

28-36.003 Principles for Guiding Development.

(1) Objectives to Be Achieved.

- (a) Strengthen local government capabilities for managing land use and development;
- (b) Protection of tidal mangroves and associated shoreline and marine resources and wildlife;
- (c) Minimize the adverse impacts of development of the quality of water in and around the City of Key West and throughout the Florida Keys;
- (d) Protection of scenic resources of the City of Key West and promotion of the management of unique, tropical vegetation;
- (e) Protection of the historical heritage of Key West and the Key West Historical Preservation District;
- (f) Protection of the value, efficiency, cost-effectiveness and amortized life of existing and proposed major public investments, including:
 - 1. The Florida Keys Aqueduct and water supply facilities,
 - 2. Sewage collection and disposal facilities,
 - 3. Solid waste collection and disposal facilities,
 - 4. Key West Naval Air Station,
 - 5. The maintenance and expansion of transportation facilities, and
 - 6. Other utilities, as appropriate;
- (g) Minimize the adverse impacts of proposed public investments on the natural and environmental resources of the City of Key West; and
- (h) Protection of the public health, safety, welfare and economy of the City of Key West, and the maintenance of Key West as a unique Florida resource.

(2) Elements Requiring Regulation.

(a) Planning and Administration.

1. The City of Key West shall modify the Comprehensive Plan which guides development within its boundaries to be consistent with these principles. The Comprehensive Plan shall be implemented through development regulations, including zoning ordinances and maps, which are kept current and made available for reasonable public distribution and inspection. Development orders shall be issued only in conformance with the policies and standards of the Comprehensive Plan, development regulations and maps.

2. The City of Key West shall prepare and implement Capital Improvement Plans based on viable funding sources to provide adequate infrastructure for existing and future development.

3. Issuance of development orders shall be coordinated with and contingent upon provisions contained within the Capital Improvement Plan. Development shall not be approved which is inconsistent with or exceeds the services specified in the Plan.

4. Special planning and zoning districts shall be created for:

a. Environmentally sensitive areas including, without limitation, mangrove communities. Such areas shall be zoned with a maximum use density of one dwelling unit per acre. Site alteration in these areas shall be limited to 10% of the total site size. Density credit should be considered by local governments as an incentive for the preservation of environmentally sensitive areas.

b. Noise and hazard zones of the Key West Naval Air Station as delineated by the U. S. Navy Office of the Chief of Naval Operations. Development within such zones should be limited to that compatible with air operations. Implementation of this section should be closely coordinated with the Office of the Chief of Naval Operations. Similar districts should be created around civilian airfields in cooperation with the Florida Department of Transportation and the Federal Aviation Administration. Codes for airfield districts should clearly specify height limits for structures and other appropriate restrictions on development necessary to protect air operations and public health and safety.

5. A community impact statement shall be designed to enable local governmental officials to determine the proposed development's favorable or unfavorable impact on the environment, natural resources, economy and the potential of the project to meet local or regional housing needs. The statement shall also require information relative to the project's potential impact on public facilities, including without limitation, water, sewer, solid waste disposal and transportation facilities. A community impact assessment statement shall be submitted and approved prior to the issuance of development orders or site plan approval for the following developments:

- a. Any development which includes building(s) in excess of 45 feet in height;
 - b. Any intensive land uses including: residential uses of 10 or more dwelling units per acre or 50 or more total dwelling units;
- and

c. Intensive business, commercial, or industrial uses.

6. Developments shall be encouraged in the Comprehensive Plan and development regulations to use clustering and other design techniques which would reduce public facilities costs, produce energy savings, and improve the scenic quality of the development. In addition, they shall conform to appropriate setback and open space requirements, stringent landscaping and land use compatibility requirements. Building and siting requirements shall reduce hurricane and fire damage potential and control access to City thoroughfares.

7. An evacuation plan consistent with regional and County plans shall be prepared and adopted which provides an opportunity for residents and visitors to evacuate to a place of safety during a natural disaster.

(b) Site Alteration Regulations.

Site alteration and landscaping regulations shall provide for:

1. A land clearing permit of limited duration issued upon approval of a site plan which includes a natural vegetation map, excepting minimal clearing required for survey.

2. Limitation of the size and species of trees allowed to be removed in clearing, including reasonable exceptions for structure sites and public safety. The ordinance shall provide protection for native tropical vegetation and tree species characteristic of West Indian tropical hardwood hammocks.

3. Revegetation and landscaping of cleared sites after construction.

(c) Waste Control and Water Quality Protection.

1. The City of Key West, in cooperation with the Monroe County Waste Collection and Disposal District, shall establish criteria and regulations for the methods and location of the disposal of all solid waste and waste-water effluents and residuals.

