

Florida

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All section numbers are from West's Florida Statutes Annotated, West Publishing Company, updated as of 1995.

Section 1: Overview - Distribution of Planning and Regulatory Authority

Florida's integrated planning and growth management system includes plans and activities at three levels of government. At the state level, the State Comprehensive Plan provides policy direction for all government levels. It is the cornerstone of the system. State agencies must adopt agency plans to implement pertinent portions of the State Comprehensive Plan. At the regional level, each regional planning council must adopt a regional plan that is consistent with the State Comprehensive Plan, but is shaped by the circumstances and conditions of the region. At the local level, each county and municipality must adopt a local comprehensive plan that is consistent with the state and regional plans. Statutory consistency requirements bind the system together.

Section 2: State Planning

Department of Community Affairs - §163.03. The department of community affairs has the power or duty to do the following: assist local governments in applying for state and federal aid regarding urban problems; administer programs which will assist local governments in developing mutual and cooperative solutions to their common problems; conduct programs to encourage private enterprise in the solution of urban problems; provide consulting services and technical assistance to local governments in the areas of housing, redevelopment and renewal, local police improvement programs, planning, and zoning; prepare model ordinances and codes relating to these areas; cooperate with other state agencies in the preparation of state plans relating to these matters; accept and disburse funds to carry out related programs; and disseminating information to local governments relating to federal grants available.

Executive Office of the Governor - §186.006. The executive office of the governor shall: "(1) Identify and monitor on a continuing basis statewide conditions and trends which impact the state. (2) Prepare, and update or revise regularly, the state comprehensive plan. (3) Designate the geographic boundaries of comprehensive planning districts. (4) Designate, and prepare or direct to be prepared, specific data, assumptions, forecasts, and projections for use by each state or regional agency in the preparation of plans. (5) Coordinate planning among federal, state, regional, and local levels of government and between this state and other states. (6) Prepare or direct appropriate state or regional agencies to prepare such studies, reports, data collections, or analyses as are necessary or useful in the preparation or revision of the state comprehensive

plan, state agency functional plans, or regional comprehensive policy plans. (7) Act as the state clearinghouse and designate the regional planning councils as the regional data clearinghouses. (8) Direct state agencies and regional agencies to prepare and implement, consistent with their authority and responsibilities under law, such plans as are necessary to further the purposes and intent of the state comprehensive plan. (9) Provide such data and information to public and private agencies and to the public as it may have available. (10) Using federal, state, local, or private funds, contract with public agencies or private firms or consultants for specialized services or research facilities, whenever such services or facilities are not otherwise available to it. (11) Perform such other functions as are necessary..."

The State Comprehensive Plan - §186.007 *et seq.* The office of the governor prepares a proposed state comprehensive plan composed of goals, objectives, and policies. The state comprehensive plan does not include a land use map. The state legislature must pass the comprehensive plan. The plan is reviewed biennially by the governor. The plan contains goals and policies in the following areas: (1) education; (2) children; (3) families; (4) the elderly; (5) housing; (6) health; (7) public safety; (8) water resources; (9) coastal and marine resources; (10) natural systems and recreational lands; (11) air quality; (12) energy; (13) hazardous and nonhazardous materials and waste; (14) mining; (15) property rights; (16) land use; (17) downtown revitalization; (18) public facilities; (19) cultural and historic resources; (20) transportation; (21) governmental efficiency; (22) the economy; (23) agriculture; (24) tourism; (25) employment; and (26) plan implementation.

The growth management portion of the state comprehensive plan shall: "(a) Provide strategic guidance for state, regional, and local actions necessary to implement the state comprehensive plan with regard to the physical growth and development of the state. (b) Identify metropolitan and urban growth centers. (c) Identify areas of state and regional environmental significance and establish strategies to protect them. (d) Set forth and integrate state policy for Florida's future growth as it relates to land development, air quality, transportation, and water resources. (e) Provide guidelines for determining where urban growth is appropriate and should be encouraged. (f) Provide guidelines for state transportation corridors, public transportation corridors, new interchanges on limited access facilities, and new airports of regional or state significance. (g) Promote land acquisition programs to provide for natural resource protection, open space needs, urban recreational opportunities, and water access. (h) Set forth policies to establish state and regional solutions to the need for affordable housing. (i) Provide coordinated state planning of road, rail, and waterborne transportation facilities designed to take the needs of agriculture into consideration and to provide for the transportation of agricultural products and supplies. (j) Establish priorities regarding coastal planning and resource management. (k) Provide a statewide policy to enhance the multiuse waterfront development of existing deep water ports, ensuring that priority is given to water-dependent land uses. (l) set forth other goals, objectives, and policies related to the state's natural and built environment that are necessary to effectuate those portions of the state comprehensive plan which are related to physical growth and development. (m) Set forth recommendations on when and to what degree local government comprehensive plans must be consistent with the proposed growth management portion of the state comprehensive plan. (n) Set forth recommendations on how to integrate the state water use plan required by s. 373.036, the state land development plan required by s. 380.031(17), and

