

1 A bill to be entitled
 2 An act relating to the Myakka River; amending s. 258.501,
 3 F.S.; including portions of the river that are in Manatee
 4 and Charlotte Counties in the river area that is
 5 designated as a Florida wild and scenic river; revising
 6 provisions to conform; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 258.501, Florida Statutes, is amended
 11 to read:

12 258.501 Myakka River; wild and scenic river designation
 13 ~~segment~~.--

14 (1) SHORT TITLE.--This section may be cited as the "Myakka
 15 River Wild and Scenic Designation and Preservation Act."

16 (2) LEGISLATIVE DECLARATION.--The Legislature finds and
 17 declares that ~~a certain segment of~~ the Myakka River in Manatee,
 18 Sarasota, and Charlotte Counties possesses outstandingly
 19 remarkable ecological, fish and wildlife, and recreational
 20 values which are unique in the State of Florida. These values
 21 give significance to the river as one which should be
 22 permanently preserved and enhanced for the citizens of the State
 23 of Florida, both present and future. The permanent management
 24 and administration of the river involves a complex interaction
 25 of state, regional, and local interests which require balancing
 26 and coordination of purpose. It is the intention of the
 27 Legislature to provide for the permanent preservation of the
 28 ~~designated segment of~~ the Myakka River by way of development of

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29 a plan for permanent administration by agencies of state and
30 local government which will ensure the protection necessary but
31 retain that degree of flexibility, responsiveness, and expertise
32 which will accommodate all of the diverse interests involved in
33 a manner best calculated to be in the public interest.

34 (3) DEFINITIONS.--As used in this section, the term:

35 (a) "Activity" means the doing of any act or the failing
36 to do any act, whether by a natural person or a corporation.

37 (b) "Agreement" means the interagency operating agreement
38 between the department, the Department of Community Affairs, and
39 Charlotte County, Manatee County, Sarasota County, or the City
40 of North Port.

41 (c) "Coordinating council" means the council created by
42 subsection (7).

43 (d) "Department" means the Department of Environmental
44 Protection.

45 (e) "Division" means the Division of Recreation and Parks
46 of the Department of Environmental Protection.

47 (f) "Major infrastructure facility" means a manmade
48 structure which serves the common needs of the population, such
49 as a central sewage disposal system, potable water system,
50 potable water well serving a system, solid waste disposal site
51 or retention area, stormwater system, utility, causeway, marina,
52 bridge, or roadway.

53 (g) "Person" means an individual, corporation,
54 governmental agency or institution thereof, business trust,
55 estate, trust, partnership, association, two or more persons
56 having a joint or common interest, or other legal entity.

57 (h) "Resource value" means any one or more of the specific
 58 economic, scenic, recreational, geologic, fish and wildlife,
 59 historic, cultural, or ecological features associated with the
 60 river area as determined by the coordinating council.

61 (i) "River area" means that corridor of land beneath and
 62 surrounding the navigable portion of the Myakka River from the
 63 beginning of the river mile 7.5 to the mouth of the river at
 64 Charlotte Harbor ~~river mile 41.5~~, together with a corridor
 65 including the maximum upland extent of wetlands vegetation as
 66 determined by the former Department of Environmental Regulation
 67 pursuant to chapter 403 and chapters 17-3 and 17-312, Florida
 68 Administrative Code.

69 (j) "Wild and scenic protection zone" means an area which
 70 extends 220 feet landward from the river area.

71 (4) DESIGNATION OF WILD AND SCENIC RIVER.--

72 (a) The corridor of land surrounding and beneath the
 73 navigable portion of the Myakka River between the beginning of
 74 the river mile 7.5 and the mouth of the river at Charlotte
 75 Harbor ~~river mile 41.5~~ is hereby designated as a Florida wild
 76 and scenic river for the purposes of this section and is subject
 77 to all of the provisions of this section. ~~Such designated~~
 78 ~~portion is more particularly described as that portion of the~~
 79 ~~Myakka River located between State Road 780 in Sarasota County~~
 80 ~~and the Sarasota-Charlotte County line.~~

81 (b) The governments of Charlotte County, Manatee County,
 82 Sarasota County, and the City of North Port shall manage the
 83 Myakka River wild and scenic protection zone under their
 84 existing authorities for comprehensive planning, the regulation

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85 of land development activities, and other necessary or
86 appropriate ordinances and in conformance with this section, the
87 management plan required under subsection (5), and the
88 agreements adopted by the department and the Department of
89 Community Affairs with the city and counties ~~county~~ pursuant to
90 this section.

