



AGENDA
COMMUNITY DEVELOPMENT BOARD MEETING
July 15, 2026 AT 6:00 PM
116 FIRST STREET
NEPTUNE BEACH, FL 32266

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Approval of May 13, 2026 CDB Minutes
4. **DP26-04:** Heritage Tree Removal as outlined in Chapter 27 Section 27-448. "Champion and heritage trees" Unified Land Development Code of Neptune Beach. Applicant is Coleman A Lay for the property known as 900 Lincoln Road, Neptune Beach, Florida (RE Parcels 172467-0000). The applicant's request is for the removal of a 25 inch diameter Magnolia tree. The property is in the R-1 zoning district.
5. Public Workshop to discuss 2026 Land Use and Building Legislative Updates
6. Subcommittee Reports
7. Open Discussion
8. Adjourn



**COMMUNITY DEVELOPMENT BOARD
MAY 13, 2026 6:00 P.M.
COUNCIL CHAMBERS
116 First Street
Neptune Beach, Florida 32266**

Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held in person on Wednesday, May 13, 2026, at 6:00 p.m. in the Council Chambers.

Attendance Board members in attendance:

Greg Swartzenberger, Chair
William Hilton III, Member
Kathy Lahr-David, Member
Tony Mazzola, Member
Charley Miller, Member
Lynda Padrta, Member

The following staff members were present:

Paul Waters, City Attorney
Heather Whitmore, Community Development Director
Dallas Alvarez, Administrative Assistant
Catherine Ponson, City Clerk
Blake West, Project Manager
Colin Moore, Parks & Sustainability Manager

**Call to
Order &
Roll Call**

Chair Greg Swartzenberger called the meeting to order at 6 p.m. Roll was called and a quorum was present.

Pledge

Chair Swartzenberger asked all to rise to recite the Pledge of Allegiance.

Minutes

Approval of Minutes for April 8, 2026 meeting.

MOTION: Mazzola/Padrta – To approve the minutes of the April 8, 2026, meeting as submitted. Upon roll call, the **motion carried** by a 6-0 vote.

Ayes: Miller, Hilton, Lahr-David, Swartzenberger, Mazzola, Padrta

Nays: None.

Item 4 – DP26-03 (continued from April 8, 2026 CDB Meeting)

Ex Parte None

Communication

Swearing In City Clerk Catherine Ponson swore in those planning to provide testimony.

DP26-03 Application for Open-Air Markets as outlined in Chapter 17 Sale Article III. “Temporary Open-Air Sales and Markets” of Neptune Beach for Here Tomorrow’s 2nd Annual ECHO Fair at Jarboe Park, Neptune Beach, Florida. The applicant requests a permit to hold an open-air market at Jarboe Park on August 22, 2026.

BACKGROUND

Application for Open-Air Markets as outlined in Chapter 17 Sale Article III.

“Temporary Open-Air Sales and Markets” of Neptune Beach for Here Tomorrow’s 2nd Annual ECHO Fair at Jarboe Park, Neptune Beach, Florida. The applicant requests a permit to hold an open-air market at Jarboe Park on August 22, 2026.

DISCUSSION

Article III. Temporary Open-Air Sales And Markets Sec. 17-37. Requirement of plans and specifications states (code attached): *“Prior to the issuance by the city manager of a permit for any open-air market, it shall be necessary for the person or persons, or any other entity seeking to have the open-air market, to submit to the community development board plans and specifications showing layout, site plan, parking plan, traffic control and ingress/egress plans, floor requirements, height of displays, restroom facilities, liability insurance; procedures to protect against insects or rodents; procedures relating to cleanliness; maintenance and disposal of debris or garbage, including dumpster requirements; signage construction or electrical and other utility requirements, including portable water, and any other information required by the community development board.*

The community development board shall have the authority to place any and all appropriate restrictions on the operation of an open-air market. The community development board shall conduct a hearing on the application for the open-air market and shall forward its recommendations on the application to the city manager.”

FINDINGS

1. Specifications showing layout, site plan, parking plan, traffic control and ingress/egress plans:

Site plan attached, as provided by applicant showing layout, site plan, parking plan, traffic control and ingress/egress plans.

2. Floor requirements:

Placement of tents & tables (staked or weighted to ground) at Resource Fair
Placement of tents & tables (staked or weighted to ground) at Mindful Market
Placement of activities (may include tables placed onto ground)

3. Height of displays and signage:

Yard sign standard 1.5 x 2 ft & banner dimensions (8 ft W x 3 ft H) - use cord to hang from the two trees directly behind the Jarboe Park sign. Pipe & Drape to hang banner (~10 ft W x 8 ft H)

Resource Fair & Mindful Market: Vendors to be instructed that signs must not be taller than 10 ft in height

4. Restroom facilities:

Restrooms located at Neptune House

5. Procedures to protect against insects or rodents; procedures relating to cleanliness; maintenance and disposal of debris or garbage, including dumpster requirements:

All staff & volunteers will be directed to dispose of all waste (their own and others') into garbage cans throughout the event. Vendors will agree to follow all procedures, including those listed herein related to cleanliness & protection against insects/rodents. Volunteer Team to walk park at close of event to collect any & all remaining trash/waste throughout park.

Rented garbage units (7) will be placed throughout the park the morning of the event (7/8 a.m.)

Rented garbage units (7) will be removed from the park at the end of the event (2/3 p.m.)

All garbage to be disposed of into the dumpster unit at 910 3 St. (Here Tomorrow's facility across from Jarboe Park)

Placement/specifications of garbage units (and dumpster): See page 6

6. Construction or electrical and other utility requirements, including portable water:

Electricity from Neptune House for speakers/music. Water fountain at Neptune House to be available in addition to provided water bottles.

CONCLUSION

Staff recommends approval of Here Tomorrow's 2nd Annual ECHO Fair at Jarboe Park on August 22, 2026. Colin Moore, Parks & Sustainability Manager, and Blake West, City Arborist, have reviewed and approved plan as attached.

This item was continued from the April 8, 2026, meeting with the following additional information requested:

1. City staff will address any additional measures necessary to protect grass.
2. Here Tomorrow agrees to bring two to four additional public toilets.
3. All vendors will have Duval tax receipt and required WC/insurance.
4. The shared parking agreement with Beaches Chapel has been provided.
5. Here Tomorrow's staff, Parks Director, and City Arborist will attend May 13 CDB meeting.
6. The applicant anticipates 200-250 attendees.

BOARD DISCUSSION

Board Member Miller expressed concern with the weight of food trucks being parked on the new grass and sidewalk on the west side.

Blake West, Project Manager, asked for clarification on the concern. He explained the sidewalk was rated for 4,000 psi, which far exceeded the weight of the trucks, and the grass was specifically selected for its durability.

Board Member Lahr-David inquired as to whether security would be present.

Ms. Whitmore advised that the Police Department had not recommended additional security at this time.

Board Member Padrta asked whether alcohol would be served at the event.

Staff stated there would not.

Maia Savage, Outreach & Collaboration Coordinator, Here Tomorrow, provided a brief overview of the organization and the event, including the suicide prevention resources provided.

Chair Swartzenberger asked if the vendors had been secured.

Ms. Savage reviewed examples of those registered for the event and advised that most were non-profit resources.

Board Member Padrta stated the event had been discussed at length at the last meeting, and her impression was that it was probably a good deal for the community.

Board members agreed it would be a good event.

MOTION: Padrta/Mazzola – To recommend approval of Application DP26-03. Upon roll call, the **motion carried** by a 6-0 vote.

Ayes: Miller, Hilton, Lahr-David, Swartzenberger, Mazzola, Padrta

Nays: None.

Item 5 – V26-05

Ex Parte None

Communication

Swearing In City Clerk Catherine Ponson swore in those planning to provide testimony.

V26-05 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Henry H Graham Jr Revocable Trust Hampton Graham, Trustee for the property currently known 526 Midway Street (RE# 172733-0050). The applicant requests a variance from Sec. 27-237 - Building area requirements (11) R-4/RC Overlay FAR - Total floor area to permit an 80% FAR in lieu of the required 65% FAR. The property is in the R-4/RC zoning district.

BACKGROUND

The applicant requests a variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Henry H Graham Jr Revocable Trust Hampton Graham, Trustee for the property currently known 526 Midway Street (RE# 172733-0050). The applicant requests a variance from Sec. 27-237- Building area requirements (11) R-4/RC Overlay FAR - Total floor area to permit a +/- 80% FAR in lieu of the required 65% FAR. The property is in the R-4/RC zoning district.

DISCUSSION

The applicant requests a variance from Sec. 27-237 (11) - Building area requirements R-4/RC Overlay FAR - Total floor area to permit a +/- 80% FAR in lieu of the required 65% FAR. The home is located on the northeastern corner of the intersection of Myrtle Street and Midway St/Oceanfront.

The purpose of this request is to renovate an existing single-family home. The current 3,083 square foot existing 28-foot high, three-story home, sits on a 76' x 55' 4,180 square foot lot, with a 74% FAR. The 1975 home was legally established with a third floor. The home has a "reverse wedding cake" architecture, where the building's structure widens as it rises, featuring overhanging cantilever upper floors that are larger than the street-level footprint. The applicant is requesting to renovate the house to make it more storm resilient and would like to expand the bottom floors to match the top by eliminating the cantilevers. The renovation will raise the nonconforming 74% FAR to 77%.

FINDINGS

- 1. The property has unique and peculiar circumstances which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.**
 - a. Applicant Response: These cantilevered conditions create a unique structural hardship specific to this parcel, as they complicate structural reinforcement and reduce storm resiliency. The condition is inherent to the original construction and was not created by the current owner. Additionally, the property's existing nonconforming FAR limits the ability to make necessary structural improvements without seeking minor relief.
 - b. Staff Response: The property is unique in size or peculiar in circumstances. The non-conforming FAR is existing. The current structure needs minor renovations for structural reinforcement.
- 2. The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.**
 - a. Applicant Response: The requested variance represents the minimum necessary relief to allow the alignment of the upper floors with the foundation. The proposed increase is limited to only what is required to eliminate the cantilevered portions and create continuous vertical walls, resulting in an incremental FAR increase of approximately 3%.

- b. Staff Response: The requested variance is the minimum necessary to allow for minimal renovation of the existing home to ensure structural reinforcement and storm resiliency.
- 3. The proposed variance would not adversely affect adjacent and nearby properties or the public in general.**
 - a. Applicant Response: The proposed variance does not increase the height or massing of the upper portions of the structure. The visual profile and scale of the building remain consistent with the existing condition. The modification is limited to the ground level and does not introduce additional impacts related to light, air, or privacy. Therefore, the variance will not adversely affect adjacent properties or the public.
 - b. Staff Response: The proposed variance would not negatively impact adjacent and nearby properties or the public in general, as it would bring the home more in compliance. The variance is minimal to accommodate the hardship.
- 4. The proposed variance will not substantially diminish property values in, not alter the essential character of the area surrounding the site.**
 - a. Applicant Response: The proposed improvements will enhance the architectural quality and structural integrity of the building, replacing an outdated cantilevered design with a more cohesive and resilient form. This upgrade is expected to positively contribute to the character of the neighborhood and support surrounding property values by improving both aesthetics and long-term durability.
 - b. Staff Response: The proposed variance would not substantially diminish property values in or alter the essential character of the area surrounding the site. The variance is minimal to accommodate the hardship.
- 5. The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.**
 - a. Applicant Response: The intent of the ULDC includes promoting safe, resilient, and compatible development. The proposed variance aligns with this intent by improving the building's structural performance and storm resilience without increasing overall building height or significantly altering the established development pattern. The request represents a practical adjustment to address an existing nonconforming condition while maintaining consistency with the broader goals of the Code.
 - b. Staff Response: The variance request is in harmony with the general intent of the LDC.
- 6. The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.**
 - a. Applicant Response: The need for the variance arises from the original design and construction of the home in 1975, prior to current regulations. The current owner acquired the property in February 2025 and did not create the nonconforming conditions. The proposed improvements are intended to correct and modernize these existing conditions, not to create new ones.

- b. Staff Response: The variance request is created through the actions of the property owner, but is appropriate to ensure structural reinforcement and resiliency.

7. Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

- a. Applicant Response: Granting this variance does not confer a special privilege but rather allows a reasonable improvement to an existing nonconforming structure. The request is limited in scope and is consistent with similar relief that may be considered for other properties with pre-existing nonconforming conditions seeking to improve structural safety and resiliency.
- b. Staff Response: Granting the variance would not confer upon the applicant a special privilege not granted in the zoning district.

CONCLUSION

Staff recommends approval of the variance request from Sec. 27-237- Building area requirements (11) R-4/RC Overlay FAR - Total floor area to permit a +/- 80% FAR in lieu of the required 65% FAR as requested.

BOARD DISCUSSION

Hampton Graham, applicant, shared his excitement to bring a beautiful home on a near identical footprint to the existing home. He noted a lot of details had been provided in the application, and landscaping would be added later.

Board Member Padrta asked if the proposed structure would be taller than the existing.

Mr. Graham stated the proposed building was the same height.

Ms. Whitmore confirmed she had worked hard with the applicant to ensure the same height was maintained.

Board Member Padrta referenced the drawings and asked for clarification on whether noncompliant roofline would remain.

Ms. Whitmore explained the house would keep within the same roofline footprint, so would not increase any of its nonconformities.

Chair Swartzenberger asked if the house was within the appropriate setbacks.

Ms. Whitmore described the nonconforming setbacks.

Mr. Graham advised the floor area changes do not encroach on the setback, and on the south side, the encroachment of the existing deck would be reduced.

Board Member Padrta inquired as to the change in lot coverage.

Ms. Whitmore stated the lot coverage would not change at all.

Mr. Graham provided additional details on the relationship between the first and second stories of the home.

Board Member Padrta asked if the wrap-around porch shown on the renderings would be more than what was currently being used.

Mr. Graham explained it would be smaller. He noted the wrapped areas of the porch on the east and south were existing, and the south would be reduced.

Ms. Whitmore provided additional details on setback allowances.

Board Member Padrta commented that it was an attractive proposal.

Board Member Mazzola asked if the home was nonconforming before Mr. Graham purchased it.

Ms. Whitmore and Mr. Graham briefly discussed the history of the house and the need for a variance application.

Mr. Graham advised he had purchased the home 14 months ago.

Ms. Whitmore stated she had worked extensively with the project architects to make the improvements conforming.

Board Member Mazzola asked for confirmation that nothing was being added to the third story.

Ms. Whitmore confirmed this was correct. She stated the roofline was being recontoured.

Mr. Graham noted the third story would get smaller. He highlighted an uncovered porch which would be covered. Discussion continued regarding efforts to make nonconforming elements conforming where possible.

Board Member Lahr-David stated she was glad the applicant had not torn the home down. She commented they had done a good job, and she believed it would be safer.

Mr. Graham stated it would be a full rebuild, but the footprint would stay the same.

Board Member Miller commented that from an engineering perspective, there was a major benefit in tying the roof to the foundation. He noted this was a major hurricane upgrade.

Mr. Graham described the plan to tie the roof to the foundation briefly.

Chair Swartzenberger opened the item to public comment.

Mary Bernardi stated she owns the property adjacent to the project at 120, 122, and 124 Myrtle Street. She advised that she currently has a small ocean view, and her main concern was to protect that sliver of view. She questioned whether future landscaping would impact her view.

Mr. Graham explained the intention was to have landscaping between the houses to provide privacy, but intentionally not in the area that would impede the view.

John Gray, 113 Walnut, spoke in support of the application. He stated he was happy to see the changes to a structure that he looks at every day when he walks his dog. He noted it had been neglected before the Grahams took ownership and pointed out that with the removal of the green areas on the plan the entire structure would be within setbacks. He stated the architect had done a great job and it was a good fit for the beach.

Chair Swartzenberger closed public comment.

Board Member Padrta stated this was a good project. She noted the house was built in 1974, so was not historic. She added it was a unique design, but that did not necessarily mean it was a good design.

Board Member Mazzola stated the positives outweighed the negatives.

Board members agreed they approved of the project.

MOTION: Hilton/Miller – To recommend approval of Application V26-05. Upon roll call, the **motion carried** by a 6-0 vote.

Ayes: Miller, Hilton, Lahr-David, Swartzenberger, Mazzola, Padrta

Nays: None.

Subcommittee

Reports Heather Whitmore stated there was not an update from the Historical Review Subcommittee, as the case for a designation on the March agenda had not yet come back. She explained it was a complicated case.

Open

Discussion Board Member Mazzola referenced a discussion at the last meeting regarding State initiatives which would impact local development. He asked whether staff could provide a summary, and whether the letter received regarding the floodplain had been related to action in Tallahassee.

Heather Whitmore explained the floodplain letter was sent out each year and discussed the reason a homeowner might receive a letter. She noted legislation from the last session which was related to this requirement.

City Attorney Waters stated staff would provide a complete package regarding new legislation related to land use, zoning, and permits. He stated the current special session should not have an impact on these matters.

Ms. Whitmore suggested the topic be added to a workshop in July.

Board Member Lahr-David asked whether residents should respond to the letter.

Ms. Whitmore stated the Floodplain Manager would like to hold a copy of residents' Elevation Certificates on record in case of an emergency. She commented on best practice related to FEMA Elevation Certificates briefly. Discussion continued.

Board Member Padrta inquired as to whether there had been any development projects affected by the new elevation and floodplain rules.

Ms. Whitmore stated nothing had changed. She explained the new Florida Building Code would go into effect on January 1, 2027.

Chair Swartzenberger whether there were any updates on the lot on Laura Street.

City Attorney Waters stated there were no updates, but he would pass them on as they became available.

Adjourn 6:51 p.m.

CITY OF NEPTUNE BEACH – COMMUNITY DEVELOPMENT DEPARTMENT



STAFF REPORT

MEETING DATE: July 15, 2026
BOARD/COMMITTEE: Community Development Board
APPLICATION NUMBER: DP26-04

TO: Community Development Board

FROM: Heather Whitmore, AICP, PTP Community Development Director

DATE: July 10, 2026

SUBJECT: DP26-04: Heritage tree removal request - 900 Lincoln Rd

I. BACKGROUND:

The applicant requests a Heritage Tree Removal as outlined in Chapter 27 Section 27-448. "Champion and heritage trees" Unified Land Development Code of Neptune Beach for Brian Nicolas for the property 900 Lincoln Rd, Neptune Beach, Florida (RE Parcel 172467-0000)

II. DISCUSSION:

The applicant requests to remove a 23" Diameter at Breast Height Heritage Magnolia in order to build a single family home. Neptune Beach LDC identifies Southern Magnolia trees 20" or greater as Heritage Trees.

Heritage tree is defined by the Neptune Beach LDC as any tree that because of its age, size, type, historical association, or horticultural value is of special importance to the city.

LDC ARTICLE IX. - Tree Protection and Landscaping (as attached) Section 27-448 (d) states "The removal, relocation or replacement of any champion or heritage trees shall be by community development board approval. The city council will approve the removal, relocation or replacement of any heritage or champion tree when such removal, relocation or replacement is proposed as part of the subdivision approval process."

DP26-04: 900 Lincoln Rd Heritage Tree Removal

July 15, 2026 Community Development Board Staff Report

1 of 4



Figure 1: 23" Magnolia Heritage Tree at 900 Lincoln Rd

Sec. 27-448 states “Champion and heritage trees states “Champion and heritage trees shall be considered regulated trees in all areas of the city, and their removal shall be strongly discouraged. The Neptune Beach Comprehensive Plan states, “Future development and redevelopment shall preserve the residential character of the City by 1) retaining the primarily residential character of Neptune Beach, 2) coordinating densities on the Future Land Use Map (FLUM) and the Zoning Map with desirable existing conditions, and 3) protecting and preserving the dense tree canopy and coastal waterway access.”

DP26-04: 900 Lincoln Rd Heritage Tree Removal

July 15, 2026 Community Development Board Staff Report

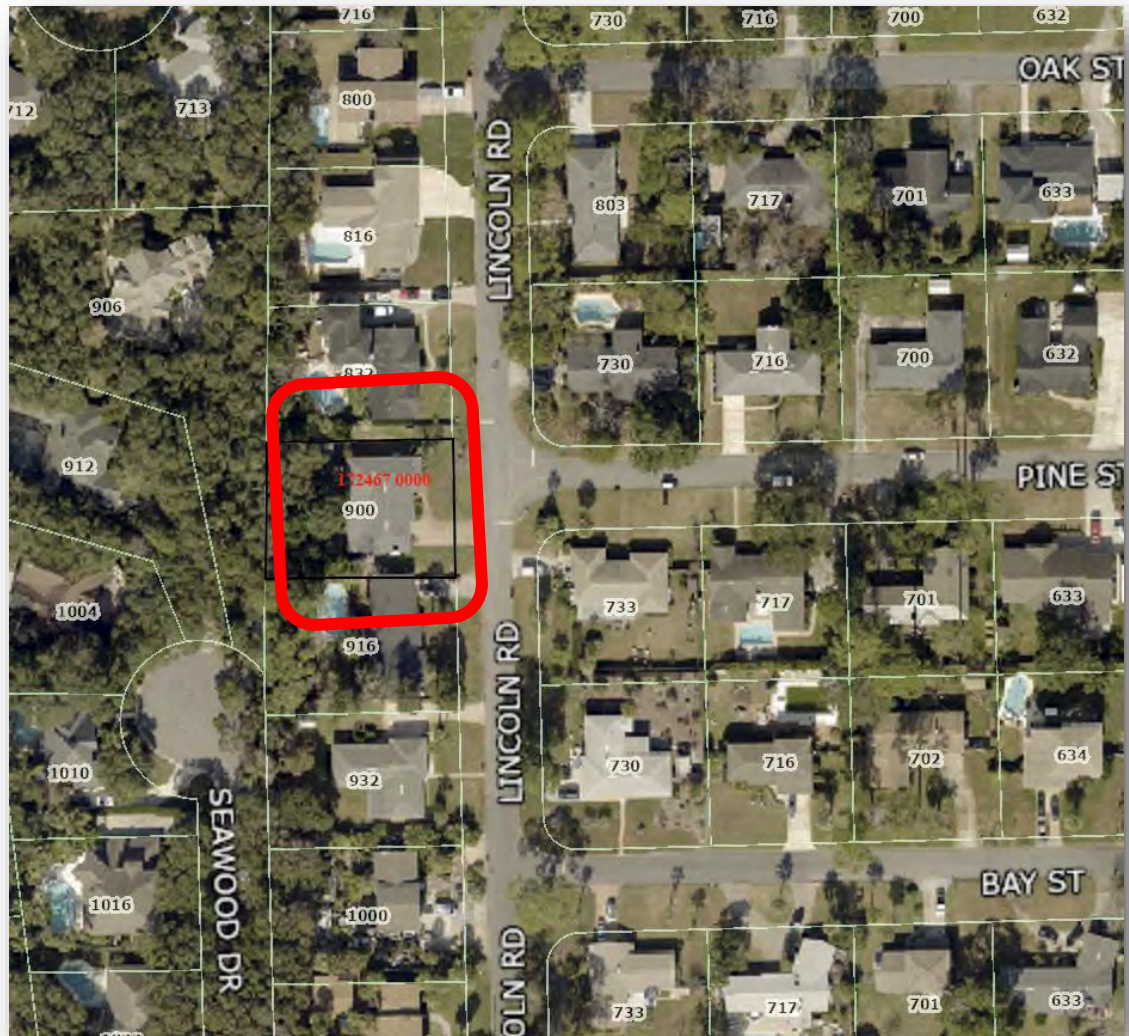


Figure 2: 900 Lincoln Rd

Policy A.1.1.3 states “The City shall continue to enforce its tree protection, landscaping, and buffering regulations as well as to protect its right-of- way.”

The Neptune Beach Comprehensive Plan states the City shall protect, conserve, and enhance natural features and any other environmental resources including wetlands, wildlife habitats, estuarine systems, and surface groundwater resources. Policy A.1.1.3 requires the City to “Protect the City’s existing tree canopy and implement a street tree program that encourages homeowners and businesses to plant more shade trees by committing to maintaining the trees once they are planted.”

DP26-04: 900 Lincoln Rd Heritage Tree Removal

July 15, 2026 Community Development Board Staff Report

III. CONCLUSION:

The requested tree removal is not consistent with the City's Land Development Code or Comprehensive Plan.

The tree removal is not necessary to allow the reasonable use of the parcel of land.

The effect of the tree removal is not in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.

Staff recommends denial of the removal of the 23" Diameter at Breast Height Heritage Magnolia.

The City Arborist Blake West recommends denial of the 23" Diameter at Breast Height Heritage Magnolia, as stated in the attached letter.

Staff further recommends that should this tree be removed or damaged for any reason, the applicant shall pay a sum equal to two times one hundred eighty-five dollars (\$185.00) per caliper inch in accordance with *Section 27-452 Unauthorized removal of or damage to regulated trees*, which stated "If a ... heritage or champion trees as defined in section 27-448, is removed without permit, or is altered or damaged such that the likelihood for disease or premature death is increased, the tree removal contractor and/or property owner shall pay a fine of twice the tree fund fee, as established in section 27-458 per diameter inch of the trunk, measured at four and one-half (4½) feet above the ground."

IV. RECOMMENDED MOTION:

a. I recommend approval of DP26-04

OR

b. I recommend denial of DP26-04

Heritage tree removal request: 900 Lincoln

Written by Blake West, Neptune Beach Project Manager, ISA Arborist, B.S. Botany University of Florida, 9 years' experience in Landscape design and arboriculture.

