# FLORIDA HOUSE OF REPRESENTATIVES
# BILL ANALYSIS

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

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| **BILL #:** CS/CS/HB 579 | **COMPANION BILL:** CS/SB 1080 (McClain) |
| **TITLE:** Land Use and Development | **LINKED BILLS:** None |
| **SPONSOR(S):** Overdorf | **RELATED BILLS:** None |

**Committee References**

| Housing, Agriculture & Tourism | ➤ | Intergovernmental Affairs | ➤ | Commerce |
|---|---|---|---|---|
| 17 Y, 0 N | | 16 Y, 0 N, As CS | | 15 Y, 8 N, As CS |

## SUMMARY

**Effect of the Bill:**

The bill requires local governments to specify the minimum information required for certain zoning applications; process an application for a development permit or order within certain timeframes; and issue a refund to an applicant if the local government fails to meet those timeframes, unless an exception applies.

Additionally, the bill:

- Provides that the production of ethanol from plants and plant products by certain processes does not constitute chemical manufacturing or chemical refining.
- Prohibits school districts from imposing any fee in lieu of an impact fee, unless an exception applies.
- Specifies that certain fees may be used by local governments to process or enforce building permits.
- Amends and creates certain definitions under the Homeowners' Association Act (Act).
- Modifies the scope of the Act as it relates to amenities and properties governed by a recreational covenant
- Requires expenses related to amenities to be included in financial reports under the Act.
- Creates certain requirements, limitations, and disclosures for parcels subject to a recreational covenant.

**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:**

**Minimum Information for Certain Zoning Applications**

The bill requires a local government[1] to specify in writing the minimum information that must be submitted in an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. Under the bill, the local government must:

- Make the minimum information available for inspection and copying at the location where the local government receives applications for development permits and orders;
- Provide the minimum information to the applicant at a pre-application meeting; or
- Post the minimum information on the local government's website. (Section 1 for counties; Section 4 for municipalities.)

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

**Timeframes for Processing Certain Zoning Applications**

Within 5 business days after receiving an application for approval of a development permit or development order, the bill requires a local government to confirm receipt of the application using contact information provided by the applicant. (Section 1 for counties; Section 4 for municipalities.)

The bill clarifies that, within 30 days of receiving an application for approval of a development permit or order, a local government must review the application for completeness and either:

- Issue a written notification to the applicant indicating that all required information was submitted; or
- Specify, with particularity and in writing, any areas that are deficient. (Section 1 for counties; Section 4 for municipalities.)

For applications that do not require final action through a quasi-judicial or public hearing, the bill requires a local government to approve, approve with conditions, or deny the application for a development permit or order within 120 days after the local government has deemed the application complete. For applications that do require final action through a quasi-judicial or public hearing, local governments must approve, approve with conditions, or deny the application within 180 days after the local government has deemed the application complete. (Section 1 for counties; Section 4 for municipalities.)

The bill specifies that a local government and an applicant may agree in writing or in a public meeting or hearing to an extension of time to process the application for a development permit or order. (Section 1 for counties; Section 4 for municipalities.)

The bill provides that the timeframes for processing an application restart if an applicant makes a substantive change to the application. The bill defines a substantive change as an applicant-initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel. (Section 1 for counties; Section 4 for municipalities.)

**Requirement to Issue a Refund for Certain Zoning Application Fees**

The bill requires a local government to issue a refund to an applicant equal to:

- Ten percent of the application fee if the local government fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.
- Ten percent of the application fee if the local government fails to issue a written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information pursuant to an initial request by the local government to furnish the additional information.
- Twenty percent of the application fee if the local government fails to issue a written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information pursuant to a second request by the local government to furnish the additional information.
- Fifty percent of the application fee if the local government fails to approve, approve with conditions, or deny the application within 30 days after conclusion of the 120-day or 180-day timeframe for processing applications.
- One hundred percent of the application fee if the local government fails to approve, approve with conditions, or deny an application 31 days or more after conclusion of the 120-day or 180-day timeframe for processing applications. (Section 1 for counties; Section 4 for municipalities.)

Under the bill, however, a local government is not required to issue a refund in any of the foregoing scenarios if:

- The applicant and the local government agree to an extension of time;
- The delay is caused by the applicant; or
- The delay is attributable to an unforeseen, extraordinary circumstance. (Section 1 for counties; Section 4 for municipalities.)

