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IFAS EXTENSION

Florida's Growth Management Act: An Introduction and Overview¹

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1.0 Introduction

When the Florida legislature passed its landmark Growth Management Act, it provided extensive opportunities for citizens to participate in the planning process that establishes the foundations for managed growth in Florida communities. Citizens participate in the comprehensive planning process because they have a vision of how they want their communities to look in the future, and how they *don't* want their communities to look. Because not everyone has the same vision for their community, and because implementation of comprehensive plans often serves one set of interests to the detriment of others, many participants in the planning process focus on protecting and advancing their interests in growth management decisions.

How can concerned citizens represent their interests effectively in the growth management process? Effective participation in Florida's growth management process requires knowledge and information. It requires basic understanding of the mandates and processes established by the Growth Management Act, the principles of comprehensive planning, and the various land development ordinances that attempt to implement the plans. It requires information regarding how, when, and where a concerned citizen may engage the process.

This publication offers a starting point for citizens who desire a better understanding of Florida's growth management laws and how they apply. It is presented in outline form, making it easier for readers to find or revisit specific topics of particular interest. Numerous citations to Florida Statutes are included for the benefit of readers who wish to read for themselves the language of the statutes.

2.0 Florida Growth Management Legislation: History

2.1 *Environmental Land and Water Management Act of 1972* [Florida Statutes 380.012 -380.07]

- Provided for state designation of *Areas of Critical State Concern* (ACSC) which, because of their important environmental significance, are accorded greater state oversight of planning and land development regulation [Florida Statute 380.05].
- Defined *Developments of Regional Impact* (DRI), providing for heightened regulation in the planning and approval of very large developments that affect more than one county [Florida Statute 380.06].

2.2 *Florida Water Resources Act of 1972* [Florida Statute 373]

- Declared all waters of the state are a state resource to be managed in the public interest [Florida Statute 373.016(4)(a)].

- Established five water management districts, encompassing the entire state [Florida Statute 373.069].
- Created policymaking boards for each district [Florida Statute 373.073].
- Authorized district regulation of well construction, management and storage of surface waters, and consumptive use of waters of the state [Florida Statutes 373.308, 373.413, and 373.216].
- Required state and district water management plans [Florida Statutes 373.036, and 373.0361].
- Provided for monitoring and research for water management purposes [Fla. Stat. 373.026(1)].
- Provided water management district governing boards with *ad valorem* taxing authority through which to fund district operations [Florida Statute 373.503(1)].

2.3 Florida State Comprehensive Planning Act of 1972 [Florida Statute 186.001]

- Asserted a state interest in state and local comprehensive planning [Florida Statute 181.002].
- Ordered the Division of State Planning of the Florida Department of Administration to prepare a state comprehensive plan. The legislature later rejected the plan that had been developed and submitted for approval.

2.4 Local Government Comprehensive Planning Act of 1975

- Recognized traditional role of local government in land use control.
- Required local governments to adopt comprehensive plans.
- Stipulated that development must conform to the plans.

2.5 Governor Graham's 1979 Resource Management Task Force

This task force was charged with reviewing Florida's system of planning, land use, and environmental management and make recommendations. It concluded that Florida needed an effective system of integrated state, regional, and local planning for growth management.

2.6 1982 Environmental Land Management Study

The Environmental Land Management Study was charged with assessing the impact of environmental and land use legislation enacted during the preceding decade. Its assessment of the need for a system of planning for growth management paralleled that of the Graham task force.

2.7 State and Regional Planning Act of 1984

- Called for development of a State Comprehensive Plan, directing the Executive Office of the Governor to prepare draft plan within six months.
- Required each state agency to prepare an "agency functional plan" within one year of legislative adoption of the state plan.
- Required each of the state's eleven planning councils to develop "Comprehensive Regional Policy Plans" within eighteen months of adoption of the state plan, and to submit those plans to the legislature for approval.

2.8 Local Government Comprehensive Planning and Land Development Act of 1985 [Florida Statute 163.3161]

- Substantially amended the 1975 Local Government Comprehensive Planning Act.
- Required local governments to amend their existing plans to ensure consistency with the State and Regional plans [Florida Statute 163.3167(2)].
- Required that local plans be certified by the Florida Department of Community Affairs (DCA).

- Directed DCA to promulgate detailed rules defining minimum criteria for approval of local plans [Florida Statutes 163.3177(9), and 163.3177(10)].
- Required local governments to enact the necessary implementing ordinances within one year of submitting their plans to the DCA [Florida Statutes 163.317(1)(c), and 163.3201--3202].

