

ORDINANCE NO. 23-66/PA-23-06
COMPREHENSIVE PLAN TEXT AMENDMENT
WETLANDS PROTECTION PLN2302-0091

ADOPTION OF AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING COMPREHENSIVE PLANNING, AMENDING MANATEE COUNTY ORDINANCE NO. 89-01, AS AMENDED (THE MANATEE COUNTY COMPREHENSIVE PLAN); PROVIDING A PURPOSE AND INTENT; PROVIDING FINDINGS; PROVIDING FOR A TEXT AMENDMENT TO COMPREHENSIVE PLAN ELEMENT 3 – CONSERVATION, GOAL 3.3, PROTECT, ENHANCE, AND MAINTAIN THE NATURAL FLORAL AND FAUNAL RESOURCES OF MANATEE COUNTY TO AID IN FILTRATION OF CONTAMINANTS, PROVIDE FOR THE PRESERVATION OF NATIVE SPECIES FOR PASSIVE RECREATIONAL AND AESTHETIC ENJOYMENT, AND TO PROVIDE A HEALTHY ENVIRONMENT FOR MANATEE COUNTY RESIDENTS AND VISITORS, OBJECTIVE 3.3.1., WETLAND PROTECTION, EDITING AND RENUMBERING VARIOUS POLICIES HEREIN RELATING TO WETLAND PROTECTION; AND ELEMENT 4 – COASTAL MANAGEMENT, GOAL 4.1, PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE NATURAL RESOURCES OF THE COASTAL PLANNING AREA TO PROVIDE THE HIGHEST ENVIRONMENTAL QUALITY POSSIBLE, OBJECTIVE 4.1.2., COASTAL PLANNING AREA EMERGENT VEGETATION AND UPLAND HABITAT PROTECTION, AMENDING POLICY HEREIN SO THAT THE COUNTY'S WETLAND IMPACT MITIGATION STANDARD AND IT'S WETLAND BUFFERS REQUIREMENTS FOR ISOLATED WETLANDS IS CONSISTENT WITH STATE STANDARDS ALLOWING FOR ENGINEERING SOLUTIONS TO BE CONSIDERED ADJACENT TO ENVIRONMENTALLY SENSITIVE COASTAL WETLANDS; DELETING TEXT FROM THE ABOVE CITED OBJECTIVES REGARDING WETLANDS TO ACHIEVE CONSISTENCY WITH STATE STANDARDS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, FL:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Community Planning Act, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. Chapter 125, Florida Statutes empowers the Board of County Commissioners of the County of Manatee to prepare and enforce comprehensive plans for the

development of the county; and,

2. The Community Planning Act (the "Act") is codified in the applicable portions of Chapter 163, Part II, Florida Statutes (2023) as amended, empowers and requires the County (a) to plan for the county's future development and growth, and (b) to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the county; and,
3. Manatee County Ordinance No. 89-01, as amended, was adopted pursuant to general law for the purpose of providing a framework for land use and development in the unincorporated area of Manatee County, and established the Manatee County Comprehensive Plan; and,
4. Application PA-23-66 is a County-Initiated Comprehensive Plan Text Amendment, amending Element 3 – Conservation, Goal 3.3 and Element 4 – Coastal Management, Goal 4.1 of the Manatee County Comprehensive Plan, Objectives 3.3.1, Wetland Protection and 4.1.2. Coastal Planning Area Emergency Vegetation and Upland Habitat Protection; and,
5. On August 10, 2023, at a duly noticed public hearing, the Manatee County Planning Commission, as the County's Local Planning Agency for purposes of the Act, considered Application PA-23-06; and passed a motion to recommend denial Plan Amendment 23-06 to the Board of County Commissioners; and,
6. Pursuant to Section 163.3187, Florida Statutes (2023), the Board of County Commissioners received and considered the recommendation of the Manatee County Planning Commission, and held a public hearing on August 17, 2023, to consider Plan Amendment PA-23-06 and the transmittal of the proposed amendment to the State Land Planning Agency in accordance with the Act; and,
7. By a letter dated September 22, 2023, the Florida Department of Commerce stated that they have no comments to the amendment; and,
8. By a letter dated September 18, 2023, the Southwest Florida Water Management District stated they have no comments for consideration; and
9. By an email dated August 25, 2023, the Town of Longboat Key stated they had no comments; and
10. By an email dated September 12, 2023, the Florida Fish and Wildlife Conservation Commission (FWC) stated they have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources; and

