

# Chapter 8

## Growth Management



# Section 8-1

## Planning and Growth Management in Florida

This chapter explains the local comprehensive planning responsibilities of cities and counties. It begins with an overview of state planning and growth management legislation so that the responsibilities of local government can be understood within the broader historical and legal context. It then provides a description of the local planning process.

### **A: HISTORY OF PLANNING AND GROWTH MANAGEMENT LAW IN FLORIDA**

#### **1. Legislation from 1972 to 1985**

A 1985 statute, known as the Local Government Comprehensive Planning and Land Development Regulation Act is the basis for today's planning and growth management legislation. This section describes legislation adopted between 1972 and 1985. The following section covers major legislation adopted between 1985 and 2005.

The year 1972 was a landmark year for planning and resource protection in Florida. That year, Gov. Bob Graham signed a number of bills establishing statewide natural resource planning programs and requiring that natural resources be protected as part of the land development process.

#### **a. 1972: Environmental Land and Water Management Act – Ch. 380, F.S.**

This statute created two major growth management programs. The Area of Critical State Concern Program was established to protect valuable natural areas under intense development pressure. The Development of Regional Impact Program requires that the impacts of large developments affecting adjoining counties or cities, or significant state resources, are addressed.

##### **1. Area of Critical State Concern – Ch. 380.05, F.S.**

This designation has been applied to places where more stringent regulations and state oversight were deemed necessary to protect resources of statewide significance. The following are designated as Areas of Critical State Concern:

1. City of Apalachicola (Franklin County),
2. City of Key West and the Florida Keys (Monroe County),
3. Green Swamp (portions of Polk and Lake counties), and
4. Big Cypress Swamp (Collier County).

The state reviews all development orders issued by local governments within Areas of Critical State Concern and may appeal any orders believed to be inconsistent with state guidelines.

## **2. Developments of Regional Impact (DRI) – Ch. 380.06, F.S.**

DRIs are defined as having impacts to resources or facilities of regional or statewide significance. State rules establish thresholds for DRIs based on the types of development proposed and their locations. For example, a residential development of 250 units may be considered a DRI in Washington County, whereas the threshold in Hillsborough County is 3,000 units.

DRIs are subject to review by the Regional Planning Council and the state, but approval authority rests with the local government in whose jurisdiction the project is located.

Over the years, changes have been made to the DRI process to achieve planning goals. The thresholds for DRIs in certain rural areas have been raised to promote economic development. The Legislature also created the Florida Quality Development (FQD) program as an alternative to the traditional DRI. In exchange for meeting higher standards for design and resource protection, an FQD is eligible for expedited review and may use the FQD certification in its marketing.

### **b. 1972: Florida Water Resources Act – Chapter 373, F.S.**

The Water Resources Act established the water management districts and their roles and responsibilities. Water management districts study long-range water supply and issue water-use permits.

### **c. 1972: Florida State Comprehensive Planning Act – Sections 186.001-186.031 and 186.801-186.901, F.S.**

This act mandated the preparation of a state comprehensive plan. Such a plan was prepared and submitted to the Legislature, but was rejected.

### **d. 1972: Florida Regional Planning Council Act – Sections 186.501-186.513, F.S.**

This act established the Regional Planning Councils and their roles and functions. Councils are advisory and coordinating entities. They provide technical assistance to their member governments and review and comment on DRI development orders and plans and plan amendments.

### **e. 1975: Local Government Comprehensive Planning Act – Chapter 163 Part II, F.S.**

This statute mandated the adoption of local comprehensive plans and required the inclusion of certain elements. Development was required to be consistent with the plan. The State did not establish minimum standards. Plans did not have to be officially adopted and there was no requirement for land development regulations to implement the plan.

### **f. 1984: State and Regional Planning Act – Chapter 187, F.S.**

This statute required the adoption of a state comprehensive plan. The plan was adopted in 1985. Regional Planning Councils were required to prepare regional policy plans and submit them to the Legislature for approval.

