

STAFF REPORT

Amendment 22-Z1: 2021 Legislative Session Updates

I. Item Summary.

Commission District	1, 2, 3, 4, 5, 7, 9
Application/Agent	Urban Planning Division
Proposed modifications	<ul style="list-style-type: none"> • Section 39-4. Definitions. • Section 39-237. Home office. • Section 39-249. Uses permitted. (Agricultural Districts) • Section 39-263. Uses permitted. (Rural and Estate Districts) • Section 39-279. Uses permitted. (Residential Districts) • Section 39-295. Uses permitted. (Business Districts) • Section 39-300. Limitations of uses. (Commercial Districts) • Section 39-308. Permitted uses. (Manufacturing and Industrial Districts) • Section 39-324. Permitted uses. (Mobile Home Districts) • Section 39-340. Planned agricultural center. • Section 39-353. Permitted uses in transportation districts. • Section 39-635. New single family residential dwellings. (Central County Community Overlay). • Section 39-636. New duplex dwelling units and building design standards. (Central County Community Overlay). • Section 39-639. Permits issued for construction, renovations, additions, or modifications of an existing single family dwelling unit, duplex dwelling unit, or adult living facility in the Central County Community. (Central County Community Overlay)
Effect of Proposed Change	<ul style="list-style-type: none"> • Amends the Broward County Zoning Code to be consistent with the requirements of Chapter 377, Florida Statutes that prevent certain actions that would: <ul style="list-style-type: none"> ○ prohibit the siting, development, or redevelopment of fuel retailers and related transportation infrastructure; and, ○ require fuel retailers the install or invest in a particular kind of fueling infrastructure. • Amends the Broward County Zoning Code to be consistent with the requirements of Chapter 559, Florida Statutes related to the local government regulation of home-based businesses such as regulations related to: <ul style="list-style-type: none"> ○ Employees, ○ Parking, ○ Aesthetics, ○ Nuisances, ○ Storage of hazardous materials.

	<ul style="list-style-type: none"> • Amends the Broward County Zoning Code to be consistent with the requirements of Chapter 163, Florida Statutes that provide for: <ul style="list-style-type: none"> ○ Solar facilities to be a permitted use in all agricultural zoning districts; ○ Prohibiting land development regulations relating to building design elements that apply to a single-family or two-family dwelling.
Comprehensive Plan Consistency	Consistent: Broward Municipal Services District Element policies 2.1.1, 4.1.4, 5.1.3

II. Staff Recommendation.

The Broward County Resilient Environment Department, Urban Planning Division (RED UPD) recommends that the Local Planning Agency (LPA) find the proposed ordinance consistent with the Broward County Comprehensive Plan.

III. Background.

On August 24, 2021, the Board of County Commissioners directed the Office of the County Attorney to draft an Ordinance amending Chapter 39 of the Broward County Code of Ordinances (“Zoning Code”) related to bills passed during the 2021 Florida Legislative Session. These include:

- HB 401: Residential building design regulations (now prohibited);
- HB 403: Home Based Businesses (regulation preempted to the State);
- SB 896: Solar in Agricultural Zoning Districts (changes permitted uses); and
- CS/HB 839: Fuel retailers (regulation of gas station location preempted to the State).

IV. Description of Amendments.

Below is a summary of updates to the Zoning Code by section number.

1. Section 39-4. Definitions:

- Adds the following definitions:
 - *Fuel retailer*: A fuel station or retail establishment that sells fuel to provide power to vehicles.
 - *Solar facility*: A production facility for electric power that:
 - (1) Uses photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite;
 - (2) Consists principally of photovoltaic modules, a mounting or racking system, power inverters, transformers, collection systems, battery systems, fire suppression equipment, and associated components; and,
 - (3) May include accessory administration or maintenance buildings, electric transmission lines, substations, energy storage equipment, and related accessory uses and structures.
- Replaces the definition of *Home Office* with *Home-based business*.

2. Section 39-237. Home office.

- Replaces *Home office* with *Home-based business*.
- Deletes provisions that prohibit the amount of space in a residence that can be used for a home-based business.
- Deletes provisions that prohibit storage, dispensing, and delivery of merchandise, equipment or supplies.

