
11. Planning and Growth Management

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INTRODUCTION

The State of Florida has one of the most comprehensive and progressive land use planning programs in the country. The authority and responsibility for establishing and implementing the roles, processes, and powers of comprehensive planning programs to guide and control future development in Florida is vested in local governments because local governments have regulatory authority over the use of land. Regulatory authority over the use of land means that local governments are the agencies that issue development permits. The land use planning program in Florida is commonly referred to as “Growth Management” and is found in a broad collection of laws, rules, regulations, and policies affecting all planning and development activities of the state and local governments.

In 1985 Florida enacted the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes. This statute requires that all local governments adopt, maintain, and implement land use plans and development regulations for all future development actions. It also requires that all geographic areas within the state be included within the jurisdiction of a local comprehensive plan and that all development actions be consistent with the adopted plan. All 67 counties and all of the cities and towns, as well as the Walt Disney World area, the Reedy Creek Improvement District, have adopted local comprehensive plans. In 2011, the Florida Legislature revised the State Planning Statutes renaming the “Local Government Comprehensive Planning and Land Development Regulation Act” the “Community Planning Act.”

HISTORY OF GROWTH MANAGEMENT AND PLANNING LAW IN FLORIDA

As stated in the introduction to this chapter, the State of Florida has one of the most comprehensive and progressive land use planning programs in the country. The current body of growth management legislation establishing the primary authority and responsibility for county government planning was enacted in 1985 and has been amended several times in recent years. However, the 1985 Growth Management Act was not the first planning legislation in Florida. The following listings discuss the major historic comprehensive land use planning and growth management legislation of the state.

THE 1928 ZONING ENABLING ACT

The first land use planning legislation in Florida was enacted in 1928. This legislation was known as the 1928 Zoning Enabling Act. Today, the State of Florida has constitutionally established *home rule* authority for local governments. This means that local governments, cities and counties, may adopt local ordinances without state approval as long as the ordinances are not in conflict with the laws of the state.

This *home rule* provision was included in amendments to the State Constitution in 1968. Prior to that, local governments could not adopt local ordinances without approval of state legislation.

The 1928 Zoning Enabling Act was adopted to allow local governments to approve zoning regulations to control local development and land use issues. This legislation was voluntary and did not mandate that local governments adopt land use controls, but it did allow for zoning codes to be enacted by ordinance, which gave these local ordinances legal status. This legal status was important because it provided the basis for counties to enforce the codes.

THE 1972-1973 STATE AND REGIONAL COMPREHENSIVE PLANNING ACTS

For almost fifty years the voluntary zoning enabling legislation was the only land use planning laws in Florida. However, in the 1972 and 1973 legislative sessions, the state passed two more planning acts and drafted a third.

Chapter 186, Florida Statutes, was adopted to create the Regional Planning Councils (RPC). There are eleven Regional Planning Councils in Florida. All counties within the state are members of one of the RPCs, and the RPCs' geographic boundaries are drawn along county lines. Regional Planning Councils are the primary agencies responsible for planning for regional land use issues and for addressing inter-jurisdictional impacts of developments.

Chapter 380, Florida Statutes, was adopted creating Developments of Regional Impact (DRI) and the Areas of Critical State Concern. Developments of Regional Impact are developments that, based upon their size, scale, location and/or magnitude, have a substantial effect on the citizens of more than one county. These large scale developments must be consistent with the local government plans, and they must go through a special approval process where all the impacts of the development are mitigated, including extra-jurisdictional impacts. The Regional Planning Councils are the primary coordination agency for these DRI reviews.

Areas of Critical State Concern are geographic areas within the State of Florida, which the Legislature has designated in statute, that include natural resources that are significant enough to be protected by the state. These areas include the Florida Keys, the Big Cypress Preserve, Apalachicola Bay, and the Green Swamp. Within these areas, the state has oversight of local government development approval and may object to the issuance of development permits that negatively impact the environmental resources.

The third planning act that was drafted but not enacted was the first State Comprehensive Plan. This was intended to be a comprehensive future development plan for the state. This would later become The State Comprehensive Plan, Chapter 187, Florida Statutes.

THE 1975 LOCAL GOVERNMENT COMPREHENSIVE PLANNING ACT, CHAPTER 163, PART II, FLORIDA STATUTES

In 1975, Florida enacted the Local Government Comprehensive Planning Act. This was the state's first planning legislation that required that all local governments have comprehensive land use plans. For the first time, all counties and cities were required to prepare plans that addressed the same statewide issues and elements. However, these plans were not required to be adopted and the statute did not give the state the authority to approve these plans.

