

Meeting Date
September 3, 2015



AGENDA	
Section	Public Hearing
Item No.	III C

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Amendments to Chapter 62, Article X, Division 5 (Floodplain Protection) codifying Ordinance No. 10-26, Comprehensive Plan Amendments (Conservation Element)
DEPT/OFFICE:	Natural Resources Management Department (NRM)

Requested Action:

It is requested that the Board of County Commissioners approve modifications to Chapter 62, Article X, Division 5 (Floodplain Protection), codifying amendments to the Brevard County Comprehensive Plan Conservation Element Objective 5 (Ordinance No. 10-26).

Summary Explanation & Background:

Attached please find for your approval Ordinance No. 2015- , Chapter 62, Article X, Division 45 (Floodplain Protection), codifying Ordinance No. 10-26 amendments to the Brevard County Comprehensive Plan Conservation Element Objective 4.

At an October 2009 County Commission Workshop, the Board directed staff to review and amend several elements of the Comprehensive Plan. Subsequent to public comment in May 2010, the Board appointed a stakeholder advisory committee (Working Group), consisting of residents and professionals from a wide spectrum of interests. The Working Group evaluated and recommended changes to Conservation Element Objective 4-Floodplain Areas relative to those policies addressing riverine, estuarine, isolated, and coastal high hazard floodplains of Brevard County. The Board-adopted amendments went into effect on February 17, 2011 (Ordinance No. 10-26 – Attachment C).

Due to Board priorities and development trends, the Working Group moved directly into evaluation of Conservation Element Objective 5-Wetlands relative to those policies addressing commercial, industrial, institutional, and agricultural land uses in wetlands. Final amended wetlands policies were codified on September 16, 2014. Staff then returned to codification of previously amended floodplain policies.

Chapter 63, Article X, Division 5, entitled Floodplain Protection (Attachments A and B):

- Codifies the amended Comprehensive Plan policies;
- Improves general document housekeeping items, including consistency of terms, section numbering, grammar, and punctuation; and
- Is reorganized to better follow Comprehensive Plan policy structure, and for greater ease of application.

The Working Group primarily addressed policies related to development and redevelopment in the floodplain of the St. Johns River (riverine floodplain), a critical floodplain where unchecked impacts can affect public health and safety, as well as result in significant property damage. The noteworthy recommendations of the Working Group include:

- Upholding the density and filled footprint restrictions already contained within the policies,

- Establishing allowances for commercial and industrial redevelopment in riverine floodplains.
- Strengthening compensatory storage requirements, and

The attached matrix (Attachment D) summarizes proposed ordinance modifications. The Building and Construction Advisory Committee (BCAC) recommended approval of the proposed modifications on August 12, 2015. The Local Planning Agency (LPA) recommended approval on August 24, 2015.

It is requested that the Board of County Commissioners approve modifications to Chapter 62, Article X, Division 5 (Floodplain Protection), codifying amendments to the Brevard County Comprehensive Plan Conservation Element Objective 5 (Ordinance No. 10-26).

Fiscal Impact: FY 14-15 – No Net Impact
FY 15-16 – No Net Impact

Name: Virginia Barker or Darcie McGee, Natural Resources Management Department
Phone: (321) 633-2016

Clerk to the Board instruction:

Exhibits Attached:

Attachment A – Ordinance No. 2015-

Attachment B – Chapter 62, Article X, Division 5, Floodplain Protection (no mark-up)

Attachment C – Ordinance No. 10-26, Brevard County Comprehensive Plan, Conservation Element, Objective 4, Floodplain Areas

Attachment D – Summary Matrix

Attachment E – Attorney Review Sheet

Contract /Agreement (If attached): Attorney		Reviewed by County	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager	Assistant County Manager		Department Director / Extension				
Stockton Whitten	Assistant County Manager		Virginia Barker /x52435				



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

September 4, 2015

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Interim Director

RE: Item III.C., Ordinance Amending Chapter 62, Article X, Division 5 (Floodplain Protection) Codifying Ordinance No. 10-26, Comprehensive Plan Amendments (Conservation Element)

The Board of County Commissioners, in regular session on September 3, 2015, adopted Ordinance No. 15-27, modifying Chapter 62, Article X, Division 5 (Floodplain Protection), codifying amendments to the Brevard County Comprehensive Plan Conservation Element Objective 5 (Ordinance no. 10-26). Enclosed is a certified copy of the Ordinance.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

✓ Tammy Etheridge, Deputy Clerk

Encl. (1)



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

September 4, 2015

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas, Administrative Assistant

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2015-27, which was filed in this office on September 4, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE 2015 - 27

AN ORDINANCE OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 62, ARTICLE X, DIVISION 5, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, RELATING TO FLOODPLAIN PROTECTION, SPECIFICALLY AMENDING SECTIONS 62-3721 DEFINITIONS; 62-3723, GENERAL PROVISIONS; 62-3724, DEVELOPMENT REGULATIONS; AND 62-3725, PROHIBITIONS; PROVIDING FOR THE INTERPRETATION OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN CODE AND AN EFFECTIVE DATE.

WHEREAS the regulation of floodplains serves to protect the public health, safety and welfare of the citizens of Brevard County; and

WHEREAS the Board adopted Ordinance No. 10-26, containing amendments to Comprehensive Plan Policies addressing Floodplain Protection policies related to development and redevelopment in the floodplain of the St. Johns River, a critical floodplain where unchecked impacts can affect public health and safety, as well as result in significant property damage;

WHEREAS the ordinance amendments codifies Ordinance No. 10-26; and

WHEREAS the ordinance amendments provide clarification of application for the public, professionals in the engineering and development community, and staff.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Chapter 62, Article X, Division 5, Section 62-3721, Definitions, Code of Ordinances of Brevard County is hereby amended as follows:

Section 62-3721. Definitions.

For the purpose of this division, certain words pertain and are defined as follows:

Agricultural pursuits means activities related to cultivating the soil, producing crops and raising livestock.

Annual floodplain means the floodplain that is below the annual freshwater flood elevation, that is, the area which has a statistical probability of 100 percent of being flooded in any given year according to the best available data as described in ~~section~~ Section 62-3723(4).

Best management practices means those practices as developed by the U.S. Department of Agriculture, the state department of agriculture or other appropriate agencies.

Best public interest means public projects which clearly demonstrate a net benefit to the public, as determined by the Board of County Commissioners, and which adequately mitigate adverse environmental impacts.

Compensatory Storage means the storage of floodwater that would offset the floodplain storage lost to development.

County Manager means County Manager or designee.

Estuarine floodplain means lands which have a surface water connection to an estuarine water body during the 100-year flood.

FIRM maps means flood insurance rate maps published by the Federal Emergency Management Agency.

Forestry means the science of application and practice of controlling forest establishment, composition and growth through sound management techniques, based on the owner's management objectives.

Hazardous materials means any material defined, listed, characterized or classified as a hazardous substance, hazardous waste or toxic substance according to any of the following state or federal codes or regulations:

- (1) F.A.C. ch. 38F-41 (the Florida Substance List).
- (2) Title 40 of the Code of Federal Regulations part 261 (Identification and Listing of Hazardous Wastes).
- (3) Title 40 of the Code of Federal Regulations part 302.4 (Designation of Hazardous Substances).
- (4) Title 40 of the Code of Federal Regulations part 355, appendix A and B (List of Extremely Hazardous Substances).

A hazardous material includes any solution, mixture or formulation containing such materials, and also includes any material which, due to its chemical or physical characteristics, is determined by the ~~county administrator or his designee~~ County Manager to pose a substantial threat to life, health or safety of persons or property or to the environment.

Isolated floodplain means any floodprone area which does not have a direct surface water connection to an estuarine or riverine water body.

