

ORDINANCE NO. 2018-02

AN ORDINANCE OF THE CITY OF MARY ESTHER, FLORIDA; AMENDING THE COASTAL MANAGEMENT AND CONSERVATION ELEMENT IN THE CITY OF MARY ESTHER COMPREHENSIVE PLAN; PROVIDING FOR ADOPTION OF AMENDMENT TO THE CITY OF MARY ESTHER COMPREHENSIVE PLAN; PROVIDING FOR AUTHORITY, REPEAL OF CONFLICTING ORDINANCES; AND SETTING AN EFFECTIVE DATE.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARY ESTHER, AS FOLLOWS:

Section 1: PURPOSE AND INTENT

This ordinance is enacted to carry out the purpose, the intent of, and exercise the authority set out in, the Local Government Comprehensive Act, Sections 163.3161 through 163.3215, Florida Statutes.

Section 2: FINDINGS OF FACT

1. Chapter 163 Florida Statutes empowers the City Council of the City of Mary Esther, Florida to prepare, amend, and enforce a Comprehensive Plan for the development of the City.

2. The City of Mary Esther Planning Commission as the Local Planning Agency (LPA) for the City held a public hearing on the Comprehensive Plan Amendment on February 12, 2018, after due public notice, and considered findings and advice of all interested parties.

3. The City of Mary Esther, Florida held an adoption public hearing on June 4, 2018, to consider the Comprehensive Plan Amendment pursuant to Chapter 163.3184, Florida Statutes, with due public notice having been provided, and having reviewed and considered all comments received during the public hearing.

4. In exercise of its authority, the City Council of the City of Mary Esther, Florida finds it necessary and desirable to adopt and does hereby adopt this Amendment to the Coastal Management and Conservation Element of the City of Mary Esther's 2020 Comprehensive Plan, attached hereto as Exhibit "A" in order to encourage the most appropriate use of land, water, and resources, consistent with the public interest; and to deal effectively with future problems that may result from the use and development of land within City of Mary Esther, Florida.

Section 3: SEVERABILITY

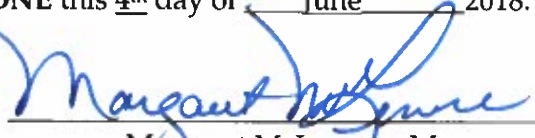
If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinances shall remain in full force and effect.

Section 4: EFFECTIVE DATE


The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

SO DONE this 4th day of June 2018.

By:


Margaret McLemore, Mayor

ATTESTS:


Dana L.S. Williams, CMC
City Clerk

1st Notice published: 02/02/18
First reading: 03/05/18
2nd Rdg published: 05/21/18; 5/30/18
Second reading: 06/04/18

Exhibit A

CHAPTER 11 - COASTAL MANAGEMENT AND CONSERVATION ELEMENT

Section 11.01 - Purpose:

The purpose of this element is to plan for and, where appropriate, restrict development activities where such activities would damage or destroy coastal resources; protect human life; limit public expenditures in areas that are subject to destruction by natural disaster; and promote the conservation, use and protection of natural resources.

Section 11.02 - Data and Analysis:

This element is based upon data and analysis requirements pursuant to Section 163.3178 and 163.3177 Florida Statutes, compiled with coastal inventory maps in the Coastal Management Element Technical Document.

Section 11.03 - Omissions:

There are no identified prime (potable) natural groundwater aquifer recharge areas, dune systems or deep water ports within the city. The coastal construction control line (CCCL) in this area is located on Santa Rosa Island and not within the City's jurisdiction.

Section 11.04 - Goals, Objectives and Policies:

Goal 11.A —Protect people and property by limiting public expenditures in areas subject to destruction by natural disasters and by restricting development activities that would damage or destroy coastal or natural resources.

Objective 11.A.1 —Continually protect, conserve or enhance coastal wetlands, living marine resources, important aquatic vegetation and wildlife (shoreline) habitats by including regulations within the Land Development Code (LDC) (reference Policy 7.A.1.1 in the Future Land Use Element) necessary to implement the policies of this objective, among others as recommended by the Department of Economic Opportunity to delineate enhancing protection of resources.

Policy 11.A.1.1 —Limit the specific impacts and cumulative impacts of development or redevelopment upon wetlands, water quality, water quantity, wildlife habitats, living marine resources or other natural resources by implementation of Policies 7.A.1.1, 7.A.1.2, 7.A.4.1, 7.A.4.2, 7.A.4.3 in the Future Land Use Element and 10.C.1.3 in the Infrastructure Element of this ordinance.

