

**ORDINANCE NO. 10-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, ADOPTING A REMEDIAL AMENDMENT AFFECTING POLICY 1.2.2 OF THE CAPITAL IMPROVEMENTS ELEMENT OF THE 2030 TALLAHASSEE/LEON COUNTY COMPREHENSIVE PLAN; PROVIDING FOR APPLICABILITY AND EFFECT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A COPY TO BE ON FILE WITH THE TALLAHASSEE-LEON COUNTY PLANNING DEPARTMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Chapters 125 and 163, Florida Statutes, empowers the Board of County Commissioners of the County of Leon to prepare and enforce comprehensive plans for the development of the County; and

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers and requires the Board of County Commissioners of the County of Leon to (a) plan for the county's future development and growth; (b) adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the county; (c) implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations; and (d) establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of the Act; and

WHEREAS, Ordinance 90-30 was enacted on July 16, 1990, to adopt the Tallahassee-Leon County 2010 Comprehensive Plan for the unincorporated area of Leon County. The City of Tallahassee also adopted a plan for its municipal area by separate ordinance; and

WHEREAS, the horizon year for the Tallahassee-Leon County Comprehensive Plan is now 2030 and the Comprehensive Plan is now known as the "Tallahassee-Leon County 2030 Comprehensive Plan" pursuant to the latest Evaluation and Appraisal Report; and

WHEREAS, pursuant to Sections 163.3184 and 163.3187(1)(c), Florida Statutes, the Board of County Commissioners of the County of Leon has held several public work sessions, public meetings, and public hearings on proposed amendments to the comprehensive plan, with

due public notice having been provided, to obtain public comment, and having considered all written and oral comments received during said work sessions and public hearings; and

WHEREAS, pursuant to Section 163.3187(1)(c), Florida Statutes, the Board of County Commissioners of the County of Leon held a public hearing with due public notice having been provided on these amendments to the comprehensive plan, and approved same; and

WHEREAS, the Board of County Commissioners of the County of Leon further considered all oral and written comments received during such public hearing, including the data collection and analyses packages and the recommendations of the Tallahassee-Leon County Local Planning Agency; and

WHEREAS, in exercise of its authority the Board of County Commissioners of the County of Leon has determined it necessary and desirable to adopt these amendments to the comprehensive plan to preserve and enhance present advantages; encourage the most appropriate use of land, water and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within Leon County, and to meet all requirements of law;

BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida, that:

**Section 1. Purpose and Intent.**

This Ordinance is hereby enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, as amended.

**Section 2. Amendment.**

The Ordinance does hereby adopt the following portion of the text attached hereto as Exhibit "A," and made a part hereof, as an amendment to the Tallahassee-Leon County 2030 Comprehensive Plan, as amended, and does hereby amend "The Tallahassee-Leon County 2030

Comprehensive Plan,” as amended, in accordance therewith, being an amendment to the following Plan element:

A remedial amendment relating to the Capital Improvements Element.

**Section 3. Applicability and Effect.**

The applicability and effect of these amendments to the 2030 Comprehensive Plan shall be as provided by the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, this Ordinance, and shall apply to all properties under the jurisdiction of Leon County.

**Section 4. Conflict with Other Ordinances and Codes.**

All ordinances or parts of ordinances of the Code of Laws of Leon County, Florida, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Section 5. Severability.**

If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

**Section 6. Copy on File.**

To make the Tallahassee-Leon County 2030 Comprehensive Plan available to the public, a certified copy of the enacting ordinance, as well as certified copies of the Tallahassee-Leon County 2030 Comprehensive Plan and these amendments thereto, shall also be located in the Tallahassee-Leon County Planning Department. The Planning Director shall also make copies available to the public for a reasonable publication charge.

**Section 7: Effective Date.**

The effective date of these plan amendments shall be according to law and the applicable statutes and regulations pertaining thereto.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon  
County, Florida, this 14th day of December, 2010.

LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
JOHN DAILEY, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:  
BOB INZER, CLERK OF THE COURT

BY: \_\_\_\_\_  
CLERK

APPROVED AS TO FORM:  
COUNTY ATTORNEY'S OFFICE  
LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
HERBERT W.A. THIELE, ESQ.  
COUNTY ATTORNEY

**EXHIBIT "A"**

**Amendment of Capital Improvements Element.** Policy 1.1.1 (CI), Capital Improvements Element, Tallahassee-Leon County 2030 Comprehensive Plan is amended as follows:

**FINANCIAL FEASIBILITY**

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**Policy 1.2.2: (CI)**

Existing and future development shall both pay for the costs of needed public facilities.