Mean annual floodplain means the floodplain that is below the annual freshwater flood elevation, that is, the area which has a statistical probability of being flooded at least once every 2.33 years according to the best available data as described in ~~section~~ Section 62-3723(4).

100-year to 25-year riverine floodplain means the floodplain that is at or below the 100-year freshwater flood elevation, but above the 25-year freshwater flood elevation. The 100-year floodplain has a statistical probability of one in 100 of being flooded in any given year according to the best available data as described in ~~section~~ Section 62-3723(4).

Overriding public benefit means the result of a development action by a private property owner that substantially preserves, restores or enhances those natural functions which define areas of critical concern, environmentally sensitive areas, shorelines or water bodies, identified by the county comprehensive plan, Natural Resources Management Department or state or federal agencies. An overriding public benefit shall include but not be limited to proposals which preserve, restore or enhance floodplain, wetland, shoreline or prime aquifer recharge functions and provide for the dedication of associated lands to the county or other acceptable public entity or agency.

Public interest means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

Redevelopment means the renovation of a previously developed obsolete commercial or industrial parcel of land or building site which suffers from structural vacancy due to the expiration of its former use and requires intervention to achieve a subsequent useful function and come into compliance with all other current environmental and land development regulations.

Riverine floodplain means lands which have a surface water connection to a major freshwater surface water body during the 100-year flood.

Ten-year floodplain means the floodplain that is at or below the ten-year flood elevation, that is, the area which has a statistical probability of one in ten of being flooded in any given year according to the best available data as described in ~~section~~ Section 62-3723(4).

25-year to ten-year riverine floodplain means the floodplain that is at or below the 25-year freshwater flood elevation, but above the ten-year freshwater flood elevation. The 25-year floodplain has a statistical probability of one in 25 of being flooded in any given year according to the best available data as described in ~~section~~ Section 62-3723(4).

SECTION 2. Chapter 62, Article X, Division 5, Section 62-3723, General provisions, Code of Ordinances of Brevard County is hereby amended as follows:

Section 62-3723. General provisions.

All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall be reviewed by the ~~natural resources management office~~ Natural Resources Management

Department to determine their impact upon the estuarine, isolated, and riverine floodplains. The following regulations shall apply to development in designated floodplains and floodprone areas:

(1) The following uses shall be permitted within the riverine 100-year, riverine 25-year, riverine ten-year, estuarine, and isolated floodplains of the county:

~~a.~~(a) Agricultural pursuits, including forestry silviculture operations, utilizing best management practices, and agricultural structures which will not restrict the flow of floodwaters above the ten-year floodplain elevation;

~~b.~~(b) Recreation consistent with the requirements of the floodplain;

~~c.~~(c) Fish and wildlife management; and

~~d.~~(d) Open space.

All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet floodway criteria in Chapter 62, Article XI, Division 3, Standards for Flood Hazard Reduction, Section 62-4062(5).

(2) Development within floodplain areas shall not have adverse impacts upon adjoining properties.

(3) Development within all floodplains shall be required to obtain a land alteration permit, if subsequently required by ordinance, with the exception of residences which are limiting fill to house pads, septic systems and single access roads. However, the amount and placement of fill being used must be included within the building permit applications for such single-family residences. This exception is not an exemption from 44 CFR §60.3(a)(1), (b)(1), (c)(1), (d)(1), or (e)(1), but only from the requirement of obtaining a Land Alteration Permit under Article XIII, Division 4.

(4) Elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985).

(5) Development in isolated floodplain areas shall ensure that off-site post development stormwater discharge rates shall not exceed off-site predevelopment discharge rates. All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria, and Article XI, Division 3, Standards for Flood Hazard Reduction, Section 62-3724(e)(4) as it relates to isolated floodplains.

(6) All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3, and Stormwater Criteria in Chapter 62, Division 6.

(7) Development practices shall be encouraged to minimize total imperviousness and runoff within the riverine floodplain and preserve the flood storage capacity in order to minimize cost to life and property. Practices may include clustering of developed area, provisions for open space, low impact design features, and flood proofing.

SECTION 3. Chapter 62, Article X, Division 5, Section 62-3724, Development regulations, Code of Ordinances of Brevard County is hereby amended as follows:

Sec. 62-3724. Development regulations.

(1) ~~(a) 100-year to 25-year riverine floodplain~~ There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.

- (a) Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation).
 - (4i) Residential land uses ~~may be considered up to a maximum density of~~ shall be limited to no more than two dwelling units per acre.
 - (2ii) Commercial, institutional, and industrial land uses ~~may~~ shall be considered up limited to a maximum filled footprint area of no more than 15,000 square feet per acre, except for redevelopment as specified in Section 62-3724(1)(f).
 - (3iii) Density may be transferred from areas within the 25-year to 100-year riverine floodplain to areas above the riverine 100-year floodplain at a density consistent with the service sector.
 - (4iv) Any expansion of commercial and industrial structures footprint, including parking areas, within the 100-year to 25-year riverine floodplain greater than 25 percent of ~~their existing the earliest permitted development footprint~~ size shall be reviewed by the ~~natural resources management division~~ Natural Resources Management Department for compliance.
 - (5v) Development within the 100-year to 25-year riverine floodplain shall not negatively impact adjacent properties or the receiving surface water body quality. Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the floodplain greater than one third (1/3) acre in size regardless of the date the lot was created. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except that undeveloped parcels created prior to February 17, 2011, may fill up to 1/3 acre for development without providing compensatory storage. For other parcels, compensatory storage shall be required for all fill within the floodplain. Compensatory storage

calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).

(6vi) Development of a lot or parcel within the 100-year to 25-year riverine floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation (BFE). All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins). All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.

(7vii) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

(b) Within the 25-year to ten-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation).

(4i) Residential ~~land uses may be considered up to a maximum density of~~ shall be limited to not more than one dwelling unit per 2 1/2 two and one-half acres.

(2ii) Commercial and institutional land uses ~~may shall be considered up limited~~ to a ~~maximum-filled footprint area of~~ no more than 3,000 square feet per acre. Commercial uses shall be no greater than one acre, except for redevelopment as specified in Section 62-3724(1)(f).

(3iii) Within the same project, the following transfer of densities may occur consistent with the service sector:

- a₁. Development densities of one dwelling unit per acre may be transferred out of areas in the ten-year to 25-year floodplain to areas in the 25-year to 100-year riverine floodplain.
 - b₂. Development densities consistent with the service sector may be transferred out of the ten-year to 25-year floodplain to areas above the riverine 100-year floodplain.
- (4iv) Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.
- ~~(5) Commercial land uses greater than one acre in size shall be prohibited.~~
- (6v) Any expansion of commercial structures, including parking areas, greater than 25 percent of ~~their existing~~ the earliest permitted development footprint size shall be reviewed by the ~~natural resources management division~~ Natural Resources Management Department for compliance.
- ~~(7vi) Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the floodplain greater than one third (1/3) acre in size regardless of the date the lot was created. Compensatory storage for lots within a platted subdivision created after the effective date of this ordinance shall be provided. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, and building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).~~
- (8vii) Development requiring a land alteration permit, if subsequently required by ordinance, shall not cause a net loss in flood storage capacity within the floodplain.
- (9viii) Development of a lot or parcel within the 10-year to 25-year floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-

year base flood elevation. All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.

(40ix) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

(c) Ten-year to annual floodplain-Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation).

(1) ~~The mean annual floodplain shall be left in its natural state except for permitted uses outlined in section Section 62-3723(1), as well as water-dependent and water-related businesses as defined in the county comprehensive growth management plan (coastal management element) and other alteration needed for reasonable access as provided for in division 3 of this article. Densities shall be transferred from the mean annual floodplain to upland areas at the densities shown in subsection (e)(3) of this section. All site plans, subdivision plats, and building permits shall meet floodway criteria in Chapter 62, Article XI, Division 3, Standards for Flood Hazard Reduction, Section 62-4062(5).~~

(2i) ~~Residential land uses may be considered up to a maximum density of shall be limited to not more than one dwelling unit per ten acres if there is no upland portion of the site to which density can be transferred.~~

(ii) Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.

