

ORDINANCE NO. 2010-05

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, RELATING TO THE TOWN COMPREHENSIVE PLAN; MAKING FINDINGS; AMENDING SECTION 2A-1, OF THE LAND DEVELOPMENT CODE, APPENDIX A, MELBOURNE BEACH CODE OF ORDINANCES, BY REFERENCING ADOPTION OF THIS ORDINANCE AMENDING THE COMPRHENSIVE PLAN; ADOPTING THE PUBLIC SCHOOL FACILITIES ELEMENT; AMENDING THE CAPITAL IMPROVEMENTS ELEMENT AND THE INTERGOVERNMENTAL COORDINATION ELEMENT; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR THE REPEAL OF INCONSISTENT RESOLUTIONS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3177(12), Florida Statutes, requires adoption of a Public School Facilities Element;

WHEREAS, the Town's Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed, at an advertised public hearing at which due public notice, the proposed Public School Facilities Element and corresponding amendments to the Capital Improvements Element, and the Intergovernmental Coordination Element, of the Comprehensive Plan;

WHEREAS, the proposed Public School Facilities Element and corresponding amendments to the Capital Improvements Element and the Intergovernmental Coordination Element were transmitted to the Florida Department of Community Affairs

("DCA") for review, and the DCA has found that the proposed amendments meet the review requirements of the Local Government Comprehensive Planning and Land Development Regulation Act;

WHEREAS, the Town Commission has held two public hearings advertised as required by law;

WHEREAS, the Town Commission finds that the proposed plan amendment is internally consistent with the Town's Comprehensive Plan, is financially feasible, is consistent with the Public School Facilities Elements adopted by other local governments as required by Section 163.3177(12), Florida Statutes, and the element is based upon data and analyses meeting the requirements of Section 163.3177(12)(c), Florida Statutes;

WHEREAS, the Town Commission finds that this Ordinance and the appended amendments to the Comprehensive Plan are in the best interest of the public health, safety, aesthetics, and welfare of the community and the region,

**BE IT ENACTED BY THE TOWN OF MELBOURNE BEACH, FLORIDA:**

SECTION 1. That Section 2A-1, Appendix A, of the Town Code of the Town of Melbourne Beach, Florida, is hereby amended to read as follows:

**§ 2A-1. PLAN ADOPTED BY REFERENCE.**

Pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161 et seq., Florida Statutes, the Town Comprehensive Plan, as prepared by the Local Planning Agency, and including but not limited to: goals, objectives and policies for ten ~~nine~~ elements, including: coastal management; τ conservation; τ intergovernmental coordination; τ capital improvements; τ sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge; τ housing; τ future land use; τ traffic circulation; τ public school facilities; and recreation and open space; Procedures for monitoring and evaluation of the Comprehensive Plan; Requirements for capital improvements implementation; the future traffic circulation map; and the future land use map, all as adopted by Ordinance No. 88-01, adopted September 6, 1988; this section, and as amended by Ordinance 95-03, adopted January 17, 1996; and Ordinance 2010-05, adopted June 16, 2010, are ~~is~~ incorporated by reference and is the official Comprehensive Plan for and of the town.

SECTION 2. Attached hereto as Exhibit "A" and incorporated herein by this reference is the Public School Facilities Element, a new element to be added to the Town's existing Comprehensive Plan, and corresponding

amendments to the Capital Improvements Element and the Intergovernmental Coordination Element. In interpreting the provisions of this attached Exhibit "A", words underlined are additions to existing text, and words ~~stricken through~~ are deletions from existing text.

SECTION 3. Severability/Interpretation Clause.

(a) In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting the provisions of this Ordinance, the following rules and symbols shall apply:

(1) Words underlined are additions to existing text.

(2) Words ~~stricken through~~ are deletions from existing text.

(3) Asterisks (\* \* \*) indicates a deletion from the Ordinance of text existing in the Code of

Ordinances. It is intended that the text in the Code of Ordinance denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 4. Ordinances and Resolutions in Conflict. All ordinances or resolutions or parts thereof that may be determined to be in conflict herewith, except portions of the Comprehensive Plan, are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall become effective as provided by general law. See, e.g., §163.3189(2)(a), Fla.Stat.

PASSED by the Town Commission of the Town of Melbourne Beach on first reading on the 19th day of May, 2010, and ADOPTED by the Town Commission of the Town of Melbourne Beach, Florida, on final reading on the 16th day of June, 2010.

TOWN OF MELBOURNE BEACH,  
FLORIDA

By: \_\_\_\_\_

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Rita A. Karpie, Mayor

ATTEST:

(TOWN SEAL)

\_\_\_\_\_  
Rhonda Danielle, Interim  
Town Clerk