

**PLAN AMENDMENT PA-23-06 / ORDINANCE NO. 23-66
COMPREHENSIVE PLAN TEXT AMENDMENT
WETLANDS PROTECTION**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING COMPREHENSIVE PLANNING, AMENDING MANATEE COUNTY ORDINANCE NO. 89-01, AS AMENDED (THE MANATEE COUNTY COMPREHENSIVE PLAN); PROVIDING A PURPOSE AND INTENT; PROVIDING FINDINGS; PROVIDING FOR A TEXT AMENDMENT TO COMPREHENSIVE PLAN ELEMENT 3 – CONSERVATION, AND ELEMENT 4 – COASTAL MANAGEMENT TO REMOVE THE REQUIREMENT FOR WETLANDS MITIGATION FOR IMPACTED WETLANDS NOT REQUIRING STATE MITIGATION, AND TO REMOVE THE REQUIREMENT FOR ADDITIONAL WETLAND BUFFERING ON ISOLATED WETLANDS ABOVE THAT IMPOSED BY THE STATE; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

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 “Community Planning Act,” Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. 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
2. The Community Planning Act (the “Act”) is codified in the applicable portions of Chapter 163, Part II, Florida Statutes (2022) as amended, empowers and requires the County (a) to plan for the county’s future development and growth, and (b) to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the county; and,
3. Manatee County Ordinance No. 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 established the Manatee County Comprehensive Plan; and
4. Application PA-23-06 is a text amendment to the Comprehensive Plan, amending Element 3 – Conservation, and Element 4 – Coastal, to remove the requirement for wetlands mitigation for impacted wetlands not requiring State mitigation, and to remove the requirement for additional wetland buffering on isolated wetlands above that imposed by the State; and
5. On **April 13, 2023**, at a duly noticed public hearing, the Manatee County Planning Commission, as the County’s Local Planning Agency for purposes of the Act, considered Application PA-23-06; and passed a motion to recommend transmittal of Plan Amendment 23-06 to the Board of County Commissioners; and

6. Pursuant to Section 163.3184, Florida Statutes (2022), the Board of County Commissioners received and considered the recommendation of the Manatee County Planning Commission, and held a public hearing on **April 20, 2023**, to consider Plan Amendment PA-23-06 and the transmittal of the proposed amendment to the State Land Planning Agency in accordance with the Act; and
7. The Board of County Commissioners further considered all oral and written comments received during said public hearings, the recommendations of the Planning Commission, and the comments of the State Land Planning Agency and all applicable State or local review agencies; and,
8. Pursuant to Section 163.3184, Florida Statutes (2022), on **June 15, 2023**, the Board of County Commissioners held an adoption public hearing, with due public notice having been provided, to consider said proposed amendment to the Comprehensive Plan; and
9. In exercise of said authority, the Board of County Commissioners has determined that the adoption of Plan Amendment PA-23-06 would be in the public interest; and
10. All applicable requirements of general law and local law have been followed, and the proceedings have been conducted pursuant to Chapter 163, Part II, Florida Statutes (2022), and the Plan Format and Administration Section of the Manatee County Comprehensive Plan.

Section 3. Adoption of the Comprehensive Plan Map Amendment.

Element 3 – Conservation, and Element 4 – Coastal Management are hereby amended as set forth in Exhibit “A” to this Ordinance.

Section 4. Codification. The publisher of the County’s Comprehensive Plan, CivicPlus, is directed to incorporate the amendments in Section 3 of this Ordinance into the Comprehensive Plan.

Section 5. Applicability. The amendments set forth in this Ordinance shall apply to all applications, decisions or controversies pending before the County upon the effective date hereof or filed or initiated thereafter.

Section 6. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting this **15th day of June 2023**.

**BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA**

By: _____
Kevin Van Ostenbridge, Chairman

ATTEST: ANGELINA COLONNESO
Clerk of the Circuit Court and Comptroller

By: _____
Deputy Clerk

EXHIBIT A TEXT AMENDMENT

The proposed text amendments are provided and shown in ~~strike-through~~ and underline format.

Element 3 – CONSERVATION

[***]

Policy 3.3.1.3. When development related impacts are unavoidable (see Policy 3.3.1.1), require that all development-related impacts to wetlands be mitigated.

(1) ~~When mitigation is required by the State, t~~The type and quantity of mitigation shall be determined by the Uniform Wetland Mitigation Assessment Method (UMAM) as outlined in Chapter 62-345, F.A.C., as amended.