This heritage Magnolia tree is in the center of the homeowners backyard and is measured at 23" diameter (20" diameter is considered heritage in Neptune Beach). The homeowner wishes to remove the tree. As per our code, removal of this tree would require payment to the tree fund in an amount of \$8,510. The homeowner does not have any other trees on his property which would qualify for mitigation credit. It is important to note that the homeowner recently removed large limbs (beyond 8" diameter which would have required permit, these cuts were made after the permit was denied) plus many interior limbs and this caused substantial, irreversible damage to the tree that reduces its value as a natural resource.

Comprehensive Plan Objective A.1.6 Environmental Resources: "The City shall protect, conserve, and enhance natural features and any other environmental resources including wetlands, wildlife habitats, estuarine systems, and surface groundwater resources." Heritage trees serve as nodes of wildlife habitat, a shared natural "resource." It is in the interest of the government to protect, preserve or enhance features in our built environment that support the natural life within our city.

A.1.6.12: Policy to protect the City's existing tree canopy. Tree canopy performs countless positive functions and services for our city ranging from stormwater to cultural value. Diversity in size, structure and species determines the function of the overall canopy and heritage trees are protected because at their age, they provide substantially more service and function than young trees. An equivalent or greater volume of young trees will not perform the same function as one heritage tree. Spatial and environmental requirements for establishing large Magnolia trees are very limited in Neptune Beach, making heritage trees such as this Magnolia essentially irreplaceable and their preservation an important function of the government.

As City Arborist for Neptune Beach, I manage the usage of the tree fund and guide the City toward a future with an improved green infrastructure. Tree fund payment of the required \$8,510 would be sufficient to establish multiple trees in public facing locations and would be appropriate for this particular tree which has been compromised. My recommendation is to accept payment to the tree fund in this amount if the homeowner is willing to pay.

APPLICATION FOR DEVELOPMENT PLAN REVIEW

CITY OF NEPTUNE BEACH COMMUNITY DEVELOPMENT DEPARTMENT
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266-6140
PH: 270-2400
Bldgclerk@NBFL.US



Date Filed: <u>5/11/26</u>		Name and address of the applicant requesting development review: (NOTE: If the applicant is other than all the legal owners of the property, notarized written consent signed by all the legal owners of the property shall be attached. In the case of corporation ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and the embossed with the corporate seal). The undersigned hereby applies for a development review as follows.	
Name & Mailing address of Owner of Record: <u>Coleman Lay, 900 Lincoln</u> <u>Bd. Neptune Beach, FL 32266</u> Contact phone # <u>904-945-5696</u> e-mail address <u>coleman.lay@lay-</u> <u>construction.com</u>		Property Address: <u>900 Lincoln Rd.</u> <u>Neptune Beach, FL 32266</u> Real Estate ID # <u>172394-1020</u> Lot _____ Block _____ Subdivision <u>Ball Harbour Estates</u> Zoning District: _____	
Name and Address of Agent/Applicant: <u>Coleman Lay</u> <u>900 Lincoln Bd. Neptune Beach,</u> <u>FL 32266</u>		Telephone #- <u>904-945-5696</u> Email: <u>Coleman.lay@lay-construction.com</u>	
Describe Request being made: <u>removal of magnolia in backyard</u>			
PLEASE BE ADVISED THE COMMUNITY DEVELOPMENT BOARD CONDUCTS A PUBLIC HEARING TO CONSIDER CERTAIN FACTORS IN ORDER TO MAKE A RECOMMENDATION TO THE CITY COUNCIL FOR APPROVAL OR DISAPPROVAL OF THE DEVELOPMENT PLAN.			

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE INFORMATION CONTAINED IN THIS APPLICATION. THAT I AM THE PROPERTY OWNER OR AUTHORIZED AGENT FOR THE OWNER WITH AUTHORITY TO MAKE THIS APPLICATION, AND THAT ALL OF THE INFORMATION CONTAINED IN THIS APPLICATION, INCLUDING THE ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HEREBY APPLY FOR DEVELOPMENT REVIEW AS REQUESTED.

OWNER'S AUTHORIZATION FOR AGENT/AFFIDAVIT OF ASSENT

THIS FORM MUST BE FILLED OUT IN THE CASE THAT THE APPLICANT IS NOT THE OWNER OF THE PREMISES UNDER WHICH THE PARTICULAR APPLICATION IS BEING FILED.

Coleman Lay is hereby authorized TO ACT ON BEHALF OF Coleman Lay, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Neptune Beach, Florida, for an application related to a development review:

☐ Development Order	☐ Special Exception
☐ Rezoning	☐ Comp Plan Amendment
☐ Historical Significance Designation	☐ Concurrency
☐ Certificate of Appropriateness	☒ Other/Tree Champion or Heritage Tree Removal

BY:

[Signature]
Signature of Owner

Coleman Lay
Print Name

Signature of Owner

Print Name

State of Florida

County of Duval

Signed and sworn before me on this 4th day of May 2026

By

Coleman Lay

Identification verified: personally known Oath sworn: ☒ Yes ☐ No

[Signature]
Notary Signature

My Commission expires: 1/28/30



CHECKLIST FOR DEVELOPMENT PLAN REVIEW

For a complete list of requirements see Article III, Chapter 27 of the Code of Ordinances

Commonly required items needed for development reviews.

- ☐ Site Plan
- ☐ Elevations and Building plans (all four sides)
- ☐ Survey of property (dated within one year)
- ☐ Landscape Plan/Exiting Tree Survey
- ☐ Impervious Surface Calculations
- ☐ Light Plan (exterior only)
- ☐ Signage Plan
- ☐ Certificate of Appropriateness
- ☐ Floor Plan
- ☐ Parking Plan
- ☐ Stormwater and drainage plan
- ☐ Wetland Buffer
- ☐ Utility Plan with existing and/or proposed easements
- ☐ Historical Determination Review

DISCLAIMER: This helpful guide is not intended to replace any or all of the Unified Land Development Regulations, requirements for application and review procedures required for development orders and certain types of permits. The guide is meant to assist in the facilitation of the review process only.

City of Neptune Beach or whom it may concern:

I am requesting the removal of a magnolia tree from my backyard. Since I had lived at the residence (for the past 5/6 years) the tree did not pose major threat to the house or how I utilized the backyard. It had a tree house around it that seemed like a nice feature that my future kids would eventually play in. Fast forward 6 years, I am now married with two kids ages 2 years and 3 months. How my wife, kids, and I would like to utilize my backyard has rather changed. In an effort to create an enjoyable and **safe** backyard environment for my family I am requesting the removal of the tree.

Many of the restrictions or risks are as follows: Tree roots create a tripping hazard and drainage issues, the large canopy does not allow for sufficient sunlight for grass to grow, saturated soil and lack of grass poses risk of tree to further lean over house, and lastly the canopy coverage is directly over top where kids can play creating concern of falling limbs and other debris from the tree overhead. I have trimmed a few limbs, but it has not resolved any of the issues mentioned. Please see additional information in the PDF that shares location and photos of the tree.

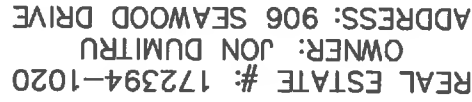
Outside of the many risks our family feels the tree poses, we really just want to be able to utilize our backyard vs our front yard and we just cannot do that at this time.

Thank you in advance for your time.

Coleman & Caroline Lay

Homeowners

LOT 9, BLOCK 1, BAL HARBOUR ESTATES UNIT TWO, AS RECORDED IN PLAT BOOK 33, PAGE 59, OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.



LOT AREA	=	12,500	S.F.
BUILDING AREA	=	2,523	S.F.
BRICK DRIVE/WALK	=	913	S.F.
COVERED WOOD DECK	=	209	S.F.
CONCRETE	=	977	S.F.
WOOD SHEDS	=	230	S.F.
COVERED BRICK PATIO	=	442	S.F.
REAR BRICK WALKS	=	703	S.F.
WOOD TREE HOUSE	=	113	S.F.
A/C PAD	=	9	S.F.

SYMBOL LEGEND

	FIRE HYDRANT		LIGHT POLE
	SEWER VALVE		WATER VALVE
	CLEAN OUT		UTILITY POLE
	GUY ANCHOR		BOLLARD
	WATER METER		TELEPHONE RISER
	CABLE RISER		ELECTRIC BOX
	SIGN		TRANSFORMER
	MANHOLE		CONCRETE UTILITY POLE

BBP	BACK-FLOW PREVENTER	BBP	BACK-FLOW PREVENTER
BFB	BUILDING FIELD MEASUREMENT	BFB	BUILDING FIELD MEASUREMENT
CAF	ALUMINUM RAIL FENCE	CAF	ALUMINUM RAIL FENCE
CLF	CHAIN LINK FENCE	CLF	CHAIN LINK FENCE
WV	WINE FENCE	WV	WINE FENCE
WF	WOOD FENCE	WF	WOOD FENCE
CONC.	CONCRETE	CONC.	CONCRETE
ORB	OFFICIAL RECORDS BOOK	ORB	OFFICIAL RECORDS BOOK
PB	PLAY BOOK	PB	PLAY BOOK
PG	PAGE	PG	PAGE
MES	MIXTERD END SECTION	MES	MIXTERD END SECTION
CMP	CORRUGATED METAL PIPE	CMP	CORRUGATED METAL PIPE
CPP	CORRUGATED PLASTIC PIPE	CPP	CORRUGATED PLASTIC PIPE
PVC	POLYVINYL CHLORIDE PIPE	PVC	POLYVINYL CHLORIDE PIPE
RCP	REINFORCED CONCRETE PIPE	RCP	REINFORCED CONCRETE PIPE
EL	ELEVATION	EL	ELEVATION
FPE	FINISHED FLOOR ELEVATION	FPE	FINISHED FLOOR ELEVATION
INV	INVERT ELEVATION	INV	INVERT ELEVATION
PT	POINT OF CURVATURE	PT	POINT OF CURVATURE
PC	POINT OF TANGENCY OF CURVE	PC	POINT OF TANGENCY OF CURVE
PCC	POINT OF COMPOUND CURVE	PCC	POINT OF COMPOUND CURVE
PRC	POINT OF REVERSE CURVE	PRC	POINT OF REVERSE CURVE

1. THIS IS A BOUNDARY SURVEY.
2. BEARINGS ARE BASED ON THE NORTH LINE OF LOT 9, BEING DUE EAST, AS PER PLAT.
3. THIS SURVEY WAS PREPARED WITHOUT AN ABSTRACT OF TITLE; THEREFORE THE UNDERSIGNED MAKES NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHT OF WAYS, SETBACK LINES, AGREEMENTS, RESERVATIONS, OR OTHER SIMILAR MATTERS.
4. NO UNDERGROUND INSTALLATIONS, IMPROVEMENTS OR ENCROACHMENTS HAVE BEEN LOCATED EXCEPT THOSE SHOWN HEREON.
5. BUILDING RESTRICTION LINES (B.R.L.), AS PER PLAT.
6. THE PROPERTY DESCRIBED HEREON LIES IN FLOOD ZONE "X" (AREA OF MINIMAL FLOOD HAZARD) AND FLOOD ZONE "A" SHADED (0.2% ANNUAL CHANCE FLOOD HAZARD) AS WELL AS CAN BE DETERMINED FROM THE FLOOD INSURANCE RATE MAP NO. 12031C0409J, REVISED NOVEMBER 2, 2018 FOR DUVAL COUNTY, FLORIDA.

CERTIFIED TO:
OLEMAN A. LAY

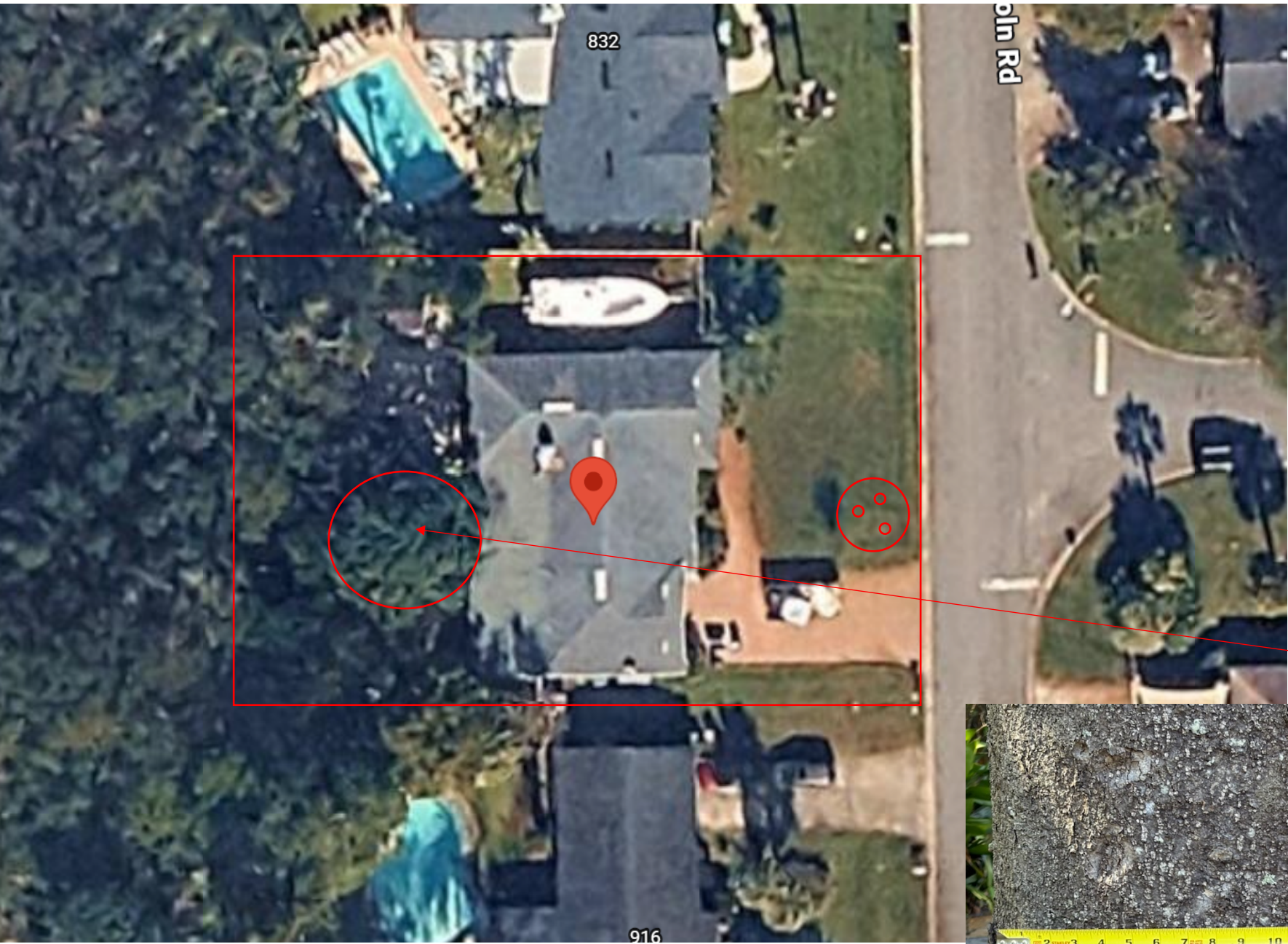
A circular seal for Jason D. Boatwright, a Professional Surveyor and Mapper in the State of Florida. The seal contains the text "JASON D. BOATWRIGHT", "License Number 7292", and "STATE OF FLORIDA Professional Surveyor and Mapper".

A handwritten signature of Jason D. Boatwright.

JASON D.-BOATWRIGHT, P.S.M.
FLORIDA LICENSED SURVEYOR and MAPPER No. LS 7292
FLORIDA LICENSED SURVEYING & MAPPING BUSINESS No. LB 3672
"NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER."

BOATWRIGHT LAND SURVEYORS, INC.
1500 ROBERTS DRIVE, JACKSONVILLE BEACH, FLORIDA 32250 (PH) 904-241-8550

DATE: MARCH 7, 2024
SHEET 1 OF 1



The magnolia tree covers a large portion of our backyard. My wife is not comfortable having our kids (2 year old and one month old) under the tree in case of breaking limb.

Lack of sunlight prevents sod from growing.

remove magnolia tree. 19" diameter



Washingtonia Palms showing price and width

LOT 9, BLOCK 1, BAL HARBOUR ESTATES UNIT TWO, AS RECORDED IN PLAT BOOK 33, PAGE 59, OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.



magnolia tree location

LOT AREA	=	12,500	S.F.
BUILDING AREA	=	2,523	S.F.
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SYMBOL LEGEND

	FIRE HYDRANT		LIGHT POLE
	SEWER VALVE		WATER VALVE
	CLEAN OUT		UTILITY POLE
	GUY ANCHOR		BOLLARD
	WATER METER		TELEPHONE RISER
	CABLE RISER		ELECTRIC BOX
	SIGN		TRANSFORMER
	MANHOLE		CONCRETE UTILITY POLE

ABBREVIATION LEGEND	
BFP	BACK-FLOW PREVENTER
(FIELD)	FIELD MEASUREMENT
ARF	ALUMINUM RAIL FENCE
CLF	CHAIN LINK FENCE
WF	WOOD FENCE
CONC.	CONCRETE
ORB	OFFICIAL RECORDS BOOK
PB	PLAY BOOK
PG	PAGE
MES	METERED END SECTION
CMP	CORRUGATED METAL PIPE
CPP	CORRUGATED PLASTIC PIPE
PVC	POLYVINYL CHLORIDE PIPE
RCP	REINFORCED CONCRETE PIPE
EL	ELEVATION
FFE	FINISHED FLOOR ELEVATION
INV	INVERTED
PT	POINT OF CURVATURE
PC	POINT OF TANGENCY OF CURVE
PCC	POINT OF COMPOUND CURVE
PRC	POINT OF REVERSE CURVE

BFP	BACK-FLOW PREVENTER	EL	ELEVATION
(FIELD)	FIELD MEASUREMENT	ENV	INVERT ELEVATION
AMP	ALUMINUM RAIL FENCE	INV	INVERT ELEVATION
ALF	ALUMINUM LINK FENCE	INT	INTEREST
WLF	WYNTL FENCE	MES	MISSED END SECTION
WV	WYNTL FENCE	OMP	CORRUGATED METAL PIPE
CONC.	CONCRETE	CPP	CORRUGATED PLASTIC PIPE
ORB	OFFICIAL RECORDS BOOK	PVC	POLYVINYL CHLORIDE PIPE
PB	PLAT BOOK	RCR	REINFORCED CONCRETE PIPE
PG	PAGE	EL	ELEVATION
MES	MISSED END SECTION	FFE	FINISHED FLOOR ELEVATION
OMP	CORRUGATED METAL PIPE	INT	INTEREST
CPP	CORRUGATED PLASTIC PIPE	INT	INTEREST
PVC	POLYVINYL CHLORIDE PIPE	PT	POINT OF TANGENCY OF CURVE
RCR	REINFORCED CONCRETE PIPE	PC	POINT OF COMPOUND CURVE
EL	ELEVATION	PCC	POINT OF REVERSE CURVE
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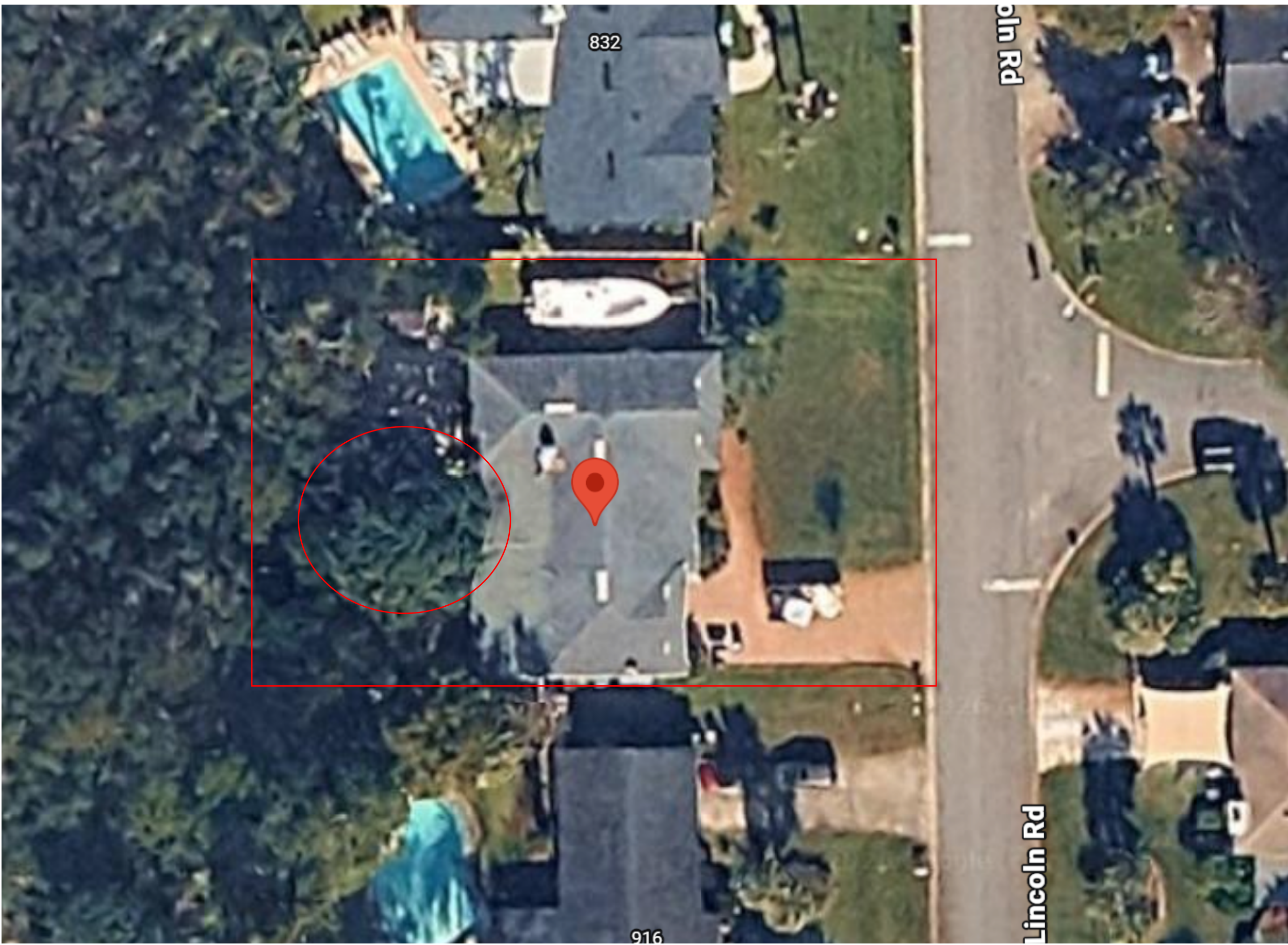
1. THIS IS A BOUNDARY SURVEY.
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CERTIFIED TO:
COLEMAN A. LAY

FILE: 2024-0337
DRAWN BY: KJC-P
SCALE: 1" = 20'

BOATWRIGHT
1500 ROBERTS DRIVE

DATE: MARCH 7, 2024
SHEET 1 OF 1





Exposed roots. Unusable area for kids to play and is a tripping hazard.



Grass not growing due to lack of sunlight and exposed roots. Cannot cover roots with topsoil.



Tree leaning over house. Tree canopy coverage over 50% of back yard, creating concern of falling limbs or debris where kids can play.



Backyard flooding during heavy rain.



Water shedding away from tree due to raised elevation causing flooding to back patio and intrusion into garage.

Concerns of saturated soil and continued tree leaning over house.

Sec. 27-434. - Exceptions.

Certain activities may be allowed in a wetland protection zone when it is shown by competent and substantial evidence that the proposed activity would not have a significant adverse effect on the wetland zone.

(Ord. No. 91-1-5, § 2, 5-6-91)

Secs. 27-435—27-440. - Reserved.

ARTICLE IX. - TREE PROTECTION AND LANDSCAPING⁽¹⁴⁾

Sec. 27-441. - Reserved.

Sec. 27-442. - Purpose and intent.

The purpose of this article is to preserve and protect trees within the city; to provide minimum landscaping criteria; to ensure preservation of the existing native landscape; and to ensure quality landscape design, installation, and maintenance of new landscaping that will enhance the city's natural landscape. To this end, the subsequent sections are provided to achieve the following goals:

- (1) Improve the appearance of commercial, governmental, industrial and residential areas through incorporation of landscaping into development in ways that harmonize and enhance the natural and manmade environment;
- (2) Preserve existing natural trees and vegetation. Discourage removal of any healthy, noninvasive trees and clear-cutting of wooded land;
- (3) Incorporate native plants, plant communities and ecosystems into landscape design where possible;
- (4) Maintain the existing natural character of the city through preservation of existing trees and vegetation;
- (5) Balance the existing landscape with new landscape additions that are complementary;
- (6) Provide landscape buffers to enhance transportation corridors, abate noise, minimize adverse impacts of adjacent differing land uses, and reduce surface heat of impervious surfaces;
- (7) Promote water and energy conservation through Xeriscape principles;
- (8) Reduce maintenance costs through preservation of existing landscape, and through appropriate and proper use of plant materials; and
- (9) Promote and support city-wide tree planting to enhance the city's designation as a Tree City U.S. A by upholding the program's four (4) overarching standards:
 - Maintaining a tree board or department;
 - Having a community tree ordinance;
 - Spending at least \$2 per capita on urban forestry; and
 - Celebrating Arbor Day.

