

## SECTION 1

### INTRODUCTION TO THE PANAMA CITY BEACH COMPREHENSIVE GROWTH DEVELOPMENT PLAN

#### 1. PURPOSE

The purpose of the City of Panama City Beach's Comprehensive Growth Development Plan is to establish goals, objectives, and policies for the future development of Panama City Beach. Policies are determined through the evaluation of existing conditions, necessary improvements, and the establishment of future projected needs of Panama City Beach. Under the minimum criteria outlined in the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part 2, Fla. Stat., and Rule 9J-5, Florida Administrative Code, the City developed this plan. The purpose of the Act is to utilize and strengthen the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and control future development. Section 163.3161, Fla. Stat.

The State Legislature's intent is that the enactment of this act is necessary so that local governments can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within jurisdictions of local government. Through the process of comprehensive planning, the legislature intends that units of local government can 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 population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions. Section 163.3161, Fla. Stat.

It is the intent of the City to encourage and assure cooperation between and among municipalities and counties and to encourage and assure coordination of planning and development activities of regional agencies and state government in accord with applicable provisions of law. Section 163.3161, Fla. Stat.

It is the intent of the City that the adopted comprehensive plans shall have the legal status set out in the Statute and that no public or private development shall be permitted except in conformity with this comprehensive plan taken as a whole, prepared and adopted in conformity with the Statute. Section 163.3161, Fla. Stat.

The legislature does not intend the Local Government Comprehensive Planning and Land Development Regulation Act to limit or restrict the powers of municipal governments, but shall be interpreted as a recognition of their broad statutory and constitutional powers to locally plan for and regulate the use of land. Section 163.3161, Fla. Stat.

Rule 9J-5, F.A.C., establishes minimum criteria for the preparation, review and determination of compliance of comprehensive plans pursuant to Section 163, Fla. Stat. The Rule establishes criteria implementing the legislative mandate that local comprehensive plans be consistent with the appropriate comprehensive regional policy plan and the State Comprehensive Plan, and recognizes the major role that local government will play in accomplishing the goals and policies of the appropriate comprehensive regional policy plan and the State Comprehensive Plan. Rule 9J-5.001, F.A.C.

## **2. PLAN CONSISTENCY WITH REGIONAL AND STATE COMPREHENSIVE PLANS**

The City intends and finds that this comprehensive plan is consistent with the appropriate comprehensive regional policy plan and the State Comprehensive Plan as it appears in Section 187.201, Fla. Stat. A local plan shall be consistent with a comprehensive regional policy plan or the State Comprehensive Plan if the local plan is compatible with and furthers such plans. Rule 9J-5.021 F.A.C.

## **3. LAND USE**

The State's goal concerning land use is stated in Section 187.201 Fla. Stat. as follows:

In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.

## **4. TRAFFIC CIRCULATION**

The State's goal for transportation as stated in Section 187.201 Fla. Stat. is:

Florida shall direct future transportation improvements to aid in the management of growth and shall have a state transportation system that integrates highway, air, mass transit, and other transportation modes.

## **5. HOUSING**

The housing goal for the State outlined in Section 187.201, Fla. Stat. is:

The public and private sectors shall increase the affordability and availability of housing for low-income and moderate-income persons, including citizens in rural areas, while at the same time encouraging self sufficiency of the individual and assuring environment and structural quality and cost-effective operations.

**6. SOLID WASTE AND POTABLE WATER**

Section 187.201, Fla. Stat. outlines the State goal for water resources:

Florida shall assure the availability of an adequate supply of water for all competing uses deemed reasonable and beneficial and shall maintain the functions of natural systems and the overall present level of surface water and ground water quality. Florida shall improve and restore the quality of waters not presently meeting water quality standards.

Section 187.201, Fla. Stat. outlines the State goal for solid waste:

All solid waste, including hazardous waste, wastewater, and all hazardous materials, shall be properly managed, and the use of landfills shall be eventually eliminated.

**7. CONSERVATION, RECREATION AND OPEN SPACES**

The State goal for conservation of natural systems and recreational lands is found in Section 187.201 Fla. Stat. as follows:

Florida shall protect and acquire unique natural habitats and ecological systems, such as wetlands, tropical hardwood hammocks, palm hammocks, and virgin long-leaf pine forests, and restore degraded natural systems to a functional condition.

