

Chapter 1 PREAMBLE

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Amended:	December 11, 2018	By Ordinance No. 1087

Acronyms used in this chapter:

EDR	Office of Economic and Demographic Research
CGMP	Comprehensive Growth Management Plan
F.S.	Florida Statutes
PUD	Planned Unit Development

Section 1.1. Purpose

The Martin County Comprehensive Growth Management Plan (CGMP) has been prepared pursuant to Florida Statutes (F.S.) Chapter 163, Community Planning Act; Chapter 125, County Government; and Article VIII Florida Constitution. The purposes of the CGMP are:

- (1) To implement and strengthen the comprehensive planning process, and
- (2) To protect and restore natural and manmade resources and maintain the character, stability and quality of life for present and future County residents, and
- (3) To allow only orderly growth and development that achieves the purposes listed in this subsection, and
- (4) To achieve and maintain conservative prudent fiscal management, and
- (5) To set out goals, objectives, policies, and procedures Martin County has adopted and to require that they be strictly followed when conducting the county's business.

The Comprehensive Growth Management Plan may be amended pursuant to F.S. Chapter 163, Chapter 125, Article VIII, Florida Constitution, the requirements of this Plan, and any other applicable authority.

Section 1.2. Scope

Martin County has been proclaimed a 'Sustainable County' by the state land planning agency. Sustainable means meeting the needs of the present without compromising the ability of future generations to meet their needs. All planning decisions made by the County shall be based upon a consideration of impacts on the ecology, quality of life, and fiscal sustainability of such actions including the long term cumulative impacts.

1.2.A. The CGMP is intended to permit Martin County to:

- (1) Preserve and enhance present advantages;
- (2) Encourage the most appropriate use of land, water and other resources consistent with the public interest;
- (3) Overcome present handicaps; and
- (4) Deal effectively with future problems that may result from the use and development of land in Martin County's jurisdiction.

1.2.B. It is further intended that, through the comprehensive planning process, Martin County shall:

- (1) Preserve, promote, protect and improve public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare;
- (2) Prevent overcrowding of land and avoid undue concentration of population;
- (3) Facilitate adequate cost effective and efficient provision of services, including transportation, potable water distribution, wastewater collection and treatment, schools, libraries, parks and recreation, housing and other community services;
- (4) Conserve and protect natural resources within Martin County, allowing their development only when consistent with all goals, objectives and policies of this Plan;
- (5) Encourage and ensure cooperation and coordination in planning and development activities between and among Martin County, its citizens and property owners; other local governments; regional agencies; and the state and federal governments; and
- (6) Protect taxpayers by requiring conservative and prudent fiscal management and a financially feasible CGMP which ensures and requires that development pay for itself, rather than being subsidized by taxpayers.

Section 1.3. Legal Status

The CGMP shall have the maximum legal status consistent with Florida law and all land development shall be consistent with this Plan. The requirements of this Plan shall not be interpreted or applied in a manner inconsistent with state law. Nothing in this Plan is intended to deny any person due process of law or to take private property without just compensation. If any person believes that the regulations of this Plan as applied to his or her property result in a taking of the property for public use without just compensation, they may appeal for relief to the Board of County Commissioners, which may grant such relief **only when, and to the extent to which, such appeal demonstrates that relief is necessary to prevent a violation of statutory or Constitutional private property rights.**

Section 1.4. Comprehensive Basis

The scope of the Comprehensive Growth Management Plan includes the following elements:

- Chapter 1, Preamble;
- Chapter 2, Overall Goals and Definitions;
- Chapter 3, Intergovernmental Coordination;
- Chapter 4, Future Land Use;
- Chapter 5, Transportation;

- Chapter 6, Housing;
- Chapter 7, Recreation;
- Chapter 8, Coastal Management;
- Chapter 9, Conservation and Open Space;
- Chapter 10, Sanitary Sewer Services;
- Chapter 11, Potable Water Services;
- Chapter 12, Solid and Hazardous Waste;
- Chapter 13, Drainage and Natural Groundwater Aquifer Recharge;
- Chapter 14, Capital Improvements;
- Chapter 15, Economic;
- Chapter 16, Arts, Culture and Historic Preservation; and
- Chapter 17, Public Schools Facilities; -
- Chapter 18, Community Redevelopment; and
- Chapter 19, Property Rights.

