

## Florida's Community Planning Process

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Vibrant and equitable cities, towns and neighborhoods with a range of housing choices. Transportation options for those who want to walk or bicycle safely, drive or take transit and not get stuck in traffic. Protected natural and agricultural lands. Clean and abundant drinking water. Sparkling rivers and springs for swimming and kayaking. Many Floridians would agree that these are some of the features that make our state special.

But as Florida continues to grow, these and other attributes are increasingly threatened. Instead, today's reality includes sprawling auto-dependent development with congested roads, toxic algae, water shortages, and more.

How can we protect Florida's quality of life for ourselves and for future generations? Since its founding in 1986, 1000 Friends has firmly believed that citizens must play an active role in their communities' planning process to support sustainable, equitable and livable communities.

Many people start to engage in their community's planning process when the property next door is up for rezoning and they are concerned about the impacts on their property. But this is late in the process. The system in Florida starts with the community's adopted local comprehensive plan, Future Land Use Map, and other documents that serve as the local government's "constitution" for controlling and directing the type and amount of development allowed or encouraged in that community.

At the next level are the community's ordinances – or land development regulations – which relate to the subdivision of land, zoning, and other tools for implementing the comprehensive plan. Next comes the development order, which includes actions like rezoning, subdividing or allowing a variance on a specific parcel of land.

Public participation is essential in this process. And the earlier you get involved in the process, the greater your ability to make a difference. Below is more information on the planning process in Florida, and the role you can play.

### LOCAL COMPREHENSIVE PLANS



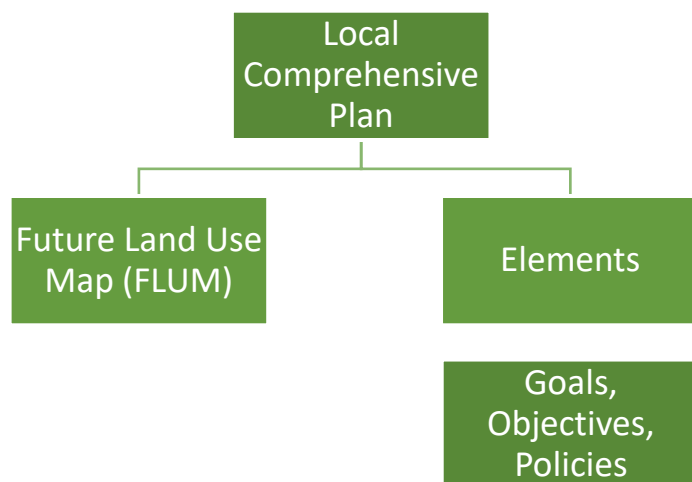
Florida's system of managing growth was born in the 1970s and 1980s when – much like today – the state's population approached 1,000 new residents a day and environmental, water quality, transportation and other associated issues were paramount. Recognizing the serious ramifications for Florida's quality of life and economy, state leaders put in place a host

of new measures culminating in the passage of Florida's landmark 1985 Growth Management Act under then-Governor Bob Graham. Subsequent legislatures and governors have weakened the requirements, but current provisions as outlined in **Chapter 163.3177, F.S.** are described here.

Florida law requires each county and municipal government to adopt and maintain a local comprehensive plan consistent with state and regional plans. These plans are intended to:

- Guide future development
- Overcome existing problems and deal effectively with future problems that may result from the use and development of land
- Preserve, promote, protect, and improve the public health, safety, comfort and good order
- Protect human, environmental, social, and economic resources

A community's comprehensive plan is one tool that elected officials use to establish their priorities, with costs for infrastructure included in the required Capital Improvements Element. The comprehensive plan and costs associated with its implementation also should be a guide when developing a community's annual budget.



Here are the major components of the local comprehensive plan:

**Future Land Use Map (FLUM)** — As part of its local comprehensive plan, each local government must adopt a Future Land Use Map (FLUM) that shows the “proposed distribution, location, and extent of the various categories of land” that the community has included in its local comprehensive plan. Each community maps what it identifies as appropriate locations and densities for future residential, office, commercial, industrial, mixed, and other types of development. Unique local features such as environmentally sensitive areas and

