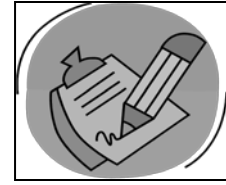




Comprehensive Plan 2009



1 ADMINISTRATION

1.1 Title: This document shall be entitled the Okaloosa County Comprehensive Plan and may be referred to as "the Plan", "this Plan", or the "Comp Plan".

1.2 Authority: This Plan is enacted pursuant to the requirements of Chapter 163, Part II, Florida Statutes and the general powers granted to counties pursuant to Chapter 125, Florida Statutes. ¹

1.3 Applicability: The objectives, policies, and provisions of this Plan shall apply to the unincorporated area of Okaloosa County within the jurisdiction of the Board of County Commissioners as specified in Section 163.3171, Florida Statutes. The provisions of this Plan in their application and interpretation are declared to be the minimum requirements necessary to accomplish and implement the goals, objectives, and policies specified herein. The development and use of all land and water within the unincorporated area shall be consistent with this Plan and no governmental or private sector development shall be permitted except in conformity with this Plan. This Plan is intended to set general guidelines and principles concerning its purposes and contents and should be construed broadly to accomplish its stated purposes and objectives. ²

1.4 Development defined: For purposes of this Plan the term "development" shall mean a human-created change to improved or unimproved real estate including buildings or other structures, land clearing, mining, dredging, filling, grading, paving, excavating or drilling, or an activity, action or alteration that otherwise changes undeveloped property into developed property. ³

1.5 Governmental Interests: This Plan is predicated upon and intended to promote governmental interests including, but not limited to the following. ⁴

Promote an orderly and logical pattern of land use and development.

Provide a standard and uniform enunciation of general planning policies that can be applied equally to all persons.

Promote the efficient and effective delivery of public facilities and services.

Promote compatibility between land uses so as to avoid the potential for nuisances.

Protect viable residential areas and property values.

To the extent practicable, ensure that all persons have quiet use and enjoyment of their property.

Promote the preservation and conservation of valuable natural resources.

To the extent practicable, ensure that private property rights are protected and that all persons are able to determine their rights and duties relative to the comprehensive planning process.

Maximize the location and use of infrastructure facilities to encourage the most efficient use of land and water resources.

Promote and provide financially feasible plans and programs for: an orderly pattern of growth and development; a safe, convenient, and efficient transportation system; safe, sanitary and affordable housing; an effective and efficient system of public and private infrastructure, utilities and recreation facilities; protection of valuable coastal resources and limitation of public expenditures in areas subject to destruction by natural disasters; conserve and protect locally significant natural resources; promoting coordination between government agencies, and; a schedule of capital improvements intended to assist in the implementation of this Plan.

Fulfill the requirements of state law mandated by Chapter 163 Part II, Florida Statutes, and;

Generally promote, protect, and improve the public health, safety, comfort, good order, appearance and general welfare of this community.

1.6 Relationship to land development regulations: All land development regulations enacted or amended shall be consistent with this Plan. Development regulations shall be considered consistent if the land uses, densities or intensities, and other aspects of development permitted by such

regulation are compatible with and further the objectives, policies, land uses, densities or other development criteria prescribed in this Plan. In the event of a conflict or inconsistency between this Plan and the land development regulations the provisions of this Plan shall control to the extent of the conflict or inconsistency only. 5

1.7 Relationship to development orders: Section 163.3194, Florida Statutes requires that any development order issued by a local government must be consistent with the adopted comprehensive plan. A development order shall be considered consistent with this Plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, densities or intensities, prescribed in this Plan. When making determinations regarding whether or not a development or a development order is consistent with this Plan the following guidelines shall be considered. 6

1.7.1 Land uses: The land use associated with a development or development order shall be deemed consistent with this Plan when the type of land use to be developed (i.e. residential, commercial, etc.) is allowed in the proper land use category specified in the Future Land Use Element and is located within the proper land use designation as shown on the Future Land Use Map;

1.7.2 Densities or intensities: The density or intensity of a development or development order shall be deemed consistent with this Plan when the proposed density or intensity of use is equal to or less than the allowed density or intensity specified in the Future Land Use Element for the type of development allowed in each land use category.