Policy 11.A.1.2 —Channeling run-off directly into water bodies or other areas identified in Objective 11.A.1 shall be prohibited.

Policy 11.A.1.3 — The City designates the coastal high hazard area (CHHA) as the area below the elevation of the category 1 storm surge line as established by the Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. The City will limit public expenditures in the CHHA to the provision of recreation uses, protection of natural resources or to increase the public's access to the shoreline and to maintain existing infrastructure in order to protect the rights of property owners within the CHHA (reference Policies 11.A.5.1 and 14.A.2.1).

Policy 11.A.1.4 —The City shall assist in the application of and compliance with all state and federal regulations which pertain to endangered or rare species and will provide for protection of areas known to provide habitats for these species when issuing development permits.

Policy 11.A.1.5 —New developments with the potential to impact the quantity or quality of natural resources will be required to obtain the necessary permits from all applicable state and/or federal agencies (Florida Department of Environmental Protection (FDEP), Northwest Florida Water Management District and/or U.S. Army Corps of Engineers) prior to the authorization of a development permit by the city.

Policy 11.A.1.6 —The LDC shall include shoreline protection regulations, and such regulations shall include Section 21-52 of the City Code (Section 21-52 provides that residential structures be located at least 100 feet from the mean high water line of Santa Rosa Sound).

Policy 11.A.1.7 —The LDC shall contain mitigation provisions which must be followed by any development that impacts the resources listed in Policy 11.A.1.1. The provisions shall include:

- a. The elimination of any degradation of the natural systems; or
- b. Mitigate impacts on natural systems at a ratio of 2 to 1 whenever degradation occurs as a result of new development. Note: Mitigation will be allowed only when development cannot occur pursuant to subparagraph (a) above.

Objective 11.A.2 —Maintain and/or improve estuarine environmental quality (reference Policy 7.A.1.1) through management techniques, regulations, and cooperation with regional management plans.

Policy 11.A.2.1 —The City shall implement the land use categories shown on the Future Land Use Map (Figure 7-1) with the LDC. Such implementation will insure the continuation of environmentally sensitive land uses adjacent to the shoreline.

Policy 11.A.2.2 —Any stormwater detention or retention areas located near an estuary or estuarine systems or other water bodies within the city limits shall be designed so that the shorelines are sinuous rather than straight and so that water/land interfaces are curvilinear and maximize space for growth of littoral vegetation (also, see Policy 10.C.1.3).

Policy 11.A.2.3 —The City shall participate in, and coordinate with committees of, the Choctawhatchee Basin Alliance, Estuary Programs that encompass Santa Rosa Sound, and the Northwest Florida Water Management District's Surface Water Improvement and Management (SWIM) programs to the extent that such programs affect activities of the City in its efforts to protect Santa Rosa Sound.

Objective 11.A.3 —Provide criteria and standards for shoreline land-uses using regulatory and management techniques to mitigate threat to human life and to control proposed development and redevelopment to protect the coastal environment.

Policy 11.A.3.1 —The LDC shall contain the standards necessary for construction or development of shoreline parcels (reference Policies 7.A.1.1 and 11.A.1.6).

Policy 11.A.3.2 —The LDC shall contain the City's Zoning Ordinance which provides land use criteria for shoreline uses.

Policy 11.A.3.3 — The LDC shall contain development avoidance strategies to prevent human and structural loss in areas identified by National Oceanic and Atmospheric Administration's (NOAA) intermediate low sea level rise projection for a planning period not less than 20 years.

Policy 11.A.3.4 — The City shall employ site development techniques and best practices to reduce the losses to the local government and property owners caused by coastal flooding. Techniques include but are not limited to the following:

- a. Increased setbacks from the shoreline
- b. Living shorelines and beach nourishment programs

- c. Floodable development (i.e. waterfront parks)
- d. Elevated structures, flood resistant materials and breakaway designs

Objective 11.A.4 —Establish construction standards within the LDC which minimize the impacts of manmade structures on the shoreline, and any beach or dune systems within the city (reference Policy 7.A.1.1).

Policies 11.A.4.1 —The LDC shall contain F.E.M.A. construction standards (reference Policy 7.A.4.3).

Objective 11.A.5 —Limit public expenditures that subsidize development in the CHHA.

Policy 11.A.5.1 —The LDC shall contain building regulations regarding construction in the CHHA, and the regulations shall include criteria such as:

- a. First floor elevations;
- b. Wind load requirements;
- c. Frangible ancillary structures; and
- d. Other requirements necessary to protect and preserve the health and safety of the public.

