

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 208

INTRODUCER: Senator McClain

SUBJECT: Land Use and Development Regulations

DATE: November 14, 2025 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hackett	Fleming	CA	Pre-meeting
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 208 amends various provisions of law relating to compatibility, infill residential development, and building design regulations.

The bill redefines the definition of “compatibility” within the Community Planning Act to specify that the term does not require identical development, and that all residential land uses are compatible if they fall within the same residential land use category in the local government’s comprehensive plan. The bill forbids regulations from denying, conditioning, or delaying approval of residential development on the basis of compatibility issues if the proposed residential use is located adjacent to existing residential development within the same land use category.

With regard to infill residential development, the bill provides as a definition the development of one or more parcels of no more than 100 acres in size within a residential future land use category and a residential zoning district that is contiguous on the majority of all sides by residential development. The bill provides that an application for an infill residential development must be administratively approved without public hearing and treated as a conforming use if the proposed development meets certain standards.

The bill also provides requirements around fees and charges in connection with the review, processing, and inspection of a residential development.

With regards to building design elements, the bill provides that regulations related to building design elements may not be applied to development within planned unit developments or master planned communities on the basis of local ordinance or resolution that was not adopted as part of the approval documents for the planned unit development or master planned community. The bill also provides a new definition for “architectural review board” which specifies that the exception permitting building design regulation only applies to private associations’ boards.

The bill takes effect July 1, 2026.

II. Present Situation:

Comprehensive Plans

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.¹ Each county and municipality must maintain a comprehensive plan to guide future development.²

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ 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.

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. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁴

The 10 required elements consider and address 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; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.⁵

Future Land Use Element

Comprehensive plans must contain an element regarding future land use that designates proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.⁶ Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.⁷ The proposed distribution, location, and extent of the various categories of land use must be shown on a land use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.⁸

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

⁴ Section 163.3177(3) and (6), F.S.

⁵ *Id.*

⁶ Section 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. S. 163.3177(6)(a)10., F.S.

⁷ Section 163.3177(6)(a)1., F.S.

⁸ Section 163.3177(6)(a)2., F.S.

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.⁹

Compatibility

The future land use element must consider what uses are compatible with one another to guide rezoning requests, development orders, and plan amendments.¹⁰ Compatibility means "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition."¹¹ In other words, the compatibility requirement permits local governments to consider whether a proposed use can peacefully coexist with existing uses.

Local governments, through the future land use plan, are responsible for ensuring compatibility of uses on adjacent lands, and particularly those lands in proximity to military installations and airports.¹² To act on this requirement, land use regulations are required to contain specific and detailed provisions necessary to ensure the compatibility of adjacent land uses.¹³ In practice, these regulations take the form of zoning codes with compatibility standards for height, density, setbacks, parking, and other general regulations on what types of developments can coexist.¹⁴

Comprehensive Plan Amendments

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.¹⁵

Any affected person may challenge whether a plan or plan amendment complies with the Act by petitioning the Division of Administrative Hearings (DOAH) for a formal hearing.¹⁶ An administrative law judge must hold a hearing in the affected local jurisdiction on whether the plan or plan amendment is in compliance.¹⁷ In challenges filed by an affected person, the comprehensive plan or plan amendment shall be determined to be in compliance if the local government's determination of compliance is fairly debatable. If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency for a final order in its favor.¹⁸

A comprehensive plan amendment may be classified as a small-scale amendment if the amendment involves less than 50 acres of land, does not impact land located in an area of critical

⁹ Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing Brevard Cty. v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).

¹⁰ Section 163.3194(3), F.S.

¹¹ Section 163.3164(9), F.S.

¹² Section 163.3177(6)(a)2., F.S.

¹³ Section 163.3202(2)(b), F.S.

¹⁴ See, e.g., City of Maitland Municipal Code, s. 5.10 Residential Compatibility Standards.

¹⁵ Sections 163.3174(4)(a) and 163.3184, F.S.

¹⁶ Section 163.3184(5)(a), F.S.

¹⁷ Section 163.3184(5)(c), F.S.