## **2. Legislation from 1985 to 2005**

### **a. 1985: Local Government Comprehensive Planning and Land Development Regulation Act – Sections 163.3164-163.3217, F.S.**

This statute is the basis for the current local comprehensive planning process. Signed into law in 1985 by Gov. Bob Graham, the act put Florida in the forefront of land-

use planning. It differed from previous growth management efforts by establishing a much higher standard for local plans:

1. Local plans are required to meet minimum standards established by state rule. Plans that are not “in compliance” with state requirements are subject to sanctions.
2. Local governments must demonstrate that necessary infrastructure will be available concurrent with new development (“concurrency”).
3. Citizens have a role in challenging local governments’ decisions regarding plan amendments, land development regulations and development orders.
4. Local governments must adopt land development regulations to implement the plan.
5. Comprehensive plans must be financially feasible.

An understanding of these five rules above is fundamental to successful implementation of state requirements. A brief description of each is provided below. For more information, please see the bibliography at the end of this chapter.

- 1. Compliance with Minimum State Standards.** As mentioned above, earlier statutes addressing local planning did not authorize state oversight of plans. With the 1985 Act, the Florida Department of Community Affairs (DCA), as the state land planning agency, was authorized to establish minimum requirements for all local comprehensive plans. The DCA rule is contained in Chapter 9J-5 of the Florida Administrative Code. The standards adopted in the rule address plan preparation (i.e., data and analysis requirements) and plan contents (i.e., subjects that must be addressed in the goals, objectives, and policies of each element). Plan amendments must also comply with these standards. (See section 8.2)

The process for adopting a plan amendment is explained in Section 8.2 of this chapter<sup>1</sup>. For purposes of understanding “compliance,” it suffices to say that the State has the authority to determine whether an amendment is or is not compliance. Plans that are not in compliance are subject to sanctions.

**Discussion:** Almost since Chapter 9J-5’s inception, there have been major concerns about the approach in the rule. By setting a minimum standard, the rule does not take into account the great diversity among local governments. Urban, rural, built out or growing – all local governments had to respond to the same criteria. The state has tried to reduce the “one size fits all” approach as new legislative programs have been introduced, but there have been no major changes to the approach in Chapter 9J-5 since its adoption.

- 2. Concurrency:** A major impetus for the adoption of the 1985 act was widespread public concern over the impacts of unregulated growth on infrastructure such as water supply and transportation. The 1985 act met this challenge by requiring that infrastructure – transportation, water, sewer, solid waste, stormwater, and parks and recreation<sup>2</sup> – be available to meet the demands of new development at the time impacts of that development occurred. In other words, sufficient

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<sup>1</sup> Chapter 163 and Rule 9J-5 address both the preparation of comprehensive plans and amendments to adopted plans. Since all local governments currently have plans in place, only newly formed cities will be adopting new plans. For this reason, this chapter refers solely to the plan amendment process.

<sup>2</sup> In 2005, public school facilities were added to the list of concurrency facilities.

infrastructure capacity needed to be available “concurrent” with the impacts of new development. Each local government is required to establish level of service standards for these concurrency facilities, as well as a concurrency management system for monitoring development.

**Discussion:** Concurrency implementation has become extremely complicated and fraught with difficulties. Three major challenges are: level of service standards, costs and sprawl impacts.

**Level of Service Standards:** The implementation of concurrency has been hampered because many facilities, particularly transportation facilities, were operating below the acceptable level of service before concurrency came into effect. Neither local governments nor the state have been able to provide funding that adequately addresses level-of-service deficits. Additionally, adjoining local governments have taken differing approaches to establishing level-of-service standards and monitoring concurrency. This has created confusion as to the degree of impact within adjoining jurisdictions.

**Costs:** The cost of providing infrastructure continues to escalate. Major costs include right-of-way acquisition for new roads or road widening and the cost of developing new water supplies, such as desalinization plants. The allocation of future costs has proven to be as difficult as dealing with existing deficiencies, as impact fees and other assessments have affected the affordability of housing in many parts of the state.