91 (5) DEVELOPMENT OF MANAGEMENT PLAN.--

92 (a) The department and the coordinating council shall
93 jointly develop a proposed management plan for the ~~designated~~
94 ~~segment of the~~ Myakka River, subject to and consistent with the
95 provisions of this section.

96 (b) The development of the proposed management plan shall
97 be by public hearing and shall include participation by all
98 appropriate state agencies and by all appropriate or interested
99 local governments and private organizations.

100 (c) The proposed management plan shall include provision
101 for:

102 1. Permanent protection and enhancement of the ecological,
103 fish and wildlife, and recreational values within the river
104 area, primary emphasis being given to protecting agricultural,
105 aesthetic, scenic, historic, archaeologic, and scientific
106 features.

107 2. Continuation of land uses and developments on private
108 lands within the river area which are in existence on January 1,
109 1986.

110 3. Periodic studies to determine the quantity and mixture
111 of recreation and other public uses which can be permitted
112 without adverse impact on the resource values of the river area.

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113 4. Regulation, control, and distribution of public access
114 where necessary to protect and enhance the resource values of
115 the river area.

116 5. Consideration of need for basic facilities to absorb
117 user impact on the river area, including necessary toilet or
118 refuse containers, but, if found to be necessary, located in
119 order to minimize their intrusive impact.

120 6. Restriction of motorized travel by land vehicle or boat
121 where necessary to protect the resource values in the river
122 area.

123 7. Agricultural and forestry practices similar in nature
124 to those in the river area on January 1, 1986.

125 8. Resource management practices for the protection,
126 conservation, rehabilitation, or enhancement of river area
127 resource values.

128 9. Monitoring of existing water quality.

129 10. Continuance of existing drainage and water management
130 practices, unless such existing practices will adversely affect,
131 degrade, or diminish existing water quality or existing resource
132 values in the river area, and allowance of new water resource
133 management practices which will not have an adverse impact on
134 resource values in the river area.

135 11. Review and regulation of all activities conducted or
136 proposed to be conducted within the river area which will or may
137 have an adverse impact on any of the resource values in the
138 river area as provided in this section.

139 12. Review and regulation, by Charlotte County, Manatee
140 County, Sarasota County, and the City of North Port under their

141 | respective authorities, of activities within the wild and scenic
 142 | protection zone; and subsequent prohibition, or approval with or
 143 | without conditions, of such activities in order to minimize
 144 | potential adverse physical and visual impacts on resource values
 145 | in the river area and to minimize adverse impacts on private
 146 | landowners' use of land for residential purposes.

147 | (d) To the extent not inconsistent with this section, the
 148 | proposed management plan may also include any other provisions
 149 | deemed by the department to be necessary or advisable for the
 150 | permanent protection of the river as a component of the Florida
 151 | Wild and Scenic Rivers System.

152 | (6) AMENDMENT OF REGULATIONS AND COMPREHENSIVE PLANS.--

153 | (a) Charlotte County, Manatee County, Sarasota County, and
 154 | the City of North Port shall amend their comprehensive plans so
 155 | that the parts of such plans that affect the wild and scenic
 156 | protection zone conform to, or are more stringent than, this
 157 | section, the river management plan, and management guidelines
 158 | and performance standards to be developed and contained within
 159 | agreements to be adopted by the department, the Department of
 160 | Community Affairs, and the city and counties ~~county~~. The
 161 | guidelines and performance standards must be used by the
 162 | department and the Department of Community Affairs to review and
 163 | monitor the regulation of activities by the city and counties
 164 | ~~county~~ in the wild and scenic protection zone. Amendments to
 165 | those comprehensive plans must include specific policies and
 166 | guidelines for minimizing adverse impacts on resources in the
 167 | river area and for managing the wild and scenic protection zone
 168 | in conformance with this section, the river management plan, and

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169 the agreement. Such comprehensive plans must be amended within 1
170 year after the adoption date of the agreement, and thereafter,
171 within 6 months following an amendment to this section, the
172 river management plan, or the agreement, as may be necessary.
173 For the purposes established in this subsection, such amendments
174 need not conform to statutory or local ordinance limitations on
175 the frequency of consideration of amendments to local
176 comprehensive plans.