**Production of Ethanol from Plants or Plant Products**

The bill amends the Agricultural Lands and Practices Act[2] to specify that production of ethanol from plants or plant products[3] by fermentation, distillation, or drying does not constitute chemical manufacturing or chemical refining. These provisions in the bill are intended to be remedial and clarifying in nature and apply retroactively to any law, regulation, or ordinance, or any interpretation thereof. (Section 2.)

**Process for Adoption of Comprehensive Plan Amendment**

The bill provides that if:

- A local government fails to hold a second public hearing on the proposed comprehensive plan amendment(s) within 180 days after receiving agency comments, then the amendment(s) are deemed withdrawn, with certain exceptions.
- A local government holds a second public hearing, but does not adopt the proposed amendment (s) at that hearing or within 180 days after that hearing, then the amendments are deemed withdrawn. (Section 3.)

The bill increases the amount of days within which a local government must transmit a comprehensive plan amendment to the state land planning agency[4] from 10 days to 30 days. (Section 3.)

The bill provides that the above provisions relating to adoption of a comprehensive plan amendment are remedial in nature, are intended to clarify existing law, and apply retroactively to January 1, 2022. (Section 3.)

**Alternative Fees for Educational Concurrency**

The bill prohibits a school district from collecting, charging, or imposing any alternative fee in lieu of an impact fee to mitigate the effects of development on educational facilities unless the fee would meet the dual rational nexus test.[5] If an alternative fee is challenged, the school district must prove by a preponderance of the evidence that the fee meets the requirements of the test. (Section 5.)

**Fees Related to Enforcement of the Florida Building Code**

The bill specifies that fees imposed by local governments, and any related fines or investment earnings, imposed to enforce the Florida Building Code may only be used for carrying out the local government's responsibilities in enforcing the Florida Building Code, which includes, but is not limited to, ***any process or enforcement related to obtaining and finalizing a building permit***. (Section 6.)

Similarly, the bill clarifies that planning and zoning or other general government activities not related to obtaining a building permit may not be funded with fees adopted for enforcing the Florida Building Code. (Section 6.)

**Definitions Under the Homeowners' Association Act**

The bill amends the Florida Homeowners' Association Act[6] (HOA Act) to define the following terms:

- "Amenity dues" means dues charged in accordance with a recreational covenant. The term does not include the expenses of a homeowners' association.
- "Recreational covenant" means a recorded covenant, separate and distinct from a declaration of covenants, which provides the nature and requirements of a membership in or the use or purchase of privately owned commercial recreational facilities or amenities for parcel owners in one or more communities or community development districts and which:
    - Is recorded in the public records of the county in which the recreational facility or amenity or a property encumbered thereby is located;

[2] S. 163.3162, F.S.

[3] For purposes of these provisions, "plants or plant products" means trees, shrubs, vines, forage and cereal plants, and all other plants and plant parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all products made from them, unless specifically excluded by the rules of the Florida Department of Agriculture and Consumer Services. S. 581.011(27), F.S.

[4] State land planning agency means the Department of Commerce. S. 163.3164(46), F.S.

[5] *See* s. 163.31801(4)(f) and (g), F.S.

[6] Ch. 720, F.S.

- Contains information regarding the amenity dues that may be imposed on members and other persons permitted to use the recreational facility or amenity and remedies that the recreational facility or amenity owner or other third party may have upon nonpayment of such amenity dues; and
- Requires mandatory membership or mandatory payment of amenity dues by some or all of the parcel owners in a community. (Section 7.)

The bill also amends existing definitions under the HOA Act as follows:
- Clarifies that "[a]ssessment," does not include "amenity fee."
- The term "[g]overning documents" does not include recreational covenants respecting commercial recreational facilities or amenities, regardless of whether such recreational covenants are attached as exhibits to, or referenced in, a declaration of covenants. (Section 7.)

**Scope of the Homeowners' Association Act**

The bill modifies the scope of the HOA Act to exempt privately-owed recreational amenities. The bill specifies that the HOA Act does not apply to recreational covenants or recreational facilities or amenities governed by a recreational covenant, except as provided below. (Section 8.)

**Parcels Subject to a Recreational Covenant**

The bill provides that recreational facilities and amenities governed by a recreational covenant are not a part of a common area. (Section 10.)