Sec. 27-443. - Applicability.

The terms and provisions of this article shall apply to all land uses within the city. Special provisions for single-family or two-family (duplex) lots are addressed in section 27-457 of this article.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-444. - Definitions.

Refer to article I for definitions.

Sec. 27-445. - Permit required for tree removal or relocation.

No person shall directly or indirectly cut down, destroy, remove move, or effectively destroy through damaging, or authorize the cutting down, destroying, removing, moving, or damaging of any and all living trees greater than six (6) inches or more in caliper or two (2) feet in circumference, whichever dimension is lesser, at a point four and one-half (4½) feet above ground level, without Tree Permit. Trees which require such permit for removal or relocation shall hereinafter be called "regulated trees."

(1) Exceptions are as follows:

- a. No heritage or champion tree as defined in this article may be removed or relocated except as noted in section 27-448.
- b. Hazard trees which have been identified by an ISA certified arborist or Florida licensed landscape architect with up-to-date Tree Risk Assessment Qualification and which have been inspected and documented per ISA standards may be removed, relocated, ~~or~~ replaced, trimmed, or pruned, without a Tree Permit or replacement trees. Removal or replacement shall only be permitted in this instance if the risk assessment documentation does not indicate any other practical mitigation alternatives, such as pruning, topping, bracing, or removal of the target. The city manager or designee shall review all risk assessment documentation to verify the conditions for removal prior to any action.
- c. Removal or relocation of regulated trees subject to development plan approval shall not require a separate Tree Permit in conjunction with the development plan. Plans for tree removal or relocation will be considered and either approved or denied as part of the development review process. After a certificate of occupancy has been issued for a development, any tree removal shall require either Tree Permit or an approved plan amendment. Failure to obtain a permit before removing or relocating a regulated tree shall be subject to the measures in section 27-452.
- d. Any tree that poses a danger to life safety, city infrastructure, or property, as verified by an ISA certified arborist or Florida licensed landscape architect with up-to-date Tree Risk Assessment Qualification, may be removed by order of the city manager or designee.
- e. Any tree species identified by an ISA certified arborist or Florida licensed landscape architect as a Category I or Category II invasive by the Florida Exotic Pest Plant Council shall be identified and removed from the property. No Tree Permit or replacement trees are needed for their removal.
- f. Replacement trees from the city's tree list, located in section 27-450 shall be required for any trees removed per section 27-447

(2) Removal of trees located in a buildable area or yard area where a structure or improvement is to be placed and for which a Tree Permit application has been filed may be approved by the city manager or designee, so long as it has been demonstrated by the property owner that the tree or trees

unreasonably restricts the permitted use of the property and that no other building footprint and/or site configurations are possible without removal of said trees. Trees located in the front yard setback shall not be considered to be located within the buildable area or yard. Ingress and egress to the garages are not considered the buildable area or yard. Trees on the public right-of-way shall not be considered for removal as a result of restrictions to ingress or egress to garages or parking on the site, except if demonstrated that there is no other reasonable access to and from the property from the public right-of-way. An application for a Tree Permit must be filed, per the requirements of section 27-446. Replacement trees may be required for any trees removed.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-19, § 1, 1-3-05; Ord. No. 2006-02, § 1, 3-6-06; Ord. No. 2006-12, § 1, 7-10-06)

Sec. 27-446. - Permit application procedures.

The following procedures shall be followed and shall govern the granting of Tree Permits pursuant to this section:

- (1) **Application.** Permits for removal, relocation or alteration of trees shall be obtained by making application in a form prescribed by the city council to the following appropriate public bodies:
 - a. For removal or relocation of regulated trees not associated with a site plan approval of the community development board, an application shall be filed with the city manager's office, as described below.
 - b. For pruning of six-inch or larger diameter limbs on regulated trees, Tree Permit will be required. This provision relates to pruning or alteration only and applies to any development.
- (2) **Submittals.** No permit fee shall be charged for authorized tree removal within the city. Each application for Tree Permit to alter, remove, relocate, or replace trees covered herein shall be accompanied by a written statement indicating the reasons for the requested action, at least one (1) photograph for each tree designated for removal showing its current overall condition, and two (2) copies of a legible site plan drawn to the largest practical scale indicating the following:
 - a. Location, species and size of all existing trees on the site, assigned with a unique identification number, and a proposed outcome (e.g.: donated, retained, removed, or relocated).
 - b. Trees designated for on-site relocation shall clearly illustrate both the existing and proposed locations and shall identify likely means of access and method of relocation.
 - c. **Champion and heritage trees, as defined in section 27-448, shall be identified as such on all submittals and any associated removal or replacement calculations shall be separate from all other trees and considered on a tree-by-tree basis. Size of tree shall be measured per section 27-445.**
 - d. Location of all existing or proposed structures, improvements, and site uses, properly dimensioned in reference to property lines, setback and yard requirements in spatial relationship.
 - e. Location and dimension of all required landscape buffers or screening areas.
 - f. Proposed changes, if any, in site elevations, grades and major contours.
 - g. Location of existing or proposed utility service.
 - h. Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and vegetation.
 - i. For trees that are to be retained, each application should contain the extents of all tree protection boundaries on site per section 27-449 and a statement of how these tree areas are to be protected during construction and landscape operations.

- j. A statement that identifies replacement trees for any trees removed. Any regulated tree being removed that requires a Tree Permit, per section 27-445, shall be replaced with ~~two (2)~~ trees per the requirements of section 27-447.
 - k. Application review and permit issue. Upon receipt of proper application, the city manager or designee shall review the application, and may request more documentation before making a determination to either approve, approve with conditions, or deny the permit within ten (10) working days of filing. This may include a field check of the site and referral of the application for recommendations to other appropriate administrative departments or agencies.
- (3) *Permit form.* Permits shall be issued by the city manager and may set forth in detail the conditions upon which the permit is granted. One (1) permit may cover several trees or groups of trees for one (1) parcel of land, or for multiple, contiguous parcels.

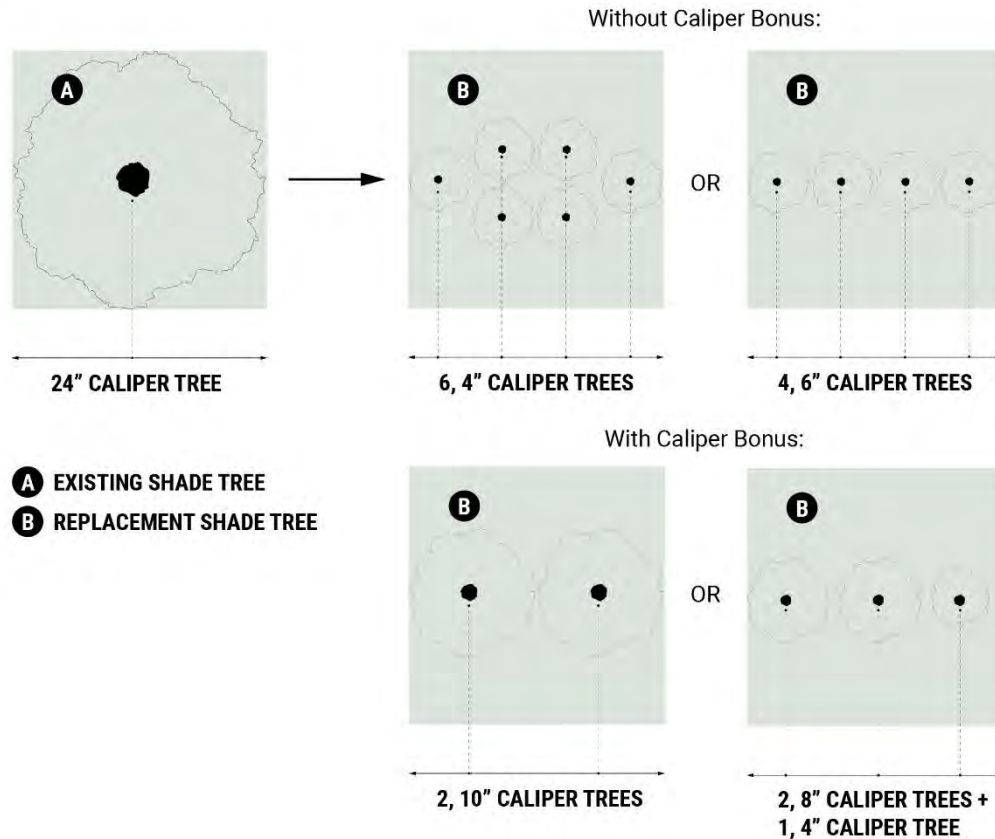
(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 2, 3-6-06; Ord. No. 2010-14, § 41, 9-7-10)

Sec. 27-447. - Standards for replacement or relocation (a)

Replacement or relocation.

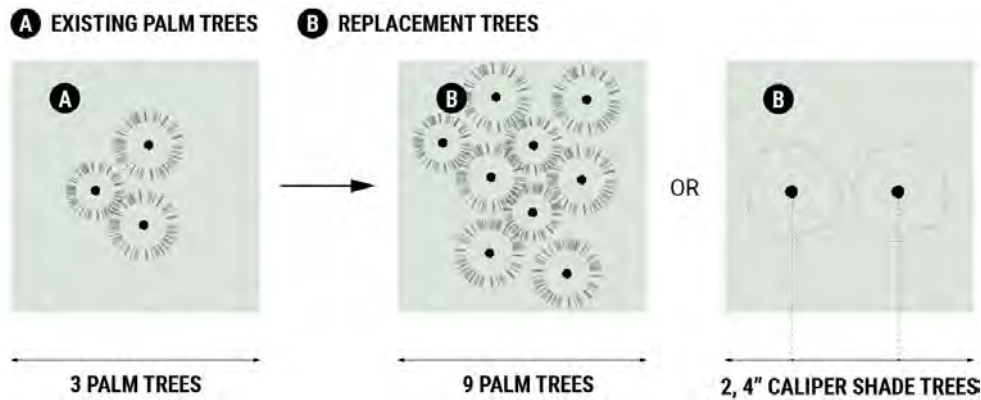
- (1) ***Replacement.*** In all cases wherein this Code shall require replacement of any tree removed, the replacement shall be made as defined in this section. In determining the required replacement of trees, the city manager or designee shall consider the intended use of the property, with an evaluation of the following:
 - a. *Size.* Replacement trees shall be a minimum of four (4) inch caliper with a height of at least ten (10) feet for shade trees, or eight (8) feet for ornamental and understory trees. All replacement trees shall be Florida Nursery Grade Number 1 or better. The property owner shall guarantee survival of replacement trees for one (1) year from the date of planting, barring any force majeure events.
 - b. *Caliper Bonus.* The use of larger diameter trees to accommodate the required replacement is strongly encouraged. Each additional inch of size provided, including and above eight (8) inch caliper shall be counted with a two (2) inch bonus (e.g.: a ten (10) inch caliper replacement tree may be counted as a twelve (12) inch caliper replacement tree). The caliper bonus shall not apply to the replacement of heritage or champion trees.
 - c. *Shade trees,* as defined by the city's approved tree list located in section 27-540, which are designated for removal, shall be replaced on an inch-for-inch (1:1) diameter basis with one or more trees from the same shade tree portion of the city's tree list. The sum total of the calipers of the replacement trees must equal or surpass that of the removed tree or trees (e.g.: a twenty-four (24) inch caliper oak designated for removal may be replaced by six (6), four (4) inch caliper shade trees or four (4), six (6) inch caliper shade trees – or – utilizing the caliper bonus defined in this section, two (2), ten (10) inch caliper shade trees or two (1), eight (8) inch caliper and one (1), four (4) inch caliper shade trees). Caliper measurement shall be rounded up to the nearest inch.

Figure 27-447-1



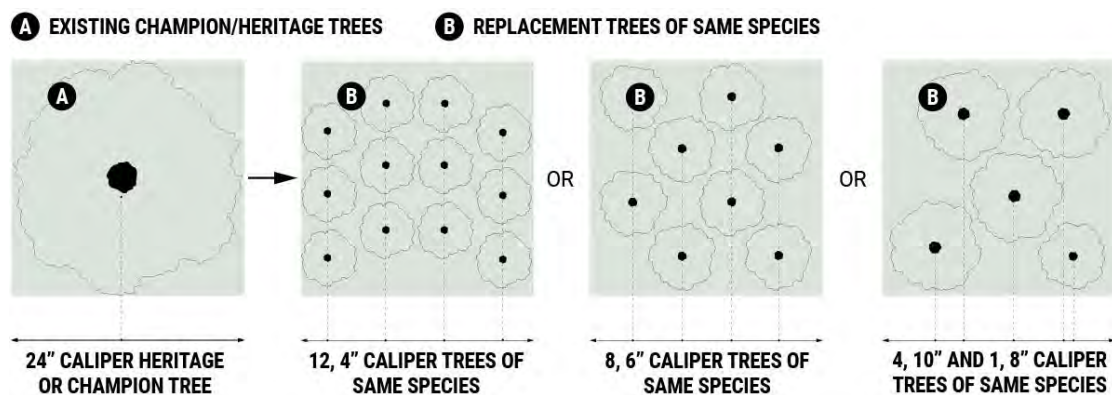
- d. *Palm trees* of any species designated for removal may be replaced on a one-to-three (1:3) basis with palm species from the city's approved tree list located in section 27-450 (e.g.: three (3) palms designated for removal shall be replaced by a minimum of 9 palm trees). Palm trees designated for removal may also be replaced on a two-to-one (2:1) basis, rounding up to the next even number, with tree species from the shade tree portion of the city's approved tree list (e.g.: five (5) palm trees designated for removal shall be rounded to six (6), requiring a minimum of three (3), four (4) inch caliper shade trees as replacement – or – utilizing the caliper bonus defined in this section, one (1), ten (10) inch caliper shade tree).

Figure 27-447-2



- e. *Understory and ornamental trees*, as defined by the city's approved tree list, located in section 27-450, designated for removal, shall be replaced on an inch-to-inch (1:1) diameter basis, or equivalent measure, with tree species from the shade tree or understory and ornamental tree portions of the city's tree list. As with shade tree replacement (see figure 27447-1), the sum total of the calipers of the replacement trees must equal or surpass that of the removed understory / ornamental tree or trees (e.g.: a twelve (12) inch caliper ornamental tree designated for removal shall require a minimum of three (3), four (4) inch caliper trees or two (2), six (6) inch caliper trees as replacement – or – utilizing the caliper bonus defined in this section, one (1), ten (10) inch caliper tree). Caliper measurement shall be rounded up to the nearest inch.
- f. *Heritage or champion trees*, as defined in section 27-448, designated for removal shall be replaced on a one-for-two-inch (1:2) diameter basis, with a tree or trees of the same species. The sum total of the calipers of the replacement trees must at least double that of the removed heritage or champion tree (e.g.: a twenty-four (24) inch caliper bald cypress designated for removal shall require replacement bald cypress trees of a combined forty-eight (48) inch caliper, such as twelve (12), four (4) inch caliper trees; eight (8), six (6) inch caliper trees; six (6), eight (8) inch caliper trees; or four (4), twelve (12) inch caliper trees). Caliper measurement shall be rounded up to the nearest inch. The caliper bonus may not be used for the replacement of heritage or champion trees.

Figure 27-447-3



- g. Replacement may not be required for diseased trees being removed. Documentation of diseased trees shall accommodate all submittals as described in section 27-446.
 - h. *Maintenance of replacement trees.* Replacement trees shall be maintained through appropriate watering, nutrients, and pruning to guarantee their survival and growth. The city manager or designee shall require any replacement trees that die within five (5) years of planting shall be replaced to meet the original requirements.
- (2) **Relocation.** Trees relocated within the site, shall be placed as close as possible to the original tree location, and shall not be relocated to interfere with the root systems or canopy of any champion or heritage tree. The relocation of palm trees into clusters of the same species is encouraged. All relocated trees shall be warrantied for a period of five (5) years and kept in good health. Replacement of relocated trees, should they not survive the warranty period, shall be replaced at a one-to-one (1:1) ratio.
- (b) **Alternatives to on-site replacement.** If upon evaluation of these conditions, it is determined by the city manager or his designee that the applicant's site may not best be suited for the location of some or all of the required replacement trees, the city manager may allow the applicant to contribute to the city's tree fund per section 27-458.
- (c) **Off-site tree replacement locations.** Staff will evaluate locations for tree replacement out of the tree fund, section 27-458, based on location and type of tree to be planted.
- (d) **Credit for existing trees.** Existing vegetation may be credited for landscape materials required by this section. Such vegetation shall meet the minimum specifications for new landscape material and be located within the area for which credit is requested.
- (1) Credit for trees shall be granted at an inch-for-inch basis. No credit shall be granted where existing vegetation does not satisfy screening purposes, serve necessary functions or meet minimum planting standards, as defined in this Code.
 - (2) The city may grant credit for existing trees which are defined as heritage or champion trees in this Code at a two-inch for one inch (2:1) basis. This provision shall be reviewed on a case-by-case basis depending on surrounding existing vegetation, and the age, health, type, size and location of the specimen tree. If the tree dies, the developer or property owner shall be required to install a replacement tree as required in this section.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-448. - Champion and heritage trees.

- (a) **Champion trees** are those trees that have been identified by the state division of forestry as being the largest of their species within the state or by the American Forestry Association as the largest of their species in the U.S. The current list of champion trees in the city and the county which have been identified is on file in the department of planning and development.
- (b) **Heritage trees.** The following species are heritage trees:
 - (1) Bald cypress (*Taxodium distichum*) twenty (20) inches in diameter or greater.
 - (2) Cedar (*Juniperus silicicola*) (Southern red cedar), *J. virginiana* (Eastern red cedar) twenty (20) inches in diameter or greater.
 - (3) Elm (*Ulmus alata*) (winged elm), *Ulmus american floridana* (Florida elm) thirty (30) inches in diameter or greater.

- (4) Heritage oaks (*Quercus alba* (white oak), *Q. austrina* (bluff oak), *Q. geminata* (sand live oak), *Q. prinus* (swamp chestnut or basket oak), *Q. virginiana* (live oak) thirty (30) inches in diameter or greater.
- (5) Hickory (*Carya illinoensis*) (pecan), *C. tomentosa* (mockernut), *C. glabra* (pignut hickory) thirty (30) inches in diameter or greater.
- (6) Loblolly bay (*Gordonia lasianthus*) twenty (20) inches in diameter or greater.
- (7) *Magnolia* (*Magnolia grandiflora*) (Southern magnolia), *Magnolia virginiana* (sweetbay magnolia) twenty (20) inches in diameter or greater.
- (8) Maples (*Acer rubrum*) (red maple), *A. barbatum* (Florida maple) twenty (20) inches in diameter or greater.
- (9) Tupelo (*Nyssa sylvatica*) thirty (30) inches in diameter or greater.
- (10) White ash (*Fraxinus americana*) thirty (30) inches in diameter or greater.
- (c) Champion and heritage trees shall be considered regulated trees in all areas of the city, and their removal shall be strongly discouraged.
- (d) Prior to removal of any tree, the owner shall give the City first right of refusal to relocate any/all heritage or champion trees, otherwise designated for removal by the applicant.
- (e) Any permission given for the removal of any heritage or champion tree that is healthy and that is not causing structural damage, whether this permission is through an approved development plan or through the issuance of Tree Permit, will require replacement on a two inch-for-one inch (2:1) basis, measured per specifications of section 27-445. Trees may be planted on-site or off-site or given to the city for planting on public property.
- (f) The removal, relocation or replacement of any champion or heritage trees shall be by community development board approval. The city council will approve the removal, relocation or replacement of any heritage or champion tree when such removal, relocation or replacement is proposed as part of the subdivision approval process.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 3, 3-6-06; Ord. No. 2010-14, § 42, 9-7-10)

Sec. 27-449. - Tree preservation during development and construction.

- (a) *Barriers required.* During construction, protective barriers shall be placed, as necessary, to prevent the destruction or damaging of trees. Trees destroyed or receiving major damage shall be replaced before issuance of a certificate of occupancy or use, if such certificate is required, unless approval for their removal has been granted under permit. The city manager or designee shall determine what trees, if any, require protection or replacement.
- (b) *Barriers.* All regulated trees not designated for removal shall be required by the terms of the permit to be protected by barriers erected prior to construction of any structures, road, utility service or other improvements.
- (c) *Encroachment prevention.* Such barriers shall be plainly visible and shall create a continuous boundary in order to prevent encroachment by machinery, vehicles or the storage of materials. Protective posts of nominal two (2) inches by four (4) inches or larger wooden posts, two (2) inches outer diameter or larger pipe, or other post material of equivalent size and strength shall be implanted deep enough in the ground to be stable with at least three (3) feet of the post visible above the ground.

- (d) *Drip line.* Barriers shall be placed at the drip line, though never less than ten (10) feet from the trunk of a protected tree unless approved by an arborist and the city manager or designee, for all trees determined to remain and for relocated trees, both before and after relocation. **Barriers for champion and heritage trees shall extend to one-and-a-half times (1.5x) the extents of the drip line.**
- (1) In cases where complying with the above placement of barriers is found to unduly restrict development of the property, the city manager or designee may approve alternative methods of protection.
 - (2) No grade changes shall be made within the protective barrier zones without prior approval of the city manager or designee. Where roots greater than one (1) inch in diameter are damaged or exposed, they shall be cut cleanly and recovered with soil.
 - (3) Protective barriers shall remain in place and intact until such time as landscape operations begin or construction needs dictate a temporary removal that will not harm the tree.
 - (4) Landscape preparation in the protected area shall be limited to shallow discing of the area. Discing shall be limited to a depth of two (2) inches unless specifically approved otherwise by the city manager or designee, the community development board the city council as applicable.
 - (5) No building materials, machinery or harmful chemicals shall be placed within protective barriers, except short-duration placements of fill soil that will not harm the tree. Such short-duration placements shall not exceed thirty (30) days.
 - (6) The standards established in the *American National Standard for Tree Care Operations* (ANSI A300), Part 5 – ‘Management of Trees and Shrubs During Site Planning, Site Development, and Construction,’ as published by the Tree Care Industry Association, the standards of the National Arborist Association, or other nationally recognized arboricultural standards approved by the city manager or designee shall be used as guidelines for tree protection, planting, pruning and care.
 - (7) Attachments to trees prohibited. No attachments or wires other than those of a protective and nondamaging nature shall be attached to any tree.
 - (8) Any/all measures shall be taken to avoid soil compaction impacting protected trees for the duration of construction. In cases where the temporary removal of a barrier may be necessary, a sufficient layer of mulch or similar materials shall be placed so as to prevent soil compaction.
 - (9) Inspections. The city manager or designee shall conduct periodic inspections of the site before work begins and/or during clearing, construction and/or post-construction phases of development in order to ensure compliance with these regulations and the intent of this section. (*Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 43, 9-7-10*)

Sec. 27-450. - Approved tree list.

- (a) City tree list: Replacement trees, as required per section 27-447 be selected from the following list. This list was generated based on species hardiness, disease- and pest-resistance, availability and size variance. It is not the intent to unreasonably limit the selection of replacements. Therefore, replacement trees not included on the city's tree list but suggested by the applicant may be considered, and approved or denied, during the Tree Permit application process.

Table 27-449.1 - City Of Neptune Beach Approved Tree List

SHADE TREES	
Common Name	Botanical Name
Ash, Green	Fraxinus pennsylvanica
Ash, Water	Fraxinus caroliniana
Birch River	Betula nigra
Bay, Loblolly	Gordonia lasianthus
Cedar Red	Juniperus virginiana
Cypress, Bald	Taxodium distichum
Cypress, Leyland	Cypressocyparis leylandii
Dogwood Flowering	Cornus Florida
Eastern Redbud	Cercis canadensis
Elm, Florida	Ulmus americana
Fringetree	Chionanthus virginicus
Gumbo-Limbo	Bursera simaruba
Hickory, Pecan	Carya spp
Holly	Ilex opaca
Holly, Yaupon	Ilex vomitoria
Southern Magnolia	Magnolia grandiflora
Maple, Red	Acer rubrum
Maple, Florida	Acer saccharum subsp. floridanum
Oak, Laurel	Quercus laurifolia
Oak, Live	Quercus virginiana
Oak, Shumard Red	Quercus shumardii
Oak, Turkey	Quercus laevis
Pine, Loblolly	Pinus taeda

Pine, Long-leaf	<i>Pinus palustris</i>
Pine, Pond	<i>Pinus serotina</i>
Pine, Slash	<i>Pinus elliottii</i>
Pine, Sand	<i>Pinus clausa</i>
Southern Magnolia	<i>Magnolia grandiflora</i>
Sweetbay Magnolia	<i>Magnolia virginiana</i>
Sweetgum	<i>Liquidambar styraciflua</i>
Sparkleberry	<i>Vaccinium arboreum</i>
Sycamore	<i>Platanus occidentalis</i>

PALM TREES	
Common Name	Botanical Name
Palm, Cabbage	<i>Sabal palmetto</i>
Palm, Canary Island Date	<i>Phoenix canariensis</i>
Palm, European Fan	<i>Chamerops humilis</i>
Palm, Pindo	<i>Butia capitata</i>
Palm, Washington	<i>Washingtonia robusta</i>
Palm, Windmill	<i>Trachycarpus fortunei</i>
UNDERSTORY OR ORNAMENTAL TREES	
Common Name	Botanical Name
Cedar, Red	<i>Juniperus virginiana</i>
Crape Myrtle	<i>Lagerstroemia indica</i>
Elm, Winged	<i>Ulmus alata</i>
Flatwoods Plum	<i>Prunus umbellata</i>
Hickory, Pecan	<i>Carya</i> spp.