177 (b) Charlotte County, Manatee County, Sarasota County, and
178 the City of North Port shall adopt or amend, within 1 year after
179 the department and the Department of Community Affairs adopt
180 with the city and with the county agreements for regulating
181 activities in the wild and scenic protection zone, any necessary
182 ordinances and land development regulations so that those
183 ordinances and regulations conform to the purposes of this
184 section, the river management plan, and the agreement.
185 Thereafter, following any amendment to this section, the river
186 management plan, or the agreement, the city and counties ~~county~~
187 must amend or adopt, within 1 year, appropriate ordinances and
188 land development regulations to maintain such local ordinances
189 and regulations in conformance with this section, the river
190 management plan, and the agreement. Those ordinances and
191 regulations must provide that activities must be prohibited, or
192 must undergo review and either be denied or permitted with or
193 without conditions, so as to minimize potential adverse physical
194 and visual impacts on resource values in the river area and to
195 minimize adverse impacts on private landowners' use of land for
196 residential purposes. The resource values of concern are those

197 identified in this section and by the coordinating council in
 198 the river management plan. Activities which may be prohibited,
 199 subject to the agreement, include, but are not limited to,
 200 landfills, clear cuttings, major new infrastructure facilities,
 201 major activities that would alter historic water or flood flows,
 202 multifamily residential construction, commercial and industrial
 203 development, and mining and major excavations. However,
 204 appurtenant structures for these activities may be permitted if
 205 such structures do not have adverse visual or measurable adverse
 206 environmental impacts to resource values in the river area.

207 (c) If the Department of Community Affairs determines that
 208 the local comprehensive plan or land development regulations, as
 209 amended or supplemented by the local government, are not in
 210 conformance with the purposes of this section, the river
 211 management plan, and the agreement, the Department of Community
 212 Affairs shall issue a notice of intent to find the plan not in
 213 compliance and such plan shall be subject to the administrative
 214 proceedings in accordance with s. 163.3184.

215 (7) MANAGEMENT COORDINATING COUNCIL.--

216 (a) Upon designation, the department shall create a
 217 permanent council to provide interagency and intergovernmental
 218 coordination in the management of the river. The coordinating
 219 council shall be composed of one representative appointed from
 220 each of the following: the department, the Department of
 221 Transportation, the Fish and Wildlife Conservation Commission,
 222 the Department of Community Affairs, the Division of Forestry of
 223 the Department of Agriculture and Consumer Services, the
 224 Division of Historical Resources of the Department of State, the

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225 Tampa Bay Regional Planning Council, the Southwest Florida Water
 226 Management District, the Southwest Florida Regional Planning
 227 Council, Manatee County, Sarasota County, Charlotte County, the
 228 City of Sarasota, the City of North Port, agricultural
 229 interests, environmental organizations, and any others deemed
 230 advisable by the department.

231 (b) The coordinating council shall review and make
 232 recommendations on all proposals for amendments or modifications
 233 to this section and to the permanent management plan, as well as
 234 on other matters which may be brought before the council by the
 235 department, any local government, or any member of the council,
 236 and shall render its nonbinding advisory opinion to the
 237 Southwest Florida Water Management District, the department, and
 238 affected local governments.

239 (c) The council may adopt bylaws to provide for election
 240 of such officers as it deems necessary, removal of officers for
 241 just cause, meetings, quorum, procedures, and other such matters
 242 as its members may deem advisable in the conduct of its
 243 business. Such bylaws shall be approved by the department.

244 (d) Such professional staff as the coordinating council
 245 may require shall be provided by the department.

246 (8) PRESERVATION OF EXISTING GOVERNMENTAL AUTHORITY.--

247 (a) Nothing contained in this section shall operate to
 248 divest any agency, water management district, municipality,
 249 county, or special district of any authority or jurisdiction in
 250 existence on January 1, 1986.

251 (b) Notwithstanding paragraph (a), Charlotte County,
 252 Manatee County, Sarasota County, and the City of North Port

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253 must, in exercising their authority and jurisdiction over any
 254 part of the wild and scenic protection zone, act in conformance
 255 with this section, the management plan, and the agreements
 256 entered into pursuant to this section.