These plans, because they were not adopted and recognized by the state, did not have the legal status of today's plans, and therefore were not really enforceable by local governments or property owners. Local development permits did not necessarily have to be consistent with these plans. The plans that were prepared pursuant to the 1975 legislation did not require a Future Land Use Map and did not require any implementing land development regulations.

Despite these limitations, the 1975 Local Government Comprehensive Planning Act was a very positive experience for the state with regard to land use planning. That act resulted in a tremendous

educational effort for the state. For the first time local governments, regional agencies, and the state were focused on land planning and learning how to manage develop in orderly and efficient patterns while protecting the natural environment.

THE 1984 STATE COMPREHENSIVE PLANNING ACT, CHAPTER 187, FLORIDA STATUTES

In 1984, Florida finally adopted a State Comprehensive Plan. Chapter 187 of the Florida Statutes provides a series of planning goals for the State of Florida, and for each goal there are multiple implementing policies that establish action steps for achieving these goals. This state plan is written in very general terms and covers many issues that are not directly related to land use.

THE 1985 LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT, CHAPTER 163, PART II, FLORIDA STATUTES

The 1985 Act, commonly referred to as the Growth Management Act, updated the 1975 Act and was based upon the successes and failures of previous years' planning efforts experienced by the state and local governments since the adoption of the original planning legislation. One of the major revisions was the requirement that all local government plans and plan amendments be adopted by ordinance and that all plans and amendments must be reviewed and approved by the state. This process results in the current legal status of county plans.

The 1985 Act establishes the right for citizens and adjacent local governments to have legal standing to challenge plans and amendments. That act requires that all plans be financially feasible and that the plans include a concurrency management system, which ensures that the infrastructure needed to support development is available when the impacts of the development occur. The 1985 Act also requires that all plans include an adopted Future Land Use Map (FLUM) and that all local governments adopt implementing land development regulations (LDRs). (Please refer to later sections of this chapter, which discuss what is included in the plan elements).

Since the passage of the Growth Management Act, all cities and counties within the state have adopted comprehensive plans consistent with the 1985 legislation. There have been several statewide study commissions that have reviewed and recommended changes to the 1985 Act. Some specific changes have been enacted, some have been repealed, and others are currently being studied for possible revision. However, the majority of the requirements for county plans are still contained in the original language of the 1985 Growth Management Act.

Some of the more significant revisions to the 1985 Growth Management Act relate to joint planning and coordination between counties and cities and the school districts. In 1995 the act was amended to: require joint planning efforts with the school districts; require that the land use element specifically identify land use categories that allow school facilities; and require interlocal agreements for joint planning efforts.

Later, the statute was amended to allow for a school facilities element and for optional school concurrency. In 2002, a new section 163.31777, Florida Statutes, was added that requires local governments and school boards to enter into an interlocal agreement that addresses school siting, enrollment forecasting, school capacity, infrastructure and safety needs of schools, schools as emergency shelters, and sharing of facilities. In 2005 the Legislature mandated that local plans include a public school facilities element.

In addition to planning for schools, the Growth Management Act has been amended multiple times changing requirements and adding new ones. There have been many revisions to the concurrency requirements and to transportation planning, as well as water resources planning. For example, in 2004 the Act was revised to require local governments to identify adequate water supply sources to meet future

demand for the established planning period. Like local plans, the Growth Management Act is dynamic and evolving as new and different issues arise.

THE 2011 COMMUNITY PLANNING ACT CHAPTER 163, PART II, FLORIDA STATUTES

The 2011 Community Planning Act not only renamed the Florida planning program, but it also greatly reduced the State and Regional agency oversight of planning and land development activity. This Act revised and shortened the agency review periods and limited these agencies authority to object to local government decisions regarding planning and land development. State and regional agencies comments on plans and plan amendments are now limited to important state resources and facilities. State agencies can only comment when these important state resources and facilities are “adversely” or “negatively” impacted.

The Community Planning Act removed the twice a year limitation on plan amendments and repealed Chapter 9J-5, Florida Administrative Code, the minimum criteria rule for local plans. However, the Act did not significantly reduce the planning requirements for Florida’s county governments. All local governments must still adopt, maintain and implement local land use plans.

WHAT IS A COMPREHENSIVE PLAN?

The local government comprehensive plan is a document that is prepared and adopted pursuant to Chapter 163, Florida Statutes. Once a county’s plan is adopted and found to be in compliance by the Department of Community Affairs, it is the public policy decision making guide for all decisions regarding development actions within the county.

