

# Statutory Changes to the Community Planning Act

Chapter 163, Part II, Florida Statutes: 2016-2021



2016: [Chapter 2016-10, section 13, Laws of Florida, effective May 10, 2016; Chapter 2016-148, sections 2-4, Laws of Florida, effective July 1, 2016]

1. Section 163.3177, Florida Statutes (F.S.), **Required and Optional Elements of Comprehensive Plan; Studies and Surveys** (Chapter 2016-10, section 13, Laws of Florida)
  - Removes language in subsection (6)(a)11., requiring local governments to transmit comprehensive plan updates or amendments to address compatibility of lands adjacent to or closely proximate to existing military installations or lands adjacent to an airport to the state land planning agency by June 30, 2012.
2. Section 163.3175, F.S., **Legislative Findings on Compatibility of Development with Military Installations; Exchange of Information Between Local Governments and Military Installations** (Chapter 2016-148, section 2, Laws of Florida)
  - Modifies subsection (7) to state that a representative of a military installation is not required to file a statement of financial interest pursuant to section 112.3145, F.S., solely due to his or her service on the local government's land planning or zoning board.
3. Section 163.3184, F.S., **Process for Adoption of Comprehensive Plans or Plan Amendments** (Chapter 2016-148, section 3, Laws of Florida)
  - Amends language of subsection (2)(c) pursuant to changes in section 380.06, F.S., to require a state coordinated review of plan amendments that approve Development of Regional Impact-sized proposed developments; no substantive change.
  - Adds subsection (5)(e)3 to provide direction that when an administrative law judge issues an order recommending that a plan amendment be found in compliance, the recommended order becomes the final order 90 days after issuance unless the state land planning agency issues a final order finding the amendment in compliance, refers the recommended order to the Administration Commission, or all parties consent in writing to an extension of the 90-day period.
  - Amends subsection (7)(d), for plan amendment challenges that are subject to mediation or expeditious resolution, to provide that when an administrative law judge issues a recommended order finding an amendment in compliance, except where the parties agree or there are exceptional circumstances, the state land planning agency must issue a final order within 45 days after issuance of a recommended order. If the final order is not issued in 45 days, the recommended order finding the amendment in compliance becomes the final order.

4. Section 163.3245, F.S., **Sector Plans** (Chapter 2016-148, section 4, Laws of Florida)
  - Modifies subsection (1) to reduce the minimum amount of total land area required for a sector plan from 15,000 acres to 5,000 acres.

2017: [None]

2018: [Chapter 2018-34, section 1, Laws of Florida, Effective March 19, 2018; Chapter 2018-158, sections 7, 8, and 21, Laws of Florida, Effective April 6, 2018.]

1. Section 163.3221, F.S., **Florida Local Government Development Agreement Act; Definitions** (Chapter 2018-34, section 1, Laws of Florida)
  - Amends the definition of “development” within subsection (4)(b) to exclude work by electric utility providers on utility infrastructure on certain rights-of-way or corridors and the creation or termination of distribution and transmission corridors.
2. Section 163.3245, F.S., **Sector Plans** (Chapter 2018-158, section 7, Laws of Florida)
  - Updates statutory cross references within subsection (3)(e) and subsection (12).
  - Revises subsection (6) to amend the requirements associated with a master development approval.
3. Section 163.3246, F.S., **Local Government Comprehensive Planning Certification Program** (Chapter 2018-158, section 8, Laws of Florida)
  - Updates the Local Government Comprehensive Planning Certification Program to modify language of subsections (11), (12), and (14) referencing Developments of Regional Impact.
4. Section 163.3164, F.S., **Community Planning Act; Definitions** (Chapter 2018-158, section 21, Laws of Florida)
  - Renumbers existing subsections (31) through (51) as (32) through (52) and adds a new subsection (31) to define “master development plan” or “master plan”.