Section 1.5. Economic Principles

A principal goal of Martin County is to promote balanced, orderly, sustainable economic growth by creating and promoting an economic environment that will enhance prosperity for all communities and citizens of the County. The CGMP is based on the statements of economic principles in sections 1.5.A. through 1.5.G. Our environment and quality of life are the foundations for Martin County's economy. Protecting both, while providing for orderly growth and development, is fundamental to our success in maintaining a strong and vibrant economy that is free from over development.

- 1.5.A. Martin County shall provide for fairness, efficiency, and predictability in its actions in order to provide a healthy business climate. All future amendments or development orders related to economic development, in addition to all other amendments and development orders, must be consistent with the goals, objectives and policies of this Plan.
- 1.5.B. A high quality public school system is essential to quality economic growth and should be encouraged. The County shall continue to work with the School Board to coordinate expected population growth and school capacity and to assure that growth is managed so that it does not cause or contribute to overcrowded or inadequate schools.
- 1.5.C. The County's employment base reflects the County's role in the area-wide economy. The major employment generating activities are retail trade and services, healthcare, construction, education, agriculture, manufacturing, and accommodation and food service.
- 1.5.D. Protection of the quality of life and the environment in Martin County is a critical factor in economic growth and sustainability. Martin County shall maintain a long-term commitment to improve land, and water quality, to improve water management plans and practices and to protect and restore environmental resources. All development shall recognize that potable water is a limited resource and that the most economical source is water from the surficial aquifer. Failure to protect either the shallow aquifer or the Floridian aquifer from excess water withdrawals and pollution will affect future growth and sustainability and

will negatively impact natural resources. The County will use its land use authority under Chapter 163 F.S. to protect water resources, consistent with state law.

- 1.5.E. The CGMP and the planning process are to be used for managing short-term and long-term growth pressures and the conservation of natural resources. Conservative fiscal policies should be a major public consideration underlying the development review process to ensure that (1) funding for adequate public facilities is available concurrently with approval of new development and (2) County policies facilitate efficient and cost-effective provision of services. The County shall formulate and carry out fiscal management policies and practices including the imposition of impact fees appropriate to ensure fiscal sustainability.
- 1.5.F. Martin County will continue to coordinate with the private sector in determining the appropriate location, timing, scale and intensity of development. Economic development proposals shall be reviewed in terms of the goals, objectives and policies set forth in the Economic Element in order to provide for economic opportunities in compliance with existing and proposed ordinances designed to carry out these objectives.
- 1.5.G. It is anticipated that the County's economy will continue to be affected by external factors that are uncontrollable at the local level. These factors produce uncertainty and lead to fluctuations in levels of unemployment and income. External factors include the:
- (1) National economy, including the cost-of-living index;
 - (2) Gross national product and other economic performance indicators;
 - (3) Unexpected long-term or short-term shortages in natural resources; and
 - (4) Unanticipated technological changes that make some economic enterprises less competitive or obsolete.

The impact of these external factors will limit the County's ability to achieve desired economic goals.

Section 1.6. Consistency of Elements and Policies

All elements of the CGMP shall be consistent and coordinated with policies of other local governments; the Martin County School Board; Treasure Coast Regional Planning Council; South Florida Water Management District; state and federal governments; and other public agencies charged with significant responsibilities for land management and resource conservation. The County may adopt provisions that are more restrictive than those of other local governments and regional, state and federal agencies. **However, Martin County shall ensure that private property rights are considered in local decision making consistent with Chapter 19, Property Rights.**

Amendments shall be deemed consistent with the intent of the Plan when land uses, densities or intensities, and environmental protection measures further the goals, objectives and policies of this Plan. Where one or more policies diverge, the stricter requirement shall apply. Where a subject is addressed by two or more provisions of the Comprehensive Plan, all provisions apply, and the stricter provision shall prevail to the extent of the conflict. Plan policies addressing the same issue shall be considered consistent when it is possible to apply the requirements of both policies with the stricter requirements governing.

Section 1.7. Supporting Data

The CGMP shall be based on analysis of the best available data on past trends, existing characteristics and future projections of the County's population, housing, land use and economic and natural resources. These data shall be maintained as public information filed in the Growth Management Department. The data shall be updated as required by state statute, and local ordinance.

Various elements of the CGMP—such as Future Land Use, Housing, and Capital Improvements—are directly based on population data. The appropriate resident and seasonal population figures are critical to the local

government in assessing future needs for housing units, the adequacy of housing supply, and the need for services and facilities.

