

ORDINANCE 01-05

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING MANATEE COUNTY ORDINANCE 89-01, AS AMENDED, THE MANATEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR TEXT AMENDMENTS TO THE FUTURE LAND USE ELEMENT OF THE 2020 MANATEE COUNTY COMPREHENSIVE PLAN, TO CHANGE THE AVAILABILITY OF OBTAINING A CERTIFICATE OF LEVEL OF SERVICE COMPLIANCE FOR POTABLE WATER AT DRI, LARGE PROJECT, PRELIMINARY SITE PLAN OR EQUIVALENT PRELIMINARY APPROVAL STAGE TO ISSUANCE OF A CERTIFICATE OF LEVEL OF SERVICE COMPLIANCE FOR POTABLE WATER AT CONSTRUCTION DRAWING APPROVAL STAGE, FINAL SITE PLAN OR EQUIVALENT APPROVAL TO COMMENCE DEVELOPMENT, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

FILED FOR RECORD
F.A. SIMONE
CLEAR RECORDS, INC.
KALAMAZOO, MI 49001
Aug 6 7 38 AM '01

WHEREAS, 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

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, titled "The Local Government Comprehensive Planning and Land Development Regulation Act," empowers and requires the Board of County Commissioners of the County of Manatee (a) to plan for the county's future development and growth, (b) to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the county, (c) to implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations, and (d) to establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of said Act; and

WHEREAS, Manatee County Ordinance 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

WHEREAS, Sections 163.3184 and 163.3187, Florida Statutes, titled "Process for Adoption of Comprehensive Plan or Amendment Thereto," and "Amendment of Adopted Comprehensive Plan," respectively, empowers the local government to develop and adopt comprehensive plan amendments; and

WHEREAS, the Manatee County Planning Commission has been established pursuant to Manatee County Ordinance 90-01; and

WHEREAS, pursuant to Section 163.3174, Florida Statutes, the Board of County Commissioners of the County of Manatee, Florida by Ordinance 90-01 duly designated said Planning Commission as the Local Planning Agency for the unincorporated area of Manatee County; and

WHEREAS, the Manatee County Planning Commission, empowered by the above cited laws and ordinances, considered an amendment to the Manatee County Comprehensive Plan, altering the comprehensive plan text, as referenced in the title of this ordinance, in order to more adequately address coordination with other agencies and jurisdictions in the planning of Manatee County's future development and growth; and

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

WHEREAS, the minimum statutory and plan administration requirements for public participation have been met or exceeded; and

WHEREAS, on March 8, 2001 the Manatee County Planning Commission, after due public notice, held a public hearing to consider the amendment, and forwarded its recommendation to the Board of County Commissioners as required by law; and

WHEREAS, after due public notice, the Board of County Commissioners of Manatee County received and considered the recommendation of the Manatee County Planning Commission, and held a public hearing to consider the amendment and the transmittal of the proposed amendment to the Florida Department of Community Affairs in accordance with Section 163.3184, Florida Statutes; and

WHEREAS, the State Land Planning Agency by letter dated June 4, 2001 transmitted their comments and objections on said amendment to the comprehensive plan; and

WHEREAS, said amendment to the comprehensive plan was revised as appropriate in view of comments by the State Land Planning Agency; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, on July 24, 2001 the Board of County Commissioners of the County of Manatee, Florida held another public hearing, with due public notice having been provided on said amended version of the comprehensive plan; and

WHEREAS, the Board of County Commissioners further considered all oral and written comments received during said public hearings, including appropriate changes to the Technical Support Document as needed, the recommendations of the Planning Commission, and objections, recommendations and comments of the State Land Planning Agency; and

WHEREAS, the Board of County Commissioners has determined that portions of the future land use element initially approved are no longer appropriate because a change in circumstances has been demonstrated; and

WHEREAS, in exercise of said authority, the Board of County Commissioners of the County of Manatee has determined it necessary and desirable to adopt said amendment of the comprehensive plan to preserve and enhance present advantages; encourage the most appropriate use of land, water and resources, consistent with the public interest, overcome present deficiencies and deal effectively with future problems that may result from the use and development of land within Manatee County; and

WHEREAS, the Technical Support Document for the Manatee County Comprehensive Plan includes background material and justification for the amendment to the Comprehensive Plan; and

WHEREAS, all applicable requirements of general law and local law have been followed, and the proceedings have been conducted pursuant to Chapter 163, Florida Statutes, and the Plan Format and Administration Section of the Manatee County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County that:

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 Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings: The whereas clauses set forth above are hereby adopted as findings by the Board for the adoption of this Ordinance. Based upon the findings made relative to the proposed text amendments to the Comprehensive Plan, it has been determined that the existing objective, policies, or implementation mechanisms sought to be amended are no longer in the best interest of the public and should be amended as described in Section 3 below.

