a specific parcel of property, then the city clerk should mail a notice of at least one (1) public hearing by first class mail to all owners of property, as their names and addresses are disclosed by the most recent county ad valorem real property tax roll, within three hundred (300) feet of the parcel for which such amendment is considered. This notice should be mailed by the city clerk at least fourteen (14) calendar days before at least one (1) public hearing at which the item is to be considered. In addition, the city clerk shall post the agenda for the meeting outside of city hall at least three (3) days prior to at least one (1) public hearing at which the item is to be considered. Notwithstanding anything to the contrary, this subsection (2) applies only to a change in a land use plan designation, assignment of flexibility, or zoning map designation which is not initiated by the city. The notifications provisions set forth above may be all completed for one public hearing, or some of the provisions may be completed for one public hearing and other provisions may be completed for a different public hearing.
- (3) Whenever the planning and zoning board considers at public hearing(s) an application for a use variance then the city clerk shall mail a notice of at least one (1) public hearing by first class mail to all owners of property, as their names and addresses are disclosed by the most recent county ad valorem real property tax roll, within three hundred (300) feet of the parcel for which such use variance is proposed. This notice shall be mailed by the city clerk at least fourteen (14) calendar days before at least one (1) public hearing at which the item is to be considered. In addition, the city clerk shall post the agenda for the meeting outside of city hall at least three (3) calendar days prior to at least one (1) public hearing at which the item is to be considered. This subsection (3) applies regardless of whether the application is initiated by the city. The notifications provisions set forth above may be all completed for one (1) public hearing, or some of the provisions may be completed for one (1) public hearing and other provisions may be completed for a different public hearing.
- (4) Whenever the planning and zoning board considers at public hearing an application to assign or utilize the city's comprehensive planning flexibility, regardless of whether the application is or is not initiated by the city, "public notice" as defined by F.S. § 163.3164, (2002), shall be required.

- (5) Whenever the city governing body considers an ordinance assigning or utilizing the city's comprehensive planning flexibility, the ordinance shall be advertised in accordance with F.S. § 166.041(3)(9c), (2002), if the application is not initiated by the city. If the application is initiated by the city, the ordinance shall be advertised in accordance with F.S. § 166.041(3)(a), (2002).

(c) *Initiated by the city* means a matter which is considered either (1) as the result of action by the citizens of Plantation pursuant to section 25 of the City Charter, or (2) as the result of an application being signed by the director of planning, zoning and economic development for the improvement of city property or for purposes of economic development or redevelopment, or (3) which is expressly sponsored by the director of planning, zoning and economic development for the improvement of city property or for purposes of economic development or redevelopment where a specific application is not needed.

(Code 1964, § 18 1/2-9; Ord. No. 1959, § 4, 9-22-93; Ord. No. 1962, § 1, 9-29-93; Ord. No. 2004, § 4, 11-16-94; Ord. No. 2222, § 1, 5-31-2000; Ord. No. 2282, § 1, 9-25-2002; Ord. No. 2297, §§ 2, 3, 4-23-2003)

State Law References: Adoption of plan, F.S. § 163.3184; amendment of plan, F.S. §§ 163.3184, 163.3187.

Sec. 19-67. Provisions regarding applying certain types of comprehensive plan flexibility.

Intent and purpose: The city has only a limited amount of flexibility available pursuant to its comprehensive plan, the Broward County Comprehensive Plan, and the Broward County Planning Council Administrative Rules document. In a substantially developed city such as Plantation, once flexibility is consumed, it is no longer available and generally cannot be replaced. The advantage to utilizing flexibility is to encourage development the city deems desirable in terms of increasing employment, raising the tax base, arresting blight, or providing other benefits. The chief advantage to utilizing flexibility is that it shortens the time otherwise needed for regulatory review and approvals needed to obtain building permits. In enacting this section, the city governing body desires to provide guidance to the public and to its development staff concerning how it wishes to utilize the city's various types of comprehensive planning flexibility so that these decisions will not be made in an arbitrary fashion. Decisions concerning the utilization of comprehensive planning flexibility are legislative in nature in part because a decision to utilize flexibility is the functional equivalent of deciding not to go through a lengthy process of amending the city comprehensive plan, and as local decisions concerning whether to amend a comprehensive plan are legislative in nature. The city governing body does not intend in enacting this section to transform a legislative decision into a non-legislative decision, and reserves its inherent legislative privilege to waive or not apply any provision contained in this section whenever it decides such waiver or nonapplication serves the future land use and needs of the community. All decisions approving the utilization of flexibility, as well as decisions to waive or not apply a provision of this section in connection with such approval, shall be evidenced by an ordinance which was considered in a legislative fashion.

