FLC
FLORIDA LEAGUE OF CITIES

November 12, 2025 *Via Email Delivery*

The Honorable Stan McClain
The Florida Senate
312 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 208 Land Use and Development Regulations
11.18.25 Agenda, Community Affairs Committee

Dear Chair McClain:

On behalf of the Florida League of Cities, I write to offer the League's comments on SB 208 relating to Land Use and Development Regulations, which addresses land use compatibility, "infill" residential development, and development fees.

For reasons set forth in the attached comments, the **League opposes the bill in its current form**. As we have discussed, however, I believe we can achieve a quick resolution to our objection to the development fee language in Lines 147-166. I hope you will favorably consider the alternative language we have offered for your consideration.

The provisions of the bill relating to compatibility and residential infill development are more problematic for reasons outlined in the attached comments. In our meetings, you indicated the underlying concern you wish to address is how local governments assess the relative compatibility of different residential uses. I understand your concern. As we discussed, I will work on an alternative approach that may help address this concern without creating the adverse consequences that would arise should the bill become law in its current form.

Thank you for your consideration.

Sincerely,

Rebecca O'Hara
Deputy General Counsel
Florida League of Cities, Inc.

cc: Members of the Senate Committee on Community Affairs
Attachments

301 S. Bronough St., Suite 300
Tallahassee, FL 32301-1722
P.O. Box 1757
Tallahassee, FL 32302-1757
Phone: 850.222.9684
Fax: 850.222.3806
flcities.com

Florida League of Cities
Comments on SB 208 Land Use and Development Regulations

Revises s. 163.3164 Definition of "Compatibility" (Lines 40-50):

The League opposes this change. The bill changes the definition such that it applies only to the analysis of uses "within the same land use category," which eliminates compatibility assessments for uses within *different* future land use categories but which are adjacent. The bill requires that any proposed residential use (regardless of height, bulk, scale, or density) be deemed compatible with any other residential use, so long as they are in the same land use category. It presumes that any type of residential development will always be compatible, which is not true. Many comprehensive plans adopt several types of residential future land use categories (or non-residential categories that allow some type of residential), but within each category are several zoning districts, which may vary in allowable density. A high-rise development of 50 units per acre is not always compatible with a 20-unit per acre subdivision (see Attachment). Stating they are compatible by legislative fiat eliminates the ability to address real-world incompatibilities with proper development tools to mitigate short and long-term conflicts.

Based on our discussions with you, we understand the frustration underlying this bill is with how the term "compatibility" may be used when it is undefined. This is a fair criticism. Some local governments have incorporated the statutory definition of compatibility into their plans, while others have not defined the term, which leads to unpredictable and sometimes arbitrary application. As we discussed, the League is working on an alternative approach to address this concern, and we hope to present it to you shortly.

Creates "Infill Residential Development" and requirements for its approval (Lines 51-60):

This language is overbroad, and the League opposes it. The League further objects to the creation of an uncategorized and unzoned new "infill residential development" type (see comments under "administrative approval," *infra*).

100-acre threshold: The requirement to share only 50% of a boundary with existing residential use means the other 50% of the property could be bordered by an entirely different and non-residential use, such as industrial. This language would prohibit consideration of compatibility with both the residential use on one side and the industrial use on the other side. It is also unclear how the 100-acre qualification applies. Does it mean a single parcel of 100 acres or multiple parcels that, in the aggregate, amount to 100 acres? 100 acres could easily encompass the entire jurisdiction of many Florida cities. What if the 100 acres crosses jurisdictional boundaries? In any event, 100 acres is not

"infill" in any context.[1] As written, the bill encompasses all residential development, of any type, including "edge-of-community" parcels (it doesn't require the parcel to be within an urban service boundary or area). This constitutes urban sprawl, not infill.

Terminology: The bill uses inconsistent terminology (residential use, residential development, land use, land use category, etc.), which makes it difficult to fully assess its impacts and will lead to litigation without clarification. For the purpose of this analysis, we will assume that references to "land use category" refer to "future land use category." Residential uses are allowed in most future land use categories, including agricultural categories. Would an agriculturally zoned property that contains a single house and a pig farm trigger the "contiguity" language in this bill if a residential subdivision is proposed next door? This section sets up clear conflicts between existing uses (such as the pig farm) and incoming new residential uses. That's not fair to the farmer, who will be barraged with complaints.