(3iii) Within the same project, the following transfer of densities may occur consistent with the service sector:

a1. Development densities of one dwelling unit per five acres may be transferred out of areas below the ten-year floodplain to areas in the ten-year to 25-year riverine floodplain.

b2. Development densities of one dwelling unit per acre may be transferred out of areas below the ten-year floodplain to areas in the 25-year to 100-year riverine floodplain.

- e3. Development densities consistent with the service sector may be transferred out of the ten-year floodplain to areas above the riverine 100-year floodplain.
- (4iv) Development, except for permitted uses, shall be transferred out of the ten-year floodplain unless the project has a special reason or need to locate below the ten-year floodplain and is found to be in the overriding public interest.
- (5v) Any expansion of commercial structures, including parking areas, greater than 25 percent of ~~their existing~~ the earliest permitted development footprint size shall be reviewed by the ~~natural resources management division~~ Natural Resources Management Department for compliance.
- (6vi) ~~Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the floodplain greater than one third (1/3) acre in size regardless of the date the lot was created. Compensatory storage for lots within a platted subdivision created after the effective date of this ordinance shall be provided. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, and building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).~~
- (7) ~~Commercial and industrial uses, including borrow pits and mining operations, shall not be permitted.~~
- (8vii) Development requiring a land alteration permit, if subsequently required by ordinance, shall not cause a net loss in flood storage capacity within the floodplain.
- (9viii) Development of a lot or parcel within the 10-year to mean annual floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall also meet

Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.

~~(10ix)~~ Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

- (d) Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.
- (e) To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be exceeded if compensatory storage is provided. If on-site storage is not feasible, non-contiguous compensatory storage, hydrologically connected to the impacted floodplain may be considered. Off-site compensatory storage shall require an easement that secures perpetual off-site drainage.
- (f) Basins historically separated from the riverine floodplain by berms, dikes, pumps, or other man-made methods shall be considered connected to the floodplain unless such flood control measures are accredited by FEMA. The filled footprint restrictions for commercial and industrial development on a parcel may be exceeded if all of the following criteria are met:
 - (i) The basin was established and continuously maintained prior to September 9, 1988.
 - (ii) The parcel shall have had a commercial or industrial zoning classification prior to and since September 9, 1988; and its current commercial or industrial zoning classification and FLU designation are consistent pursuant to Section 62-1255.
 - (iii) Historical flow of water is maintained or rerouted in such a way as the upstream and downstream property owners are not negatively impacted.
 - (iv) Where the basin is managed through the operation of pump(s), the applicant shall provide flood management independent of any off-site flood control measures. Where off-site pumping controls or assists removal of stormwater from the basin, a pumping agreement detailing pumping elevations, rates, and cost sharing shall be created which is

binding on all parties and transfers with the properties and any subdivisions there-of until or unless a property is removed from the basin.

(v) A flood study of the basin shall be completed by a Professional Engineer registered in the State of Florida. The flood study shall affirmatively demonstrate that the modified filled footprint restrictions shall not adversely impact the drainage of adjoining properties, both internal and external to the basin. The flood study shall include the 24- and 96-hour storms for critical floods including, but not limited to, the mean-annual, 10-year, 25-year, and 100-year storm events.

(vi) A subsequent conversion to a non-commercial or non-industrial Future Land Use shall require a retrofit of compensatory storage.

(d2) Estuarine floodplain.

(1a) Development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality.

(2b) Development of a lot or parcel within an estuarine floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, ~~and~~ building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.

(3c) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

(e3) Isolated floodplain.

(1a) Development within an isolated floodplain shall not negatively impact adjacent properties or receiving water body quality.

(2b) Development of a lot or parcel within an isolated floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, ~~and~~ building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood

Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.

- (3c) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (4d) Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the floodplain greater than one third (1/3) acre in size regardless of the date the lot was created. Compensatory storage for lots within a platted subdivision created after the effective date of this ordinance shall be provided. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, ~~and building permits, and other active development orders~~ shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).

SECTION 4. Chapter 62, Article X, Division 5, Section 62-3725, Prohibitions, Code of Ordinances of Brevard County is hereby amended as follows:

Sec. 62-3725. Prohibitions.

(a1) New dikes, levees or other structures shall not be permitted below the riverine 100-year flood elevation except for structures that have a maximum height of less than the ten-year flood elevation and which will not restrict the flow of the riverine 100-year storm floodwaters. The only potential exceptions to this provision are structures which are shown to have overriding public benefit. Replacement or repair of non-breached dikes is permitted as long as such replacement or repair does not change the status of the floodplain or will maintain the existing ability to utilize the property.

(b2) The following specific uses are not compatible within the floodplain and shall not be permitted:

- (1a) Placing, depositing or dumping of solid wastes, including sludge, septage, unprocessed scallop shells and viscera, except for land-spreading for agricultural ~~purposes~~ purposes or for treated municipal solid sludge; and
- (2b) Commercial processing, storing and disposal of hazardous materials.

SECTION 5. CONFLICTING PROVISIONS. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulations, the more restrictive shall apply.

SECTION 6. SEVERABILITY. If any section, subsection, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, provided the remaining portions effectuate purpose and intent of this ordinance.

SECTION 7. AREA ENCOMPASSED. This ordinance shall take effect within the unincorporated area of Brevard County, Florida.

SECTION 8. EFFECTIVE DATE. This ordinance shall become effective upon filing as provided by law. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

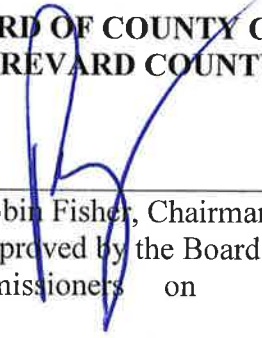
DONE, ORDERED AND ADOPTED in Regular Session, this 3 day of September, 2015.

ATTEST



Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**



by Robin Fisher, Chairman
As approved by the Board of County
Commissioners on

September 3, 2015.

Reviewed for legal form and content by:



Christine Lepore, Assistant County Attorney

ATTACHMENT A

ATTACHMENT B

CHAPTER 62, ARTICLE X, DIVISION 5.

FLOODPLAIN PROTECTION

Sec. 62-3721. Definitions.

For the purpose of this division, certain words pertain and are defined as follows:

Agricultural pursuits means activities related to cultivating the soil, producing crops and raising livestock.

Annual floodplain means the floodplain that is below the annual freshwater flood elevation, that is, the area which has a statistical probability of 100 percent of being flooded in any given year according to the best available data as described in Section 62-3723(4).

Best management practices means those practices as developed by the U.S. Department of Agriculture, the state department of agriculture or other appropriate agencies.

Best public interest means public projects which clearly demonstrate a net benefit to the public, as determined by the Board of County Commissioners, and which adequately mitigate adverse environmental impacts.

Compensatory Storage means the storage of floodwater that would offset the floodplain storage lost to development.

County Manager means County Manager or designee.

Estuarine floodplain means lands which have a surface water connection to an estuarine water body during the 100-year flood.

FIRM maps means flood insurance rate maps published by the Federal Emergency Management Agency.

Forestry means the science of application and practice of controlling forest establishment, composition and growth through sound management techniques, based on the owner's management objectives.

Hazardous materials means any material defined, listed, characterized or classified as a hazardous substance, hazardous waste or toxic substance according to any of the following state or federal codes or regulations:

- (1) F.A.C. ch. 38F-41 (the Florida Substance List).
- (2) Title 40 of the Code of Federal Regulations part 261 (Identification and Listing of Hazardous Wastes).