- (a) *Definitions:*

Commercial-residential flex is provided for in Plantation Comprehensive Plan Future Land Use Element Policy No. 1.8.10 which permits a twenty (20) percent decrease in the lands designated commercial consistent with Broward County Planning Council Administrative Flexibility Rule 2.5(A)(1).

Flexibility units means the difference between the number of dwelling units permitted within a flexibility zone under the Broward County Comprehensive Plan and the number of dwelling units permitted within the same flexibility zone under the Plantation Comprehensive Plan. These units result from the Plantation Comprehensive Plan generally being more restrictive as to residential density than the Broward

County Comprehensive Plan.

Flexibility zone means the geographic area, as delineated on the flexibility zone boundary maps and the administrative flexibility rules documents with the Broward County Planning Council, within which residential densities and land uses may be redistributed through the plan certification process. The flexibility zones are also shown within the Plantation Comprehensive Plan Map and are designated in the Plantation Comprehensive Plan as enjoying numbers 68, 73, 74, 75, or 76.

Industrial-limited commercial flex is set forth in Plantation Comprehensive Plan Future Land Use Element Policy No. 1.10.4 and Broward County Planning Council Administrative Flexibility Rule 2.5(A)(6) and this section.

Quality housing: Residential developments that have the following attributes:

- (1) Cement tile roofs with staggered rooflines;
- (2) Stucco or brick covered sidings and walls;
- (3) Landscaped entryway and property perimeter features;
- (4) Waterway features (such as fountains) for lake, pond or wet retention areas;
- (5) A perimeter stuccoed concrete block wall, concrete panel and cap wall, brick walls or metal picket fence;
- (6) Dwelling units which all have central air conditioning and heating systems, hot water, and public sewer service;
- (7) Dwelling units which all have balconies, patios, or porches;
- (8) Dwelling units which, if they are single-family units, have a garage and laundry facilities interior to the units;
- (9) Dwelling units which, if they are multifamily, have storage facilities, and resident-only laundries on site;
- (10) A clubhouse and recreational amenities (pool, tot lot, courts, etc.);
- (11) A program of on site security measures;
- (12) Where the development has committed itself to the ongoing maintenance of the site in accordance with the standards set forth in the city's community appearance ordinance through appropriate restrictive covenants, the creation of associations or other substitute method of assuring that the maintenance obligations are capable of being paid for by assessments or property lien rights, and with such other restrictive covenants or documents as are reasonably required by the city's legal department in order to implement any other conditions of the city

governing body's decision;

- (13) Where the architectural treatments and embellishments meet the requirements of section 5-57 of this Code.

Reserve units means those additional permitted dwelling units created by Plantation Comprehensive Plan Future Land Use Element Policy No. 1.7.6 which consists of up to two (2) percent of the total number of dwelling units permitted within a flexibility zone:

Residential-neighborhood commercial flex means the ability to assign neighborhood commercial uses up to five (5) percent of the area designated residential within a flexibility zone pursuant to Plantation Comprehensive Plan Future Land Use Element Policy No. 1.8.9, and consistent with the Broward County Planning Council Administrative Flexibility Rule 2.5(A)(2).

- (b) *Limitations on the use of the various types of flexibility the city enjoys:*