¹⁸ Section 163.3184(5)(e), F.S.

state concern, preserves the internal consistency of the overall local comprehensive plan, and does not require substantive changes to the text of the plan.¹⁹ Any affected person may challenge a small scale plan amendment by petitioning DOAH for a hearing. An administrative law judge must hold a hearing in the affected jurisdiction.²⁰ Attorney fees and costs are awarded in administrative proceedings before DOAH only if the non-prevailing adverse party participated in the proceedings for an improper purpose.²¹

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.²²

Each county and municipality must adopt and enforce land development regulations which are consistent with and implement their adopted comprehensive plan.²³ Local governments are encouraged to use innovative land development regulations²⁴ and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.²⁵ Land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.²⁶

Building Design Elements

Some land development regulations touch building design elements, such as external paint color, architectural styling, building material, and location of windows and doors.²⁷ In 2021,²⁸ the Legislature preempted local governments from applying land development regulations relating to building design elements to single-family or two-family dwellings except in certain situations, including:

- Dwellings on the National Register of Historic Places;
- Regulations adopted in order to implement the National Flood Insurance Program;
- Dwellings within a community redevelopment area;
- Dwellings located within a planned unit development or master planned community created before July 1, 2023; and
- Dwellings located within the jurisdiction of a local government that has a design review board or architectural review board created before 2020.²⁹

¹⁹ Section. 163.3187(1), F.S. If the amendment involves a site within an area of rural opportunity, the proposed small scale amendment may involve up to 100 acres. Section 163.3187(3), F.S.

²⁰ Section 163.3187(5)(a), F.S.

²¹ Section 120.595(1)(b), F.S. “Improper purpose” is defined as participating “in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.” Section 120.595(1)(e)1., F.S.

²² Section 163.3164, F.S.

²³ Section 163.3202, F.S.

²⁴ Section 163.3202(3), F.S.

²⁵ Sections 125.01055 and 166.04151, F.S.

²⁶ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

²⁷ Section 163.3202(5)(b)1., F.S.

²⁸ Chapter 2021-201, section 1, Laws of Fla.

²⁹ Section 163.3202(5), F.S.

III. Effect of Proposed Changes:

Compatibility

Section 1 in part amends s. 163.3164, F.S., to elaborate upon the definition of “compatibility” for the purposes of the Community Planning Act. The term is newly defined to mean the condition in which land uses within the same land use category can reasonably coexist in a stable and enduring manner without creating undue adverse impacts. The term does not require identical development, and all residential land uses are compatible if they fall within the same residential land use category in the local government’s comprehensive plan.

Section 2 in part amends s. 163.3202, F.S., to provide that land development regulations may not deny, condition, or delay approval of residential development on the basis of compatibility issues if the proposed residential use is located adjacent to existing residential development within the same land use category.

Infill Residential Development

Section 1 also provides a new definition for “infill residential development.” The term is defined as the development of one or more parcels of no more than 100 acres in size within a residential future land use category and a residential zoning district that is contiguous on the majority of all sides by residential development. For the purposes of this definition, “contiguous” is defined as the touching, bordering, or adjoining along a boundary including properties that would be contiguous if not separated by a roadway, railroad, canal, or other public easement.

Section 2 in part provides that an application for an infill residential development must be administratively approved without requiring a comprehensive plan amendment, rezoning, variance, or any other public hearing if the proposed development is consistent with current development standards and the density of the proposed development is the same as the average density of contiguous properties. A development so authorized must be treated as a conforming use notwithstanding the local government’s comprehensive plan, future land use designation, or zoning.

The section also provides requirements around fees and charges in connection with the review, processing, and inspection of a residential development. Such fee or charge must be limited to the actual cost of the service provided, must be clearly itemized and published on the local government’s fee schedule, and may not exceed statutory limits where applicable. Additionally, fees, charges, and exactions for infill residential developments must not be based on a percentage of construction costs, site costs, or project valuation.

Building Design Elements

Section 2 in part provides that regulations related to building design elements may not be applied to development within planned unit developments or master planned communities on the basis of local ordinance or resolution that was not adopted as part of the approval documents for the planned unit development or master planned community.

The section provides a new definition for “architectural review board,” meaning a body established and maintained by a private association to review and approve building design elements on private property. The effect of this language is that local governments’ architectural review boards which existed prior to 2020 may no longer continue to apply regulations related to building design elements. The statute contains exceptions for both architectural review boards and design review boards, while only the former is narrowed by this bill.

Section 3 amends s. 212.055, F.S., to correct a cross-reference.

Section 4 provides that the bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 163.3164, 163.3202, and 212.055 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.