1. Future development

a. Future development shall pay for its proportional share of the capital improvements needed to address the impact of such development. Enterprise fund user charges, connection fees, and other user fees paid by new development shall be reviewed every two years to assure that provision of capital improvements needed to address the impact of future development will not increase ad valorem tax rates or rates of electric, gas, water or sewer utilities. Upon completion of construction, "future" development becomes "present" development, and shall contribute to paying the costs of the replacement of obsolete or worn out facilities as described in subsection 2, below.

b. Future development's payments may take the form of, but are not limited to, voluntary contributions for the benefit of any public facility, impact fees, capacity fees, dedications of land, provision of public facilities, and future payments of user fees, special assessments and taxes.

c. Future development's payment of proportionate fair-share mitigation for various deficient facilities may be aggregated to pay for one or more transportation system improvements= "Significant benefit" proportionate fair-share may be applied to calculate and expend developer mitigation in the following manner:

**Assessment:** The local government shall require an analysis of transportation facilities level of service to determine if deficiencies occur or are projected to occur within a prospective five-year period. If deficiencies are anticipated, the local government may use the "significant benefit" approach to assess proportionate fair-share mitigation and schedule improvements to address the identified deficiency(ies) on the impacted facility(ies) to meet the requirements for financial feasibility pursuant to Sections 163.3164(32), F.S., and 163.3177(3), F.S.

**Implementation:** The “significant benefit” provision shall be enacted through a Significant Benefit Memorandum of Agreement (“MOA”) between the State of Florida Department of Transportation (“FDOT”), the City of Tallahassee, and Leon County, as it may be amended from time to time. The MOA shall adhere to the following:

a. Identify geographic zones and prioritize specific facilities that constitute “significant benefit” facilities for each zone. These facilities, and the amount of funding necessary to pay for each of them, shall be identified within the MOA. Significant benefit facilities included in the annual Capital Improvements Element update shall be noted as being funded by significant benefit proportionate fair-share. A map showing the most current boundaries of the geographic zones shall also be included in the annual Capital Improvements Element update;

b. When there are no roadway capacity projects in the City, County, or FDOT Capital Improvements Plan (“CIP”) that address the capacity deficiency of an impacted roadway segment(s), the local government may collect proportionate fair-share mitigation based on the deficient facility(ies), and direct that mitigation toward the top priority project identified in the MOA;

c. Proportionate fair-share mitigation shall be accumulated for the top priority significant benefit project for each zone until such time as the project is fully funded. This project shall be incorporated into the local government’s 5-Year Capital Improvements Schedule;

d. Prior to adoption of any comprehensive plan amendment relying on a MOA for City and/or County approval, the developer/applicant shall enter into a binding agreement with the City and/or County guaranteeing payment of the proportionate fair-share amount at the time of site plan approval. This agreement shall apply to the parcel rather than the applicant, and shall be submitted to the state land planning agency as data and analysis in support of the comprehensive plan amendment

e. In the event a plan amendment necessitates the addition, deletion or change in priority for projects listed in the significant benefit project priority list (Attachment B of the MOA), the 5-Year Capital Improvements Schedule must be amended to indicate the significant benefit project(s) to which the proportionate fair-share funding will be allocated.

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**Amendment of Capital Improvements Element.** Programs to Ensure Implementation of the Capital Improvements Element, Tallahassee-Leon County 2030 Comprehensive Plan, shall be amended as follows:

**PROGRAMS TO ENSURE IMPLEMENTATION**

6. **Update of Capital Improvements Element.** The Capital Improvements Element shall be reviewed and updated annually. The element shall be updated in conjunction with the budget process and the release of the official population estimates and projections by the Bureau of Economic and Business Research (BEBR) of the University of Florida. The update shall include the following data and analysis:

- a. Revision of population projections
- b. Update of inventory of public facilities
- c. Update of costs of public facilities
- d. Update of Public Facilities Requirements analysis (actual levels of service compared to adopted standards)
- e. Update of revenue forecasts
- f. Revise and develop capital improvements projects for the next five fiscal years
- g. Update analysis of financial capacity
- h. The most current version of the Significant Benefit Memorandum of Agreement (MOA), as allowed pursuant to Policy 1.2.2(c), and notation in the Capital Improvements Schedule of specific projects allowed by Policy 1.2.2(c).