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ORDINANCE NO. 91- 05

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA PROVIDING FOR THE ADOPTION OF A COMPREHENSIVE PLAN MEETING THE REQUIREMENT OF CHAPTER 163, FLORIDA STATUTES, FOR DEVELOPMENT OF ALL INCORPORATED LANDS WITHIN THE CITY OF DUNNELLON, FLORIDA; PROVIDING FOR A STATEMENT OF AUTHORITY; PROVIDING FOR A NAME; PROVIDING FOR A POLICY STATEMENT; PROVIDING FOR ADOPTION OF ITS ELEMENTS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING VESTED RIGHTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Dunnellon is unique among cities in the State of Florida as to natural resources, beauty and the sensitive nature of much of its land, and

WHEREAS, population growth has occurred in the City of Dunnellon as people seek to enjoy the favorable quality of life provided by said natural assets, and

WHEREAS, balanced and harmonious patterns of development must be an integral part of the City of Dunnellon's future, and

WHEREAS, the cost of infrastructure expansion and improvement must be adequately and fairly provided for in the City of Dunnellon, and

WHEREAS, it is necessary to implement a plan to develop a foundation and support for policies and controls that will insure the maximum protection of the irreplaceable natural resources of local, state and national concern, while at the same time accommodating future growth in such a manner that this

highly favorable quality of life enjoyed the by present residents be preserved for the future, and

WHEREAS, Part 2, Chapter 163, Florida Statutes (1987), and Chapter 9J-5, Florida Administrative Code, sets forth minimum requirements for comprehensive plans that are met by this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNNELLON AT A GENERAL MEETING HELD THIS 14th DAY OF October, 1991, AS FOLLOWS:

SECTION ONE: Authority.

Pursuant to Chapter 163 (1987), Florida Statutes, Article 8, Section 1 of the Constitution of the State of Florida and Chapter 166, Florida Statutes (1987), the City Council of the City of Dunnellon, Florida has all powers of local self government to establish and implement by ordinance a comprehensive planning program to guide and control future development.

SECTION TWO: Name.

This ordinance shall be referred to as the City of Dunnellon Comprehensive Plan or the Comprehensive Plan and shall be effective within the incorporated areas of the City of Dunnellon, Florida.

SECTION THREE: Policy Statement.

A. Intent. It is declared to be the intent of the City Council of the City of Dunnellon, Florida that the adoption of this ordinance is necessary to preserve and enhance present advantages enjoyed by the citizens of the City of Dunnellon;

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 in the incorporated areas of the City of Dunnellon. Through the process of comprehensive planning, it is intended that the City of Dunnellon can preserve, promote, protect and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewage, parks, recreation facilities, housing and other requirements and services; and conserve, develop, utilize and protect natural resources within the City of Dunnellon.

B. Findings of Fact. Based on the legislative intent heretofore articulated, the City Council of the City of Dunnellon, Florida makes the following findings of facts:

a. The City of Dunnellon is authorized and required by the State of Florida to adopt a comprehensive plan of the type attached hereto and marked as Exhibit A.

b. The City of Dunnellon Planning Commission, designated as the local planning agency by resolution, has provided for broad dissemination of proposals for all elements of a comprehensive plan and has held numerous public meetings and workshops to solicit public comments.

c. The City of Dunnellon Planning Commission has held public hearings with due public notice to receive said public comments on all the proposed elements of the City of

Dunnellon Comprehensive Plan.

d. Following the public hearings, the City of Dunnellon Planning Commission made appropriate revisions to the proposed City of Dunnellon Comprehensive Plan and recommended same for adoption by the City Council and, together with supporting documentation, transmitted to the Florida Department of Community Affairs for review and comment.

e. The City Council of the City of Dunnellon has held the required public hearings with public notice and complied with all other requirements of applicable Florida statutes.

SECTION FOUR: Adoption.

A. Elements. The City Council of the City of Dunnellon does hereby adopt, by reference, the goals, objectives and policies of the City of Dunnellon Comprehensive Plan consisting of the elements set forth therein which are made a part thereof and are attached hereto as Exhibit A, including the future land use map.

