

**ORDINANCE NO. 10##**

**AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE ELEMENT, THE HOUSING ELEMENT, THE INFRASTRUCTURE ELEMENT, THE COASTAL MANAGEMENT/CONSERVATION ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; AUTHORIZING TRANSMITTAL OF AMENDMENTS; PROVIDING SEVERABILITY; PROVIDING EFFECTIVE DATE (FIRST READING)**

**WHEREAS**, sea level as measured by tidal gauges at multiple locations along Florida's Atlantic Ocean coastline has risen an average of approximately one inch per decade since at least the 1920s; and

**WHEREAS**, a broad segment of the scientific community expect the rate of sea level rise to increase over the coming decades; and

**WHEREAS**, there is significant uncertainty within the scientific community as to the rate of sea level rise over the rest of this century and beyond; and

**WHEREAS**, there is much the scientific community does not understand about the processes causing sea level rise; and

**WHEREAS**, changes in natural systems have the potential to cause relatively sudden and dramatic changes in sea level; and

**WHEREAS**, the impacts of sea level rise go beyond gradual inundation of coastal areas to include rising water tables, saline intrusion into water tables, storm surge reaching further inland, increased rates of coastal erosion, and changes in plant communities; and

**WHEREAS**, the City of Satellite Beach spans a barrier island on Florida's Atlantic Ocean shoreline; and

**WHEREAS**, more than a mile of open water in the Indian River, in addition to the Banana River, separate the barrier island on which the City is located from the mainland; and

**WHEREAS**, the barrier island on which the City is built consists primarily of unconsolidated sand resting on top of porous limestone bedrock; and

**WHEREAS**, the longest distance across the island in the City is 1.5 miles and the highest land elevation in the City is approximately 20 feet above mean sea level; and

**WHEREAS**, rising sea level is not just a potential threat to property lying immediately along the City's ocean, river, and canal shorelines, but also to parcels at low elevation wherever they are located within the City; and

**WHEREAS**, approximately half the City's land surface and tax base are less than six feet above mean sea level; and

**WHEREAS**, approximately one quarter of the City's land surface is less than four feet above mean sea level; and

**WHEREAS**, approximately one eighth of the City's land surface is less than three feet above mean sea level; and

**WHEREAS**, portions of South Patrick Drive (State Road 513), one of the two evacuation routes out of the City, lie below elevations of three feet above mean sea level; and

**WHEREAS**, major portions of some developed parcels in the City have ground elevations less than three feet above mean sea level; and

**WHEREAS**, annual oscillations raise the water level of the Banana River about one foot above mean sea level for weeks at a time; and

**WHEREAS**, the water level of the Banana River has risen to nearly three feet above mean sea level twice during the past decade (during Hurricane Irene in 1999 and Tropical Storm Fay in 2008); and

**WHEREAS**, the City's experience has been that it can take more than twenty years from initial dialogue to implementation of a major civil construction project involving county, state, or federal agencies (such as improving South Patrick Drive (SR 513), removing Florida Department of Transportation stormwater outfalls from the City's ocean beach, or getting renourishment sand on the City's ocean beach); and

**WHEREAS**, significant elements of the City's infrastructure (e.g., stormwater, sanitary sewer, potable water, bridges, sidewalks) have an expected useful service life of 50 to 100 years; and

**WHEREAS**, rising sea level is already reducing the discharge and retention capacity of the City's stormwater management system; and

**WHEREAS**, rising sea level and associated elevation of the water table, if they continues for a sufficiently long period, will eventually destabilize road base and building foundations in the City; and

**WHEREAS**, the cost of implementing major changes in infrastructure can, and now does, exceed the City's ability to finance the work except over periods spanning one or more decades; and

**WHEREAS**, the City now plans for and has methods in place to address the impact of a major tropical storm; and

**WHEREAS**, the City believes it prudent to plan for events that could have a major adverse impact on the quality of life of residents of the City; and

**WHEREAS**, the City desires to prepare for potential adverse impacts of sea level rise sufficiently long before they become reality so that proper mitigating actions can be implemented in an orderly, effective, and affordable manner despite uncertainty in the exact nature, intensity, or timing of such impacts;

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SATELLITE BEACH, FLORIDA, as follows:**

**Section 1.** The City Council adopts the following amendments to the Goals, Objectives and Policies of the ***Future Land Use Element:***

Policy 1.1.2 - The City shall continue to monitor zoning regulations ~~pertaining to land east of the Coastal Construction Control Line (CCCL)~~ and enact regulations to achieve a balance of among economic feasibility, potential adverse environmental conditions, and ~~limitation of development in the Coastal High Hazard Area (CHHA)~~ sustainability consistent with the character of the City.