1.7.A. *Population estimates.* Assumptions used in the CGMP are based on Martin County population estimates and projections. These in turn are based on the Office of Economic and Demographic Research (EDR) estimates and projections.

The following standards shall be used in calculating population projections through a Population Technical Bulletin adopted annually by the County Commission:

- (1) Methodology must be clear and available for public review. Any change in methodology must be approved by the County Commission prior to the preparation of the report.
- (2) The base data for population estimates and projections comes from the U.S. Decennial Census. In between decennial Census years, the Office of Economic and Demographic Research (EDR) provides annual updates to the estimates and projections. In the years in between the decennial Census, the permanent population estimates and projections provided by EDR shall be used in the annual update to the Population Technical Bulletin to project permanent and seasonal population for the planning horizon of the Plan.
- (3) Municipal permanent population shall be subtracted from total county permanent population to arrive at the estimate for total permanent population for the unincorporated area. The Population Technical Bulletin shall show what portion of the permanent population is housed in residential housing units.
- (4) Peak population in residential housing units and peak population for level of service determination shall be calculated as outlined in Sections 1.7.D. and 1.7.E., CGMP. below.
- (5) See Chapter 2 for definitions of population terms used in the text of the Plan.

1.7.B. *Housing unit demand projection.* Projections of housing demand are based on expected increases in permanent population and shall be based on calculations described below:

- (1) The demand for future residential housing units in the unincorporated area shall be based on the percentage increase in permanent population projected by the Population Technical Bulletin.
- (2) Occupied housing units (HO) are classified by the census as those residential housing units in use by permanent population.

Vacant seasonal housing units (HS) are classified as those residential housing units that are seasonally occupied by residents who spend less than six months of the year in Martin County. American Community Survey Data shall be used as source data between Decennial Census years.
- (3) Peak population in residential housing is served by housing units in actual use (HU).

Housing units in actual use (HU) equals the occupied housing units (HO') plus vacant seasonal housing units (HS).

$$HU = HO + HS$$
- (4) Vacant housing not in seasonal use shall not be used in calculating housing unit demand, but shall be used in calculating supply. Hotel/motel units shall not be used in calculating residential housing demand.
- (5) The projected demand for housing units in the future shall be determined by dividing the projected, permanent population (housing), as defined in Chapter 2 by the permanent population (housing) identified. American Community Survey Data shall be used as source data between Decennial Census years.

Projected permanent population (housing)/Permanent population (housing)= percentage increase in demand.

- (6) This percentage increase in demand multiplied by the housing units in actual use (HU) equals the projected residential housing unit need in the future period. American Community Survey Data shall be used as source data between Decennial Census years.

Percentage increase in demand × HU = projected housing unit demand.

- (7) The eastern Urban Service District and the Indiantown Urban Service District shall be considered separately.

1.7.C. *Residential capacity calculations.* Residential capacity represents the capacity for residential development within each of the urban service districts to meet the projected population needs for the 15 year planning period. The calculation of residential capacity within each of the urban service districts shall include:

- (1) Vacant property that allows residential use according to the Future Land Use Map. The maximum allowable density shall be used in calculating the number of available units on vacant acreage. For the purpose of this calculation, the maximum allowable density for wetlands shall be one-half the density of a given future land use designation.
- (2) Subdivided single family and duplex lots. The following lot types shall be included in the residential capacity calculation:
 - (a) Vacant single family or duplex lots of record as of 1982 developed prior to the County's tracking of development approvals.
 - (b) Vacant single family or duplex lots of record platted after 1982.
- (3) Potential for residential development in Mixed Use Overlays.
- (4) Excess vacant housing not in use by permanent or seasonal residents. Excess vacant housing is a vacancy rate higher than 3% of the number of housing units in actual use. American Community Survey Data shall be used as source data between Decennial Census years.
- (5) The eastern Urban Service District and the Indiantown Urban Service District shall be considered separately.

1.7.D. *Peak population in residential housing units for the unincorporated area.* The number of residents living in residential housing units for more than six months of the year, and the number of occupants of residential housing who spend less than six months in Martin County equals peak population (housing). It is calculated by adding permanent population (housing) and the seasonal population (housing) to determine the total demand for residential housing units.

