

Chapter I
ADMINISTRATION AND INTERPRETATION
COMPREHENSIVE PLAN- 2017

INTRODUCTION

This chapter sets forth the procedures and criteria for interpreting and amending the ~~town~~ Town of Ponce Inlet Comprehensive Plan.

PLAN INTERPRETATION

It is the responsibility of the director of planning and development or a duly authorized representative to interpret the Comprehensive Plan and its application to public and private land and to uses and/or activities permitted thereon. Plan interpretations shall be based on the applicable text, maps, figures, and tables within the Comprehensive Plan along with the plan's support document. When making plan interpretations, the Comprehensive Plan shall be construed as a complete document and no specific goal, objective, or policy shall be used independently. Additionally, plan interpretations shall be based on the following criteria:

A. Use and Status of Support Document

The Comprehensive Plan data and analysis (support document) establishes the base data compiled to support the goals, objectives and policies to guide the future development of the ~~town~~ Town. The support document is not adopted as part of the plan but may be used in any interpretation and amendment of the Comprehensive Plan. The support document may be updated as part of a future Comprehensive Plan amendment and portions may be incorporated as a plan amendment if deemed appropriate. The support document is located in the planning and ~~services~~ department office.

B. Interpretation of Implementation Mechanisms

It is not the intent of the ~~town~~ Town council ~~Council~~ to limit the number of means available to implement the Comprehensive Plan. Implementation mechanisms that may be identified within each plan element are representative mechanisms to accomplish goals, objectives and/or policies. Additional implementation mechanisms may be employed along with those listed in the plan.

In addition, where a proposed and/or existing land development regulation is not specified as an implementation mechanism for any goal, objective and/or policy, nothing shall preclude the use of land development regulations to implement any goal, objective and/or policy. Likewise, binding development agreements may be used to implement the purpose and intent of the Comprehensive Plan and its goals, objectives and/or policies.

C. Interpretation of Conflicts

Conflicts shall be interpreted using the following criteria:

1. In the event of any difference of meaning or implication between the text of the plan and any caption, illustration, other than the Future Land Use Map and/or

- 49 summary or illustrative table, the text shall be used to make an administrative
50 interpretation.
- 51 2. In the event of a conflict between the Future Land Use Map and any other map
52 or table in the plan, the Future Land Use Map shall be used to make an
53 administrative interpretation.
- 54 3. In the event of a conflict between plan goals, objectives and policies or any other
55 portion of the plan text, the goals, objectives and policies shall be used to make
56 an administrative interpretation.

57

58 **D. Interpretation of Undefined Terms**

59 Terms not otherwise defined herein shall be interpreted first by reference to the
60 relevant provisions of the ~~Local Government Comprehensive Planning and Land~~
61 ~~Development Regulation- Community Planning Act (F.S. §163.3164 et. seq.)~~, if
62 specifically defined therein, or other relevant and appropriate state statutes or rules;
63 secondly, by reference to generally accepted planning or otherwise professional
64 terminology if technical; thirdly by terms in the ~~town's~~ Town's LUDC and otherwise
65 according to Webster's New Collegiate Dictionary, G. & C. Merriam Co. (latest
66 edition).

67

68 **E. Comprehensive Plan Interpretations**

69 It is the responsibility of the ~~director of~~ planning and development director to make
70 Comprehensive Plan interpretations. An application for a plan interpretation shall
71 be filed with the development services department on forms available from the
72 department together with the appropriate fee as may be required by resolution of
73 the town council.

74

75 The ~~director of~~ planning and development director shall make an interpretation
76 upon receipt of a complete application. Any determination of the ~~director of~~ planning
77 and development director regarding an interpretation may be appealed to the ~~town~~
78 Town Council as set forth in this chapter. Plan interpretations may be
79 required as a result of one of the following actions:

80 1. Failure to obtain a Comprehensive Plan consistency finding based on submission
81 of an application for a development order and/or permit.

82 2. Request for clarification of future land use designation boundaries.

83 3. Any other action which would require a Comprehensive Plan interpretation, with
84 the exception of an action under F.S. §163.3215.

85

86 **F. Determinations of Consistency and Concurrency**

87 Consistency and concurrency are separate determinations. ~~Florida Statutes, ch. 163,~~
88 ~~pt. II, The Community Planning Act~~ requires that development orders and permits
89 be consistent with the Comprehensive Plan. A finding of consistency does not
90 constitute a finding of concurrency. State and local concurrency mandates from
91 Concurrency requirements are required by F.S. §163.3180-3202 and the
92 Comprehensive Plan and are implemented through subject to the concurrency
93 management system of the Ponce Inlet's Land Use and Development Code (LUDC)
94 concurrency management system requirements to determine if the impact of
95 proposed development would meet or exceed the capacity of the available public
96 infrastructure ~~to support said development.~~

98 | **G. Appeal of ~~Director of~~ Planning and Development's Director's Interpretation of the**
99 | **Comprehensive Plan**

100 | Any plan interpretation made by the ~~director of~~ planning and development director
101 | under the provisions of this chapter may be appealed to the ~~town~~ Town
102 | ~~council~~ Council. An appeal shall be submitted within ten days after rendition of the
103 | interpretation of the ~~director of~~ planning and development director by filing with the
104 | ~~town~~ Town ~~clerk~~ Clerk a written notice of appeal application ~~available from the~~
105 | ~~development services department~~ together with the appropriate fee as may be
106 | required by resolution of the ~~town~~ Town ~~council~~ Council.