transportation plans required by chapter 339. (o) Set forth recommendations concerning what degree of consistency is appropriate for the strategic regional policy plans."

State Agency Strategic Plans - §186.021. "A state agency strategic plan shall be a statement of the priority directions an agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and authorizations given to the agency." It is to be consistent with the and further the goals of the state comprehensive plan. It is to be developed with a five-year outlook.

The Department of Transportation plans airport systems in the state. §332.001 *et seq.* The department may give technical assistance, including model zoning ordinances, to local governments which have an airport in their jurisdiction. The department must create and update a state aviation and airport work program which, to the maximum extent feasible, should be consistent with approved local government plans.

Section 3: State Development Control

Areas of Critical State Concern - §380.05 *et seq.* The critical areas program focuses on discrete geographic areas which are facing extraordinary growth related concerns. Areas of critical state concern may be designated for: (1) an area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance; (2) an area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts; and (3) an area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment.

Despite implementation of local comprehensive planning throughout the state, the critical areas program integrates state and local regulations with state oversight by department of community affairs and the administration commission. The department may recommend areas of critical state concern to the commission. This recommendation must include: recommendations on land purchases within the area; a report on the dangers that would result from uncontrolled or inadequate development of the area and possible advantages of coordinated development in the area; an inventory of government owned lands in the area; and a list of state agencies with programs affecting the designation.

If an area is designated an area of critical state concern, the local government having jurisdiction must submit its existing land development regulations and local comprehensive plan for the area. The principles set forth in the rule designating the area may affect the regulations and the plan, thus causing the local government to amend them. The department must approve any local regulations which cover the area. If the local government does not adopt regulations or its regulations are not approved by the department, the department may recommend regulations which, after approval by the commission, supersede local government regulations. A critical area designation is not intended to be permanent.

Since the inception of the program, five areas of critical state concern have been designated: the Big Cypress Swamp, the Green Swamp, the Florida Keys, the City of Key West, and the Apalachicola Bay.

Department of Environmental Protection - Beach and Shore Preservation §161.011 *et seq.* Any person who wishes to make any coastal construction or reconstruction must apply to the department of environmental protection for a permit prior to the commencement of such work. The department shall establish coastal construction control lines for the purposes of zoning and building codes. Any coastal county or coastal municipality may establish coastal construction zoning and building codes, provided such codes are approved by the department as adequate.

Section 4: Regional and Interstate Planning

Regional Planning Councils - §186.501 *et seq.* A regional planning council is a multipurpose regional entity that is in the best position to plan and coordinate intergovernmental responses to growth related problems that extended beyond local boundaries. A regional planning council exists in each of the comprehensive planning districts of the state. Regional planning councils are also recognized as having the capacity to offer technical assistance to local governments and to meet other needs of the communities in each region.

"Each regional planning council shall establish by rule a dispute resolution process to reconcile differences on planning and growth management issues between local governments, regional agencies, and private interests." However, the process should not be used to address disputes involving environmental permits or other regulatory matters unless requested to do so by both parties. The process does not alter a "...person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law."

The strategic regional policy plan is required to address only five subject areas -- affordable housing, economic development, emergency preparedness, natural resources of regional significance, and regional transportation. Regional plans must be consistent with the state plan. Upon adoption, the strategic regional policy plan shall provide the basis for regional review of developments of regional impact, regional review of federally-assisted projects, and other regional comment functions. Adoption of regional plans is by two-thirds vote of the council's governing board.

The governing board of each regional planning council is based on the formula of two-thirds local elected officials and one-third gubernatorial appointees, in addition to a representative of each of the departments of transportation, environmental protection, and commerce and a representative of the appropriate water management district or districts.