2019: [Chapter 2019-3, section 31, Laws of Florida, Effective July 3, 2019; Chapter 2019-106, section 1, Laws of Florida, Effective July 1, 2019; Chapter 2019-144, section 1, Laws of Florida, Effective July 1, 2019; Chapter 2019-155, section 2, Laws of Florida, Effective July 1, 2019; Chapter 2019-157, section 1, Laws of Florida, Effective July 1, 2019; Chapter 2019-165, sections 3-7, Laws of Florida, Effective June 28, 2019]

1. Section 163.3177, F.S., **Required and Optional Elements of Comprehensive Plan; Studies and Surveys** (Chapter 2019-3, section 31, Laws of Florida)
  - Updates statutory reference related to affordable workforce housing within subsection (6)(f).

2. Section 163.31801, F.S., **Impact Fees; Short Title; Intent; Minimum Requirements; Audits; Challenges** (Chapter 2019-106, section 1, Laws of Florida)
  - Revises the section's title.
  - Amends language of paragraphs (a) through (d) of subsection (3) to clarify the local government responsibilities related to impact fees.
  - Adds new paragraphs (e) through (i) to subsection (3) to amend the minimum requirements for the adoption of impact fees by specified local governments and note restrictions to the allowable uses of those impact fees.
  - Adds a new subsection (6), which exempts water and sewer connection fees from the Florida Impact Fee Act.
3. Section 163.3175, F.S., **Legislative Findings on Compatibility of Development with Military Installations; Exchange of Information Between Local Governments and Military Installations** (Chapter 2019-144, section 1, Laws of Florida)
  - Redesignates existing paragraphs (i) through (n) of subsection (2) as paragraphs (j) through (o).
  - Adds new paragraphs (i) and (p) to subsection (2) to specify additional local governments that must coordinate with certain military installations regarding the compatibility of land development.
4. Section 163.3209, F.S., **Electric Transmission and Distribution Line Right-of-way Maintenance** (Chapter 2019-155, section 2, Laws of Florida)
  - Removes language the requiring local government approval of a property owner's request for electric utilities to perform certain right-of-way vegetation and tree maintenance.
5. Section 163.3187, F.S., **Process for Adoption of Small-Scale Comprehensive Plan Amendment** (Chapter 2019-157, section 1, Laws of Florida)
  - Removes subsection (1)(b), which specified the cumulative annual acreage maximum of adopted small-scale comprehensive plan amendments.
6. Section 163.3167, F.S., **Scope of Act** (Chapter 2019-165, section 3, Laws of Florida)
  - Amends subsection (3) to require local governments that have adopted comprehensive plans after January 1, 2019 to incorporate into their comprehensive plans development orders that existed before the comprehensive plan's effective date.
7. Section 163.3180, F.S., **Concurrency** (Chapter 2019-165, section 4, Laws of Florida)
  - Amends subsection (5)(i) to clarify compliance requirements for a mobility fee-based funding system.
  - Revises subsection (6)(h)2.b. to require a local government to credit certain contributions, constructions, expansions, or payments toward any other impact fee or exaction imposed by local ordinance for public educational facilities and provides the requirements for the basis of that credit.
8. Section 163.31801, F.S., **Impact Fees; Short Title; Minimum Requirements: Audits;**

**Challenges** (Chapter 2019-165, section 5, Laws of Florida)

- Amends subsection (3) to add minimum conditions that certain impact fees must satisfy.
- Renumbers existing subsections (4) and (5) as subsections (6) and (7).
- Adds a new subsection (4) to require local governments to credit against the collection of an impact fee any contribution related to public education facilities.
- Adds subsection (5) so that if a local government increases its impact fee rates then the holder of impact fee credits is entitled to the full benefit of the intensity or density of the credit balance as of the date it was established and renumbers subsequent subsections.
- Amends renumbered subsection (7) to provide that in certain actions, the local government has the burden of proving by a preponderance of the evidence that the imposition or amount of certain required dollar-for-dollar credits for the payment of impact fees meets certain requirements and prohibits the court from using a deferential standard for the benefit of the government.
- Adds subsection (8) to authorize a local government to provide an exception or waiver for an impact fee for the development or construction of affordable housing, and in doing such is not required to use any revenues to offset the impact.
- Adds subsection (9) to clarify that this section does not apply to water and sewer connection fees.

9. Section 163.3202, F.S., **Land Development Regulations** (Chapter 2019-165, section 6, Laws of Florida)

- Adds paragraph (j) to subsection (2) to require preexisting development orders to be incorporated into local land development regulations.