The Growth Management Act, now named the Community Planning Act, was enacted by the Florida Legislature for the purposes of strengthening the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and control future development. In part, the act states that local governments shall adopt a comprehensive plan so that they can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

The local government comprehensive plan is intended to be a guide for making land use decisions for future development and redevelopment. Florida does not have a “stop growth” planning program. The Growth Management Act is intended to help local officials make decisions regarding the distribution, extent, and timing of future growth. Distribution of growth means the geographic location of new development and the relationships between that development and existing development and supporting infrastructure and the environmental resources of the area. The extent of growth refers to the amount. It helps local officials determine how much density of housing would be appropriate for certain locations, or how much intensity of commercial or industrial development will be compatible in a specific location. The final characteristic of future growth that the Growth Management Act attempts to manage is the timing of future development. Local governments must decide when permitting development, if the

specific area proposed for development has the necessary supporting infrastructure and other development characteristics that support the new development.

LEGAL STATUS OF THE COMPREHENSIVE PLAN

Section 163.3194(1)(a), Florida Statutes, establishes the legal status of comprehensive plans, stating:

...After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

This section of the statute means that before a county issues any development order, adopts any local ordinance that relates to the development of property or takes any other action in regard to development orders, the county must ensure that the action is consistent with the adopted provisions of the comprehensive plan. There is no variance to a comprehensive plan. If a local government decides to approve a development that is not consistent with the plan, the plan must be amended first.

PUBLIC PARTICIPATION IN THE PLANNING PROCESS

The Planning Act requires public participation in the comprehensive planning process, including preparation, adoption, and amendment of the plan. The local governing body and the local planning agency shall adopt procedures to provide for and encourage public participation in the planning process, including consideration of amendments to the comprehensive plan and evaluation and appraisal reports.

The procedures shall include provisions to assure that real property owners are put on notice, through advertisement in a newspaper of general circulation in the area or other method adopted by the local government, of official actions that will affect the use of their property. There should be provisions for notice to keep the general public informed and provisions to assure that there are opportunities for the public to provide written comments. The required public hearings must be public noticed and held and there must be provisions to assure the consideration of and response to public comments.

Local governments are encouraged to make executive summaries of comprehensive plans available to the general public and should, while the planning process is ongoing, release information at regular intervals to keep its citizenry apprised of planning activities.

GENERAL REQUIREMENTS OF A COMPREHENSIVE PLAN

In general, the adopted comprehensive plan consists of the required element goals, objectives and policies, and the future conditions maps depicting future land use and future transportation conditions. All data and analysis, reports, and studies that support the plan do not need to be adopted. These materials are important but are not considered part of the adopted plan that regulates development decisions.

The required elements are as follows:

- Future Land Use Element
- Housing Element

- Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water and Natural Groundwater Aquifer Recharge Element. (Infrastructure Element)
- Coastal Management (for those governments identified in Section 380.21, Florida Statutes).
- Conservation Element
- Intergovernmental Coordination Element
- Capital Improvements Element
- Transportation Element
- The 2011 Community Planning Act made the previously required Public School Facilities Element and Public School Concurrency, an optional element.

A Recreation and Open Space Element was a required element but now is considered an optional element, specifically with regards to concurrency for recreation and open space facilities. Other optional elements that some counties have adopted include economic development elements, historical elements and public safety elements. While these elements are optional, it is important to understand that once adopted these optional elements have the same legal status as the required elements, which means that all development actions must be consistent with these optional adopted elements as well.

Each element of the plan includes at least one long-range goal, several intermediate objectives, and multiple implementation policies. “Goal” means the long-term end toward which programs or activities are ultimately directed. “Objective” means a specific, measurable, intermediate end that is achievable and marks progress toward a goal. “Policy” means the way in which programs and activities are conducted to achieve an identified goal.

FUTURE LAND USE ELEMENT

This is the most recognized element of the comprehensive plan. This element includes the Future Land Use Map (FLUM), which depicts the future land use categories. This element also contains the policies that establish the maximum densities for residential development and the maximum intensities for non-residential development. The following details the requirements for the FLUM:

- (a) The proposed distribution, extent, and location of the following generalized land uses shall be shown on the future land use map or map series:
 1. Residential use;
 2. Commercial use;
 3. Industrial use;
 4. Agricultural use;
 5. Recreational use;
 6. Conservation use;
 7. Educational use;
 8. Public buildings and grounds;
 9. Other public facilities; and
 10. Historic district boundaries and designated historically significant properties meriting protection.
 11. Transportation concurrency management area boundaries or transportation concurrency exception area boundaries, if any such areas have been designated.
 12. Multimodal transportation district boundaries, if any such areas have been designated.