Section 3. Text Amendment: The Manatee County Comprehensive Plan, Ordinance 89-01, shall be amended as follows:

Policy 2.4.1.1

The following development orders or approvals shall have an option to obtain a Certificate of Level of Service for traffic, mass transit, drainage, sanitary sewer, solid waste and parks facilities: Require the issuance of a Certificate of Level of Service Compliance simultaneously with the approval of one of the following development orders or requests for service:

- (1) Development of Regional Impact development order, or Florida Quality Development, or subsequent amendments thereto.
- (2) Preliminary subdivision plat approval, or equivalent development order.
- (3) Preliminary development plan, or equivalent development order.
- (4) Preliminary site plan, or equivalent development order.

The potable water component of concurrency will be reserved according to Policy 2.4.1.2

Policy 2.4.1.2

When a project has not elected to undergo review for a Certificate of Level of Service Compliance during any of items (1)-(4) as referenced above in Policy 2.4.1.1, then such review shall occur as listed below:

The following development orders or approvals shall obtain a Certificate of Level of Service for traffic, mass transit, drainage, sanitary sewer, solid waste, parks facilities and potable water.

(1)-(5) Earliest of the following (or equivalents thereof):

- (a) Construction drawing approval,
- (b) Final subdivision plat approval,
- (c) Final development plan,

- (d) Final site plan,
- (e) Building permit, or
- (f) Approval to commence development.

Delete Sections (6) and (7) as they do not pertain to the issuance of the Certificate of Level of Service:

~~(6) Request for public water or wastewater service, which may occur simultaneously with any of items (1) through (5).~~

~~(7) When a project has not been required to undergo review for a Certificate of Level of Service Compliance during any of items (1)-(4), then such review shall occur as part of the review required for issuance of (5).~~

Policy 2.4.1.3

- (f) Conditions may be imposed as part of the Certificate of Level of Service Compliance to ensure compliance with appropriate Level of Service Standards.

Implementation Mechanism:

- (a) Planning Department coordination of all level of service review processes for review of development orders and issuance of Certificates of Level of Service Compliance in conformance with the Level of Service Standards as required in the Transportation, Recreation/Open Space, and Public Facilities Elements.

Policy: 2.4.1.2. 4

Require that all development orders issued by Manatee County are issued pursuant to at least one of the following findings:

- (1) that all adopted level of service standards referenced in the Transportation, Recreation/Open Space, and Public Facilities Elements are maintained by the proposed development or development phase. This finding shall cause the issuance of a Certificate of Level of Service Compliance, as described in Policy 2.4.1.1 and Policy 2.4.1.2 above.
- (2) that the issuance of the development order is conditioned on the phasing of the project, or implementation of improvements to public facilities which are impacted by the project, so as to ensure the achievement of adopted level of service standards.
- (3) that the issuance of the development order does not require the issuance of a Certificate of Level of Service Compliance (e.g., certain rezonings), as described in Policy 2.4.1.1 above, and is conditioned so as to require the review and approval of any subsequent development order before development may proceed on the project.

Implementation Mechanism:

- (a) Planning Department review of all appropriate development orders or approval of phasing to ensure policy compliance.

Policy 2.4.1.5

A certificate for potable water level of service will only be issued if the long term population projections and the permitted potable water capacity indicate that sufficient supplies are available during the County's water use permit period.

Implementation Mechanisms:

- (a) Amend land development regulations developed pursuant to Section 163.3202 of the Florida Statutes, to be consistent with this policy
- (b) Continual monitoring / updating of the water reservation, average daily use, and permitted capacity.
- (c) Continue to provide annual updates to the Board of County Commissioners during the CIP / Growth Management Workshop regarding water resources, capacity, and reservations.

Policy: 2.4.1.36

Prohibit the issuance of any building permit for any structure which has not been the subject of approval of a Certificate of Level of Service Compliance, except for single family lots of record.

Implementation Mechanism:

- (a) Building Department review of all applications for building permits to verify the existence of a valid Certificate of Level of Service Compliance for that project or project phase.

Amend the Land Use Operative Provision as follows:

F. Level of Service Review Process

(1) **General Guidelines**

As described in Policy 2.4.1.1 and 2.4.1.2, compliance with certain adopted level of service standards is required for all developments. Policy 2.4.2.2.1.4 describes the points at which level of service review, and issuance of a required Certificate of Level of Service Compliance shall occur. The following **guidelines** also apply to this review/certification process:

- (a) No impact fees or user fees shall be collected prior to issuance of a Certificate of Level of Service Compliance on any project, unless such fees are collected on one or more project phases for which level of service compliance has been established, or unless pre-payment of impact fees are required by either an agreement adopted

pursuant to Ch. 380, F.S. or a local government development agreement enacted pursuant to § 163.3220, F.S., et. seq.

