



## **CHAPTER 16 - ARTICLE II COMPREHENSIVE PLAN\***

### **Sec. 16-31. Purpose and intent.**

(a) It is hereby declared that the purpose and intent of this article is to encourage the most appropriate use of land, water, and resources consistent with the public interest; and deal effectively with future problems which may result from the use and development of land within the City; to preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of populations; facilitate the adequate and efficient provision of transportation, water, sewerage, parks and recreation facilities, solid waste, drainage, and other services; and conserve, appropriately develop, utilize, and protect natural and historic resources; to adequately plan for and guide growth and development within the City, to coordinate local decisions relating to growth and development and to ensure that the existing rights of property owners be preserved in accord with the Constitutions of the State and of the United States.

(b) The provisions of the Plan, its elements, and its sub-elements adopted by this article are declared to be the minimum requirements necessary to accomplish the aforesaid stated intent, purpose and objectives of this article; and they are declared to be the minimum requirements to maintain, through orderly growth and development, the character and stability of present and future land use and development within the City. Nothing in the Plan is to be construed to limit the powers and authority of the City Council to enact ordinances, rules or regulations that are more restrictive than the provisions of this article.

(c) Nothing in the Comprehensive Plan, or in the land use regulations adopted consistent with its requirements, shall be construed or applied so as to result in an unconstitutional temporary or permanent taking of private property or the abrogation of validly existing vested rights.

### **Sec. 16-32. Adoption.**

The Comprehensive Plan, as amended, is hereby adopted in conformance with, and pursuant to, provisions of the Local Government Comprehensive Planning and Land Development Regulation Act [F.S. § 163.3161 et seq.]. The adoption of the Plan supersedes all previous Comprehensive Plans.

### **Sec. 16-33. Administration.**

The Mayor, or designee, shall be responsible for the general administration of the Comprehensive Plan. The Planning Director, or designee, shall be responsible for reviewing all ordinances, pursuant to F.S. § 163.3194(2), to identify those which pertain to land development for submission to the Planning Commission for review, consideration and recommendation to the City Council. The Planning Director, or designee, shall be responsible for evaluating all development orders pursuant to the Plan and shall assign duties to the appropriate divisions of the Planning Department relating to this responsibility.

### **Sec. 16-34. Appeals.**

(a) *Procedure.* This section supersedes section 1.4.2.1 of the Comprehensive Plan, entitled Plan Interpretation Provisions. Appeals relating to any administrative decision or determination concerning implementation or application of the Comprehensive Plan's provisions shall follow an administrative procedure requiring first a review and decision by the Planning Director which decision will be final. Appeals of the Planning Director's decision may be made to the Planning Commission. The Planning Commission decision may be appealed to the City Council. The City Council shall establish procedures and proceedings and times for appeals. Any party challenging an administrative decision or determination concerning implementation or application of the Plan's provisions must exhaust this appeal process before any action is deemed final by any court or quasi-judicial proceeding.

(b) *Protection of vested rights.*

(1) *Definition of final local development order.* For purpose of the Comprehensive Plan, a final local development order shall be that last approval necessary to carry out the development provided that the proposed project has been precisely defined and development has commenced and is continuing in good faith. The last approval for a given type of development activity shall be deemed to be as provided below. Terms used in this definition shall be as defined in chapter 29 and this chapter as subsequently adopted by the City Council.

An approved building permit is a final local development order provided development under that permit has commenced within six months of issuance of that permit and is continuing in good faith. Achievement of the other indicated (X) development approval steps creates a presumption of qualifying as a final local development order provided substantial development has commenced at the time of plan adoption and is continuing in good faith. An approved site plan must be complete within 12 months of final plat approval and approved building permit and construction must begin within 18 months of final site plan approval.

<b>Development Approval Steps</b>			
<i>Types of Development</i>	<i>Approved Building Permit<sup>1</sup> &amp; Construction</i>	<i>Approved Final Site Plan</i>	<i>Approved Final Plat<sup>2</sup></i>
Residential, single-family subdivision	X	X	X
Residential, single-family, infilling	X	X	
Condominium or multifamily	X	X	X
Industrial/commercial subdivision	X	X	X
Industrial/commercial lots, infilling	X	X	
Industrial/commercial, single building not subdivided	X	X	
Industrial/commercial, multibuilding not subdivided and/or platted	X	X	

<sup>1</sup>A foundation permit is considered the first step of a building permit.

<sup>2</sup>Improvements required by the plat must already be built or bonded.

(2) *Special exemptions based on previous approval of development orders.*

- a. Notwithstanding any other provisions of the Comprehensive Plan, it shall be the policy of the City to consider granting special exemption status to a development order which may be deemed inconsistent with a policy or operative provision in the Comprehensive Plan, if a project phase or a project as indicated in an approved development order in its entirety is completely contained on a site for which one or more of the following development orders has received final approval by the City and development has commenced and is continuing in good faith, prior to the date of adoption of the Comprehensive Plan for purposes of consistency or prior to June 1, 1990, or the date of adoption of the concurrency management ordinance, whichever is earlier, for purposes of concurrency:
  1. Final approved development orders relating to a development of regional impact (DRI) project pursuant to F.S. ch. 380.
  2. Valid and approved final local development order.
- b. Additionally, it shall be the policy of the City to consider granting special exemption status to a proposed development order which may be deemed inconsistent with a policy or operative provision in the Comprehensive Plan if that project in its entirety or project phase as indicated in an approved development order is completely contained on a site which has one of the following determinations, provided development commences within one year of the determination and continues in good faith:
  1. A development order or rights determined to be "vested" pursuant to any prior judicial determination or any judicial determination by an appropriate court overturning a vested right determination made through any administrative procedure subsequently established by the City Council.
  2. A development order or right determined to be "vested" pursuant to a vested right determination made through any administrative procedure subsequently established by the City Council based on the owner's establishment by the presentation, at a public hearing, of competent, substantial evidence that the owner acted in good faith and in reasonable reliance upon some act or omission of the City and has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights acquired. A land use designation in a prior Comprehensive Plan, or a zoning designation, is not sufficient to constitute an act or omission of the City. The treatment of similar cases by State courts, as reviewed by the City Attorney, as well as recommendations of staff shall be relevant to the determination of the extent of vested rights established, if any.