Policy 11.A.5.2 —The City shall review and analyze all general hazard mitigation reports produced by County, Regional, State or Federal agencies in order to determine if any changes to the City's building, land use, stormwater management or other regulations are necessary or appropriate. The primary purpose of any changes made will be to reduce the exposure of lives and property to natural hazards.

Objective 11.A.6 —Direct population concentrations away from the CHHA and areas vulnerable to future flooding using regulatory and management techniques to mitigate threat to human life.

Policy 11.A.6.1 – The City shall conduct an update to the vulnerability assessments in the Coastal Management Element Technical Document every five (5) years to identify areas vulnerable to future flooding which results from storm surge and related impact of sea level rise. The assessment should include an analysis of hurricane storm surge models and a coastal flood scenario using NOAA, USACE, or other sea level rise projection curve generally accepted by the scientific community for a specified future timeframe of not less than 20 years. Identified areas may be considered for adoption to an Adaptation Action Area, pursuant to Section 163.3177(6)(g)10, Florida Statutes.

Policy 11.A.6.2—The currently allowable development densities and intensities south of U.S. 98, with particular attention paid to vulnerable areas identified in Policy 11.A.6.1, shall not be increased during the planning period (reference Section 1.02). Lawfully constructed buildings which conform to this Plan and the City's Land Development Regulations may be rebuilt if damaged or destroyed by disaster to the density or intensity existing or allowed prior to such disaster. *Objective 11.A.7* —Maintain or reduce hurricane evacuation times.

Policy 11.A.7.1 —The City shall cooperate with Okaloosa County to implement recommendations and guidance provided in the Okaloosa County Local Mitigation Strategy and the West Florida Regional Evacuation Study Program (2010).

Policy 11.A.7.2 —Continue to support critical roadway segment improvements through participation with the Okaloosa-Walton Transportation Planning Organization (TPO) and interaction with the Florida Department of Transportation (DOT) to further reduce and improve hurricane evacuation times.

Policy 11.A.7.3 —The City shall maintain a minimum roadway clearance time for hurricane evacuation of 12 hours on roads under local jurisdiction.

Objective 11.A.8 —Implement the City's post-disaster redevelopment plans which will reduce or eliminate the exposure of human life and public and private property to natural hazards in the event of a natural disaster or manmade hazard.

Policy 11.A.8.1 —The City shall continue its participation in the National Flood Insurance Program (NFIP) in conformance with Public Law 93-288 (reference Policy 7.A.4.3) and the NFIP Community Rating System (CRS).

Policy 11.A.8.2 —The City's post-disaster redevelopment plan, will continue to distinguish between immediate repair and clean up actions needed to protect public health and safety and long-term repair and redevelopment activities. The post-disaster redevelopment plan will incorporate the vulnerability assessment described in Policy 11.A.6.1 to aid in identifying and prioritizing appropriate redevelopment sites and activities.

Policy 11.A.8.3 —The city administration shall maintain an inventory of areas within the city which have experience repeated damage from coastal storms. This inventory will be cross referenced with the CHHA and parcels identified in the vulnerability assessment described in Policy 11.A.6.1 to determine if these damages are occurring in documented areas of future flooding. The inventory shall be provided to the committee appointed pursuant to Policy 14.A.3.6 so that the committee may consider the inventory during its deliberations conducted pursuant to Policy 11.A.8.4.

Policy 11.A.8.4 —The committee appointed pursuant to Policy 14.A.3.6 shall make recommendations to the city council, as needed, regarding Comprehensive Plan and ordinance amendments to ensure consistency with the hazard mitigation annex of the local peace time emergency plan (reference Policy 11.A.7.1) and applicable existing inter-agency hazard mitigation reports.

Policy 11.A.8.5—Immediate recovery actions needed to protect the public health and safety shall take priority in permitting decisions following hurricane storm events.

Policy 11.A.8.6 —If rebuilt, structures which suffer damage in excess of 75% of their appraised value shall be rebuilt in accordance with all current and applicable land use and building code requirements.

Policy 11.A.8.7 – The City shall address the needs of historic resources in preparation for a natural disaster by using state resources to inventory historic structures and by documenting damage assessment and stabilization methods in the post-disaster redevelopment plan.

Objective 11.A.9 – Reduce flood risk in coastal areas which results from high-tide event, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise to achieve the following:

- a. protect property values and human health and safety; and
- b. protect native vegetative communities, listed animal species and their habitats, beach and shoreline ecosystems, surface and ground water, aquatic vegetation, and natural hydrology from adverse impacts caused by human activities.

