

1 Chapter I

2 **COMPREHENSIVE PLAN**
3 **ADMINISTRATION AND INTERPRETATION**

4
5 **INTRODUCTION**

6 This Chapter sets forth the procedures and criteria for interpreting and amending the town of
7 Ponce Inlet Comprehensive Plan.

8
9 **PLAN INTERPRETATION**

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

17 ***A. Use and Status of Support Document***

18 The Comprehensive Plan support document establishes the base data compiled to
19 support the goals, objectives and policies to guide the future development of the town.

20 The support document is not adopted as part of the plan but may be used in any
21 interpretation and amendment of the Comprehensive Plan. The support document may
22 be updated as part of a future Comprehensive Plan amendment and portions may be
23 incorporated as a Plan amendment if deemed appropriate. The support document is
24 located in the development services department office.

25 ***B. Interpretation of Implementation Mechanisms***

26 It is not the intent of the town council to limit the number of means available to implement
27 the Comprehensive Plan. Implementation mechanisms that may be identified within each
28 plan element are representative mechanisms to accomplish goals, objectives and/or

29 policies. Additional implementation mechanisms may be employed along with those listed
30 in the plan.

31

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

37

38 **C. Interpretation of Conflicts**

39 Conflicts shall be interpreted using the following criteria:

40 1. In the event of any difference of meaning or implication between the text of the plan
41 and any caption, illustration, other than the future land use map and/or summary or
42 illustrative table, the text shall be used to make an administrative interpretation.

43 2. In the event of a conflict between the future land use map and any other map or table
44 in the plan, the future land use map shall be used to make an administrative
45 interpretation.

46 3. In the event of a conflict between plan goals, objectives and policies or any other
47 portion of the plan text, the goals, objectives and policies shall be used to make an
48 administrative interpretation.

49

50 **D. Interpretation of Undefined Terms**

51 Terms not otherwise defined herein shall be interpreted first by reference to the relevant
52 provisions of the Local Government Comprehensive Planning and Land Development
53 Regulation Act, if specifically defined therein, or other relevant and appropriate state
54 statutes or rules; secondly, by reference to generally accepted planning or otherwise
55 professional terminology if technical; thirdly by terms in the town's LUDC and otherwise
56 according to Webster's New Collegiate Dictionary, G. & C. Merriam Co. (latest edition).

57

58 ***E. Comprehensive Plan Interpretations***

59 It is the responsibility of the town planner to make Comprehensive Plan interpretations.

60 An application for a plan interpretation shall be filed with the development services
61 department on forms available from the department together with the appropriate fee as
62 may be required by resolution of the town council.

63

64 The town planner shall make an interpretation upon receipt of a complete application.

65 Any determination of the town planner regarding an interpretation may be appealed to the
66 town council as set forth in this chapter. Plan interpretations may be required as a result
67 of one of the following actions:

- 68 1. Failure to obtain a Comprehensive Plan consistency finding based on submission of
69 an application for a development order and/or permit.
- 70 2. Request for clarification of future land use designation boundaries.
- 71 3. Any other action which would require a Comprehensive Plan interpretation.

72

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

74 Consistency and concurrency are separate determinations. Chapter 163, Part II, (F.S.)
75 requires that development orders and permits be consistent with the Comprehensive
76 Plan. A finding of consistency does not constitute a finding of concurrency. Concurrency
77 requirements are required by §163.3202 (F.S.) and are subject to Ponce Inlet's Land Use
78 and Development Code (LUDC) concurrency management system requirements to
79 determine if the impact of a development would meet or exceed the capacity of the
80 available public infrastructure to support said development.

81

82 ***G. Appeal of Town Planner's Interpretation of the Comprehensive Plan***

83 Any plan interpretation made by the town planner under the provisions of this chapter
84 may be appealed to the town council. An appeal shall be submitted within ten days after

85 rendition of the interpretation of the town planner by filing with the town clerk a written
86 notice of appeal application available from the development services department together
87 with the appropriate fee as may be required by resolution of the town council.