10. Section 163.3215, F.S., **Standing to Enforce Local Comprehensive Plans Through Development Orders** (Chapter 2019-165, section 7, Laws of Florida)

- Amends subsection (8)(a) to provide that either party is entitled to a certain summary procedure in certain court proceedings.
- Adds subsection (8)(b) clarifying how a court may find a summary procedure does not apply.
- Adds subsection (8)(c), which provides that a prevailing party in a challenge to certain development orders can be entitled to recover certain fees and costs.

2020: [Chapter 2020-2, section 27, Laws of Florida, Effective May 18, 2020; Chapter 2020-27, sections 4 and 5, Laws of Florida, Effective July 1, 2020; Chapter 2020-58, section 1, Laws of Florida, Effective July 1, 2020; Chapter 2020-122, section 2, Laws of Florida, Effective July 1, 2020; Chapter 2020-150, section 28, Laws of Florida, Effective July 1, 2021]

1. Section 163.3178, F.S., **Coastal Management** (Chapter 2020-2, section 27, Laws of Florida)

- Amends subsection (2)(k) to update statutory references.
- Revises paragraphs (b) and (c) within subsection (8) to remove outdated deadlines.

2. Section 163.31771, F.S., **Accessory Dwelling Units** (Chapter 2020-27, section 4, Laws of Florida)
  - Amends subsections (3) and (4) to allow a local government to adopt an ordinance allowing accessory dwelling units to be located in any area zoned for single family residential use and removes the requirement that the ordinance be conditioned upon a finding that there is a shortage of affordable rentals within the jurisdiction.
  
3. Section 163.31801, F.S., **Impact Fees; Short Title; Intent; Minimum Requirements; Audits; Challenges** (Chapter 2020-27, section 5, Laws of Florida)
  - Adds subsection (10) and supporting paragraphs (a) through (e) to address the data on impact fee charges that must be reported in an annual financial report by a county, municipality, or special district.
  
4. Section 163.31801, F.S., **Impact Fees; Short Title; Intent; Minimum Requirements; Audits, Challenges** (Chapter 2020-58, section 1, Laws of Florida)
  - Amends subsection (3)(d) to specify that a new or increased impact fee may not be charged to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing such an impact fee unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant.
  - Amends subsection (4) to clarify that a local government must provide credit against the collection of an impact fee of any contribution related to public education facilities regardless of any charter provision, comprehensive plan policy, ordinance, or resolution.
  - Renumbers existing subsections (8) and (9) as subsections (9) and (10).
  - Adds a new subsection (8) that sets forth the provisions by which impact fee credits are assignable and transferable and renumbers subsequent subsections.
  
5. Section 163.3168, F.S., **Planning Innovations and Technical Assistance** (Chapter 2020-122, section 2, Laws of Florida)
  - Adds subsection (4) providing guidance to the state land planning agency when selecting applications for technical assistance funding to give preference to counties with a population of 200,000 or less, and to municipalities located within such counties, in determining whether the area in and around a proposed multiuse corridor interchange as described in section 338.2278, F.S., contains appropriate land uses and protections and aiding in amending a comprehensive plan to provide such appropriate land uses and protections.
  
6. Section 163.3180, F.S., **Concurrency** (Chapter 2020-150, section 28, Laws of Florida)
  - Amends subsection (2) to alter the governmental entity that approves onsite sewage treatment and disposal systems from the Department of Health to the Department of Environmental Protection.

2021: [Chapter 2021-7, sections 6 and 7, Laws of Florida, Effective July 1, 2021; Chapter 2021-63, section 1, Laws of Florida, Effective June 4, 2021; Chapter 2021-161, section 1, Laws of Florida, Effective July 1, 2021;

Chapter 2021-178, section 1, Laws of Florida, Effective July 1, 2021;  
Chapter 2021-186, section 1, Laws of Florida, Effective July 1, 2021;  
Chapter 2021-195, sections 1-3, Laws of Florida, Effective July 1, 2021;  
Chapter 2021-201, section 1, Laws of Florida, Effective July 1, 2021;  
Chapter 2021-206, sections 1 and 3, Laws of Florida, Effective July 1, 2021]