(3) Title 40 of the Code of Federal Regulations part 302.4 (Designation of Hazardous Substances).

(4) Title 40 of the Code of Federal Regulations part 355, appendix A and B (List of Extremely Hazardous Substances).

A hazardous material includes any solution, mixture or formulation containing such materials, and also includes any material which, due to its chemical or physical characteristics, is determined by the County Manager to pose a substantial threat to life, health or safety of persons or property or to the environment.

Isolated floodplain means any floodprone area which does not have a direct surface water connection to an estuarine or riverine water body.

Mean annual floodplain means the floodplain that is below the annual freshwater flood elevation, that is, the area which has a statistical probability of being flooded at least once every 2.33 years according to the best available data as described in Section 62-3723(4).

100-year to 25-year riverine floodplain means the floodplain that is at or below the 100-year freshwater flood elevation, but above the 25-year freshwater flood elevation. The 100-year floodplain has a statistical probability of one in 100 of being flooded in any given year according to the best available data as described in Section 62-3723(4).

Overriding public benefit means the result of a development action by a private property owner that substantially preserves, restores or enhances those natural functions which define areas of critical concern, environmentally sensitive areas, shorelines or water bodies, identified by the county comprehensive plan, Natural Resources Management Department or state or federal agencies. An overriding public benefit shall include but not be limited to proposals which preserve, restore or enhance floodplain, wetland, shoreline or prime aquifer recharge functions and provide for the dedication of associated lands to the county or other acceptable public entity or agency.

Public interest means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

Redevelopment means the renovation of a previously developed obsolete commercial or industrial parcel of land or building site which suffers from structural vacancy due to the expiration of its former use and requires intervention to achieve a subsequent useful function and come into compliance with all other current environmental and land development regulations.

Riverine floodplain means lands which have a surface water connection to a major freshwater surface water body during the 100-year flood.

Ten-year floodplain means the floodplain that is at or below the ten-year flood elevation, that is, the area which has a statistical probability of one in ten of being flooded in any given year according to the best available data as described in Section 62-3723(4).

25-year to ten-year riverine floodplain means the floodplain that is at or below the 25-year freshwater flood elevation, but above the ten-year freshwater flood elevation. The 25-year floodplain has a statistical probability of one in 25 of being flooded in any given year according to the best available data as described in Section 62-3723(4).

Sec. 62-3722. Purpose and intent.

It is the purpose and intent of this division to protect and restore, where feasible, the natural functions of floodplains within the county. It is also the intent of this division to apply the standards set out in this division for development in floodplains and floodprone areas.

Sec. 62-3723. General provisions.

All site plans, subdivision plats, building permits, and other active development orders shall be reviewed by the Natural Resources Management Department to determine their impact upon the estuarine, isolated, and riverine floodplains. The following regulations shall apply to development in designated floodplains and floodprone areas:

(1) The following uses shall be permitted within the riverine 100-year, riverine 25-year, riverine ten-year, estuarine, and isolated floodplains of the county:

- (a) Agricultural pursuits, including forestry silviculture operations, utilizing best management practices, and agricultural structures which will not restrict the flow of floodwaters above the ten-year floodplain elevation;
- (b) Recreation consistent with the requirements of the floodplain;
- (c) Fish and wildlife management; and
- (d) Open space.

All site plans, subdivision plats, building permits, and other active development orders shall meet floodway criteria in Chapter 62, Article XI, Division 3, Standards for Flood Hazard Reduction, Section 62-4062(5).

(2) Development within floodplain areas shall not have adverse impacts upon adjoining properties.

(3) Development within all floodplains shall be required to obtain a land alteration permit, if subsequently required by ordinance, with the exception of residences which are limiting fill to house pads, septic systems and single access roads. However, the amount and placement of fill being used must be included within the building permit applications for such single-family residences. This exception is not an exemption from 44 CFR §60.3(a)(1), (b)(1), (c)(1), (d)(1), or (e)(1), but only from the requirement of obtaining a Land Alteration Permit under Article XIII, Division 4.

(4) Elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985).

(5) Development in isolated floodplain areas shall ensure that off-site post development stormwater discharge rates shall not exceed off-site predevelopment discharge rates. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria, and Article XI, Division 3, Standards for Flood Hazard Reduction, Section 62-3724(e)(4) as it relates to isolated floodplains.

(6) All site plans, subdivision plats, building permits, and other active development orders shall meet Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3, and Stormwater Criteria in Chapter 62, Division 6.

(7) Development practices shall be encouraged to minimize total imperviousness and runoff within the riverine floodplain and preserve the flood storage capacity in order to minimize cost to life and property. Practices may include clustering of developed area, provisions for open space, low impact design features, and flood proofing.

Sec. 62-3724. Development regulations.

(1) There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.

- (a) Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation).
 - (i) Residential density shall be limited to no more than two dwelling units per acre.
 - (ii) Commercial, institutional, and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre, except for redevelopment as specified in Section 62-3724(1)(f).

- (iii) Density may be transferred from areas within the 25-year to 100-year riverine floodplain to areas above the riverine 100-year floodplain at a density consistent with the service sector.
- (iv) Any expansion of commercial and industrial structures, including parking areas, within the 100-year to 25-year riverine floodplain greater than 25 percent of the earliest permitted development footprint size shall be reviewed by the Natural Resources Management Department for compliance.
- (v) Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except that undeveloped parcels created prior to February 17, 2011, may fill up to 1/3 acre for development without providing compensatory storage. For other parcels, compensatory storage shall be required for all fill within the floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).
- (vi) Development of a lot or parcel within the 100-year to 25-year riverine floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation (BFE). All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins). All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
- (vii) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the

abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

- (b) Within the 25-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation).
 - (i) Residential density shall be limited to not more than one dwelling unit per two and one-half acres.
 - (ii) Commercial and institutional land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre. Commercial uses shall be no greater than one acre, except for redevelopment as specified in Section 62-3724(1)(f).
 - (iii) Within the same project, the following transfer of densities may occur consistent with the service sector:
 - 1. Development densities of one dwelling unit per acre may be transferred out of areas in the ten-year to 25-year floodplain to areas in the 25-year to 100-year riverine floodplain.
 - 2. Development densities consistent with the service sector may be transferred out of the ten-year to 25-year floodplain to areas above the riverine 100-year floodplain.
 - (iv) Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.
 - (v) Any expansion of commercial structures, including parking areas, greater than 25 percent of the earliest permitted development footprint size shall be reviewed by the Natural Resources Management Department for compliance.
 - (vi) Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).

- (vii) Development requiring a land alteration permit, if subsequently required by ordinance, shall not cause a net loss in flood storage capacity within the floodplain.
 - (viii) Development of a lot or parcel within the 10-year to 25-year floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
 - (ix) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (c) Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation).
- (i) Residential density shall be limited to not more than one dwelling unit per ten acres.
 - (ii) Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.
 - (iii) Within the same project, the following transfer of densities may occur consistent with the service sector:
 1. Development densities of one dwelling unit per five acres may be transferred out of areas below the ten-year floodplain to areas in the ten-year to 25-year riverine floodplain.
 2. Development densities of one dwelling unit per acre may be transferred out of areas below the ten-year floodplain to areas in the 25-year to 100-year riverine floodplain.
 3. Development densities consistent with the service sector may be transferred out of the ten-year floodplain to areas above the riverine 100-year floodplain.