Interstate Environmental Compact - §403.60. The Governor is authorized by the legislature to execute interstate environmental compacts according to the form set forth in the statute. The compact recognizes that environmental pollution problems transcend state boundaries and require cooperative efforts. The purposes of the compact include promotion of intergovernmental cooperation on multistate environmental protection actions and coordinated environmental protection efforts.

Section 5: Special Purpose Regional Agencies

Special Districts - §189.401 *et seq.* In adopting legislation authorizing special districts, the legislature recognized that growth and development issues transcend the boundaries of local

governments and that no single local government can plan or implement policies to effect control outside of its jurisdiction. The creation of multijurisdictional districts was permitted to allow local, county, and state governments to provide capital infrastructure, facilities and services in a coordinated and cooperative manner. The state statute authorizing the creation of special districts promotes uniformity in the creation, operation and oversight of such districts. Special Districts have the authority to issue bonds and receive state funds. Districts are required to annually submit a public facilities report to each local general-purpose government within the district, in order to assist in the development of local comprehensive plans. In general, construction of expansion of public facilities must be consistent with local comprehensive plans. The department of community affairs shall compile a list of special districts which is updated annually.

Spaceport Florida Authority - §331.301 *et seq.* This authority was created to provide "...space-related economic growth and educational development, to ensure a stable and dynamic economic climate, to attract and maintain space-related businesses suitable to the state, and to further the coordination and development of Florida's economy." The board of supervisors of the authority has the power to adopt and amend a comprehensive general plan for the physical development of the area within the spaceport territory. Such plans must be consistent with the plans of the applicable county or counties and municipality or municipalities. The board may prohibit any construction or removal of any building or structure, including utility poles and lines, without a permit. The board proscribes the procedure for obtaining such permits. the board may adopt regulations to control pollution and require certain utilities in certain locations. Finally, the board has the power to divide the territory into districts and create regulations and restrictions for each district. Bonds may be issued by the authority.

Section 6: Regional Development Control

Developments of Regional Impact - §380.06 *et seq.* The term development of regional impact "...means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." Guidelines and standards, utilizing numerical thresholds, were adopted for land uses that are addressed by the DRI program, and, depending upon the project, included uses such as: airports; attractions and recreation facilities; hospitals; industrial plants and industrial parks; mining operations; office, retail, service and wholesale development; petroleum storage facilities; port facilities; residential developments; schools; hotel or motel development; recreational vehicle development; and multi-use development.

Section 7: Local Planning

Counties and municipalities have the ability to plan. §163.3161 *et seq.* They also have the ability: to adopt and amend comprehensive plans; to implement adopted or amended comprehensive plans; and "...to establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act."

Each local government shall prepare a comprehensive plan, which the state land planning agency for review. If a local government does not prepare a local plan, or lacks required elements

in their local plan, the regional planning agency for the area shall adopt, by rule, the missing elements. These must be reviewed by the state land planning agency.

Elements of the local comprehensive plan include: a capital improvements element; a future land use plan element; a traffic circulation element; a general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element; a conservation element; a recreation element; a housing element; a coastal management element (only for those in the coastal zone); and an intergovernmental coordination element. Additional elements may be required for those units of local government having populations of over 50,000.

Unincorporated areas outside of a municipality may be included in the area of the municipality's jurisdiction if the county and municipality agree on the boundaries of these areas. In chartered counties, the county may exercise jurisdiction over municipalities or districts within its boundaries according to the charter. A joint exercise of powers between municipalities and counties is allowed where an agreement is in place which was adopted by the governing bodies after a public hearing.

The governing body of each unit of local government shall by ordinance establish a local planning agency. The governing body may designate itself as that agency. Duties include: prepare and update the local comprehensive plan and to review proposed land development regulations and codes.

Coastal Zone Protection §161.52 *et seq.* In order to preserve the coastal zone area, specific requirements and minimum standards have been set for construction in this area by the department of environmental protection. Each local government must adopt building code requirements set forth in this section and provide evidence to the state land planning agency. To assist local governments in implementation and enforcement, the state land planning agency shall develop and maintain a biennial coastal building zone construction training program. Also, §163.3178 details a list of the elements required in the coastal element of a local unit of government's comprehensive plan.

The Beach Management Trust Fund was established to carry out "...the proper state responsibilities in a comprehensive, long-range, statewide beach management plan for erosion control; beach preservation, beach restoration, and beach renourishment; and hurricane protection."