- (b) The following natural resources or conditions shall be shown on the future land use map or map series:
 1. Existing and planned public potable waterwells and wellhead protection areas;
 2. Beaches and shores, including estuarine systems;
 3. Rivers, bays, lakes, flood plains, and harbors;
 4. Wetlands;
 5. Minerals and soils; and

6. Coastal high hazard areas.

- (c) Mixed use categories of land use are encouraged. If used, policies for the implementation of such mixed uses shall be included in the comprehensive plan, including the types of land uses allowed, the percentage distribution among the mix of uses, or other objective measurement, and the density or intensity of each use.
- (d) If determined by the local government to be appropriate, educational uses, public buildings and grounds, and other public facilities may be shown as one land use category on the future land use map or map series.
- (e) If the local government has determined it necessary to utilize other categories of the public and private use of land, such categories of land use shall be shown on the future land use map or map series.

The Future Land Use Element is based upon surveys, studies, and data and analysis of the county, including the amount of land required to accommodate anticipated growth; the projected population, including seasonal population; the character of undeveloped land; and the availability of public services needed to serve new development and the need for development and redevelopment. This combination of data and analysis must support the land use designations depicted and the Future Land Use Map. This data and analysis should also form the basis for the determination of whether the plan discourages the proliferation of urban sprawl.

“Urban sprawl” means urban development or uses that are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low-density urban uses, and that are characterized by one or more of the following conditions: (a) the premature or poorly planned conversion of rural land to other uses; (b) the creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) the creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: Leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development.

HOUSING ELEMENT

The primary objective of the Housing Element is to address the affordability and the availability of housing for all segments of the county population. This element addresses the maintenance of the housing stock, including identification and protection of historically significant structures, rehabilitation of substandard units, and provision of adequate sites for future housing with supporting infrastructure and public facilities.

INFRASTRUCTURE ELEMENT

The local government plan must include a sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element. This element is generally referred to as the Infrastructure Element. The goals, objectives, and policies of this element must address establishing priorities for replacement of deficient facilities and the provision of future infrastructure facilities to serve the existing and projected population. This element also establishes “level of service standards” (LOS standards) for all water, sewer, drainage, and solid waste facilities. These LOS standards are used in the concurrency management system to ensure that future infrastructure is available to serve existing and future development.

COASTAL MANAGEMENT

All counties that abut the Gulf of Mexico or the Atlantic Ocean shall include a Coastal Management Element in the local plan. This element addresses the maintenance, restoration, and enhancement of the overall quality of the coastal zone environment. The objectives and policies provide for the conservation of viable population of species of marine life, the avoidance of loss of coastal zone resources, and the preservation of historic and archaeological resources. This element also addresses the dangers of natural disasters such as hurricanes and provides for hurricane evacuation from coastal high hazard areas (CHHA). This element also limits the expenditure of public resources that subsidize development in the CHHA.

CONSERVATION ELEMENT

The local comprehensive plan must include an element for the conservation, use, and protection of natural resources, including water, air, water recharge areas, wetlands, waterwells, marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries, wildlife and marine habitats, minerals, and other natural resources. The purpose of the Conservation Element is to promote the conservation, use and protection of natural resources.

This element includes goals, objectives, and policies that protect air quality, conserve and appropriately use water sources, and protect minerals, soils, wetlands, floodplains, and native vegetative communities.

INTERGOVERNMENTAL COORDINATION ELEMENT

A county's comprehensive plan should provide for and facilitate coordination with the plans of adjacent counties, municipalities within the county and those that are adjacent to the county boundaries, and with the county school district. The plan should also establish mechanisms that ensure coordination with state and regional agencies in the maintenance and implementation of the plan.

The Intergovernmental Coordination Element (ICE) has been historically viewed as one of the weakest and least effective elements of local plans. However, over the past several years statutory amendments and plan updates have resulted in significant improvements to this element.

Rule 9J-5, Florida Administrative Code, details the specific intergovernmental coordination mechanisms that must now be included in the element. Some of these include:

- Coordination of planning activities mandated by the various elements of the comprehensive plan with other local governments, school boards, other units of local government providing services but not having regulatory authority over the use of land, the region, and the state.
- Resolution of conflicts with other local governments through the regional planning council's informal mediation process.
- Establishment of procedures to identify and implement joint planning areas for the purposes of annexation, municipal incorporation and joint infrastructure service areas;
- Coordinated management of certain bays, estuaries and harbors that fall under the jurisdiction of more than one local government.
- Recognition of campus master plans.
- Establishment of joint processes for collaborative planning and decision-making with the school board on population projections and the siting of public school facilities.

- Establishment of joint processes for the siting of facilities with county-wide significance, including locally unwanted land uses, such as solid waste disposal facilities.

CAPITAL IMPROVEMENTS ELEMENT

The purpose of the capital improvements element is to:

- Evaluate the need for public facilities as identified in the other comprehensive plan elements and as defined in the applicable definitions for each type of public facility.
- Estimate the cost of improvements for which the local government has fiscal responsibility.
- Analyze the fiscal capability of the local government to finance and construct improvements.
- Adopt financial policies to guide the funding of improvements.
- Schedule the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required based on needs identified in the other comprehensive plan elements.

