



# Few Local Governments Have Adopted Optional Recreational Surface Water Use Policies

## *at a glance*

While 35 counties and 167 municipalities have adopted coastal management elements in their comprehensive plans, few local governments have adopted optional recreational surface water use policies as encouraged by Ch. 2006-220, *Laws of Florida*. Most of the governments we contacted were unaware of the 2006 statutory provision, but reported that their counties have addressed recreational surface water use issues through other mechanisms.

## Scope

As directed by the Legislature, OPPAGA reviewed local government implementation of optional recreational surface water use policies and answered two questions.<sup>1</sup>

1. Have local governments adopted optional recreational surface water use policies?
2. What factors have limited the adoption of recreational surface water use policies?

## Background

The Growth Management Act requires all cities and counties in Florida to adopt Local

Government Comprehensive Plans that guide their future growth and development. These plans are to include various chapters or elements, several of which may be relevant to managing the state's extensive recreational surface waters (Florida has 825 miles of beaches, 2,276 miles of tidal shoreline, and more than 12,650 miles of rivers, streams, and waterways).<sup>2</sup> Three required elements are particularly relevant to protecting recreational surface waters—the elements pertaining to conservation, coastal management, and recreation and open space.

Chapter 2006-220, *Laws of Florida*, encourages counties with coastal management elements to also adopt recreational surface water use policies.<sup>3</sup> The law specifies that these policies are optional, but should include factors such as natural resources, manatee protection, working waterfront protection and public access, and recreation and economic demands.

<sup>2</sup> Tidal shoreline is defined as the shoreline between mean low and mean high tide.

<sup>3</sup> Prior to 2006, developers planning to build or expand marinas were subject to the Development of Regional Impact (DRI) process under which local, state, and federal agencies provided a comprehensive review of project aspects that affected the environment, protected species, and water quality. The 2006 Legislature eliminated the DRI process for marinas but encouraged local governments to adopt recreational water policies that addressed these issues.

<sup>1</sup> Section 163.3177(6)(g)2, *F.S.*

## Questions and Answers —

### *Have local governments adopted optional recreational surface water use policies?*

While many local governments address recreational water policies in their comprehensive plans, few have adopted optional policies regarding surface waters.

Many local governments have coastal management elements in their comprehensive plans. According to the Department of Community Affairs (DCA) as of October 2010, 202 local governments (35 counties and 167 municipalities within those counties) had adopted coastal management elements as part of their comprehensive plans (see Appendix A). The remaining 32 counties are not required to have coastal management elements in their comprehensive plans because they do not have coastal access.

No state agency monitors adoption of optional recreational surface water use policies. Neither DCA nor other external review agencies are required to document whether local governments have adopted optional recreational surface water use policies. DCA oversees local comprehensive plans and plan amendments, but does not track whether counties and municipalities have adopted optional policies governing recreational surface waters. Several state environmental agencies—the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, and the water management districts—also review local governments’ proposed comprehensive plan amendments that affect water bodies. However, like DCA, these agencies do not monitor implementation of optional recreational surface water policies.<sup>4</sup>

Few governments have adopted optional policies. To assess whether local governments have adopted optional recreational surface water

use policies, we contacted the 35 counties that have coastal management elements in their comprehensive plans to determine if they had also adopted optional policies as encouraged by Ch. 2006-220, *Laws of Florida*.<sup>5</sup> Only Wakulla County and the City of Boynton Beach (Palm Beach County) reported adopting such policies. Wakulla County’s policy addresses each of the factors described in statute (i.e., natural resources, manatee protection, working waterfront protection and public access, and recreation and economic demands) and provides additional guidance as the county considers issues related to recreational surface water use. The City of Boynton Beach adopted a series of comprehensive plan amendments in 2009 that establish recreational surface water use policies. These amendments incorporate by reference the city’s Manatee Protection Plan, address preservation of the city’s two public waterfronts, and provide that marinas, boat ramps, and other water-dependent activities must protect natural resources.

### *What factors have limited the adoption of recreational surface water use policies?*

Most of the counties we contacted with coastal management elements reported that they were unaware of the 2006 statutory provision and were uncertain of the law’s intent. Most also reported that recreational surface water use is being addressed in other ways and that additional action is unnecessary.