1.7.3 Capacity, size, or timing: The capacity, size, or timing of a development or development order shall be deemed consistent with this Plan when:

1. Public facilities and services are adequate and available to serve the proposed development concurrent with the impact or demand that will be created by the proposed development;
2. The impact of the proposed development will not exceed or degrade level-of-service standards specified in the Capital Improvements Element, or;

3. The developer of the project involved pays a proportionate share fee consistent with applicable laws and ordinances.

1.7.4 Consistency with objectives and policies: A development or development order shall be deemed consistent with the objectives and policies of this Plan as follows:

1. The objective or policy must first have the effect of being a regulation, restriction, or limitation on the allowable land use or development project, or otherwise imposes a condition as a prerequisite to development (for example, an objective imposing a shoreline setback would be such a restriction where an objective that states the county will pave X miles of roads would not);
2. The objective or policy is relevant and germane to the issue(s) or objection(s) raised relative to a particular development or development order (for example, application of a coastal-related policy to a non-coastal area or an urban -related policy to a rural area), and;
3. No objective or policy shall be applied, used, or taken out of context. East numbered objective and it's corresponding numbered policies must be evaluated as a whole to fully determine the intended meaning and context.

1.8 Relationship to other laws or regulations: It is the intent of the Board to minimize duplicative laws and regulations which have the effect of restricting the rights of property owners from the use and development of their property. To this end, when a federal, state or regional agency requires a certain permit or permit program the County shall not be required to duplicate or exceed such program in this Plan as authorized by Section 163.3184(6)(c), Florida Statutes. 7

1.9 Municipal annexations: The following criteria shall apply to municipal annexations which incorporate any unincorporated area into a municipality. 8

1.9.1 Jurisdiction: The County shall retain jurisdiction over unincorporated areas until such time as the annexation requirements of Chapter 171, Florida Statutes are met.

1.9.2 Effect on land use: The following shall apply with regard to jurisdiction over land use and development regulations resulting from annexed areas.

1. County development regulations shall remain in full force and effect within annexed areas until such time as the annexing municipality adopts an amendment to its comprehensive plan to include the annexed area.
2. When an area is annexed into a municipality, the County may reallocate and redistribute an amount of land area equivalent to the area being annexed to other unincorporated areas shown on the future land use map. Redistribution shall be by land use category on an acre for acre basis, and shall only apply to vacant lands in the annexed area. Any such redistributions shall be subject to the plan amendment provisions specified herein.

1.10 Definitions: Unless otherwise Specifically provided in the text of this Plan the definitions found at Appendix A of the Okaloosa County Land Development Code shall also be applicable to this Plan. In the event a particular definition cannot be found in Appendix A other professionally accepted sources such as Florida Statutes, Florida Administrative Code, case law, or Black's Law Dictionary may be used.

1.11 Powers, Duties and responsibilities: Powers, duties and responsibilities associated with the administration and implementation of this Plan shall be specified herein.

1.11.1 Board of County Commissioners: The Board of County Commissioners (the "Board") shall be responsible for the following relative to the administration of this Plan. 10

1. The adoption of the local comprehensive plan by ordinance.
2. Approval of changes or amendments of this Plan, including the future land use map, for state agency review, after consideration by the Planning Commission.
3. Final adoption of changes or amendments to this Plan, including the future land use map, by ordinance.
4. Final adoption of any required Evaluation and Appraisal Reports for this Plan by either ordinance or resolution, after consideration by the Planning Commission.

1.11.2 Local Planning Agency: The Okaloosa County Planning Commission is hereby designated as the Local Planning Agency pursuant to Section 163.3174, Florida Statutes. The Planning Commission shall be responsible for the following relative to the administration of this Plan. 11

1. Be the agency responsible for the preparation of the comprehensive plan or any changes or amendments to the plan and shall make recommendations to the Board regarding the adoption or amendment of this Plan, including the future land use map.
2. Monitor and oversee the effectiveness and status of this Plan and recommend to the Board such changes or amendments as from time to time may be required, including preparation of the required Evaluation and Appraisal Report.
3. Recommending changes or amendments to this Plan to the County Commission as may be considered necessary from time to time.

1.11.3 Planning Official: The Director of the Department of Growth Management shall also be the Planning Official. The Planning Official shall have the following responsibilities relative to the administration of this Plan. 12

1.12 Interpretation: Guidelines for interpretation of this Plan shall be as specified herein. In the interpretation of this Plan all provisions shall be liberally construed in favor of the governmental interests and objectives of the County, and shall not limit nor repeal any other powers granted to counties under general law.

1.12.1 Responsibility for interpretation: In the event any question(s) arise concerning the administration or application of the provisions of this Plan the Planning Official, or designee, shall be responsible for interpretations and may rely upon Florida Statutes, Florida Administrative Code, case law, or other professionally accepted sources for guidance. Interpretations made in this manner shall be limited to ministerial matters which do not involve legislative or policy actions or decisions, and shall not be construed as overriding or superceding any powers, duties or responsibilities incumbent upon any other board, commission, agency or official.