**Sprawl Impacts:** Transportation concurrency has been cited as a cause of urban sprawl. There are essentially two ways to meet the concurrency requirements. In more urban areas, where existing levels of service are more likely to be below the standards established in the comprehensive plan, the level of service can be met through improvements to facilities. Alternatively, developers can locate projects in less developed locations (e.g., suburban or rural areas) where there is sufficient capacity. The latter approach is less expensive and easier to achieve. Thus, transportation concurrency requirements have discouraged urban development and tended to promote sprawl.

The state has tried to address this problem by establishing criteria for transportation concurrency exemption areas, concurrency exception areas, and multi-modal districts. Most recently, there have been discussions about eliminating transportation concurrency completely and replacing it with a fee based on the vehicle miles traveled (VMTs) per development. Projects that are located further from the urban core and require more travel would be more expensive to permit than projects closer to schools, employment, and shopping.

- 3. Standing:** Citizens that qualify as “affected parties” have the ability to challenge comprehensive plan amendments on the basis that they are not in compliance with state requirements. Citizens may also challenge development regulations and development orders on the basis that the approvals are not consistent with the local comprehensive plan. The statute establishes how citizens may qualify to have standing to make such a challenge.

**Discussion:** Citizen dissatisfaction with the impacts of growth resulted in many challenges to plan amendments and development orders. Most often, these challenges allege that the local government failed to adequately address potential impacts of a proposed development or that the proposed development is incompatible with the surrounding area.

While residents may become very involved in specific land-use decisions that affect their neighborhoods, it is difficult to get them involved in a meaningful way

to help write the rules (i.e., plan policies and land-development regulations) that drive the decisions on plan amendments and development approvals. The state has encouraged local governments to enter into “visioning” processes intended to build consensus on the overall future growth of the city.

Citizen dissatisfaction has been a driving force behind the Hometown Democracy initiative, which, if approved as a constitutional amendment, would require citizen approval of proposed plan amendments.

4. **Land Development Regulations:** Local governments are required to adopt land-development regulations to implement the comprehensive plan. Although the minimum scope of the regulations is specified in statute, land-development regulations are not subject to state review for compliance. As noted above, citizens do, under certain circumstances, have the right to challenge development regulations.

**Discussion:** As noted in the discussion on citizen standing, the public usually focuses on land-use issues only after a development has been proposed. Citizens rarely get involved early in the development of the comprehensive plan or the land-development regulations. In 1993, a Florida Supreme Court decision in the case of the *Board of County Commissioners of Brevard County v. Snyder*, changed the standard of review for most zoning and land-development approvals. Before *Snyder*, local governments had significant discretion in deciding zoning and development cases. In *Snyder*, the Supreme Court ruled that these decisions involve the application of already established rules (i.e, the comprehensive plan) and are not subject to such discretion. Legally, decisions involving the application of rules are known as “quasi-judicial proceedings.”

Citizens are often frustrated by quasi-judicial because of their legalistic character. This reinforces the benefit of having the public involved in the preparation of plan amendment and land-development regulations.

5. **Financial Feasibility:** The 1985 act incorporated the concept of “growth paying for itself.” If a local government intended to accommodate a significant amount of new growth, it needed to demonstrate how the infrastructure and services needed to serve those new residents would be provided. To promote financial feasibility, the 1985 statute required that each comprehensive plan contain a capital improvement element. The element must include a five-year capital improvement schedule that identifies improvements needed to correct existing deficiencies and provide for anticipated development. The 2005 Growth Management Act had a significant impact on how local governments were expected to address financial feasibility requirements. Therefore, the implications of the financial feasibility requirements are discussed in the following section.