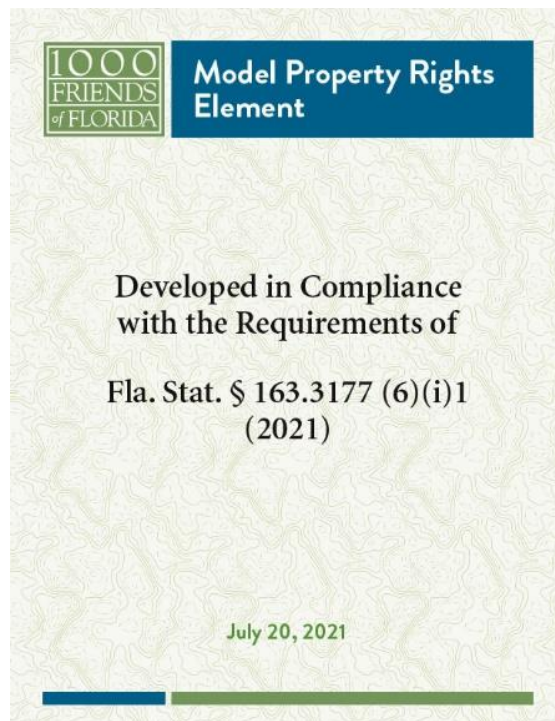
historic resources are often shown. Besides being legally binding, this map helps residents visualize where future growth can and cannot occur.

**Elements**—Local comprehensive plans must contain sections, called elements, that deal with specific aspects of the community's development: capital improvements, future land use, transportation, sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge, natural resource conservation, recreation and open space, housing, coastal management, and intergovernmental coordination. Communities with a population greater than 50,000 must include mass transit, ports and aviation in their transportation elements, while coastal communities must prepare a coastal management element. Optional elements, authorized at each local government's discretion, include historic preservation, arts and culture, economic development, public education, and community design.

In 2021, the Florida Legislature adopted an additional requirement that each community adopt a Property Rights Element. 1000 Friends has prepared a **Model Property Rights Element** to assist communities with meeting this new state requirement.

Each element contains goals, objectives and policies, which become the heart of a local plan. These define the community's vision for its future and identify how it is going to grow. The local government's land development regulations (zoning and subdivision ordinances, for example) must also be consistent with the plan. This consistency mandate is significant, for the local comprehensive plan must be followed if it is to be an effective tool to mitigate the impacts of growth.

**The Comprehensive Plan Amendment Process** – The local comprehensive plan and/or FLUM must be amended if the local government desires to change its patterns of future growth or to allow a proposed development that is inconsistent with the current plan. There are two different types of amendments, small-scale and large-scale.



- ***Small-scale amendments*** apply to parcels of land 50 acres or less in urban areas and 100 acres or less in a designated Rural Area of Opportunity (formerly called Rural Area of Critical Economic Concern). Small-scale amendments are limited to FLUM changes for site-specific small scale development activities. Any text changes must relate directly to and are adopted simultaneously with the small-scale FLUM change. Further, the change must maintain internal consistency between elements of the comprehensive plan. One public hearing before a local government board is required. If adopted, the small-scale amendment takes effect 31 days after adoption unless a challenge is filed. If adopted, the local government may – but is not required to – transmit a copy to DEO.

#### SMALL-SCALE AMENDMENTS AT A GLANCE

- Apply to:
    - Parcels of land 50 acres or less in urban areas
    - Parcels of land 100 acres or less in a designated Rural Area of Opportunity
    - Limited to Future Land Use Map (FLUM) changes and related text
  - Require one public hearing before local governing board
  - If adopted, is effective 31 days after the public hearing is held, unless challenged
- ***Large-scale amendments*** are for parcels greater than 50 acres in urban areas and greater than 100 acres in a designated Rural Area of Opportunity. There are two different processes for large-scale amendments.

- **Expedited Review** requires an initial public hearing during the proposed phase and then a second public hearing during the adoption phase. This process has a fast turnaround. Most comprehensive plan amendments go through the expedited review process.
- **State Coordinated Review** is for amendments related to Areas of Critical State Concern, Rural Land Stewardship, sector plans, evaluation and appraisal (EAR) reports, developments that qualify as developments of regional impact (DRIs), and new plans for newly incorporated municipalities. This process also includes public hearings during both the proposed and adoption phases. There is more opportunity to evaluate impacts on “important state facilities and resources” which, unfortunately are not defined in the statute.

*If you are concerned about a proposed amendment, it is important to raise your concerns early in the process. You may speak or correspond with the commissioners, local planning agency (LPA) members and other decision makers at any time during the process. You also should try to share your concerns with the developer if the amendment relates to a particular project. Finally, it is important to present your concerns and possible solutions at the public hearing either verbally or in writing, and preferably both. While legal challenges are very difficult, if you choose to challenge a comprehensive plan amendment you must show that you are an “affected person” with “standing” (the right) to file a challenge. It is important to get legal guidance on this.*

#### **LARGE-SCALE AMENDMENTS AT A GLANCE**

- Apply to:
  - Parcels of land greater than 50 acres in urban areas
  - Parcels of land greater than 100 acres in a designated Rural Area of Opportunity
- Require two public hearings, one during proposal and one during adoption phase
- Two processes:
  - Expedited Review:
    - Most Large-Scale Amendments go through this process
    - Reviewing agencies submit any comments directly to local government
    - Fairly quick turn around
  - State Coordinated Review:
    - For formal planning areas such as Areas of Critical State Concern, sector plans, developments of regional impact (DRIs)...
    - Reviewing agencies submit comments to Department of Economic Opportunity which prepares report for local government during proposed phase
    - During adoption phase, DEO finds amendment “In Compliance” or “Not in Compliance”

For more detailed information, visit [DEO’s Community Planning webpage](#).