1.12.2 Computation of time: Unless otherwise specified, computation of time or the time in which an act is to be completed shall be determined using

consecutive, 24-hour calendar days, excluding Saturdays, Sundays, legal holidays, and declared emergencies.

1.12.3 Gender: Words importing the masculine gender shall be construed to include the feminine and neuter.

1.12.4 Number: Words in the singular shall include the plural and vice-versa.

1.12.5 Shall; may: The word "shall" is mandatory; the word "may" is permissive.

1.12.6 Written or in writing: "Written" or "in writing" shall include any representation of letters, words, phrases, figures or numbers in the English language, whether by printing or otherwise, and may include representations using electronic media.

1.12.7 Year: Year shall mean a 12-month calendar year.

1.12.8 Day: Day shall mean a 24-hour calendar day, unless otherwise specified.

1.12.9 Boundaries: Where uncertainty arises or might exist as to the boundary lines of future land use designations shown on the future land use map, or any other geographically-described area or feature within this Plan, the following guidelines shall be applied.

1. Boundaries indicated as approximately following the centerlines or rights-of-way lines of streets, highways, or alleys shall be construed to follow such centerlines or rights-of-way lines.
2. Boundaries indicated as approximately following lot or parcel lines shall be construed as following such lines.
3. Boundaries indicated as following incorporated city limit lines shall be construed as following such lines.
4. Boundaries indicated as following the shorelines of water bodies will follow mean high water or ordinary high water lines, as may be applicable and, in the event of change, the shoreline shall be construed as moving with the change.
5. Boundaries indicated as following railroad rights-of-way lines shall be construed as following such lines.

6. Boundaries indicated as parallel or extensions of features indicated in 1 through 5 above shall be so construed. Distances not specifically indicated on maps shall be determined by the scale of the map.

1.13 Amendment of this Plan: Any changes or amendments to this Plan shall be as prescribed herein. ¹³

1.13.1 Types of plan amendments: For purposes of this section plan amendments shall be classified as follows.

1. Type-1: Changes to the FLUM initiated by property owners other than the County involving more than ten (10) acres of land; or any change to the written text of the Plan.
2. Type-2: Changes to the FLUM initiated by a property owner other than the County involving ten (10) acres of land or less, which may be referred to as a small-scale development amendment.
3. Type-3: Changes to the FLUM initiated by the County involving more than ten (10) acres of land; or any change to the text of the plan.
4. Type-4: Changes to the FLUM initiated by the County involving ten (10) acres of land or less.

1.14 Procedures for plan amendments: Procedures for amending the Plan, including the Future Land Use Map (FLUM), shall be as specified herein. ¹³

1.14.1 Type-1 citizen-initiated amendments involving more than 10 acres, or changes to the text: The procedure for Type-1 plan amendments shall be as follows.

1. Only the property owner of the property for which the amendment is being requested or the owner's duly authorized agent may apply for the plan amendment.
2. Applications for plan amendments shall be made only on applications provided by the Department of Growth Management.
3. Detailed specific application procedures shall be described in the plan amendment application package.

4. It shall be the responsibility of the applicant to provide all required information including data and analysis to support the plan amendment application. Future land use map amendments must include: a) an analysis of the availability of facilities and services; b) an analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site, and; c) analysis of why additional land in the FLUM category is needed.
5. Once an application is deemed complete it will be scheduled as an agenda item for consideration by the Planning Commission and Board of County Commissioners at public hearings. These hearings shall be legislative in nature and need not be conducted as quasi-judicial proceedings.
6. A total of three (3) duly advertised public hearings are required for Type-1 plan amendments as follows.
 - a. One public hearing before the Planning Commission. The Planning Commission shall make recommendations to the Board of County Commissioners regarding each plan amendment application.
 - b. One transmittal hearing before the Board of County Commissioners. The purpose of this hearing is for the Board to decide whether or not to transmit each application for plan amendment for state agency review.
 - c. One adoption hearing before the Board of County Commissioners. The purpose of this hearing is for the Board to decide whether or not to adopt each application for plan amendment by ordinance after consideration of objections, recommendations, or comments received as a result of state agency review.
7. Notice of public hearings shall be provided in the following manner.

