

By Senator McClain

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A bill to be entitled
An act relating to land use and development
regulations; amending s. 163.3164, F.S.; revising the
definition of the term "compatibility"; defining the
terms "infill residential development" and
"contiguous"; amending s. 163.3202, F.S.; prohibiting
local land development regulations from requiring the
denial of, or conditioning or delaying the approval
of, residential development on the basis of a lack of
compatibility under certain circumstances; revising
the circumstances under which land development
regulations may be applied to a single-family or two-
family dwelling; defining the term "architectural
review board"; requiring the approval of infill
residential development applications in certain
circumstances; requiring the treatment of certain
developments as a conforming use; prohibiting local
land development regulations from conditioning the
approval of an application for certain residential
development on the payment of certain fees, charges,
or exactions; requiring that a fee or charge imposed
by a local government in connection with the review,
processing, or inspection of a residential development
application meet certain requirements; prohibiting the
withholding or delay of approval of, or imposition of
certain conditions on, a residential development
application under certain circumstances; amending s.
212.055, F.S.; conforming a cross-reference; providing
an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (22) through (54) of section 163.3164, Florida Statutes, are redesignated as subsections (23) through (55), respectively, a new subsection (22) is added to that section, and subsection (9) of that section is amended, to read:

163.3164 Community Planning Act; definitions.—As used in this act:

(9) "Compatibility" means a condition in which land uses or conditions within the same land use category can reasonably coexist in relative proximity to each other in a stable and enduring manner without creating undue adverse impacts on each other. Compatibility requires a reasonable ability to fit within the existing community fabric but does not require uniformity or identical development. Residential land uses are compatible if they fall within the same residential land use category as designed in the local government's comprehensive plan ~~fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.~~

(22) "Infill residential development" means the development of one or more parcels that are no more than 100 acres in size within a future land use category that allows a residential use and any zoning district that allows a residential use and which parcels are contiguous with residential development on at least 50 percent of the parcels' boundaries. For purposes of this subsection, the term "contiguous" means touching, bordering, or adjoining along a boundary and includes properties that would be

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contiguous if not separated by a roadway, railroad, canal, or other public easement.

Section 2. Paragraph (b) of subsection (2) and paragraphs (a) and (b) of subsection (5) of section 163.3202, Florida Statutes, are amended, and subsections (8) and (9) are added to that section, to read:

163.3202 Land development regulations.—

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

(b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space. However, the land development regulations may not require the denial of, or condition or delay the approval of, residential development on the basis of a lack of compatibility if the proposed residential use is located adjacent to, or across a public right-of-way from, any existing residential development within the same land use category.

(5)(a) Land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling unless:

1. The dwelling is listed in the National Register of Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;

2. The regulations are adopted in order to implement the National Flood Insurance Program;

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88 3. The regulations are adopted pursuant to and in
89 compliance with chapter 553;

90 4. The dwelling is located in a community redevelopment
91 area, as defined in s. 163.340(10);

92 5. The regulations are required to ensure protection of
93 coastal wildlife in compliance with s. 161.052, s. 161.053, s.
94 161.0531, s. 161.085, s. 161.163, or chapter 373;

95 6. The dwelling is located in a planned unit development or
96 master planned community created pursuant to a local ordinance,
97 resolution, or other final action approved by the local
98 governing body before July 1, 2023, provided that such
99 regulations were expressly adopted as part of the approval
100 documents for the planned unit development or master planned
101 community; or

102 7. The dwelling is located within the jurisdiction of a
103 local government that has a design review board or an
104 architectural review board created by ordinance before January
105 1, 2020, and such board has continuously existed since that
106 date. A local government may not create, recreate, or expand the
107 jurisdiction of such a board after January 1, 2020, for the
108 purpose of regulating single-family or two-family dwellings.

109 (b) For purposes of this subsection, the term:

110 1. "Architectural review board" means a body established
111 and maintained by a private homeowners' association, property
112 owners' association, or condominium association under chapter
113 718 or chapter 720 which is authorized by recorded covenants or
114 governing documents to review and approve building design
115 elements on private property. The term does not include any
116 board, committee, or panel created or controlled by a local

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government.

2. "Building design elements" means the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

3.2- "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots.

(8) Notwithstanding any ordinance to the contrary, an application for an infill residential development must be administratively approved without requiring a comprehensive plan amendment, rezoning, variance, or any other public hearing by any board or reviewing body if the proposed infill residential development is consistent with current development standards and the density of the proposed infill residential development is the same as the average density of contiguous properties. A development authorized under this subsection must be treated as a conforming use, notwithstanding the local government's

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comprehensive plan, future land use designation, or zoning.

(9) (a) Land development regulations may not condition the approval of an application for infill residential development, or any other residential development authorized under this act, on the payment of any fee, charge, or exaction based on a percentage of construction costs, site costs, or project valuation.

(b) Any fee or charge imposed by a local government in connection with the review, processing, or inspection of a residential development application must meet all of the following requirements:

1. Must be limited to the actual cost of the service provided by the local government.

2. Must be clearly itemized and published on the local government's fee schedule.

3. May not exceed the limits established for building and inspection fees under s. 553.80.

(c) The approval of a residential development application may not be withheld or delayed because of nonpayment, or conditioned on payment, of a fee or charge imposed in violation of this subsection.

Section 3. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties

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authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required

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to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term "public facilities" means facilities as defined in s. 163.3164(42) ~~s. 163.3164(41)~~, s. 163.3221(13), or s. 189.012(5), and includes facilities that are necessary to carry out governmental purposes, including, but not limited to, fire stations, general governmental office buildings, and animal shelters, regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a

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life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s.

252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for

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nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

f. Instructional technology used solely in a school district's classrooms. As used in this sub-subparagraph, the term "instructional technology" means an interactive device that assists a teacher in instructing a class or a group of students and includes the necessary hardware and software to operate the interactive device. The term also includes support systems in which an interactive device may mount and is not required to be affixed to the facilities.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's

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accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

4. Surtax revenues that are shared with eligible charter schools pursuant to paragraph (c) shall be allocated among such schools based on each school's proportionate share of total school district capital outlay full-time equivalent enrollment as adopted by the education estimating conference established in s. 216.136. Surtax revenues must be expended by the charter school in a manner consistent with the allowable uses provided in s. 1013.62(4). All revenues and expenditures shall be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9). If a school's charter is not renewed or is terminated and the school is dissolved under the provisions of law under which the school was organized, any unencumbered funds received under this paragraph shall revert to the sponsor.

Section 4. This act shall take effect July 1, 2026.