B. Concurrency and Consistency. After the effective date of this ordinance, all development undertaken by and all actions taken in regard to developmental orders in regard to land covered by this plan shall be consistent with this plan, unless the test of vested rights are met. A development order or land development regulation shall be consistent with the Comprehensive Plan if the land uses, densities or intensities and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses and densities or intensities in the

Comprehensive Plan.

C. Amendment to the Comprehensive Plan. The provisions for amendments to the City of Dunnellon Comprehensive Plan shall be controlled by and subject to the provisions set forth in Chapter 163, Florida Statutes (1987), and as is amended from time to time, without regard to other statutory or local ordinances.

SECTION FIVE: Vested Rights.

The City of Dunnellon recognizes that development has and is taking place prior to the adoption of this ordinance. It is the legislative intent of the City of Dunnellon that:

A. No taking or abrogation of vested rights is intended by this ordinance.

B. Nothing contained in this ordinance shall be construed as applied to constitute a temporary or permanent taking of private property or the abrogation of validity existing within a vested rights claim. It shall be the duty, however, and the responsibility of the party alleging vested rights to affirmatively demonstrate the legal requisites of said vested rights claim.

C. Rights shall vest upon a demonstration to the City of Dunnellon and/or agency thereof that the applicant:

- a. Has relied in good faith;
- b. Upon some act or omission of the government;
- c. Has made such a substantial change in position or encouraged such extensive obligations and expenses to their detriment that it would be highly inequitable to deny relief and unjust to destroy the rights acquired.

D. The mere existence of zoning contrary to the Comprehensive Plan shall not be determined to vest rights.

E. Nothing contained in this ordinance shall limit or modify the rights of any person to complete any development that has heretofore been authorized as a development of regional impact pursuant to Chapter 380 (Florida Statutes) or that has been issued a final development order and development has commenced and is continuing in good faith as is provided in Chapter 163, Laws of Florida (1987), and as is amended from time to time.

F. That the City shall develop application and policy procedures to implement the policies of vested rights, including additional criteria if deemed necessary.

SECTION SIX: Repeal of Prior Ordinances.

The City of Dunnellon Comprehensive Plan previously enacted by ordinance is hereby amended to the extent inconsistent herewith.

SECTION SEVEN: Severability.

If a portion of this ordinance should be declared unconstitutional, or if the applicability of this ordinance or any portion thereof to any person or circumstance should be held invalid, the validity of the remainder of this ordinance and the applicability of this ordinance, or any portion thereof, to other persons and circumstances shall not be affected thereby.

SECTION EIGHT: Effective Date.

This ordinance shall become effective immediately upon its passage.

DONE AND ADOPTED AT THIS GENERAL MEETING HELD THIS
14th DAY OF October, 1991.

CITY OF DUNNELLON

By: *Austin Porter*
AUSTIN PORTER, President

ATTESTED BY:

Connie Scott
CONNIE SCOTT, City Clerk

APPROVED FOR CORRECTNESS AND FORM:

David L. Wilcox
DAVID L. WILCOX, City Attorney

This is a true and certified copy.

Connie Scott
City Clerk

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND THE
CITY OF DUNNELLO
COMPREHENSIVE PLAN NOT IN COMPLIANCE
DOCKET NO. 91-NOI-4203-(N)

The Department gives notice of its intent to find the City of Dunnellon Comprehensive Plan, NOT IN COMPLIANCE pursuant to Section 163.3184, F.S.

The adopted City of Dunnellon Comprehensive Plan, the Department's Objections, Recommendations and Comments Report, and the Department's Statement of Intent to Find the Comprehensive Plan Not in Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City Hall, 114 South Williams Street, Dunnellon, Florida 32630.

This Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings of the Department of Administration for the scheduling of an administrative hearing pursuant to Section 120.57, F.S. The purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Administration Commission.

Any affected person, as defined in Section 163.3184, F.S., may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least five (5) days before the date set for the final hearing and must include all of the information and contents described in Rule 22I-6.010, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Administration, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S.

-s-Robert Pennock, Chief
Department of Community Affairs
Division of Resource Planning
and Management
Bureau of Local Planning
2740 Centerview Drive
Tallahassee, Florida 32399-2100