Holly, American	Ilex opaca
Holly, Dahoon	Ilex cassine
Holly, East Palatka	Ilex attenuata
Holly, Yaupon	Ilex vomitoria
Jerusalem Thorn	Parkinsonia aculeata
Loquat, Japanese Plum	Eriobotrya japonica
Oak, Myrtle	Quercus myrtifolia
Oak, Sand Live	Quercus geminata
Oleander	Nerium oleander
Olive	Olea europaea
Pawpaw	Asimina spp.
Podocarpus, Yew	Podocarpus macrophyllus
Privet, Glossy	Ligustrum lucidum
Privet, Japanese	Ligustrum japonicum
Redbud	Cercis canadensis
Wax Myrtle	Myrica cerifera

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-451. - Regulations pertaining to utility companies.

- (a) In the event any electric, water, telephone, or other public utility firm or corporation plans to extend, maintain, or relocate service such that any tree on any unimproved lot or tract will be removed, said utility shall make application for Tree Permit as described in section 27-446. Any public utility wishing to prune trees on a right-of-way shall notify the city manager in writing one (1) week in advance of the time and place these pruning activities will take place. The city manager or designee shall supervise these activities as necessary and shall have the authority to regulate or halt such pruning when these actions are deemed detrimental to the trees or beyond that needed to insure continued utility service.
- (b) A utility company shall not remove or alter any trees at a distance greater than five (5) feet from the utility pole, structure or conductor within the city without a permit having first been obtained.
- (c) The city shall observe the requirements of this section.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-452. - Unauthorized removal of or damage to regulated trees.

- (a) If a regulated tree, to include heritage or champion trees as defined in section 27-448, is removed without permit, or is altered or damaged such that the likelihood for disease or premature death is

increased, the tree removal contractor and/or property owner shall pay a fine of twice the tree fund fee, as established in section 27-458 per diameter inch of the trunk, measured at four and one-half (4½) feet above the ground. In the event that a tree has been completely removed from the site, the measurement will be taken as the diameter of the remaining stump. In the event that no portion of a stump remains, documents such as a tree survey, building plans, etc. may be used to determine the size of the regulated tree removed. All violations of section 27-452 shall be referred to the code enforcement board for disposition.

- (b) Clear-cutting of land is prohibited. If any parcel of land is clear cut without a tree removal permit, the tree removal contractor and/or property owner shall be subject to enforcement in accordance with article VII of chapter 2 of this code and fined a minimum of \$5,000.
- (c) All fines imposed through the code enforcement process in article VII of chapter for unauthorized removal or damage of regulated trees shall be paid to the City of Neptune Beach. All fines collected shall be deposited into the city's tree mitigation fund.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 4, 3-6-06)

Sec. 27-453. - Procedure for appeal.

- (a) Any denial of Tree Permit by the city staff of this article may be appealed within thirty (30) days of said decision to the community development board for final disposition as specified in section 27-133. The community development board through competent testimony may, in their discretion, affirm, overturn, or modify any decision made in the administration of this article.
- (b) Appeals of the enforcement of this article shall be made as provided for in section 27-445.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 5, 3-6-06; Ord. No. 2010-14, § 44, 9-7-10)

Sec. 27-454. - Violation; denial of permits, certificates.

No building permits shall be issued on lands where violations of this article are determined to exist, including payment of all fines levied for violations, or appropriate remedial action as agreed to by the city manager or designee and completed by the owner of the land. A certificate of occupancy shall not be issued for any construction until all applicable remedies have been accomplished. *(Ord. No. 2004-10, § 1, 10-4-04)*

Sec. 27-455. - Minimum landscape requirements.

- (a) Requirements of these sections do not exempt property owners from compliance with any other section of this article.
- (b) *Minimum percentage of developed area devoted to landscaping.* Property shall be designed, constructed and used so that the total of the areas devoted to landscape materials of any site is at least twenty (20) percent of the gross area of each parcel.
- (c) For property within the central business district, all portions of a site that are not otherwise covered by structures or pavement shall be landscaped. Because the landscaped areas are minimal within the CBD, the use of more dense plant materials is required. Landscape materials for sites within the CBD shall include trees, shrubs, vines and groundcovers. Therefore, sod shall not be used as a landscape material in the CBD.
- (d) Landscape and/or planting plans for all nonresidential developments shall be prepared by a landscape architect registered in the State of Florida.

- (e) *Minimum requirements for landscaped areas.* All development except individual, single-family and two-family (duplex) residential lots shall meet the requirements of these sections. See section 27-457 for specific requirements for individual, single-family and duplex residential lots. However, all other development shall comply with the following:
- (1) An automatic irrigation system shall be supplied for all newly landscaped areas. System shall include a pressure vacuum breaker-type backflow preventer, rain sensor, electric timer and valves, and sprinkler heads, and all pipe and materials necessary for a fully functioning system. The design of the irrigation system shall promote water conservation through methods such as efficient zoning of heads and/or micro-irrigation. The irrigation system shall be designed and located to minimize the watering of impervious surfaces. Irrigation shall not be required for existing natural vegetation areas.
 - (2) Plants shall be sized such that, within three (3) years of the time of planting, at least half of the required landscaped development shall be devoted to living plants. Remaining landscape areas shall be mulched with organic materials.
 - (3) When a landscaped area is adjacent to or within a vehicular use area, curbing shall be used to protect landscaped areas from encroachment. Parking spaces shall be designed to provide pervious surface for the vehicle overhang area.
 - (4) Shrubs and trees shall be placed away from the wheel stop, so that they will not be encroached upon by vehicles. In lieu of curbing, the alternative means of preventing encroachment shall be shown on the site plan.
 - (5) All required trees shall be selected from the shade tree section of the city tree list in section 27450. In order to encourage plant diversity, no more than fifty (50) percent of the selected trees for one (1) plan shall be from the same genus.
 - (6) Any landscaped area adjacent to an intersection or driveway shall conform to the requirements for the vision triangle, as defined in article I.
 - (7) Where gravel is used as landscaping groundcover, a concrete, stone paver, or similar barrier must be used to contain the gravel and keep it from entering streets, drains, culverts, and any other transportation and stormwater system.
- (f) *Ocean-front lots.* Oceanfront lots of any type shall be landscaped with salt-tolerant plant material only.
- (g) *Exemptions.*
- (1) All parking garages shall be exempt from this section, pertaining to landscaping requirements for vehicular use areas; however, vehicles shall be screened from adjacent properties and public rights-of-way through the use of opaque materials at ground level.
 - (2) Parking lots under lease. The area of any lot under lease which contains required parking spaces for any use shall comply with the provisions of this section as a precondition to the issuance of any development order issued in connection with such lot for such use.
- (h) *Minimum submittal criteria.*
- (1) All planting plans shall be drawn to scale and have a north arrow, and shall accurately depict all buildings, pavement, on-site facilities, utilities and lighting systems. The landscape drawing or accompanying development plan must give the permitted use of adjacent parcels and the total square footage of all pavement on-site.
 - (2) A plant schedule shall be provided showing the botanical name, size, spacing and number of all required plant materials. During construction, any tree or shrub may be substituted for the identified plant, provided that the shrub is adaptable to the amount of sun/shade, wet/dry and size

conditions where it will be planted, and insofar as the provisions for diversity described in this article and all required tree replacement calculations are met. The use of additional plant material beyond the minimum required is strongly encouraged. However, plant materials shown that are additional to the required materials shall not be subject to inspection and should be identified on the planting plans as "supplementary."

- (3) A tree table shall be provided showing the calculated requirements for trees to be planted, including all information as required for submittals per section 27-446.
- (i) *Design principles and standards.* All landscaped areas required by this article shall conform to the following general guidelines:
 - (1) The preservation of native trees and shrubs is strongly encouraged to maintain healthy, varied and energy-efficient vegetation throughout the city, and to maintain habitat for native wildlife species.
 - (2) The planting plans should integrate the elements of the proposed development with existing topography, hydrology and soils in order to prevent adverse impacts such as sedimentation of surface waters, erosion and dust.
 - (3) The functional elements of the development plan, particularly the drainage systems and internal circulation systems for vehicles and pedestrians, should be integrated into the planting plan. The landscaped areas should be integrated, to promote the continuity of on-site and off-site open space and greenway systems, and to enhance environmental features.
 - (4) The selection and placement of landscaping materials should maximize the conservation of energy through shading of buildings, streets, pedestrian ways, bikeways and parking areas. The use of wind for ventilation and the effect on existing or future solar access shall be considered.
 - (5) Landscaping design should consider the aesthetic and functional aspects of vegetation, both when initially installed and when the vegetation has reached maturity. Newly installed plants should be placed at intervals appropriate to the size of the plant at maturity, and the design should use shortterm and long-term elements to satisfy the general design principles of this section over time.
 - (6) The natural and visual environment should be enhanced through the use of materials which achieve a variety with respect to seasonal changes, species of living material selected, textures, colors and size at maturity.
 - (7) The placement of trees around buildings should permit access to the building by emergency vehicles.
- (j) The installation of invasive nonnative category 1 and category 2 species as defined by the Florida Department of Agriculture and Consumer Services (FDACS) and Florida Exotic Pest Plan Council (FLEPPC) is prohibited.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 6, 3-6-06; Ord. No. 2011-19, § 1, 10-10-11)

Sec. 27-456. – Landscaping buffers.

- (a) *Generally.* This section provides landscaping methods which are intended to set minimum requirements for the landscaping of vehicular use areas and certain perimeter areas abutting public rights-of-way within commercial zoning districts and between zoning classifications. Vehicular use areas and retention ponds may not be located within landscape buffers, though swales may be permitted within landscape buffers on a case-by-case basis. These requirements are illustrated in figures 27-4567-1 and 27-456-2 and are described herein as follows
- (b) *Size.* Measurement of all landscape buffers shall be from the property line and shall extend along the entire length of the property line abutting the right-of-way.

1. Vehicular use areas shall be separated by a landscaped buffer area, a minimum of ten (10) feet in width, from any boundary of the property on which the vehicular use area is located.
 2. Vehicular use areas abutting residential-zoned property shall be separated by a landscape buffer area of fifteen (15) feet in width.
- (c) *Intrusions.* Landscape buffer areas may only be altered or intruded upon for the following purposes and any such alterations or intrusions shall be in compliance with an approved development site plan:
1. Ingress and egress to vehicular use areas, drive aisles, and loading areas, per lot standards and allowable curb cuts defined in section 27-235 and 27-243;
 2. Pedestrian walkways or access to buildings and structures as necessary;
 3. Bicycle and/or other transportation infrastructure;
 4. Installation of stormwater, drainage, or utility improvements as necessary;
 5. Grading or retention as necessary;
 6. Selective clearing for visibility of freestanding signs;
 7. The regular pruning of trees to provide clear trunk and visibility as required by the Florida Department of Transportation;
 8. The installation of tree protection barriers as defined in this section;
 9. The regular removal of dead materials and debris; or
 10. The installation of additional landscape materials required by this Code.
 11. A clear path of three feet through vegetative buffers shall be maintained to allow for a Fire Department Connection.
- (d) *Exceptions.* A landscape buffer area is not required:
1. For property located within the city's central business district (CBD);
 2. For front and side setbacks less than or equal to ten (10) feet. In these cases, only rear lot lines shall adhere to any requirements defined in this section;
 3. For side lot lines wherein, a residential lot is adjoined to another residential lot;
 4. When the paved ground surface area is completely screened from adjacent properties or public rights-of-way by intervening buildings or structures;
 5. When an agreement to operate abutting properties as essentially one (1) contiguous parking facility is in force. The agreement shall be executed by the owners of the abutting properties, and shall bind their successors, heirs, and assigns. Prior to the issuance of any building permit for any site having such a contiguous parking facility, the agreement shall be recorded in the public records of the county; or
 6. When the required landscape buffer area would conflict with utility installations, and such conflicts cannot be resolved, such areas may be planted with shrubs and such understory trees as may be acceptable to the utility.;
- (e) *Modification of requirements.* The community development board or staff, when only staff review is required, may determine that:
1. Screening is better achieved by relocation of the landscape buffer area;

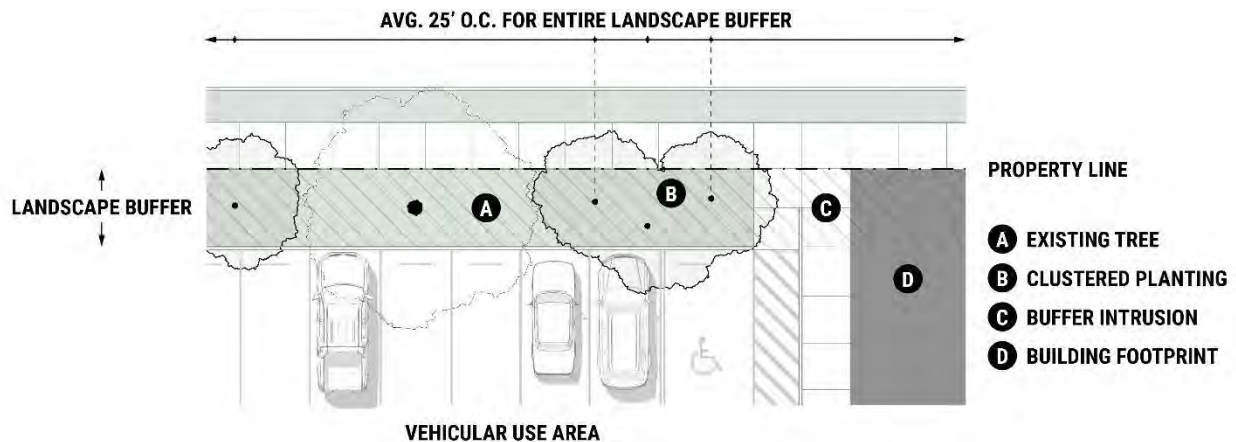
2. There is an unresolvable conflict between other element(s) of the development plan and the location, width or height of the landscape buffer area, and that the public interest is therefore best served by relocation of the landscape buffer area, lowering the height of required material or the substitution of a solid fence or wall in conjunction with a reduction in width; or
3. That the screening would only serve to emphasize a long driveway that would otherwise be unobtrusive.

(f) *Planting.* A landscape buffer area shall contain:

1. *Trees.* Landscape buffer areas shall include a calculated average of one (1) shade tree, as defined in the city's approved tree list, located in section 27-450, and sized as defined in section 27-447, for every fifteen (15) linear feet of frontage. The average spacing for proposed tree plantings shall be measured sequentially from tree-to-tree and the following conditions shall be considered while measuring:
 - a. Clusters of no less than three (3) shade trees shall occur at all intrusions, as defined in this section, into the landscape buffer.
 - b. Existing trees retained within the landscape buffer area, including champion and heritage trees shall be exempt from this calculation.
 - c. Palms, understory, and ornamental trees of any species, as defined in the city's approved tree list, located in section 27-540 shall be exempt from this calculation except for when the use of shade trees is prohibited under overhead utilities.
 - d. Trees proposed within landscape buffer areas may be counted towards the required tree replacement total as defined in section 27-447.
 - e. Ornamental shrubs, native privacy plants, or other non-invasive landscape hedging shall be used between the required tree plantings, except that a 5-foot gap may be permitted for intrusions.
2. *Visibility.* In addition to trees, a landscape buffer area shall contain an opaque screen composed of either plant materials, or a combination of plant materials and masonry walls.
 - a. For the screening of vehicular use areas, landscape buffers shall be comprised of landscape materials, including hedges, shrubs, and groundcover plantings and shall be arranged to provide a visual screen of seventy-five (75) percent opacity and achieve a height of at least three (3) feet within three (3) years.
 - b. For the screening of vehicular use areas from residential zoned property, landscape buffers shall be comprised of landscape materials, including hedges, shrubs, and groundcover plantings and shall be a visual screen of seventy-five (75) percent opacity and achieve a height of at least six (6) feet within twenty-four (24) months of planting.
 - c. A six (6) foot masonry wall may be used as a buffer. However, trees, ornamental shrubs, or other plantings shall be used to minimize the harsh aesthetic of the wall.
 - d. The community development board, during development plan review, may determine that natural vegetation is sufficient to screen adjacent properties and rights-of-way. In such instance the existing vegetation, including understory plants and bushes, is protected from pruning and removal, except that diseased plant material and invasive nonnative species may be replaced in accordance with this section. Where encroachments are made for utility connections, replacement plants appropriate to the ecosystem shall be required.
3. *Interior requirements.* Interior areas required to be landscaped include terminal parking islands, interior islands, divider medians, and islands at T-intersections.

- a. The placement of landscaped areas throughout the interior of the paved area shall be one (1) interior landscaped island for each ten (10) parking spaces, with a terminal island at each end of five (5) or more contiguous parking spaces. At no time shall a row of parking have landscape areas greater than one hundred thirty-five (135) feet apart or closer than thirty-five (35) feet. Standards for minimum landscape islands are included in article IV.
- b. *Terminal islands:* One (1) shade tree per three hundred (300) square feet of interior landscape area, minimum one (1) shade tree per terminal island area. Shrubs or groundcovers shall be planted to cover thirty-five (35) percent of terminal islands, with a two-foot strip of mulch or sod adjacent to parking spaces, and a three-foot strip of mulch or sod adjacent to access drives.
- c. *Interior islands:* One (1) shade tree per three hundred (300) square feet of interior landscape area, minimum one (1) shade tree per interior island area.
- d. *Divider medians:* One (1) shade tree per thirty (30) linear feet of divider median, or fraction thereof. A continuous shrub hedge shall be planted in all divider medians that separate parking from access drives.
- e. The community development board, or city council and city manager or designee, through development plan review, may allow the relocation of such landscape areas to preserve existing trees, or where it is determined, upon review and recommendation of the city manager's designee, that the relocation is necessary for the safe maneuvering of vehicles or pedestrians.

Figure 27-456-1 – Landscape buffer example diagrams



Sec. 27-457. - Residential landscape requirements.

- (a) One (1) shade tree shall be planted or preserved for every three thousand (3,000) square feet of a residential lot or fraction thereof. No more than ten (10) new trees shall be required to be planted on any residential lot that is to be developed for one (1) single-family dwelling or one (1) two-family (duplex) residential structure as a result of this provision.
- (b) One (1) street tree from the shade tree portion of the City's approved tree list, located in Section 27450, shall be planted within five (5) feet of the public right-of-way for every forty-five (45) linear feet of

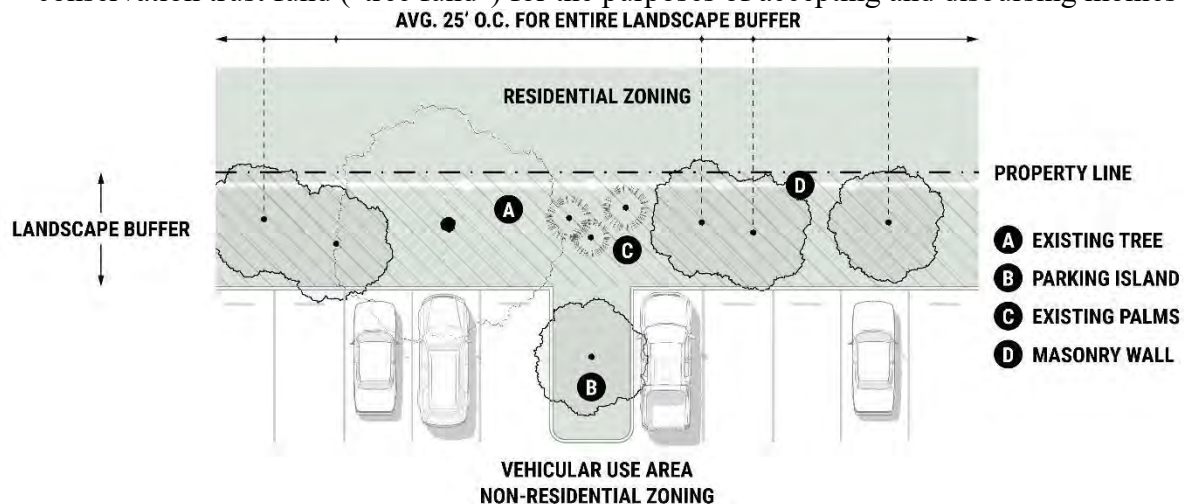
street. In residential subdivisions, where property on one (1) side of the right-of-way is not owned by the subdivider, such street trees shall be planted alternately on either side of the street. Street trees planted or preserved per this requirement shall not count towards the overall shade tree requirement.

- (c) All required trees shall be selected from the city tree list in section 27-450.
- (d) Landscaping of the City of Neptune Beach street ends terminating at the Atlantic Ocean and at the intracoastal waterway that, by its location or characteristics of growth, creates the image of private property or has the effect of appropriating public property for private use shall be prohibited. Except at beach access points, voluntary care of the street ends rights-of-way to include a minimum level of landscaping and beautification for the public benefit may be approved by the city manager upon submission of a right-of-way permit application. Landscaping shall be limited to a maximum of three (3) feet.
- (e) Where gravel is used as landscaping groundcover, a concrete, stone paver, or similar barrier must be used to contain the gravel and keep it from entering streets, drains, culverts, and any other transportation and stormwater system.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2005-06, § 1, 5-2-05)

Sec. 27-458. - Tree conservation and trust fund.

- (a) *Establishment of trust fund.* The city council hereby recognizes the establishment of the tree conservation trust fund ("tree fund") for the purposes of accepting and disbursing monies paid to the



city as part of tree mitigation and any other funds deposited with the city for the purpose of tree and vegetation conservation and protection. This fund shall be used solely for the planting of trees, the protection and conservation of existing trees where appropriate, or the re-establishment of vegetative resources in the city and any other ancillary costs associated with such activities, provided that such ancillary costs shall not exceed twenty (20) percent of the cost of the particular project.

- (b) *Terms of existence.* The tree fund shall be self-perpetuating from year to year unless specifically terminated by the city council.
- (c) *Tree fund assets.* All funds received shall be placed in trust for and inure to the public use and environmental benefit of the city.
- (d) *Tree fund administration.*
 - (1) Trust funds shall be used only for the purposes designated by the city in accordance with the intent of this chapter.

- (2) All mitigation funds collected pursuant to this chapter shall be deposited in the tree fund, which shall be a separate account established and maintained apart from the general revenue fund of the city.
- (3) The city manager will bring plans for the use of the tree fund expenditures to council for approval.
- (e) Disbursal of tree conservation trust fund assets.
 - (1) Expenditures for projects funded by the tree conservation trust fund shall be made in accordance with the established purchasing procedures of the city.
 - (2) Priority shall be given to the use of funds for projects that plant or replace trees or vegetation along public rights-of-way or on properties and lands in public use that will provide needed shade, aesthetic enhancement or the re-establishment of tree canopy in neighborhoods and along public roadways.
- (f) Triggers and controlling provisions of the Code.
 - (1) For purposes of triggering any fund payment pursuant to this section, subsections 27-447(b) and 27-448(d) shall be controlling.
 - (2) The applicant shall have the option of either:
 - a. Replacing the removed tree pursuant to subsections 27-447(b) and 27-448(d);
 - b. Paying the entire balance owed to the trust fund pursuant to subsection (3) below.
 - (3) The applicant shall pay a sum equal to one hundred eighty-five dollars (\$185.00) per caliper inch of trees(s) removed to offset or mitigate the removal of a qualifying tree or when replacement trees are deemed unsuitable for the site per section 27-447(b). The one hundred eighty-five-dollar (\$185.00) rate shall be reviewed annually by city staff to determine that it is a sufficient amount to fully account and mitigate for the removal of qualifying trees.
 - (4) The applicant shall pay a sum equal to one hundred eighty-five dollars (\$185.00) per caliper inch of tree(s) when replacement trees are determined not to be suited for the location of the site per section 27-447(b)

(Ord. No. 2016-05 , § 1, 6-6-16)

Secs. 27-459—27-470. - Reserved.

ARTICLE X. - STREETS, SIDEWALKS AND RIGHTS-OF-WAY¹¹⁵¹

Footnotes: --- (15) --- Editor's note— Ord. No. 2004-10, § 1, adopted Oct. 4, 2004, amended art. X in its entirety to read as herein set out. Former art. X, §§ 27-471—27-480, pertained to similar provisions, and derived from Ord. No. 91-1-5, § 2, 5-6-91. Ord. No. 2002-02, § 8, 5-6-02; Ord. No. 2004-02, § 1, 5-10-04.

Sec. 27-471. - Generally.

This article establishes minimum requirements for the development of public and private streets, bikeways, pedestrian ways, and access control to and from public streets. These standards are intended to minimize the negative traffic impacts of development and to assure that all developments adequately provide for the safe and efficient movement of vehicles and people consistent with good engineering and development design practices.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-472. - Definitions.

The background of the slide is a photograph of the Florida State Capitol building in Tallahassee. The building is a large, light-colored structure with a prominent central dome and a portico with columns. To the right of the main building is a tall, modern-looking tower. The sky is filled with heavy, dark clouds, and the overall lighting is somewhat dim, giving it a serious and official feel.

