

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 subsection 9J-5.005(2), F.A.C., 9J-5.012(2), F.A.C. and 9J-5.013(1), F.A.C. (reference Sections 5.03, 5.06 and 5.07 of this Ordinance and Chapter 8 of the Foundation Documents).

Section 11.03 Omissions: There are NO identified prime (potable) natural groundwater aquifer recharge areas or deep water ports within the City (reference Chapter 7, Exhibit A, Foundation Documents).

Section 11.04 Goals, Objectives and Policies: The Goals, Objectives and Policies of this element are as follows:

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 and wildlife habitats by including regulations within the LDC (reference Policy 7.A.1.1) necessary to implement Policies 11.A.1.1 through 11.A.1.8, among others.

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, 10.C.1.3, 11.A.1.8 and 11.A.2.2 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 - Limit public expenditures in the coastal high hazard area to the provision of recreation uses, protection of natural resources or to increase the public's access to the shoreline (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

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

areas known to provide habitats for these species when issuing development permits (reference Policy 11.A.1.8).

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, 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. The regulations shall include provisions which limit (restrict) the alteration of the shoreline. Further, the regulations and criteria used by the City shall include site specific reviews for each development proposal for shoreline parcels. Also, see Policies 11.A.1.2 and 11.A.2.2.

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.

Policy 11.A.1.8 - The City shall provide protection to the habitat of the Okaloosa Darter, an endangered species residing in Rocky Bayou, by strictly enforcing the requirements of the Stormwater Management Ordinance; by continuing to support the public acquisition of land around Rocky Bayou; and implementation of Policy 11.A.1.1 of this Ordinance.

Objective 11.A.2 - Maintain and/or improve estuarine environmental quality by including regulations within the LDC (reference Policy 7.A.1.1) necessary to implement Policies 11.A.2.1 through 11.A.2.3, among others.

Policy 11.A.2.1 - The City shall implement the land use categories shown on the Future Land Use Maps (Figure 4-1, Numbers 1-4) 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).

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

Policy 11.A.2.3 - The City will implement the recommendations found within the Boggy Bayou Restoration Assessment, completed in 2008. Recommendations include the exploration of maintenance activities to remove and discourage the growth of nuisance vegetation, implementation of additional stormwater policies for new developments, ongoing water sampling to identify problem areas, and possible maintenance dredging of the Bayou.

Policy 11.A.2.4 – The City will continue to take advantage of available funding sources for future stormwater improvements, including funding from the Water Management District’s grant program.

Policy 11.A.2.5 - The City shall participate in the Choctawhatchee Basin Alliance and the Surface Water Improvement and Management (SWIM) programs to the extent that such programs affect activities of the City in its efforts to protect the Bay and Bayous. The City shall work in close coordination with the Choctawhatchee Bay and River SWIM Plan Committees to the extent practical and to the extent the actions of the committees affect activities of the City. If there are particular recommendations in the SWIM Plan that would apply to the City, the Comprehensive Plan will be amended within one year based on the recommendations in the SWIM Plan, including policies related to development practices, uses on the Future Land Use Map, and capital improvements. The City shall continue to utilize any relevant water quality sampling efforts undertaken by these entities as stormwater management improvements are constructed.

Objective 11.A.3 - Provide criteria and standards for shoreline land uses within the LDC (reference Policy 7.A.1.1). The standards shall include priority consideration for water-dependent or water-related uses pursuant to Policy 11.A.3.3.

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

Policy 11.A.3.2 - The LDC shall contain the City's Zoning Ordinance (or any amendments or successor ordinances which may be adopted by the City) which shall provide land use criteria for shoreline uses.

Policy 11.A.3.3 - Except for the North end of Boggy Bayou, Niceville shall limit all future development on the Bay to low density residential, recreational use or marinas.

