

# FLORIDA HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

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**BILL #:** [CS/CS/HB 425](#)

**TITLE:** Historic Cemeteries Program

**SPONSOR(S):** Aristide

**COMPANION BILL:** [SB 34](#) (Sharief)

**LINKED BILLS:** [HB 1485](#) Aristide

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 110 Y's 0 N's

**GOVERNOR'S ACTION:** Approved

## SUMMARY

### Effect of the Bill:

The bill requires counties and municipalities to approve applications to change zoning and land use designations for historic African-American cemeteries if they sell excess vacant land to fund the cemetery's long-term maintenance and upkeep. The bill allows a county or municipality to use reasonable discretion to determine the new zoning or land use designation, provided it is consistent and compatible with the surrounding area.

### Fiscal or Economic Impact:

None.

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## ANALYSIS

### EFFECT OF THE BILL:

The bill provides that if a [historic African-American cemetery](#) recorded in the [Florida Master Site File](#) sells excess vacant land to fund the cemetery's long-term maintenance and upkeep, the county or municipality where the cemetery is located must administratively approve an application to [rezone](#) or change the [land use designation](#) of the excess land to allow for development consistent and compatible with adjacent land uses. The bill allows a county or municipality to use reasonable discretion to determine the new zoning or land use designation, provided that it is consistent and compatible with the surrounding area. (Section [1](#))

The bill was approved by the Governor on May 21, 2026, ch. 2026-87, L.O.F., and will become effective on July 1, 2026. (Section [2](#))

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### [Historic Cemeteries Program](#)

Cemeteries that have been recorded are less likely to be destroyed as a result of construction and development because their locations are known in advance. The Florida Public Archaeology Network estimates that approximately three quarters of the 5,000 to 7,000 historic cemeteries in the state have not been recorded.<sup>1</sup> The Historic Cemeteries Program (Program) within the Florida Department of State, created in 2023, encourages local governments and organizations to preserve, rehabilitate, and provide public education on abandoned and historic cemeteries.<sup>2</sup> Among other duties, the Program maintains the state database of cemeteries established at least 50 years ago, develops guidelines on identification and maintenance for historic cemeteries, and assists with research, identification, and coordination related to newly discovered cemeteries.<sup>3</sup>

The Program is responsible for coordinating with the University of South Florida's Black Cemetery Network to facilitate the inclusion of abandoned African-American cemeteries in the Black Cemetery Network.<sup>4</sup> The Program

<sup>1</sup> Fla. Public Archaeology Network, [Florida Historic Cemetery Inventory](#) (last visited Feb. 16, 2026).

<sup>2</sup> [Ch. 2023-142, Laws of Fla.](#), codified as [s. 267.21, F.S.](#)

<sup>3</sup> [S. 267.21\(1\), F.S.](#), See Fla. Dept. of State, [Historic Cemeteries Program](#) (last visited Feb. 16, 2026).

<sup>4</sup> Fla. Dept. of State, [Historic Cemeteries Program](#) (last visited Feb. 16, 2026).

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also administers Abandoned African-American Cemeteries Grants, which provide a maximum award of \$50,000 in funding per project to assist with cemetery preservation efforts.<sup>5</sup> To be eligible for these grants, a cemetery must not be licensed under current law, must have had a majority of interments occurring more than 50 years ago, and must have a documented association with the interments of persons of primarily African-American ancestry.<sup>6</sup> Grant project types include cemetery research and cemetery protection.<sup>7</sup> In the 2026 fiscal year, eight projects received funding from an Abandoned African-American Cemetery Grant.<sup>8</sup>

### [Florida Master Site File](#)

The Florida Department of State's Division of Historical Resources oversees the National Register of Historic Places program for Florida and maintains the Florida Master Site File (Site File),<sup>9</sup> which is the official state inventory of historical cultural resources.<sup>10</sup> Categories of resources recorded at the Site File include archaeological sites, historical structures, historical cemeteries, historical bridges, and historic districts. The Site File is an active inventory of Florida's historical cultural resources without regard to historical significance. The Site File currently holds information on more than 200,000 cultural resources and copies of over 22,000 manuscripts. Site File staff do not evaluate the historical significance of sites or the potential impact of development projects; however, evaluations of historical significance by other State Historic Preservation Office staff and preservation consultants are included in the records.

### **Comprehensive Planning**

The Community Planning Act<sup>11</sup> provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.<sup>12</sup> Each county and municipality must maintain a comprehensive plan to guide future development and growth.<sup>13</sup>

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.<sup>17</sup> Local governments may also include optional elements in their comprehensive plan.<sup>18</sup> The 10 required elements are:

- Capital improvements.
- Future land use plan.
- Transportation.
- General sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge.
- Conservation.

<sup>5</sup> Fla. Dept. of State, Division of Historical Resources, [Abandoned African-American Cemeteries Grants](#) (last visited Feb. 16, 2026).

<sup>6</sup> Fla. Dept. of State, Division of Historical Resources, [Abandoned African-American Cemeteries Grant Guidelines](#), p. 5 (last visited Feb. 16, 2026).