The element shall also include the requirements to ensure that an adequate concurrency management system (CMS) will be implemented. The CMS is based upon a 5-year Schedule of Capital Improvements. This is commonly referred to as the Capital Improvements Plan (CIP).

The schedule of capital improvements includes all projects for which the local government has fiscal responsibility. The projects are selected for the first five fiscal years, by year, after the adoption of the comprehensive plan. The CIP shall reflect the need to reduce existing deficiencies, remain abreast of replacements, and meet future demand. The schedule shall include a description of each project, the general location of the project, and the projected costs and revenue sources being dedicated to fund the project by year for each of the five years.

The financial policies established in the element and the five-year schedule of the CIP, along with the adopted Level of Service (LOS) standards established in the other elements, form the basis of the Concurrency Management System (CMS). The purpose of the CMS is to establish an ongoing mechanism that ensures that public facilities and services needed to support development are available concurrent with the impacts of such development.

“Level of service” means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of Service shall indicate the capacity per unit of demand for each public facility. Level of Service standards for public facilities are adopted in policies in other elements and are also included in the Capital Improvements Element. LOS standards are established for potable water systems, sanitary sewer systems, transportation facilities, solid waste facilities, drainage facilities, and school facilities. These units of capacity per demand are used to calculate the existing demand on public facilities and to project the need for additional future capacity.

TRANSPORTATION ELEMENT

The requirements for the transportation element are different for differently sized counties. A local government that has all or part of its jurisdiction included within the urban area of a Metropolitan Planning Organization (MPO) pursuant to section 339.175, Florida Statutes, shall prepare and adopt a Transportation Element consistent with the provisions of Rule 9J-5.019, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes. Local governments that are not located within the urban area of an

MPO shall adopt traffic circulation, mass transit, and ports, aviation, and related facilities elements consistent with the provisions of this rule and Chapter 163, Part II, Florida Statutes, except that local governments with a population of 50,000 or less, as determined under section 186.901, Florida Statutes, shall not be required to prepare mass transit or ports, aviation, and related facilities elements. Within a designated MPO area, the transportation elements of the local plans shall be coordinated with the long-range transportation plan of the MPO. The purpose of the Transportation Element shall be to plan for a multimodal transportation system that places emphasis on public transportation systems.

The Transportation Element must establish level of service standards at peak hours for roads and public transit facilities within the local government's jurisdiction. For facilities on the Florida Intrastate Highway System as defined in section 338.001, Florida Statutes, the local governments shall adopt the level of service standards established by the Florida Department of Transportation by rule. With the concurrence of the Florida Department of Transportation, a local government may establish level of service standards for general lanes in urbanized areas as specified in Section 163.3180(10), Florida Statutes. For all other facilities on the future traffic circulation map, local governments shall adopt adequate "level of service" standards. These "level of service" standards shall be adopted to ensure that adequate facility capacity will be provided to serve the existing and future land uses.

All county plans must include a Future Transportation Map. This future conditions map is adopted in this element just like the Future Land Use Map is adopted in the Future Land Use element.

Future Transportation Map.

- (a) The general location of the following transportation system proposed features shall be shown on the future transportation map or map series:
 1. Road System:
 - a. Collector roads;
 - b. Arterial roads;
 - c. Limited and controlled access facilities;
 - d. Local roads, if being used to achieve mobility goals;
 - e. Parking facilities that are required to achieve mobility goals;
 2. Public transit system:
 - a. Public transit routes or service areas;
 - b. Public transit terminals and transfer stations;
 - c. Public transit rights-of-way and exclusive public transit corridors;
 3. Transportation concurrency management areas if any;
 4. Transportation concurrency exception areas if any;
 5. Significant bicycle and pedestrian facilities;
 6. Port facilities;
 7. Airport facilities including clear zones and obstructions;
 8. Freight and passenger rail lines; and
 9. Intermodal terminals and access to such facilities.
- (b) The future transportation map or map series shall identify the following:
 1. The functional classification and maintenance responsibility for all roads;
 2. The number of proposed through lanes for each roadway;
 3. The major public transit trip generators and attractors based upon the future land use map or map series;
 4. Projected peak hour levels of service for all transportation facilities for which level of service standards are established; and
 5. Designated local and regional transportation facilities critical to the evacuation of coastal population prior to an impending natural disaster.

PUBLIC SCHOOL FACILITIES ELEMENT FOR PUBLIC SCHOOL CONCURRENCY

The 2011 Community Planning Act changed the status of the Public School Facilities Element. This element was a required element, but now it is optional. However, since all counties had adopted a School Element, that includes school concurrency, it will take a plan amendment to remove these requirements from the local plan. If a local government chooses to keep the adopted Public School Facilities Element, then the follow requirements still apply.