Policy 11.A.3.4 - The LDC shall contain regulations for marina siting and the regulations shall include criteria such as:

- a. Land use capability and availability of support services;
- b. Existing ownership;
- c. Evacuation planning;

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

- d. Water quality and depths;
- e. Availability for public use;
- f. Economic need and feasibility;
- g. A requirement for all necessary regulatory agency permits prior to issuing construction (development) permits; and
- h. Use of the model Marina Siting Ordinance produced by the Florida State University Center for Aquatic Research and Resource Management as a guide in developing the regulations herein referenced.

Objective 11.A.4 - Establish construction standards within the LDC which minimize the impacts of man made structures on the shoreline, the bayous and any beach or dune systems within the City (reference Policy 7.A.1.1).

Policy 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 coastal high hazard areas upon adoption of the LDC (reference Policy 7.A.1.1).

Policy 11.A.5.1 - Coastal high hazard areas shall be defined as the area below the elevation of the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

Policy 11.A.5.2 - The City shall limit public expenditures within the coastal high hazard area to the provision of recreational opportunities, protection of important natural resources or to increase the public's access to the shoreline (reference Policy 14.A.2.1).

Policy 11.A.5.3 - The LDC shall contain building regulations regarding construction near the coastal high hazard area and the regulations shall include criteria such as:

- a. First floor elevations;
- b. Wind load requirements;
- c. Frangible ancillary structures; and
- d. The use of fill in floodplains shall be prohibited unless the applicant for such fill has obtained all necessary permits from state or federal regulatory agencies (DEP, COE, etc.).

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

- e. Other requirements necessary to protect and preserve the health and safety of the public.

Policy 11.A.5.4 - The City shall review and analyze general hazard mitigation strategy reports/plans produced by County, Regional, State or Federal agencies in order to determine if any grants should be pursued, or 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 or grants applied for will be to reduce or eliminate the exposure of lives and property to natural hazards.

Policy 11.A.5.5 - The City shall consider the relocation, mitigation or replacement of infrastructure currently present within the CHHA where state funding is anticipated to be needed.

Objective 11.A.6 - Direct population concentrations away from coastal high hazard areas upon adoption of this Ordinance.

Policy 11.A.6.1 - The City shall allow NO new permanent residential structures within the coastal high hazard area except as provided in Policy 11.A.3.3 of this Ordinance.

Objective 11.A.7 - Maintain or reduce hurricane evacuation times upon adoption of this Ordinance.

Policy 11.A.7.1 - The City shall cooperate with Okaloosa County so as to manage and implement the "Peace Time Emergency Plan, Okaloosa County, Florida" and utilize the recommendations and guidance provided in the Tri-State Hurricane Evacuation Study, Appendix C, Transportation Analysis, June 1986, by the U.S. Army Corps of Engineers, Mobile District. These plans are to be integrated into the Regional Hurricane Evacuation Plan.

Policy 11.A.7.2 - Continue to support critical roadway segment improvements through participation with the Okaloosa-Walton TPO and interaction with the Florida DOT to further reduce and improve hurricane evacuation times. Note: There are no identified deficiencies in the Hurricane Evacuation Analysis.

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.

Policy 11.A.7.4 - The City shall continue to support and promote construction of the Northwest Florida Transportation Corridor Authority's Niceville By-Pass which, upon completion, will improve traffic flow during evacuation events (also, see Policy 8.A.2.5).

Objective 11.A.8 - Continue to implement the post-disaster redevelopment plans to reduce or eliminate the exposure of human life and public and private property to natural hazards.

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

Policy 11.A.8.1 - The City shall continue its participation in the national flood insurance program in conformance with Public Law 93-288 (reference Policy 7.A.4.3).

Policy 11.A.8.2 - The City's post-disaster redevelopment plan will distinguish between immediate repair and clean up actions needed to protect public health and safety and long-term repair and redevelopment activities.

Policy 11.A.8.3 - The City Administration shall maintain an inventory of areas within the City which have experienced repeated damage from coastal storms. 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 50% of their appraised value shall be rebuilt in accordance with all current and applicable land use and building code requirements.