- (iv) Development, except for permitted uses, shall be transferred out of the ten-year floodplain unless the project has a special reason or need to locate below the ten-year floodplain and is found to be in the overriding public interest.
 - (v) Any expansion of commercial structures, including parking areas, greater than 25 percent of the earliest permitted development footprint size shall be reviewed by the Natural Resources Management Department for compliance.
 - (vi) Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).
 - (vii) Development requiring a land alteration permit, if subsequently required by ordinance, shall not cause a net loss in flood storage capacity within the floodplain.
 - (viii) Development of a lot or parcel within the 10-year to mean annual floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, on-site sewage disposal system and buffer, potable on-site well and buffer, and access to the primary and accessory structures. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
 - (ix) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.
- (d) Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial

land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

- (e) To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be exceeded if compensatory storage is provided. If on-site storage is not feasible, non-contiguous compensatory storage, hydrologically connected to the impacted floodplain may be considered. Off-site compensatory storage shall require an easement that secures perpetual off-site drainage.
- (f) Basins historically separated from the riverine floodplain by berms, dikes, pumps, or other man-made methods shall be considered connected to the floodplain unless such flood control measures are accredited by FEMA. The filled footprint restrictions for commercial and industrial development on a parcel may be exceeded if all of the following criteria are met:
 - (i) The basin was established and continuously maintained prior to September 9, 1988.
 - (ii) The parcel shall have had a commercial or industrial zoning classification prior to and since September 9, 1988; and its current commercial or industrial zoning classification and FLU designation are consistent pursuant to Section 62-1255.
 - (iii) Historical flow of water is maintained or rerouted in such a way as the upstream and downstream property owners are not negatively impacted.
 - (iv) Where the basin is managed through the operation of pump(s), the applicant shall provide flood management independent of any off-site flood control measures. Where off-site pumping controls or assists removal of stormwater from the basin a pumping agreement detailing pumping elevations, rates, and cost sharing shall be created which is binding on all parties and transfers with the properties and any subdivisions there-of until or unless a property is removed from the basin.
 - (v) A flood study of the basin shall be completed by a Professional Engineer registered in the State of Florida. The flood study shall affirmatively demonstrate that the modified filled footprint restrictions shall not adversely impact the drainage of adjoining properties, both internal and external to the basin. The flood study shall include the 24- and 96-hour storms for critical floods including, but not limited to, the mean-annual, 10-year, 25-year, and 100-year storm events.

(vi) A subsequent conversion to a non-commercial or non-industrial Future Land Use shall require a retrofit of compensatory storage.

(2) Estuarine floodplain.

- (a) Development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality.
- (b) Development of a lot or parcel within an estuarine floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
- (c) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may developed at the elevation of the abutting government maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

(3) Isolated floodplain.

- (a) Development within an isolated floodplain shall not negatively impact adjacent properties or receiving water body quality.
- (b) Development of a lot or parcel within an isolated floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation. All site plans, subdivision plats, building permits, and other active development orders shall also meet Floodplain Protection criteria in Chapter 62, Article X, Division 5; Standards for Flood Hazard Reduction criteria in Chapter 62, Article XI, Division 3; and Stormwater Criteria in Chapter 62, Division 6.
- (c) Access to single family residential structures on lots adjoining a government maintained road that is not elevated to or above the 100-year BFE and not scheduled to be upgraded within five (5) years from the time of residential permit submittal, may be developed at the elevation of the abutting government

maintained roadway. This exception shall not apply to construction in FEMA Regulatory Floodways.

- (d) Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the floodplain greater than one third (1/3) acre in size regardless of the date the lot was created. Compensatory storage for lots within a platted subdivision created after the effective date of this ordinance shall be provided. Compensatory storage calculations for proposed development shall be submitted and approved by engineering staff prior to final approval of any new lot creation, site plan or subdivision application. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria specific to CLOMR requirements, and increase(s) in flood elevations must be investigated by detailed hydraulic modeling in volume-sensitive floodplains (e.g. lakes, closed basins).

Sec. 62-3725. Prohibitions.

(1) New dikes, levees or other structures shall not be permitted below the riverine 100-year flood elevation except for structures that have a maximum height of less than the ten-year flood elevation and which will not restrict the flow of the riverine 100-year storm floodwaters. The only potential exceptions to this provision are structures which are shown to have overriding public benefit. Replacement or repair of non-breached dikes is permitted as long as such replacement or repair does not change the status of the floodplain or will maintain the existing ability to utilize the property.

(2) The following specific uses are not compatible within the floodplain and shall not be permitted:

- (a) Placing, depositing or dumping of solid wastes, including sludge, septage, unprocessed scallop shells and viscera, except for land-spreading for agricultural pursuits or for treated municipal solid sludge; and
- (b) Commercial processing, storing and disposal of hazardous materials.

Sec. 62-3726. Penalties; additional remedies.

Penalties for violations of this division shall be specified in Section 125.69, Florida Statutes, or Section 1-7 of the Brevard County Code. The County Manager shall be responsible for reviewing and approving all mitigation agreements, which shall be subject to the approval of the Board of County Commissioners. The provisions of this section are an additional and supplemental means of enforcing county codes and ordinances. Nothing in this section shall prohibit the county from enforcing this section by injunctive relief, or by any other means provided by law.

Sec. 62-3727. Administration.

The County Manager shall be responsible for the general administration of this division of this article. The County Manager shall be responsible for all reviews of all applications, in addition to providing the administrative decisions that pertain to this division. The County Manager shall provide written confirmation of any decision or findings relating to applications or reviews made pursuant to this division and letters of interpretation or intent.

ATTACHMENT C

ORDINANCE NO. 10- 26

ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2010-2.1; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, SPECIFICALLY AMENDING SECTION 62-501, PART I, ENTITLED CONSERVATION ELEMENT; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Community Affairs; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on June 30, 2010, for adoption as the Fall Plan Amendment Cycle 2010-2; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

Officially filed with the Secretary of State
12-28-10

WHEREAS, on December 20, 2010 the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2010-2.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on December 21, 2010, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for the adoption of Plan Amendment 2010-2.1; and

WHEREAS, Plan Amendment 2010-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 2010-2.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 2010-1.2 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2010-2.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

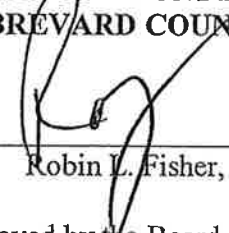
DONE AND ADOPTED in regular session, this 21st day of December, 2010.

ATTEST:



Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**



By: Robin L. Fisher, Chairman

Approved by the Board on December 21, 2010.

EXHIBIT A

2010-2.1 COMPREHENSIVE PLAN AMENDMENTS

The following is the proposed text amendment to the Comprehensive Plan's Conservation Element. New Adopted language is shown as underlined and existing language to be deleted is shown as ~~struck-through~~.

Adopted Chapter 1 Conservation Element Amendments

Objective 4

Reduce loss of flood storage capacity and reduce risk to life and property by continuing to apply regulations which minimize the impact of development within flood hazard areas.

Policy 4.1

Brevard County shall continue to protect the riverine floodplain in order to protect infrastructure and human life, conserve flood storage capacities, and to improve, where feasible, the quality of water within the watershed. The preferred land use, density and fill footprint of the riverine floodplain is in the predevelopment natural state and Brevard County supports the use of fee simple acquisition, less than fee acquisition, transfer of development rights, appropriate development standards, and other innovative measures to preserve and restore the predevelopment riverine floodplain. At a minimum, the following criteria shall be the basis for the protection of the riverine floodplain:

Criteria:

- ~~1. The ten-year riverine floodplain should be maintained in its natural state unless a project has a special reason or need to be located there. These special reasons and needs are further defined in the land development regulations. These needs may include but are not limited to agriculture and passive recreation.~~
- ~~B. Development within the riverine one-hundred year floodplain shall not adversely impact the drainage of adjoining properties or degrade the quality of the receiving surface water body.~~
- ~~C. The following uses are not compatible with the resource requirements of the one-hundred year riverine floodplain and shall not be permitted. These include, but are not limited to:
 - ~~1. Placing, depositing or dumping of solid waste except for treated municipal solid sludge.~~~~