Most local governments are unaware of the recreational surface water use policy legislation. Of the 35 counties we contacted, only 6 were aware of the provisions of Ch. 2006-220, *Laws of Florida*. Some officials noted that this law does not define the term ‘recreational surface water use policy’, and thus they were unsure whether optional local government policies would be required to apply to all water bodies, including storm water retention ponds. Other local officials expressed

<sup>4</sup>The Department of Environmental Protection’s Coastal Management Program is available to assist eligible local governments with grant funding to develop recreational surface water use policies.

<sup>5</sup>Jefferson County citizens do not have access to their coastline because it includes the federally owned St. Marks National Wildlife Refuge and Aucilla Wildlife Management Area, both of which are uninhabited and inaccessible. While we contacted all 35 counties, we were not able to obtain information from 2 counties.

confusion about the Legislature's intent in making such policies optional rather than mandatory and voiced concern that the state had not established guidelines for these policies.

Other local policies address recreational surface water use. Local government officials reported that although their counties had not established optional policies governing recreational water use, governments were addressing this issue in other ways, particularly through elements in their counties' comprehensive plans. Exhibit 1 provides examples of county policies that address recreational surface water use.

For example, the state requires 13 counties to establish manatee protection plans that must be approved by the Florida Fish and Wildlife Conservation Commission.<sup>6</sup> Several counties reported that these plans adequately address manatee protection issues that would otherwise be incorporated in an optional recreational water use plan. Officials reported that the plans address issues including manatee habitat, boat speed zones, and boating safety. Six counties also have established specific manatee protection provisions in their comprehensive plans or in other regulations.

Similarly, 24 counties reported that they included working waterfront policies in their comprehensive plans or in other regulations. In addition to comprehensive plan policies addressing working waterfronts, counties may participate in the state's Waterfronts Florida Partnership Program, which provides technical assistance, training and education, and financial assistance to communities seeking to revitalize waterfront areas in the state.<sup>7</sup> The program's

statutory priorities include protecting environmental and cultural resources, providing public access, and mitigating hazards.

Some counties have also adopted separate strategies for surface water protection. For example, since 2007, Brevard County has been developing a County Comprehensive Maritime Management Master Plan.<sup>8</sup> County officials indicate that this master plan is being developed to address citizen concerns that management of Indian River Lagoon was fragmented across multiple jurisdictions, including local, state, and federal governments. The draft master plan includes six elements and 13 goals that address managing county waterways; the plan seeks to conserve natural systems while enhancing economic and recreational opportunities, ensure waterway access for all citizens, encourage stewardship, and promote safe and courteous boating through education. In addition, the plan addresses restoring and retaining working waterfronts and expanding recreational and commercial infrastructure.

The Marine Spatial Planning Database will enhance protection and recreational surface water use. The 2010 Legislature adopted proviso language and allocated \$250,000 to the Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission to develop the Marine Spatial Planning Database. The database is intended to enhance collaboration and communication among federal, state, regional, and local entities that manage Florida's ocean and coastal resources and adjacent uplands. The database can also be used to help consider proposals such as developing wind turbines in coastal areas by identifying environmentally sensitive areas and marine habitats that could be affected by such projects. Information from the database may be helpful to cities and counties in the future as they address issues of recreational surface water use.

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<sup>6</sup> In the October 1989 Policy Directive, the Governor and Cabinet required 13 counties where manatees are considered at substantial risk, to implement manatee protection plans. These counties were Brevard, Broward, Collier, Citrus, Dade, Duval, Indian River, Lee, Martin, Palm Beach, St. Lucie, Sarasota, and Volusia. The 2002 Legislature codified this policy directive in s. 370.12(2)(t), *F.S.*, and required the 13 counties to submit their plans to the Florida Fish and Wildlife Conservation Commission for approval.

<sup>7</sup> Florida's efforts to preserve working waterfronts can be traced to the Waterfronts Florida Partnership Program created by the Florida Coastal Management Program in 1997.

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<sup>8</sup> Brevard County received funding for developing the maritime management plan from the St. Johns River Water Management District, which manages groundwater and surface water resources in 18 northeast and east-central counties.