### 3. 2005 Growth Management Act

Twenty years after the adoption of the 1985 law, the Legislature made significant changes to Chapter 163. These changes reflected Gov. Jeb Bush’s philosophy that growth should pay for itself. Among the major issues addressed in the 2005 act are the following:

1. Definition of Financial Feasibility
2. School Concurrency
3. Water Supply Planning

- 1. Financial Feasibility:** As noted in the previous section, the concept of financial feasibility was incorporated into the 1985 statute. The 2005 Act clarified the definition of financial feasibility by requiring that the first three years of the five-year capital improvement schedule contain committed sources of funding. Years four and five may include planned sources. In recognition of the extensive backlog of needed facilities, the Act authorized local governments to adopt a 10- or 15-year long-term concurrency management system for transportation and school facilities.

The five-year capital improvement schedule must be amended annually to remain current. DCA found that many local governments were not updating their schedule on an annual basis (if at all). To ensure compliance with this requirement, local governments that do not adopt an updated schedule and transmit it to DCA will not be permitted to amend their Future Land Use Map. The amended schedule may be transmitted in conjunction with the local government's annual budgeting process, outside of the twice yearly limitation on plan amendments.

- 2. School Concurrency:** Prior to 2005, public school facility elements were optional. The 2005 legislation mandated school facilities concurrency. The statute contains the following major requirements:
  1. School boards and local governments must update existing public school interlocal agreements and include concurrency service areas for schools.
  2. Local governments must adopt a Public School Facilities Element as part of the comprehensive plan.
  3. The comprehensive plan must contain level-of-service standards for schools.
  4. The capital improvements element of the comprehensive plan must include a financially feasible Public School Capital Facilities Program.

DCA established by rule a schedule for submitting the Public Schools Facilities Element. All cities and counties were scheduled to adopt the element in 2008. If a local government does not comply with the requirements, it will not be permitted to adopt a plan amendment that increases density. The school board may be subject to sanctions equivalent to the available funds for school construction.

- 3. Water Supply Planning:** Each of the water management districts in the state periodically evaluates whether their water supply is sufficient to meet the demand for the next 20 years. If it is not, the district is required to prepare a water supply plan. This plan must include a list of projects that can provide additional water supply while meeting environmental considerations.

The 2005 Act required that local governments within areas subject to water supply planning must include in their comprehensive plan a 10-year work plan that identifies projects from the district's regional supply plan. DCA issued a schedule for complying with these requirements. All 10-year work plans must have been completed by the end of 2008.

**Discussion of the 2005 Act:** It is too soon to evaluate the consequences of the 2005 Act. However, it is clear that the act has put a tremendous workload burden on local governments. The requirements for water supply work plans and school concurrency demand very technical analysis. The implications of the

policy decisions on neighborhoods and the cost of services are substantial. As a result, many local governments have failed to meet the submittal schedule established by DCA. As of June 2008, 344 local governments were required to have submitted their Public Educational Facilities Element. Only 69, or 20 percent, had done so. Similarly, 479 local governments were required to have submitted their updated capital improvements element, but only 60, or 13 percent had done so.

# Section 8-2

## The Local Comprehensive Planning Process

### **A. LEGAL STATUS OF PLAN – CH. 163.3194, F.S.**

Local governments must adopt their comprehensive plans by ordinance. All land-development regulations and all public and private development must be in conformance with the comprehensive plan.

### **B. CONTENT OF PLAN**

State law mandates that the following elements be included in the comprehensive plan:

1. Capital Improvements and Concurrency Management System
2. Future Land Use
3. Traffic Circulation or Transportation
4. Sanitary Sewer, Solid Waste, Drainage (Stormwater), Potable Water and Natural Groundwater Aquifer Recharge
5. Conservation
6. Recreation and Open Space
7. Housing
8. Coastal Management (for coastal governments)
9. Public School Facilities
10. Intergovernmental Coordination

Local governments are permitted to adopt optional elements. State statute lists examples, including the following:

1. Public Buildings and Related Facilities
2. Community Design
3. Redevelopment
4. Public Safety
5. Historical and Scenic Preservation
6. Economic Development

### **C. GENERAL REQUIREMENTS FOR PLANS AND PLAN AMENDMENTS - RULE 9J-.005, F.A.C.**

The following are key general requirements that apply to all plans and plan amendments.