1.7.E. *Peak and weighted average population for Level of Service determination (LOS).* Peak and weighted average population for LOS for library collections, corrections, solid waste, and bicycle and pedestrian pathways as outlined in Chapter 14 shall be calculated as follows:

- (1) Permanent population for the unincorporated area including prisoners and group homes, shall be derived from EDR.
- (2) Seasonal population (facility) for the unincorporated area shall include seasonal population (housing) plus part-time inhabitants who use, or may be expected to use, public facilities or services, but are not residents. This includes tourists, migrant farm workers, and other short- term and long term visitors. Hotel motel population in the peak five months of the year for the unincorporated area shall be

determined by using hotel occupancy data and hotel bed tax collections to estimate the average number of vacationers.

- (3) Permanent population plus seasonal population (facility) in the peak five months of the year shall equal the peak population (facility) for the unincorporated area. This data is then used to determine weighted average population for LOS determination.
- (4) The weighted average population assumes that five months of the year are peak population and the remaining seven are permanent. The permanent and peak populations are weighed accordingly to produce the weighted average population estimates. This is done by multiplying the appropriate permanent population by seven, and the appropriate peak population by five, and dividing the total by twelve.
- (5) Estimates and projections for the peak population and the weighted average population shall be calculated for countywide population and for unincorporated area population.

1.7.F. Every five years the staff shall analyze previous projections to determine the accuracy of the methodology and improve on it for future projections.

Section 1.8. Continuing Evaluation

The Martin County Growth Management Department shall prepare periodic reports on the effectiveness and adequacy of the CGMP.

1.8.A. *Criteria for continuing evaluation of CGMP elements.* The following criteria shall be used in evaluating the effectiveness of each element of the Comprehensive Growth Management Plan:

- (1) *The impact of change indicators for each plan element.* The policy implications of major changes in distribution or characteristics of population, housing, land uses, natural resources, public facilities, consumer demand/supply, and capital and infrastructure needs is evaluated continuously and shall serve as indicators of changes in public needs. County staff routinely present reports and studies to the County Commission. The County shall establish or refine appropriate public policies and strategies as needed to remain responsive to evolving problems and issues reflected by significant shifts in economic, social and physical change indicators.
- (2) *Scheduling, budgeting and implementation of programmed activities.* The timely scheduling, budgeting, and implementation of activities identified in the individual elements shall be evidence of the County's effectiveness in executing a systematic program for implementing the adopted goals, objectives and policies that comprise each element of the CGMP.
- (3) *Coordination with the public and private sectors.* While continually implementing and evaluating the CGMP's policies and programs, the County shall maintain a system of intergovernmental coordination with the full range of private sector interests concerned with growth management and resource conservation. The County Administrator shall be responsible for maintaining this system.
- (4) *Effective resolution of growth management and resource conservation problems and issues.* The effectiveness of the CGMP elements shall be measured by the County's success in accomplishing its goals, objectives and policies.

Section 1.9. Public Participation

The Local Planning Agency and the Board of County Commissioners shall continue to provide for public participation in the comprehensive planning process. The County shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public hearings with open discussion,

communications programs, information services, and consideration of and response to public comment. Unless prohibited by law, the public shall have the right to speak and to ask questions at all meetings and workshops of the County Commission and the LPA at which amendments to the CGMP or Land Development Regulations or the approval of Development Orders are being considered. The Commission may, by resolution, set reasonable time limits on presentations by each speaker.

For Future Land Use Map changes, text changes to the CGMP applicable to a single property, or zoning changes, in addition to the notice requirements of state law and other elements of this Plan, signs shall be placed in the right of way and notice shall be as provided for a zoning district change. All published notices shall provide sufficient information for the public in accordance with Florida Statutes.

Where a material change is made in the amendment, new notification and advertising shall be required prior to any public hearing on a vote on the amendment to reflect such change. A material change includes any change to the allowable uses, densities or intensities, development standards, extent of development allowances or infrastructure or preservation requirements, deadlines for payment of fees, completion of work or similar substantive matters, or other substantive aspect of development that may increase the impact of the amendment, including those related to financial obligations.

1.9.A. Citizens Planning Bill of Rights. This section establishes additional requirements for Future Land Use Map Amendments (FLUM) in Martin County. All Comprehensive Plan Amendments related to FLUM changes shall comply with the following requirements:

Citizen Participation—Applicants must notify, by mail and newspaper, impacted property owners, property owners associations and home owners associations within 1,000 feet of the development site boundaries as required for development applications by the Land Development Regulations. For projects outside the Urban Service Districts, the distance required for notification shall be 2,500 feet. The Growth Management Department shall verify that proper notification and advertising occurred as required by the LDRs.