2026 Florida Land Use and Development Legislation Summary

*Key Legislation Shaping Florida's
Communities and Future*

HB 803

Building Permits and Inspections

Purpose: Streamlines the building permitting process, expands permit exemptions, standardizes permit review procedures, and limits local government discretion in the permitting process.

HB 803 – Permit Exceptions

Exempts certain residential projects valued at less than \$7,500 from building permit requirements, except for structural, electrical, plumbing, mechanical, gas work, and projects located within flood hazard areas.

HB 803 – Mandatory Permit Review Deadlines

Establishes mandatory permit review deadlines for local governments, including:



5 business days – Review of complete permit applications for qualifying improvements to existing single-family homes valued under \$15,000, including roofing, electrical, plumbing, mechanical, gas, irrigation, landscaping, alarm systems, structural repairs, and accessory structures.



10 business days – Review of permit applications for single-family dwellings funded through the Community Development Block Grant–Disaster Recovery (CDBG-DR) program and submitted by a licensed contractor.



12 business days – Review of site-specific permits submitted under an approved master building permit.



30 business days – Review of permit applications for residential buildings under 7,500 square feet, including most single-family residential construction and associated trade permits.



60 business days – Review of permit applications for residential buildings 7,500 square feet or larger; nonresidential buildings under 25,000 square feet; multifamily developments containing up to 50 dwelling units; qualifying site plans; subdivision plats not requiring a public hearing; and lot grading or site alteration permits.



Strengthens Florida's statutory permit "shot clock" requirements by reinforcing consequences when local governments fail to comply with required review deadlines.



Requires the Department of Management Services to establish statewide term contracts for building inspection services.



Expands the authority and use of private providers for plan review and inspections.



Requires the Florida Building Commission to develop standardized statewide residential and commercial permit applications by July 1, 2027.

HB 803 – Key Provisions

HB 803 – Additional Key Provisions



Requires local governments to accept electronic permit applications and inspection documentation.



Limits permit and inspection fees to the actual cost of providing the service and requires fee reductions when private providers perform inspections.



Prohibits local governments from regulating off-site constructed (modular) homes more restrictively than comparable site-built homes.



Prohibits homeowners' associations and architectural review committees from requiring proof of a building permit before reviewing architectural applications.



Exempts qualifying temporary hurricane and flood protection barriers and certain retaining walls from local permitting requirements.

SB 1434

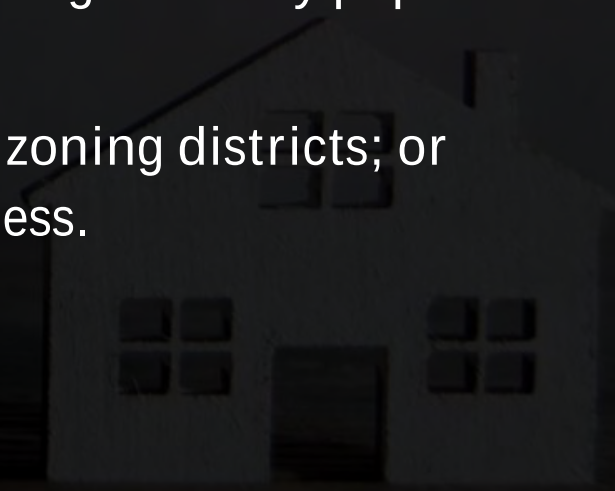
Infill Redevelopment Act

Purpose and Overview:

Creates a statewide framework encouraging residential redevelopment of environmentally impacted urban properties through administrative approval.

SB 1434 – Key Provisions

- Requires local governments to administratively approve qualifying residential redevelopment projects.
- Applies to qualifying parcels that:
 - Contain at least 5 acres;
 - Are environmentally impacted (such as brownfields or contaminated sites); and
 - Are located in qualifying urban counties meeting statutory population thresholds.
- Permits residential development at:
 - The average residential density of applicable zoning districts; or
 - 25 dwelling units per acre, whichever is less.



SB 1434 – Additional Key Provisions



Prohibits local governments from using subdivision regulations to effectively prevent qualifying redevelopment.



Requires compatibility buffers where redevelopment adjoins existing single-family neighborhoods.



Establishes additional requirements for redevelopment of former golf courses and recreational properties, including:

- The property must have been inactive for at least 12 months;
- Payment of double park impact fees; and
- A 90-day opportunity for adjacent property owners to purchase the property before redevelopment.

HB 399

Land Use and Development Regulations

Purpose: Limits local government discretion over land use regulation and standardizes development review procedures throughout Florida.

HB 399 – Key Provisions



Requires development application fees to be reasonably related to the actual cost of processing applications.



Requires local governments to administratively approve certain minor variances and special exceptions for qualifying destination resorts.



Requires comprehensive plans and land development regulations to include objective compatibility standards for residential development.



Requires compatibility standards to focus on objective mitigation measures rather than discretionary denials.

HB 399 – Additional Key Provisions

Requires local governments to reasonably and uniformly enforce land development regulations.

Prohibits denial of building permits for qualifying manufactured residential buildings.

Requires off-site constructed residential dwellings to be permitted by right in qualifying zoning districts.

Clarifies taxation of housing units located on mobile home lots.

Requires school interlocal agreements to address reasonable access through public easements and rights-of-way.

HB 1389

Live Local Act Expansion

Purpose and Overview:

Expands and strengthens the Live Local Act by increasing opportunities for administratively approved affordable housing developments and further limiting local regulatory barriers.

Expands the types of properties eligible for Live Local Act development.

HB 1389 – Key Provisions



The bill broadens eligibility to include a wider range of commercial, industrial, and mixed-use properties where at least 40 percent of the existing acreage is designated for commercial or industrial uses under the local government's future land use map. Eligible properties may include retail shopping centers, office parks, commercial corridors, warehouses, light industrial parks, business parks, flex-space developments, and mixed-use projects containing commercial, office, industrial, or similar nonresidential uses. As a result, many parcels that previously were not eligible for Live Local Act administrative approval may now qualify for multifamily affordable housing development, provided the statutory affordability requirements are met.



Requires counties and municipalities to authorize qualifying multifamily and mixed-use affordable housing developments on eligible sites through administrative approval, rather than discretionary legislative action.

HB 1389 – Additional Key Provisions

Further limits local governments' ability to regulate:

- Building height;
- Setbacks and stepbacks; and
- Other dimensional standards that effectively reduce otherwise allowable development.

Allows applicants to amend pending Live Local Act applications to utilize the expanded provisions of the bill.

Clarifies and expands administrative approval procedures for qualifying affordable housing projects.

Authorizes local governments to provide density bonuses for land donated to support affordable housing for military families.

Directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study:

- The use of mezzanine financing for affordable housing; and

The feasibility of tiny homes as an affordable housing strategy.

Overall Legislative Themes

Collectively, these four bills continue the Florida Legislature's recent trend toward increasing statewide preemption over local land use regulation, reducing discretionary local government review, and promoting residential and affordable housing development.

→HB 803 streamlines building permitting by imposing mandatory permit review deadlines, expanding permit exemptions, encouraging electronic permitting, and increasing the use of private providers.

→SB 1434 promotes redevelopment of environmentally impacted urban properties by requiring administrative approval of qualifying infill housing projects while providing limited protections for surrounding neighborhoods.

→HB 399 further restricts local government discretion by requiring objective land development standards, limiting discretionary review, and promoting statewide uniformity in development regulation.

→HB 1389 significantly expands the Live Local Act by broadening the types of eligible commercial, industrial, and mixed-use properties, strengthening administrative approval requirements, and further limiting local zoning and development regulations applicable to affordable housing projects.

Questions?

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/CS/HB 803](#)

TITLE: Building Permits and Inspections

SPONSOR(S): Trabulsy and Overdorf

COMPANION BILL: [CS/CS/SB 1234](#) (DiCeglie)

LINKED BILLS: None

RELATED BILLS: None

FINAL HOUSE FLOOR ACTION: 109 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY

Effect of the Bill:

Related to private providers, the bill revises provisions relating to the issuance of building permits, provides for reduced fees when a private provider is retained for commercial construction projects, and requires local governments to create a private provider registration system. The bill also limits local government regulation of glazing requirements on commercial buildings.

The bill requires the Building Commission to adopt a uniform commercial and residential permit application, requires the Department of Management Services to enter into state term contracts for building code inspection services, and allows certain out-of-state licensed building officials to work for one year after a declaration of a state of emergency in the state.

The bill provides that certain building permits expire 1 year after issuance or on the effective date of the next edition of the Florida Building Code, whichever is later, requires offsite-constructed residential dwellings to be treated the same as residential single-family dwellings, and allows owners of a single-family dwelling, or the owner's contractor, to request an exemption from building permit requirements under certain conditions for work under \$7,500 and for the installation of temporary residential hurricane and flood protection walls or barriers. The bill also prohibits homeowners' associations from requiring a building permit as a prerequisite of its review of the construction of a homeowners' improvements.

Fiscal or Economic Impact:

The bill may have an indeterminate negative impact on local governments and an indeterminate positive impact on the private sector.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

ANALYSIS

EFFECT OF THE BILL:

The bill revises various provisions relating to the issuance of building permits and inspections and relating to building code inspection services provided by private providers. Specifically, the bill:

- Directs the Department of Management Services (DMS) to enter into state term contracts for building code inspection services. (Section [2](#))
- Allows certain out of state licensed building officials to work for one year after declaration of a state of emergency. (Section [3](#))
- Requires offsite-constructed residential dwellings, including manufactured homes or modular buildings, be treated the same as other residential single family detached dwelling construction. Local governments may not adopt or enforce any zoning, land use, or development regulation that treats an offside-constructed residential dwelling differently or more restrictively; however, local governments may adopt standards related to compatibility. The compatibility standards are limited to the following architectural features: roof pitch; square footage of livable space; type and quality of exterior finishing materials; foundation enclosure; existence and type of attached structures; building setbacks, lot dimensions, and the orientation of the home on the lot. (Section [6](#))

STORAGE NAME: h0803z1

DATE: 5/21/2026

- Revises the expiration date of [building permits](#) issued by counties and other local governments, providing for expiration one year after issuance or the effective date of the next edition of the [Florida Building Code](#), whichever is later, while still allowing local governments to extend the expiration of permits. (Sections [1](#) and [8](#))
- Provides that a local government shall grant an exemption from a building permit for:
 - Any work valued at less than \$7,500 done on a single-family home. However, local governments may require a permit for any electrical, plumbing, mechanical, gas, or structural work regardless of the value of such work.
 - Projects may not be divided for the purpose of evading permitting requirements.
 - Owners or contractors must submit a written request for exemption to the local enforcement agency that includes the contract or other documentation demonstrating the nature and value of the work to be performed.
 - Local governments are not liable for work done pursuant to this provision.
 - Temporary residential hurricane and flood protection walls that are:
 - Nonhabitable and not load bearing;
 - Installed for a residential property that is a single or two-family dwelling or townhouse;
 - Constructed to mitigate storm surge or floodwaters from entering a property;
 - Installed by a contractor properly licensed by the Construction Industry Licensing Board; and
 - Compliant with applicable local zoning, drainage, easement, and setback requirements.
 - Owners must submit a written request for exemption to the local enforcement agency with a copy of the contract or other documentation demonstrating the nature of the work to be performed.
 - Each lot or parcel upon which a retaining wall is installed on the property of a single-family or two-family residential dwelling or a townhouse. (Section [8](#))
- Prohibits [local enforcement agencies](#) from charging inspection fees based on the total cost of the project, instead providing that fees may not exceed the actual cost incurred by the agency to perform and approve the inspection required for a permit. (Section [8](#))

The bill makes the following changes related to alternative plans review and private providers:

- Provides that officials may only perform building inspections of construction that a [private provider](#) has deemed compliant when they have “knowledge” that the inspection forms submitted by the private provider were incomplete or incorrect. If they plan to perform a site visit, officials must provide written notice to the private provider of the specific forms that are incomplete or incorrect before performing the site visit.
- Amends the definitions of “deliver” and “delivery” to specifically include email or submission through an electronic fill-in form or through submission management software.
- Creates a definition for “registration” as the system used by officials to verify compliance with licensure and insurance requirements for private provider firms under Chapter 553, F.S.
- Removes the requirement that an owner or contractor have a written contract with a private provider and adds that agreements for private provider services are not required to be submitted as part of a permit application or to be issued a permit. Officials are prohibited from requesting a written agreement or consent form as a condition for issuing a permit.
- Requires [permit fees](#) charged by local jurisdictions to reflect the actual cost incurred when an owner retains a private provider for building inspection services.
- Prohibits officials from charging punitive, administrative, or additional fees, including fees for building inspections or site review, when an owner uses a private provider.
- Specifies that permit fees for commercial construction projects must be reduced by at least 25 percent when a private provider is used for plans review or building inspection services and by at least 50 percent when a private provider is used for all plans review and building inspection services.

- Limits the information that a local government can request from a private provider to that which it collects at registration, other than explicit written notice from the owner or owner's contractor that a private provider has been contracted.
- Prohibits local governments from altering the model form adopted by the [Florida Building Commission](#) (Commission) and removes the requirement that the form include "qualification statements or resumes" of private providers.
- Allows a property owner to choose to use a private provider at any time. The bill removes the requirement that a private provider may only be used after construction has commenced if the local building official is unable to provide inspection services in a timely manner or the inspection is related to a single-trade inspect for a single-family or two-family dwelling and removes the time limit by which the owner or owner's contractor must provide notice.
- Allows the review by a local building official of plans, construction drawings, or any other related documents that have been determined by a private provider to be compliant with the applicable codes only to the extent necessary to determine compliance with local ordinances, floodplain management regulations, site review requirements, and any other administrative or life-safety review unrelated to building code compliance. The local building official may review other forms and documents only for completeness and must notify an applicant of any incomplete forms or documents not later than 10 days after receipt of a permit application with the private provider affidavit; or 5 business days if the permit application is for a single-trade plan review for a single-family or two-family dwelling. If the notice is not provided within the applicable timeframe, the permit is deemed approved. The bill changes "plan deficiencies" to only apply to incomplete forms or documents.
- Removes the requirement that private providers performing required inspections give notice to the local building official.
- Provides that a local building official is not required for the regulatory administration or supervision of inspection services performed by a private provider. Private providers are responsible for verification of licensure and insurance requirements for the firm's authorized representative.
- Requires private providers to record inspections and certificates of compliance on a form provided by the Commission within a certain time period and specifies that local building officials may not fail inspections as long as they are transmitted within four days, even if they are not posted at the job site
- Changes the standard of review under which a local building official may deny a permit or a request for a certificate of occupancy or completion. Under current law, building officials review documents for compliance to the applicable codes, but the bill limits review to whether or not documents are complete.
- Requires local governments establish a system of registration for private providers and prohibits local governments from charging administrative fees for registration or updating registration.
- Prohibits a local government from prohibiting or limiting the use of virtual inspections by private providers.
- Requires local governments to give private providers notice of audits at least five business days before an audit. (Section [9](#))

The bill provides a shorter timeframe for a local government to approve, approve with conditions, or deny a building permit application for an applicant using a local government reviewer for building permits for an existing single-family residential dwelling if the value of the work is less than \$15,000 for structural, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing. The bill requires such permit applications to be approved within 5 business days after the application is deemed complete and sufficient. (Section [10](#))

The bill requires the Commission to develop a residential and commercial uniform building permit application that must be used by local governments. (Section [7](#))

The bill limits local government regulation of glazing requirements on commercial buildings. (Section [8](#))

The bill clarifies that building permits may not be denied for the placement of manufactured housing on a recreational vehicle lot. (Section [5](#))

The bill prohibits homeowners' associations from requiring a building permit as a prerequisite of its review of the construction of structures or improvements. (Section [11](#))

This bill was approved by the Governor on May 6, 2026, ch. 2026-63, L.O.F., and will become effective on July 1, 2026. (Section [12](#))

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The bill may have an indeterminate negative fiscal impact on local governments due to exemptions from building permit requirements, decreased building permit application fees, and the requirement to create a registration of private providers. The bill may, however, provide for more efficiencies for local governments.

PRIVATE SECTOR:

The bill will have an indeterminate positive fiscal impact on homeowners and contractors due to exemptions from building permit requirements and decreased building permit application fees.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the [Florida Building Code](#) (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Building Code.³

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The [Florida Building Commission](#) (Commission) was created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the

¹ Florida Department of Community Affairs, *The Florida Building Commission Report to the 2006 Legislature*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 15, 2026).

² *Id.*

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 15, 2026).

⁴ See [s. 553.72\(1\), F.S.](#)

Building Code.⁵ The Commission reviews several International Codes published by the International Code Council,⁶ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁷

Building Permits

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.⁸ Every local government must enforce the Florida Building Code and issue building permits.⁹

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.¹⁰ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the [local enforcement agency](#) or from such persons as may, by resolution or regulation, be directed to issue such permit.¹¹

Each local government must post its building permit applications, including a list of all required attachments, drawings, and documents for each application, on its website.¹² However, other than fire alarm building permit applications, local governments are not required to have uniform building permit applications, and they are free to create their own applications with their own requirements.¹³

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections. Construction work may not be done beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections are considered completed or closed.¹⁴

Building Permit Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.¹⁵ Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.¹⁶ Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building plans, building inspections, re-inspections, building permit processing, and fire inspections.¹⁷ Local governments must post all building permit and inspection fee schedules on their website.¹⁸

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code.¹⁹ When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated

⁵ [S. 553.74, F.S.](#)

⁶ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 15, 2026).

⁷ [S. 553.73\(7\)\(a\), F.S.](#)

⁸ [S. 553.72, F.S.](#)

⁹ [Ss. 125.01\(1\)\(bb\), 125.56\(1\), and 553.80\(1\), F.S.](#)

¹⁰ [S. 468.603, F.S.](#); [S. 202 of the Eighth edition of the Florida Building Code \(Building\)](#).

¹¹ [Ss. 125.56\(4\)\(a\) and 553.79\(1\), F.S.](#)

¹² [S. 553.79\(1\)\(b\), F.S.](#)

¹³ [Ss. 553.79\(1\) and 553.7921, F.S.](#)

¹⁴ [S. 110 of the Eighth Edition of the Florida Building Code \(Building\)](#).

¹⁵ [S. 553.80 F.S.](#)

¹⁶ *Id.*

¹⁷ [S. 553.80\(7\)\(a\)1, F.S.](#)

¹⁸ [Ss. 125.56\(4\)\(c\) and 166.222\(2\), F.S.](#)

¹⁹ [S. 553.80\(7\)\(a\), F.S.](#)

annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous four fiscal years.

DBPR Surcharges

Local governments must assess and collect two surcharges on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code:

- A 1 percent surcharge to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.²⁰
- A 1.5 percent surcharge that it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board and the Florida Homeowners' Construction Recovery Fund.²¹

Local government building departments may retain 10 percent of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.²²

Private Providers

Private providers and their duly authorized representatives are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's or representative's license.

A "private provider" is defined as a person licensed as a building official, engineer, or architect. Additionally, the term includes licensed building inspectors and plans examiners who perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.²³

An owner or contractor must notify a local government that the owner or contract hired a private provider to perform building code inspection services, including single-trade inspections.²⁴ If an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services. Such reduction may be calculated on a flat fee or percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services. The local jurisdiction may not charge fees for building inspections if the fee owner or contractor hires a private provider to perform such services; however, the local jurisdiction may charge a reasonable administrative fee, which shall be based on the cost that is actually incurred, including the labor cost of the personnel providing the service, by the local jurisdiction or attributable to the local jurisdiction for the clerical and supervisory assistance required, or both.²⁵

Upon receipt of a building permit application and the required affidavit from the private provider, a building official has 20 business days to issue the permit or provide written notice of the plan deficiencies.²⁶ If the local building official does not provide written notice of plan deficiencies within the prescribed 20-day period, the permit application shall be deemed approved and must be issued on the next business day.²⁷

²⁰ [S. 553.721, F.S.](#)

²¹ [S. 468.631, F.S.](#); The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with DBPR, who reviews for completeness and statutory eligibility. DBPR then presents the claim to the Construction Industry Licensing Board for review. [S. 489.1401\(2\), F.S.](#)

²² [Ss. 468.631](#) and [553.721, F.S.](#)

²³ [S. 553.791\(1\)\(n\), F.S.](#)

²⁴ [S. 553.791\(2\), F.S.](#)

²⁵ [S. 553.791\(2\)\(b\), F.S.](#)

²⁶ [S. 553.791\(7\)\(a\), F.S.](#)

²⁷ *Id.*

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 1434

INTRODUCER: Rules Committee, Judiciary Committee; and Senator Calatayud

SUBJECT: Infill Redevelopment

DATE: February 25, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hackett</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2. <u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3. <u>Hackett</u>	<u>Kruse</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1434 creates the “Infill Redevelopment Act,” which preempts certain local land development regulations and oversight for “qualifying parcels” to promote infill redevelopment in urban areas.

Qualifying parcels are plots of land at least 5 acres in size located adjacent to other parcels zoned for residential uses in certain counties. They must also be environmentally impacted, which for purposes of the bill means contaminants or pollutants have been detected on the land above certain thresholds or the land has been designated a brownfield area under state law.

Under the bill, local governments must allow, using an administrative approval process, a qualifying parcel to be developed with residential uses up to either the average density of all applicable zoning districts within the same jurisdiction, or 25 dwelling units per acre, whichever is lower.

The bill includes additional requirements for qualifying parcels that have recreational facilities on them (such as golf courses or recreational areas adjacent to single family homes on all sides) and provides a framework for the sale of such properties to adjacent property owners if they wish to preserve their recreational use.

The bill applies to development applications submitted pursuant to the bill’s provisions on or after its effective date. A local government may not adopt or enforce a local law, an ordinance, or

a regulation that restricts, prohibits, or otherwise limits the development of a qualifying parcel in accordance with the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

Growth Management and Comprehensive Planning

The Community Planning Act directs counties and municipalities to plan for future development by adopting comprehensive plans.¹ Each local government must maintain a comprehensive plan to guide future development.²

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ A comprehensive plan is intended to provide for the future use of land, which contemplates gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

Comprehensive plans lay out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. They are made up of 10 required elements, each laying out regulations for different facets of development.⁴

The 10 required elements consider and address capital improvements; future land uses; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.⁵

The Future Land Use Element

Comprehensive plans must include an element regarding future land use that designates the proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.⁶ Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.⁷ The proposed distribution, location, and extent of the various categories of land use must be shown on a land

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

⁴ Section 163.3177(3) and (6), F.S.

⁵ *Id.*

⁶ Section 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. Section 163.3177(6)(a)10., F.S.

⁷ Section 163.3177(6)(a)1., F.S.

use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.⁸

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.⁹

Infill Development

The Growth Policy Act,¹⁰ establishes a framework for urban infill and redevelopment for promoting and sustaining urban cores. Under the act, "urban infill and redevelopment area" means an area or areas designated by a local government where:

- Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted 5-year schedule of capital improvements.
- The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress as defined by state law.¹¹
- The area exhibits a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete which is higher than the average for the local government.
- More than 50 percent of the area is within quarter mile of a transit stop, or a sufficient number of transit stops will be made available concurrent with the designation.
- The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or Federal Government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs.¹²

The act authorizes local governments to designate urban infill and redevelopment areas within their jurisdictions for the purpose of targeting economic development, job creation, housing, transportation, crime prevention, neighborhood revitalization and preservation, and land use incentives to encourage urban infill and redevelopment within the urban core.¹³ To designate an urban infill and redevelopment area, local governments must prepare and adopt, based on specified criteria, a comprehensive, community-based redevelopment plan. The plan must address land use, housing (including affordable housing), transportation, infrastructure, public safety, and economic development, and must be developed through a collaborative process involving residents, businesses, and other stakeholders.¹⁴ Once designated, urban infill and redevelopment areas may issue revenue bonds, employ tax increment financing, and use state and federal funding mechanisms to support redevelopment activities.¹⁵

⁸ Section 163.3177(6)(a)2., F.S.

⁹ Richard Grosso, *A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215*, 34 J. ENVTL. L. & LITIG. 129, 154 (2019) (citing *Brevard Cty. v. Snyder*, 627 So. 2d 469, 475 (Fla. 1993)).

¹⁰ Section 163.2511(1), F.S. (providing that ss. 163.2511-163.2520, F.S., may be cited as the "Growth Policy Act").

¹¹ See s. 290.0058, F.S. (providing how to determine whether an area suffers from pervasive poverty, unemployment, or general distress).

¹² Section 163.2514(2), F.S.

¹³ Section 163.2517(1), F.S.

¹⁴ See generally s. 163.2517, F.S.

¹⁵ Section 163.2520, F.S.

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and include any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.¹⁶

Each county and municipality must adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.¹⁷ Local governments are encouraged to use innovative land development regulations¹⁸ and may adopt measures for the purpose of increasing affordable housing using land use mechanisms.¹⁹ Land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.²⁰

Classification of Agricultural Lands

State property appraisers must classify for ad valorem tax assessment purposes all lands within their counties as agricultural or nonagricultural.²¹ Only lands that are used primarily for bona fide agricultural purposes may be classified agricultural.²²

“Bona fide agricultural purposes” means good faith commercial agricultural use of the land.²³ “Agricultural purposes” includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in state law; algaculture; sod farming; and all forms of farm products as defined in state law; and farm production.²⁴

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.²⁵ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law and approved by a vote of the electors.²⁶ Municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions, provide municipal services, and exercise any power for municipal purposes, except as otherwise prohibited by law.²⁷

¹⁶ Section 163.3164(26), F.S.