Policy 1.2.9 a - Post-disaster redevelopment shall be governed by all applicable codes, city charter provisions and standards, in regards to setbacks, off-street parking, and landscaping; and shall decrease future public and private vulnerability to future storms ~~by complying with applicable state and county construction regulations~~ and sea level rise.

Policy 1.2.11 - The City shall discourage increases in residential densities and increases of commercial intensities around water bodies to preserve and protect the bodies of water, ~~enhancement of housing~~ property values, and maintain their contributions of both toward the quality of life in Satellite Beach.

Policy 1.5.3 - Given that the City is 98% built-out and has adopted a 7-unit per acre cap when land is rezoned for residential use, the City will direct commercial development and non-single-family residential development to the Community Redevelopment District identified in Ordinance 836 and ~~incorporated by reference into the Comprehensive Plan.~~

Objective 1.9 Satellite Beach shall encourage preservation of ~~unique aspects of the natural environment and the economic and societal values of at-risk segments of the built environment~~ by recognizing Transfer of Development Rights (TDRs) which will permit more intense activity in areas deemed suitable for high density redevelopment.

Policy 1.9.1 - Transfer of development rights (TDRs) may be obtained through a "Binding Development Agreement" to direct residential development to areas which are deemed suitable for growth with the intent of furthering City goals to ~~preservation of the natural and economic and societal values of the built environments.~~ TDRs may be transferred: (1) to an approved offsite location which is designated a receiving district; or (2) internally within a project from an approved sending district. In either circumstance, the utilization of TDRs must adhere to the following minimum criteria:

A. Compatibility with surrounding development patterns within receiving areas shall be ensured.

B. TDRs shall be considered only if the land from which the rights are transferred ~~provides~~ are converted to public open/park space along and abutting the Atlantic Ocean.

Policy 1.9.2 - The following land use designations may be considered receiving districts for Transfer of Development Rights:

- Residential High Density and/or Residential High Density (A)
- Commercial
- Residential Low and Medium Density at 10-feet or greater elevation NAVD88

Policy 1.9.3 - ~~The following All~~ land use designations may be considered as sending districts for Transfer of Development Rights. The City will from time to time designate a sending district(s) based on vulnerability to change. ∴

- ~~Residential High-Density~~

**Section 2.** The City Council adopts the following amendments to the Goals, Objectives and Policies of the *Housing Element*:

Policy 1.3.3 - The City shall discourage increases in residential densities and increases of commercial intensities around water bodies to preserve and protect the bodies of water, enhancement of housing property values, and maintain their contributions of both toward the quality of life in Satellite Beach.

Objective 1.7 - The City will develop policies and programs to enhance the life/safety and useful life of occupied structures in the City, including single-family and duplex units.

Policy 1.7.2 - The City will promote “hardening” protection of commercial and residential structures against wind and flood damage caused by tropical storms and hurricanes to reduce losses.

Policy 1.7.3 - The City will promote raising or relocating at-risk commercial and residential structures, roadways, and sidewalks as protection against flooding.

**Section 3.** The City Council adopts the following amendments to the Goals, Objectives and Policies of the ***Infrastructure Element***:

Policy 1.1.3 - The City will continue to monitor the condition of facilities of other service providers and give inputs to them for establishing priorities for correcting existing or projected deficiencies, replacing facilities, and providing for future facility improvements and expansions.