- (1) *Residential-neighborhood commercial flex.*

- a. The city would consider allowing flexibility under this provision for low intensity neighborhood offices, neighborhood retail sales of merchandise, or neighborhood retail sales of services that are limited in hours, that are compatible with residential uses and that do not tend to create compatibility conflicts as a result of noise, odors, or high traffic generation. These uses usually are designed to serve residents within five (5) minutes' driving time. Examples of stores include food, drugs, clothing, and sundries. Examples of services include barber shops and beauty parlors, dry cleaners, pack 'n ship, printing, and jewelers. Examples of offices include real estate, accounting, and business. The major characteristic of low intensity neighborhood uses are their scale. These uses do not contain large stores or buildings designed to serve several neighborhoods. Heavy commercial uses and other types of uses such as (but not limited to) garages, gasoline stations, vehicle service stations, vehicle painting, used or new vehicle sales or equipment lots; hardware stores, do-it-yourself building materials or warehouse supply stores, contractor storage yards; marine sales, service, or repair centers; freight, truck, bus or transportation terminals or centers; manufacturing; warehouse or self-storage facilities; adult entertainment uses; fertilizer, nursery or garden stores or centers; uses dealing with chemicals such as pool supply uses and insect exterminating uses; wholesale/resale membership store; government administrative offices; package stores; pawn shops; employment agencies; hospitals; hotels; and sanatoriums will not be permitted to use this flexibility.
- b. No more than a total of five (5) percent of the area designated for residential use within a flexibility zone may be used for these neighborhood office, neighborhood retail sales of merchandise, or neighborhood retail sales of services.
- c. Residential-neighborhood commercial flex shall be considered only in redevelopment areas as designated by city ordinance or adjacent to such redevelopment areas where the property's land use designation adjoins the redevelopment area on two (2) boundaries.

This flexibility shall not be available for use in the Central Plantation Development District.

- d. The space within significant residential buildings and areas designated medium high twenty-five (25) residential may be used for these neighborhood office, neighborhood retail sales of merchandise, or neighborhood retail sales of services on ground floors and so long as no more than fifteen (15) percent of the floor area is used for said purposes.
- e. The utilization of this type of flexibility will require a legislative ordinance enactment.
- f. The size and scale of buildings must be residential in nature, and be consistent in scale (building height, mass, elevations) with the dominant residential buildings in the neighborhood, and the proposed change shall not exceed the average density of adjacent development.

(2) *Flexibility units.*

- a. The city will permit the assignment of flexibility units in commercial designated properties for:
 - 1. Any quality housing facility which provides a life care environment for elderly individuals which shall include but not be limited to creation of a life estate in the facility itself and the provision of offsite or onsite medical care;
 - 2. Any quality housing facility licensed by the State of Florida for more than eight (8) unrelated elderly individuals;
 - 3. Any not-for-profit quality housing facility for unrelated elderly individuals; or
 - 4. Any quality housing development meeting the affordable housing rules set forth in article 8 of the Broward County Administrative Rules Document and regardless whether a density bonus is desired; or
 - 5. Any mixed residential/commercial development according to regulations set forth in section IV.B "permitted uses" of the county land use plan, and policy 1.8.8 of the future land use element of the city comprehensive plan.
- b. The city may assign flexibility units upon approving a site plan, together with any other appropriate development orders or approvals prerequisite to applying for a building permit. The utilization of this type of flexibility will require a legislative ordinance enactment.
- c. The use of flexibility units pursuant to subsection a. 1--3. above shall be limited to property located within flex zone 75 (excluding central plantation as defined in the adopted city comprehensive plan) and flex zone 74 only north or east of Sunrise Boulevard or within fifteen hundred (1,500) feet of a hospital. The use of flexibility units

for a project qualifying under subsection a(iv) above will only be for projects within flex zone 73 [and therein only within the city community redevelopment area (defined as that area presently within Plantation Gateway), or adjacent to such area on lots along Broward Boulevard which enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B]. The use of flex units for a project qualifying under subsection a(v) above will only be for projects within flex zone 73 [and therein only within the city community redevelopment area (defined as that area presently within Plantation Gateway), or adjacent to such area on lots along Broward Boulevard which enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B], and within Central Plantation as defined in the adopted city comprehensive plan.

- d. The project should be consistent in scale, building height, mass, and elevations with the predominant nearby residential buildings, and the utilization of flexibility should not exceed the average density of the contiguous residential property (contiguous meaning adjacent or only separated by streets, canals, or easements). The commercial property for which flexibility units are proposed shall not exceed the average residential density for the contiguous residential property (contiguous meaning adjacent to or only separated by streets, canals, or easements). This policy guideline may not always be appropriate when the governing body of Plantation wishes to encourage multifamily structures near residential structures consistent with redevelopment plans or vision-based studies conducted for specific areas of the city.
- e. Flexibility units may not be transferred between flexibility zones, except when used as allowed in subsection a(iv) above.
- f. In no instance shall a density greater than twenty-five (25) dwelling units per gross acre be permitted.