¹⁷ Section 163.3202(1), F.S.

¹⁸ Section 163.3202(3), F.S.

¹⁹ Sections 125.01055 and 166.04151, F.S.

²⁰ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

²¹ Section 193.461(1), F.S.

²² Section 193.461(3)(b), F.S.

²³ *Id.*

²⁴ Section 193.461(5), F.S.

²⁵ FLA. CONST. art. VIII, s. 1(f).

²⁶ FLA. CONST. art. VIII, s. 1(g).

²⁷ FLA. CONST. art. VIII, s. 2(b); see also s. 166.021(1), F.S.

Preemption

An ordinance may be declared invalid on the grounds that it is inconsistent with the State Constitution or Florida Statutes. Inconsistency may be found if a local ordinance is either preempted by or in conflict with the State Constitution or Florida Statutes.²⁸ Preemption means that a local government is precluded from exercising authority in a particular area, while conflict exists if a municipality has the right to act but such action frustrates the purpose of the state regulation.²⁹ Express preemption refers to instances where the Legislature has directly written into law that the state intends to occupy a field of law, prohibiting local governments from taking action in that field.³⁰

Comprehensive Environmental Response, Compensation, and Liability Act of 1980

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)³¹ is informally known as Superfund.³² Thousands of contaminated sites exist nationally due to hazardous waste being dumped, left out in the open, or otherwise improperly managed. These sites include manufacturing facilities, processing plants, landfills, and mining sites.³³

CERCLA created a tax on the chemical and petroleum industries and required that the money collected be used to clean up hazardous waste sites throughout the country.³⁴ Superfund allows the U.S. Environmental Protection Agency (EPA) to clean up contaminated sites. It also forces the parties responsible for the contamination to either perform cleanups or reimburse the government for EPA-led cleanup work.³⁵

The first step in the process is determining whether a site requires cleanup before reuse. A series of tests and investigations are used to determine whether a site has a “recognized environmental condition,” defined as:

- The presence of hazardous substances or petroleum products in, on, or at the subject property due to a release to the environment;
- The likely presence of hazardous substances or petroleum products in, on, or at the subject property due to a release or likely release to the environment; or
- The presence of hazardous substances or petroleum products in, on, or at the subject property under conditions that pose a material threat of a future release to the environment.³⁶

²⁸ See *City of Jacksonville v. American Environmental Services Inc.*, 699 So. 2d 255, 256 (Fla. 1st DCA 1997).

²⁹ See *id.*

³⁰ See, e.g., s. 790.33, F.S. (expressly preempting the regulation of firearms and ammunition).

³¹ 42 U.S.C. ss. 9601 et seq.

³² U.S. Environmental Protection Agency (U.S. EPA), *Superfund: CERCLA Overview*, <https://www.epa.gov/superfund/superfund-cercla-overview> (last visited Feb. 5, 2026).

³³ U.S. EPA, *What is Superfund?*, <https://www.epa.gov/superfund/what-superfund> (last visited Feb. 5, 2026).

³⁴ U.S. EPA, *Superfund: CERCLA Overview*, <https://www.epa.gov/superfund/superfund-cercla-overview> (last visited Feb. 5, 2026).

³⁵ U.S. EPA, *What is Superfund?*, <https://www.epa.gov/superfund/what-superfund> (last visited Feb. 5, 2026).

³⁶ ASTM International, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process*, s. 1.1.1 (Dec. 21, 2021), <https://store.astm.org/e1527-21.html>; Partner Engineering and Science, *Recognized Environmental Condition (REC)*, available at <https://www.partneresi.com/resources/glossary/recognized-environmental-condition-rec/> (last visited Jan. 26, 2026).

Federal law provides that environmental condition investigations must be documented in a written report prepared by an environmental professional.³⁷ These reports often take the form of a Phase I Environmental Site Assessment.³⁸ A Phase I Environmental Site Assessment uses existing information to help understand the property conditions by examining current and historical uses of the site and potential threats to human health or the environment. When a potential owner conducts an investigation in compliance with Federal law, he or she may have a defense to liability if contamination is later discovered.³⁹

Brownfields Program Overview

Many areas in Florida contain sites with actual or perceived environmental contamination that may present a significant barrier to redevelopment.⁴⁰ The Florida Brownfields Redevelopment Act⁴¹ was adopted by the Legislature in 1997 to provide incentives for local governments and individuals to voluntarily clean up and redevelop brownfield sites. Participation in the program results in environmental cleanup, protection of public health, reuse of infrastructure, economic redevelopment and job creation.⁴²

Local governments support the use of the tools and incentives provided by the program by designating brownfield areas for cleanup and revitalization.⁴³ A brownfield area designation can also be proposed by other persons, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, and not-for-profit corporations.⁴⁴

Upon designation, properties within a brownfield area have met the first requirement for participation in the program.⁴⁵ These properties may participate in economic incentives that are linked to a brownfield site rehabilitation agreement (also known as a “BSRA”), including the job bonus tax refund or refunds on sales and use tax paid on the purchase of building materials used in a mixed-use project or housing project. If contamination is known or suspected, the local government may designate an area and identify the person responsible for brownfield site rehabilitation. This entitles the identified person to negotiate a BSRA with the Department of Environmental Protection.⁴⁶

³⁷ 40 C.F.R. s. 312.21(c).

³⁸ See U.S. EPA, *Assessing Brownfield Sites - EPA 560F20175* (Jun. 2020), available at https://www.epa.gov/sites/default/files/2020-07/documents/assessing_brownfield_sites.pdf (explaining that performing a Phase I Environmental Site Assessment pursuant to ASTM International Standards E1527-13 prior to owning a property is often equivalent to conducting all appropriate inquiries).

³⁹ *Id.* (citing 40 C.F.R. pt. 312).

⁴⁰ Fla. Department of Environmental Protection (DEP), *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24*, 4 (Aug. 2024) [“Brownfields”], available at <https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf> (last visited Feb. 5, 2026).

⁴¹ Chapter 97-277, s. 1, Laws of Fla. (codifying ss. 376.77-376.85, F.S.).

⁴² Brownfields, *supra* note 40, at 4.

⁴³ *Id.* at 5.

⁴⁴ Section 376.80(1)(b)2. and (2)(c), F.S.

⁴⁵ Brownfields, *supra* note 40, at 5.

⁴⁶ *Id.*

III. Effect of Proposed Changes:

The bill creates s. 163.2525, F.S., which preempts certain local land development regulations and oversight for “qualifying parcels” to promote infill redevelopment in urban areas.

Short Title

The bill provides that s. 163.2525, F.S., may be cited as the “Infill Redevelopment Act.”

Legislative Findings

The bill includes the following legislative findings in the act:

- Florida’s urban areas lack sufficient land for the development of additional residential uses, which has led to a shortage of supply.
- Parcels of land within or near urban areas are difficult to develop or redevelop because of environmental issues and local regulations.
- Facilitating the expedited permitting of such parcels, particularly in areas in which multiple local governments have jurisdiction over significant areas, serves important public interests in remediating environmentally challenged land and increasing the housing supply.

Definitions

Under the bill:

- “Adjacent to” means located next to another parcel of land or portion thereof, including where the parcels are separated only by a roadway, railroad, or other public or private right-of-way or easement.
- “Density” means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.⁴⁷
- “Designated agricultural land” means a parcel of land within a zoning district that allows for agricultural uses such as farming, raising livestock, or aquaculture as the main permitted uses and which land is classified as agricultural land under state law.⁴⁸ The term does not include a property within an interim or default zoning district.

The bill defines “environmentally impacted land” to mean a parcel of land:

- Upon any portion of which a contaminant or pollutant has been detected above the applicable local, state, or federal residential cleanup target levels from Phase II environmental site assessment activities; or
- Any portion of which is located in a brownfield area designated pursuant to state law.⁴⁹

Additionally, under the bill:

- “Local government” means a county, municipality, special district, or political subdivision of the state.

⁴⁷ The bill incorporates by reference the definition of “density” found in s. 163.3164(13), F.S.

⁴⁸ See s. 193.461, F.S.

⁴⁹ See s. 376.80, F.S.

- “Parcel of land” means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used, or developed as, a unit or which has been used or developed as a unit.⁵⁰
- “Qualifying parcel” means a parcel of land to which the bill applies as described below.
- “Recreational facilities” means one or more parcels of land any portion of which was previously used as a golf course, tennis court, swimming pool, or clubhouse, or another similar use.
- “Townhouse” means a single-family dwelling unit that is constructed in a series or group of attached units with property lines separating such units.
- “Urban growth boundary” means a boundary established by a comprehensive plan or land development regulation beyond which the provision of urban services or facilities is limited. The term includes, but is not limited to, urban development boundaries and urban service boundaries.

Qualifying Parcels

The bill provides that except as provided below, the bill applies to environmentally impacted land consisting of at least 5 acres adjacent to a parcel of land within the same jurisdiction which is zoned for residential uses as of right and which is within a county that meets both of the following requirements:

- The county has a population of more than 1.475 million people according to the most recent decennial census.
- There are at least 15 municipalities within the county.⁵¹

The bill does not apply to any of the following:

- Designated agricultural land.
- Land owned or operated by a local government for public park purposes.
- Land outside an urban growth boundary.
- Land within one-quarter mile of a military installation.⁵²

Development Regulations

The bill provides that notwithstanding any local law, ordinance, or regulation, a local government must permit a qualifying parcel to be developed with residential uses.

Additionally, to ensure compatibility with the character of the local community, the density of development authorized under the bill may not exceed the lower of:

- The average density of all zoning districts within the same jurisdiction which are applicable to parcels adjacent to the qualifying parcel and which allow residential uses as of right; or
- 25 dwelling units per acre.

⁵⁰ The bill incorporates by reference the definition of “parcel of land” found in s. 163.3164(37), F.S.

⁵¹ Only Miami-Dade, Broward, and Palm Beach counties currently satisfy these criteria.

⁵² See s. 163.3175(2), F.S.

The intensity of development must comply with the standards applicable to any parcel adjacent to the qualifying parcel.

Subdivision Approval

Under the bill, a local government must administratively approve an application for the subdivision of a qualifying parcel if the application satisfies the requirements of ch. 177, F.S.⁵³ A local government may not use the subdivision process to restrict development below the density and intensity authorized under the bill.

Buffer Requirements

The bill provides that if a qualifying parcel is adjacent to single-family homes or townhouses on all sides, the developer must provide a buffer of at least 20 feet between the new development and the single-family homes or townhouses. The buffer area must be measured from lot line to lot line and must be maintained as open space or improved with passive recreational facilities accessible to the community. For purposes of this provision, swales and water retention areas are considered open space.

Recreational Facilities

The bill provides that if a qualifying parcel includes recreational facilities or areas reserved for recreational use and such recreational facilities or areas are adjacent to single-family homes on all sides, the developer must do all of the following:

- Establish that such facilities or areas, or portions of them, located on the qualifying parcel have not been in operation or in use for a period of at least 12 consecutive months.
- Pay double the applicable parks or recreational facilities impact fee that would otherwise apply to the proposed development, to compensate for the loss of open or recreational space.
- Provide written notice delivered by certified mail to all owners of property adjacent to the recreational facilities or areas, which notice includes the following information:
 - That the developer intends to develop the parcel in accordance with the bill.
 - That the adjacent property owners may elect to purchase some or all of the parcel containing recreational facilities or areas for the purpose of maintaining them as recreational areas or open space within 90 days after the date the notice is mailed.
 - The price at which the adjacent property owners may purchase the property.

Property owners who receive the required notice and wish to exercise the option to purchase some or all of the parcel containing the recreational facilities or areas must exercise the option and close on the property within 90 days after the notice is mailed or forfeit the option. At closing, the property must be subject to a recorded deed restriction or restrictive covenant that requires the property to be maintained as a recreational area or open space for at least 30 years.

The parcel or the portion of the parcel containing recreational facilities or areas must be offered to the property owners for purchase at a price that may not exceed the greater of:

- An amount equal to the price paid by the property owner plus 10 percent; or

⁵³ Chapter 177, F.S., governs land boundaries including platting.

- An amount equal to a bona fide offer to purchase the property received by the property owner within the last 12 months.

Development Applications

Under the bill, the proposed development of a qualifying parcel which complies with the requirements of the bill must be administratively approved, and no further action by the governing body of a local government is required.

However, a local government may administratively require a proposed development to comply with local regulations relating to architectural design if review by a board is not required and if such regulations:

- Would apply, and are generally applicable, to comparable residential development within the jurisdiction; and
- Do not limit the density or intensity of development below that authorized by the bill.

A developer must establish consistency with applicable concurrency requirements consistent with when local regulations would require it for a comparable residential development within its jurisdiction.

Each local government must maintain on its website a policy containing procedures and expectations for administrative approval under the bill.

Application, Preemption, and Construction

The bill applies to development applications submitted pursuant to the bill's provisions on or after its effective date. A local government may not adopt or enforce a local law, an ordinance, or a regulation that restricts, prohibits, or otherwise limits the development of a qualifying parcel in accordance with the bill. The new statute must be liberally construed to effectuate its intent.

Division of Law Revision

The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in the bill with the date it becomes a law.

Effective Date

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will make it more cost effective for property owners to redevelop certain “qualifying” infill parcels in urban areas by streamlining the approval process.

C. Government Sector Impact:

By requiring the administrative approval of certain “qualifying” urban infill redevelopment projects, the bill will reduce the time and cost spent by local government staff reviewing and approving such projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Retroactive Application

None.

VIII. Statutes Affected:

This bill creates section 163.2525 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Rules on February 24, 2026:

The underlying bill provides that an eligible parcel containing recreational facilities must be offered to adjacent property owners for a price not exceeding the greater of the original price paid plus 10 percent, or a bona fide offer's purchase price plus 10 percent. The committee substitute removes the latter 10 percent.

CS by Judiciary on February 10, 2026:

The committee substitute:

- Revises the definition of “designated agricultural land” to remove the exclusion of properties within interim or default zoning districts.
- Revises the definition of “environmentally impacted land” to only include properties having either contaminants or pollutants above local, state, or federal residential clean-up target levels from Phase II environmental site assessment activities or a brownfield designation under state law.
- Deletes the definition of “intensity.”
- Revises the eligibility criteria for “qualifying parcels” by requiring them to be adjacent to a parcel zoned for residential uses, increasing the number of municipalities that must be present in the county from 10 to 15, and excluding land that is or was owned at any time within the prior 15 years by a public utility as defined in state law.
- Requires local governments to allow qualifying parcels to be developed with residential uses.
- Revises the density and intensity restrictions on qualifying parcels by limiting the average density on them to the average density of all zoning districts within the same jurisdiction which are applicable to adjacent parcels allowing residential uses as of right or 25 dwelling units per acre, whichever is lower.
- Requires the intensity of development to comply with the standards applicable to adjacent parcels.
- Deletes density, height, lot size, setback, and parking restrictions.
- Requires local governments to “administratively” approve, not merely approve, applications for the subdivision of qualifying parcels.
- Reduces the required buffer between new developments on qualifying parcels and existing single-family homes and townhomes from 30 feet to 20 feet.
- Provides that swales and water retention areas must be considered open space.
- Revises application review requirements for qualifying parcels by allowing local governments to administratively require proposed developments to comply with local regulations relating to architectural design under certain conditions.
- Requires developers to establish consistency with applicable concurrency requirements consistent with comparable residential developments within the jurisdiction.
- Eliminates the provision in the bill providing for retroactive application to laws that are contrary to the bill.

- Revises the preemption provision in the bill to expressly preempt local governments from adopting or enforcing any laws that restrict or limit the development of qualifying parcels in accordance with the bill.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: CS/CS/CS/HB 399	COMPANION BILL: CS/SB 208 (McClain)
TITLE: Land Use and Development Regulations	LINKED BILLS: None
SPONSOR(S): Borrero	RELATED BILLS: None
FINAL HOUSE FLOOR ACTION: 73 Y's 27 N's	GOVERNOR'S ACTION: Approved

SUMMARY

Effect of the Bill:

The bill makes the following changes concerning land use and development regulations:

- Requires application fees for development permits and orders to be reasonably related to the costs associated with reviewing and processing the application and prohibits fees based on a percentage of project costs.
- Requires each local government's comprehensive plan and land development regulations to include factors for assessing compatibility of residential uses and establishes requirements for examining an application for development for compatibility.
- Requires local governments to administratively approve applications for minor special exceptions or variances by large destination resorts.
- Allows residential manufactured homes to be placed on any lot in a recreational vehicle park.
- Prohibits local governments from restricting the use of off-site constructed residential dwellings beyond those requirements that apply to other types of residential dwellings in the same zoning district.
- Revises permitting requirements for facilities that process compost.

Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact on state government and local governments and an indeterminate positive economic impact on applicants for development permits and orders.

JUMP TO	SUMMARY	ANALYSIS	RELEVANT INFORMATION
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ANALYSIS

EFFECT OF THE BILL:

[Application Fees for Development Permits and Orders](#)

The bill requires the amount of any application fee charged by a county or municipality for a development permit or development order be reasonably related to the direct and reasonable indirect costs associated with the review, processing, and final disposition of the application. These provisions parallel existing requirements for [building permit fees](#). These rates must be published by the local government as part of its fee schedule. The bill prohibits a county or municipality from charging an application fee for a development permit or order that is based on a percentage of construction costs, site costs, or project valuation. This provision of the bill is effective on January 1, 2027. (Sections [1](#) and [2](#))

[Public School Interlocal Agreements](#)

The bill requires each interlocal agreement between a local government and school district to contain a provision concerning reasonable access to public easements and rights-of-way necessary for the siting, construction, expansion, or improvement of public school facilities, including charter schools. The interlocal agreement language must be consistent with the adopted level of service standards for facilities, school concurrency requirements, and applicable public facilities planning requirements. This provision of the bill is effective on January 1, 2027. (Section [3](#))

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Compatibility

The bill requires each local government's comprehensive plan and [land development regulations](#) to include factors for assessing the compatibility of allowable residential uses within residential [zoning](#) districts and within the residential future land use category.

The bill provides that land development regulations must incorporate measures for mitigating or minimizing potential incompatibility. (Section [6](#))

The bill requires local government staff reviewing an application for rezoning, subdivision, or site plan approval to identify with specificity each area of incompatibility before recommending denial of an application. The bill requires that a denial of an application on compatibility grounds must specify the area or areas of incompatibility with particularity, including the applicable evaluation standards used, an explanation of any mitigation measures the applicant has considered and declined, or the basis for determining that no feasible mitigation measures exist. References to "community character" or "neighborhood feel" are not sufficient in and of themselves to support a denial of an application on compatibility grounds. (Section [6](#))

The bill provides that local government staff may recommend mitigation measures to the applicant. If an applicant proposes mitigation measures, the bill prohibits a local government from denying an application on compatibility grounds unless the denial contains written findings stating that the proposed mitigation measures are inadequate and no feasible mitigation measures exist. The bill provides that a local government's approval of an application may include requirements or conditions to mitigate or minimize compatibility concerns. (Section [6](#))

These provisions do not apply to:

- Compatibility between uses in different future land use categories, including rural, agricultural, conservation, open space, mixed-use, industrial, or commercial use;
- Applications for development within planned unit developments or master planned communities; or
- Applications for development within historic districts designated before January 1, 2026. (Section [6](#))

These provisions do not require a local government to approve an application that is otherwise inconsistent with the applicable local government comprehensive plan or land development regulations. (Section [6](#))

This provision of the bill is effective on January 1, 2027. (Section [6](#))

Large Destination Resorts

The bill requires local governments to administratively approve, without further action by the local government or any quasi-judicial or administrative body, any application for a minor¹ special exception or variance submitted by a large destination resort² for the maintenance, modification, or refurbishment of an existing structure or site on the resort property that is not a contributing structure listed in the National Register of Historic Places. The special exception or variance must be for a change that is consistent with existing permitted or accessory uses in the local government's comprehensive plan or zoning district at the time such resort applies for a permit for the project. This provision applies until July 1, 2031. (Section [4](#))

Permits and Approvals for Compost Processing Facilities

The bill provides that a local government permit or other approval for a facility that processes compost³ may not be conditioned on the purchase of additional property by the applicant to expand the footprint of an existing

¹ The bill defines "minor" as a special exception or variance that applies to no more than 20 percent of the total area of the parcel.

² The bill defines a "large destination resort" as public lodging establishment as defined in [s. 509.013, F.S.](#), that is comprised of at least five contiguous acres owned and controlled by the same business entity, containing at least 500 guest rooms, and that has had an average occupancy rate of at least 70 percent in the past three years.

³ See [s. 576.011, F.S.](#) (defining "compost" as "a substance derived primarily or entirely from decomposition of vegetative or animal organic material, which is sold or offered for sale for the purpose of promoting or stimulating plant growth, and to

privately-owned road. The applicant may be required to supply turnouts for emergency vehicles provided, however, that the purchase of additional property is not necessary to provide such turnouts. (Section [5](#))

The bill states that a permit for an existing facility that processes compost may not be revoked by a local government if the facility's activity is regulated through best management practices, interim measures, or regulations adopted as rules under chapter 120, F.S., by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program, provided that the facility is in compliance with applicable rules and regulations. (Section [5](#))

Manufactured Housing

The bill provides that a [residential manufactured building](#) certified by the Department of Business and Professional Regulation may be placed on any lot in a recreational vehicle park, instead of only those lots specifically designated for mobile homes. The bill requires any building permit issued for the placement of such a unit in the Florida Keys Area of Critical State Concern meet all requirements of the building permit allocation system for such area of critical state concern. (Section [7](#))

The bill requires local governments to allow off-site constructed residential dwellings be permitted as of right in any zoning district where single-family detached dwellings are allowed.⁴ Local governments are prohibited from imposing any regulation that treats an off-site constructed residential dwelling differently or more restrictively than a single-family site-built dwelling allowed on the same zoning district. (Section [8](#))

The bill provides that local governments may continue to apply generally applicable architectural, aesthetic, design, setback, height, or bulk standards to off-site constructed residential dwellings, provided such standards apply uniformly to all single-family dwellings in the same zoning district. Local governments may also adopt compatibility standards for architectural features, but such standards are limited to:

- Roof pitch.
- Square footage of livable space.
- Type and quality of exterior finishing materials.
- Foundation enclosure.
- Existence and type of attached structures.
- Building setbacks, lot dimensions, and the orientation of the home on the lot. (Section [8](#))

The bill prohibits local governments from adopting or enforcing any ordinance, regulation, or policy conflicts with these provisions or has the effect of excluding off-site constructed residential dwellings, and declares void existing ordinances, regulations, or policies as applied to off-site constructed residential dwellings. (Section [8](#))

These provisions of the bill take effect January 1, 2027. (Sections [7](#) and [8](#))

Effective Date

The bill was approved by the Governor on March 27, 2026, ch. 2026-7, L.O.F., and became effective on that date except as otherwise provided. (Section [9](#))

which no inorganic fertilizer materials have been added other than to promote decomposition...not contain[ing] more than 12 percent total plant nutrients.”)

⁴ The bill defines an “off-site constructed residential dwelling” as a manufactured building as defined in [s. 553.36, F.S.](#), which is intended for use as at least one type of starter home, or a manufactured home as defined in [s. 320.01\(2\)\(b\), F.S.](#), which is constructed in whole or in part off-site and is treated as real property.

FISCAL OR ECONOMIC IMPACT:**LOCAL GOVERNMENT:**

The bill may have an indeterminate negative fiscal impact on local governments that charge application fees for development permits and orders in excess of the limitations provided by the bill.

PRIVATE SECTOR:

The bill may have an indeterminate positive economic impact on developers to the extent local government application fees for development permits and orders are reduced to comply with the provisions of the bill.

RELEVANT INFORMATION**SUBJECT OVERVIEW:****Comprehensive Planning**

The Community Planning Act⁵ provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.⁶ Each county and municipality must maintain a comprehensive plan to guide future development and growth.⁷

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.⁸ A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.⁹

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.¹⁰ A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.¹¹ Local governments may also include optional elements in their comprehensive plan.¹² The 10 required elements are:

- Capital improvements.
- Future land use plan.
- Transportation.
- General sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge.
- Conservation.
- Recreation and open space.
- Housing.
- Coastal management.
- Intergovernmental coordination.
- Property rights.¹³

⁵ [Ch. 163, Part II, F.S.](#)

⁶ [S. 163.3167\(1\), F.S.](#)

⁷ [S. 163.3167\(1\)\(a\), \(2\), F.S.](#)

⁸ [S. 163.3194\(1\)\(a\), F.S.](#)

⁹ See, e.g., [Sarasota County, Fla. Comprehensive Plan, Future Land Use Element, FLU Policy 1.1.1](#) (last visited Jan. 24, 2026).

¹⁰ [S. 163.3177\(1\), F.S.](#)

¹¹ [S. 163.3177\(6\), F.S.](#)

¹² [S. 163.3177\(1\)\(a\), F.S.](#)

¹³ [S. 163.3177\(3\), \(6\)\(a\)-\(i\), F.S.](#)

Comprehensive plans must include at least two planning periods, one covering the first 10-year period occurring after the plan's adoption and one covering a period of at least 20 years.¹⁴ Additional planning periods are permissible and accepted as part of the planning process.