- a. The applicant shall mail certified, return-receipt notification to all property owners of record within 300 feet of the property, to be measured from the property line of the property which is the subject of the plan amendment. The notice must describe the requested plan amendment, state the date, time and location of the public hearing at which the plan amendment will be considered and provide names and telephone numbers to contact for further information. Notification must be mailed no later than 21 days before the date of the public hearing. The return-receipt "green cards" must be returned to the Department prior to the first public hearing.
- b. The applicant shall post a sign on the plan amendment property no less than 2 feet by 3 feet in size with no less than 1 inch lettering to be placed at the property line facing and clearly visible from the adjacent street, or for multiple streets, a sign clearly visible from all adjacent streets. The sign shall describe the requested plan amendment, state the date, time and location of the public hearing at which the plan amendment will be considered, and provide names and telephone numbers to contact for further information. The sign must be posted no later than 15 days prior to the date the public hearing will be held.
- c. The Department shall run an advertisement in a newspaper of general circulation in the manner prescribed by general law.
- d. The applicant must provide signed and notarized affidavits stating that the notifications were mailed and the sign(s) were posted on the amendment property as specified herein.
- e. The specific intent of providing constructive public notice is to inform potentially affected parties of an action to be considered and the forum for an opportunity to be heard. In those situations where a newspaper advertisement, mailed notification, sign or other required public notice contains an unintentional mistake which does not affect due notice of a pending proceeding to the extent that a potentially affected party is not made aware of an action being considered or the date, time, and place at which the action will be considered then said mistake may be considered "harmless error" which shall not necessitate the re-advertisement or

re-scheduling of the proceeding at hand. Where a dispute may arise as to whether a particular unintentional mistake constitutes harmless error the presiding body for the proceeding at hand shall decide by majority vote.

8. The Board of County Commissioners shall decide whether or not to transmit any plan amendment(s) for state agency review at the transmittal public hearing specified at 7, b above. In the event one or more plan amendments are **not approved** for state agency review the **applicant or any other applicant** may not thereafter apply for the same plan amendment for the same amendment property, unless it can be demonstrated by competent, substantial evidence that either the premise of the application is substantially different and/or there have been significant changed conditions and circumstances that might result in a different decision by the Board.
9. For those plan amendments transmitted for state agency review each agency will provide its objections and comments to the County and the State Land Planning Agency. The State Land Planning Agency will then issue an "Objections, Recommendations and Comments" (ORC) Report. Upon receipt of the ORC Report the County, in a timely manner, shall either: 1) notify the plan amendment applicant(s) in writing that there is no objection to the plan amendment, or; 2) provide the plan amendment applicant with a copy of the ORC Report. When objections have been raised in the ORC Report it shall be the responsibility of the applicant to resolve those objections in coordination with the County. The applicant shall provide to the County additional data and analysis or other information as may be necessary to respond to the objections. The County and the applicant will then coordinate with the State Land Planning Agency in an attempt to resolve the ORC objections.
10. The Board of County Commissioners shall decide whether to adopt, adopt with changes, or not to adopt plan amendments that have been the subject of a DCA ORC Report at the adoption public hearing specified at 7, c above. At the adoption hearing the fact that there are unresolved objections shall not preclude the Board from adopting any particular plan amendment. Conversely, the fact that no objections were raised shall not preclude the Board from not adopting any particular plan amendment.

1.14.2 Type-2 citizen-initiated FLUM amendments, 10 acres or less: The procedure for Type-2 plan amendments shall be the same as for Type-1 plan amendments EXCEPT for the following.

1. Type-2 plan amendments are limited to properties 10 acres or less in size.
2. The County may not adopt more than 120 acres cumulative as Type-2 plan amendments in any given calendar year. The 120 acres shall become available for plan amendments as of January 1 of each calendar year and shall remain available until the 120 acres is gone or the end of the calendar year, whichever occurs first.
3. The 120 acres shall be allocated on a first-come, first-served basis to be determined by the date and time the plan amendment application is filed with the County and all applicable fees paid.
4. The proposed amendment shall not involve a change to the written text of this Plan, but only proposes a land use change to the future land use map for a site-specific small-scale development activity, unless the text change is directly related to the map change.
5. Two public hearings shall be required for Type-2 amendments: one public hearing before the Planning Commission as specified in 1.14.1, 7, a and one adoption before the Board of County Commissioners as specified in 1.14.1, 7, c.
6. Transmittal for state agency review is not required for Type-2 plan amendments.

1.14.3 Type-3 county initiated FLUM amendments more than 10 acres, or changes to the text of the Plan: The procedure for Type-3 amendments shall be the same as for Type-1 plan amendments EXCEPT for the following.