Objective 11.A.9 - Increase public access to the shoreline upon adoption of this Ordinance.

Policy 11.A.9.1 - 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.9.2 - Shorelines re-nourished or protected at public expense shall be made available for public use.

Policy 11.A.9.3 - The City will continue to maintain City owned shoreline or open space access sites and provide adequate parking facilities for each site.

Policy 11.A.9.4 - The City will continue to seek all available federal and state financial assistance to increase public access to the shoreline.

Policy 11.A.9.5 - The LDC shall contain incentives for recreational water dependent uses along the bayous.

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

Objective 11.A.10 - The City will adopt, maintain and enforce land development regulations within the LDC which provide for the protection, preservation or sensitive re-use of historic resources (reference Policy 7.A.1.1).

Policy 11.A.10.1 - The City shall adopt, as part of the LDC, performance standards and guidelines for the preservation or adaptive re-use of historic resources upon identification of such resources (reference Policies 7.A.4.4 and 7.A.4.5).

Objective 11.A.11 - 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.11.1 - The City has adopted a Land Development Code within the time frame specified by Rule in the F.A.C. (reference Section 5.11 and Policy 7.A.1.1).

Policy 11.A.11.2 - The level of service standards shall be those delineated in Policies 8.A.2.1, 8.A.2.2, 10.A.1.2, 10.B.1.4, 10.C.2.2, 10.D.1.1 and 12.A.3.2.

Policy 11.A.11.3 - Infrastructure improvements and areas of service shall be phased and determined pursuant to Chapter 14 of this Ordinance.

Policy 11.A.11.4 - Development in the shoreline (coastal) areas 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 (within the LDC) 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 Department of Environmental Protection or the U.S. Environmental Protection Agency prior to authorization of a development permit by the City.

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.

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

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 the bay or bayous 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.4.1, 7.A.4.2, 7.A.5.1, 7.A.8.4, 10.A.1.5, 10.C.1.3, 11.A.1.2, 11.A.2.2 and 11.B.2.3). 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.2.1.1 – The City shall implement recommendations of the City of Niceville Water System Facilities Plan which includes the projected needs through 2020. Elements of this Plan for infrastructure improvements and water conservation programs are defined and funded in the approved Capital Improvement Plan. Water conservation measures include expanding the reclaimed water system so that reclaimed water can be used for irrigation instead of potable water; and continuing to educate the public on water conservation issues.

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.2.2.1 – The City shall implement the Northwest Florida Water Management District’s Regional Water Supply Plan.

Policy 11.B.2.2.2 – The City shall demonstrate full consideration of the most current NFWMD Regional Water Supply Plan when proposing and/or amending the Water Supply Facilities Work Plan.

Policy 11.B.2.2.3- The City will continue to expand and encourage the use of reclaimed water in the City in order to discourage the use of potable water for irrigation purposes and thus reduce the dependence on the Floridan aquifer.

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 - Through regular meetings of the Okaloosa County Comprehensive Plan Committee, the City of Valparaiso and the City of Niceville shall be afforded the opportunity to review development proposals that affect Boggy Bayou 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.

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

Objective 11.B.3 - Continually conserve and protect earth resources (soils, minerals and vegetation) by implementing Policies 11.B.3.1 through 11.B.3.8.

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 cooperate with officials of the local governments within Okaloosa County to conserve, appropriately use, or protect unique 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 continue to maintain an environmentally sensitive lands inventory which shall include, but not be limited to, floodplains as identified in the National Flood Insurance Program (NFIP) by the Federal Emergency Management Agency; 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.

Policy 11.B.3.4 - Extraction of minerals or other natural resources shall be permitted only where compatible with adjacent land uses and where minimal resource degradation will occur (reference Policy 7.A.4.2). For the purposes of this policy, "compatible with adjacent uses" shall be defined as being conducted only within industrial zones of the City or incidental to approved construction within the City. Minimal degradation shall be determined by the appropriate regulatory agencies referenced in Policy 7.A.4.2.