107 |
108 | Upon receipt of a complete notice of appeal application, the ~~director of~~ planning and
109 | development director shall transmit to ~~town~~ Town ~~e~~ Council all documents, plans,
110 | papers, minutes, applications, recommendations, or other materials relating to the
111 | appealed decision. The appeal application shall be heard by the ~~t~~ Town ~~e~~ Council after
112 | receipt of a complete notice of appeal application. In its deliberations, the ~~t~~ Town
113 | ~~C~~ ouncil shall decide that the determination of the director of planning and
114 | development is either consistent or inconsistent with the Comprehensive Plan and
115 | then shall direct the disposition of the appeal.

116 |
117 | **H. Appeals of the Town Council Decision**

118 | Any ~~t~~ Town ~~e~~ Council decision related to a plan interpretation may be appealed to a
119 | court of competent jurisdiction within 30 days after the rendition of the decision of
120 | the ~~t~~ Town ~~e~~ Council. The appellant shall notify all interested persons as required by
121 | law and have established a record before the ~~t~~ Town ~~e~~ Council during its hearing on
122 | the appeal.

123 |
124 | **PLAN AMENDMENTS**

125 | From time to time it will be necessary to amend the ~~town's~~ Town's Comprehensive Plan to
126 | ~~reflect keep up with~~ changing conditions, to comply with state-~~mandated~~ updates and
127 | evaluations, to achieve implementation of the plan, and to provide citizens and affected
128 | parties a means of recourse to participate in the ~~town's~~ Town's comprehensive planning
129 | program.

130 |
131 | All amendments and procedures for amendment to the Comprehensive Plan shall comply
132 | with the provisions of ~~F.S. ch. 163, pt. II~~ the Community Planning Act. Except for the
133 | applicable provisions of F.S. §-163.3177(3)(b), any action which requires a change to any of
134 | the plan's maps, text, figures, tables, or charts and any other change having the effect of
135 | altering the use of land as prescribed by the plan shall be deemed to require a
136 | Comprehensive Plan amendment. All amendments shall be governed by the following:

137 |
138 | **A. Types of Comprehensive Plan Amendments**

139 | The Comprehensive Plan may be amended as a result of one of the following types of
140 | application:

141 | *1. Mandated Amendment*

142 | An amendment required to comply with state laws and rules thereof. A
143 | mandated amendment would include any type of court directed or other
144 | settlement in accord with state law.

145 | *2. Large Scale Amendment*

146 An amendment, other than a small scale amendment as described in subsection
147 3 below. Large scale amendments are subject to the applicable amendment
148 procedures and requirements of ~~F.S. ch. 163, pt. II and the Community Planning~~
149 ~~Act.~~

150 3. *Small Scale Amendment*

151 An amendment that qualifies as a small scale amendment under the provisions
152 of F.S. § 163.3187.

153
154 **B. Submission of an Application for a Comprehensive Plan Amendment**

- 155 1. Mandated amendments shall not require a formal application but shall be
156 constructed in form to meet the requirements of ~~F.S. ch. 163, pt. II, and the~~
157 ~~Community Planning Act~~~~Administrative Rule 9J-5~~. No fee is required for a
158 mandated amendment.
- 159 2. An application for a large or small scale amendment shall be filed with the
160 planning and development department on forms available from the department,
161 together with the appropriate fee as may be required by resolution of the ~~town~~
162 ~~Town council~~~~Council~~. The application shall contain all required exhibits,
163 information and materials and a staff report. Depending on the type of
164 amendment, the department may require the applicant to attend a pre-
165 application meeting. The department will schedule the meeting and may invite
166 other public agencies and representatives as appropriate to attend.

167
168 **C. Planning Board and Town Council Action**

- 169 1. Upon receipt of a complete plan amendment application, the ~~planning and~~
170 ~~development services~~ department shall schedule said application to be heard by
171 the ~~planning~~ ~~Planning B~~board. The ~~b~~Board, ~~servicing as the~~ ~~Local p~~Planning
172 ~~a~~Agency in accordance with the ~~Community Planning Act (2011), F.S. §-163.3161~~
173 ~~et. seq.~~, shall consider the application and shall forward its recommendation to
174 ~~t~~Town ~~e~~Council for their action.
- 175 2. It shall be the responsibility of the ~~t~~Town ~~e~~Council to approve, approve with
176 conditions, continue, or deny the amendment. All amendments must meet the
177 requirements as set forth by ~~F.S. ch. 163, pt. II The Community Planning Act,~~
178 and the applicable rules of the Volusia Growth Management Commission
179 (VGMC). No amendment can be considered in effect until certified by the VGMC
180 and as provided by Florida law.

181
182 **CHALLENGES**

- 183 A. The right of any affected person to challenge a Comprehensive Plan amendment
184 shall be as set forth under Florida law.
- 185 B. The right of any aggrieved or adversely affected party to appeal and challenge the
186 consistency of a development order with the Comprehensive Plan shall be as set
187 forth under ~~F.S. §163.3215. Florida law.~~

188
189 **DEVELOPMENT RIGHTS**

190 Ponce Inlet's Comprehensive Plan shall be construed to be consistent with the provisions of
191 the Florida Statutes, specifically F.S. §-163.3167(5) that states: "Nothing in this act shall
192 limit or modify the rights of any person to complete any development that has been
193 authorized as a development of regional impact pursuant to Chapter 380 or who has been

194 issued a final local development order and development has commenced and is continuing
195 in good faith."