1. The plan must be internally consistent.
2. Plans and plan amendments must be based upon relevant and appropriate data and analysis.
3. The plan must include two timeframes: one for a minimum of five years and one for a minimum of 10 years.

**Discussion:** The use of “relevant and appropriate” data to support plan amendments is very important. While the comprehensive plan is a policy document, it should be based on objective assessments and projections of current and future conditions. The use of the proper data and analysis will support the local

government's policy direction and defend the plan amendment if it is challenged.

It should also be noted that the state is encouraging local governments to look beyond the minimum 10-year planning horizon. A longer term planning horizon is used when a local government is implementing a 15-year concurrency management program. It may also be appropriate if a city cannot physically expand and wishes to establish a "build out" scenario.

### **1. Minimum Standards for Required Elements**

In addition to establishing the general requirements for local plans, Rule 9J-5 contains standards for each mandated element that address 1) the data to be considered, 2) the analysis to be conducted, and 3) the topics to be addressed in the element's goals, objectives, and policies. This discussion includes only a brief summary of these elements and their requirements. Please refer to Rule 9J-5 for a complete listing of the extensive requirements.

#### **a. Capital Improvements Element – 9J05.016, F.A.C.**

The Capital Improvements Element is intended to identify the capital needs of the local government and the financial resources available to meet those needs. Local governments identify deficiencies in the existing infrastructure and the additional impacts of development anticipated in the plan. Then, local governments identify revenues available to meet these deficiencies. All the concurrency infrastructure facilities must be addressed (transportation, potable water, sewer, stormwater, solid waste, parks, and schools).

The capital improvements element must contain a five-year capital improvement schedule that identifies the improvements funded for the next five years. The first three years of the five-year capital improvement schedule contain committed sources of funding. Years four and five may include planned sources. The five-year capital improvement schedule must be amended annually to remain current.

Additionally, the element must include the assurance that an adequate concurrency management system will be implemented

#### **b. Future Land Use Element – 9J-5.006, F.A.C.**

The Future Land Use Element describes the overall pattern and character of development expected to occur over the plan's horizon. The element must include a description of future land-use categories (e.g., residential, commercial, mixed use), including maximum density and intensity. The element must also contain a future land use map, which depicts the future land-use categories.

#### **c. Transportation Element / Traffic Circulation Element**

The requirements for this element differ based on whether or not a local government is within an urban area of a Metropolitan Planning Organization (MPO). Local governments within the boundary of an MPO are required to prepare a transportation element that considers all modes of transportation, including transit, airports and bicycle and pedestrian routes. The element should address how transportation needs will be met, how the different transportation modes will be integrated, and how the local government will coordinate transportation, land use and infrastructure planning. The element must also set level of service standards.

The requirements for local governments outside urban areas are less extensive. Local governments must identify existing and proposed transportation routes, including roads and bicycle and pedestrian paths, and establish level-of-service standards.

In either case, the needs identified in this analysis are subsequently incorporated into the capital improvements element as appropriate.

**d. Sanitary Sewer, Solid Waste, Drainage, Potable Water and Natural Groundwater Aquifer Recharge Element** (Note: “Drainage” is now more often referred to as “Stormwater Management.”)

This element addresses the major infrastructure needed to serve development, other than schools and transportation. The element is intended to establish level of service standards for these facilities, and to establish water quality standards for stormwater. The analysis required for this element must consider the condition of existing facilities and current and future demand. The needs identified in this analysis are subsequently incorporated into the capital improvements element as appropriate.

**e. Conservation Element**

The Conservation Element addresses how the local government will protect important natural resources. The rule requires that environmental resources be identified and policies developed to protect such resources as wetlands, floodplains, wildlife and marine habitats, and habitat for threatened or endangered species or species of special concern.