Policy 11.A.9.1 - The City shall minimize the disturbance of natural shorelines which provide stabilization and protect landward areas from storm impacts.

Policy 11.A.9.2 - Opportunities for non-structural shoreline enhancement projects shall be identified in the repair of seawalls along low energy shorelines.

Policy 11.A.9.3 - The City shall encourage water front property owners to maintain a viable amount of sea oats, and other native vegetation recommended by FDEP and approved by the City, in an effort to reduce impacts on infrastructure, private property and human life.

Policy 11.A.9.4 -- The City shall use accommodation strategies through design, construction, and use of structures to handle periodic flooding.

Policy 11.A.9.5 – The City will be consistent with flood-resistant construction requirements in the Florida Building Code and federal floodplain management regulations.

Policy 11.A.9.6 --The City shall continue to upgrade its stormwater infrastructure where appropriate through drainage improvements and seawall repair, in addition to sustainable flood management actions such as installation of bioswales, recharge through drainage wells, use of pervious pavement, and maintenance of naturally preserved areas (refer to Chapter 10 Infrastructure Element).

Policy 11.A.9.7 -- The City, alone or with others, shall use public land acquisition and conservation easements as financially feasible.

Objective 11.A.10 —Increase public access to the shoreline.

Policy 11.A.10.1 —The City shall continue to enforce the public access requirements of the Coastal Zone Protection Act of 1985 and shall include such requirements within the LDC.

Policy 11.A.10.2 —Shorelines renourished or protected at public expense shall be made available for public use.

Policy 11.A.10.3 —The City will continue to maintain public rights-of-way providing access to Santa Rosa Sound.

Policy 11.A.10.4 —The City will continue to seek all available federal and state financial assistance to increase public access to the shoreline.

Policy 11.A.10.5 —The LDC shall contain incentives for recreational, water-dependent uses of Santa Rosa Sound.

Objective 11.A.11 —The City will adopt, maintain and enforce land development regulations in the LDC which provide for the protection, preservation or sensitive re-use of historic resources (reference Policy 7.A.1.1).

Policy 11.A.11.1 —The City shall adopt, as part of the LDC, performance standards and guidelines for the preservation or adaptive reuse of historic resources upon identification of such resources (reference Policies 7.A.4.4 and 7.A.8.2).

Objective 11.A.12 —The City shall allow no development in the coastal area (or elsewhere) unless level of service standards are maintained and infrastructure needs are fulfilled in compliance with the City's concurrency Management System (reference Chapter 6 of this ordinance).

Policy 11.A.12.1 —The City shall adopt a Land Development Code within the time frame specified by section 163.3202(1) Florida Statutes (reference Section 5.11 and Policy 7.A.1.1).

Policy 11.A.12.2 —The level of service standards shall be those delineated in Policies 8.A.1.1, 8.A.2.1, 10.A.1.3, 10.B.1.5, 10.C.2.3, 10.D.1.2 and 12.A.3.2.

Policy 11.A.12.3 —Infrastructure improvements and areas of service shall be phased and determined pursuant to Chapter 14 of this ordinance.

Policy 11.A.12.4 —Development in the coastal area shall be consistent with the goals, objectives and policies of the Future Land Use Element and the Infrastructure Element (reference Chapters 7 and 10 of this ordinance).

Goal 11.B —Properly manage and conserve the important natural resources within the city.

Objective 11.B.1 —Continually protect air quality by regulating land uses which have, or may have, point source emissions (reference Policy 7.A.1.1).

Policy 11.B.1.1 —The City shall maintain air quality within its jurisdiction in conformance with state and federal air quality guidelines.

Policy 11.B.1.2 —New developments with the potential to emit pollutants into the air will be required to obtain the necessary permits from the Florida Department of Environmental Protection or the U.S. Environmental Protection Agency prior to commencing construction.

Policy 11.B.1.3 —The LDC shall contain provisions which require any development with point source emissions which may degrade air quality to comply with all applicable federal and state regulations regarding emission control. These regulations may include the installation of scrubbers, emission treatment facilities and the like.

Policy 11.B.1.4 —The City will continue to cooperate with the Department of Environmental Protection so that minimum air quality levels, established by the department, are maintained.

Objective 11.B.2 —Conserve, appropriately use and protect the quality and quantity of water sources and of waters that flow into Santa Rosa Sound by including appropriate regulations within the LDC (reference Policy 7.A.1.1).