11. By a letter dated September 22, 2023, the Florida Department of Environmental Protection provided technical assistance comments and recommended County include references to the Florida Department of Environmental Protections as well as SWFWMD, and this ordinance has been edited addressing such technical assistance comments; and
12. By an email dated September 28, 2023, the Florida Department of Transportation stated the proposed Plan Amendment is not anticipated to have significant adverse impacts to transportation resources or facilities of state importance; and
13. On October 5, 2023, the Board of County Commissioners further considered all oral and written comments received during said public hearings, the recommendations of the Planning Commission, and the comments of the State Land Planning Agency and all applicable State or local review agencies; and,
14. Pursuant to Section 163.3187, Florida Statutes (2023), on October 5, 2023, the Board of County Commissioners held an adoption public hearing, with due public notice having been provided, to consider said proposed amendment to the Comprehensive Plan; and,
15. All applicable requirements of general law and local law have been followed, and the proceedings have been conducted pursuant to Chapter 163, Part II, Florida Statutes (2022), and the Plan Format and Administration Section of the Manatee County Comprehensive Plan.
16. Text Amendment PA-23-06/Ordinance 23-66 addresses the requirements of the Community Planning Act, Chapter 163, Part II, Florida Statutes for the applicable criteria for text amendments to the Comprehensive Plan; and
17. Adoption of Text Amendment PA-23-06/Ordinance 23-66 would serve the public interest.

Section 3. Text Amendment: The Board of County Commissioners hereby adopts the following amendments to the Manatee County Comprehensive Plan as detailed below.

- Element 3 – Conservation Element of the Comprehensive Plan, Objective 3.3.1, Policies 3.3.1.1, 3.3.1.2, 3.3.1.3, 3.3.1.4, 3.3.1.5, and 3.3.1.6; is hereby amended to read as shown in Exhibit A, a copy of which is attached hereto and made a part hereof by reference.
- Element 4 – Coastal Management Element of the Comprehensive Plan, Objective 4.1.2, Policy 4.1.2.5; is hereby amended to read as shown in Exhibit A, a copy of

which is attached hereto and made a part hereof by reference.

Section 4. Severability: If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 5. Codification: The publisher of the County's Comprehensive Plan, CivicPlus, is directed to incorporate the amendments in Section 3 of this Ordinance into the Comprehensive Plan.

Section 6. Effective Date: This effective date of this amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(5)(a), F.S. If challenged within 30 days after adoption, the effective date of this amendment shall be the date a final order is issued by the Department of Commerce, or the Administration Commission respectfully, finding the Amendments in compliance with the Act. Additionally, this Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED with a quorum present and voting this 5th day of October 2023.



**BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA**

By: 
Kevin Van Ostenbridge, Chairman

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: 
Deputy Clerk

EXHIBIT “A”

TEXT AMENDMENT

The proposed text amendment is provided and shown in ~~strike-through~~ or underline formatting.

Objective 3.3.1. Wetlands Protection.

Coordinate with State and Federal wetland permitting agencies to ensure the protection and restoration of ~~Preserve and protect existing~~ viable wetland systems to:

- Maintain control of flooding and erosion through storage of agricultural and urban runoff in wetland areas;
- Achieve biological filtration of pollutants associated with urban and agricultural runoff by wetlands;
- Maintain protection of coastal areas from tidal storm surges through maintaining wetlands as a natural buffer;
- Achieve water recharge of surficial aquifers through wetland areas;
- Maintain unique habitat functions of wetland areas as homes and critical breeding areas for many animal and plant species;
- Maintain essential chemical and energy cycles facilitated by wetlands; and
- Maintain educational and recreational opportunities provided by wetlands.

[See Element 4 - Coastal Management]

Policy 3.3.1.1. No development in wetlands regulated by the State of Florida may commence without the appropriate state agency permit or authorization, including a determination that the activities are in the public interest and have met avoidance and minimization criteria pursuant to the requirements of Chapters 62-330 and 62-331 F.A.C. Development permits authorizing development within wetlands may be issued subject to a condition that construction may not commence until issuance of the required state and/or federal permits.

Implementation Mechanism:

- (a) Coordination with the SWFWMD and FDEP to ensure the consistency of local and state permits for development.

Policy 3.3.1.2. Manatee County will work with the SWFWMD and FDEP to promote the preservation of critical wetland systems in Manatee County through public acquisition programs, development incentives for the promotion of wetland conservation and the establishment of strategically located mitigation banks.

Policy 3.3.1.3 By 2026, Manatee County will explore entering into a Memorandum of Agreement

with the Southwest Florida Water Management District to identify and acquire strategic areas of the County for use as wetland mitigation.

Implementation Mechanism:

- (a) Support State land acquisition and conservation programs within Manatee County.
- (b) Support the State's use of mitigation banks to create net improvements to regionally significant wetland habitat.
- (c) Work with the SWFWMD to explore directing mitigation toward strategic wetland systems in Manatee County.
- (d) Explore partnerships with the SWFWMD to leverage mitigation in Manatee County to meet the County's land acquisition goals.