- c. Projects with special exemptions under subsection (b)(2)a.1 and 2 of this section shall not be required to comply with the provisions of the Plan as to concurrency. Development orders determined to have "vested rights" under subsections (b)(2)b.1 and 2 of this section, shall be required to comply with the provisions of the Plan except to the extent provided in the vested rights determination or judicial order.
- d. To the extent that any subsequent amendment to development orders with a special exemption status established pursuant to the foregoing procedures may alter existing development rights otherwise preserved under the special exemption status, such subsequent amendments shall not qualify for the special exemption and shall be reviewed in accordance with the then-existing Comprehensive Plan.
- e. It is not the intent of this section to preclude the consideration of appropriate extensions of development orders or phasing deadlines. Special exemptions shall, however, terminate upon expiration, repeal or rescission of any approved development order that created the special exemption status on the project or project phase or extension thereof. Any project, or all phases thereof, that are made a special exemption under this section, or any development that does not comply with the then-existing Comprehensive Plan, shall lose such special exemption status upon the expiration of any final plan or permit, or the missing of any phasing deadline for such project.
- f. In the event that a phased project in its entirety qualifies as a special exemption, succeeding phases of that project shall retain that status so long as the following conditions are met:
  - 1. For the first phase, no more than one year has passed since the approval of the final site plan and/or no more than six months has passed since the issuance of a building permit and the commencement of development, which must continue in good faith.
  - 2. Each subsequent phase shall utilize the initial final site plan approval date as a base and the approved phase number will be the date in years for required commencement of development for that phase (example: in a three-phased project the third phase shall commence development within three years of the initial final site plan approval). All phases must continue development in good faith to retain special exemption status.
- g. Any proposed development order considered under the special exemption provisions of this section must be consistent with the development orders previously approved and issued prior to the plan adoption for the proposed project or project phase. A developer may elect to be processed under the Comprehensive Plan, in its entirety, as it exists at the time of the request for development order approval. Unless a developer indicates that the special exemption provisions, as set forth above, apply to a request for development order approval at the time of application for such development order, then such project shall be processed under the terms of the Comprehensive Plan in existence at the time of such application.

- h. Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with other applicable development regulations not contained in the Comprehensive Plan. Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with the provisions of the Comprehensive Plan provided that requiring compliance with those provisions shall not substantially impair rights deemed to be vested pursuant to this section.

**Sec. 16-35. Contents.**

Along with the provisions of this article, the Comprehensive Plan shall consist of the major findings; goals, objectives, and policies; plan summaries; monitoring and evaluation procedures; citizen participation process; plan format; population forecasts; plan administration; and definitions, as set forth in the Plan which is attached to Ord. No. 1143-F as Attachment B and hereby incorporated in this article by reference.

**Sec. 16-36. Legal status.**

(a) After and from the effective date of Ord. No. 1143-F, all development undertaken by and all actions taken in regard to development orders of the City Council shall be consistent with the Plan adopted in this article.

(b) The City Council shall be the sole authority for enacting or implementing the provisions of the Comprehensive Plan, unless otherwise delegated to a specific designee.

(c) All land development regulations enacted or amended shall be consistent with the Plan adopted in this article, and any land development regulations existing at the time of adoption which are not consistent with the adopted Comprehensive Plan shall be amended so as to be consistent.

(1) During the interim period when the provisions of the adopted plan and land development regulations are inconsistent, the provisions of the adopted plan shall govern any action taken in regard to an application for a development order.

(2) From the effective date of Ord. No. 1143-F, no land development regulations, land development codes, or amendment thereto shall be adopted by the City Council until such regulations, code, or amendment has been referred to the Planning Commission for review and recommendation as to the consistency of such proposal to the Plan.

(d) For purposes of this section, the term "land development regulations" and "regulations for the development of land" shall include land-use and zoning designations, zoning regulations, subdivision regulations, or other regulations controlling the development of land within the City.

(e) It is the specific intent of this article that the Plan adopted herein shall have the legal status set forth in F.S. § 163.3194, as amended. No public or private development of land within the City shall be permitted, except in conformity with the Plan adopted in this article.

**Sec. 16-37. Severability.**

(a) If any section, paragraph, subdivision, clause, sentence, or provision of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this article. But the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

(b) In the event that the entire Plan for the City shall be adjudged by any court of competent jurisdiction to be invalid, the amendment of the previously existing Comprehensive Plan shall be deemed invalid. The preceding, unamended Comprehensive Plan shall stand as the Comprehensive Plan for the City.

**Sec. 16-38. Enforcement and penalties.**

(a) Violations of this article shall be subject to the penalty provided in section 1-7.

(b) In addition to the penalties provided by subsection (a) of this section for violation of this article, any violation of this article shall be subject to appropriate civil action in the court of appropriate jurisdiction.

(c) In addition to the penalties provided by subsections (a) and (b) of this section, the City may assess any costs, including any administrative costs of enforcing this article pursuant to procedures subsequently adopted by the City Council.

**Secs. 16-39—16-65. Reserved.**