

Brevard County Comprehensive Plan Conservation Element Wetlands

Objective 5

Preserve, protect, restore, and replace wetlands to achieve no net loss of functional wetlands in Brevard County after September, 1990. The County shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority.

Why does Brevard County have a Comprehensive Plan?

Florida Statute, Title XI, Chapter 163, Part II - Growth Policy; County and Municipal Planning; Land Development Regulation

F.S. 163.3167 - Scope of Local Government Comprehensive Planning and Land Development Regulation Act:

- (1) The several incorporated municipalities and counties shall have power and responsibility:
 - (a) To plan for their future development and growth.
 - (b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.
 - (c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.
 - (d) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0163/titl0163.htm&StatuteYear=2008&Title=-%3E2008-%3EChapter%20163

Why does Brevard County have a Comprehensive Plan?

Florida Administrative Code 9J-5 (Minimum Criteria for Review of Local Government Comprehensive Plans and Plan Amendments, Evaluation and Appraisal Reports, Land Development Regulations and Determinations of Compliance)

F.A.C. 9J-5.001 - Purpose:

- (1) This chapter establishes minimum criteria for the preparation, review, and determination of compliance of comprehensive plans and plan amendments pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, F.S. This chapter establishes criteria implementing the legislative mandate that local comprehensive plans be consistent with the appropriate strategic regional policy plan and the State Comprehensive Plan, and recognizes the major role that local government will play, in accordance with that mandate, in accomplishing the goals and policies of the appropriate comprehensive regional policy plan and the State Comprehensive Plan.

F.A.C. 9J-5.012 - Coastal Management:

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

F.A.C. 9J-5.013 - Conservation Element:

The purpose of the conservation element is to promote the conservation, use and protection of natural resources.

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=9J-5>

Why does Brevard County regulate Wetlands?

9J-5.012 (Coastal Element) Primary Policy Governing Wetlands (additional applicable policies can be found at the link above):

- (2) Coastal Management Data And Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C...
 - (b) Inventories and analyses of the effect of the future land uses as required to be shown on the future land use map or map series on the natural resources in the coastal planning area shall be prepared including: vegetative cover, including wetlands; areas subject to coastal flooding; wildlife habitats; and living marine resources. Maps shall be prepared of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern to local government...
- (3) Requirements for Coastal Management Goals, Objectives, and Policies...
 - (a) The coastal management element shall contain one or more goal statements which establish the long term end toward which regulatory and management efforts are directed. These shall reflect the stated intent of the Legislature in enacting Section 163.3178, F.S., which is that local governments in their comprehensive plans restrict development activities that would damage or destroy coastal resources, and protect human life and limit public expenditures in areas subject to destruction by natural disasters.
 - (b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(g) and Section 163.3178, F.S., and which:
 - 1. Protect, conserve, or enhance remaining coastal wetlands, living marine resources, coastal barriers, and wildlife habitat;

Continued below...

Why does Brevard County regulate Wetlands?

9J-5.012 (Coastal Element) Primary Policy Governing Wetlands (cont.):

- (c) The element shall contain one or more policies for each objective and shall identify regulatory or management techniques for...
1. Limiting the specific impacts and cumulative impacts of development or redevelopment upon wetlands, water quality, water quantity, wildlife habitat, living marine resources, and beach and dune systems;
 2. Restoration or enhancement of disturbed or degraded natural resources including beaches and dunes, estuaries, wetlands, and drainage systems; and programs to mitigate future disruptions or degradations...
 15. Demonstrating how the local government will coordinate with existing resource protection plans such as resource planning and management plans, aquatic preserve management plans, and estuarine sanctuary plans.

Why does Brevard County regulate Wetlands?

9J-5.013 (Conservation Element) Policy Governing Wetlands (additional applicable policies can be found at the link above):

(1) Conservation Data and Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) The following natural resources, where present within the local government's boundaries, shall be identified and analyzed:

1. Rivers, bays, lakes, wetlands including estuarine marshes, groundwaters and air, including information on quality of the resource available from and classified by the Florida Department of Environmental Regulation...

(b) For each of the above natural resources, existing commercial, recreational or conservation uses, known pollution problems including hazardous wastes and the potential for conservation, use or protection shall be identified.

(2) Requirements for Conservation Goals, Objectives and Policies.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

5. Restriction of activities known to adversely affect the survival of endangered and threatened wildlife;
6. Protection and conservation of the natural functions of existing soils, fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including estuarine marshes, freshwater beaches and shores, and marine habitats...
8. Continuing cooperation with adjacent local governments to conserve, appropriately use, or protect unique vegetative communities located within more than one local jurisdiction;
9. Designation of environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element...