<sup>7</sup> *Id.* at pp. 8-9.

<sup>8</sup> Fla. Dept. of State, [Abandoned African-American Cemetery Grants FY2026 Final Funded List](#) (last visited Feb. 16, 2026).

<sup>9</sup> Fla. Dept. of State, Division of Historical Resources, [What We Do](#) (last visited Feb. 16, 2026).

<sup>10</sup> Fla. Dept. of State, Division of Historical Resources, [Master Site File](#) (last visited Feb. 16, 2026).

<sup>11</sup> [Ch. 163, Part II, F.S.](#)

<sup>12</sup> [S. 163.3167\(1\), F.S.](#)

<sup>13</sup> [S. 163.3167\(1\)\(a\), \(2\), F.S.](#)

<sup>14</sup> [S. 163.3194\(1\)\(a\), F.S.](#)

<sup>15</sup> See, e.g., [Sarasota County, Fla. Comprehensive Plan, Future Land Use Element, FLU Policy 1.1.1](#) (last visited Feb. 16, 2026).

<sup>16</sup> [S. 163.3177\(1\), F.S.](#)

<sup>17</sup> [S. 163.3177\(6\), F.S.](#)

<sup>18</sup> [S. 163.3177\(1\)\(a\), F.S.](#)

- Recreation and open space.
- Housing.
- Coastal management.
- Intergovernmental coordination.
- Property rights.<sup>19</sup>

### Future Land Use Element

Comprehensive plans must include an element regarding future land use that designates the 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.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup>

### **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, sign regulations, or any other regulations controlling the development of land.<sup>24</sup> Each county and municipality must adopt and enforce land development regulations that are consistent with and that implement its adopted comprehensive plan.<sup>25</sup> Local governments are encouraged to use innovative land development regulations<sup>26</sup> and may adopt measures for the purpose of increasing affordable housing using land use mechanisms.<sup>27</sup>

### Zoning

A comprehensive plan's future land use element establishes a range of allowable uses and densities<sup>28</sup> and intensities<sup>29</sup> over large areas, while the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.<sup>30</sup>

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within

<sup>19</sup> [S. 163.3177\(3\), \(6\)\(a\)-\(i\), F.S.](#)

<sup>20</sup> [S. 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.

<sup>21</sup> [S. 163.3177\(6\)\(a\)1., F.S.](#)

<sup>22</sup> [S. 163.3177\(6\)\(a\)2., F.S.](#)

<sup>23</sup> 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)).

<sup>24</sup> [S. 163.3164\(26\), F.S.](#)

<sup>25</sup> [S. 163.3202\(1\), F.S.](#)

<sup>26</sup> [S. 163.3202\(3\), F.S.](#)

<sup>27</sup> [S. 125.01055](#) and [166.04151, F.S.](#)

<sup>28</sup> "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. [S. 163.3164\(12\), F.S.](#)

<sup>29</sup> "Intensity" means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services. [S. 163.3164\(22\), F.S.](#)

<sup>30</sup> Grosso, *supra* note 23.

each land use designation.<sup>31</sup> Common regulations within the zoning map districts include density, height and bulk of buildings, setbacks, and parking requirements. Regulations for a zoning category in a downtown area may allow for more density and height than allowed in a suburb, for instance.

If a developer or landowner believes that a proposed development may have merit but it does not meet the requirements of a zoning map in a jurisdiction, the developer or landowner can seek a rezoning through a rezoning application.<sup>32</sup> Rezoning applications are initially reviewed by local government staff, then by an appointed body that makes recommendations to the governing body of the local government, which makes the final determination.<sup>33</sup> If a property has unique circumstances or small nonconformities but otherwise meets zoning regulations, local governments may ease restrictions on certain regulations such as building size or setback through an application for a variance.<sup>34</sup> However, any action to rezone or grant a variance must be consistent with the local government's comprehensive plan.

Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or ordinances or resolutions initiated by the local government that change the actual zoning map designation of a parcel or parcels of land must follow additional enhanced notice requirements:

- If the area affected is less than 10 acres, the local government must notify by mail each property owner and hold a public meeting to discuss the ordinance or resolution before passage.
- If the area affected is 10 acres or greater, the local government must hold two separate meetings to discuss the changes, and notice the public through either mail to each property owner or to the public generally by newspaper.<sup>35</sup>

<sup>31</sup> See, e.g., Indian River County, [Planning and Development Services FAQ](#) (last visited Feb. 16, 2026).

<sup>32</sup> See, e.g., City of Tallahassee, [Application for Rezoning Review](#) (last visited Feb. 16, 2026).

<sup>33</sup> See *id.* and City of Redington Shores, [Planning and Zoning Board](#) (last visited Feb. 16, 2026).

<sup>34</sup> See, e.g., City of Tallahassee, [Variance and Appeals](#) and Seminole County, [Variance Process Requirements](#) (last visited Feb. 16, 2026).

<sup>35</sup> See [ss. 125.66\(5\)](#) and [166.041\(3\)](#), F.S.