Policy 11.B.2.1 —The City shall protect water quality by restricting or prohibiting activities known to adversely affect the quality or quantity of identified water sources (reference Policies 7.A.1.1, 7.A.1.2, 7.A.4.1, 7.A.4.2, 7.A.5.1, 10.A.1.6, 10.A.1.7, 10.C.1.3, 11.A.1.2 and 11.A.2.2). Note: There are no prime ground water recharge areas or cones of influence within the city (reference Chapter 7 of the Foundation Documents, Exhibit A).

Policy 11.B.2.2 —In cooperation with the Northwest Florida Water Management District, the City shall implement any emergency water conservation plans necessary to protect water sources during periods of insufficient supply.

Policy 11.B.2.3 —The City will require all septic tank users to connect to the central sewer system within one year of notification of sewer availability.

Policy 11.B.2.4 —The City of Mary Esther, the City of Fort Walton Beach and Okaloosa County shall execute an inter-local agreement which will establish procedures whereby each city will be afforded the opportunity to review development proposals that affect Santa Rosa Sound or other water bodies so that adequate sites for water dependent uses are made available, estuarine pollution is prevented, surface water run-off is controlled, living marine resources are protected, exposure to natural hazards is reduced and public access to the shoreline is maintained.

Policy 11.B.2.5 —The City will continue its practice of not approving any development plan which does not provide for the development to be connected to the central sewage system. Therefore, the City shall prohibit the installation of any new septic tanks within the city.

Policy 11.B.2.6 — The City shall continue to enforce the provisions of Ordinance 2004-13 which provides for the use of xeriscape landscaping, water saving devices, promotes the use of native plants, restricts the use of certain plants and accomplishes other things in order to reduce the demand for water and energy.

Objective 11.B.3 —The City will continually conserve and protect earth resources (soils, minerals and vegetation); enhance degraded natural areas; and conserve, appropriately use, or protect unique native or aquatic vegetative communities.

Policy 11.B.3.1 —The LDC shall contain requirements that limit land uses or construction techniques to those compatible with soil conditions specific to the site. The regulations shall include boring and soils test conducted by testing facilities licensed by the State of Florida, when necessary.

Policy 11.B.3.2 —The City will work independently and cooperate with other local political entities and officials of local governments within Okaloosa County to conserve, appropriately use, or protect unique native or aquatic vegetative communities located within more than one jurisdiction. The Okaloosa County Comprehensive Plan Committee shall be the vehicle used to facilitate the cooperation herein described.

Policy 11.B.3.3 —The City will develop and maintain an environmentally sensitive lands inventory which shall include, but not be limited to, floodplains as identified by the F.E.M.A.; wetlands under the jurisdiction of the Department of Environmental Protection or the U.S. Army Corps of Engineers; and the areas identified by the Florida Natural Areas Inventory. In addition, the sensitive lands inventory shall include identified native vegetative communities using resources such as the Florida Fish and Wildlife Conservation Commission (FWC), Florida Department of Environmental Protection (DEP), U.S. Environmental Protection Agency (EPA).

Policy 11.B.3.4 —Extraction of minerals or other natural resources shall be regulated pursuant to Policy 7.A.4.2.

Policy 11.B.3.5 —The City shall continue to enforce its open space and buffer requirements contained within Chapter 21 of the City Code.

Policy 11.B.3.6 —The LDC shall include regulations which provide for the preservation and protection of native vegetation and trees.

Policy 11.B.3.7 —The City shall require identification of any and all hazardous wastes or materials used or stored by any licensed business within the city. This practice shall be implemented through the issuance (or denial) of a business license based upon an adequately completed application form containing the hazardous materials information on the form.

Objective 11.B.4 —Continually conserve, appropriately use and protect fisheries, fishery habitats, wildlife habitats and other marine or wildlife resources in or near the city.

Policy 11.B.4.1 —The City shall assist in the implementation of and compliance with all state and federal regulations which pertain to endangered and rare species and will provide protection for the integrity of areas known to provide habitats for such species when issuing development permits (reference Policy 11.A.1.4).

Policy 11.B.4.2 —The City shall cooperate with the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, and other state or federal agencies so as to provide the fullest protection to marine or wildlife habitats that may be impacted by existing or proposed development.

Policy 11.B.4.3 —No development permit shall be approved if construction pursuant to the permit would threaten the life or habitat of any species listed on the Federal Endangered Species Inventory or designated as "threatened" or "species of special concern" either by the state or federal governments.

(Ord. No. 99-02, 3-1-99; Ord. No. 00-01, 4-10-00; Ord. No. 2010-03, § 4(Att. A), 3-9-10)