Additionally, the bill allows amenity dues to be imposed and collected only as provided in a recreational covenant. The bill prohibits amenity dues from being increased by more than 10 percent from the preceding fiscal year, unless the parcel owners subject to the recreational covenant, by a majority vote, approve an increase in excess of 10 percent. (Section 10.)

Under the bill, if the recreational facilities or amenities are intended to be converted to another use or sold, the parcels which are subject to mandatory membership in a club or to the imposition of mandatory amenities dues, or the association responsible for governing the parcels, have the right of first refusal to purchase the facilities or amenities at fair market value, and shall be given notice at least 180 days prior to the intended conversion or sale. However, in the event that a recreational covenant recorded before October 1, 2025 contains a purchase price or formula for determining the purchase price, then the terms of the recreational covenant shall govern the purchase and sale of the facilities or amenities. (Section 10.)

The bill requires a recreational covenant recorded on or after October 1, 2025, which creates mandatory membership in a club or imposes mandatory amenity dues on parcel owners, to specify all of the following:
- The parcels within the community which are or will be subject to mandatory membership in a club or to the imposition of mandatory amenity dues.
- The person responsible for owning, maintaining, and operating the recreational facility or amenity governed by the recreational covenant, which may be the developer.
- The manner in which amenity dues are apportioned and collected from each encumbered parcel owner, and the person authorized to collect such dues. The recreational covenant must specify the components that comprise the amenity dues.
- The manner in which amenity dues may be increased, which increase may occur periodically by a fixed percentage, a fixed dollar amount, or in accordance with increases in the Consumer Price Index for All Urban Consumers released in January of each year.
- The rights and remedies that are available relating to payment and collection of amenity dues.
- A statement of whether collection rights to enforce payment of amenity dues are subordinate to an association's right to collect assessments.
- A statement of whether the recreational facility or amenity is open to the public or may be used by persons who are not members or parcel owners within the community. (Section 10.)

The bill requires a recreational covenant recorded before October 1, 2025, to comply with certain requirements[7] in the bill by October 1, 2026, to remain valid and effective after that date. (Section 10.)

The bill prohibits a recreational covenant, notwithstanding any provision in the recreational covenant to the contrary, from requiring an association to collect amenity dues on behalf of a private third-party commercial recreational facility or amenity owner. The bill specifies that the private third-party commercial recreational facility or amenity owner is solely responsible for the collection of such dues. (Section 10.)

Under the bill, the termination of a recreational covenant or the right of a private amenity owner to suspend the right of a parcel owner to use a privately owned recreational facility or amenity may not:

- Prohibit an owner or a tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel;
- Prohibit an owner or a tenant of a parcel from receiving utilities provided to the parcel by virtue of utility facilities or utility easements located within the privately owned recreational facility or amenity; or
- Prohibit an owner or a tenant of a parcel from having access to any mail delivery facility serving the parcel which is located within the privately owned recreational facility or amenity. (Section 10.)

Beginning October 1, 2025, the bill requires each contract for the sale of a parcel by a developer or builder to a third party which is governed by an association, but is also subject to a recreational covenant, to contain in conspicuous type a clause that substantially states the following, if the contract does not already contain a disclosure that meets the requirements of the Interstate Land Sales Full Disclosure Act of 1968, as amended:[8]

DISCLOSURE SUMMARY

YOUR LOT, DWELLING, AND/OR PARCEL IS SUBJECT TO A RECREATIONAL COVENANT, AS DEFINED IN SECTION 720.301, FLORIDA STATUTES. AS A PURCHASER OF PROPERTY SUBJECT TO THE RECREATIONAL COVENANT, YOU WILL BE OBLIGATED TO PAY AMENITY DUES TO A PRIVATE THIRD-PARTY COMMERCIAL RECREATIONAL FACILITY OR AMENITY OWNER.

PURCHASER ACKNOWLEDGES ALL OF THE FOLLOWING:

(1) THE RECREATIONAL FACILITY OR AMENITY GOVERNED BY THE RECREATIONAL COVENANT IS NOT A COMMON AREA OF THE HOMEOWNERS' ASSOCIATION AND IS NOT OWNED OR CONTROLLED BY THE HOMEOWNERS' ASSOCIATION. THE RECREATIONAL COVENANT IS NOT A GOVERNING DOCUMENT OF THE ASSOCIATION.