**f. Recreation and Open Space Element**

The minimum rule requirements for the Recreation and Open Space Element have been repealed. State statute still requires the preparation of the element, which address the provision of a comprehensive recreation system.

**g. Housing Element**

The Housing Element must address the needs of all sectors of the population, including very-low-income residents and group homes.

**h. Coastal Management Element**

Local governments located along the coast must prepare a coastal management element. The rule requires local governments to 1) identify significant resources and establish policies to protect them, 2) address public access to the waterfront, and 3) establish policies that address the hazards associated with coastal development.

The primary hazard to be recognized in the plan is the potential impact of hurricanes. The element must include policies discouraging development in the Coastal High Hazard Area (the area within the storm surge for a Category 1 hurricane), maintaining evacuation times, and post-disaster redevelopment practices.

**i. Public Schools Facilities Element**

The public schools facility element is intended to implement school concurrency provisions. The element must also address how schools fit into the broader context of community development – i.e., co-location of schools and other community facilities such as parks, measures of compatibility for schools and the surrounding area, and the siting of schools in residential areas to promote schools as community focal points.

**j. Intergovernmental Coordination**

This element is intended to establish the mechanisms by which a local government will coordinate its planning activities with other units of government. The element is required to contain procedures to identify and implement joint planning areas, especially for the purpose of annexation and municipal incorporation.

## **D. AMENDING THE COMPREHENSIVE PLAN**

### **1. Major Parties**

#### **a. Local Planning Agency (LPA)**

Each city and county must establish an LPA. The LPA is responsible for preparing the comprehensive plan, making recommendations to the governing body on the adoption of a plan or plan amendment, preparing the Evaluation and Appraisal Report (see section II.7), as well as reviewing all land-development codes for consistency with the comprehensive plan. Although the statute permits the elected body to serve as the LPA, the vast majority of LPAs are citizen bodies, such as the Planning Commission or the Planning and Zoning Board.

#### **b. City Council or Commission**

The commission is responsible for adopting and maintaining a plan that is in compliance with minimum state requirements, responding to the Florida Department of Community Affairs review of proposed plan amendments, as well as adopting and implementing the Evaluation and Appraisal Report.

#### **c. Role of Citizens**

Citizens are encouraged to participate in the plan amendment process by attending the mandatory public hearings (the LPA hearing, the transmittal hearing and the adoption hearing, which are discussed below). Some local governments take additional steps to obtain public comment, such as holding workshops. As noted in section I.2, citizens have the right to challenge plan amendments under certain circumstances.

#### **d. Role of the Department of Community Affairs (DCA)**

As the state land planning agency, DCA prepares the rules related to the implementation of Chapter 163 and determines whether plans and plan amendments are in compliance with state rules. In making this determination, DCA receives comments from other state agencies, the water management district and the regional planning council.

### **2. Frequency of Plan Amendments**

Generally, state statutes limited plan amendments to no more than twice a year. Over time, however, the Legislature has established many exceptions to this limitation. Examples of amendments that are not subject to the “twice a year” limitations are plan amendments associated with a Development of Regional Impact application, updates to the Capital Improvement Schedule, and small-scale amendments.

Small-scale amendments are land-use map amendments restricted to changes expected to have a minimal impact on infrastructure and land-use patterns. The statute limits the size of any one amendment and caps the total amount of land that can be subject to the small-scale amendment process in any year. These amendments are not required to be submitted to DCA prior to adoption. Changes to the text of the plan are not considered small-scale amendments. Amendments that do not qualify for the small-scale exemption are referred to as “large-scale amendments.”

**Discussion:** The numerous exceptions to the twice-a-year rule are intended to give local governments greater flexibility in dealing with changing circumstances. Some citizens have voiced concerns that the frequency of comprehensive plan changes, particularly changes to the land-use map under the small-scale amendment process, has made the planning process more piecemeal and less comprehensive. The

frequency of small-scale map amendments has been cited as one reason for increased interest in requiring a citizen referendum for future land use map amendments.

