

**CHAPTER 6-1/2: LAND USE AND DEVELOPMENT**

Article

**I. IN GENERAL**

**II. COMPREHENSIVE PLAN**



**ARTICLE I: IN GENERAL**

*[§§ 6-1/2-1 — 6-1/2-20 are RESERVED]*



## ARTICLE II: COMPREHENSIVE PLAN

### Section

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### *Editor's note:*

*Non-amendatory Ord. 148, §§ 1 through 10, adopted 3-13-1989, has been codified herein by the original editor as Art. II, §§ 6-1/2-21 through 6-1/2-30.*

### **§ 6-1/2-21 AUTHORITY.**

This article is adopted pursuant to Article VIII, § 2, Constitution of the State of Florida; F.S. Ch. 163; Chapter 69-1111, Laws of Florida, Special Acts of 1969; F.S. Ch. 166, entitled Local Government Comprehensive Planning and Land Development Regulation Act. (Ord. 148, § 1, passed 3-13-1989)

### **§ 6-1/2-22 PURPOSE AND INTENT.**

(A) The town hereby declares that the purpose and intent of this article is to provide for the town a plan which will guide future growth and development; encourage the most appropriate use of land, water and other resources consistent with the public interest; preserve, promote and protect the public health, safety, comfort, good order, appearance, convenience and general welfare; preserve the residential or historical character of neighborhoods; prevent the overcrowding of land; avoid undue concentration of population; provide adequate and energy-efficient transportation, water, sewage, drainage, fire protection, law enforcement, schools, parks, recreation facilities, housing and other services, facilities and resources; enhance the aesthetic appeal of the community; promote the residential, business and industrial needs of the community; and conserve and protect natural resources within the town while protecting private property rights.

(B) By the adoption of this plan, the town will encourage and actively pursue coordination and cooperation between the planning and development activities of the town, other local governments, regional agencies, state government and private property owners. By adopting this article, the town reserves the right to balance the needs of the community.

(Ord. 148, § 2, passed 3-13-1989)

#### **§ 6-1/2-23 ADOPTION OF COMPREHENSIVE PLAN.**

(A) The town hereby adopts by reference the comprehensive plan and the goals, objectives and policies of each element: Future Land Use Element; Recreation and Open Space Element; Coastal Management and Conservation Element; Housing Element; Infrastructure Element (Sanitary Sewer, Solid Waste, Drainage, Potable Water and Natural Groundwater Aquifer Recharge Element); Traffic Circulation Element; Capital Improvements Element and Intergovernmental Coordination Element.

(B) Further, within the comprehensive plan, the Town Commission adopts the future land use map, the future traffic circulation map, the natural resource map series, capital improvement implementation and monitoring and performance.

(Ord. 148, § 3, passed 3-13-1989; Am. Ord. 246, passed 4-6-2010)

***Charter reference:***

*General powers of the town, see Art. III, § 1*

***Cross-references:***

*Buildings and building regulations, see Ch. 4*

*Zoning, see Ch. 12*

#### **§ 6-1/2-24 CONSTRUCTION.**

(A) The comprehensive plan and its elements shall be constructed by the town and its officials to accomplish the purpose and intent of this article. In the event that various elements of the plan may appear to be in conflict, then in that event, the town and its officials shall resolve the conflict consistent with the purpose of this article. Any decision by the town or its officials construing various elements of the comprehensive plan shall be presumed to be fairly debatable.

(B) The town expressly reserves its legislative function to implement this comprehensive plan and to construe its various elements.

(Ord. 148, § 4, passed 3-13-1989)

#### **§ 6-1/2-25 INTERPRETATION OF LAND USE BOUNDARIES.**

Where uncertainty exists with respect to the boundaries of any of the land use districts as shown on the future land use map, the following rules shall apply.

(A) *Where boundaries approximately follow lot lines.* Where district boundaries are indicated as approximately following lot lines, those lot lines shall be construed to be the boundaries.

(B) *Where the boundary approximately follows town limits.* Where the boundary of a district approximately follows the town limits, that boundary line shall be construed to be the town limit of the jurisdiction of the town unless otherwise indicated.

(C) *Submerged areas not included in district.* All areas within the corporate limits of the town which are under water and are not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins 1 or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

(D) *Where property has not been included in a district.* In every case where property has not been specifically included within a district or where territory has become a part of the town by annexation, the same shall automatically be classed as lying and being in the residential land use district until such classifications shall have been changed by an amendment to the future land use map as provided by law.

(E) *Vacation of public ways.* Whenever any public way is vacated in the manner authorized by law, the land use district adjoining each side of the street, alley or public way shall be automatically extended to the center of the vacation; and all area included in the vacation shall then, henceforth, be subject to all regulations of the extended districts.

(F) *Where district boundaries follow platted lot lines.* Where district boundaries are indicated as following platted lot lines, the lot lines shall be construed to be the district boundaries.