[Future Land Use Element](#)

Comprehensive plans must include an element regarding future land use that designates the proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.¹⁵ Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.¹⁶ The proposed distribution, location, and extent of the various categories of land use must be shown on a land use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.¹⁷

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.¹⁸

The future land use element of each comprehensive plan is required to consider both the amount of land required to accommodate anticipated growth and methods of discouraging urban sprawl.¹⁹ Local governments balance these priorities by the adoption of an urban services area, which is intended to contain a certain proportion of new development over the planning period.²⁰ As a part of the local government's comprehensive plan, these areas can normally be adjusted by the local governing body by a majority vote.²¹ Some counties, however, have adopted charter amendments that require extraordinary thresholds for the adoption of comprehensive plan amendments that adjust the boundary between urban and rural portions of the county.²²

[Compatibility](#)

The future land use element must consider what uses are compatible with one another to guide rezoning requests, development orders, and plan amendments.²³ Compatibility means "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition."²⁴ In other words, the compatibility requirement permits local governments to consider whether a proposed use can peacefully coexist with existing uses.

¹⁴ [S. 163.3177\(5\)\(a\), F.S.](#)

¹⁵ [S. 163.3177\(6\)\(a\), F.S.](#) Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities.

¹⁶ [S. 163.3177\(6\)\(a\)1, F.S.](#)

¹⁷ [S. 163.3177\(6\)\(a\)2, F.S.](#)

¹⁸ Richard Grosso, *A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215*, 34 J. Envtl. L. & Litig. 129, 154 (2019) (citing *Brevard Cty. v. Snyder*, 627 So. 2d 469, 475 (Fla. 1993)).

¹⁹ [S. 163.3177\(6\)\(a\)2.a. and h., F.S.](#)

²⁰ See, e.g., [Tallahassee-Leon County 2030 Comprehensive Plan, Land Use, Goal 1](#) ("The location and size of the [Urban Services Area] shall be depicted on the Future Land Use Map and is based upon the area necessary to accommodate 90% of new residential dwelling units within the County by the Plan Horizon[.]").

²¹ See [s. 163.3184\(11\)\(a\), F.S.](#) (providing that the transmittal or adopting of a comprehensive plan amendment "shall be by affirmative vote of not less than a majority of the members of the governing body present at the hearing").

²² See, e.g., [Miami-Dade County Charter, s. 1.01\(A\)\(5\)](#) ("[A]ny decision to include any additional land within the Urban Development Boundary of the County's Comprehensive Development Master Plan shall require a two-thirds vote of the Board of County Commissioners then in office") and [Seminole County Charter, s. 5.2\(B\)](#) ("Any vote to remove property from the Rural Area, however, shall only be by Supermajority vote of the Board of County Commissioners").

²³ [S. 163.3194\(3\), F.S.](#)

²⁴ [S. 163.3164\(9\), F.S.](#)

Local governments, through the future land use plan, are responsible for ensuring compatibility of uses on adjacent lands, and particularly those lands in proximity to military installations and airports.²⁵ To act on this requirement, land use regulations must contain specific and detailed provisions necessary to ensure the compatibility of adjacent land uses.²⁶ In practice, these regulations take the form of zoning codes with compatibility standards for height, density, setbacks, parking, and other general regulations on what types of developments can coexist.²⁷

Public School Interlocal Agreements

As part of the comprehensive planning process, each county and municipality is required to enter into an interlocal agreement with the district school board to jointly establish specific ways to coordinate planning between the local government and the school district.²⁸ These agreements must address:

- Methods of projecting the amount, type, and distribution of population growth and student enrollment.
- Coordination and information sharing concerning existing and planned public school facilities.
- Participation by affected local governments in evaluating potential school closures.
- How to determine the need for and timing of improvements necessary for school facilities.
- Methods for a district school board to inform the local government regarding the effect of comprehensive plan amendments on school capacity.
- Participation of local governments in the preparation of the annual update to the district school board's five-year district facilities work program and educational plant survey.
- Processes for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.
- Procedures for resolving disputes, including, but not limited to, the procedures contained in chs. 164 and 186, F.S.
- An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.²⁹

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, sign regulations, or any other regulations controlling the development of land.³⁰

Each county and municipality must adopt and enforce land development regulations that are consistent with and that implement its adopted comprehensive plan.³¹ Local governments are encouraged to use innovative land development regulations³² and may adopt measures for the purpose of increasing affordable housing using land use mechanisms.³³

²⁵ [S. 163.3177\(6\)\(a\)2.-3., F.S.](#)

²⁶ [S. 163.3202\(2\)\(b\), F.S.](#)

²⁷ See, e.g., [City of Maitland Land Development Code, s. 5.10](#) (Residential Compatibility Standards).

²⁸ [S. 163.31777\(1\), F.S.](#) But see s. 163.31777(3)-(4), F.S. (providing exceptions for municipalities that meet certain criteria).

²⁹ [S. 163.31777\(2\), F.S.](#)

³⁰ [S. 163.3164\(26\), F.S.](#)

³¹ [S. 163.3202\(1\), F.S.](#)

³² [S. 163.3202\(3\), F.S.](#)

³³ [Ss. 125.01055 and 166.04151, F.S.](#)

Zoning

A comprehensive plan's future land use element establishes a range of allowable uses and densities³⁴ and intensities³⁵ over large areas, while the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.³⁶

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.³⁷ Common regulations within the zoning map districts include density, height and bulk of buildings, setbacks, and parking requirements. Regulations for a zoning category in a downtown area may allow for more density and height than allowed in a suburb, for instance.

If a developer or landowner believes that a proposed development may have merit but it does not meet the requirements of a zoning map in a jurisdiction, the developer or landowner can seek a rezoning through a rezoning application.³⁸ Rezoning applications are initially reviewed by local government staff, then by an appointed body that makes recommendations to the governing body of the local government, which makes the final determination.³⁹ If a property has unique circumstances or small nonconformities but otherwise meets zoning regulations, local governments may ease restrictions on certain regulations such as building size or setback through an application for a variance.⁴⁰ However, any action to rezone or grant a variance must be consistent with the local government's comprehensive plan.

Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or ordinances or resolutions initiated by the local government that change the actual zoning map designation of a parcel or parcels of land must follow additional enhanced notice requirements:

- If the area affected is less than 10 acres, the local government must notify by mail each property owner and hold a public meeting to discuss the ordinance or resolution before passage.
- If the area affected is 10 acres or greater, the local government must hold two separate meetings to discuss the changes, and notice the public through either mail to each property owner or to the public generally by newspaper.⁴¹

Development Orders and Permits

Under the Community Planning Act, a development permit is any official action of a local government permitting the development of land.⁴² Development permits include, but are not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances.⁴³ A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.⁴⁴

Within five business days after receiving an application for approval of a development permit or development order, a county or municipality must confirm receipt of the application. The county or municipality has 30 days

³⁴ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. [S. 163.3164\(12\), F.S.](#)

³⁵ "Intensity" means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services. [S. 163.3164\(22\), F.S.](#)

³⁶ Grosso, *supra* note 18.

³⁷ See, e.g., Indian River County, [Planning and Development Services FAQ](#) (last visited Jan. 24, 2026).

³⁸ See e.g., City of Tallahassee, [Application for Rezoning Review](#) (last visited Jan. 24, 2026).

³⁹ See *id.* and City of Redington Shores, [Planning and Zoning Board](#) (last visited Jan. 24, 2026).

⁴⁰ See e.g., City of Tallahassee, [Variance and Appeals](#) and Seminole County, [Variance Process Requirements](#) (last visited Jan. 24, 2026).

⁴¹ See [ss. 125.66\(5\)](#) and [166.041\(3\), F.S.](#)

⁴² [S. 163.3164\(16\), F.S.](#)

⁴³ *Id.* The provisions of [ss. 125.022](#) and [166.033, F.S.](#), however, do not apply to building permits. [S. 122.022\(6\)](#) and [166.033\(6\), F.S.](#)

⁴⁴ See [ss. 125.022](#), [163.3164\(15\)](#), and [166.033, F.S.](#)

from receipt to review the application for completeness and issue a written notification to the applicant indicating that all required information is submitted or specify any areas that are deficient.⁴⁵ If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information.

Within 120 days after the county or municipality has deemed the application complete, or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, the county or municipality must approve, approve with conditions, or deny the application for a development permit or development order.⁴⁶ Both the applicant and the local government may agree to an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the local government's decision. These timeframes do not apply in an area of critical state concern.⁴⁷

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.⁴⁸ If a county or municipality makes a request for additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or the municipality may take the following actions:

- *First Request for Information:* Review the additional information and issue a letter to the applicant indicating the application is complete or specify the remaining deficiencies within 30 days of receiving the information.⁴⁹
- *Second Request for Information:* Same as the first request but the letter must be issued within 10 days of receiving the additional information.⁵⁰
- *Third Request for Information:* Deem the application complete within 10 days of receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the county's or municipality's time limitations in writing.⁵¹

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues.⁵² If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant can request that the county or municipality proceed to process the application for approval or denial.⁵³

A county or municipality that fails to meet the above timeframes is required to issue refunds to the applicant, ranging from 10 percent to 100 percent of the application fee, if the parties did not agree to an extension of time or the delay was not caused by the applicant or a force majeure⁵⁴ or other extraordinary circumstance.⁵⁵

If a development permit or order is denied, the county or municipality must give written notice to the applicant and must reference the applicable legal authority for the denial of the permit.⁵⁶

⁴⁵ [Ss. 125.022\(2\)](#) and [166.033\(2\), F.S.](#)

⁴⁶ *Id.*

⁴⁷ *Id.* Areas of critical state concern are designated in [s. 380.0552, F.S.](#), and ch. 28-36, F.A.C.

⁴⁸ [Ss. 125.022\(3\)\(a\)](#) and [166.033\(3\)\(a\), F.S.](#)

⁴⁹ [Ss. 125.022\(3\)\(b\)](#) and [166.033\(3\)\(b\), F.S.](#)

⁵⁰ [Ss. 125.022\(3\)\(c\)](#) and [166.033\(3\)\(c\), F.S.](#)

⁵¹ [Ss. 125.022\(3\)\(d\)](#) and [166.033\(3\)\(d\), F.S.](#)

⁵² *Id.*

⁵³ [Ss. 125.022\(3\)\(e\)](#) and [166.033\(3\)\(e\), F.S.](#)

⁵⁴ Force majeure means "an event or effect that can be neither anticipated nor controlled; esp., an unexpected event that prevents someone from doing or completing something that he or she had agreed or officially planned to do." Black's Law Dictionary (12th ed. 2024).

⁵⁵ [Ss. 125.022\(4\)](#) and [166.033\(4\), F.S.](#)

⁵⁶ [Ss. 125.022\(5\)](#) and [166.033\(5\), F.S.](#)

Building Permit Fees

Local governments may provide a schedule of reasonable fees for enforcing the Florida Building Code (FBC). Such fees, and any fines or investment earnings related to the fees, may only be used for carrying out the local government's responsibilities in enforcing the FBC. A reasonable fee for enforcing the FBC includes direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; fire inspections associated with new construction; training costs associated with the enforcement of the FBC; and enforcement actions pertaining to unlicensed contractor activity to the extent not funded by other user fees.⁵⁷ A local government must post its permit and inspection fee schedules on its website.⁵⁸

Placement of Manufactured Homes

Current law provides that any residential manufactured building that has been certified by the Department of Business and Professional Regulation may be placed on a mobile home lot located in a mobile home park, recreational vehicle park, mobile home condominium, cooperative, or subdivision, notwithstanding any other law or ordinance to the contrary.⁵⁹ Once placed on such a lot, the unit is treated as a mobile home for purposes of ch. 723, F.S., meaning all rights, obligations, and duties under the Mobile Home Park Lot Tenancy Law apply, including prospectus requirements and resident protections. Placement of a residential manufactured building requires the prior written approval of the park owner. These housing units are taxed as mobile homes and are subject to payments to the Florida Mobile Home Relocation Fund.

⁵⁷ [S. 553.80\(7\)\(a\), F.S.](#)

⁵⁸ [Ss. 125.56\(4\)\(c\) and 166.222\(2\), F.S.](#)

⁵⁹ [S. 553.382, F.S.](#)

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/CS/HB 1389](#)

TITLE: Affordable Housing

SPONSOR(S): Redondo

COMPANION BILL: [SB 1548](#) (Calatayud)

LINKED BILLS: None

RELATED BILLS: [CS/CS/SB 48](#) (Gaetz), [SB 1520](#) (Calatayud)

FINAL HOUSE FLOOR ACTION: 98 Y's

4 N's

GOVERNOR'S ACTION: Approved

SUMMARY

Effect of the Bill:

The bill amends the Live Local Act (Act) to:

- Authorize multifamily and mixed-use residential as allowable uses on property owned by a county, municipality, school district, or a religious institution, provided certain criteria are satisfied.
- Prohibit local governments from restricting the height of a proposed development through the use of setbacks or stepbacks.
- Specify that farms and farm operations are not considered “commercial uses” or “industrial uses” for purposes of the Act, which applies retroactively to January 1, 2024.
- Allow multifamily and mixed-use developments to consist of an assemblage of certain parcels, which expires July 1, 2030.
- Exempt certain areas from the requirements of the Act.
- Make certain changes to the ad valorem tax exemption created by the Act.

The bill waives sovereign immunity for the state and any governmental entity if prohibited discrimination in a land use decision or the permitting of a development occurs, and clarifies that discrimination based on the source of financing for an affordable housing development is prohibited. The bill allows local governments to provide density bonus incentives to certain landowners, and directs the Office of Program Policy Analysis and Government Accountability to conduct certain studies.

Fiscal or Economic Impact:

The bill has an indeterminate impact on local governments and the private sector.

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ANALYSIS

EFFECT OF THE BILL:

Live Local Act

The bill amends the [Live Local Act](#) (Act) and requires:

- Local governments¹ to authorize multifamily and mixed-use residential as allowable uses on property owned by a county, municipality, or school district, and on any parcel greater than 3 acres owned by a religious institution² that has contained a house of public worship for the preceding 10 years, if at least 40 percent of the residential units in a multifamily development are rental units that have an [affordability](#) period of 30 years or more;
- A proposed development on property owned by a county, municipality, or school district to be within the geographic boundaries of the county, municipality, or school district, as applicable, and for the respective county, municipality, or school district to be a party to the development application; and

¹ Local government means any county or municipality. See [s. 163.3164\(29\), F.S.](#)

² “Religious institution” means any church, synagogue, or other established physical place for worship at which nonprofit religious services and activities are regularly conducted. [S. 170.201\(2\), F.S.](#)

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DATE: 6/29/2026

- A house of public worship on property owned by a religious institution to continue on the property after a proposed development is constructed, and for the respective religious institution to be a party to the development application. (Section [1](#) for counties; Section [2](#) for municipalities.)

The bill specifies that a multifamily or mixed-use residential development may consist of an assemblage of parcels under common ownership or control separated by no more than 15 feet of land and limited to public pedestrian access. This provision expires July 1, 2030. (Section [1](#) for counties; Section [2](#) for municipalities.)

Setbacks and Stepbacks

The bill prohibits local governments from circumventing the requirements of the Act by:

- Restricting the [height](#) of a proposed development below the highest height currently allowed, or the highest allowed on July 1, 2023, for certain buildings located in its jurisdiction through other dimensional means, such as establishing setbacks or stepbacks by height.
- Requiring setbacks or stepbacks that are more restrictive than the minimum setbacks or stepbacks permitted in the proposed development. (Section [1](#) for counties; Section [2](#) for municipalities.)

Definitions

The bill specifies that [farms](#) and [farm operations](#), as defined in the [Florida Right to Farm Act](#), or uses associated with farming, including the packaging and sale of products raised on the premises, are not considered [commercial uses](#) or [industrial uses](#) for purposes of the Act. Accordingly, local governments are not required to authorize multifamily and mixed-use residential uses in areas with a farm or farm operation or uses associated therewith. (Section [1](#) for counties; Section [2](#) for municipalities.)

The bill removes “meat packing facilities, citrus processing and packing facilities, and produce processing and packing facilities” as industrial uses under the Act. (Section [1](#) for counties; Section [2](#) for municipalities.)

The bill’s changes to the definitions of “commercial use” and “industrial use” for purposes of the Act are intended to be remedial and clarifying in nature, and apply retroactively to January 1, 2024. (Section [3](#).)

Exemptions

The bill exempts the following areas from the requirements of the Act:

- Areas subject to land development regulations³ in existence before July 1, 2026, which are intended to retain the [open character of land](#), including, but not limited to, open space districts, open space recreation districts, open use estate districts, open use rural districts, and park and open space districts.
- [Areas of Critical State Concern](#); and
- Any portion of a property encumbered by a recorded [conservation easement](#). (Section [1](#) for counties; Section [2](#) for municipalities.)

Development Applications Submitted Prior to Bill’s Effective Date

The bill allows an applicant for a proposed development who submitted an application, written request, or notice of intent to use the provisions of the Act to a local government, and which application, written request, or notice has been received by the local government before July 1, 2026, to:

- Notify the local government by July 1, 2026, of her or his intent to proceed under the Act as it existed at the time the application was submitted; or
- Submit a revised application, written request, or notice of intent to account for the changes made by the bill. (Section [4](#).)

³ “Land development regulations” mean ordinances enacted by governing bodies of local governments for the regulation of any aspect of development and includes any local government rezoning, subdivision, building construction, sign regulations, or any other regulations controlling the development of land. [S. 163.3164\(26\), F.S.](#)

Affordable Housing Tax Exemption

The bill defines “multifamily project” for purposes of the [ad valorem tax exemption authorized by the Act](#) to mean a development that is held under common ownership or control which is approved and developed in compliance with the same site plan approval, development agreement,⁴ or development order.⁵ The term does not include individual detached single-family residences or parcels separated by more than 200 feet of land. (Section [5](#).)

The bill requires a taxing authority to make a finding, for purposes of “[opting out](#)” of the tax exemption created by the Act, that annual housing reports published by the Shimberg Center for Housing Studies identify that a county within its jurisdiction is within a metropolitan statistical area or region where, **for each of the previous 3 years**, the number of affordable and available units in the metropolitan statistical area or region is greater than the number of renter households in the metropolitan statistical area or region for the category entitled 1-120 percent annual median income. (Section [5](#).)

The bill specifies that projects for which a building permit is issued on or after July 1, 2026, may still apply for the tax exemption even if a local government opts out of the tax exemption as long as such application is made within 4 years prior to the local government opting out of the tax exemption, and allows the property owner to receive the exemption for each subsequent year that the same or successive owner applies for and is granted the exemption. (Section [5](#).)

The bill’s changes to the tax exemption created by the Act first apply to the 2027 property tax roll. (Section [6](#).)

Proposed Developments Near Airports

The bill allows for the approval of developments in or near [airport-impacted areas](#), which are currently exempt from the provisions of the Act, if the application for a development is approved by the governing body of the relevant airport. (Section [7](#).)

Discrimination in Land Use and Permitting Decisions

The bill clarifies that it is unlawful to [discriminate in land use decisions or in the permitting of development](#) based on the financing of a development or proposed development that is for affordable housing. (Section [9](#).)

The bill expressly waives sovereign immunity for the state and its agencies and subdivisions for a cause of action based upon the application of [s. 760.35, F.S.](#) relating to civil actions under the [Florida Fair Housing Act](#). (Sections [8](#) and [10](#).)

Density Bonus Incentives

The bill provides that local governments may provide [density bonus incentives](#) to landowners who donate real estate for the purpose of assisting local governments in providing affordable housing to military families that receive the basic allowance for housing. (Section [11](#).)

Affordable Housing Study

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to assess the effectiveness of mezzanine finance, or second-position short-term debt, to encourage the construction of owner-

⁴ “Development agreements are contracts between a local government and a private developer that establish the terms and conditions for developing a specific property. In the context of land use and zoning, development agreements are often used to provide certainty and predictability to developers and local governments by establishing a framework for the development process.” Jimerson Birr, *Development Agreements*, <https://www.jimersonfirm.com/services/land-use-zoning/development-agreements/> (last visited Mar. 16, 2026). The Florida Local Government Development Agreement Act (Act), codified in [ss. 163.3220-163.3243, F.S.](#), authorizes local governments to enter into development agreements with developers, subject to the procedures and requirements of the Act.

⁵ “Development order” means any order granting, denying, or granting with conditions an application for a development permit. See [s. 163.3164\(15\), F.S.](#) “Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See [s. 163.3164\(16\), F.S.](#)

occupied affordable housing and the potential of tiny homes in meeting the state's affordable housing needs. The bill requires OPPAGA to consult with the Florida Housing Finance Corporation and the University of Florida Shimberg Center for Housing Studies in conducting its evaluation. OPPAGA is required to report its conclusions to the President of the Senate and the Speaker of the House of Representatives by December 31, 2027. The report must include recommendations for a model mezzanine finance program. (Section [12.](#))

Effective Date

The bill was approved by the Governor on June 26, 2026, ch. 2026-179, L.O.F., and will become effective on July 1, 2026. (Section [13.](#))

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The bill has an indeterminate impact on local governments that are subject to the bill's requirements to authorize the development of affordable housing.

PRIVATE SECTOR:

The bill has an indeterminate positive impact on the private sector to the extent that the bill facilitates, and results in an increase in the availability of, affordable housing in the state. The bill also has an indeterminate positive impact on military families who receive the basic allowance for housing, but only to the extent that the local jurisdictions in which the military families live opt-in to provide the density bonus incentive described in the bill.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Affordable Housing

Housing is considered [affordable](#) when monthly rents or monthly mortgage payments, including taxes, insurance, and utilities, do not exceed 30 percent of a family's gross income.⁶ Over 2.4 million low-income Florida households pay more than 30% of their incomes towards housing, which is the maximum amount considered affordable by experts.⁷ Over half of these households, or 1.3 million low-income households, spend more than 50% of their income towards housing costs.⁸ This makes it difficult for those households to save for retirement or emergencies and afford other necessities such as food and childcare.⁹

Eligibility to participate in Florida's state and federally-funded housing programs is determined by area median income (AMI) or statewide median family income, which is published annually by the United States Department of Housing and Urban Development (HUD).¹⁰ In Florida, the current statewide AMI for a family of **four** is \$95,300 (as family size changes, the income range also varies):¹¹

- Extremely-low-income – earning up to 30 percent of the AMI (at or below \$28,600);¹²
- Very-low-income – earning from 30.01 to 50 percent of the AMI (\$28,601 to \$47,650);¹³

⁶ [S. 420.0004\(3\), F.S.](#)

⁷ Florida Housing Coalition, *2025 Home Matters Report*, p. 1. <https://flhousing.org/wp-content/uploads/2025/09/Home-Matters-Report-2025-V5-DIGITAL.pdf> (last visited Mar. 16, 2026).

⁸ *Id.*

⁹ *Id.*

¹⁰ See U.S. Dept. of Housing and Urban Development (HUD): Office of Policy Development and Research, *Income Limits*, <https://www.huduser.gov/portal/datasets/il.html#year2025> (last visited Mar. 16, 2026).

¹¹ HUD: Office of Policy Development and Research, *FY 2025 State Income Limits: Florida*, https://www.huduser.gov/portal/datasets/il/il2025/2025summary.odn?inputname=STTLT*1299999999%2BFlorida&select%20type=county&stname=Florida&statefp=12.0&year=2025 (last visited Mar. 16, 2026).

¹² *Id.*; see also [s. 420.0004\(9\), F.S.](#)

¹³ *Supra* note 11; see also [s. 420.0004\(17\), F.S.](#)

- Low-income – earning from 50.01 to 80 percent of the AMI (\$47,651 to \$76,250);¹⁴ and
- Moderate-income – earning from 80.01 to 120 percent of the AMI (\$76,251 to \$114,360).¹⁵

As of 2025, Florida had only 24 affordable and available rental units for every 100 extremely-low-income renters.¹⁶ In addition, there were little to no communities in Florida that could provide enough housing to support this group of renters, which is primarily made up of low-income workers, retirees, and people with disabilities.¹⁷

Land Use for Affordable Housing Development

All development, both public and private, and all development orders¹⁸ approved by a local government must be consistent with the local government's comprehensive plan.¹⁹ The Growth Management Act requires every county and municipality to create and implement a comprehensive plan to guide future development.²⁰ A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.²¹

The future land use element designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities. The approximate acreage and the general range of density or intensity of use must be provided for each land use category.²² The specific use and intensities for specific parcels are decided by a more detailed, implementing zoning map.²³

The housing element sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.²⁴

A comprehensive plan is implemented through the adoption of land development regulations²⁵ that are consistent with the plan and that contain specific and detailed provisions necessary to implement the plan.²⁶ Such regulations must, among other requirements, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.²⁷ Substantially affected persons have the right to maintain

¹⁴ *Supra* note 11; see also [s. 420.0004\(11\), F.S.](#)

¹⁵ *Supra* note 11; see also [s. 420.0004\(12\), F.S.](#)

¹⁶ *Supra* note 7, at p. 1.

¹⁷ *Id.*

¹⁸ *Supra* note 5.

¹⁹ [S. 163.3194\(3\), F.S.](#)

²⁰ [S. 163.3167\(2\), F.S.](#)

²¹ [S. 163.3177\(6\), F.S.](#) The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.