**8. COASTAL MANAGEMENT**

Coastal and marine resources are addressed in the State's goal with Section 187.201 Fla. Stat.:

Florida shall ensure that development and marine resource use and beach access improvements in coastal areas do not endanger public safety or important natural resources. Florida shall, through acquisition and access improvements, make available to the state's population additional beaches and marine environment, consistent with sound environmental planning.

**9. INTERGOVERNMENTAL COORDINATION**

The State's goal for plan implementation in Section 187.201 Fla. Stat. is:

Systematic planning capabilities shall be integrated into all levels of government in Florida, with particular emphasis on improving

Intergovernmental coordination and maximizing citizen involvement.

## **10. CAPITAL IMPROVEMENTS**

The State's goal for protecting public facilities as found in Section 187.201 Fla. Stat. is:

Florida shall protect the substantial investments in public facilities that already exist and shall plan for and finance new facilities to serve residents in a timely, orderly, and efficient manner.

## **11. PUBLIC SCHOOL FACILITIES**

Legislation enacted by the 2005 Florida Legislature (Senate Bill 360, Laws of Florida 2005-290) mandates a comprehensive focus on school planning by requiring local governments and school boards to adopt a school concurrency system. School concurrency ensures coordination between local governments and school boards in planning and permitting developments that affect school capacity and utilization rates.

## **12. PUBLIC PARTICIPATION PROCEDURES**

It is the intent of the City to provide reasonable notice to all citizens of the on-going events in the planning process. The City of Panama City Beach established by Resolution the following procedures relative to the adoption of the comprehensive plan, amendments to the comprehensive plan, and preparation of Evaluation and Appraisal Reports.

Prior to the adoption of the comprehensive plan, revisions to the comprehensive plan and preparation of Evaluation and Appraisal Reports:

- A. A public hearing shall be held prior to the transmittal of the initial draft of the comprehensive plan to the Department of Community Affairs (DCA) for review. This public hearing shall be held on a weekday approximately seven (7) days after the date of the first advertisement is published. The intent to hold and advertise a second public hearing prior to the adoption of the comprehensive plan shall be announced at the first public hearing.
- B. A second public hearing shall be held ~~just prior to the adoption of~~ the comprehensive plan by the City. The public hearing shall be held on a weekday no sooner than five (5) days after an advertisement is published.
- C. A public hearing shall be held prior to any revisions of the comprehensive plan. It shall be held on a weekday approximately seven (7) days after the date that the first advertisement is published.
- D. A public hearing shall be held prior to the submittal of an Evaluation and Appraisal

Report to the Department of Community Affairs. The public hearing shall be held on a week day approximately seven (7) days after the date that the first advertisement is published.

- E. The advertisement of the public hearing shall be run in a paper of local circulation and shall state the date, time, place of the meeting, subject of the meeting, and the place or places within the boundaries of the local government entities where the proposed comprehensive plan, plan amendment, or Evaluation and Appraisal Report may be inspected by the public. The advertisement shall advise that interested parties may appear in person and be heard or written comments may be presented prior or during the public hearing.
- F. All comments received during the public hearing will be considered prior to any official action being taken.

All regular meetings of the Planning Board and City Council are recorded by audio tape. Every meeting has time set aside for public comment. Any person having pertinent input is encouraged to speak before the Council. Any person not wishing to speak, but desiring to have input can send written comments to the Mayor or Chairman of the Planning Board who will see that it is made a part of the public record.

### **13. PROCEDURES FOR MONITORING AND EVALUATION**

As time passes, many changes will take place that were not anticipated during the initial planning stage. These changes will influence the goals and objectives adopted in the plan requiring adjustments. The City adopted its first Evaluation and Appraisal Report (EAR) on April 18, 2002. The Comprehensive Plan was then updated based upon the recommendations of the adopted EAR on September 26, 2002. The City adopted its second EAR on May 8, 2008. This plan has been amended to incorporate the recommendations of the latest EAR.

