

ORDINANCE 01-36

FILED  
2001 NOV 13 AM 9:48  
DEPT. OF REVENUE STATE  
TALLAHASSEE, FLORIDA

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING MANATEE COUNTY ORDINANCE 89-01, THE MANATEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR TEXT AMENDMENTS TO THE CONSERVATION ELEMENT TO 1) ALLOW VARIABLE WIDTH WETLAND BUFFERS UNDER LIMITED CIRCUMSTANCES, AND 2) REQUIRE THE REMOVAL OF ALL NUISANCE EXOTIC PLANT SPECIES FROM DEVELOPMENT SITES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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 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 Manatee County's future development and growth; and

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

FILED FOR RECORD  
NOV 5 12 55 PM '01  
CLERK OF COUNTY COMMISSION  
TALLAHASSEE, FLORIDA

WHEREAS, on June 14, 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 September 7, 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 October 23, 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 the growth and development provisions initially approved are no longer appropriate because an oversight in the adopted plan has been demonstrated by the applicant;

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 policies 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:

A. Policy 3.3.1.5 is hereby amended to read in its entirety as follows:

Policy: 3.3.1.5            Protect all wetlands from land development activities by requiring the establishment of natural area buffers adjacent to all post-development wetlands, except upland cut ditches in non-hydric soils. 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 3.3.1.6:

- (1) Buffers a minimum fifty (50) feet in width shall be established adjacent to all in flowing watercourses located in the WO Overlay 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) Wetland buffers may be increased for large areas of significant wetlands, for watershed protection, and to implement the goals, objectives, and policies of this Comprehensive Plan. [See 2.9.4.4, 4.1.2, and 4.1.4]

B. Policy 3.3.1.6 is hereby amended to read in its entirety as follows:

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, and
- (2) wetland quality and function shall be maintained or enhanced, and
- (3) the variable width buffer shall not be narrower than the DEP and SWFWMD standards for Environmental Resource Permitting as outlined in Chapter 40D-4 and 62-330, F.A.C, 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) Environmental Management Department and Planning Department 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 or,
  - (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.

C. Policy 3.3.2.2 is hereby amended to read in its entirety as follows:

Policy: 3.3.2.2            Require the preservation of native upland habitat during land development activities through the following strategies:

- (1) Maintenance of areas of non-exotic vegetation, or viable portions thereof, on any project site, especially when such area or viable portions of areas, are part of larger upland habitats which may extend beyond the boundaries of the development site;
- (2) Transfer of density/intensity out of environmentally significant uplands [see policy 3.2.3.3]
- (3) Removal of all nuisance exotic plant species from upland development sites during construction unless Special Approval is granted.

Implementation Mechanism(s):

- (a) By 2003, revise the land development regulations consistent with this policy
- (b) Identification of native vegetative communities on site development plans and landscape plans. [See policy 3.3.2.1]
- (c) Environmental Management and Planning Departments review of all proposed site development plans to ensure consistency with this policy.

D. Policy 4.1.2.3 is hereby amended to read in its entirety as follows:

Policy: 4.1.2.3            Reserved.

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 6th day of November, 2001.

BOARD OF COUNTY COMMISSIONERS OF  
MANATEE COUNTY, FLORIDA



By: Joe McElash  
Chairman

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

By: Susan G. Brumie DC



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 6<sup>th</sup> day of

November, 2001.

R.B. SHORE  
Clerk of Circuit Court

By: Deane E. Vollmer DC

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

November 20, 2001

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 letter dated November 9, 2001 and certified copy of Manatee County Ordinance No. 01-36, which was filed in this office on November 13, 2001.

As requested, the original date stamped copy is being returned for your records.

Sincerely,

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mp

Enclosure

RECEIVED

Municipal Code Corporation  
info@mail.municode.com  
PO Box 2235  
Tallahassee, FL 32316-2235

DEC 03 2001

BOARD RECORDS

Supplement 51

11/27/2001

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

Ordinance Nos. 01-03, 01-12, 01-14, 01-58, 01-35 and 01-13.

800-262-2633 fax 850-575-8852 BJJ  
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TO:  
Ms. Susan Romine  
Board Records Supervisor  
Manatee County  
PO Box 25400  
Bradenton, FL 34206

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