Each board of county commissioners, to carry out the beach and shore preservation program, is made the county beach and shore preservation authority for the county. County funds should be expended to meet the necessary expenses of the authority. These may include: costs of studies, surveys, planning, engineering, coordination, negotiation, acquisition of lands, construction of works and facilities, operation and maintenance and other activities. The board may create districts and levy taxes in such districts to defray the costs of the district. The county may enter into agreements with other levels of government to further the beach and shore preservation program. Bonds may be issued by the county to pay for the program.

Section 8: Local Development Control

Counties and municipalities - Within one year of review of their comprehensive plan, each county and municipality shall adopt land development regulations consistent with their

adopted comprehensive plan. §163.3202 *et seq.* Such regulations shall contain provisions relating to: regulating the subdivision of land; regulating the use of land and water for those land use categories defined in the land use element of the plan while providing for open space; providing for the protection of potable water; regulating areas subject to flooding; ensuring the protection of environmentally sensitive lands; regulating signage; providing that public facilities and services meet or exceed standards set forth in the capital improvements element; and ensuring safe traffic flow.

Concurrency Requirements - The strength of Florida's growth management system is the statutory requirement that adequate public facilities be available on a timely basis to accommodate the impacts of development. "Roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis." §163.3180. The State Comprehensive Plan provides that "development shall be directed to those areas which have in place, or have agreements to provide, the land and water resource, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner." §187.201(16)(a).

Development Agreements - §163.3220 *et seq.* This section allows a local government to enter into a development agreement with a developer. Such agreements may not exceed ten years in length.

Airports - §332.001 *et seq.* Any municipality (defined as "any county, city, village, or town) may acquire property for the purpose of establishing an airport. Every political subdivision with an airport hazard area is required to adopt airport zoning regulations for the area. Section 333.01 *et seq.* describes the process for adopting airport zoning regulations and provides for a board of adjustment to hear appeals, decide special exceptions and variances.

Community Redevelopment - §163.330 *et seq.* After a finding of necessity and passage of a resolution, a municipality or county may create a community redevelopment agency for the elimination of slums or for the provision of affordable housing. A community redevelopment plan, that conforms to the comprehensive plan, is required. The elements of the plan include: a legal description of the boundaries of the community redevelopment area; a diagram and description of: the amount of open space, limitations on the size, height and density of buildings, the approximate number of dwelling units, and property that is intended for use as public parks, recreation areas, streets, public utilities, and public improvements; a neighborhood impact element if the area will contain low or moderate income housing; any publicly funded capital projects; the safeguards that the work will be carried out pursuant to the plan; controls or restrictions or covenants running with the land; assurances of replacement housing for displaced people; residential use element; projected costs; and timeframe of the project. Redevelopment revenue bonds or tax increment financing may be issued by the local government to finance the project.

Section 9: Specialized Adjudicatory Procedures

Transmission Line Siting Act - §403.52 *et seq.* The Transmission Line Siting Act is one of the most significant environmental control laws, implemented through an administrative hearing process, that has a major influence on local planning in Florida. The Act establishes a coordinated permitting process for the location of transmission line corridors and the construction and

maintenance of lines. The legislative goal of the Act is to insure that lines are located in an environmentally safe manner, that does not unduly conflict with the goals of applicable local comprehensive plans.

Applications for siting transmission lines are subject to review at a public hearing conducted by the Division of Administrative Hearings. Affected state agencies may submit reports on the impacts of the proposed line. Local governments are required to submit reports on the impacts of the proposed line within its jurisdiction, including the consistency of the proposed corridor with all applicable local ordinances, standards, or criteria, including local comprehensive plans and zoning ordinances. Regional planning councils are also required to present a report with recommendations addressing the impacts of the proposed line, based on the extent to which the proposed line is consistent with the regional policy plan.

Local governments may hold informational public meetings, in addition to the formal public hearings held by the state. Following the close of the required public hearing and receipt of the hearing officer's report, the siting board, including the Governor and sitting cabinet members, act upon the application.