(2) CHARGES FOR AMENITY DUES WILL BE GOVERNED BY THE RECREATIONAL COVENANT. THE RECREATIONAL COVENANT CONTAINS IMPORTANT PROVISIONS AND RIGHTS AND IS AVAILABLE IN THE PUBLIC RECORDS OF THE COUNTY.

(3) THE PARTY THAT CONTROLS THE MAINTENANCE AND OPERATION OF THE RECREATIONAL FACILITY OR AMENITY DETERMINES THE BUDGET FOR THE OPERATION AND MAINTENANCE OF SUCH RECREATIONAL FACILITY OR AMENITY. HOWEVER, THE PARCEL OWNERS SUBJECT TO THE RECREATIONAL COVENANT ARE STILL RESPONSIBLE FOR AMENITY DUES.

(4) AMENITY DUES MAY BE SUBJECT TO PERIODIC CHANGE. AMENITY DUES ARE IN ADDITION TO, AND SEPARATE AND DISTINCT FROM, ASSESSMENTS LEVIED BY THE HOMEOWNERS' ASSOCIATION.

[7] The requirements include those provided in s. 720.319(4), F.S., as created by the bill.
[8] 15 U.S.C. §§ 1701-1720.

(5) FAILURE TO PAY AMENITY DUES OR OTHER CHARGES IMPOSED BY A PRIVATE THIRD-PARTY COMMERCIAL RECREATIONAL FACILITY OR AMENITY OWNER MAY RESULT IN A LIEN ON YOUR PROPERTY.

(6) THIRD PARTIES WHO ARE NOT MEMBERS OF THE HOMEOWNERS' ASSOCIATION MAY HAVE THE RIGHT TO ACCESS AND USE THE RECREATIONAL FACILITY OR AMENITY, AS DETERMINED BY THE ENTITY THAT CONTROLS SUCH PROPERTIES.

(7) MANDATORY MEMBERSHIP REQUIREMENTS OR OTHER OBLIGATIONS TO PAY AMENITY DUES CAN BE FOUND IN THE RECREATIONAL COVENANT.

(8) THE PRIVATE THIRD-PARTY COMMERCIAL RECREATIONAL FACILITY OR AMENITY OWNER MAY HAVE THE RIGHT TO AMEND THE RECREATIONAL COVENANT WITHOUT THE APPROVAL OF MEMBERS OR PARCEL OWNERS, SUBJECT TO THE TERMS OF THE RECREATIONAL COVENANT AND SECTION 720.319, FLORIDA STATUTES.

(9) THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE RECREATIONAL COVENANTS BEFORE PURCHASE. THE RECREATIONAL COVENANT IS EITHER A MATTER OF PUBLIC RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED OR IS NOT RECORDED AND CAN BE OBTAINED FROM THE DEVELOPER. (Section 10.)

The bill specifies the above provisions may not be construed to impair the validity or effectiveness of a recreational covenant recorded before October 1, 2025, except as otherwise provided. (Section 10.)

The bill requires the above disclosures to be supplied by the developer or, if the sale is by a parcel owner that is not the developer, by the parcel owner. After October 1, 2025, the bill requires any contract or agreement for sale for a parcel which is governed by a homeowners' association and is also subject to a recreational covenant to refer to and incorporate the disclosure summary and include, in prominent language, a statement that the prospective purchaser should not execute the contract or agreement until the purchaser has received and read the disclosure summary. (Section 10.)

The bill specifies that, after October 1, 2025, if the disclosure summary is not provided to a prospective purchaser as required by the bill, the purchaser may void the contract by delivering to the seller or the seller's agent or representative written notice canceling the contract within 3 days after receipt of the disclosure summary or before closing, whichever occurs later. This right may not be waived by the purchaser but terminates at closing. (Section 10.)

The bill provides that the above provisions do not apply to a corporation not for profit pursuant to chapter 617 or a local governmental entity, including, but not limited to, a special district created pursuant to chapter 189 or chapter 190. (Section 10.)

**Financial Reports**

The bill amends the information to be included in the annual financial reports required under the HOA Act to include information related to amenity dues and operational costs, expenses, and other amounts expended for the operation of certain facilities, amenities, or other properties. (Section 9.)

The bill has an effective date of October 1, 2025. (Section 16.)

