

ORDINANCE NO. 2020-01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, ADOPTING AN AMENDMENT TO THE BROWARD COUNTY COMPREHENSIVE PLAN; AMENDING THE BROWARD COUNTY LAND USE PLAN TEXT REGARDING RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

(Sponsored by Vice-Mayor Steve Geller and cosponsored by Senator Nan H. Rich and Commissioner Beam Furr)

WHEREAS, Broward County adopted the Broward County Comprehensive Plan on April 25, 2017 (the Plan);

WHEREAS, the Department of Economic Opportunity has found the Plan in compliance with the Community Planning Act;

WHEREAS, Broward County now wishes to propose an amendment to the Broward County Land Use Plan text regarding Resiliency Standards for Tidal Flood Protection;

WHEREAS, the Planning Council, as the local planning agency for the Broward County Land Use Plan, held its meetings on August 22, 2019, and September 26, 2019, with due public notice;

WHEREAS, the Board of County Commissioners held its transmittal public hearing on October 15, 2019, having complied with the notice requirements specified in Section 163.3184(11), Florida Statutes;

WHEREAS, the Board of County Commissioners held an adoption public hearing on January 7, 2020, at 10:00 a.m. [also complying with the notice requirements specified in Section 163.3184(11), Florida Statutes] at which public comment was accepted and comments of the Department of Economic Opportunity, South Florida Regional Planning Council, South Florida Water Management District, Department of Environmental

Approved BCC 1/7/2020 #32
Submitted By Planning Council
RETURN TO DOCUMENT CONTROL

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1 Protection, Department of State, Department of Transportation, Fish and Wildlife
2 Conservation Commission, Department of Agriculture and Consumer Services, and
3 Department of Education, as applicable, were considered; and

4 WHEREAS, the Board of County Commissioners, after due consideration of all
5 matters, hereby finds that the following amendment to the Plan is consistent with the State
6 Plan, Regional Plan, and the Plan; complies with the requirements of the Community
7 Planning Act; and is in the best interests of the health, safety, and welfare of the residents
8 of Broward County,

9 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
10 BROWARD COUNTY, FLORIDA:

11 Section 1. The Plan is hereby amended by Amendment PCT19-9, which is an
12 amendment to the Broward County Land Use Plan regarding Resiliency Standards for
13 Tidal Flood Protection, as set forth in Exhibit "A," attached hereto and incorporated herein.

14 Section 2. Severability.

15 If any portion of this Ordinance is determined by any court to be invalid, the invalid
16 portion will be stricken, and such striking will not affect the validity of the remainder of this
17 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
18 legally applied to any individual, group, entity, property, or circumstance, such
19 determination will not affect the applicability of this Ordinance to any other individual,
20 group, entity, property, or circumstance.

21 Section 3. Effective Date.

22 (a) The effective date of the plan amendment set forth in this Ordinance will be
23 the latter of:
24

- (1) Thirty-one (31) days after the Department of Economic Opportunity notifies Broward County that the plan amendment package is complete;
- (2) If the plan amendment is timely challenged, the date a final order is issued by the Administration Commission or the Department of Economic Opportunity finding the amendment to be in compliance; or
- (3) If the Department of Economic Opportunity or the Administration Commission finds the amendment to be in noncompliance, pursuant to Section 163.3184(8)(b), Florida Statutes, the date the Board of County Commissioners, nonetheless, elects to make the plan amendment effective notwithstanding potential statutory sanctions.
- (b) This Ordinance is effective as of the date provided by law.

ENACTED January 7, 2020

FILED WITH THE DEPARTMENT OF STATE January 8, 2020

EFFECTIVE January 8, 2020

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Maite Azcoitia 12/11/19
Maite Azcoitia (date)
Deputy County Attorney

MA/gmb
12/11/19
PCT19-9 Resiliency Standards for Tidal Flood Protection Ord.doc
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EXHIBIT A

SECTION I
AMENDMENT REPORT
BROWARD COUNTY LAND USE PLAN TEXT
PROPOSED AMENDMENT PCT 19-9

“Resiliency Standards for Tidal Flood Protection”

RECOMMENDATIONS/ACTIONS

DATE

I. Planning Council Staff Transmittal Recommendation

August 13, 2019

It is recommended that the proposed amendment to the BrowardNext - Broward County Land Use Plan be approved. See Attachment 1.

As the proposed Policy furthers the County’s commitment to support community resilience and climate adaptation, including coordination with other entities to foster resilient design as part of all local and regional projects and there are no outstanding issues, Planning Council staff does not recommend a second Planning Council public hearing be required consistent with Article 1.2 (A) of the *Administrative Rules Document: BrowardNext*.

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

II. Planning Council Land Use/Trafficways Committee Recommendation

August 22, 2019

Approval per Planning Council staff transmittal recommendation.

III. Planning Council Transmittal Recommendation

August 22, 2019

Approval per Planning Council staff transmittal recommendation, including not requiring a second Planning Council public hearing. (Vote of the board; Unanimous: 15-0; Blackwelder, Blattner, Breslau, Brunson, Gomez, Good, Graham, Grosso, Hardin, Parness, Railey, Rich, Rosenof, Williams and DiGiorgio)

IV. Planning Council Staff Updated Recommendation

September 17, 2019

Subsequent to the first Planning Council public hearing, the Broward County Environmental Planning and Community Resilience Division submitted a clarification to the proposed text amendment that the intent of the Policy is to exclude oceanfront beaches or shorelines seaward of the Coastal Construction Control Line.