Section 10: State Environmental Protection Act - §403.412

Florida's Environmental Protection Act provides that the state department of legal affairs, any political subdivision or any citizen of the state may bring an action for injunctive relief against any person or government agency to enjoin violators and compel enforcement of state environmental protection laws and regulations. Prior to instituting legal action, however, complaining parties are required to first file a complaint with the governmental agency charged with violating or failing to enforce the state environmental protection law. The agency receiving the complaint then has thirty days to act, and if appropriate action is not taken the complaining party may proceed with its action. However, no action may be maintained under this section if the alleged polluter holds a valid permit for his action and is complying with the conditions of the permit.

Section 11: Financing of Required Planning and Infrastructure

Florida Communities Trust Act - §380.501-380.515. The Florida communities trust was established by the legislature, as a nonregulatory agency within the department of community affairs, in response to inappropriate and poorly planned land uses which threatened the integrity of the environment and overburdened the state's natural resources. The legislature recognized that the primary responsibility for land use planning rests with local governments through the implementation of comprehensive plans and that implementation may not be able to be accomplished solely by local regulations. In establishing the Florida communities trust, the legislature intended to create a nonregulatory agency to assist local governments in bringing local comprehensive plans into compliance and implementing the goals of the local plans.

The trust provides financial and technical assistance to local governments, state agencies and nonprofit organizations. Assistance includes support for communities to capitalize on opportunities to correct undesirable development patterns, restore degraded natural areas,

enhance resource values, improve public access to surface waters and utilize innovative land acquisition methods. The trust is authorized to make grants and loans from the Florida communities trust fund to fund land acquisitions and other redevelopment and planning related projects. Designated sources of support for the fund include revenues generated from the management, sale or lease of land disposition; sale of environmental license plates; and other sources authorized by the legislature.

Special Assessments §170.01 *et seq.* Municipalities may pay for infrastructure and other improvements through special assessments. The governing body must declare its intent to do so by resolution. An equalizing board hears complaints and adjusts assessments. Bonds may be issued in an amount not to exceed the amount of assessed liens.

Road and Transportation Improvements §206.41 *et seq.* An excise tax on motor fuel is levied by the state and distributed to counties to pay for roads. Counties may also impose fuel taxes to pay for transportation costs. §336.021 *et seq.*

Community Development Districts - §190.003 *et seq.* Community development districts are a specific type of special district authorized by the legislature, that may be established to manage and finance basic community development services. Following the adoption of a rule or ordinance establishing a community development district, a meeting of landowners must be held and a board of supervisors elected. Districts are authorized to finance, fund, plan, establish, operate and maintain infrastructure systems and facilities, including water and sewer systems, roads, bridges, etc. The district is also authorized to purchase and dispose of property, have employees, contract for services, borrow and accept money, hold, control or acquire by purchase or condemnation public easements, issue bonds, charge user fees, assess and impose ad valorem taxes, levy and collect special assessments.

Section 12: Specialized Taxation and Tax Relief Devices

Agricultural Assessment of Land - §193.461. An agricultural assessment of land used for bona fide agricultural purposes is provided under this section. Agricultural purposes include: horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture, farming, and all forms of farm products and farm production.

Enterprise Zones §290.001 *et seq.* After a finding of necessity and adoption of a resolution, any municipality, county or both the county and one or more municipalities may apply to the department of commerce for designation as an enterprise zone. A strategic plan must be developed for the area and an enterprise zone development agency created. The department may designate up to 20 areas as enterprise zones at one time, with no more than three in any one county.

Incentives provided by the state in enterprise zones include: job credit §220.181; property tax credit §220.182; community contribution tax credits §220.183 and §624.5105; sales tax exemption for building materials used in rehabilitation §212.08(5)(g); sales tax exemption for business equipment §212.08(5)(h); sales tax exemption for electrical energy §212.08(15); the enterprise zone jobs credit against the sales tax §212.096; and the Public Service Commission may allow utilities and telecommunications companies to grant discounts of up to fifty percent for businesses located in enterprise zones §290.0065. Additionally, the department of banking and

finance in consultation with the department of commerce may create an enterprise zone linked deposit program to encourage financial institutions to increase the volume of loans made to small businesses in enterprise zones.

Section 13: Other

Southern Growth Policies Agreement §23.140. The Southern Growth Policies Agreement is an agreement between select southern states for cooperative development, use, and conservation of the resources in a multi-state regional area. The eligible states are: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The plan facilitates cooperation by forming regional objectives, suggestions for regional problems, studies of the resources in the region, and obtaining assistance for development within the region. Nothing in the agreement negates any powers of party states or agencies.