- (b) All applicants for a development order, or authorized representatives thereof, who are not applying for simultaneous review for issuance of a Certificate of Level of Service Compliance shall sign an affidavit prior to Manatee County accepting any such application for that development order. This required affidavit shall indicate that the applicant (or representative) recognizes and acknowledges that any approval of the development order application would not exempt a party seeking development order approvals on the subject parcel from review for, and receipt of a Certificate of Level of Service Compliance.
- (c) any development order that is applied for and that may be issued prior to requesting one or more of development orders or approvals (1) through (4) ~~or (6)~~ as specified in Policy 2.4.1.1 may be approved (where consistent with the goals/objectives/policies of this Comprehensive Plan and where consistent with all other applicable development regulations) without the simultaneous issuance of a Certificate Of Level of Service Compliance.
- (d) Issuance of a Certificate of Level of Service Compliance may be conditioned where necessary to ensure such compliance.
- (e) Expirations:
 - (i) Recognizing that accurate review of a project for compliance with adopted levels of service requires that the time frame between completion of the review and project construction be limited (to ensure that a substantial change in the status of public facility provision to the project site does not occur in the interim period), all Certificates of Level of Service Compliance shall contain an expiration date of no less than one year, and no more than three years from the date of issuance of the original Certificate of Level of Service subject to the exceptions provided herein. If a Certificate of Level of Service is obtained according to Policy 2.4.1.1, a subsequent CLOS for potable water shall have the same expiration date as the original CLOS. Obtaining a CLOS for potable water at final development stage does not extend the original expiration date of the CLOS.
 - (ii) Exception: Certificates of Level of Service Compliance for traffic, mass transit, drainage, sanitary sewer, solid waste and parks facilities valid for more than three years may, however be issued as part of a development order for a Development of Regional Impact or Florida Quality Development (or phase thereof), as defined in Ch. 380, F.S., or as part of a local government land development agreement adopted pursuant to Section 163.3220, F.S., et. seq. where such a development order is based on a detailed analysis of public facility impacts of the project (including any DRI or FQD), or phase thereof. The potable water component of concurrency shall be obtained at final development stage.
 - (iii) Building permits on the project shall be obtained within this time frame, i.e., prior to expiration of the original Certificate. Construction may continue to completion beyond this time frame, i.e., after expiration of the Certificate, if the building permits do not expire.

- (iv) Exception: Building permits for single family detached dwelling units on individual lots within a residential subdivision, which previously received a Certificate of Level of Service Compliance, shall not be required to obtain a new Certificate of Level of Service Compliance if said subdivision received final subdivision plat approval and was recorded in the public records before its Certificate of Level of Service Compliance expired.

Section 4. Severability: If any part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared to be void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The Board declares that no invalid or prescribed provision or application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision or application.

Section 5. Effective Date: This Ordinance shall take effect immediately upon the state land planning agency, as defined in Section 163.3164, Florida Statutes, issuing a final order finding the Ordinance in compliance with Section 163.3184(9), Florida Statutes, or upon the Administration Commission issuing a final order finding the Ordinance to be in compliance in accordance with Section 163.3184(10), Florida Statutes, or whichever occurs first.

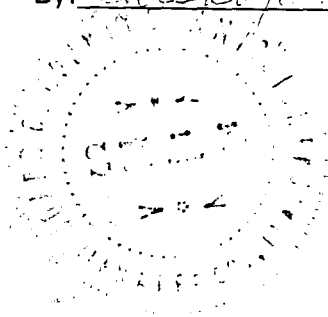
PASSED AND DULY ADOPTED, with a quorum present and voting this 24th day of July, 2001.

BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA

By: Quay E. Stein
First Vice Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: Moreane Spator, D.C.



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 25th day of

July 2001
R.B. SHORE
Clerk of Circuit Court
By: Moreane Spator, D.C.

DIVISIONS OF FLORIDA DEPARTMENT OF STATE
Office of the Secretary
Division of Administrative Services
Division of Corporations
Division of Cultural Affairs
Division of Elections
Division of Historical Resources
Division of Library and Information Services
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Historic Tampa/Hillsborough County
Preservation Board
RINGLING MUSEUM OF ART

FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State
DIVISION OF ELECTIONS

July 31, 2001

FILED FOR RECORD
AUG 6 7 37 AM '01

Honorable R. B. Shore
Clerk of the Circuit Court and Comptroller
Manatee County
Post Office Box 1000
Bradenton, Florida 34206

Attention: Diane E. Vollmer

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated July 26, 2001 and certified copies of Manatee County Ordinance Nos. 01-01, 01-02, 01-04 through 01-07, 01-42, 01-43, 01-48, PDI-01-03(Z), PDC-01-04(Z)(G) and Z-01-09, which were filed in this office on July 30, 2001.

As requested, the original date stamped copies are being returned for your records.

Sincerely,

Liz Cloud, Chief
Bureau of Administrative Code

LC/mp

Enclosure

Municipal Code Corporation
info@mail.municode.com
PO Box 2235
Tallahassee, FL 32315-2235

Supplement 50

08/13/2001

We have received the following material through
hard copy. Thank you for your assistance and
cooperation.

Ordinance Nos. 01-01, 01-02, 01-04, 01-05, 01-06,
01-07, 01-42, 01-43 and 01-48.

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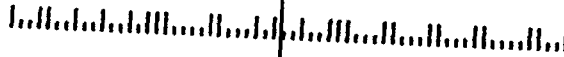
RECEIVED

AUG 15 2001

SWITCHBOARD

TO:
Mr. R.B. "Chips" Shore
Clerk Of Circuit Court
Manatee County
PO Box 25400
Bradenton, FL 34206

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8/6/01 copy K Sparks, Planning
B. Tyler, BCC
Inquirer
Muni Code ml