## LAND DEVELOPMENT REGULATIONS (LDRs)

Local Comprehensive Plan

Land Development Regulation

Development Order

Florida's land development regulations established under **Chapter 163.3202, F.S.** include the local ordinances necessary to make the goals, objectives, and policies of the local comprehensive plan work. At a minimum, these include ordinances dealing with the subdivision of land, land use (zoning), compatibility, well fields, flooding, drainage and stormwater management, site plan

approvals, environmentally sensitive lands, signage, and public facilities. These ordinances are the “laws” governing implementation of the local comprehensive plan. The land development regulations must be consistent with the local comprehensive plan and not inconsistent with the State Comprehensive Plan, the Strategic Regional Policy Plan, and the Regional Water Supply Plan.

A zoning ordinance is the local law that identifies the allowable use for each piece of property within a community, which is usually at a smaller scale than the plan's Future Land Use Map. It also includes development standards that specify such things as how far a house should be set back from the road, the number of parking spaces required for an office, or the amount of space that must remain open on a commercial lot.

In addition to residential, commercial, and other standard zones, many cities and counties have “overlay zones” for areas of special concern such as floodplains, historic districts, or environmentally sensitive lands. These are governed by additional development standards intended to protect the special character of these properties. All zoning must be consistent with the local comprehensive plan and Future Land Use Map.

In some ways, the process for adopting land development regulations is similar to that for adopting local comprehensive plan amendments. Local governments conduct at least two public hearings before adopting land development regulations. Depending on the scope of the proposed ordinance, they may also hold public workshops or other meetings to receive public input.

As in the process for local comprehensive plan amendments, if given this responsibility by the local government, the LPA conducts at least one publicly noticed hearing to receive testimony on proposed land development regulations. Citizens are encouraged to testify or submit written comments to provide their input on the proposal.

The governing body then must hold two publicly noticed hearings to adopt the proposed land development regulation. Again, any citizen may testify or provide written comments.

*If you are concerned about a proposed land development regulation, it is important to raise your concerns early in the process. You may speak or correspond with the commissioners, LPA members and other decision makers any time during the process. Finally, it is important to present your concerns and possible solutions at the public hearing either verbally or in writing, and preferably both. If you are a “substantially affected” person contemplating a legal challenge, you may wish to testify at the adoption hearing;*

*while not legally required, this may strengthen your position with the challenge. Again, it is important to have legal guidance.*

## DEVELOPMENT ORDERS



The final step in the local planning process is the local government's approval or denial of a development order for a specific development or building project. Development orders, which are described in **Chapter 166.033, F.S.**, include zoning changes, variances, and subdivision plat approvals, all of which require public notification and a public hearing before a decision is made.

Prior to issuing the development order, the local government holds a publicly noticed "quasi-judicial hearing" where the developer and any other party establishing standing can present evidence and witnesses in support of their position.

*If you have concerns about a particular project, it is always important to try to meet with the developer early in the process. This is especially true with development orders, as they are more difficult to challenge than comprehensive plan amendments or land development regulations. In quasi-judicial issues such as development orders, the local elected body is acting, in essence, like a court. Local governments may elect to hold these trial-like "quasi-judicial proceedings" before the elected officials or the LPA or may adopt a special master process in which a recommended order is issued to the governing body. Generally, "ex parte" communication – discussing these proposals in writing or in person with elected officials or appointed boards involved in decision-making – is not allowed at any time in this process.*

At this hearing, persons wishing to testify must establish that they are "aggrieved or adversely affected," and then should introduce evidence and testimony into the record before the local government as to why the development order is inconsistent with the local comprehensive plan and land development regulations. Participation in the quasi-judicial hearing is different than offering public testimony in favor of or opposition to a proposed development order and is subject to cross-examination. After the hearing, the government may issue or deny the development order.

Below are various types of development orders:

**Rezoning** – If a landowner wants a use not allowed under the current zoning, he or she must request that the city or county rezone the property. The city or county commission cannot approve zoning that is inconsistent with the local comprehensive plan, FLUM or land development regulations.