- ~~2. Processing and storing of threshold amounts of hazardous materials.~~
 - ~~3. Disposal of hazardous materials.~~
- ~~D. There shall be no net loss of flood storage capacity of the twenty five year riverine floodplain.~~
- ~~E. There shall be no net change in the rate and volume of floodwater discharged from the pre-development twenty five year riverine floodplain.~~
- ~~F. Brevard County will coordinate with the SJRWMD or other appropriate agencies in determining the appropriate first floor building elevation within the twenty five to one hundred year floodplain and shall ensure that habitable structures are constructed above base flood elevation.~~
- A. Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation):
1. Residential density shall be limited to no more than two dwelling units per acre.
 2. Commercial, institutional, and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre, except for redevelopment as specified in Policy 4.3.
 3. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except undeveloped parcels created prior to the effective date of this policy may fill up to 1/3 acre filled footprint for development without providing compensatory storage.
 4. The following uses are not compatible with the resource requirements of the 100-year riverine floodplain and shall not be permitted. These include, but are not limited to:
 - a. Placing, depositing or dumping of solid waste except for treated municipal solid sludge.
 - b. Processing and storing of threshold amounts of hazardous materials.
 - c. Disposal of hazardous materials.

B. Within the 25-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation):

1. Residential density shall be limited to not more than one dwelling unit per two and one-half acres.
2. Commercial land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre and commercial uses shall be no greater than one acre, except for redevelopment as specified in Policy 4.3.
3. Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.
4. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain.

C. Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation):

1. The 10-year riverine floodplain should be maintained in its natural state unless a project has a special reason or need to be located there. These special reasons and needs are further defined in the land development regulations. These needs may include but are not limited to agriculture and passive recreation.
2. Residential density shall be limited to not more than one dwelling unit per ten acres; and
3. Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.
4. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain.

D. Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best

public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

E. The best available data shall be utilized to determine appropriate floodplain elevations.

Policy 4.2

~~Brevard County shall continue to implement land use density restrictions within riverine floodplains in order to protect infrastructure and human life, conserve flood storage capacities, and to improve, where feasible, the quality of water within the watershed. At a minimum, the following shall apply:~~

- ~~A. Within the one-hundred-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation):~~
 - ~~1. Residential density shall be limited to no more than two dwelling units per acre; and~~
 - ~~2. Commercial and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre.~~

- ~~B. Within the twenty-five-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation):~~
 - ~~1. Residential density shall be limited to not more than one dwelling unit per two and one-half acres; and~~
 - ~~2. Commercial land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre and commercial uses shall be no greater than one acre; and~~
 - ~~3. Industrial land uses shall be prohibited.~~

- ~~C. Within the ten-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the annual flood elevation):~~
 - ~~1. Residential density shall be limited to not more than one dwelling unit per ten acres; and~~
 - ~~2. Commercial and industrial land uses shall be prohibited unless they are in the best public interest or the location of the use is integral to its operation.~~

- D. — ~~Development within the riverine floodplain should not result in a loss of floodplain storage capacity below the 25-year floodplain elevation of riverine systems, or impact adjacent property.~~
- E. — ~~The best available data shall be utilized to determine appropriate floodplain elevations.~~

The following criteria shall apply to all riverine floodplains:

Criteria:

- A. There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.
- B. Practices shall be encouraged in development of property within the riverine floodplain in order to minimize total imperviousness and runoff within the floodplain and preserve the flood storage capacity in order to minimize cost to life and property. Practices may include clustering of developed area, provisions for open space, low impact design features, and flood proofing.
- C. The County shall provide incentives for transfer of densities and intensities filled footprints within the riverine floodplain to reduce risk.
- D. Brevard County will coordinate with the SJRWMD or other appropriate agencies in determining the appropriate first floor building elevation within the 25- to 100-year floodplain and shall ensure that habitable structures are constructed above base flood elevation.

Policy 4.3

~~Within the annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and there is overriding public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.~~

To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be modified if compensatory storage is provided. Non-contiguous compensatory storage, hydrologically connected to the impacted floodplain

may be considered. Redevelopment means the renovation of a previously developed obsolete commercial or industrial parcel of land or building site which suffers from structural vacancy due to the expiration of its former use and requires intervention to achieve a subsequent useful function and come into compliance with all other current environmental and land development regulations.

Policy 4.4

New dikes, levees or other such structures should not be permitted below the 100-year riverine flood elevation except for temporary earthen structures that have a maximum height of less than the 10-year flood elevation and which will not restrict the flow of the 100-year storm floodwaters. The only potential exceptions to this provision are such structures which are shown to have over-riding public benefit. Replacement or repair of dikes, levees and other such structures are permitted as long as such replacement or repair does not change the status of the floodplain and will maintain the existing ability to utilize the property. Non-structural methods of floodplain management are given priority over structural methods.

Policy 4.5

Brevard County shall develop regulations to protect the estuarine floodplains by implementing the following minimum criteria:

Criteria:

- A. Development within the one-hundred year estuarine floodplain shall not adversely impact the drainage of adjacent properties or the quality of the receiving surface water body.
- B. The following specific uses are not compatible with the resource requirements of the one-hundred year estuarine floodplain and shall not be permitted. These include, but are not limited to:
 1. Placing, depositing, or dumping of solid wastes.
 2. Processing and storing of threshold amounts of hazardous materials.
 3. Disposal of hazardous materials.
- C. The annual estuarine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

Policy 4.6

Brevard County shall develop regulations to ensure that alterations of isolated one-hundred year floodplains do not adversely impact the drainage of adjacent properties or public drainage facilities.

Policy 4.7

Brevard County shall continue to protect the coastal floodplain through the implementation of the following minimum criteria:

Criteria:

- A. Prohibit development within the annual coastal floodplain.
- B. Limit development water-ward of the Brevard County Coastal Construction Setback Line to those structures necessary to protect the natural dune system and to provide beach access.
- C. Brevard County shall continue to maintain construction standards for all development within the one-hundred year storm surge zone as established by the Florida Department of Environmental Protection, the U.S. Southern Building Code, or other applicable regulations.

Policy 4.8

Brevard County shall identify structural controls within the floodplain which degrade natural systems and make recommendations for alternatives to re-establish the natural floodplain, where feasible.

Policy 4.9

Brevard County shall continue to participate in the National Flood Insurance Program administered by the Federal Emergency Management Administration (FEMA). Amendments to the County's flood ordinance shall be adopted as necessitated by changes in FEMA regulations.

Policy 4.10

Public facilities should not be located within the 100-year riverine or estuarine floodplain unless the following apply:

Criteria:

- A. The facilities are water-dependent, such as mosquito control facilities; or,
- B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,

- C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,
- D. The building structures are flood-proofed and located above the 100-year flood elevation, or removed from the floodplain by appropriately constructed dikes or levees; or,
- E. The facilities are found to be in the public interest and there is no feasible alternative.