Planning Council staff continues to recommend approval of the proposed text amendment. See Attachment 1 (updated).

RECOMMENDATIONS/ACTIONS (continued)

DATE

V. Planning Council Updated Recommendation

September 26, 2019

Approval per Planning Council staff updated recommendation. (Vote of the board; 14-1; Yes: Blackwelder, Blattner, Breslau, Brunson, Castillo, Gomez, Graham, Hardin, Railey, Rich, Rosenof, Ryan, Williams and DiGiorgio. No: Parness)

VI. County Commission Transmittal Recommendation

October 15, 2019

Approval per Planning Council updated recommendation.

VII. Summary of State of Florida Review Agency Comments

November 20, 2019

South Florida Water Management District Comment: The County is required to revise its Water Supply Facilities Work Plan (Work Plan) within 18 months after approval of the Lower East Coast (LEC) Water Supply Plan Update by the District's Governing Board. The District's Governing Board approved the LEC Water Supply Plan Update on November 8, 2018. Therefore, the County's Work Plan needs to be updated and adopted by May 2020. The Work Plan must cover at least a 10-year planning period, include updated water demand projections, identify alternative and traditional water supply projects, and describe conservation and reuse activities needed to meet the projected future demands. Planning tools are available on the District's website and District Staff are available to provide technical assistance to update the Work Plan, including reviewing draft Work Plans prior to formal plan amendment submittal.

Response: Broward County will revise the Work Plan by May 2020.

VIII. County Commission Final Action

January 7, 2020

Approved per Planning Council updated recommendation.

ATTACHMENT 1

Proposed Amendment PCT 19-9 (Updated September 17, 2019)

CLIMATE RESILIENCY, ADAPTATION ACTION AREAS AND PRIORITY PLANNING AREAS

POLICY 2.21.1 Broward County shall evaluate plan amendments within Priority Planning Areas for Sea Level Rise and strongly discourage those amendments which would place additional residential and non-residential development at risk of flooding from sea level rise. In review of such amendments, the County shall consider: a. Sea level rise/flood protection mitigation strategies and requirements included within local comprehensive plans and/or development regulations; or b. Flood protection improvements committed to by amendment applicants, which would mitigate or enhance flood protection and adaptation from rising sea levels.

POLICY 2.21.2 Broward County shall, in coordination with its local municipalities and other affected agencies, designate Adaptation Action Areas (AAAs), per Florida State Law, in order to: a. Identify areas of regional significance that are vulnerable to the impacts of rising sea level; b. Identify and implement adaptation policies to increase community resilience; and c. Enhance the funding potential of infrastructure adaptation projects.

POLICY 2.21.3 Broward County shall update climate related policies and maps, including the Priority Planning Areas for Sea Level Rise Map, in the Land Use Plan with best available data, every 5 years or as available, including findings of the Broward County and USGS Joint Climate Change Inundation Modeling effort, which seeks to achieve a better understanding of the impacts of climate change and rising sea level on the County's water supplies, drainage and flood control systems.

POLICY 2.21.4 Broward County shall work cooperatively with local governments and transportation agencies to identify and evaluate transportation infrastructure at risk and help coordinate adaptation efforts for infrastructure immediately landward of coastal high hazard areas, in order to ensure functional access to emergency evacuation routes for coastal populations.

POLICY 2.21.5 Broward County shall, prior to approving land use plan amendments in the areas prone to flooding and/or the impacts of sea level rise, as identified on the Flood Plains, Flood Prone Areas, and Coastal High Hazard Areas Map and the Priority Planning Areas for Sea Level Rise Map, respectively, determine that the subsequent development will be served by adequate storm water management and drainage facilities, not adversely affect groundwater quality or environmentally sensitive lands and not increase saltwater intrusion or area-wide flooding.

POLICY 2.21.6 Broward County shall support the goals and will, to the maximum extent feasible, implement, in coordination with affected stakeholders, the recommended actions of the Climate Action Plan, as approved by the Broward County Climate Change Task Force, and adopted by the Broward County Board of County Commissioners.

POLICY 2.21.7 In order to ensure coordination, consistency and maximum effectiveness of coastal improvements necessary to mitigate high tide flooding associated with realized and additional sea level rise through the year 2070, ~~coastal~~ tidally-influenced municipalities shall adopt within 24-months of the effective date of this Policy (placeholder for date), regionally consistent top elevations for seawalls, banks and berms, and other appurtenant ~~coastal~~ infrastructure (e.g., boat ramps) consistent with the findings and recommendations of the United States Army Corps of Engineers/Broward County Flood Risk Management Study for Tidally Influenced Coastal Areas. These standards shall be consistent with Chapter 39, Article XXV – Resiliency Standards for Flood Protection - of the Broward County Code of Ordinances, which shall serve as the model ordinance, and shall not be applicable to oceanfront beaches or shorelines seaward of the Coastal Construction Control Line.

Definitions Section:

TIDALLY-INFLUENCED AREAS - means a waterway with water level changes in response to the daily tide.

Notes: Underlined words are proposed additions as submitted by the Broward County Environmental Planning and Community Resilience Division on June 27, 2019, and initially distributed for review.

~~Struck-through~~ words are proposed deletions and **double-underlined, bold** words are proposed additions submitted by the Broward County Environmental Planning and Community Resilience Division and Broward County Planning Council staff to address comments received after July 2, 2019, distribution to local governments and interested parties.

~~Struck-through and highlighted~~ words are proposed deletions and **double-underlined, bold and highlighted** words are proposed additions submitted by the Broward County Environmental Planning and Community Resilience Division in September 2019.