~~**Policy 3.3.1.1.** Prohibit removal, alteration, or encroachment within wetlands except in cases where no other practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit. Such determination will require completion of impact avoidance and minimization analyses which clearly demonstrate the necessity of the proposed impact. [See Element 4—Coastal Management]~~

Implementation Mechanism:

- ~~-(a) Review to ensure that impacts by development are minimized.-~~

~~**Policy 3.3.1.2.** Require that the extent of wetland areas on any proposed development or redevelopment site be identified on a signed and sealed wetlands delineation at time of preliminary site plan, preliminary plat, or other preliminary development plan or similar approval. Manatee County may revoke any development orders where the difference between an estimate of wetland areas shown on a signed and sealed survey and actual wetlands on site is determined to be significant enough to warrant substantial project redesign.-~~

Implementation Mechanism(s):

- ~~-(a) Require that any application for preliminary development plan approval be accompanied by a signed and sealed survey of any wetland areas, along with approvals of such survey or delineation by the SWFWMD, or certification of the delineation by a professional qualified for this purpose.-~~
- ~~-(b) Review all signed and sealed wetlands surveys for accuracy and consistency with the wetlands protection policies contained under Objective 3.3.1 and all relevant policies contained in the Future Land Use and Coastal Management elements.-~~

~~**Policy 3.3.1.3.** When development related impacts are unavoidable (see Policy 3.3.1.1), require that all development-related impacts to wetlands be mitigated.-~~

- ~~(1) When mitigation is required by the State, the type and quantity of mitigation shall be determined by the Uniform Wetland Mitigation Assessment Method (UMAM) as outlined in Chapter 62-345, F.A.C., as amended.-~~

- ~~(2) In those instances where wetland mitigation is not required by the State wetland mitigation shall be provided in accordance with subparagraphs (a) through (d) below. The type of wetland mitigation or combination thereof as described in subparagraphs (a) through (d) below shall be determined by the County based on site conditions. The order of preference considered by the County shall be as follows:-~~
- ~~(a) Wetland Enhancement/Restoration: Five (5) acres of enhanced or restored on-site wetlands shall be provided for every one (1) acre of wetland to be impacted.~~
 - ~~(b) Upland Preservation: In the event there is inability to create viable wetland enhancement/restoration on the site, five (5) acres of native upland habitat shall be preserved for every one (1) acre of wetland to be impacted. Preserved uplands utilized for wetland mitigation shall be on-site of the proposed development and shall be in excess of the requirement of Policy 3.3.2.2.~~
 - ~~(c) Payment in Lieu of Mitigation: In lieu of the mitigation requirements in subparagraphs (a) and (b) above, the County may collect a mitigation fee. The fee charged shall be based on the acreage of impact and shall be an amount sufficient to achieve full and complete compensation for the impact.~~
 - ~~(d) Wetland Creation: Two (2) acres of herbaceous wetlands shall be created for every acre of herbaceous wetlands altered. Four (4) acres of forested or mangrove wetlands shall be created for every acre of such wetlands altered, unless other requirements are enforced pursuant to (3) below.~~
- ~~(3) Wetland mitigation provided in accordance with section (2) above shall also be subject to the following:-~~
- ~~(a) All approved mitigation shall be required to demonstrate, through appropriate monitoring and reporting by the project's developer, at least an eighty-five (85) percent coverage of desirable wetland species for a period of at least two (2) years for herbaceous wetland communities, and an eighty-five (85) percent planting-survival rate for at least five (5) years for forested and mangrove communities.~~
 - ~~(b) All areas which are created, in accordance with this policy shall be protected.~~

Implementation Mechanism(s):

- ~~(a) The County shall coordinate with SWFWMD, DEP, and other jurisdictional agencies to ensure compliance with this policy..~~
- ~~(b) Revision to land development regulations to establish required protection mechanisms for post-development mitigation areas.~~
- ~~(c) The County shall revise the Land Development Code to be consistent with this policy, including the establishment of an Environmental Improvement Fund.~~
- ~~(d) A resolution adopted by the Board of County Commissioners shall set forth the amount of the mitigation fee referenced in Comprehensive Plan Policy 3.3.1.3(2)(c). The resolution shall limit the use of the fund purchase, improve, create, restore, manage and replace wetlands and other natural habitats in order to increase the overall wetland functions in the County. The fee shall be sufficient to cover the County's costs for wetland mitigation and shall consider the cost of land acquisition, earthwork, planting, monitoring and long term management. The fund may be supplemented with other funding sources for the purposes of implementing Goal 3.3.~~