**FISCAL OR ECONOMIC IMPACT:**

LOCAL GOVERNMENT:

The bill may have an indeterminate negative fiscal impact on counties and municipalities to the extent those governments must issue refunds for failing to meet statutory deadlines relating to development permits and

orders and on school districts to the extent any district charges an alternative fee that does not meet the requirement of the dual rational nexus test.

PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact to the extent applicants receive refunds from counties and municipalities that fail to meet statutory deadlines relating to development permits and orders and are no longer subject to alternative fees that do not meet the dual rational nexus test.

The bill's amendments to the Homeowners' Association Act may have an indeterminate impact on homeowners' associations in Florida, to the extent the homeowners' associations have privately-owned recreational amenities or recreational covenants or recreational facilities or amenities governed by a recreational covenant.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

**Comprehensive Planning**

The Community Planning Act[9] provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[10] Each county and municipality must maintain a comprehensive plan to guide future development and growth.[11]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[12] 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.[13]

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.[14] A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[15] Local governments may also include optional elements in their comprehensive plan.[16] 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.[17]

**Process for Adoption of Comprehensive Plan Amendments**

[9] Ch. 163, Part II, F.S.
[10] S. 163.3167(1), F.S.
[11] S. 163.3167(2), F.S.
[12] S. 163.3194(1)(a), F.S.
[13] *See, e.g.,* Comprehensive Plan of Sarasota County, Fla. Codified through Ordinance No. 2024-028 (May 2024). Future Land Use Policy 1.1.1. https://library.municode.com/fl/sarasota_county/codes/comprehensive_plan?nodeId=ELEMENT_3LAUS (last visited Apr. 18, 2025).
[14] S. 163.3177(1), F.S.
[15] S. 163.3177(6), F.S.
[16] S. 163.3177(1)(b), F.S.
[17] *Id*.

Most comprehensive plan amendments adopted by local governments must follow the expedited state review process,[18] unless an exception applies.[19] Under the expedited state review process a local government has 10 working days after the initial public hearing to transmit the amendment(s) and supporting data and analyses to the reviewing agencies[20] and certain other local governments and agencies.[21]

The local government must then hold a second public hearing, which is a hearing on whether to adopt the plan amendment(s).[22] If the local government fails to hold the second public hearing and adopt the amendment(s) within 180 days after receipt of agency comments, then the amendment(s) are deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment.[23]

All comprehensive plan amendments adopted by the local government, along with the supporting data and analyses, must be transmitted within 10 working days after the final adoption hearing to the state land planning agency[24] and any other agency or local government that provided timely comments.[25] If the local government fails to transmit the amendment within 10 working days after the final adoption hearing, the amendments are deemed withdrawn.[26]

The state land planning agency then has 5 working days after receipt of an amendment package within which it must notify the local government of any deficiencies.[27] A comprehensive plan amendment does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete.[28] If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission[29] enters a final order determining the adopted amendment to be in compliance.[30]

## Development Permits and Orders

Under the Community Planning Act, a development permit is any official action of a local government permitting the development of land.[31] Development plans include, but are not limited to, building permits, zoning permits,

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[18] S. 163.3184(2)(a), F.S.
[19] Plan amendments that qualify as small-scale development may follow the small-scale review process pursuant to s. 163.3187, F.S. Plan amendments that are in an area of critical state concern; propose a rural land stewardship; propose a sector plan or an amendment to an adopted sector plan; update a comprehensive plan based on a certain evaluation and appraisal; or are new plans for newly incorporated municipalities must follow the state coordinated review process pursuant to s. 163.3184(4), F.S. *See* ss. 163.3184(2)(b) and (c), F.S.
[20] S. 163.3184(3)(b)1., F.S. "Reviewing agencies" means the state land planning agency (the Department of Commerce); the appropriate regional planning council; the appropriate water management district; the Department of Environmental Protection; the Department of State; the Department of Transportation; in the case of plan amendments relating to public schools, the Department of Education; in the case of plans or plan amendments that affect a military installation listed in s. 163.3175, F.S. the commanding officer of the affected military installation; in the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and in the case of municipal plans and plan amendments, the county in which the municipality is located. S. 163.3184(1)(c), F.S.
[21] S. 163.3164(3)(b)1., F.S.
[22] S. 163.3184(3)(c)1., F.S.
[23] *Id.*
[24] State land planning agency means the Department of Commerce. S. 163.3164(46), F.S.
[25] S. 163.3184(3)(c)2., F.S.
[26] *Id.*
[27] S. 163.3184(3)(c)3., F.S. An application is deemed complete if it contains a full, executed copy of the documents specified in s. 163.3184(3)(c)3.a.–d., F.S.
[28] S. 163.3184(3)(c)4., F.S.
[29] The Administration Commission is comprised of the Governor and the Cabinet. S. 163.3164(2), F.S.
[30] *Id.*
[31] S. 163.3164(16), F.S.