Public school concurrency is intended to ensure that the capacity of schools is sufficient to support development at the adopted level of service standard. These minimum criteria are intended to assure coordination between local governments and the school board in planning and permitting development and in building and adding capacity to schools so that school capacity at the adopted level of service standard is available at the time of the impacts of development.

This element must include policy language that adopts a level of service (LOS) standard for school facilities. The LOS standard is based upon the Florida Inventory of School Houses (FISH) and has the meaning described in section 235.15, Florida Statutes. Local governments adopting level of service standards using a measurement of capacity other than FISH shall include appropriate data and analysis in support of the alternative measure.

Through interlocal agreements with the school district, counties coordinate the approval of residential development with the school district and ensure that the school capacity at the adopted level of service standard is available at the time of the impacts of the development.

This element also includes a future conditions map. A school facilities future conditions map or map series that depicts the planned general location of public school facilities and ancillary plants by year for the five-year planning period and for the end of the long-range planning period of the county is required to be adopted.

THE COMPREHENSIVE PLAN AMENDMENT PROCESS

The procedure to amend a comprehensive plan has been a lengthy, multiple-step state review and approval process that begins with the county preparing the draft amendment, holding public hearings on the draft, transmitting the proposed amendment to the state, and having the state comment on the proposal and return it to the local government. Then the local government prepares the adoption transmittal document and must hold additional public hearings to adopt the final amendment. The final adopted amendment is then transmitted back to the state for the determination of compliance with state law. This process can easily take six or more months. The 2011 Community Planning Act revised and shortened this process for most plan amendments. The new process is call the expedited state review process and it applies to all future plan amendments except those that are small scale amendments, in areas of critical state concern, propose a rural land stewardship area, propose a sector plan, are EAR based amendments, or are new plans.

The new review process begins with the local government holding at least one public hearing and then transmitting the amendment(s) to the review agencies. The state land planning agency is the Florida Department of Economic Opportunity (DEO). This agency has final review and approval authority over the local plans and plan amendments. The plan amendment is also transmitted to external review agencies for their comments. The external review agencies are the appropriate regional planning council and water management district, the Florida Department of Environmental Protection, the Florida Department of Transportation, and any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment.

These agencies are to consider whether the plan or plan amendment raises any planning issues of state or regional concern, such as those that impact the State Comprehensive Plan or the strategic regional

Figure 11.1. Expedited State Review Amendment Process.