**Exhibit 1  
Counties Address Recreational Surface Water Use Through Various Policies**

Recreational Surface Water Use Factor	Examples of County Objectives
Natural Resources	<p><b>Coastal Management Element, Comprehensive Plan</b></p> <ul style="list-style-type: none"> <li>▪ Protect and conserve remaining wetlands, living marine resources, coastal barriers, and wildlife habitat, as applicable in the coastal area.</li> <li>▪ Protect and enhance dunes and coastal biological communities, monitor state-mandated construction standards that minimize the impacts of man-made construction on dunes, and restore altered dunes.</li> <li>▪ Maintain or improve estuarine environmental quality in the county.</li> <li>▪ Protect beaches and restore altered beaches to the extent possible.</li> </ul> <hr/> <p><b>Conservation Element, Comprehensive Plan</b></p> <ul style="list-style-type: none"> <li>▪ Maintain or increase the functions and values of wildlife habitats and marine habitats.</li> <li>▪ Increase the quality and connectivity of regionally significant wetlands.</li> <li>▪ Ensure through effective management the long-term functions of wetlands.</li> <li>▪ Create/acquire additional wetlands in the county.</li> </ul>
Manatee Protection	<p><b>County Manatee Protection Plan</b></p> <ul style="list-style-type: none"> <li>▪ Incorporates the goals of the manatee protection plan into the county comprehensive plan. The manatee protection plan is a state- and county-approved summary of manatee data, strategies, and management actions aimed at protecting manatees in a specific area or county.</li> <li>▪ Consists of three components: boating safety, education and awareness, and boat facility siting.</li> <li>▪ Addresses the need for long-range planning to ensure the survival of the endangered manatee in the rapidly growing State of Florida.</li> </ul> <hr/> <p><b>Conservation Element, Comprehensive Plan</b></p> <ul style="list-style-type: none"> <li>▪ Maintain or increase levels of protection for manatees and increase boating safety within the county's waterways.</li> <li>▪ Increase levels of vessel operator compliance with appropriate laws pertaining to manatee protection.</li> <li>▪ Ensure that new marinas/boat facilities and boat ramps, through proper facility siting and construction techniques, are located on sites that would minimize potential manatee/boat overlap, injury to manatees, and disturbance of manatee habitat.</li> </ul>
Protection of Working Waterfronts and Public Access to the Water	<p><b>County Boat Facility Siting Plan</b></p> <ul style="list-style-type: none"> <li>▪ Guides the development of boat facilities, including docks, piers, dry storage areas, marinas, and boat ramps.</li> <li>▪ Specifies preferred locations for boat facility development based on an evaluation of natural resources, manatee protection needs, recreation, and economic demands.</li> </ul> <hr/> <p><b>Recreation and Open Space Element, Comprehensive Plan</b></p> <ul style="list-style-type: none"> <li>▪ Ensure public access to local and regional recreational sites and facilities, including greenways, water bodies, and the county's beachfront.</li> </ul>
Recreation and Economic Demands	<p><b>Recreation and Open Space Element, Comprehensive Plan</b></p> <ul style="list-style-type: none"> <li>▪ Coordinate public and private resources to meet recreation demands.</li> </ul> <hr/> <p><b>Coastal Management Element, Comprehensive Plan</b></p> <ul style="list-style-type: none"> <li>▪ Manage development activities in the county's coastal area to maximize aesthetic, environmental, recreational, and economic values.</li> </ul>

Source: Examples from the Broward County Comprehensive Plan.

## Appendix A

# Coastal Management Elements Are Required for 202 Local Government Comprehensive Plans

County	Local Government
<b>Bay</b>	Bay County
	Callaway
	Lynn Haven
	Mexico Beach
	Panama City
	Panama City Beach
	Parker
	Springfield
<b>Brevard</b>	Brevard County
	Cape Canaveral
	Cocoa
	Cocoa Beach
	Indialantic
	Indian Harbor Beach
	Melbourne
	Melbourne Beach
	Palm Bay
	Palm Shores
	Rockledge
	Satellite Beach
Titusville	
<b>Broward</b>	Broward County
	Dania Beach
	Deerfield Beach
	Fort Lauderdale
	Hallandale Beach
	Hillsboro Beach
	Hollywood
	Lauderdale By The Sea
	Lighthouse Point
	Oakland Park
	Pompano Beach
	Port Everglades
	Sea Ranch Lakes
	Wilton Manors
	<b>Charlotte</b>
Punta Gorda	
<b>Citrus</b>	Citrus County
	Crystal River
<b>Collier</b>	Collier County
	Everglades City
	Marco Island
	Naples
<b>Dixie</b>	Dixie County
	Horseshoe Beach
<b>Duval</b>	Duval County Jacksonville
	Atlantic Beach