Neighborhood Participation—Notice shall be given of the application to any neighborhood association representing landowners or residents within 1,000 feet of the subject property. For projects outside the boundaries of the urban service districts, the distance required for notification shall be 2,500 feet.

Seven Day "Cooling Off" Period—Plan amendments concerning changes to the FLUM cannot be changed in the seven business days prior to any advertised public hearing. This will allow the citizens, commissioners and others to fairly evaluate the document. If the Plan Amendment is revised within that period, the hearing will be postponed unless the County, the applicant and all members of the public who have submitted oral or written comments upon the amendment, agree otherwise.

- (1) Any material changes to a proposed FLUM Amendment must be submitted and made available to the County, the applicant and the public at least seven business days prior to the hearing at the adoption stage.
- (2) Staff recommendations shall be available to the public at least five business days prior to any advertised public hearing related to a FLUM amendment.

1.9.B. In addition to citizen participation and neighborhood participation, the comprehensive planning process shall be consistent with Chapter 19, Property Rights.

Section 1.10. Plan Implementation

After adoption of this Plan and subsequent amendments, all development and use of land shall be consistent with its goals, objectives, performance standards, policies, and programs. This Plan shall be amended only by ordinance. In addition, this Plan shall be implemented through:

- (1) Execution of the Board of County Commissioners' lawful responsibilities, including those delegated to administrative and quasi-judicial boards and commissions appointed by the Board;
- (2) Execution of lawful administrative responsibilities of the County Administrator and County staff consistent with ordinances and resolutions adopted by the Board of County Commissioners whose ordinances and resolutions must be consistent with the goals, objectives, and policies of the CGMP. Where conflict exists, the stricter requirements shall govern;
- (3) Voluntary coordination with other local governments; the Martin County School District; Treasure Coast Regional Planning Council; South Florida Water Management District; state and federal agencies; and other relevant agencies concerned with growth management and natural resource conservation; and
- (4) Voluntary and cooperative actions with private and public interests intent on fulfilling the purpose and intent of the CGMP.

For the purposes of the CGMP, the term "development" shall mean the carrying out of any building activity or mining operation, the making of any material change in the redevelopment or modification of an existing use or appearance of any structure or land which creates additional impacts, and the dividing of land into three or more lots, tracts or parcels (including planned unit developments).

Remodeling, renovation or restoration of improved real estate to a former, better condition (as by cleaning, repairing or rebuilding) that does not increase or change the use, building height, or building square footage located or permitted upon of the property shall be exempt from the requirements of this Plan. Any other proposed manmade change to improved real estate shall meet the requirements of this Plan, but only to the extent of such manmade change.

Section 1.11. Amendment Procedures

1.11.A. *Scope of eligibility.* The amendment process may be initiated by any person or organization, including the federal government, State of Florida, Martin County, any municipality in Martin County and any of their agencies, authorities and departments.

- (1) For any FLUM amendment and for a text amendment which changes an allowable use of land for a specific parcel, proof of ownership of the property subject to the request must be supplied for any application to be deemed complete. Only the owner of the subject property or the Martin County Commission can apply for a FLUM amendment.
- (2) The applicant must provide the names and addresses of each and every person with any legal or equitable interest in the property, including any partners, members, trustees, and stockholders and every person or entity having more than a five percent interest in the property. However, this requirement shall not apply to:
 - (i) Interests held under a publicly traded company; or
 - (ii) Individual members of a homeowners or property owners association, when association property is the subject of the proposed amendment; or
 - (iii) Minors, defined as any person who has not attained the age of 18; or
 - (iv) Mortgagees.

Any amendment which was found complete based on false or incomplete disclosure will be subject to cessation of processing of the application.

Within one year of the effective date for the ordinance adopting this amendment, Martin County shall adopt land development regulations implementing Section 1.11.A.

1.11.B. *Application.* Any request to amend the CGMP shall be made by filing an application on a form prescribed by the Growth Management Director. Applications shall be received by the County for processing on any working day. If a Plan amendment requires changes to the Capital Improvement Element, those CIE changes must be proposed, reviewed, and adopted as part of the amendment. Any applicant requesting a change to the Future Land Use Map shall notify all property owners within 1,000 feet and erect a sign or signs, as required for development applications by the Land Development Regulations. For projects outside the urban service districts, the required distance for notification shall be 2,500 feet.

Applications that are found by the Growth Management Department to be unclear or incomplete may be supplemented within 30 days after the applicant has been notified the application is unclear or incomplete. Fees will be returned to any applicant who withdraws an application within 60 days after the application is submitted.