(3) *Reserve units.*

- a. The city will permit the assignment of reserve units for:
 - 1. Any quality housing facility which provides a life care environment for elderly individuals which shall include but not be limited to creation of a life estate in the facility itself and the provision of offsite or onsite medical care;
 - 2. Any quality housing facility licensed by the State of Florida for more than eight (8) unrelated elderly individuals;
 - 3. Any not-for-profit quality housing facility for unrelated elderly individuals;
 - 4. Any quality housing development meeting the affordable housing rules set forth in article 8 of the Broward County Administrative Rules Document and regardless whether a density bonus is desired; or (v) any residential or mixed residential/commercial development according to regulations set forth in section IV.B "permitted uses" of the county land use plan, and policy 1.8.8 of the future

land use element of the city comprehensive plan.

- b. Presently, the appendix to the city's comprehensive plan, volume II, requires an amendment to the city's future land use map whenever reserve units are assigned. A local land use plan map amendment will be necessary as long as same is required by the city comprehensive plan. At such time as the comprehensive plan is amended to no longer require a local land use plan map amendment process to be used to assign reserve units, the city will continue to require a legislative enactment of an ordinance to assign or utilize reserve units.
 - c. The assignment of reserve units must be approved by the county planning council administrator in accordance with the administrative rules document prior to the city governing body approving same (until such time, if ever, that the city comprehensive plan expressly incorporates the county comprehensive plan special residential facility provisions).
 - d. The use of reserve units pursuant to subsection a(i), (ii), or (iii) above shall be limited to properties located within flex zone 74 (which are north or east of Sunrise Boulevard, or within fifteen hundred (1,500) feet of a hospital) and within flex zone 73 (and therein only within the Gateway 7 Development District, or adjacent to such redevelopment area on lots along Broward Boulevard which enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B). The use of reserve units for a project qualifying under subsection a(iv) above will only be for projects within flex zone 73 [and therein only within the city community redevelopment area (defined as that area presently within the Plantation Gateway), or adjacent to such area on lots along Broward Boulevard which enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B]. The use of reserve units for a project qualifying under subsection a(v) above will only be for projects within flex zone 73 [and only within the city community redevelopment area (defined as that area presently within Plantation Gateway), or adjacent to such area on lots along Broward Boulevard which enjoy as of January 1, 2008 a zoning classification of RS-1A or RS-2B], and within Central Plantation as defined in the adopted city comprehensive plan.
 - e. In no instance shall a density greater than twenty-five (25) dwelling units per gross acre be permitted.
 - f. Reserve units may not be transferred between flexibility zones, except when used as allowed in subsection a. 4. above.
- (4) *Industrial-limited commercial flex.* Pursuant to chapter 27, article XV of this Code, and specifically section 27-802(b), adult entertainment establishments are prohibited anywhere in the city limits. Section 27-803 of the City Code provides that if section 27-802 is declared by a court of competent jurisdiction to be invalid, such ruling shall not affect the remaining divisions and sections of article XV of chapter 27, City Code. There are sections of such article XV which would apply only in the event section 27-802 is declared unconstitutional and the regulations set forth in division IV of such article XV would permit adult entertainment establishments in the

city's I-LP zoning district. The comprehensive plan future land use designation for these zoned districts is industrial. The industrial future land use designation permits heavy commercial uses in industrial areas. Adult entertainment establishments are (and additionally are hereby defined as being) heavy commercial uses for purposes of applying the city comprehensive plan. If a court were to declare section 27-802 unconstitutional and additionally not give effect or deference to the foregoing sentence and construe the city comprehensive plan industrial future land use designation in such a manner so as to not allow adult entertainment establishments as "heavy commercial uses" therein, then and in such event alone shall all of the industrial future land use designation flexibility be available for use in the city's I-LP zoned properties for adult entertainment establishments permitted pursuant to division IV of article XV of chapter 27. The city has two (2) industrial designated areas in flex zone 74, one of which is zoned I-L2P. The city will be able to count twenty (20) percent of the industrial designated acreage zoned I-L2P for the flexibility it may need to utilize for adult entertainment establishments in the I-LP zoned industrial designated property. If this industrial-limited commercial flex is ever needed under the conditions set forth herein, it shall be deemed assigned after the conditional provision of such flexibility as set forth herein is approved as available by the Broward County Planning Council, and it shall be deemed effective upon the adult entertainment establishment obtaining either a site plan approval or an adult entertainment permit (such latter permit being obtained pursuant to division V of article XV, chapter 27 of the City Code).