County	Local Government
<b>Duval (continued)</b>	Jacksonville Beach
	Neptune Beach
<b>Escambia</b>	Escambia County
	Pensacola
<b>Flagler</b>	Flagler County
	Beverly Beach
	Flagler Beach
	Marineland
	Palm Coast
<b>Franklin</b>	Franklin County
	Apalachicola
<b>Gulf</b>	Carrabelle
	Gulf County
<b>Hernando</b>	Port St Joe
	Hernando County
<b>Hillsborough</b>	Hillsborough County
	Tampa
<b>Indian River</b>	Indian River County
	Indian River Shore
	Orchid
	Sebastian
	Vero Beach
<b>Jefferson</b>	Jefferson County
<b>Lee</b>	Lee County
	Bonita Springs
	Cape Coral
	Fort Myers
	Fort Myers Beach
	Sanibel
<b>Levy</b>	Levy County
	Cedar Key
	Yankeetown
<b>Manatee</b>	Manatee County
	Anna Maria
	Bradenton
	Bradenton Beach
	Holmes Beach
	Palmetto
<b>Martin</b>	Martin County
	Jupiter Island
	Ocean Breeze Park
	Sewall's Point
	Stuart
<b>Miami-Dade</b>	Miami-Dade County
	Bal Harbour
	Bay Harbor Island
	Coral Gables

County	Local Government
<b>Miami-Dade (continued)</b>	Cutler Bay
	El Portal
	Golden Beach
	Indian Creek Village
	Key Biscayne
	Miami
	Miami Beach
	North Bay
	North Miami
	North Miami Beach
	Palmetto Bay
	Sunny Isles Beach
	Surfside
	<b>Monroe</b>
Islamorada	
Key Colony Beach	
Key West	
Layton	
<b>Nassau</b>	Marathon
	Nassau County
<b>Okaloosa</b>	Fernandina Beach
	Okaloosa County
<b>Palm Beach</b>	Cinco Bayou
	Destin
	Fort Walton Beach
	Mary Esther
	Niceville
	Shalimar
	Valparaiso
	Palm Beach County
	Boca Raton
	Boynton Beach
	Briny Breezes
	Delray Beach
	Gulfstream
	Highland Beach
	Hypoluxo
	Juno Beach
Jupiter	
Jupiter Inlet	
Lake Park	
Lake Worth	
Lantana	
Manalapan	
North Palm Beach	
Ocean Ridge	
Palm Beach (Town)	
Palm Beach Gardens	
Palm Beach Shores	
Riviera Beach	
South Palm Beach	
Tequesta	
West Palm Beach	
<b>Pasco</b>	Pasco County
	New Port Richey
	Port Richey

County	Local Government
<b>Pinellas</b>	Pinellas County
	Belleair
	Belleair Beach
	Belleair Bluffs
	Belleair Shores
	Clearwater
	Dunedin
	Gulfport
	Indian Rocks Beach
	Indian Shores
	Largo
	Madeira Beach
	North Redington Beach
<b>Santa Rosa</b>	Oldsmar
	Redington Beach
	Redington Shores
	Safety Harbor
	Seminole (City)
	South Pasadena
	St. Petersburg
	St. Pete Beach
	Tarpon Springs
	Treasure Island
	Sarasota County
<b>Sarasota</b>	Gulf Breeze
	Sarasota County
	Longboat Key
<b>St. Johns</b>	North Port
	Sarasota (City)
	Venice
<b>St. Lucie</b>	St. Johns County
	St. Augustine
	St. Augustine Beach
<b>Taylor</b>	St. Lucie County
	Fort Pierce
	Port St. Lucie
<b>Volusia</b>	St. Lucie Village
	Taylor County
	Volusia County
	Daytona Beach
	Daytona Beach Shores
	Edgewater
	Holly Hill
	New Smyrna Beach
	Oak Hill
	Ormond Beach
	Ponce Inlet
Port Orange	
South Daytona	
<b>Wakulla</b>	Wakulla County
	St. Marks
<b>Walton</b>	Walton County



# *The Florida Legislature*

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