~~(2) In those instances where wetland mitigation is not required by the State wetland mitigation shall be provided in accordance with subparagraphs (a) through (d) below. The type of wetland mitigation or combination thereof as described in subparagraphs (a) through (d) below shall be determined by the County based on site conditions. The order of preference considered by the County shall be as follows:-~~

~~(a) Wetland Enhancement/Restoration: Five (5) acres of enhanced or restored on-site wetlands shall be provided for every one (1) acre of wetland to be impacted.-~~

~~(b) Upland Preservation: In the event there is inability to create viable wetland enhancement/restoration on the site, five (5) acres of native upland habitat shall be preserved for every one (1) acre of wetland to be impacted. Preserved uplands utilized for wetland mitigation shall be on site of the proposed development and shall be in excess of the requirement of Policy 3.3.2.2.-~~

~~(c) Payment in Lieu of Mitigation: In lieu of the mitigation requirements in subparagraphs (a) and (b) above, the County may collect a mitigation fee. The fee charged shall be based on the acreage of impact and shall be an amount sufficient to achieve full and complete compensation for the impact.-~~

~~(d) Wetland Creation: Two (2) acres of herbaceous wetlands shall be created for every acre of herbaceous wetlands altered. Four (4) acres of forested or mangrove wetlands shall be created for every acre of such wetlands altered, unless other requirements are enforced pursuant to (3) below.-~~

~~(3) Wetland mitigation provided in accordance with section (2) above shall also be subject to the following:-~~

~~(a) All approved mitigation shall be required to demonstrate, through appropriate monitoring and reporting by the project's developer, at least an eighty-five (85) percent coverage of desirable wetland species for a period of at least two (2) years for herbaceous wetland communities, and an eighty-five (85) percent planting survival rate for at least five (5) years for forested and mangrove communities.-~~

~~(b) All areas which are created, in accordance with this policy shall be protected.~~

Implementation Mechanism(s):

(a) The County shall coordinate with SWFWMD, DEP, and other jurisdictional agencies to ensure compliance with this policy.

(b) Revision to land development regulations to establish required protection mechanisms for post-development mitigation areas.

~~(c) The County shall revise the Land Development Code to be consistent with this policy, including the establishment of an Environmental Improvement Fund.~~

~~(d) A resolution adopted by the Board of County Commissioners shall set forth the amount of the mitigation fee referenced in Comprehensive Plan Policy 3.3.1.3(2)(c). The resolution shall limit the use of the fund purchase, improve, create, restore, manage and replace wetlands and other natural habitats in order to increase the overall wetland functions in the County. The fee shall be sufficient to cover the County's costs for wetland mitigation and shall consider the cost of land acquisition, earthwork, planting, monitoring and long term management. The fund may be supplemented with other funding sources for the purposes of implementing Goal 3.3.~~

Policy 3.3.1.4. [Reserved]

Policy 3.3.1.5. Protect all wetlands and watercourses from land development activities by requiring the establishment of natural area buffers adjacent to all post-development wetlands and watercourses within a watershed overlay. 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. Wetland buffers shall be provided in accordance with the ERP Applicant's Handbook, adopted pursuant to Chapter 62-330.010, Florida Administrative Code. ~~Such buffers shall be established according to the following schedule except as provided below in Policy 3.3.1.5:-~~

(1) Buffers a minimum fifty (50) feet in width shall be established adjacent to all non-isolated wetlands (hydrologically connected or federal and state jurisdictional wetlands), and along all in-flowing watercourses located in the WO Districts 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) Through the development review process, wider wetland buffers may be required for areas containing significant wetlands, for watershed protection, and to implement the goals, objectives, and policies of this Comprehensive Plan. (See Policies 2.9.4.4, 3.3.2, 4.1.2, and 4.1.4)~~

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;-~~
- ~~(2) Wetland quality and function shall be maintained or enhanced;-~~
- ~~(3) The variable width buffer shall not be narrower than the buffer required by the DEP and SWFWMD; 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) 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;-~~
 - ~~(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.-~~

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Element 4 – COASTAL MANAGEMENT

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~~**Policy 4.1.2.5. [Reserved]** Buffers larger than fifty (50) feet adjacent to environmentally sensitive coastal wetlands may be required during the development review process, as necessary to prevent degradation due to proposed development and to discourage trimming of mangroves and loss of habitat.-~~

~~Implementation Mechanism:-~~

- ~~(a) Review of development proposals adjacent to coastal wetlands for compliance with this policy in coordination with policy 3.3.1.5.-~~

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