ATTACHMENT D
Floodplain Protection Ordinance Summary Matrix

ISSUE	PROPOSED	ORDINANCE SECTION	COMP PLAN POLICY
General	Improve general document housekeeping items, including consistency of terms, section numbering, grammar, and punctuation. Reorganization to better follow Comprehensive Plan policy structure, and for greater ease of application.	Throughout	N/A
Definitions	Addition of definitions for “best public interest,” “overriding public benefit,” “public interest,” and “redevelopment.”	62-3721	Glossary
Development Regulations	Allow modification of filled footprint criteria for commercial, institutional, industrial redevelopment in 100- and 25-year riverine floodplain (with compensatory storage).	62-3724(1)(a)(ii), (b)(ii), & (f)	4.1.A.2, B.2, & 4.3
	Include institutional land uses for riverine floodplain.	62-3724(1)(a)(ii), (b)(ii), (c)(ii), & (d)	4.1.A.2, C.3, & D
	Compensatory storage - consistency with Comp Plan policies.	62-3724(1)(a)(v), (b)(v), & (c)(vi)	4.1.A.3, B.4, & C.4
	Allow commercial land uses over one acre in 25-year riverine floodplain for redevelopment.	62-3724(1)(b)(ii)	4.1.B.2
	Allow industrial land uses within the 25-year riverine floodplain if the activity is in the best public interest, or mining where it does not increase the filled footprint.	62-3724(1)(b)(iv)	4.1.B.3
	Provide new section for mean annual riverine floodplain criteria (previously included with 10-year criteria).	62-3724(1)(d)	4.1.D
	Allow commercial, institutional, and industrial land uses in the 10-year riverine floodplain if they are in the public interest and the location of the use is integral to its operation.	62-3724(1)(c)(ii)	4.1.C.3
	Allow modification of filled footprint criteria for commercial and industrial development in basins historically separated from the riverine floodplain by berms, dikes, pumps, and/or other man-made methods.	62-3724(1)(f)	N/A

ATTACHMENT E

Brevard County Attorney Ordinance Approval Sheet

SECTION I

The following information must be completed on all ordinances submitted to the Board:

Ordinance Name: Floodplain Protection		Ordinance Author: Darcie McGee	
Division Name: Natural Resources	Mail Stop: 81	Review Deadline: 07/28/15 LPA	
Sent by: Darcie McGee			
Dept./Office Director: Virginia Barker, Interim Director			
Meeting Date: 08/12/15 BCAC 08/24/15 LPA	(BCC) 09/03/15	Advertising Deadline:	

SECTION II

COUNTY OFFICE

County Attorney's Office

APPROVAL

Yes No

X _____

INITIALS

CL

DATE

8/5/15

SECTION III

Sent for Review

Land Dev. ___ Y ___ N ___ XX ___ N/A

NRM ___ Y ___ N ___ N/A

Other Dept./Office ___ Y ___ N ___ XX ___ N/A

Comments:

ATTACHMENT C

ORDINANCE NO. 10-26

ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2010-2.1; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, SPECIFICALLY AMENDING SECTION 62-501, PART I, ENTITLED CONSERVATION ELEMENT; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Community Affairs; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on June 30, 2010, for adoption as the Fall Plan Amendment Cycle 2010-2; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

Officially filed with the Secretary of State
12-28-10

WHEREAS, on December 20, 2010 the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2010-2.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on December 21, 2010, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for the adoption of Plan Amendment 2010-2.1; and

WHEREAS, Plan Amendment 2010-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 2010-2.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 2010-1.2 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2010-2.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 21st day of December, 2010.

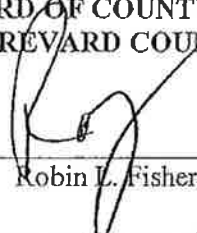
ATTEST:



Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

By: _____



Robin L. Fisher, Chairman

Approved by the Board on December 21, 2010.

EXHIBIT A

2010-2.1 COMPREHENSIVE PLAN AMENDMENTS

The following is the proposed text amendment to the Comprehensive Plan's Conservation Element. New Adopted language is shown as underlined and existing language to be deleted is shown as ~~struck through~~.

Adopted Chapter 1 Conservation Element Amendments

Objective 4

Reduce loss of flood storage capacity and reduce risk to life and property by continuing to apply regulations which minimize the impact of development within flood hazard areas.

Policy 4.1

Brevard County shall continue to protect the riverine floodplain in order to protect infrastructure and human life, conserve flood storage capacities, and to improve, where feasible, the quality of water within the watershed. The preferred land use, density and fill footprint of the riverine floodplain is in the predevelopment natural state and Brevard County supports the use of fee simple acquisition, less than fee acquisition, transfer of development rights, appropriate development standards, and other innovative measures to preserve and restore the predevelopment riverine floodplain. At a minimum, the following criteria shall be the basis for the protection of the riverine floodplain:

Criteria:

- ~~1. The ten-year riverine floodplain should be maintained in its natural state unless a project has a special reason or need to be located there. These special reasons and needs are further defined in the land development regulations. These needs may include but are not limited to agriculture and passive recreation.~~
- ~~B. Development within the riverine one hundred year floodplain shall not adversely impact the drainage of adjoining properties or degrade the quality of the receiving surface water body.~~
- ~~C. The following uses are not compatible with the resource requirements of the one hundred year riverine floodplain and shall not be permitted. These include, but are not limited to:
 - ~~1. Placing, depositing or dumping of solid waste except for treated municipal solid sludge.~~~~

2. ~~Processing and storing of threshold amounts of hazardous materials.~~
 3. ~~Disposal of hazardous materials.~~
- D. ~~There shall be no net loss of flood storage capacity of the twenty five year riverine floodplain.~~
- E. ~~There shall be no net change in the rate and volume of floodwater discharged from the pre-development twenty five year riverine floodplain.~~
- F. ~~Brevard County will coordinate with the SJRWMD or other appropriate agencies in determining the appropriate first floor building elevation within the twenty five to one hundred year floodplain and shall ensure that habitable structures are constructed above base flood elevation.~~
- A. Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation):
1. Residential density shall be limited to no more than two dwelling units per acre.
 2. Commercial, institutional, and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre, except for redevelopment as specified in Policy 4.3.
 3. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except undeveloped parcels created prior to the effective date of this policy may fill up to 1/3 acre filled footprint for development without providing compensatory storage.
 4. The following uses are not compatible with the resource requirements of the 100-year riverine floodplain and shall not be permitted. These include, but are not limited to:
 - a. Placing, depositing or dumping of solid waste except for treated municipal solid sludge.
 - b. Processing and storing of threshold amounts of hazardous materials.
 - c. Disposal of hazardous materials.

- B. Within the 25-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation):
1. Residential density shall be limited to not more than one dwelling unit per two and one-half acres.
 2. Commercial land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre and commercial uses shall be no greater than one acre, except for redevelopment as specified in Policy 4.3.
 3. Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.
 4. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain.
- C. Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation):
1. The 10-year riverine floodplain should be maintained in its natural state unless a project has a special reason or need to be located there. These special reasons and needs are further defined in the land development regulations. These needs may include but are not limited to agriculture and passive recreation.
 2. Residential density shall be limited to not more than one dwelling unit per ten acres; and
 3. Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.
 4. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain.
- D. Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best

public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

E. The best available data shall be utilized to determine appropriate floodplain elevations.

Policy 4.2

~~Brevard County shall continue to implement land use density restrictions within riverine floodplains in order to protect infrastructure and human life, conserve flood storage capacities, and to improve, where feasible, the quality of water within the watershed. At a minimum, the following shall apply:~~

- ~~A. — Within the one hundred year riverine floodplain (that is the area that is below the 100 year flood elevation but above the 25 year flood elevation):~~
 - ~~1. — Residential density shall be limited to no more than two dwelling units per acre; and~~
 - ~~2. — Commercial and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre.~~

- ~~B. — Within the twenty five year riverine floodplain (that is the area that is at or below the 25 year flood elevation but above the 10 year flood elevation):~~
 - ~~1. — Residential density shall be limited to not more than one dwelling unit per two and one half acres; and~~
 - ~~2. — Commercial land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre and commercial uses shall be no greater than one acre; and~~
 - ~~3. — Industrial land uses shall be prohibited.~~

- ~~C. — Within the ten year riverine floodplain (that is the area that is at or below the 10 year flood elevation but above the annual flood elevation):~~
 - ~~1. — Residential density shall be limited to not more than one dwelling unit per ten acres; and~~
 - ~~2. — Commercial and industrial land uses shall be prohibited unless they are in the best public interest or the location of the use is integral to its operation.~~

- D. ~~Development within the riverine floodplain should not result in a loss of floodplain storage capacity below the 25-year floodplain elevation of riverine systems, or impact adjacent property.~~
- E. ~~The best available data shall be utilized to determine appropriate floodplain elevations.~~

The following criteria shall apply to all riverine floodplains:

Criteria:

- A. There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.
- B. Practices shall be encouraged in development of property within the riverine floodplain in order to minimize total imperviousness and runoff within the floodplain and preserve the flood storage capacity in order to minimize cost to life and property. Practices may include clustering of developed area, provisions for open space, low impact design features, and flood proofing.
- C. The County shall provide incentives for transfer of densities and intensities filled footprints within the riverine floodplain to reduce risk.
- D. Brevard County will coordinate with the SJRWMD or other appropriate agencies in determining the appropriate first floor building elevation within the 25- to 100-year floodplain and shall ensure that habitable structures are constructed above base flood elevation.