1. Constructive notice of public hearings shall be perfected by advertisement of public notice in a newspaper of general circulation in the manner prescribed by general law. The mail-out requirements of 1.14.1, 8, a and the sign-posting requirements of 1.14.1, 8, b shall not apply to Type-3 plan amendments.
2. It shall be the responsibility of the County to resolve any objections raised in an ORC Report regarding Type-3 plan amendments.

1.14.4 Type-4 county-initiated FLUM amendments, 10 acres or less: The procedure for type 4 plan amendments shall be the same as for Type-2 plan amendments EXCEPT for the following.

1. Notice of public hearings shall be perfected by advertisement of public notice in a newspaper of general circulation in the manner prescribed by general law. The mail-out requirements of 1.14.1, 8, a and the sign-posting requirements of 1.14.1, 8, b shall not apply to Type-4 plan amendments.

1.14.5 Character of hearings: All public hearings held pursuant to this section shall be legislative proceedings.

1.15 Amendment guidelines and criteria: The Board of County Commissioners shall exercise its legislative authority when deciding whether or not to approve or not approve plan amendments. However, the following guidelines and criteria shall be considered when making such decision and may form the basis for approving or not approving any particular plan amendment. These shall only apply to Type-1 plan amendments. ¹⁴

1. All procedural requirements prescribed herein must be met.
2. The requested plan amendment must be consistent with the objectives and policies of this Plan, particularly the designation and location criteria specified in the Future Land Use Element.
3. The potential to create a threat to the general health, safety, and welfare of the public, or otherwise adversely affect the public interest.
4. The extent to which any development enabled by the amendment will promote an orderly and logical pattern of development relative to the area involved, and can co-exist in relative proximity to other adjacent or nearby land uses in a stable fashion over time such that no other use or condition is unduly negatively impacted directly or indirectly by another use or condition, or will otherwise interfere with the quiet use and enjoyment of properties enjoyed by other property owners in the vicinity of the amendment area.
5. The amendment is intended to correct an oversight or mistake in the Plan or on the FLUM, or conditions and circumstances in the vicinity of the amendment area have changed to justify or give rise to a need for the amendment.

6. The amendment will not promote or result in urban sprawl as that term is defined in ss163.3177(6),(a),9, Fla. Stat. A finding by the State Land Planning Agency that an amendment will result in urban sprawl shall constitute a rebuttable presumption that the amendment will promote or result in urban sprawl.
7. Facilities and services including roads, water, sewer, recreation, drainage, and public safety are adequate to support the level of development enabled by the amendment, or that mitigation in the form of improvements or compensation can be provided to offset negative impact.
8. The amendment will not result in damage to or destruction of valuable natural resources as described in the Conservation Element of this Plan.
9. The amendment will not conflict, interfere with, or contradict infrastructure plans of the county, or other government agency, or public utility; or otherwise create a physical liability for the county, government agency, or public utility.
10. The amendment will generally result in a net public benefit as opposed to a public liability.

1.16 Conflicting provisions: In the event a conflict or contradiction arises or is discovered between any revised chapters, sections, paragraphs, subparagraphs, objectives, policies, or words of this Plan and any previously adopted portions of this Plan, the most recently adopted revised version shall govern and prevail to the extent of the inconsistency.

1.17 Severability: If any part, section, subsection, or other portion of this Plan, or any application thereof to any person or circumstance is declared by a court of competent jurisdiction to be void, unconstitutional, or invalid for any reason such part, section, subsection or any other portion of this Plan, or the prescribed application thereof shall be severed from this Plan the other portions of the Plan not so declared shall remain in full force and effect. 17

REFERENCES

- 1 s.125.01, s.163.3167 Fla. Stat.
- 2 s.163.3161, s.163.3171, s.163.3194 Fla. Stat.
- 3 Black's Law Dictionary
- 4 s.187.201 Fla. Stat.
- 5 s.163.3194 Fla. Stat.
- 6 s.163.3194 Fla. Stat.
- 7 ss.163.3184(6)(c) Fla. Stat.
- 8 s.171.062 Fla. Stat.
- 9 s.163.3167 Fla. Stat.
- 10 s.125.01. s.163.3167 Fla. Stat.
- 11 s.163.3174 Fla. Stat.
- 12 Fla. Jur 2d, Vo. 7, *Building, Zoning, and Land Controls*, ss100.
- 13 s.163.3184, s.163.3197, s.163.3189 Fla. Stat.
- 14 Fla. Jur 2d, Vo. 7, *Building, Zoning, and Land Controls*, ss133.
- 15 *id.* at ss.212, 214.
- 16 *id.* at ss.238.
- 17 Black's Law Dictionary