The Martin County Board of County Commissioners may, by resolution, at any time, initiate a request to amend the CGMP. Any such amendment shall be for a public purpose.

1.11.C. *Procedure upon application.*

- (1) For the purpose of preparing a recommendation, the Growth Management Director shall consult, as may be appropriate, with other personnel from Martin County; the federal government; the State of Florida; any municipality in Martin County or any of their agencies, authorities or departments; or any person or organization. The Growth Management Director shall consider and evaluate any information that may have been presented by the public. Other information may be used if it is determined to be the best available information. Staff recommendations shall be consistent with the goals, objectives, and the policies established in applicable sections of this Plan, as well as good planning principles, and other appropriate information.

In evaluating each Future Land Use Map amendment request staff begins with the assumption that the Future Land Use Map, as amended, is generally an accurate representation of the intent of the Board of County Commissioners, and thus the community, for the future of Martin County. Based on this assumption, staff can recommend approval of a requested change provided that consistency is maintained with all other elements of this Plan and at least one of the following four items is found to apply:

- (a) Past changes in land use designations in the general area make the proposed use logical and consistent with these uses and adequate public services are available; or
- (b) Growth in the area, in terms of development of vacant land, redevelopment and availability of public services, has altered the character of the area such that the proposed request is now reasonable and consistent with area land use characteristics; or
- (c) The proposed change would correct what would otherwise appear to be an inappropriately assigned land use designation; or
- (d) The proposed change would fulfill a public service need that enhances the health, safety or general welfare of County residents.

If staff cannot make a positive finding regarding any of the items in (a) through (d), staff shall recommend denial.

- (3) The Growth Management Director shall submit recommendations to the Local Planning Agency at least five business days prior to the public hearing before the Local Planning Agency when the specific CGMP amendment requests are scheduled. The recommendations shall refer to each application specifically or as combined with other similar applications and shall consider all comments, information, and recommendations received in accordance with subsection 1.11.C.(2) and Section 1.9 of this chapter. The recommendations of the Growth Management Department are not necessarily limited to specific applications but may deal with any aspect of the CGMP.

The Local Planning Agency shall hold one or more public hearings on the applications. Notice for the first public hearing shall be made in accordance with the requirements of Chapter 163, Florida Statutes and subsections 1.9 and 1.11.B. of this chapter. No additional public notice shall be required for subsequent public hearings of the Local Planning Agency, provided that the date and time are announced at a prior hearing and are posted on the County website on the second business day following the decision.

- (4) The Local Planning Agency shall provide its recommendations on the proposed amendments to the CGMP to the Board of County Commissioners. The LPA must act on an amendment if it is requested to do so by the applicant. The recommendation of the LPA shall be posted on the County website on the second business day following the decision.

1.11.D. County Commission action.

- (1) The Board of County Commissioners shall hold one or more public hearings to consider transmittal of the applications for amendments to the CGMP to the state planning agency and required reviewing agencies. After the public hearing(s) the applications approved by a majority vote of the Board shall be transmitted to the state planning agency for review.

Approval for transmittal is not simply a procedural step and approval shall not be based on an expectation of changes to the application after transmittal. No amendment shall be approved for transmittal that is not consistent with all goals, objectives, and policies of this Plan and with this chapter.

Notice for the public hearing(s) shall be made in accordance with the requirements of Chapter 163, F.S. and subsection 1.11.B. No additional public notice shall be required for subsequent public hearings of the Board of County Commissioners, provided the date and time are announced at a prior hearing and posted on the County website on the second business day following the hearing. Amendments approved for transmittal shall be posted on the County website on the second business day following the transmittal hearing.

- (2) The Board of County Commissioners shall take final action on applications for amendments to the CGMP as required by Florida Statutes and this Plan. Final action on amendments shall be based on best available data available at the time of the final adoption hearing. The public hearing(s) to adopt amendments to the CGMP shall follow the notice requirements of Chapter 163., F.S. and subsection 1.11.B. This process may require continuance of public hearings and multiple hearing dates which shall be posted on the County website on the second business day after the hearing where a continuance is announced. The final action shall be posted on the County website on the second business day following adoption.
- (3) Plan amendments that qualify as small-scale development amendments pursuant to Chapter 163, F.S. shall require only one public hearing before the Board of County Commissioners which shall be an adoption hearing. No additional public notice shall be required for subsequent public hearings of the Board of County Commissioners, provided the date and time are announced at a prior hearing and posted on the County website on the second business day following the hearing. Notice for the public

hearing(s) shall be made in accordance with the requirements of Chapter 163, F.S. and subsection 1.11.B. No additional public notice shall be required for subsequent public hearings of the Board of County Commissioners, provided the date and time are announced at a prior hearing and posted on the County website on the second business day following the hearing.