### **3. Plan Amendment Process for Large-Scale Amendments**

The large-scale plan amendment process has six mandatory components:

1. The Local Planning Agency (LPA) must hold a public hearing and make a recommendation to the elected body on whether the amendment is consistent with the comprehensive plan. Often, Planning Department staff will prepare a report evaluating the amendment to assist the LPA.
2. The elected body must hold a public hearing where it determines whether to transmit the proposed amendment to the Department of Community Affairs (DCA) for review. This is referred to as the “transmittal hearing.”
3. DCA, and other agencies, review the plan amendment to determine whether it meets all the state requirements. DCA issues a report containing its objections, recommendations and comments. This document is known as the “ORC” report. Objections are the most significant part of the ORC report. If objections are not resolved, DCA may find the amendment to be “not in compliance.” (See below.)
4. The elected body responds to the ORC report in one of several ways. At a public hearing it may 1) deny the amendment, 2) revise the amendment in accordance with the recommendations in the report, or 3) adopt the amendment as transmitted and provide additional data and analysis demonstrating why the amendment complies with state requirements.
5. The local government submits the amendment to DCA. DCA issues a notice of intent to find the amendment “in compliance” or “not in compliance.” Amendments that are not in compliance are scheduled for an administrative hearing. (See below.)

### **4. Plan Amendment Process for Small-Scale Amendments**

1. The Local Planning Agency must hold a public hearing and make a recommendation to the elected body on whether the amendment is consistent with the comprehensive plan. Often, Planning Department staff will prepare a report evaluating the amendment to assist the LPA.
2. At a public hearing, the elected body takes final action to 1) adopt the amendment, 2) not adopt the amendment, or 3) adopt a revised amendment.
3. The adopted amendment is sent to DCA. Although small-scale amendments are not subject to an ORC report, citizens may challenge a small-scale amendment.

## **E. CHALLENGES TO ADOPTED PLAN AMENDMENTS**

There are two circumstances under which a plan amendment may be challenged: DCA may find an adopted amendment to be “not in compliance” with state requirements, or an “affected person” (i.e., a citizen who qualifies as an “affected party” or an applicant) may challenge an adopted amendment. The process of resolving the challenge is essentially the same.

A challenge is scheduled before the Department of Administration Hearings. Before the hearing takes place, however, negotiations or mediation are held in an attempt to settle the matter. A large number of noncompliance findings are resolved through negotiation or mediation. If an agreement is reached, the local government adopts the compliance agreement. If an agreement cannot be reached, the matter goes to hearing.

The hearing officer issues a recommended order, which is presented to the governor and Cabinet sitting as the Administration Commission. If the amendment is ultimately found to not be in compliance, the local government is subject to penalties. The Administration Commission may direct state agencies to withhold funds to increase the capacity of roads or water and sewer systems as well as certain grants.

## **F. IMPLEMENTATION OF THE COMPREHENSIVE PLAN**

Local governments use two major tools to implement the comprehensive plan: land-development regulations and the concurrency management system. Land-development regulations establish the rules for the development or redevelopment of land. The statutes require that the regulations address the use and subdivision of land, the protection of wellfields, development in floodplains, stormwater management, the protection of environmentally sensitive land, signage and traffic flow. Local governments may adopt land-development regulations addressing other aspects of growth and development, such as design review or the protection of historic resources. As noted previously, because development approvals are decided on whether they comply with the local governments' rules, it is important that the development regulations properly reflect the comprehensive plan's intent and the community vision for the character of development.

Concurrency management is the accounting system local governments use to determine whether there is sufficient capacity to serve the needs of new development. This assessment occurs when a development application is submitted. If sufficient capacity is not available, the applicant may downsize the project, or make improvements to the system.