3.0 State Agencies with Responsibility for Reviewing Local Plans

3.1 Department of Community Affairs [<http://www.dca.state.fl.us>]

As the state planning agency, DCA:

- Reviews local comprehensive plans and plan amendments to assure compliance with requirements of the Growth Management Act [Florida Statute 163.3177(11)(d)].
- Assists local governments in developing and implementing their plans.
- Adopts explanatory rules and sets timetables for Evaluation and Appraisal Reports (EARS) that are required by statute of local governments.

3.2 Department of Environmental Protection [<http://www.dep.state.fl.us>]

Comments to DCA on local plans and plan amendments with respect to air and water pollution, solid waste, sewage, drinking water, state parks, greenways and trails, state-owned lands, and wetlands.

3.3 Water Management Districts

Comment to DCA on wetlands, well fields, and consumptive use of water.

3.4 Department of State [<http://www.dos.state.fl.us>]

Comments on historic and archeological resources.

3.5 Department of Transportation [<http://www.dot.state.fl.us>]

Comments on roads and transportation facilities.

3.6 Fish and Wildlife Conservation Commission [<http://www.floridaconservation.org>]

Comments on county fish and wildlife issues, and endangered species.

3.7 Department of Agriculture and Consumer Services [<http://www.doacs.state.fl.us>]

Comments on county agriculture, forestry, and aquaculture.

4.0 Regional Planning Agencies

4.1 Regional Planning Councils [Florida Statutes 186.504, and 186.505]

- Must adopt Strategic Regional Policy Plans.
- Review local plans for consistency with regional plan.
- Coordinate development decisions affecting multiple governments.
- Review Developments of Regional Impact .
- Administer grant funds for local communities.
- Provide a forum for citizens to comment on growth issues and decisions.
- Provide technical assistance to local governments on planning matters.

There are eleven Regional Planning Councils in Florida:

1. West Florida [<http://www.wfrpc.dst.fl.us>].
2. Apalachee [<http://www.thearpc.com>].
3. North Central Florida [<http://www.ncfrpc.org>].
4. Northeast Florida [<http://www.nefrpc.org>].

5. Withlacoochee [<http://www.wrpc.cc>].
6. East Central Florida [<http://www.ecfrpc.org>].
7. Central Florida [<http://www.cfrpc.org>].
8. Tampa Bay [<http://www.tbrpc.org>].
9. Southwest Florida [<http://www.swfrpc.org>].
10. Treasure Coast [<http://www.tcrpc.org>].
11. South Florida [<http://www.sfrpc.com>].

4.2 Water Management Districts

- Manage quality and quantity of water, including wetlands.
- Regulate:
 - Consumptive use of water.
 - Aquifer recharge.
 - Well construction.
 - Surface water management.
- Construct and manage flood control systems.
- Perform technical investigations into water resources.
- Purchase land to protect waters.
- Operate recreational facilities on district lands.
- Adopt Regional Water Supply Plan consistent with:
 - State Comprehensive Plan.
 - Florida Water Use Plan (adopted by the Florida Department of Environmental Protection).
- Help local governments develop the required water elements of their local comprehensive plans.

Water Management Districts are controlled by nine-member governing boards (eleven members in the southwest district) comprised of residents of the

district, and are appointed by the governor (subject to confirmation by the Florida Senate).

Water Management Districts are subject to the general supervisory authority of the Department of Environmental Protection (although the DEP is directed to delegate water resources programs to the districts where possible).

Florida is divided into five districts:

1. Northwest Florida
[<http://www.nwfwmd.state.fl.us>].
2. Suwannee River
[<http://www.mysuwanneeriver.com>].
3. St. Johns River [<http://www.sjrwmd.com>].
4. Southwest Florida
[<http://www.watermatters.org>].
5. South Florida [<http://www.sfwmd.gov>].

4.3 Florida Department of Transportation [<http://www.dot.state.fl.us>]

There are eight transportation districts under the Florida Department of Transportation (FDOT): seven districts oversee designated regions of the state, and one district oversees the Florida Turnpike system.

Each transportation district is managed by a District Secretary and has major divisions for administration, planning, production, and operations.

Transportation district duties include:

- Set and enforce Level of Service (LOS) standards for the Florida Intrastate Highway System.
- Serve as liaisons to the Metropolitan Planning Organizations (MPO) to incorporate local projects into the FDOT work program.
- Carry out planning studies and help develop centralized planning programs.

4.4 Metropolitan Planning Organizations [<http://www.mpoac.org>]

The Metropolitan Planning Organization (MPO) advisory boards are comprised of elected officials appointed from within a census-defined urbanized area. Each MPO has a Citizens' Advisory Committee and may hold public workshops. MPOs:

- Review and set priorities on transportation issues on regional level.
- Adopt long-range transportation plans, also known as Urban Area Transportation Studies (UATS). UATS:
 - Have a 20-25 year planning horizon.
 - Address major capacity road improvements.
 - Are updated every four to five years.
- Consist of two parts:
 1. A needs plan identifying all transportation improvements needed within the next 20-25 years.
 2. A feasibility plan establishing affordability and priority of individual projects.