subdivision approval, rezoning, certifications, special exceptions, and variances.[32] A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[33]

Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a letter indicating that all required information is submitted or specify any areas that are deficient.[34] If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information.[35]

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.[36] 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.[37] An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision.[38] These timeframes do not apply in an area of critical state concern.[39]

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.[40]

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 must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 30 days of receiving the information, if the request is the county's or municipality's first request.[41]
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 10 days of receiving the additional information, if the request is the county's or municipality's second request.[42]
- 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, if the request is the county's or municipality's third request.[43]

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues. 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.[44]

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.[45]

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[32] *Id*. Areas
[33] *See* ss. 125.022, F.S., 163.3164(15), F.S., and 166.033, F.S.
[34] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[35] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[36] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[37] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[38] Ss. 125.022(1), F.S. and 166.033(1), F.S.
[39] Ss. 125.022(1), F.S. and 166.033(1), F.S. Areas of critical state concern are designated in s. 380.0552, F.S., and ch. 28-36, Fla. Admin. Code.
[40] Ss. 125.022(2)(a) and 166.033(2)(a), F.S.
[41] Ss. 125.022(2)(b) and 166.033(2)(b), F.S.
[42] Ss. 125.022(2)(c) and 166.033(2)(c), F.S.
[43] Ss. 125.022(2)(d) and 166.033(2)(d), F.S.
[44] Ss. 125.022(2)(e) and 166.033(2)(e), F.S.
[45] Ss. 125.022(3) and 166.033(3), F.S.

**Concurrency**

In the context of comprehensive planning, "concurrency" refers to the concept of providing additional public facilities necessary to achieve and maintain standards of service in the community in a timely manner in response to increased demand caused by development.[46] All local government comprehensive plans must provide for concurrency in providing public facilities and services for sanitary sewer, solid waste, drainage, and potable water, but local governments may extend concurrency requirements to other public facilities such as transportation and schools.[47] When concurrency is applied to other public facilities and services, the local comprehensive plan must provide sufficient principles, standards, and adopted levels of service to guide its implementation.[48] Concurrency requirements apply to state facilities and other public facilities to the same extent as all other facilities and development.[49]

**Impact Fees**

One method of funding local government concurrency requirements is through the adoption and imposition of impact fees on new development. Local governments impose impact fees to fund infrastructure[50] needed to expand local services to meet the demands of population growth caused by new development.[51] Impact fees must meet the following minimum criteria when adopted:

- The fee must be calculated based on a study using the most recent and localized data available within four years of the update.
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.
- Charges imposed for the collection of impact fees must be limited to the actual administrative costs.
- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.
- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.
- The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.[52]

The types of impact fees charged and the timing of their collection after issuing a building permit are within the discretion of the local government or special district authorities choosing to impose the fees.[53] In general, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any

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[46] *See* s. 163.3180(5)(d), F.S. *See also*, David M. Layman, *Concurrency and Moratoria*, 71 Fla. B.J. 49 (January 1997).
[47] S. 163.3180(1), (5), and (6), F.S.
[48] S. 163.3180(1)(a), F.S.
[49] S. 163.3180(4), F.S.
[50] "Infrastructure" means the fixed capital expenditure or outlay for the construction, reconstruction, or improvement of public facilities with a life expectancy of five or more years, together with specific other costs required to bring the public facility into service but excluding the costs of repairs or maintenance. The term also includes specific equipment. S. 163.31801(3), F.S.
[51] S. 163.31801(2), F.S. Water and sewer connection fees are not impact fees. S. 163.31801(12), F.S.
[52] S. 163.31801(4), F.S.
[53] *See* s. 163.31801(2), F.S.

building.[54] A development permit pertains to 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.[55] Local governments providing an exception or waiver of impact fees for the development or construction of affordable housing are not required to use any revenues to offset the impact of such development.[56]

## Dual Rational Nexus Test

Both federal and Florida courts have found the imposition of impact fees appropriate where the local government meets two fundamental requirements known as the dual rational nexus test, which requires impact fees to have a reasonable connection or rational between the:

- Need for additional capital facilities and the population growth generated by the project, and
- Expenditures of the funds collected from the impact fees and the benefits accruing to the subdivision or project.[57]

Meeting the second criterion requires the local government ordinance imposing the impact fee to earmark the funds collected to acquire the new capital facilities necessary to benefit the new residents.