## **G. EVALUATION AND APPRAISAL OF THE PLAN**

The Local Planning Agency is required to conduct an evaluation of the comprehensive plan every seven years. The evaluation must be prepared in the form of an Evaluation and Appraisal Report (EAR). One significant component of the EAR is a discussion of major issues. In this section, local governments analyze the planning and growth management issues they find most important and make recommendations for future actions. After a local government adopts the EAR, DCA determines whether statutory requirements are sufficiently addressed. Note that EARs, unlike plan amendments, are not subject to compliance review. Plan amendments needed to implement the EAR recommendations and update the time horizon of the plan must be completed within 18 months of DCA's finding of sufficiency.

**Discussion:** As part of the preparation of the EAR, local governments look at past population and development trends and develop projections for future growth. This exercise provides an excellent opportunity to revisit with the public the long-term goals and objectives of the plan. Involving citizens in a meaningful way in the preparation of the EAR can be a valuable tool for reaffirming public support for planning.

Planning and growth management in Florida is a complex and ever-evolving process. This chapter provides only a brief overview of the subject. For more information, see the bibliography below and speak with your city's planning professionals.

## **REFERENCES**

*Community Stewardship II: A Citizen's Guide to the Nuts and Bolts of Florida's Growth Management Process*, 1000 Friends of Florida, December 2004

Comprehensive Planning for Growth Management in Florida - Publication FE642 of the Food and Resource Economics Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL. Published July 2006. Roy R. Carriker

Department of Community Affairs Web site, [www.myflorida.com](http://www.myflorida.com)

# Section 8-3

## Regional Planning Councils

Regional Planning Councils are quasi-governmental organizations that are designated by Florida (Ch. 186, Florida Statutes) to address problems and plan solutions that are of greater-than-local concern or scope, and are to be recognized by local governments as one of the means to provide input into state policy development. With regard to transportation-related issues, RPCs are empowered to provide technical assistance to local governments on growth management matters; coordinate land development and transportation policies in a manner that fosters region-wide transportation systems; review local government comprehensive plan amendments, evaluation/appraisal reports, and Developments of Regional Impacts for consistency with state and regional plans; and, review the plans of independent transportation authorities and metropolitan planning organizations to identify inconsistencies between those plans and applicable local government plans.

### **A. PRODUCTS**

In addition to various studies of the resources of the region, the principal product of each RPC is the Strategic Regional Policy Plan (SRPP). The SRPP identifies key regional resources and facilities, examines current and forecasted conditions and trends (including expected growth patterns), and establishes regional goals and policies that guide a program of actions to address identified problems and needs. An example of strategic subject areas that a SRPP may address includes affordable housing, economic development, emergency preparedness, natural resources and regional transportation.

RPCs may also be involved in a variety of other programs other than growth management, such as emergency preparedness programs planning, GIS services, statistical analysis, small business development and public health projects.

### **B. COMPOSITION**

Each county in the region shall have a member on the Board of Directors of the RPC in its region and shall have at least one vote. Local governments and the Governor of Florida may appoint either locally elected officials or lay citizens, provided that at least two-thirds of the voting members are locally elected officials. Each RPC's Board may be composed of the following members:

1. Local elected officials (city and county commissioner).
2. Officials appointed by the governor, including an elected school board member to be nominated by the Florida School Board Association.
3. Ex officio nonvoting members appointed by the governor.

### **C. ORGANIZATION**

There are 11 RPCs in the State of Florida; one for each comprehensive planning district of the state.

1. West Florida RPC, Pensacola
2. Apalachee RPC, Tallahassee
3. North Central Florida RPC, Gainesville
4. Northeast Florida RPC, Jacksonville
5. Withlacoochee RPC, Ocala

6. East Central Florida RPC, Orlando
7. Central Florida RPC, Bartow
8. Tampa Bay RPC, Tampa
9. Southwest Florida RPC, Fort Myers
10. Treasure Coast RPC, Stuart
11. South Florida RPC, Miami

## **REFERENCES**

*[http://en.wikipedia.org/wiki/Regional-Planning\\_Councils](http://en.wikipedia.org/wiki/Regional-Planning_Councils)*