MPOs submit lists of projects to FDOT, which FDOT funds in its five-year work program, based on availability of funds and project priorities. MPOs then develop annual Transportation Improvement Programs (TIP), identifying all projects funded over the ensuing five years, making them eligible for state and federal funding.

5.0 Regional Planning Processes

Florida has three regional planning processes:

1. Areas of Critical State Concern (ACSC).
2. Developments of Regional Impact (DRI).
3. Sector Planning.

5.1 Areas of Critical State Concern

Areas of Critical State Concern (ACSC) protect resources and public facilities of major statewide significance. Areas designated as ACSC to-date are:

- City of Apalachicola.
- City of Key West.
- Green Swamp (in Polk and Lake Counties).
- Florida Keys.
- Big Cypress Swamp (Dade, Monroe, and Collier Counties).

The Department of Community Affairs (DCA) oversees the ACSC. The DCA:

- Reviews all local development projects within these designated areas. It may deny or subject to appeal to the Administration Commission (comprising the Governor and Cabinet) any local development orders that are inconsistent with state guidelines.
- Reviews and approves amendments to comprehensive plans and land development regulations proposed by local governments within these designated areas.

5.2 Developments of Regional Impact

Developments of Regional Impact (DRI) are large-scale developments which, because of their character, magnitude or location, would have a substantial effect upon the health, safety, or welfare of the citizens of more than one county.

The Department of Community Affairs (DCA) and the Regional Planning Councils (RPC) use Rule 9J-2 of the Florida Administrative Code to review DRIs for compliance with state law and identify their regional and state impacts:

- The DCA and the appropriate RPC may make recommendations to local governments regarding approval or disapproval of proposed developments.
- DCA and the appropriate RPC may suggest mitigation conditions (modifications of the proposed development plan that would be necessary for the development to be approved).
- Local governments issue a development order which allows approved projects to proceed.

- The developer, local government, or DCA may appeal local government DRI decisions to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.

5.3 Sector Plans

- The sector plan process has been established by the state of Florida as an optional alternative to the DRI process. Sector plans:
 - Apply to areas greater than 5,000 acres.
 - Involve development of a conceptual long-term build-out overlay (map), and specific detailed area plans.
 - Combine the purposes of Chapters 380 and 163, Florida Statutes.
 - Require opportunities for public participation.
 - Emphasize urban form and the protection of regional resources and facilities.
- Each local government establishes an optional sector plan by:
 - Entering into an agreement with the DCA.
 - Adopting comprehensive plan amendments to implement the sector plan.
 - Submitting an annual monitoring report to DCA and the appropriate regional planning council.
- Areas designated under a sector plan are not required to go through the DRI process.
- DCA has been authorized to establish up to five optional sector plans; to date, three have been designated: Bay, Orange, and Palm Beach Counties.

6.0 Local Government Comprehensive Planning Process

6.1 The 1985 Growth Management Act

- Requires each city and county in the state to adopt a local comprehensive plan, which must be consistent with the state and regional plans.
- Requires that the local comprehensive plan:
 - Guide and control future development.
 - Address existing problems as well as problems that may arise in the future as a result of the development and use of land.
 - Preserve, promote, protect, and improve public health, safety, comfort, and good order.
 - Protect human, environmental, social, and economic resources.

6.2 Plan Elements

Local Comprehensive Plans (LCP) must include “elements” dealing with:

- Capital improvements.
- Future land use.
- Transportation.
- Sanitary sewer.
- Solid waste.
- Drainage.
- Potable water and natural groundwater recharge.
- Conservation of natural resources.
- Recreation and open space.
- Housing.
- Coastal management.
- Inter-governmental coordination.

LCPs must include maps that depict the information contained in the elements and show the location of all future land uses. Communities with populations over 50,000 must include mass transit, ports, and aviation in their transportation elements.

LCPs (in concept) serve to control and direct the type and amount of development allowed or encouraged in the community.

The goals, objectives, and specific policies within each element outline how the local government will accomplish the intent of each element. Optional elements (at the discretion of local governments) include:

- Historic preservation.
- Arts and culture.
- Economic development.
- Public education.
- Community design.

6.3 Future Land Use Maps

- Future Land Use Maps show the proposed distribution, location, and extent of the various categories of land uses that have been included in the local comprehensive plan.
- These maps are often the subject of proposed amendments to local comprehensive plans.

6.4 Evaluation and Appraisal Reports

Local governments must review their comprehensive plans every seven years to:

- Update provisions that are no longer valid.
- Take into account changing circumstances, such as those depicted in ten-year census reports.
- Necessary updates identified in the Evaluation and Appraisal Reports must be incorporated through amendments to the plan.