- (4) All amendments to the CGMP shall be enacted by ordinance upon a vote of the majority of the total membership of the Board of County Commissioners then in office.
- (5) A decision to amend or not to amend the CGMP is a legislative matter for the broad discretion of the Board of County Commissioners. A decision not to amend, and thus to maintain the CGMP will be valid as long as it is fairly debatable, that is, a decision based on reasoning that makes sense and with which reasonable people could agree or disagree.

The guidelines for staff reviews and recommendations provided in subsection 1.11.C.(2) of this section are intended for use only by staff in reporting to the Local Planning Agency and the Board of County Commissioners on an application to amend this Plan. The guidelines are not to be construed in any way as a limit on the legislative judgement of the Board of County Commissioners in deciding whether or not to amend the Plan. The Board as well as the Local Planning Agency may look to these guidelines in explaining the debatability of its action, but it is not bound by them, and it may, consistent with law, base its action on an amendment on any fairly debatable rationale.

- 1.11.E. *Amendment of the Capital Improvements Element.* The Capital Improvements Element shall be reviewed annually and modified as necessary to ensure the adequate provision of facilities and services necessary to serve development with public facilities based upon dedicated funding sources. However, certain changes may be accomplished by ordinance: corrections, updates and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications that are consistent with the CGMP; or the date of construction of any facility listed in the Capital Improvements Element. Changes accomplished by ordinance shall not be considered amendments to the CGMP. However, all such changes shall be included in the annual amendments to the CIE so that the Element will remain current and accurate.
- 1.11.F. *Transmittal of plan amendments.* Portions of a plan amendment cannot be transmitted to the state planning agency; only the elements proposed to be amended along with the complete amendment shall be transmitted to the state land planning agency. All Plan amendments shall include any changes to the Plan necessary to provide consistency with all Plan goals, objectives, and policies. If an amendment results from an evaluation and appraisal report, a copy of that report shall be transmitted with the amendment. Copies of the proposed CGMP amendments shall also be transmitted to any other unit of local or state government that has filed a written request.
- 1.11.G. *Consideration of economic reports, appraisals and other technical information.* No economic reports or studies, real estate appraisals or reports, and/or written reports of consultants or other experts in support of an amendment application shall be considered by either the Local Planning Agency or the Board of County Commissioners unless filed with the Growth Management Director at least 14 days prior to the first public hearing conducted by the Local Planning Agency. This provision may be waived by a vote of the Board of County Commissioners if any interested party demonstrates that an injustice will occur and sufficient time is provided for all parties to review and analyze the report.
- 1.11.H. *Schedule of fees.* All fees charged for filing, processing and evaluating applications requesting amendments to the CGMP shall be established by resolution of the Board of County Commissioners. In approving the resolution, the Board of County Commissioners shall consider the costs to the County of processing amendments to the CGMP.

Fees will be returned to any applicant who asks to withdraw an application within 60 days after the application is submitted. No other fees shall be returned to any applicant without a demonstration of hardship and express approval by the Board of County Commissioners.

- 1.11.I. *Exemption from fees.* The Martin County Commission, Martin County School Board, the State of Florida, the United States of America and all municipalities situated wholly within the boundaries of Martin County shall be exempt from any fee for filing, processing and evaluating an application requesting an amendment to the CGMP.