(5) *Commercial-residential flex.*

- a. The city would consider allowing flexibility under this provision for residential and mixed commercial/residential developments that are compatible with surrounding residential or commercial (as applicable) uses and that do not tend to create compatibility conflicts as a result of noise, odors, or high traffic generation, i.e. heavy commercial uses.
- b. The city would consider allowing use of flexibility through the allocation of flexibility or reserve units to a development parcel with a commercial land use designation.
- c. No more than twenty (20) percent of the total acreage within the flexibility zone which is designated commercial may be used for residential uses.
- d. The use of this flexibility is subject to the development meeting the following conditions:
 1. Assignment of flexibility units shall be consistent with subsection (b)(2); assignment of reserve units shall be consistent with subsection (b)(3).
 2. Residential units shall endeavor to comply with quality housing standards as outlined in subsection (a), Definitions. This policy guideline recognizes that some of the definitional attributes for quality housing may not always be appropriate (such as perimeter walls, for example), however, the intent is to encourage special attention to elevations, landscape, and building components that are designed to reflect as suitable long term investment in the structures (cement tile as opposed to asphalt shingle roofs, for example).

3. The use of this flexibility is restricted to the proposed developments found to be consistent with city approved redevelopment plans.
4. The city may allocate flexibility or reserve units for a residential or mixed commercial/residential development through the assignment of flexibility and reserve units consistent with provisions outlined in this chapter and through approval of a residential or mixed commercial/residential development as provided in chapter 27-687 of the land development regulations.

(c) *Policy considerations to be reviewed when utilizing the various types of city flexibility.*

(1) If a project meets the limitations of subsection (b) above to qualify for flexibility, the following are the guiding policy considerations that the city will evaluate in its legislative review when deciding whether to allocate or utilize its flexibility:

- a. Whether there is a change in population, socio-economic factors, or physical development of property near or affecting the subject property, which change was unforeseen or unanticipated, and which change has created a present problem or opportunity that justifies utilizing the flexibility;
- b. Whether the project as proposed offers significant benefits not otherwise available to the city if the city's land development regulations were otherwise followed (for example, does the planning, design, and development of the property exceed the minimum otherwise required land development requirements in terms of reserving appropriate open space, development themes, taking advantage of natural and manmade conditions or environments, controlling pedestrian and vehicular traffic systems, substantially intensifying landscape or providing landscape contributions to the city, improving or maintaining public infrastructure or giving the city a contribution in aide of infrastructure improvements or maintenance, exceeding setbacks and building separations, and reflecting an orderly and creative arrangement of buildings and land uses as appropriate?);
- c. The extent to which the project contributes to the tax base, adds employment, and provides other positive economic impacts;
- d. The extent to which the project impacts public services (e.g., fire, EMS, school, police, water, wastewater, and other services), and generates negative secondary effects of odors, fumes, noise, traffic, or crime;
- e. The extent to which the property has potential to be developed in a desirable manner under its present land use and zoning scheme without the application of flexibility and whether such foreseeable development is or is not more beneficial to the community;
- f. The nature and types of uses surrounding the subject property and whether the development proposal is compatible and complements those uses;