Continued below...

Why does Brevard County regulate Wetlands?

9J-5.013 (Conservation Element) Policy Governing Wetlands (cont.):

(3) Policies Addressing the Protection and Conservation of Wetlands.

- (a) Wetlands and the natural functions of wetlands shall be protected and conserved. The adequate and appropriate protection and conservation of wetlands shall be accomplished through a comprehensive planning process which includes consideration of the types, values, functions, sizes, conditions and locations of wetlands, and which is based on supporting data and analysis.
- (b) Future land uses which are incompatible with the protection and conservation of wetlands and wetland functions shall be directed away from wetlands. The type, intensity or density, extent, distribution and location of allowable land uses and the types, values, functions, sizes, conditions and locations of wetlands are land use factors which shall be considered when directing incompatible land uses away from wetlands. Land uses shall be distributed in a manner that minimizes the effect and impact on wetlands. The protection and conservation of wetlands by the direction of incompatible land uses away from wetlands shall occur in combination with other goals, objectives and policies in the comprehensive plan. Where incompatible land uses are allowed to occur, mitigation shall be considered as one means to compensate for loss of wetlands functions.

Wetland Facts

Wetlands serve valuable functions that benefit everyone, including:

- Cleaning and filtering pollutants from surface waters
- Storing water from storms or runoff
- Preventing flood damage to developed lands
- Recharging groundwater
- Serving as nurseries for saltwater and freshwater fish and shellfish that have commercial, recreational, and ecological value
- Serving as the natural habitat for a variety of fish, wildlife and plants, including rare, threatened, endangered and endemic (native) species



Existing Commercial/Industrial Policies

- E. The following land use and density restrictions within wetlands are established as a maximum density or most intense land use that may be considered only if the other criteria established in Conservation Element Policy 5.2 are met:
3. Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial and industrial after February 23, 1996, and in surrounding buffers for such wetlands, with specifications based on the Buffer Zones for Water, Wetlands, and Wildlife in the East Central Florida Region, (1990, Brown, M.T., Schaefer, and K. Brandt, published by the Center for Wetlands, University of Florida), except for certain commercial development at I-95 interchanges that are consistent with the following criteria:
 - a. There will be no less than 100,000 square feet of commercial building within a project;
 - b. There is current overcapacity on the adjacent roadways, and it is projected that roadway capacity within four (4) miles of the intersection will be no more than 80% of the congestion ratio (the ratio of projected volume to maximum allowable volume) after 500,000 square feet of commercial space has been developed within one-half mile of the intersection of the off-ramp with the connecting roadway;
 - c. Wetland mitigation shall equal or exceed 125% of the mitigation which is otherwise required;

Existing Policy 5.2.E.3 (cont.)

- d. The development is located within one-half mile of the intersection of the off-ramp with the connecting roadway;
- e. There will be no more than two curb cuts on each quadrangle of the interchange within one-half mile of the connection of the off-ramp and the connecting roadway; and
- f. A maximum of forty (40) acres shall be allotted in proximity to the interchange, counting both sides.

Existing Policy 5.2.E.4

4. Commercial and industrial land development activities may be permitted in wetlands contained in properties designated on the Future Land Use Map as commercial and industrial prior to February 23, 1996, only if all of the following criteria are met:
 - a. The property is substantially surrounded by land(s) developed as commercial or industrial as of February 23, 1996, and has sufficient infrastructure in place to serve the commercial or industrial use.
 - b. The proposed land development activity will not result in increased flooding problems on adjacent properties.
 - c. The wetland is not classified by the Florida Land Use, Cover and Forms Classification System (1985) as a Stream and Lake Swamp (FLUCS 615), Cypress (FLUCS 621), Atlantic White Cedar (FLUCS 623), Wetland Forested Mixed (FLUCS 630), or Wet Prairies (FLUCS 643).

For wetlands specified in 5.2.F.3(c), the wetland functionality shall be maintained and protected by a 15 foot natural, native vegetative buffer for isolated wetlands and by a 50 foot natural, native vegetative buffer for other wetlands. The Forested Wetlands Location Map depicts the location of the following wetland types (FLUCS 615, 621, 623, 630, and 643), which also possess commercial or industrial zoning classifications and Future Land Use Map designations as of February 23, 1996, and is incorporated herein by this reference.

Existing Policy 5.2.E.8

8. The utilization of fill should be kept to a minimum and related primarily to structural building area requirements, on-site disposal system requirements, the 100-year flood elevation requirement for first floor elevations, and to one primary access to the onsite structures.