257 (9) RULEMAKING AUTHORITY.--

258 (a) The department is authorized to adopt rules to
 259 regulate activities within the river area which have adverse
 260 impact on resource values as adopted by the coordinating council
 261 within the river area.

262 (b) The department shall coordinate all activities related
 263 to rule adoption and enforcement with the regulatory and
 264 management programs of other agencies in order to avoid to the
 265 maximum extent possible any conflicts or duplication arising
 266 therefrom.

267 (c) The department and the Department of Community Affairs
 268 must enter into agreements with the City of North Port,
 269 Charlotte County, Manatee County, and Sarasota County which ~~that~~
 270 provide for guiding and monitoring the regulation of activities
 271 by the city and counties ~~county~~, in accordance with subsection
 272 (6). Such agreements shall include guidelines and performance
 273 standards for regulating proposed activities so as to minimize
 274 adverse environmental and visual impacts of such activities on
 275 the resource values in the river area, and to minimize adverse
 276 impacts to landowners' use of land for residential purposes.

277 (10) PERMITTING AUTHORITY.--

278 (a) No person or entity shall conduct any activity within
 279 the river area which will or may have an adverse impact on any
 280 resource value in the river area without first having received a

281 permit from the department.

282 (b) A permit may be granted only after a finding by the
 283 department that the activity for which a permit has been
 284 requested will not have an adverse impact on resource values in
 285 the river area.

286 (c) The department may adopt an application fee schedule
 287 providing for payment of reasonable fees to defray the cost of
 288 processing applications.

289 (11) NOTIFICATION BY REGULATORY AGENCIES.--All state,
 290 regional, and local regulatory agencies shall provide to the
 291 department notification of applications received by the agency
 292 for approval to conduct activities in the river area and
 293 protection zone.

294 (12) LEGAL STATUS OF COMPREHENSIVE PLAN AMENDMENTS.--It is
 295 the intent of this section that the city and counties ~~county~~
 296 amend their comprehensive plans, land development regulations,
 297 and other appropriate ordinances and regulations to be in
 298 conformance with this section, the river management plan, and
 299 guidelines and performance standards to be developed and adopted
 300 by agreement pursuant to this section. Such amendments shall
 301 have legal status as provided under s. 163.3194 and must be
 302 implemented through appropriate local regulations in accordance
 303 with s. 163.3201.

304 (13) STANDING TO ENFORCE AMENDED COMPREHENSIVE PLANS.--It
 305 is the intent of this section that any aggrieved or adversely
 306 affected person may maintain an action for injunction or other
 307 relief against the city or counties ~~county~~ to prevent any such
 308 local government from taking action in regulating activities not

309 consistent with the comprehensive plan, land development
 310 regulations, and other appropriate ordinances and regulations,
 311 as amended, pursuant to this section and s. 163.3215.

312 (14) PERMITTED ACTIVITIES.--

313 (a) Nothing in this section shall be construed to prohibit
 314 or regulate any activity taking place outside the river area and
 315 the wild and scenic protection zone for which necessary permits
 316 and licenses are obtained as required by other provisions of
 317 federal, state, or local law.

318 (b) Nothing in this section shall be construed to prohibit
 319 or limit public utilities from improving, maintaining,
 320 modifying, or expanding existing facilities or constructing new
 321 facilities in the river area or the wild and scenic protection
 322 zone, provided the necessary federal, state, and local permits
 323 and licenses are obtained.

324 (15) PROHIBITED ACTIVITY.--Airboats are prohibited from
 325 operating in the river area north of U.S. Highway 41 (State Road
 326 45), except for uses officially allowed by government agencies.

327 (16) ENFORCEMENT.--Officers of the department shall have
 328 full authority to enforce any rule adopted by the department
 329 under this section with the same police powers given them by law
 330 to enforce the rules of state parks and the rules pertaining to
 331 saltwater areas under the jurisdiction of the Florida Marine
 332 Patrol.

333 (17) PENALTIES.--Violation of this section or of any rule
 334 adopted under this section constitutes a misdemeanor of the
 335 second degree, punishable as provided in s. 775.082 or s.
 336 775.083. Continuing violation after notice constitutes a

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337 | separate violation for each day so continued.

338 | Section 2. This act shall take effect July 1, 2007.