88

89 Upon receipt of a complete notice of appeal application, the town planner shall transmit to
90 town council all documents, plans, papers, minutes, applications, recommendations, or
91 other materials relating to the appealed decision. The appeal application shall be heard
92 by the town council after receipt of a complete notice of appeal application. In its
93 deliberations, the town council shall decide that the determination of the town planner is
94 either consistent or inconsistent with the Comprehensive Plan and then shall direct the
95 disposition of the appeal.

96

97 ***H. Appeals of the Town Council Decision***

98 Any town council decision related to a plan interpretation may be appealed to a court of
99 competent jurisdiction within thirty days after the rendition of the decision of the town
100 council. The appellant shall notify all interested persons as required by law and have
101 established a record before the town council during its hearing on the appeal.

102

103 **PLAN AMENDMENTS**

104 From time to time it will be necessary to amend the town's Comprehensive Plan to keep up with
105 changing conditions, to comply with state mandated updates and evaluations, to achieve
106 implementation of the plan, and to provide citizens and affected parties a means of recourse to
107 participate in the town's comprehensive planning program.

108 All amendments and procedures for amendment to the Comprehensive Plan shall comply with
109 the provisions of Chapter 163, Part II (F.S.). Except for the applicable provisions of
110 §163.3177(3)(b) and §163.3187(2) (F.S.), any action which requires a change to any of the plan's
111 maps, text, figures, tables, or charts and any other change having the effect of altering the use of

112 land as prescribed by the plan shall be deemed to require a Comprehensive Plan amendment.

113 All amendments shall comply with the following criteria:

114

115 **A. *Types of Comprehensive Plan Amendments***

116 The Comprehensive Plan may be amended as a result of one of the following types of
117 application:

118 **1. Mandated Amendment**

119 An amendment required to comply with state laws and rules thereof. A mandated
120 amendment would include any type of court directed or other settlement in accord
121 with state law.

122 **2. Large Scale Amendment**

123 An amendment, other than a small scale amendment as described in subsection 3
124 below. Large scale amendments are subject to the applicable amendment
125 procedures and requirements of Chapter 163, Part II (F.S.).

126 **3. Small Scale Amendment**

127 An amendment that qualifies as a small scale amendment under the provisions of
128 §163.3187(1) (c) F.S.

129

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

131 **1. Mandated amendments** shall not require a formal application but shall be
132 constructed in form to meet the requirements of Chapter 163, Part II (F.S.), and
133 Administrative Rule 9J-5. No fee is required for a mandated amendment.

134 **2. An application for a large or small scale amendment** shall be filed with the
135 development services department on forms available from the department, together
136 with the appropriate fee as may be required by resolution of the town council. The
137 application shall contain all required exhibits, information and materials and a staff
138 report. Depending on the type of amendment, the department may require the
139 applicant to attend a pre-application meeting. The department will schedule the

140 meeting and may invite other public agencies and representatives as appropriate to
141 attend.

142

143 **C. *Planning Commission and Town Council Action.***

144 1. Upon receipt of a complete plan amendment application, the development services
145 department shall schedule said application to be heard by the planning commission.
146 The commission shall consider the application and shall forward its recommendation
147 to town council for their action.

148 2. It shall be the responsibility of the town council to approve, approve with conditions,
149 continue, or deny the amendment. All amendments must meet the requirements as
150 set forth by Chapter 163, Part II (F.S.) and the applicable rules of the Volusia Growth
151 Management Commission (VGMC). No amendment can be considered in effect until
152 certified by the VGMC and as provided by Florida law.

153

154 **CHALLENGES**

155 **A.** The right of any affected person to challenge a Comprehensive Plan amendment shall be
156 as set forth in §163.3184 (F.S.).

157 **B.** The right of any aggrieved or adversely affected party to appeal and challenge the
158 consistency of a development order with the Comprehensive Plan shall be as set forth in
159 §163.3215 (F.S.).

160

161 **DEVELOPMENT RIGHTS**

162 Ponce Inlet's Comprehensive Plan shall be construed to be consistent with the provisions of the
163 Florida Statutes, specifically §163.3167(8) that states: "Nothing in this act shall limit or modify the
164 rights of any person to complete any development that has been authorized as a development of
165 regional impact pursuant to Chapter 380 or who has been issued a final local development order
166 and development has commenced and is continuing in good faith."