- g. Specific goals, objectives or policies of the city comprehensive plan and other city plans that are consistent or inconsistent with the development proposed;
 - h. The extent to which the type of flexibility proposed to be utilized will remain available for future use by the city under this section's requirements and under any possible regulatory scheme;
 - i. The extent to which the utilization of flexibility serves or does not serve the public's health, safety, or welfare;
 - j. The future land use and needs of the community; and
 - k. Such other policy considerations that may not be set forth above but which are nonetheless considered by the city governing body to be reasonable and appropriate under the circumstances.
- (d) *Time limits/procedure.*
- (1) Any decision for the city to utilize flexibility shall minimally require a binding and buildable site plan review and approval, in addition to applications for other development orders or approvals prerequisite to applying for building permits. The use of flexibility shall be evidenced by an ordinance of the city governing body heard as a legislative agenda item. In any development order or approval where flexibility is requested, the review committee and the planning and zoning board shall review the application as to the policy considerations set forth in this section and shall make recommendations to the city governing body. When a proposed project using flexibility is processed, flexibility issues shall be considered as part of the site plan review and such other development orders as are prerequisite to applying for a building permit. The matter shall be advertised as set forth in section 19-66 of this Code.
 - (2) Any decision to utilize flexibility (and any zoning decision [as defined in subsection 27-6(a) of this Code] granted in connection therewith) shall be initially valid for a period of time not to exceed twenty-four (24) months from the date the decision is made. If the rights granted by the flexibility decision (and any dependent zoning decisions) are not exercised in the aforesaid twenty-four-month period of time by an application for a building permit sufficient to meet the requirements of section 104.6 of the Florida Building Code (Broward County Administrative Provisions), the flexibility decision (and all dependent zoning decisions) shall become null and void. The city council may extend this time period for one (1) additional extension not to exceed six (6) additional months for good cause demonstrated prior to the expiration of the period of initial validity.
 - (3) The flexibility decision shall also become null and void if, after an application for a building permit sufficient to meet the requirements of section 104.6 of the Florida Building Code (Broward County Administrative Provisions) is made, a building permit is not issued within six (6) months. The city council may extend this time period for one (1) additional extension not to exceed six (6) additional months for good cause demonstrated prior to the expiration of this time period.

- (4) The flexibility decision shall become null and void after a building permit is issued upon the earlier of:
- a. If no work has commenced, when the initial permit expires by virtue of the time limits set forth in section 104.9.3 of the Florida Building Code (Broward County Administrative Provisions), as amended; or
 - b. If work has commenced when the permit expires by virtue of the time limits set forth in section 104.9.3 of the Florida Building Code (Broward County Administrative Provisions), as amended; or
 - c. When the building official requires that any work which has been commenced or completed be removed from the building site; or
 - d. When the building official determines not to issue a subsequent, new permit to complete construction under section 104.9.3 of the Florida Building Code.
- (5) In the event there are any changes to a proposed development which has received a utilization of flexibility (e.g. in terms of a change to a proposed or approved zoning classification or reclassification, or to a proposed or approved "zoning decision" as defined in subsection 27-6(a) of this Code, or to the proposed intensity or density of uses, etc.), then such changed development shall not be able to utilize the flexibility awarded previously unless:
- a. Such changes are minor development approvals granted in accordance with the procedures contained in section 27-51 of this Code [in which event the time period set forth in subsection (d)(2) shall continue to run from the effective date of the ordinance enacted prior to such minor development approvals being granted which initially approved the utilization of flexibility for the development]; or
 - b. An ordinance approving a utilization of flexibility for such changed development is enacted pursuant to the procedures of this section [in which event the time period set forth in subsection (d)(2) shall run from the effective date of the ordinance approving the utilization of flexibility for such changed development].

(Ord. No. 2157, § 1, 4-29-98; Ord. No. 2222, § 1, 5-31-2000; Ord. No. 2240, §§ 1--7, 11-29-2000; Ord. No. 2297, § 1, 4-23-2003; Ord. No. 2407, §§ 1, 2, 4, 4-30-2008)

Secs. 19-68, 19-69. Reserved.

ARTICLE III.

LOCAL ACTIVITY CENTERS

Sec. 19-70. Plantation Gateway Local Activity Center.

- (a) Educational mitigation requirement for residential development. Any application for a building

permit for new residential development in the Plantation Gateway Local Activity Center (LAC) is subject to an educational mitigation requirement. The applicant shall pay to the county the school board education mitigation fee in an amount equal to the cost per dwelling unit (regardless of residential types or bedroom mix) as derived from the cost per student station for each LAC dwelling unit, as provided below.

- (1) *Amount.* The student station cost shall be determined by the State of Florida's cost per student station schedule in effect at the time of application for building permit.
- (2) *County determination of adequacy required.* The applicant shall present documentation of the payment and notice to the city prior to submission of an application for a building permit. The city shall not issue a building permit or certificate of occupancy for residential development within the LAC, without first receiving proof that the county has determined that the student station cost was paid as required and that the payment was adequate.
- (3) The city shall monitor residential development proposed within the PGLAC to make sure that it conforms to each residential type and bedroom mix provided for in the educational mitigation agreement between Plantation, Broward County, and the School Board of Broward County.

(Ord. No. 2365, § 2, 5-31-2006)

Cross References: § 5-44, review, approval of plans; city to ensure that fees are paid, plans are implemented.