1. Section 163.3162, F.S., **Agricultural Lands and Practices**, (Chapter 2021-7, section 6, Laws of Florida)
  - Reenacts subsection (2)(b) to provide a definition for “Farm operation.”
2. Section 163.3163, F.S., **Applications for Development Permits; Disclosure and Acknowledgement of Contiguous Sustainable Agricultural Land**, (Chapter 2021-7, section 7, Laws of Florida)
  - Reenacts subsection (3)(b) to provide a definition for “Farm operation.”
3. Section 163.31801, F.S., **Impact Fees; Short Title; Intent; Minimum Requirements; Audits; Challenges**, (Chapter 2021-63, section 1, Laws of Florida)
  - Adds a new subsection (3) to define “Infrastructure” and “Public facilities.”
  - Renumbers existing subsections (3) through (11) and rewords existing subsections (3), (5), (6), (8), and (11) for clarity.
  - Amends existing subsection (4) to provide additional regulations pertaining to impact fee credits.
  - Adds a new subsection (6), which prescribes the circumstances under which impact fees may be increased, sets forth limitations on those fee increases, and notes that this section applies retroactively to January 1, 2021.
4. Section 163.3168, F.S., **Planning Innovations and Technical Assistance** (Chapter 2021-161, section 1, Laws of Florida; and Chapter 2021-186, section 1, Laws of Florida)
  - Repeals existing subsection (4) that directed the state land planning agency to give preference when selecting applications for funding for technical assistance to counties with a population of 200,000 or less, and to municipalities within those counties, for assistance in determining whether the area in and around a proposed multiuse corridor interchange contains appropriate land uses and natural resource protections and amending a comprehensive plan to provide for such land uses and protections.
5. Section 163.3205, F.S., **Solar Facility Approval Process**, (Chapter 2021-178, section 1, Laws of Florida)
  - Creates section 163.3205, F.S., which applies to sites that are subject to an application to construct a solar facility submitted to a local government on, or after, July 1, 2021, to encourage renewable solar electrical generation, define “solar facility”, and set forth an allowance for solar facilities in all agricultural land use categories in a local government comprehensive plan and all agricultural zoning districts in an unincorporated area.
6. Section 163.3167, F.S., **Scope of Act** (Chapter 2021-195, section 1, Laws of Florida)

- Amends subsection (3) to clarify that requirements pertaining to development orders and their incorporation and interaction with comprehensive plans are specifically related to plans for municipalities incorporated after January 1, 2016.
7. Section 163.3177, F.S., **Required and Optional Elements of Comprehensive Plan; Studies and Surveys** (Chapter 2021-195, section 2, Laws of Florida)
    - Adds subsection (6)(i) which requires each local government to include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. The statute also provides a statement of rights local governments may adopt in order to meet these requirements.
  8. Section 163.3237, F.S., **Amendment or Cancellation of a Development Agreement** (Chapter 2021-195, section 3, Laws of Florida)
    - Amends this section to allow a party to a development agreement and a local government to amend or cancel a development agreement without consent of other affected property owners unless the amendment or cancellation will modify the allowable uses or entitlements on such owner's property.
  9. Section 163.3202, F.S., **Land Development Regulations** (Chapter 2021-201, section 1, Laws of Florida)
    - Adds new subsection (5) to specify that land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling except under certain listed conditions.
  10. Section 163.3167, F.S., **Scope of Act** (Chapter 2021-206, section 1, Laws of Florida)
    - Revises subsection (5) to allow landowners with a development order approved before the municipality was incorporated to abandon said development order and develop the order's vested density and intensity as long as the vested uses, density, and intensity are consistent with the municipality's comprehensive plan and all existing concurrency obligations in the development order remain in effect.
  11. Section 163.3187, F.S., **Process for Adoption of Small-Scale Comprehensive Plan Amendment** (Chapter 2021-206, section 3, Laws of Florida)
    - Amends subsection (1)(a) to increase the small-scale development amendment limit to 50 acres or fewer.
    - Revises subsection (3) pertaining to small-scale development amendments for sites within a rural area of opportunity to allow a 100 percent increase to the 50-acre acreage limit now included in subsection (1)(a).