(G) *Where district boundaries have specific dimensions.* Where district boundaries are indicated by specific dimensions, such specific dimensions shall control.

(H) *Where district boundaries divide platted lots.* Where district boundaries divide platted lots or cross unsubdivided property, and where no specific dimensions are indicated on the future land use map, the scale of the future land use map shall control.

(I) *Uncertainties.* Where the street or property layout or other physical features existing on the ground are at variance with the future land use map, or where other uncertainties exist as to interpretation of the future land use map, the Town Clerk shall interpret the map to fix the exact location of land use boundaries.

(Ord. 148, § 5, passed 3-13-1989)

#### **§ 6-1/2-26 LEGAL EFFECT OF COMPREHENSIVE PLAN AND FUTURE LAND USE MAP.**

(A) The comprehensive plan and future land use map shall have the legal effect as provided for by law.

(B) All development undertaken after the effective date of this article shall be consistent with such plan and elements and maps except as provided herein.

(Ord. 148, § 6, passed 3-13-1989)

**§ 6-1/2-27 VESTED RIGHTS.**

(A) In the event that any provision of this comprehensive plan or maps would limit or modify the rights of any person to complete any development that has been previously authorized, then in that event, the town may recognize the right to complete the development as provided herein. The town hereby recognizes the right of any person to complete the following development:

(1) Development that has received a building permit;

(2) Development that has received final plat approval or final site plan approval; and

(3) Development that has received preliminary plat approval, preliminary subdivision approval, preliminary PUD approval or preliminary site plan approval; provided the development has secured a permit to construct all or any phase of the development and is continuing the development in good faith.

(B) Any person who has a right to complete the development and has secured a building permit, final plat approval, final site plan approval or preliminary approval as provided above shall lose its right to complete the development if the development does not maintain a current building permit or current site plan or development approval as provided for by the code of ordinances of the town. Once a development has lost its current approval, then in that event, further development shall comply with applicable provisions of the comprehensive plan and maps.

(C) The town may recognize other applications for vested rights in accordance with the following procedure:

(1) Any property owner who claims to have vested rights based upon a prior approval from the town other than as provided above may submit to the Town Clerk within 120 days after the effective date of this section a written request for recognition of the vested rights;

(2) The applicant shall submit such information as he or she deems appropriate to demonstrate his or her claim of vested rights, including a legal description of the property, dates of any recent rezoning, preparation of any plans, approval of any plans, any action of the town upon which the applicant has relied and facts showing substantial reliance or change in position; and

(3) Within 90 days after receipt of the application, the Town Commission shall either recognize or reject the applicant's claim of vested rights. In reviewing the application, the Town Commission shall be guided by the case of *Hollywood Beach Hotel v. City of Hollywood*, 329 So.2d 10 (Florida 1976). If



the town fails to act upon the request within 90 days, then the application shall be deemed to be denied. No suit shall be filed by the applicant unless prior thereto the applicant has made of a request of the town prior to the litigation.

(Ord. 148, § 7, passed 3-13-1989)

**§ 6-1/2-28 CONSTRUCTIONAL CLAIM.**

(A) (1) In the event that any person claims that any provision of this comprehensive plan, elements or maps constitutes a taking of the landowner's property without due process of law and the payment of just compensation as provided for in the Florida Constitution and the Constitution of the United States of America, then in that event, the person shall first present the claim to the town.

(2) The provisions of F.S. § 163.3215 (1987), shall prevail on any claims that may be asserted under those statutes, and this section shall not be construed as an additional remedy presently governed by F.S. § 163.3215 (1987).

(B) Any person claiming the taking shall:

- (1) Submit the claim in writing identifying the name and address of the property owner;
- (2) The present use of the property;
- (3) The present land use designation and zoning classification;
- (4) The particular provision of the comprehensive plan that the person believes to have constituted a taking;
- (5) The remedy requested;
- (6) Documentation or other evidence demonstrating the economic derivation;
- (7) Case law or authority, if any, which demonstrates the taking; and
- (8) Such other information demonstrating how the plan or element constitutes a taking.

(C) After the town has received the request, it shall have 90 days to review and act upon the request. Due public notice as required by F.S. Ch. 163 and 166 shall be provided prior to granting any relief under this section. The town reserves its full legislative function to act upon requests under this section, and those actions shall be presumed to be fairly debatable.

(Ord. 148, § 8, passed 3-13-1989)

**§ 6-1/2-29 EFFECTIVE DATE OF LAND USE ELEMENT.**

Anything else herein notwithstanding, the land use element shall not become effective until it is certified by the Broward County Planning Council. The date of the certification shall be the effective date of the land use element.

(Ord. 148, § 9, passed 3-13-1989)

**§ 6-1/2-30 SEVERABILITY.**

In the event that any provision of this article or the comprehensive plan, its elements or maps are found and determined to be invalid or unconstitutional, they shall be so declared to be the same, and the remaining portions and provisions of this article and the plan shall remain in full force and effect.

(Ord. 148, § 10, passed 3-13-1989)