### **14. CONCURRENCY MANAGEMENT SYSTEM**

The purpose of the Concurrency Management System is to establish a mechanism which ensures necessary capital facilities and services to support development concurrent with the impact of development. Maintaining adopted level of service standards for roads, sanitary sewer, solid waste, drainage, potable water, public schools, and recreation is the function of the Panama City Beach Concurrency Management System as described hereunder to guide the review of development order applications. Level of service standards to be used for determining concurrency are identified in the policies of the Capital Improvement Element and each respective element or sub-element.

In order to ensure that the public facilities and services are available concurrent with the impacts of development, the City has established the following Concurrency Management System.

## **GOALS, OBJECTIVES AND POLICIES**

**GOAL: Necessary infrastructure and services must be available concurrently with the impact of development.**

**OBJECTIVE 1: To provide the necessary infrastructure and services concurrently with the impact of development.**

POLICY 1.1: The City Manager shall maintain a current record of the available capacity under the adopted level of service standards for roads, sanitary sewer, solid waste, drainage, potable water, public schools, and recreation. The concurrency test for facilities and services will be determined by comparing the available capacity of a facility or service to the demand created by the proposed project. Available capacity will be determined by first adding together any capacity demands committed through concurrency reservations for Development Orders approved prior to and subsequent to the adoption and subsequent amendments of the comprehensive plan but not receiving services and existing services being delivered. After subtracting that total from the design capacity of the facility, the remainder shall be the capacity available to serve the new development project.

POLICY 1.2: Applications for a Development Order or Development Permit may not be approved unless there is enough capacity from all facilities to serve the project at or within the adopted level of service standards or there is a binding commitment for provision of capacity improvements to alleviate the deficiency.

POLICY 1.3: Each application for a Development Order or Development Permit will be reviewed for its impact on the level of service for public facilities. Applicants may be required by the City to supply the necessary information including but not limited to applicable studies in order for the City to determine the impact on any given public facility or facilities.

POLICY 1.4: Concurrency review procedures shall be established providing for the review of applicable services subject to the information submitted as part of the Development Order applications to determine whether the proposed project can be provided service at the adopted level of service standards. Applications shall be approved only when there is enough capacity from all facilities to serve the project at the adopted level of service standards.

POLICY 1.5: Through the Concurrency Review Procedures, a proposed project may be approved if the Development Order contains phasing conditions, if necessary, designed to ensure that facilities and services will be provided concurrent with the facility needs of the development.

POLICY 1.6: The City shall prepare written findings on the proposed development's concurrency. To be concurrent, one or more of the following conditions for each facility type must be met:

## **Roads**

- A. The necessary facilities and services are in place at the time a Development Permit is issued; or,
- B. A Development Permit is issued subject to the condition that specifically identified, necessary facilities will be in place when the impacts of the development occur, failing which the Certificate of Occupancy will not be issued; or,
- C. The necessary facilities are under construction at the time a permit is issued; or,
- D. The necessary facilities are specifically identified and guaranteed in an enforceable development agreement which requires the commencement of the actual construction of the facilities or the provision of services within one year of the issuance of the applicable Development Permit. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Fla. Stat., or an agreement or Development Order issued pursuant to Chapter 380, Fla. Stat.
- E. A proportionate fair share agreement executed pursuant to the requirements adopted by the City and as consistent with Chapter 163.3180(16), Florida Statutes.

## **Sanitary Sewer, Solid Waste, Drainage, and Potable Water**

- A. The necessary facilities or services are in place at the time a Development Permit is issued; or,
- B. A Development Permit is issued subject to the condition that specifically identified, necessary facilities or services will be in place when the impacts of the development occur, failing which the Certificate of Occupancy will not be issued; or,
- C. The necessary facilities are under construction at the time a permit is issued; or,
- D. The necessary facilities and services are specifically identified and guaranteed in an enforceable development agreement that includes the provisions of (1),(2), or (3) above. Such an agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur. An enforceable

development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Fla. Stat., or an agreement or Development Order issued pursuant to Chapter 380, Fla. Stat.

**E. Prior to approval of a building permit or its functional equivalent, the City will make a determination whether adequate water supply to serve the new development will be available no later than the anticipated date of issuance by the City of a certificate of occupancy or its functional equivalent. (February, 2011).**

### **Recreation**

- A. The necessary facilities and services are in place at the time a Development Permit is issued; or,
- B. A Development Permit is issued subject to the condition that specifically identified, necessary facilities or services will be in place when the impacts of the development occur, failing which, the Certificate of Occupancy will not be issued; or,
- C. The necessary facilities are under construction at the time a permit is issued.