- Deletes the requirement that signs or evidence of the business must not be visible from the exterior of the dwelling unit.
 - Deletes the requirement to obtain a certificate of use for the home-based business.
 - Adds that the home-based business may have two employees that do not reside at the dwelling unit and additional employees that do not work at the dwelling unit.
 - Adds that parking must comply with Chapter 39, Article XII-Offstreet Parking and Loading and that parking must not be greater than parking normally expected at a similar residence where no business is conducted.
 - Adds that vehicles and trailers related to the business must be parked in legal parking spaces.
 - Adds that heavy equipment related to the business must not be visible from the street or neighboring property, unless otherwise permitted by the zoning code.
 - Adds that external modifications to accommodate the home-based business must conform the residential and architectural aesthetics of the neighborhood.
 - Adds that retail transactions must be conducted within the residential dwelling.
 - Adds that the home-based business must be secondary to the property use as a residence.
 - Adds that home-based business must comply with all relevant regulations related to:
 - Signage;
 - Equipment or processes that create noise, vibration, heat, smoke, dust glare, fumes, or noxious odors; and,
 - Use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.
 - Adds that the section does not supersede any current or future declarations of a condominium, cooperative, or declaration of restrictive covenant adopted through Chapters 718, 719, and 720, Florida Statutes.
 - Adds that the section does not preempt local laws, regulations, and ordinance related to transient public lodging establishments that are not otherwise preempted by Chapter 509, Florida Statutes.
3. Section 39-249. Uses permitted.
 - Adds solar facilities as a permitted use in the Master Business List for Agricultural zoning districts.
 - Adds that yard sales are subject to the requirement of section 39-241.
 - Replaces home office with home-based business as a permitted use in the Master Business List for Agricultural zoning districts.
 4. Section 39-263. Uses permitted
 - Replaces home office with home-based business as a permitted in the Master Business List for Estate and Rural zoning districts.
 5. Section 39-279. Uses permitted
 - Replaces home office with home-based business as a permitted in the Master Business List for Residential zoning districts.
 6. Section 39-295. Permitted uses.
 - Replaces *Gasoline retailer* with *Fuel retailer* in the Master Business List for Business and Commercial zoning districts.
 7. Section 39-300. Limitations of uses.
 - Replaces *Gasoline station* with *fuel retailer*.
 8. Section 39-308. Permitted uses.
 - Adds *Fuel Retailer* to the Master Business list for Industrial uses.

9. Section 39-324. Permitted uses.
 - Replaces *Home office* with *Home-based business* as a permitted uses in Mobile Home Districts.
10. Section 39-340. Planned Agricultural Centers
 - Adds *solar facilities* to the nonagricultural uses permitted within Planned Agricultural Centers.
11. Section 39-353. Permitted uses in transportation districts.
 - Adds *Fuel retailer* as a permitted uses in the Master Transportation District List.
12. Section 39-635. New single family residential dwelling design standards.
 - Deletes the requirement to have a carport or garage designed as an integral part of the structure.
 - Deletes prohibition on canopies and new nonstructural or detached garages.
 - Deletes requirement for new single-family dwellings in Roosevelt Gardens to have tile or dimensional shingle roof construction.
 - Deletes prohibition on flat roofs over garages, carports, porches, patios, and living space for new single-family dwellings.
13. Section 39-636. New duplex dwelling units building design standards.
 - Replaces the requirement that front entrances be oriented to face the required front yard with the requirements that each dwelling unit have frontage on at least one street frontage.
 - Clarifies that nothing in the section shall be read to require the specific location or architectural styling of any windows or doors.
 - Deletes prohibition on canopies and new nonstructural or detached garages.
 - Deletes prohibition on flat roofs over garages, carports, porches, patios, and living space for new duplex units.
 - Deletes requirement for new duplex dwellings in Roosevelt Gardens to have tile or dimensional shingle roof construction.
14. Section 39-639. Permits issued for construction, renovations, additions, or modifications of an existing single family dwelling unit, duplex dwelling unit, or adult living facility in the Central County Community.
 - Deletes requirement for carports and garages to comply with all the requirements of the Central County Community Overlay District related to the improvements for which the permit is sought.
 - Removes the prohibition of flat patio roofs on the rear portion of single family and duplex dwelling units.
 - Removes the prohibition of flat patio roofs on the front portion of single family and duplex dwelling units that is adjacent to or abuts the street.

DATA & ANALYSIS

As stated in the Zoning Code, amendments are appropriate *whenever the public necessity, convenience, general welfare, or good planning and zoning practice requires*. The proposed amendments are appropriate to promote consistency state statutes.

ATTACHMENTS

Attachment A: Proposed Ordinance