Policy 11.B.3.5 - The City shall continue to enforce Ordinance 590 (the Zoning Ordinance, or any amendments or successor ordinances which may be adopted by the City) and the open space and buffer requirements contained within said Ordinance.

Policy 11.B.3.6 - The LDC shall include provisions for the preservation and protection of native vegetation and certain trees during development or construction activities.

Policy 11.B.3.7- The City shall continue its practice of requiring identification of any and all hazardous wastes or materials used or stored by any licensed business within the City. This practice shall continue to 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 - Conserve, appropriately use and protect fisheries, fishery habitats, wildlife habitats and other marine or wildlife resources in or near the City by implementing Policies 11.B.4.1 through 11.B.4.3, among others.

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

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, or 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 within the City.

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 any species designated as "threatened" or any species designated as "species of special concern" either by the State or Federal Governments.

Objective 11.B.5 – Conserve and protect the natural functions of wetlands within the City of Niceville. Wetlands, for the purpose of this section, shall be defined as those areas that fall under the jurisdiction of the U.S. Army Corps of Engineers or the Florida Department of Environmental Protection, the jurisdictional lands under the Northwest Florida WMD, and as maintained in the environmentally sensitive lands inventory of Policy 11.B.3.3. The City adopts by reference the definition of wetlands as found in Section 373.019(25), F.S.S. See also Figure 4.3 of the Future Land Use Element Data & Analysis document.

Policy 11.B.5.1 – As stated in the Future Land Use Element of this Comprehensive Plan, future land uses will be coordinated with appropriate topography and soil conditions in order to protect the environmentally sensitive lands designated within the LDC and defined in Policy 11.B.3.3.

Policy 11.B.5.2 – No development activities shall be undertaken in a protected environmentally sensitive zone, including the wetlands protection zone and shoreline protection zone, except for those activities outlined under Article 11.01.06 of the LDC.

Policy 11.B.5.3 – Special design standards will be enforced in the wetlands protection zone, as included in LDC Article 11.01.09. These design standards include the retention or creation of buffers between all development and all environmentally sensitive zones, the restoration of any portion of a protected environmentally sensitive zone damaged during construction, and other protective measures as necessary to prevent significant adverse effects on a protected environmentally sensitive zone. LDC Article 11.01.09 states, *in pertinent part*, “the decision as to the size of the buffer shall be stated as a finding in the written record.” LDC Article 12.04.02(d)(2) states, “Buffer zones waterfront property. Vegetated buffer strips shall be retained in their natural state along the banks of all natural watercourses, waterbodies, wetlands or beach front, within twenty-five (25) feet of mean high tide. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, provide access to the waterbody and allow for periodic flooding without damage to the structures. These areas may be mowed or trimmed as desired.” The City will consider revising the LDC and this Policy to state

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010

that the buffer shall be that as stated as a finding in the written record, or fifty (50) feet, whichever is greater.

Policy 11.B.5.4 – Mitigation procedures outlined in the LDC must be followed in any case where development degrades estuaries, wetlands, bayous, harbors, or other natural resources. Compensatory wetland mitigation ratios vary by wetland type, and shall require that the amount of wetlands purchased, created, enhanced or restored be large enough to assure that the amount of wetlands destroyed or degraded will be completely and successfully replaced. (LDC Article 11.03.00)

Policy 11.B.5.5 – To alleviate any hardship caused by development restrictions on the use of environmentally sensitive areas, the clustering of residential or commercial development within the nonsensitive portions of the project site shall be permitted as described in Article 11.03.02 of the LDC.

DCA No. 11-1
Ord. No. 11-04-03 April 12, 2011

DCA No. 10-1ER
Ord. No. 10-10-01 October 12, 2010