### **Public Schools**

- A. The necessary facilities and services are in place or to be provided as required by the Goals, Objectives, and Policies of the Public School Facilities Element of this Plan.

**POLICY 1.6.1:** The City will continue to coordinate with Bay County, the School Board, and other local governments to adopt plan amendments to implement school concurrency as required by the adopted School Interlocal Agreement.

**POLICY 1.7:** Sufficient information shall be provided by the applicant for the purpose of determining concurrency. Panama City Beach will advise the applicant concerning the items of information necessary for an assessment of the proposed development's impact on services. Compliance reviews, including review by all appropriate City departments, will be coordinated by Panama City Beach. Appeals of findings prepared by the Building and Planning Department shall be submitted to the Panama City Beach Board of Adjustment. In no case shall a recommendation for issuance of a Development Order be made if the projected service demand exceeds capacity. Likewise, a determination of concurrency must be made prior to approval of an application for a Development Order.

POLICY 1.8: Development Orders may be approved in stages or phases so that facilities and services required by each phase are available consistent with adopted level of service standards concurrent with the impacts of each phase of the development.

POLICY 1.9: The City shall make a Concurrency determination prior to or concurrently with the issuance of any Development Order or Development Permit, except for such orders or permits identified in Policy 1.10 below. The City shall not issue any Development Order or Development Permit until Concurrency approval has been issued.

POLICY 1.10: Concurrency approval shall not be required for single family dwellings or applications for a Development Order or Development Permit for the specified circumstances listed below; however, facility capacity must be reserved, except for single family dwellings, for the development and not made available for other development projects:

- A. Committed Development- Any application for a final Development Order or Development Permit that has been determined to be a Committed Development pursuant to Policy 1.12.
- B. Development of Regional Impact- Any previously approved Development of Regional Impact that has an approved Development Order that was issued pursuant to the provisions of Section 380.06, Fla. Stat., and which demonstrates that it has proceeded to develop in accordance with the requirements of that Development Order.
- C. Existing Use- Any application to replace an existing use provided the new use does not exceed the impacts of the existing use.
- D. Amendment of Development Orders- Any application for an amendment to a Order that was issued a Certificate of Concurrency, or was subject to a committed development determination where the public facilities impacts do not exceed those in the original Development Orders.
- E. For transportation concurrency, any development that does not generate trips in excess of one percent (1%) of the adopted maximum level of service volume for those roadways that have existing plus committed trips less than one hundred-ten percent (110%) of the adopted level of service volume.

POLICY 1.11: An approval for Concurrency shall expire six (6) months from the date of approval unless within such time period an application for a Development Permit is submitted, in which case the Concurrency approval shall be automatically extended until the

Development Permit is finally denied or expires. For phased projects, the Concurrency approval shall be valid for the same time period as the Development Order or Permit for that project phase. Facility capacities will be reserved for the project throughout the life of the Concurrency approval. An applicant may request a Development Order extension by submitting such request to the City in writing. If granted, the approval for concurrency will run concurrently with the approved Development Order.

POLICY 1.12: The City shall establish a Committed Development determination process for the purpose of determining whether or not to allow a development to commence without requiring a Certificate of Concurrency as provided in Policy 1.10. The committed development determination process shall include an administrative proceeding, which shall establish whether or not (1) the Development Order or Development Permit issued prior to the adoption of this plan was final development approval by the City, (2) the project has a valid, unexpired building permit from the City, and (3) the development authorized by the building permit has commenced and is continuing in good faith or as otherwise vested pursuant to Policy 1.10. Projects which meet all three criteria shall receive a positive committed development determination.

Projects which have received a valid local governmental Development Order but have not been permitted to commence development or to continue in good faith due to conditions in the Development Order, or acts, or omissions of a governmental entity shall receive a committed development determination.

POLICY 1.13: Notwithstanding Plan provisions to the contrary, the Plan requirements shall not impair vested rights established pursuant to law, to the extent that any vested development, or portion thereof, is against the requirements of this plan.