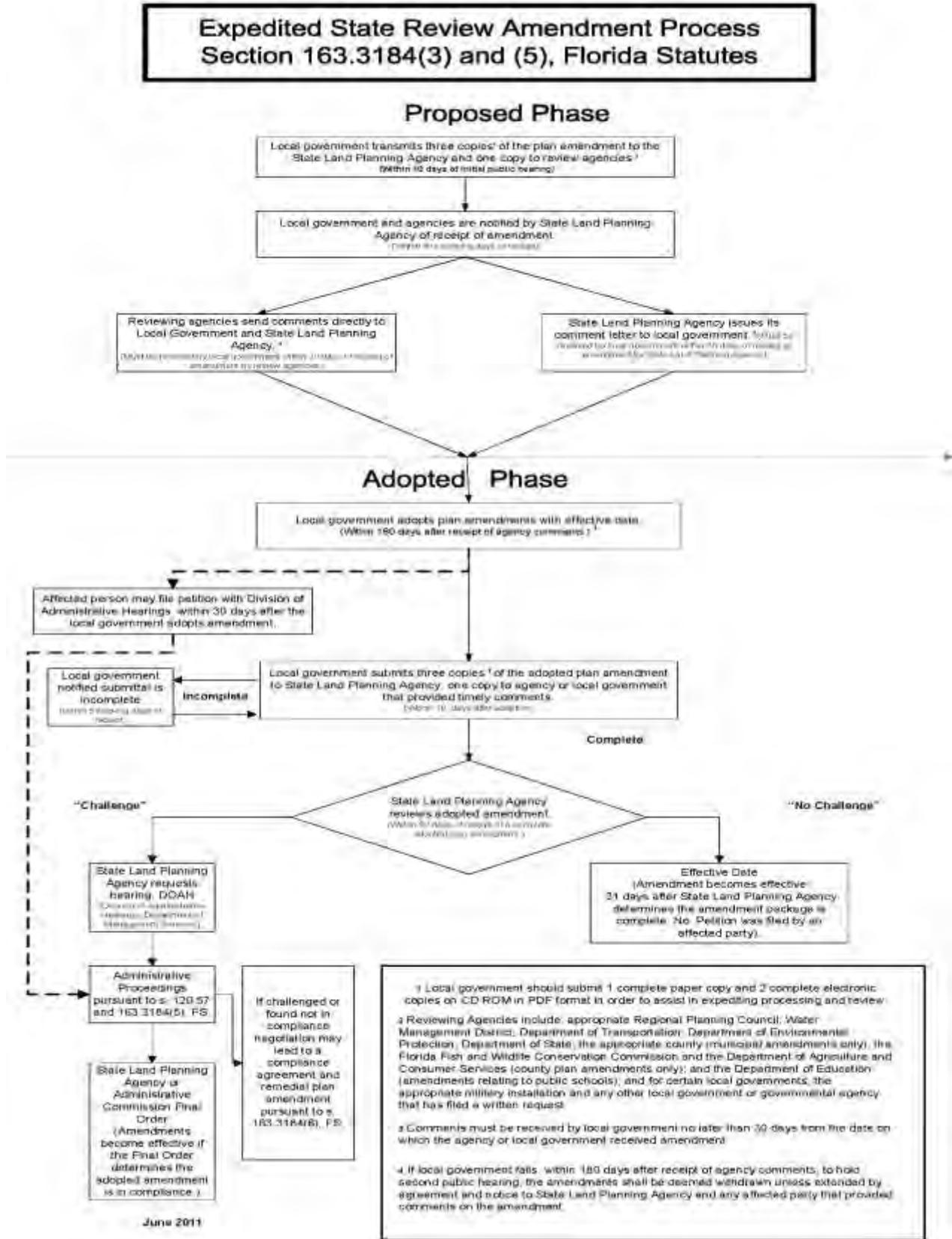
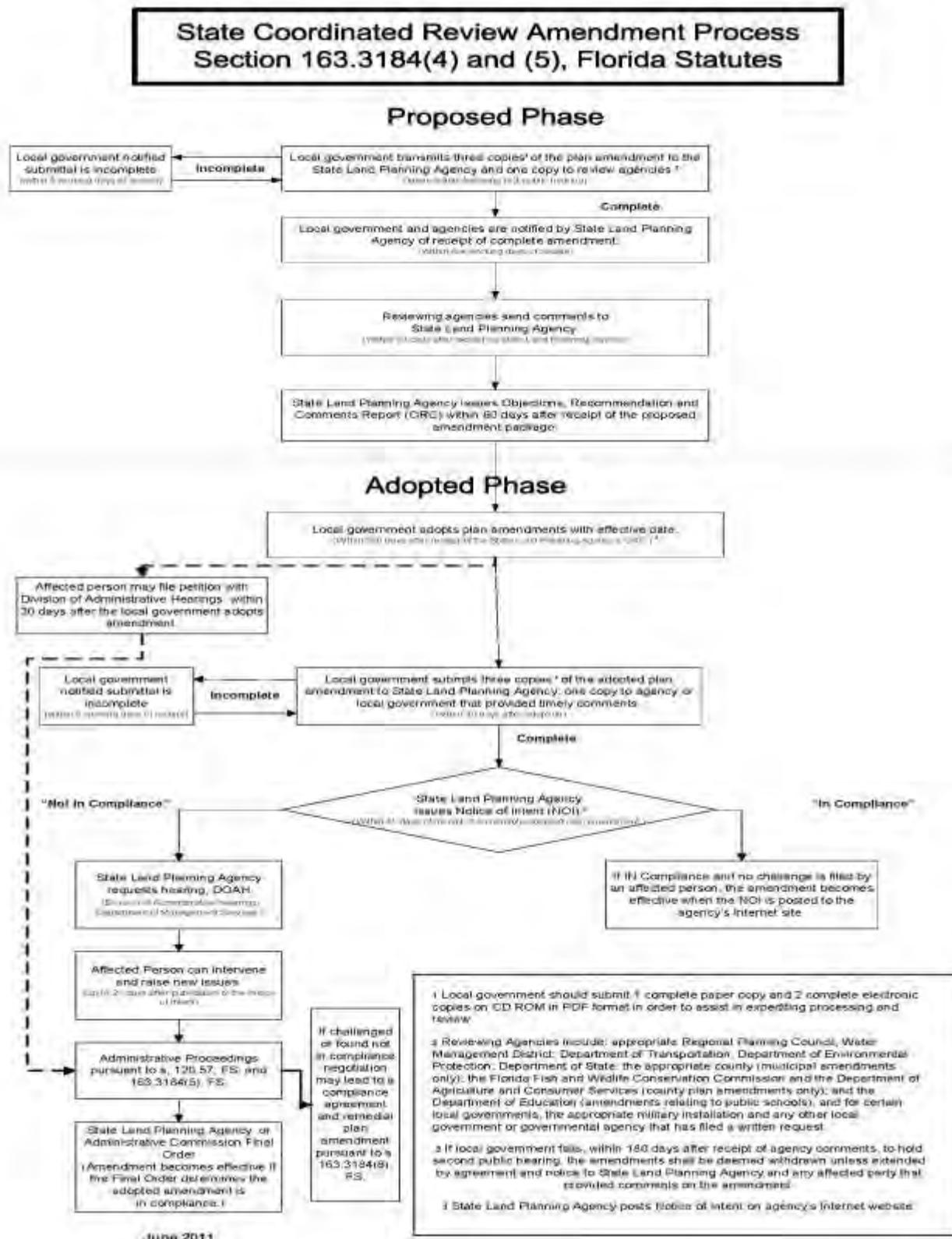