**Section 4.** The City Council adopts the following amendments to the Goals, Objectives and Policies of the ***Coastal Management/Conservation Element***:

Objective 1.3 In order to direct development and population concentrations away from the area seaward of the Coastal Construction Control Line and within the Coastal High Hazard area, the City will continue to prevent use of public funds and discourage use of funds by other levels of government as financial assistance for new, private development or redevelopment that result in increased densities or intensities in these areas.

Objective 1.4A The City will strive to minimize the potential for future damage to structures seaward of the Coastal Construction Control Line and within the Coastal High-Hazard Area by having adopted a post-disaster redevelopment reconstruction plan aimed at reducing or eliminating the exposure of human life and rebuilt public and private property to subsequent natural hazards.

Policy 1.12.4 - The City, alone or with others, will acquire public land as financially feasible to achieve the following:

- ...
- improve flexibility in addressing sea level rise

**Section 5.** The City Council adds the following Goal, Objectives, and Policies of the ***Coastal Management/Conservation Element***:

**GOAL 2**

Adaptive protection of private and public interests from adverse impacts due to long-term changes in sea level.

Objective 2.1

The City will evaluate available data related to adverse impacts from long-term changes in sea level. This process will be undertaken every five years or earlier as deemed necessary by the CPAB.

Policy 2.1.1 - The City will initiate efforts to address the issues of barrier island sustainability.

Policy 2.1.2 - The City will incorporate into the City's planning agenda for major public capital investments, changes in sea level within a 100-year planning horizon.

Objective 2.2

The City will initiate actions to actively address adverse impacts of sea level rise as the impacts are identified.

Policy 2.2.1 - The City will explore relocating critical infrastructure outside erosion or flood prone areas based on projections of sea level rise.

Policy 2.2.2 - The City will review its Land Development Regulations to accommodate redevelopment in areas projected to become at risk from impacts of sea level rise, using a continuous 100-year planning horizon.

Policy 2.2.3 – The City will encourage a community-wide dialogue about what the City's long-term response should be to sea level rise.

Objective 2.3

The City will investigate and implement, as opportunity and resources allow, actions to reduce the City's use of energy and increase use of alternative energy sources.

Policy 2.3.1 – The City will continue to implement energy-saving strategies in its facilities throughout the City as opportunity and resources allow.

Policy 2.3.2 – The City will investigate the utility of alternative energy sources and other emerging technologies.

Policy 2.3.3 – The City will encourage residents and businesses to implement cost-effective energy saving techniques.

**Section 6.** The City Council adopts the following amendments to the Goals, Objectives and Policies of the ***Capital Improvements Element***:

Policy 1.1.10 – To the degree opportunity and resources allow, the City will design stormwater improvements and other capital improvements to function properly for 50 years or the design life of the improvement, whichever is greater, in the face of sea level rise as best estimated at the time of the design.

Policy 1.3.1 – The City will make improvements or assist others in making improvements appropriate and necessary to protect and renourish dunes, and beach areas, and shorelines; maintain or replace public facilities; and provide improved recreational opportunities east of the Coastal Construction Control Line (CCCL) and within the Coastal High Hazard Area. These improvements shall specifically exclude improvements that subsidize or otherwise encourage additional development in these areas.

**Section 7.** The City Council authorizes transmittal of these amendments to the State of Florida, Department of Community Affairs, and other agencies, as required.

**Section 8.** Severability Clause. In the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby and it will be presumed that the City Council for the City of Satellite Beach did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

**Section 9.** Repeal of Inconsistent Provisions. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 10.** Effective Date. This ordinance shall become effective immediately upon its adoption.

**Section 11.** This Ordinance was duly passed on first reading at a regular meeting of the City Council on the \_\_\_\_\_, 2010, and adopted on the second and final reading at the regular meeting of the City Council on the \_\_\_\_\_ day of CPAB, July 26, 2010

\_\_\_\_\_, 2010.

\_\_\_\_\_  
Joseph Ferrante, Mayor

ATTEST:

\_\_\_\_\_  
Barbara Montanaro, CMC, City Clerk

I hereby certify that this is a true and accurate copy of Ordinance No. 10## approved by the City council of the City of Satellite Beach on \_\_\_\_\_, 2010.

\_\_\_\_\_  
Barbara Montanaro, CMC, City Clerk