These requirements were codified in 2019.[58]

## Agricultural Lands and Practices Act

The Agricultural Lands and Practices Act[59] (ALP Act) was passed in 2003 to prohibit duplicative and burdensome regulations placed on farmers and agricultural lands by government entities.[60] In 2013, the ALP Act was amended to prohibit local governments from adopting rules for practices on farms that are otherwise regulated by the Department of Environmental Protection, the Florida Department of Agriculture and Consumer Services, or the water management districts.[61]

## Florida Building Code

In 2000, the Legislature authorized implementation of the first edition of the Florida Building Code (Building Code).[62] Now in its eighth edition, the Building Code governs the design, construction, modification, repair, and demolition of public and private buildings, structures, and facilities in the state.[63]

The Florida Building Codes Act[64] allows local governments to charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.[65] Such fees shall be used solely for

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[54] S. 553.79, F.S.
[55] S. 163.3164(16), F.S.
[56] S. 163.31801(11), F.S.
[57] *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA 1983). *See generally Nolan v. California Coastal Commission*, 483 U.S. 825 (1987) (exactions must have nexus to impact), *Dolan v. City of Tigard*, 512 U.S. 374 (1994) (exactions must be roughly proportional to impact), *Koontz v. St. John's Water Management District*, 570 U.S. 595 (2013) (*Nolan* and *Dolan* requirements apply to money and land), and *St. Johns County v. Northeast Florida Builders Ass'n, Inc.*, 583 So. 2d 635 (Fla. 1991).
[58] *See* ch. 2019-106, Laws of Fla., codified at s. 163.31801(4)(f) and (g), F.S.
[59] S. 163.3162, F.S.
[60] S. 163.3162(1), F.S. *See also*, Florida Farm Bureau Federation, *Statutory Exemptions and Transportation Laws for Agriculture (2016 Edition)*, p. 11, https://www.floridafarmbureau.org/wp-content/uploads/2016/10/Statuatory-Exemptions-and-Transportation-Laws-for-Agriculture-2016-Updated.pdf (last visited Apr. 12, 2025).
[61] S. 163.3162(3)(a), F.S. *See also*, Florida Farm Bureau Federation, *Statutory Exemptions and Transportation Laws for Agriculture (2016 Edition)*, p. 11, https://www.floridafarmbureau.org/wp-content/uploads/2016/10/Statuatory-Exemptions-and-Transportation-Laws-for-Agriculture-2016-Updated.pdf (last visited Apr. 12, 2025).
[62] Florida Housing Finance Corporation, *Overview of the Florida Building Code*, https://www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab4.pdf (last visited Apr. 18, 2025).
[63] *Id. See also*, International Code Council, *Florida Building Codes*, https://codes.iccsafe.org/codes/florida (last visited Apr. 18, 2025); ss. 553.72 and 553.73, F.S.
[64] Ch. 553.70, Part IV, F.S.
[65] S. 553.80(7)(a), F.S.

carrying out the local government's responsibilities in enforcing the Building Code.[66] 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.[67] Local governments must post all building permit and inspection fee schedules on their website.[68]

Under the Florida Building Codes Act, the following activities may not be funded with fees adopted for enforcing the Building Code:

- Planning and zoning or other general government activities.
- Inspections of public buildings for a reduced fee or no fee.
- Public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.
- Enforcement and implementation of any other local ordinance, excluding validly adopted local amendments to the Florida Building Code and excluding any local ordinance directly related to enforcing the Florida Building Code.[69]

## Homeowners' Association Act

A homeowners' association (HOA) is an entity responsible for the operation of a community in which the voting membership is made up of parcel[70] owners,[71] and in which membership is a mandatory condition of parcel ownership.[72] The Homeowners' Association Act[73] (HOA Act) regulates the operation of HOAs in Florida.[74] Under current law, the HOA Act does not apply to:

- A community that is composed of property primarily intended for commercial, industrial, or other nonresidential use; or
- The commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.[75]

For a residential subdivision in which parcel owners must pay mandatory maintenance or amenity fees to the subdivision developer or to the owners of the common areas, recreational facilities, and other properties serving the lots or parcels, the HOA requires the developer or owner of such areas, facilities, or properties to make public, within 60 days following the end of each fiscal year, a complete financial report of the actual, total receipts of mandatory maintenance or amenity fees received by it, and an itemized listing of the expenditures made by it from such fees, for that year.[76] The report must be made public by mailing it to each parcel owner, by publishing it in a publication regularly distributed within the subdivision, or by posting it in prominent locations in the subdivision.[77]

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[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] S. 553.80(7)(a)3., F.S.
[70] "Parcel" means a platted or unplatted lot, tract, unit, or other subdivision of real property within a community, as described in the declaration which is capable of separate conveyance, and of which the parcel owner, or an association in which the parcel owner must be a member, is obligated: 1) by the governing documents to be a member of an association that serves the community; and 2) to pay the HOA assessments that, if not paid, may result in a lien. S. 720.301, F.S.
[71] "Parcel owner" means the record owner of legal title to a parcel. *Id.*
[72] *Id.*
[73] Ch. 720, F.S.
[74] Ss. 720.3015 and 720.302, F.S.
[75] S. 720.302(3), F.S.
[76] S. 720.3086, F.S.
[77] *Id.*

**RECENT LEGISLATION:**

| YEAR | BILL # | HOUSE SPONSOR(S) | SENATE SPONSOR | OTHER INFORMATION |
|---|---|---|---|---|
| 2024 | CS/HB 791 | Overdorf, Esposito | Perry | Required local governments to specify the minimum information necessary for certain zoning applications; Revised timeframes for processing certain zoning applications; Provided refund parameters if a local government failed to meet certain timeframes when processing an application. Died in the House before being voted off the House Floor. Senate companion was only heard in its first committee of reference. |
| 2024 | CS/CS/HB 1203 | Esposito, Anderson, Porras | Bradley | Provided requirements for certain community association managers and community association management firms; Required HOAs to make public certain HOA documents; Required HOAs to apply and enforce certain HOA standards reasonably and equitably. Approved by Governor. Effective July 1, 2024. |

## BILL HISTORY

| COMMITTEE REFERENCE | ACTION | DATE | STAFF DIRECTOR/ POLICY CHIEF | ANALYSIS PREPARED BY |
|---|---|---|---|---|
| Housing, Agriculture & Tourism Subcommittee | 17 Y, 0 N | 3/11/2025 | Curtin | Fletcher |
| Intergovernmental Affairs Subcommittee | 16 Y, 0 N, As CS | 4/1/2025 | Darden | Darden |
| THE CHANGES ADOPTED BY THE COMMITTEE: | • Prohibits a school district from collecting, charging, or imposing any alternative fee in lieu of an impact fee to mitigate the effects of development on educational facilities unless the fee would meet the dual rational nexus test.<br>• Removes provision that would prohibit local governments from limiting the number of quasi-judicial hearings or public hearings if the limitation would cause delay in the consideration of an application for a development order or permit. | | | |
| Commerce Committee | 15 Y, 8 N, As CS | 4/22/2025 | Hamon | Fletcher |
| THE CHANGES ADOPTED BY THE COMMITTEE: | • Provided that production of ethanol from certain plants or plant products does not constitute chemical manufacturing or chemical refining.<br>• Specified that comprehensive plan amendments, if not adopted at a second public hearing, must be formally adopted within a certain timeframe, or the amendments are deemed withdrawn.<br>• Increased the time period within which comprehensive plan amendments must be transmitted from 10 days to 30 days.<br>• Made certain provisions relating to adoption of a comprehensive plan amendment apply retroactively to January 1, 2022.<br>• Specified certain purposes for which local governments may use certain fees to carry out activities relating to obtaining or finalizing a building permit.<br>• Amended certain provisions throughout the Homeowners' Association Act (Act) relating to definitions, the scope of the Act's application, financial reports, and recreational covenants. | | | |

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**

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