Figure 11.2. State Coordinated Review Amendment Process.



policy plans. Under this new process these review agencies are limited to comments concerning adverse impacts on important state resources and facilities. The external review agencies have 30 days to submit comments regarding the proposed amendment to the local government.

After receipt of review agency comments, the local government holds an adoption public hearing and transmits the adopted amendments to the state review agencies. The State Land Planning Agency shall have 30 days to review the transmittal and determine if any petition(s) have been filed which require administrative proceedings. If not petitions have been filed, the amendment becomes effective after 31 days.

Small scale amendments are not reviewed by the state agencies. All future plan amendments that are in areas of critical state concern, propose a rural land stewardship area, propose a sector plan, are EAR based amendments, or are new plans must go through the State Coordinated Review Amendment Process (Figure 11.2).

COMPREHENSIVE PLAN IMPLEMENTATION

After the comprehensive plan has been adopted and approved, implementation is required. The plan elements contain policy recommendations for implementation. These policies established programs and action steps that the county must now put in place. The legal status of the plan dictates that all development undertaken and all actions taken by the local government shall be consistent with the plan. Plan implementation can occur in many ways, including the adoption of land development regulations, the allocation of public funds for improvements, and the creation of incentives and regulations to encourage private development within the parameters of the local plan.

LAND DEVELOPMENT REGULATIONS

Land development regulations (LDRs) are local ordinances that the county has adopted for the purpose of implementing the policy actions of the plan elements. Within one year after submission of its plan or plan amendment for review, the local government shall adopt or amend and enforce land development regulations that are consistent with the implementation of the comprehensive plan.

Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement their adopted comprehensive plan and shall at a minimum include provisions that:

- 1) Regulate the subdivision of land.
- 2) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
- 3) Provide for protection of potable water wellfields.
- 4) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
- 5) Ensure the protection of environmentally sensitive lands.
- 6) Regulate signage.
- 7) Provide that public facilities and services meet or exceed the standards established in the capital improvements element.
- 8) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

SMALL-SCALE FUTURE LAND USE MAP AMENDMENTS

There are small-scale amendments that do not have to go through the amendment review process. These amendments may be adopted by ordinance by the county commission with only one public hearing. The state does not review these small scale amendments; however, public participation is still required and affected parties still have the right to petition these amendments at the local level.

THE EVALUATION AND APPRAISAL REPORT

The Evaluation and Appraisal Report (EAR) process is the principal process for updating local comprehensive plans to reflect changes in local conditions and state policy concerning planning and growth management.

The purpose of the EAR is to assess and evaluate the success and failure of the local comprehensive plan. The report is also required to address changes in local conditions, changes in state and regional policies on planning and growth management, and, through adoption of related amendments, to update the local comprehensive plan to address the issues raised in the EAR.

The first EAR must be prepared no later than seven years after the adoption of the comprehensive plan, and subsequent EARs must be prepared every five years thereafter. These time periods and the exact due dates for adoption and transmittal of a county's EAR may vary based upon the State Land Planning Agency publication of the exact due dates. EARs are not reviewed by the state, but each local government must submit a letter to the State Planning Agency confirming that the process has been completed and listing any needed revisions to the local plan which the EAR process identified.

REFERENCES

1928 Zoning Enabling Act.

1972-1973 State and Regional Comprehensive Planning Acts.

Chapter 163, Part II, Florida Statutes, The 1985 Local Government Comprehensive Planning and Land Development Regulation Act (Florida's Growth Management Act).

Chapter 163, Part II, Florida Statutes, The 1975 Local Government Comprehensive Planning Act.

Chapter 187, Florida States, The State Comprehensive Plan.

Florida Department of Economic Opportunity. <http://www.deo.state.fl.us/>.

Florida Department of Community Affairs. A Guide to Preparing an Evaluation and Appraisal Report, March 2004.