**Variances** – If the physical characteristics of a property make it difficult or impossible to develop under the development standards identified in the zoning ordinance, the property owner may request a variance. The applicant must demonstrate "unique hardship" if he or she were required to follow the development standards set forth in the zoning category. Generally, a variance is authorized if it is due to circumstances unique to the applicant's property itself and not shared by other property in the area. In

addition, the hardship cannot be self-created. An economic disadvantage is not considered a hardship that would warrant a variance. For example, if a lot with a historic building in a designated historic district is too small to accommodate the required number of parking spaces, a parking variance may be granted, permitting fewer parking spaces.

**Subdivision Platting** – When a parcel of land is divided to accommodate development, it must go through a subdivision platting process. The local comprehensive plan and land development regulations govern subdivision design, including lot size, open space requirements, and improvements such as street construction and sewer lines. State law establishes minimum criteria for platting. Additionally, depending on local requirements, the developer may be required to pay fees such as school impact fees, park fees, etc.

**Planned Unit Developments (PUDs)** – To provide flexibility from zoning and subdivision regulations, local governments may provide for planned unit developments. Here, a developer may choose to prepare a plan for a parcel of land, including a variety of residential uses and common open space. The parcel may then be developed in approved stages in conformity with a final development plan.

## PERMITTING

While technically separate from the growth management process, permitting is an important tool in determining what development will occur. Planning is “big picture” and deals with the appropriateness of a type of project in a particular region of the community. Permitting determines whether a specific project, already allowed under planning regulations, can meet additional requirements regarding pollution, stormwater runoff, natural resource protection, and the like. Permitting is also discussed in **Chapter 166.033, F.S.**

Permitting is a more narrowly focused, site-specific assessment of the impacts of a particular project. The project’s impacts must be within allowable standards, or the impacts must be mitigated to reach allowable standards in order for a permit to be issued. For example, the local plan might allow manufacturing in a portion of the county, but an automobile manufacturing plant intended for that area might not receive the needed permit because its pollution emissions were greater than the standards allow.

It is important to understand the differences between planning and permitting. You do not want to find yourself arguing principles of sound planning if you are involved in a permitting process and vice-versa.

## PUBLIC PARTICIPATION

As shown in this document, the local governments are legally obligated to provide opportunities for public participation in the manner described. Traditionally, (with notable exceptions for development orders), this has included providing written comments and speaking in person at public hearings and meetings. But due to COVID-19, many communities allowed virtual participation. It is important that communities continue to offer virtual participation options so that those unable to attend in person can still share their input.

It is important to remember that public policy is shaped by those who participate in the process. To participate fully in community’s planning process, ideally you should:

- Obtain copies of the agenda item and/or application.



- Read the application, comprehensive plan, land development regulations, and other pertinent documents as they apply to the application.
- Maintain a calendar of important dates and, if you are considering a challenge, include legal requirements and deadlines.
- Seek expert input from planners, engineers, and other professionals, if possible, and community leaders who may be able to help you better understand the issues and workable alternatives.
- Meet with the developer to discuss your concerns. Share solutions, if possible.
- Meet with and/or call planning staff and local elected and appointed officials involved in the process to discuss your concerns. Be aware that, under Florida law, it is not usually permissible to call or meet with elected officials to discuss development orders such as rezoning a parcel of land.
- Build support by working with a local smart growth advocacy group if one exists, identifying possible supporters, developing your message, generating grassroots support, and getting the media involved. Social media is a powerful tool to inform, raise awareness, and organize neighbors to provide meaningful input to elected officials. Include specific information about your unresolved concerns and share specific information on how others can share their input in a meaningful way.
- Prepare a written statement on your position and send it to each reviewing agency.
- Attend the related public meetings and hearings, and sign in, if possible.
- Speak at a meeting or hearing, giving a copy of the written material you produced to the presiding officer for the official record. Be sure to keep a copy for your records.

The public participate process for issues related to the comprehensive plan are outlined in **Chapter 163.3181, F.S.** In some cases, some of these steps may help you establish “standing” (or in layman’s terms the “right”) to challenge a government decision or may strengthen your case if you go to court. Due to changes in state law over the last decade, it has become increasingly difficult to mount a successful citizen challenge. Additionally, in 2019, Gov. DeSantis signed HB 7103, which includes a provision subjecting anyone who challenges a development order as inconsistent with a comprehensive plan and loses to pay the legal fees of the winner. It is important to consider the significant new financial risk in weighing whether to file challenges.

## CITIZEN PLANNERS

Florida needs “citizen planners” who get involved early in the process rather than after plans have been adopted and development orders issued. It’s important to do your homework. Equally important, work to promote positive changes to your community planning documents and support effective candidates for office at the local, state, and federal levels.

### To find out more visit:

- 1000 Friends of Florida’s **Community Planning webpage** for more on planning tools
- Florida Department of Economic Opportunity **Community Planning webpage** for more information on the process, timeline, and public hearing requirements.