Limits application of Land Development Regulations to mitigate incompatibilities between residential uses (Lines 65-77):

The new language in Lines 72-77 will prohibit local governments from imposing conditions to mitigate incompatibilities between uses so long as the proposed new residential use is adjacent to an existing residential use. The League opposes this change.

Local government land development regulations include requirements to mitigate impacts between different land uses through site design standards. These include setbacks, buffers, site design, lighting, and noise requirements. These requirements are almost always included as a "condition" of approval. These conditions are important because they allow an otherwise incompatible or "slightly" incompatible" development to proceed, so long as the impacts are mitigated through these conditions.

The bill prohibits the use of these conditions completely. It would allow a high-rise apartment building to go up on the lot line of a low-rise single-family neighborhood, with no setback, no buffer, and with the building's trash compactor and dumpster located next to someone's backyard with no screen or fence. It would allow that same high-rise apartment building to be located next to heavy industrial use, with no conditions to address

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[1] Compare this proposal with the statutory definition of "urban infill" in s. 3164(51):
"the development of vacant parcels in otherwise built-up areas where public facilities such as sewer systems, roads, schools, and recreation areas are already in place and the average residential density is at least five dwelling units per acre, the average nonresidential intensity is at least a floor area ratio of 1.0 and vacant, developable land does not constitute more than 10 percent of the area."

incompatibilities, so long as another residential use is on the other side of the apartment building.

Fully preempts local governments from regulating building design elements for single-family homes (Lines 78-135):

The bill language completes an existing partial preemption that limits local governments from applying design standards on the development of single-family homes, with limited exceptions. The bill language effectively eliminates the remaining statutory exceptions to this preemption, and the League opposes this change.

The League encourages the Legislature to reconsider this preemption. There are increasing efforts to develop or redevelop true "urban infill" parcels located in existing single-family neighborhoods. This preemption makes it even harder to accomplish successful infill. Existing residents typically oppose these efforts for two reasons: 1) They don't want duplexes or townhomes next to detached single-family; and 2) They fear the new development will look out of place – that it will look vastly different from every other home and thereby degrade surrounding property values.

It is difficult enough to convince existing residents that townhomes and duplexes can enhance, rather than detract from existing homes in both character and value. The one tool that local governments could use, before this preemption was enacted, to ameliorate these concerns was to ensure, through design standards, that a new townhome or duplex would at least fit in with existing homes. Rather than expanding this preemption, the League urges the Legislature to grant some authority back to local governments to ensure new infill development enhances, rather than detracts, from the value and character of existing neighborhoods.

Requires administrative approval of "infill residential development" with no plan amendment, rezoning, etc. (Lines 136-146):

The League is categorically opposed to mandating administrative approval. Local government business should be conducted in the Sunshine, and the public has a fundamental right to participate in government decisions. Government in the dark erodes public trust in government at all levels.

Lines 138-140 prohibit local governments from recognizing the new "infill residential development" status created by this bill in their comprehensive plans because the bill prohibits any comprehensive plan amendment or zoning change to incorporate these areas. Thus, the bill creates an uncategorized land use that exists independently of the comprehensive plan and zoning districts. This negates the entire statutory premise of legal consistency in local land use decisions. *See* s. 163.3231, Florida Statutes.

Lines 141-143 require approval of an infill residential project if its proposed density is the same as the "average" density of contiguous properties. It is unclear if "average" density refers to allowable density or existing density, or gross density or net density. For example, if the proposed project is located between two areas that are in a land use category that allows up to 8 units per acre but which are actually developed at only 3 units per acre, how will this requirement of "average" density be applied?

Prohibits development fees that are based on project costs (Lines 147-166):

There are 2-4 local governments that apparently impose some type of fee associated with an application for a development permit that is based on the total cost of a project. The bill language is intended to prohibit this practice. The League does not oppose this portion of the bill in concept. The current bill language is overbroad, however, which makes its applicability to different types of fees (development permit fees, impact fees, building permit fees?) unclear. The League has offered language to bill proponents to clarify this section and is awaiting feedback.


20 d.u./acre
50 d.u./acre