## **15. CAPACITY MANAGEMENT SYSTEM**

The City of Panama City Beach shall provide a mechanism to be included in the Land Development Regulations, by which all service providers and the City coordinate land development decisions and facility capacity requirements to ensure that a level of service standards are maintained as a new development occurs.

### **GOAL, OBJECTIVE, AND POLICIES**

**GOAL:** To provide a mechanism that service providers for the City be aware of the growth development in the City.

**OBJECTIVE 2:** To establish a method of coordination between the City and service providers for the City to ensure availability of services.

POLICY 2.1: The Five-Year Capital Improvements Schedule shall identify and fund those projects for which the City is the service provider and which are required to maintain the level of service standards. The Capital Improvements Schedule will additionally identify all of the public facilities necessary to accommodate development regardless of which agency or governmental entity has jurisdiction.

POLICY 2.2: The City shall require documentation from the service providers that facility capacity is available and will be reserved for approved development.

POLICY 2.3: The City shall coordinate with service providers to ensure that facilities are expanded or new facilities are constructed to accommodate anticipated future needs.

## **16. STATEMENT OF LEGISLATIVE INTENT**

This Statement expresses the legislative intent of the City Council of the City of Panama City Beach with regard to the Panama City Beach Comprehensive Growth Development Plan. This Statement is applicable to the Panama City Beach Comprehensive Growth Development Plan in its entirety and is declared to be incorporated by reference into each element thereof.

- A. Nothing in the Panama City Beach Comprehensive Growth Development Plan shall be construed or applied to constitute a temporary or permanent taking of private property or the abrogation of vested rights as created or recognized by this Plan or any amendment to it, ordinances of the City, Florida law, or the Constitution of the United States.
- B. The Panama City Beach Comprehensive Growth Development Plan shall not be construed to preempt considerations of fundamental fairness that may arise from a strict application of the Plan. Accordingly, the Plan shall not be deemed to require any particular action where the Plan is incomplete or internally inconsistent, or that would constitute a taking of private property without due process or fair compensation, or would deny equal protection of the laws.
- C. The Panama City Beach Comprehensive Growth Development Plan is intended to set general guidelines and principles concerning its purposes and contents. The Panama City Beach Comprehensive Growth Development Plan is not a substitute for land development regulations.
- D. The Panama City Beach Comprehensive Growth Development Plan contains long-range policies for Panama City Beach. Numerous policies contained in the Panama City Beach Comprehensive

Growth Development Plan must be implemented through the City's land development regulations. Other policies of the plan propose the establishment of new administrative programs, the modification of existing programs, or other administrative actions. It is the intent of Panama City Beach that these actions and programs be initiated by the date that Panama City Beach adopts its next Evaluation and Appraisal (EAR) report, unless another date is specifically established in the Plan.

- E. The Panama City Beach Comprehensive Growth Development Plan is not intended to preempt the processes whereby applications may be filed for relief from land development or other City regulations. Rather, it is the intent of the City Council of Panama City Beach that where a strict application of the Panama City Beach Comprehensive Growth Development Plan would contravene the legislative intent expressed in this statement, such applications be filed, considered and finally determined, and that administrative remedies be exhausted under the applicable regulations.
- F. The City Council recognizes that a particular application may bring into conflict, and necessitate a choice between different goals, priorities, objectives, and provisions of the Panama City Beach Comprehensive Growth Development Plan. While it is the intent of the Council that the land use element be afforded a high priority, other elements must be taken into consideration in light of the Council's responsibility to provide for the multitude of needs of a diverse community. This is especially true with regard to the siting of public facilities.

Recognizing that boards and agencies will be required to balance competing policies and objectives of the Panama City Beach Comprehensive Growth Development Plan, it is the intention of the City Council that such boards and agencies consider the overall intention of the Panama City Beach Comprehensive Growth Development Plan as well as portions particularly applicable to a matter under consideration in order to ensure that the Panama City Beach Comprehensive Growth Development Plan, as applied, will protect the public health, safety and welfare.

- G. The term "shall" as used in the Panama City Beach Comprehensive Growth Development Plan shall be construed as mandatory, subject, however, to this Statement of Legislative Intent. The term "should" shall be construed as directory.