6.5 Plan Amendments

Once adopted and approved, local plans and their associated future land-use maps may be amended twice a year. Plans may be amended more frequently than twice a year in cases of:

- Small-scale amendments.
- Emergencies.
- DRIs.
- Schools.
- Urban infill projects.

The process for amending plans is similar to, and has the same constraints as, the process for adopting the original plan.

- Amendments may be proposed by the local government or by an affected property owner, and sometimes by individual citizens.
- The adoption of amendments may trigger the need to revise the land development regulations.

Each local government must establish a local planning agency (LPA) to review proposed comprehensive plan amendments and make recommendations to the governing body before adopting proposed amendments. The governing body of each local government may:

- Designate itself as the local planning agency (with the addition of a non-voting school board member).
- Designate the local planning commission or planning department as the LPA.
- Establish a new board to serve as the LPA.

LPAs may be authorized by the local governing body to review and comment on land development regulations and rezoning requests.

7.0 Land Development Regulations

Land Development Regulations (LDR) include the local ordinances necessary to implement the

goals, objectives, and policies of local comprehensive plans, including:

- Subdivision of land.
- Zoning.
- Land use compatibility.
- Well fields.
- Flooding.
- Drainage.
- Storm water management.
- Site plan approvals.
- Environmentally sensitive lands.
- Signage.
- Concurrency management of public facilities.

LDRs must be consistent with the local comprehensive plan, the State Comprehensive Plan, the Strategic Regional Policy Plan, and the Regional Water Supply Plan.

A zoning ordinance is a local law that:

- Identifies the allowable use for each piece of property within a community.
- 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.
 - The amount of space that must remain open on a commercial plot.
- By law, must be consistent with the local comprehensive plan.

Types of zones include residential and commercial areas. "Overlay zones" are areas of special concern, such as floodplains, historic districts, and environmentally sensitive lands.

8.0 Development Orders

The Development Order (DO) constitutes a local government's decision to approve a specific development or project, such as:

- Zoning changes.
- Variances.
- Subdivision plat approvals.
- Building permits.
- Sewage and septic tank permits.

Public notification and a public hearing are required before a DO can be issued.

When the characteristics of a property make it difficult to develop under existing zoning regulations, property owners may request a variance.

8.1 Rezoning

- If landowners wish to use land in a manner not allowed under existing zoning, they must request that the local governing body "rezone" the property.
- Public notice and opportunity to comment is required before a local governing body acts on a proposed rezoning.
- The local governing body may not approve zoning that is inconsistent with the local comprehensive plan or future land use map.

8.2 Variances

- When the characteristics of a property make it difficult to develop under existing zoning regulations, property owners may request a variance.
- Applicants must demonstrate "unique hardship" if they were required to follow development regulations associated with the existing zoning category (e.g., if a lot with a historic building in a designated historic district is too small to accommodate required number of parking spaces, a parking variance may be granted, permitting fewer parking spaces).

- Variance requests must be subjected to a publicly noticed hearing, and neighbors are usually notified.

8.3 Subdivision Platting

- The local comprehensive plan and land development regulations govern:
 - Subdivision design.
 - Lot size.
 - Open space requirements.
 - Improvements, such as street construction and sewer lines.
- Florida law establishes minimum criteria for platting.
- When a parcel of land is divided to accommodate development, it must be platted.
- Developers may be required to pay fees such as school impact fees, park fees, etc., depending on local requirements.

8.4 Planned Unit Developments

- Local governments may provide for Planned Unit Developments (PUD) as a way to provide flexibility in zoning and subdivision regulations.
- A PUD is one in which the developer prepares a plan that includes a variety of residential uses and common open spaces for a parcel of land.
- PUDs may be developed in approved stages in conformity with a final development plan.

9.0 Summary

This outline provides introductory information for citizens who wish to participate in Florida's growth management process. That process is defined and mandated by acts of the Florida legislature dating back to the 1970s and 1980s, and reflects occasional amendments to the original legislation that have been enacted over the ensuing years. This outline provides a brief history of growth management in Florida so that interested citizens can understand the origins of, and the basis for, the growth management process. It

identifies state agencies that have responsibility for reviewing local government comprehensive plans. It describes the planning responsibilities of regional agencies of government, and outlines the planning processes followed by those regional agencies. It describes the local government comprehensive planning process and explains the role of land development regulations and development orders.

A number of internet sites contain thorough and helpful information about all aspects of comprehensive planning and land development regulation in Florida. One of the best is by *1000 Friends of Florida* at <http://www.1000friendsofflorida.org>. Another important and informative website is maintained by Florida Department of Community Affairs at <http://www.dca.state.fl.us>.

Other EDIS publications in this series will focus on the opportunities provided by Florida law for citizens to participate in the growth management process.