~~Policy 3.3.1.4. [Reserved]~~

~~Policy 3.3.1.5.~~ ~~Protect all wetlands and watercourses from land development activities by requiring the establishment of natural area buffers adjacent to all post-development wetlands and watercourses within a watershed overlay. Land alteration or removal of vegetation shall be prohibited in any buffers established according to this policy except to allow the removal of nuisance plant species, small areas of impervious surface for stormwater outfalls, and to allow public access consistent with natural resource protection. Such buffers shall be established according to the following schedule except as provided in Policy 3.3.1.5:–~~

- ~~(1) Buffers a minimum fifty (50) feet in width shall be established adjacent to all non-isolated wetlands (hydrologically connected or federal and state jurisdictional wetlands), and along all in-flowing watercourses located in the WO District and all Outstanding Florida Waters and Aquatic Preserves;–~~
- ~~(2) Buffers a minimum thirty (30) feet in width shall be established adjacent to all isolated wetlands and other wetlands not listed in (1) above.–~~
- ~~(3) Through the development review process, wider wetland buffers may be required for areas containing significant wetlands, for watershed protection, and to implement the goals, objectives, and policies of this Comprehensive Plan. (See Policies 2.9.4.4, 3.3.2, 4.1.2, and 4.1.4)–~~

~~Policy 3.3.1.6.~~ ~~Under limited circumstances a variable width wetland buffer may be approved. These circumstances shall be:–~~

- ~~(a) Where site specific conditions and physical constraints, which are not self-created, do not allow the application of a uniform width wetland buffer.–~~
~~To ensure protection of the wetland resources on the site:–~~
 - ~~(1) The reduction in the buffer width shall be minimized to the greatest extent practicable;–~~
 - ~~(2) Wetland quality and function shall be maintained or enhanced;–~~
 - ~~(3) The variable width buffer shall not be narrower than the buffer required by the DEP and SWFWMD; and–~~
 - ~~(4) Total land area encompassed by the variable width buffer shall, at a minimum, equal in area and type that would otherwise have been encompassed by a uniform width buffer configured parallel to the wetland.–~~

~~Implementation Mechanism(s):~~

- ~~(a) Review of all land development applications to ensure compliance with this policy.–~~
- ~~(b) Amend land development regulations consistent with the above provisions and the following examples to ensure wetland resource protection. Primary examples of when a variable width buffer may be utilized are when:–~~
 - ~~(i) Application of a uniform width buffer would restrict vehicular access to an upland portion of the development site;–~~
 - ~~(ii) Locations of driveways, rights-of-ways or private streets are mandated by FDOT or County requirements; or–~~
 - ~~(iii) Minor encroachments into previously disturbed portions of a wetland buffer for short~~

~~linear distances cannot be avoided.~~

~~Policy 3.3.1.7. Cooperate with the Florida Department of Environmental Protection (DEP), Southwest Florida Water Management District (SWFWMD), and the U.S. Army Corps of Engineers (USACOE) to monitor compliance with dredge and fill permits.~~

Implementation Mechanism:

- ~~(a) Provision of County personnel, as available, to assist in monitoring State, regional, and Federal permits for development activities within wetlands.~~

Policy 3.3.1.84. Utilize the land use and compatibility strategies under Objective 2.3.1 to protect wetlands from incompatible land uses and land alterations.

Policy 3.3.1.95. Identify significant coastal and freshwater wetland systems, such as low-salinity tidal marshes, for possible jointly-funded restoration and/or enhancement projects with appropriate agencies and land owners.

Implementation Mechanism(s):

- (a) Coordination with the Environmental Lands Management and Acquisition Committee (ELMAC) to identify and review potential wetlands restoration projects.
- (b) Coordination with SWFWMD, the appropriate NEP, and other appropriate regulatory agencies to promote appropriate wetland restoration and enhancement.
- (c) Enactment of land use agreements, as necessary, between appropriate public and private participants.

Policy 3.3.1.106 Develop educational programs to inform the public of the environmental benefits provided by wetlands.

Implementation Mechanism(s):

- (a) Continue current programs on wetlands education.
- (b) Continue the allocation, where feasible, of annual funding to inform the public of wetland benefits.

Element 4 – COASTAL MANAGEMENT

Policy 4.1.2.5. ~~Buffers larger than fifty (50) feet adjacent to environmentally sensitive coastal wetlands may be required~~ Engineering solutions shall be considered adjacent to environmentally sensitive coastal wetlands during the development review process, as necessary to prevent degradation due to proposed development and to discourage trimming of mangroves and loss of habitat. ~~[See Element 3 – Conservation, Policy 3.3.1.5]~~

Implementation Mechanism:

- (a) Review of development proposals adjacent to coastal wetlands for compliance with this policy, ~~in coordination with policy 3.3.1.5.~~