Policy 4.3

~~Within the annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and there is overriding public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.~~

To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be modified if compensatory storage is provided. Non-contiguous compensatory storage, hydrologically connected to the impacted floodplain

may be considered. Redevelopment means the renovation of a previously developed obsolete commercial or industrial parcel of land or building site which suffers from structural vacancy due to the expiration of its former use and requires intervention to achieve a subsequent useful function and come into compliance with all other current environmental and land development regulations.

Policy 4.4

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Policy 4.5

Brevard County shall develop regulations to protect the estuarine floodplains by implementing the following minimum criteria:

Criteria:

- A. Development within the one-hundred year estuarine floodplain shall not adversely impact the drainage of adjacent properties or the quality of the receiving surface water body.
- B. The following specific uses are not compatible with the resource requirements of the one-hundred year estuarine floodplain and shall not be permitted. These include, but are not limited to:
 - 1. Placing, depositing, or dumping of solid wastes.
 - 2. Processing and storing of threshold amounts of hazardous materials.
 - 3. Disposal of hazardous materials.
- C. The annual estuarine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

Policy 4.6

Brevard County shall develop regulations to ensure that alterations of isolated one-hundred year floodplains do not adversely impact the drainage of adjacent properties or public drainage facilities.

Policy 4.7

Brevard County shall continue to protect the coastal floodplain through the implementation of the following minimum criteria:

Criteria:

- A. Prohibit development within the annual coastal floodplain.
- B. Limit development water-ward of the Brevard County Coastal Construction Setback Line to those structures necessary to protect the natural dune system and to provide beach access.
- C. Brevard County shall continue to maintain construction standards for all development within the one-hundred year storm surge zone as established by the Florida Department of Environmental Protection, the U.S. Southern Building Code, or other applicable regulations.

Policy 4.8

Brevard County shall identify structural controls within the floodplain which degrade natural systems and make recommendations for alternatives to re-establish the natural floodplain, where feasible.

Policy 4.9

Brevard County shall continue to participate in the National Flood Insurance Program administered by the Federal Emergency Management Administration (FEMA). Amendments to the County's flood ordinance shall be adopted as necessitated by changes in FEMA regulations.

Policy 4.10

Public facilities should not be located within the 100-year riverine or estuarine floodplain unless the following apply:

Criteria:

- A. The facilities are water-dependent, such as mosquito control facilities; or,
- B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,

- C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,
- D. The building structures are flood-proofed and located above the 100-year flood elevation, or removed from the floodplain by appropriately constructed dikes or levees; or,
- E. The facilities are found to be in the public interest and there is no feasible alternative.

ATTACHMENT D
Floodplain Protection Ordinance Summary Matrix

ISSUE	PROPOSED	ORDINANCE SECTION	COMP PLAN POLICY
General	Improve general document housekeeping items, including consistency of terms, section numbering, grammar, and punctuation. Reorganization to better follow Comprehensive Plan policy structure, and for greater ease of application.	Throughout	N/A
Definitions	Addition of definitions for "best public interest," "overriding public benefit," "public interest," and "redevelopment."	62-3721	Glossary
Development Regulations	Allow modification of filled footprint criteria for commercial, institutional, industrial redevelopment in 100- and 25-year riverine floodplain (with compensatory storage).	62-3724(1)(a)(ii), (b)(ii), & (f)	4.1.A.2, B.2, & 4.3
	Include institutional land uses for riverine floodplain.	62-3724(1)(a)(ii), (b)(ii), (c)(ii), & (d)	4.1.A.2, C.3, & D
	Compensatory storage - consistency with Comp Plan policies.	62-3724(1)(a)(v), (b)(v), & (c)(vi)	4.1.A.3, B.4, & C.4
	Allow commercial land uses over one acre in 25-year riverine floodplain for redevelopment.	62-3724(1)(b)(ii)	4.1.B.2
	Allow industrial land uses within the 25-year riverine floodplain if the activity is in the best public interest, or mining where it does not increase the filled footprint.	62-3724(1)(b)(iv)	4.1.B.3
	Provide new section for mean annual riverine floodplain criteria (previously included with 10-year criteria).	62-3724(1)(d)	4.1.D
	Allow commercial, institutional, and industrial land uses in the 10-year riverine floodplain if they are in the public interest and the location of the use is integral to its operation.	62-3724(1)(c)(ii)	4.1.C.3
	Allow modification of filled footprint criteria for commercial and industrial development in basins historically separated from the riverine floodplain by berms, dikes, pumps, and/or other man-made methods.	62-3724(1)(f)	N/A

ATTACHMENT E

Brevard County Attorney
Ordinance Approval Sheet

SECTION I

The following information must be completed on all ordinances submitted to the Board:

Ordinance Name: Floodplain Protection		Ordinance Author: Darcie McGee	
Division Name: Natural Resources		Mail Stop: 81	Review Deadline: 07/28/15 LPA
Sent by: Darcie McGee			
Dept./Office Director: Virginia Barker, Interim Director			
Meeting Date: 08/12/15 BCAC 08/24/15 LPA	(BCC) 09/03/15	Advertising Deadline:	

SECTION II

COUNTY OFFICE

County Attorney's Office

APPROVAL

Yes No

INITIALS

DATE

CL 8/5/15

SECTION III

Sent for Review

Land Dev. Y N XX N/A

NRM Y N N/A

Other Dept./Office Y N XX N/A

Comments:



Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: BREVARD COUNTY PURCHASING
Address: 2725 JUDGE FRAN JAMIESON WAY
MELBOURNE FL 32940
USA

Ad No.: 0000671073
Pymt Method Invoice
Net Amt: \$135.66

Run Times: 1

No. of Affidavits: 1

Run Dates: 08/21/15, 08/22/15

Text of Ad:

AD#671073 8/22/2015
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, ON SEPTEMBER 3, 2015 AT 5:00 P.M., IN THE BOARD ROOM AT 2725 JUDGE FRAN JAMIESON WAY, BUILDING C, FIRST FLOOR, VIERA, FLORIDA, 32940, WILL HOLD A PUBLIC HEARING ON THE FOLLOWING ORDINANCE:

ORDINANCE NO. 2015

AN ORDINANCE OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 62, ARTICLE X, DIVISION 5, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, RELATING TO FLOODPLAIN PROTECTION, SPECIFICALLY AMENDING SECTIONS 62-3721 DEFINITIONS; 62-3723 GENERAL PROVISIONS; 62-3724 DEVELOPMENT REGULATIONS; AND 62-3725 PROHIBITIONS; PROVIDING FOR THE INTERPRETATION OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN CODE AND AN EFFECTIVE DATE.

FOR MORE INFORMATION PLEASE CONTACT THE NATURAL RESOURCES MANAGEMENT DEPARTMENT AT (321) 633-2016. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND SECTION 286.26, FLORIDA STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COUNTY MANAGER'S OFFICE NO LATER THAN 48 HOURS PRIOR TO MEETING AT (321) 633-2001 FOR ASSISTANCE.