²² [S. 163.3177\(6\)\(a\), F.S.](#)

²³ Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing *Brevard Cty. v. Snyder*, 627 So. 2d 469, 475 (Fla. 1993).

²⁴ [S. 163.3177\(6\)\(f\), F.S.](#)

²⁵ "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land. See [s. 163.3164\(26\), F.S.](#)

²⁶ [S. 163.3202, F.S.](#)

²⁷ *Id.*

administrative actions that ensure land development regulations are implemented and consistent with the comprehensive plan.²⁸

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government first amends its comprehensive plan. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board and the second held by the governing board.²⁹ Following the hearings, the local government must transmit the plan to several statutorily identified agencies, including the Department of Commerce as the state land planning agency, for review.³⁰ Most plan amendments are placed into the expedited state review process, while plan amendments relating to large-scale developments are placed into the state coordinated review process.³¹

Live Local Act

The Live Local Act (Act), which became law in 2023, preempts certain county and municipal zoning and land use decisions to encourage development of affordable multifamily rental housing in targeted land use areas.³² Specifically, counties and municipalities must allow a multifamily or mixed-use residential³³ rental development in any area **zoned for commercial, industrial, or mixed-use**, and in portions of any flexibly zoned area such as a planned unit development **permitted for commercial, industrial, or mixed use**, if at least 40 percent of the residential units in the development are rental units that, for a period of at least 30 years, meet certain affordability requirements.³⁴

The Live Local Act provides the following definitions:³⁵

- **Commercial use** means activities associated with the sale, rental, or distribution of products or the performance of related services. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; hotels; food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use, irrespective of the local land development regulation's listed category or title.
 - The term does not include home-based businesses or cottage food operations undertaken on residential property, vacation rentals, or uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated.
- **Industrial use** means activities associated with the manufacture, assembly, processing, or storage of products or the performance of related services. The term includes, but is not limited to, such uses or activities as automobile manufacturing or repair, boat manufacturing or repair, junk yards, **meat packing**

²⁸ [S. 163.3213, F.S.](#)

²⁹ [Ss. 163.3174\(4\)\(a\)](#) and [163.3184, F.S.](#)

³⁰ [S. 163.3184, F.S.](#)

³¹ See [ss. 163.3184](#) and [380.06, F.S.](#) In the Expedited State Review Process, the Department of Commerce reviews and approves or amends the proposed comprehensive plan amendment. This process can take 4 to 6 months. The State Coordinated Review Process is a more thorough, complex, multi-phase process. For more information, see <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/amendments-that-must-follow-the-state-coordinated-review-process-procedures-and-timeframes> (last visited Mar. 16, 2026).

³² Ch. 2023-17, ss. 3, 5, Laws of Fla., codified as [ss. 125.01055\(7\)](#) and [166.04151\(7\), F.S.](#)

³³ For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes; local governments may not require that more than 10 percent of the total square footage be used for nonresidential purposes. [Ss. 125.01055\(7\)\(a\)](#) and [166.04151\(7\)\(a\), F.S.](#)

³⁴ *Id.*

³⁵ [Ss. 125.01055\(7\)\(c\)](#) and [166.04151\(7\)\(c\), F.S.](#)

facilities,³⁶ citrus processing and packing facilities, produce processing and packing facilities,³⁷ electrical generating plants, water treatment plants, sewage treatment plants, and solid waste disposal sites. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered industrial use for the purposes of this section, irrespective of the local land development regulation's listed category or title.

- o The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not industrial use, irrespective of how they are operated.
- **Mixed use** means any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories.
 - o The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not mixed use, irrespective of how they are operated.

Local governments are prohibited from restricting the density³⁸ of a proposed development below the highest density currently allowed (or the highest allowed on July 1, 2023) on land within its jurisdiction where residential development is allowed³⁹ and may not restrict the floor area ratio⁴⁰ of a proposed development below 150 percent of the highest floor area ratio currently allowed (or the highest allowed on July 1, 2023) on land within its jurisdiction where residential development is allowed.⁴¹

Local governments are also prohibited from restricting the [height](#) of a proposed development below the highest height currently allowed (or the highest allowed on July 1, 2023) for a commercial or residential building located in its jurisdiction within one mile of the proposed development or three stories, whichever is higher.⁴² However, a local government may restrict the height of a proposed development if:

- The proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential in a single-family residential development with at least 25 contiguous single-family homes, in which case the local government may restrict the height of the proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest height currently allowed (or the highest allowed on July 1, 2023) for the property provided in the local government's land development regulations, or three stories, whichever is higher, but not to exceed 10 stories;⁴³ or
- The proposed development is on a parcel with a contributing structure or building within a historic district listed in the National Register of Historic Places⁴⁴ (Register) before January 1, 2000, or is on a parcel with a

³⁶ Meat packing facilities are facilities for the business or industry of slaughtering cattle and other meat animals and processing the carcasses for sale, sometimes including the packaging of processed meat products. Dictionary.com, *meat packing*, <https://www.dictionary.com/browse/meat-packing> (last visited Mar. 16, 2026).

³⁷ Citrus and produce processing and packing facilities are where fresh produce is brought from the field, postharvest practices such as sizing and packaging are performed, and quality standards are monitored to meet the targeted market needs and requirements. Elhadi M. Yahia, *Postharvest Technology of Perishable Horticultural Commodities* (2019), <https://www.sciencedirect.com/topics/agricultural-and-biological-sciences/packing-house> (last visited Mar. 16, 2026).

³⁸ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. See [s. 163.3164\(12\), F.S.](#)

³⁹ [Ss. 125.01055\(7\)\(b\)](#) and [166.04151\(7\)\(b\), F.S.](#)

⁴⁰ For purposes of these provisions, "floor area ratio" includes floor lot ratio and lot coverage. [Ss. 125.01055\(7\)\(c\)](#) and [166.04151\(7\)\(c\), F.S.](#)

⁴¹ [Ss. 125.01055\(7\)\(c\)](#) and [166.04151\(7\)\(c\), F.S.](#)

⁴² [Ss. 125.01055\(7\)\(d\)1.](#) and [166.04151\(7\)\(d\)1., F.S.](#)

⁴³ [Ss. 125.01055\(7\)\(d\)2.](#) and [166.04151\(7\)\(d\)2., F.S.](#)

⁴⁴ The National Register of Historic Places (Register) is the official list of the nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the Register is maintained by the National Park Service (NPS) as a part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's

structure or building individually listed in the Register, in which case a local government may restrict the height of the proposed development to the highest height currently allowed (or the highest allowed on July 1, 2023) for a commercial or residential building within three-fourths of a mile of the proposed development or 3 stories, whichever is higher.⁴⁵

An application for a development authorized by the Act must be administratively approved without further action by the governing body of the local government or any quasi-judicial or administrative board or reviewing body, provided the development satisfies the local government's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the jurisdiction's comprehensive plan, with the exception of provisions establishing density, floor area ratios, height, and land use requirements.⁴⁶

Under the Act, local governments are required, upon request of an applicant, to reduce parking requirements for a proposed development by 15 percent if the development:

- Is located within one-quarter mile of a transit stop, as defined in the local government's land development code, and the transit stop is accessible from the development;
- Is located within one-half mile of a major transportation hub⁴⁷ that is accessible from the proposed development by safe, pedestrian-friendly means, such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other multimodal design features; or
- Has available parking within 600 feet of the proposed development, which may consist of options such as on-street parking, parking lots, or parking garages available for use by residents of the proposed development.⁴⁸

The provisions of the Act described above do not apply to recreational and commercial waterfronts in industrial areas,⁴⁹ the Wekiva Study Area,⁵⁰ or the Everglades Protection Area.^{51,52} Additionally, local governments are not required to authorize developments in [airport-impacted areas](#); specifically, local governments are not required to authorize the following types of developments:

- A proposed development near a runway within one-quarter of a mile laterally from the runway edge and within an area that is the width of one-quarter of a mile extending at right angles from the end of the runway for a distance of 10,000 feet of any existing airport runway or planned airport runway identified in the local government's airport master plan.
- A proposed development within any airport noise zone identified in the federal land use compatibility table or in a land-use zoning or airport noise regulation adopted by the local government.

historic and archeological resources. As of May 13, 2025, over 100,000 places have been listed in the Register for their significance in American history, art, architecture, engineering, and culture. See NPS, *What is the National Register of Historic Places?* <https://www.nps.gov/subjects/nationalregister/index.htm> (last visited Mar. 16, 2026); see also, NPS, *National Register of Historic Places: Program Updates May 13, 2025*, <https://www.nps.gov/subjects/nationalregister/program-updates.htm> (last visited Mar. 16, 2026).

⁴⁵ [Ss. 125.01055\(7\)\(d\)3.](#) and [166.04151\(7\)\(d\)3.](#)

⁴⁶ However, if a proposed development is on a parcel with a contributing structure or building within a historic district which was listed in the Register before January 1, 2000, or is on a parcel with a structure or building individually listed in the Register, the local government may administratively require the proposed development to comply with local regulations relating to architectural design, such as façade replication, provided it does not affect height, floor area ratio, or density of the proposed development. [Ss. 125.01055\(7\)\(e\)](#) and [166.04151\(7\)\(e\), F.S.](#)

⁴⁷ For purposes of these provisions, "major transportation hub" means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options. [Ss. 125.01055\(7\)\(f\)3.](#) and [166.04151\(7\)\(f\)3., F.S.](#)

⁴⁸ A local government, however, may not require that the available parking compensate for the reduction in parking requirements. [Ss. 125.01055\(7\)\(f\)1.](#) and [166.04151\(7\)\(f\)1., F.S.](#)

⁴⁹ See [s. 342.201\(2\)\(b\), F.S.](#)

⁵⁰ See [s. 369.316, F.S.](#)

⁵¹ See [s. 373.4592\(2\)\(i\), F.S.](#)

⁵² [Ss. 125.01055\(7\)\(o\)](#) and [166.04151\(7\)\(o\), F.S.](#)

- A proposed development that exceeds maximum height restrictions identified in the political subdivision's airport zoning regulation adopted pursuant to statute.⁵³

The provisions of the Act are effective until October 1, 2033.⁵⁴

Ad Valorem Tax Exemption for Affordable Housing

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.⁵⁵ The property appraiser annually determines the “just value”⁵⁶ of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁵⁷ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁵⁸ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵⁹

Ad Valorem Tax Exemption for Newly Constructed Affordable Housing

The Act established a new [ad valorem tax exemption](#) for owners of newly constructed multifamily rental developments who use a portion of the development to provide affordable housing.⁶⁰ Eligible property includes units in a newly constructed multifamily development containing more than 70 units dedicated to housing natural persons or families below certain income thresholds.⁶¹ However, units subject to an agreement with the Florida Housing Finance Corporation (Corporation) are not eligible for the exemption.⁶²

“Newly constructed” is defined as an improvement substantially completed within five years before the property owner’s first application for a certification notice.⁶³ The units must be occupied by such individuals or families and rent limited so as to provide affordable housing at either the 80 or 120 percent AMI threshold.⁶⁴ Rent for such units may not exceed 90 percent of the fair market value of rent as determined by a rental market study.⁶⁵

Qualified property used to provide affordable housing at the 80 to 120 percent AMI threshold receives an exemption of 75 percent of the assessed value of the affordable units, while such property providing affordable housing up to the 80 percent AMI threshold receives a complete ad valorem tax exemption for the affordable units.⁶⁶ When determining the value of a unit for purposes of applying an exemption, the property appraiser must include in such valuation the proportionate share of the residential common areas, including the land, fairly attributable to the unit.⁶⁷

⁵³ [S. 333.03\(5\), F.S.](#)

⁵⁴ [Ss. 125.01055\(7\)\(p\) and 166.04151\(7\)\(p\), F.S.](#)

⁵⁵ Both real property and tangible personal property are subject to tax. [S. 192.001\(12\), F.S.](#), defines “real property” as land, buildings, fixtures, and all other improvements to land. [S. 192.001\(11\)\(d\)](#), defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

⁵⁶ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

⁵⁷ *See* [s. 192.001\(2\) and \(16\), F.S.](#)

⁵⁸ FLA. CONST. art. VII, s. 1(a).

⁵⁹ *See* FLA. CONST. art. VII, s. 4.

⁶⁰ Ch. 2023-17, s. 8, Laws of Fla., codified as [s. 196.1978\(3\), F.S.](#)

⁶¹ [S. 196.1978\(3\)\(b\), F.S.](#)

⁶² [S. 196.1978\(3\)\(j\), F.S.](#)

⁶³ [S. 196.1978\(3\)\(a\)2., F.S.](#)

⁶⁴ [S. 196.1978\(3\)\(b\)1., F.S.](#)

⁶⁵ [S. 196.1978\(3\)\(b\)3., F.S.](#)

⁶⁶ [S. 196.1978\(3\)\(d\)1., F.S.](#)

⁶⁷ [S. 196.1978\(3\)\(d\)2., F.S.](#)

To receive this exemption, a property owner must apply by March 1 to the property appraiser, accompanied by a certification notice from the Corporation.⁶⁸ To receive the Corporation's certification, a property owner must submit a request on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years, a list of units for which the exemption is sought, the rent amount received for each unit, and a sworn statement restricting the property for a period of not less than three years to provide affordable housing.⁶⁹

The certification process is administered within the Corporation. The Corporation is responsible for publishing the deadline for submission, reviewing each request, sending certification notices to both the successful property owner and the appropriate property appraiser, and notifying unsuccessful property owners and providing reasons for the denial.⁷⁰

This exemption first applied to the 2024 tax roll and will expire on December 31, 2059.

Beginning with the 2025 tax roll, a taxing authority may elect, upon adoption of an ordinance or resolution approved by a two-thirds vote of the governing body, to [“opt out”](#) of exempting qualified property located in a county specified by the **most recently published** Shimberg Center for Housing Studies Annual Report as being within a metropolitan statistical area (MSA) or region where the number of affordable and available units in the MSA or region is greater than the number of renter households in the MSA or region for the “0-120 percent AMI” category.⁷¹

[Florida Right to Farm Act](#)

In response to the loss of farmland due to encroaching suburban sprawl, nuisance claims, and modern zoning, the Legislature enacted Florida's Right to Farm Act (Farm Act) in 1979. The purpose of the Farm Act was to provide more protection for commercial agriculture and farming operations from nuisance claims, and slow the rapid conversion of farmland to more compatible uses.⁷²

The Legislature has determined that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage or force the premature removal of the farm land from agricultural use. The Farm Act seeks to protect reasonable agricultural and complementary agritourism activities conducted on farm land from nuisance suits and other similar lawsuits.⁷³

The Farm Act provides the following definitions:⁷⁴

- [Farm](#) means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.
- [Farm operation](#) means all conditions or activities by the owner, lessee, agent, independent contractor, or supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products or in connection with complementary agritourism activities. These conditions and activities include, but are not limited to, the marketing of farm products at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, fumes, and particle emissions; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; agritourism activities; and the employment and use of labor.

⁶⁸ [S. 196.1978\(3\)\(e\), F.S.](#)

⁶⁹ [S. 196.1978\(3\)\(f\), F.S.](#)

⁷⁰ [S. 196.1978\(3\)\(g\), F.S.](#)

⁷¹ [S. 196.1978\(3\)\(o\)1., F.S.](#)

⁷² Ch. 79-61, Laws of Fla.

⁷³ [S. 823.14\(2\), F.S.](#)

⁷⁴ [S. 823.14\(3\), F.S.](#)

Florida Fair Housing Act

The [Florida Fair Housing Act](#)⁷⁵ prohibits discrimination in housing-related activities, including the sale, rental, and financing of housing.⁷⁶ The law protects individuals from discrimination based on race, color, national origin, sex, disability, familial status, or religion.⁷⁷ The law also specifically prohibits local governments from [discriminatory practices in land use decisions and development permitting](#), including discrimination based on the source of financing of a development, except as otherwise provided by law.⁷⁸ The Florida Fair Housing Act is enforced by the Florida Commission on Human Relations, which investigates complaints and can seek legal remedies for violations.⁷⁹

Currently, the state has not waived sovereign immunity for itself and its agencies and political subdivisions for causes of action based a violation of the Florida Fair Housing Act.

Open Space Ordinances

In general, “open space” is land that is not intensively developed for residential, commercial, industrial, or institutional use, and may include parks, recreational sites, scenery, trails, forests, wetlands, rare or important habitats, farms, and historic properties.⁸⁰ Open space zoning typically concentrates buildings on part of a property while maintaining greenspace and wildlife habitat on the remainder.⁸¹ Some local governments in Florida have adopted ordinances and zoning categories to protect or encourage open spaces.⁸² For example, the City of Port St. Lucie has created an open space conservation zoning district to locate and establish areas which are deemed to be uniquely suited for the conservation of open space and the natural environment, while allowing the limited use of said areas for recreational and open space activities. The zoning district allows the following uses and structures:⁸³

- Open space devoted to the conservation and maintenance of natural waterways, vegetation, and wildlife.
- Hiking and bicycle trails.
- Nature study areas and boardwalks.
- Picnic areas.
- Boat ramps or docks.
- Observation towers or platforms.
- Pavilions for outdoor exhibits and special nature study instruction.

Additionally, some Florida local governments have open space districts which may be located within or directly adjacent to a residential district,⁸⁴ or have open space requirements for a residential district. For example, Lee County requires residential developments, other than certain individual build one- or two-family dwellings, to retain 35-40 percent open space in the development area, depending on the size of the development.⁸⁵

Areas of Critical State Concern

In 1972, the Florida Environmental Land and Water Management Act was enacted, creating the Areas of Critical State Concern (ACSC) Program. The ACSC Program is intended to protect resources and public facilities of major

⁷⁵ [Ss. 760.20-760.37, F.S.](#)

⁷⁶ [S. 760.23, F.S.](#)

⁷⁷ *Id.*

⁷⁸ [S. 760.26, F.S.](#)

⁷⁹ [S. 760.03, F.S.](#)

⁸⁰ Cornell University, *Open Space Planning*, <https://hudson.dnr.cals.cornell.edu/conservation-planning/inventory-and-planning/open-space-planning> (last visited Mar. 16, 2026).

⁸¹ Lauren McDonell, Martha C. Monroe, and Basil V. Iannone, *Land Conservation Tools and Zoning*, <https://ask.ifas.ufl.edu/publication/FR256> (last visited Mar. 16, 2026).

⁸² See Sec. 10-263, City of Tallahassee, Florida Code of Ordinances; Sec. 39-380, Broward County, Florida Code of Ordinances.

⁸³ Sec. 158.101, City of Port St. Lucie, Florida Code of Ordinances.

⁸⁴ See Sec. 39-380, Broward County, Florida Code of Ordinances.

⁸⁵ Sec. 10-415, Lee County, Florida Code of Ordinances.

statewide significance within designated geographic areas from uncontrolled development that would cause substantial deterioration of such resources.⁸⁶

Under the program, the Governor and Cabinet, sitting as the Administration Commission,⁸⁷ designates ACSCs by rule.⁸⁸ To be designated as an ACSC, the area must:

- Contain, or have a significant impact upon, environmental or natural resources of regional or statewide importance, the uncontrolled private or public development of which would cause substantial deterioration of such resources;
- Contain, or have a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- Have a significant impact upon, or be significantly impacted by, an existing or proposed major public facility or other area of major public investment, including, but not limited to, highways, ports, airports, energy facilities, and water management projects.⁸⁹

Areas currently designated as ACSCs include the Big Cypress Area,⁹⁰ the Green Swamp Area,⁹¹ the Florida Keys Area,⁹² the Apalachicola Bay Area,⁹³ and the Brevard Barrier Island Area.⁹⁴

Conservation Easements

A conservation easement is a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition.⁹⁵ Conservation easements are meant to retain areas as suitable habitat for fish, plants, or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance. A conservation easement is a perpetual, undivided interest in property that may be created or stated by a restriction, easement, covenant, or condition in any deed will, or other instrument executed by or on behalf of the owner of the property.⁹⁶ The easement runs with land and is binding on all subsequent owners of the property.⁹⁷

The purpose of a conservation easement is accomplished by restricting the amount of development allowed on a piece of property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in its natural condition. A conservation easement must prohibit or limit any or all of the following:

- Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- Removal or destruction of trees, shrubs, or other vegetation;
- Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;

⁸⁶ Florida Commerce, *Areas of Critical State Concern Program*, <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Mar. 16, 2026).

⁸⁷ [S. 14.202, F.S.](#) (The Administration Commission is part of the Executive Office of the Governor.); *see also* [s. 380.031\(1\), F.S.](#)

⁸⁸ [S. 380.05, F.S.](#)

⁸⁹ [S. 380.05\(2\), F.S.](#)

⁹⁰ [S. 380.055, F.S.](#)

⁹¹ [S. 380.0551, F.S.](#)

⁹² [S. 380.0552, F.S.](#)

⁹³ [S. 380.0555, F.S.](#)

⁹⁴ [S. 380.0553, F.S.](#)

⁹⁵ [S. 704.06\(1\), F.S.](#)

⁹⁶ [S. 704.06\(2\), F.S.](#)

⁹⁷ [S. 704.06\(4\), F.S.](#)

- Activities detrimental to drainage, flood control, water conservation erosion control, soil conservation, or fish and wildlife habitat preservation;
- Acts or uses detrimental to such retention of land or water areas; and
- Acts or uses detrimental to the preservation of the structural integrity or physical appearances of sites or properties of historical, architectural, archaeological, or cultural significance.⁹⁸

Density Bonus Incentives

A density bonus is a development incentive that allows developers to increase the maximum allowable development for a proposed project, as defined by a local zoning code, in exchange for the developer's support of specified public policy goals.⁹⁹ Density bonus programs are a common planning tool at local, county, and state levels across the United States, but vary greatly both in the types of bonuses offered and the policy goals the incentives are intended to address.¹⁰⁰

In Florida, local governments have the inherent home rule authority¹⁰¹ to provide density bonuses in exchange for the production of affordable housing units. Additionally, local governments that have adopted inclusionary housing ordinances are required to provide incentives to developers to offset the cost of the developer's affordable housing contribution, which may include granting density or intensity bonuses.¹⁰²

A local government may also provide density bonus incentives to any landowner who voluntarily donates real property to the local government for the purpose of assisting the local government in providing affordable housing.¹⁰³ To receive a density bonus under this provision, the donated real property must:

- Be appropriate for use as affordable housing, as determined by the local government;¹⁰⁴ and
- Be subject to deed restrictions to ensure the property will be used for affordable housing.¹⁰⁵

The deed restrictions must also prohibit an affordable housing unit from being sold at a price that exceeds the threshold for housing that is affordable for low-income or moderate-income persons or to a buyer who is not eligible due to his or her income under chapter 420, F.S., Florida's housing statutes. The deed restriction may allow affordable housing units to be rented to extremely-low-income, very-low-income, low-income, or moderate-income persons.¹⁰⁶

In practice, an increase in density for a proposed development offers an economic incentive for developers to produce affordable housing.¹⁰⁷ The allowance of full density allowed by local land use and zoning regulations, as well as additional approved units allowed by density bonuses, creates the opportunity for an affordable housing development to be financially feasible.¹⁰⁸ The allowance of more density also incentivizes market-rate developers

⁹⁸ [S. 704.06\(1\)\(a\)-\(h\), F.S.](#)

⁹⁹ Planetizen, *What is a Density Bonus?* <https://www.planetizen.com/definition/density-bonuses> (last visited Mar. 16, 2026).

¹⁰⁰ *Id.*

¹⁰¹ Home rule power refers to the ability of counties and municipalities to enact ordinances at the local level without prior state approval. Such ordinances, however, must not conflict with state or federal laws. In Florida, home rule language was proposed and subsequently adopted in the 1968 Constitutional revision. After several legal challenges, the Legislature adopted the Home Rule Powers Act in 1973, which ended challenges related to city and county home rule powers. *See* Florida League of Cities, *Florida Municipal Officials Manual*, 2022, pgs. 6-8, <https://www.floridaleagueofcities.com/wp-content/uploads/2025/06/florida-municipal-officials-manual.pdf> (last visited Mar. 16, 2026).

¹⁰² *See* [ss. 125.01055\(1\), \(2\), and \(4\)](#), and [166.04151\(1\), \(2\), and \(4\), F.S.](#)

¹⁰³ [S. 420.615\(1\), F.S.](#)

¹⁰⁴ *Id.*

¹⁰⁵ [S. 420.615\(6\), F.S.](#)

¹⁰⁶ *Id.*

¹⁰⁷ Florida Housing Coalition, *Affordable Housing Incentive Strategies: A Guidebook for Affordable Housing Advisory Committee Members and Local Government Staff*, Aug. 2021, p. 49, <https://www.flhousing.org/wp-content/uploads/2021/08/8-4-21-AHAC-Guide-UPDATE.pdf> (last visited Mar. 16, 2026).

¹⁰⁸ *Id.*

to produce affordable units.¹⁰⁹ The sale of more units or the leasing of more apartments offsets the lower sales price or rent payments for each affordable unit.¹¹⁰

RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2023	CS/CS/HB 627 - Housing	Busatta, Lopez, V./ <i>Calatayud</i>	Created the Live Local Act. Approved by the Governor.
2024	CS/CS/HB 1239 - Affordable Housing	Lopez, V./ <i>Calatayud</i>	Amended the Live Local Act. Approved by the Governor.
2025	CS/CS/CS/HB 943 - Real Property and Land Use and Development	Lopez, V./ <i>Calatayud</i>	Amended the Live Local Act. Approved by the Governor.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*