Section 1.12. Vested Rights

- 1.12.A. *Intent.* Nothing in this Plan is intended to deny any person the due process of law or to take private property without just compensation. Nor does the CGMP intend to limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact approved pursuant to F.S. Chapter 380 and is consistent with the conditions of approval. Nothing in this Plan is intended to modify any development that has been issued a final local development order and development has commenced and is continuing in good faith, consistent with its timetable and/or schedule of construction or activity established in the development order.
- 1.12.B. *Status of development orders regarding nonconforming uses or nonconforming lots of record.* Development orders issued regarding nonconforming lots of record and nonconforming uses existing at the time of adoption of this Plan, or existing development orders that have been made nonconforming by subsequent amendments to this Plan, shall be considered to be consistent with the provisions of this Plan if the nonconformity was created in conformance with all applicable development regulations in effect at the time the nonconformity was created. When a nonconformity is determined to be vested consistent with subsection 1.12.D. (Determinations) below, it shall vest in the same way as a conforming development.
- 1.12.C. *Status of development orders.* Development orders approved prior to the date of adoption of the CGMP or to subsequent amendments, shall be considered to be consistent with the provisions of this Plan, provided that development is continuing in good faith consistent with its approved timetable, or if no timetable exists, development is completed within one year of adoption of this Plan or the conflicting amendments. Any amendments to an existing development order, including timetable amendments, must be consistent with all elements of the CGMP, including the concurrency requirements. Any amendment to a development timetable shall be reviewed cumulatively with other timetable amendments for that phase. Cumulative timetable amendments of more than five years shall not be permitted unless the phase or phases are consistent with all policies of the Plan in effect at the time. When cumulative timetable amendments for a phase of a PUD reach five years, the PUD must be renegotiated and, at a minimum, must be consistent with all Plan policies in effect at the time.

A timetable for development is the schedule for project phasing, construction, and completion as specified in a development order. Timetable extensions shall not be granted unless an application is made prior to the expiration of the approved timetable, or unless the affected phases meet all requirements of this the Comprehensive Plan in effect at the time of the request for an extension. Timetable extensions allowed in accordance with Florida Statutes shall be recognized.

The Growth Management Department shall monitor development timetables for PUDs and shall, in a timely manner within 60 days, bring apparent violations to the Board of County Commissioners for consideration consistent with applicable County ordinances and provisions of the PUD agreement. Breach proceedings shall be initiated for any PUD that is in violation of its timetable by more than one year. Any PUD that is determined by the Board to be in breach of the PUD agreement will be required to comply with all elements of the CGMP, including the concurrency requirements.

1.12.D. *Determinations.* If a property owner desires to obtain a determination as to whether any rights are vested for a proposed development on his or her property, based on the action of the County or any of its commissions, agencies, or departments, the property owner may request that a determination from the Board of County Commissioners by filing an application with the Growth Management Director. The application must be filed within one year of the time that the action requiring the vesting determination is taken. The Board of County Commissioners shall consider evidence presented by the applicant and recommendations of by staff and shall issue, in a timely manner, a determination by resolution with respect to the development. Such determination shall bind the County.

For purposes of this provision, the term "vested rights" shall be interpreted to include those rights obtained by a property owner who, in good faith and upon some act or omission of the government, has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable, create an inequitable burden, and be unjust to destroy the acquired right. In making its determination, the Board of County Commissioners shall assess each request solely on the particular facts relating to that case. Although the Board of County Commissioners may find that a project meets the requirements for vested rights in general, it may require that some aspects of the development comply with this Plan, provided that reasonable, investment-backed expectations are not unreasonably affected.

Projects may be vested from the terms of this Plan as to the design, density and/or intensity of development. However, undeveloped subdivisions, platted and unplatted lots of record, multifamily site plans, residential developments and nonresidential developments that do not meet the vested rights criteria stated above, or do not have a timetable of development approved by the Board of County Commissioners, shall not be considered vested from the concurrency requirements of Chapter 14, Capital Improvements. This would generally include subdivisions and other developments that have previously been approved but have not initiated substantial site development, such as road and/or drainage improvements, or do not have an approved timetable of development or are not in compliance with their approved timetables.

Subdivisions, platted and unplatted lots of record, multifamily site plans, residential developments and nonresidential developments that were under construction on the adoption date of this Plan and/or are proceeding in good faith consistent with a timetable of development approved by the Board of County Commissioners will be considered vested from the concurrency requirements of Chapter 14. Lots on open roads in completed subdivisions will be considered vested in the same manner. Any development determined to be vested from the concurrency requirements of this Plan will not be required to provide the facilities to meet the concurrency provisions. Instead it will be treated as committed development, for which the County will ensure concurrency.

Notwithstanding anything in this provision to the contrary, if Martin County or any other entity with legal standing under F.S. Chapter 163 shows that a new peril to the health, safety or general welfare of the residents or property in Martin County has arisen subsequent to the approval of any development order, the development order may be revoked.

- (1) Development orders issued to comply with a final order of a court or administration agency, resulting from litigation in which the County was a party, shall be considered to be consistent with this Plan.

Section 1.13. Authority

The Board of County Commissioners of Martin County is authorized to adopt and implement this Plan by the Constitution of the State of Florida and the Florida Statutes.