2. Site alteration and subdivision regulations shall provide for:

a. Retention of runoff or discharge of such runoff into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime.

b. Permanent drainage systems which make maximum use of natural drainage patterns, vegetative retention and filtration.

c. Maintenance of habitat for wildlife species, prevent the introduction of noxious vegetation, and minimize the alteration of transitional wetlands.

(d) Protection of Public Facilities and Investments.

1. The City of Key West, in cooperation with the Florida Keys Aqueduct Authority, shall amend all applicable plumbing codes to provide for the mandatory installation of water conserving fixtures in all new development and redevelopment.

2. Business, commercial and industrial development shall provide off street parking and limited controlled access points to City thoroughfares.

3. Existing and future waste treatment and disposal sites shall be protected from encroachment by land uses which would endanger their functions or existence.

(e) Historical Resource Protection.

1. A management and enforcement plan and ordinance shall be adopted by the City of Key West providing that designs and uses of development reconstruction within the Key West Historical Preservation District shall be compatible with the existing unique architectural styles and shall protect the historical values of the District.

2. The City of Key West shall maintain an architectural review board established pursuant to Section 266.207(2), Florida Statutes. Furthermore, the architectural review board shall receive notice of all applications for development within the City of Key West and participate in hearings as appropriate.

Rulemaking Authority 380.05 FS. Law Implemented 380.05(1) FS. History—New 2-28-84, Formerly 27F-15.03, Transferred from 27F-15.003.

Key West Area of Critical State Concern laws 02.17.12

Section 380.05, Florida Statutes

(5)After the commission adopts a rule designating the boundaries of, and principles for guiding development in, an area of critical state concern and within 180 days of such adoption, the local government having jurisdiction may submit to the state land planning agency its existing land development regulations and local comprehensive plan for the area, if any, or shall prepare, adopt, and submit the new or modified regulations and plan, the local government taking into consideration the principles set forth in the rule designating the area.

(6)Once the state land planning agency determines whether the land development regulations or local comprehensive plan or amendment submitted by a local government is consistent with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall approve or reject the land development regulations or portions thereof by final order, and shall determine compliance of the plan or amendment, or portions thereof, pursuant to s. [163.3184](#). The state land planning agency shall publish its final order to approve or reject land development regulations, which shall constitute final agency action, in the Florida Administrative Weekly. If the final order is challenged pursuant to s. [120.57](#), the state planning agency has the burden of proving the validity of the final order. Such approval or rejection of the land development regulations shall be no later than 60 days after submission of the land development regulations by the local government. No proposed land development regulation within an area of critical state concern becomes effective under this subsection until the state land planning agency issues its final order or, if the final order is challenged, until the challenge to the order is resolved pursuant to chapter 120.

(7)The state land planning agency and any applicable regional planning agency shall, to the greatest extent possible, provide technical assistance to local governments in the preparation of the land development regulations and local comprehensive plan for areas of critical state concern.

(8)If any local government fails to submit land development regulations or a local comprehensive plan, or if the regulations or plan or plan amendment submitted do not comply with the principles for guiding development set out in the rule designating the area of critical state concern, within 120 days after the adoption of the rule designating an area of critical state concern, or within 120 days after the issuance of a recommended order on the compliance of the plan or plan amendment pursuant to s. [163.3184](#), or within 120 days after the effective date of an order rejecting a proposed land development regulation, the state land planning agency shall submit to the commission recommended land development regulations and a local comprehensive plan or portions thereof applicable to that local government's portion of the area of critical state concern. Within 45 days following receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification, and by rule establish land development regulations and a local comprehensive plan applicable to that local government's portion of the area of critical state concern. However, such rule shall not become effective prior to legislative review of an area of critical state concern pursuant to paragraph (1)(c). In the rule, the commission shall specify the extent to which its land development regulations, plans, or plan amendments will supersede, or will be supplementary to, local land development regulations and plans. Notice of any proposed rule issued under this section shall be given to all local governments and regional planning

agencies in the area of critical state concern, in addition to any other notice required under chapter 120. The land development regulations and local comprehensive plan adopted by the commission under this section may include any type of regulation and plan that could have been adopted by the local government. Any land development regulations or local comprehensive plan or plan amendments adopted by the commission under this section shall be administered by the local government as part of, or in the absence of, the local land development regulations and local comprehensive plan.

(9) If, within 12 months after the commission adopts a rule designating an area of critical state concern, land development regulations or local comprehensive plans for the area have not become effective under either subsection (6) or subsection (8), the designation of the area as an area of critical state concern terminates. No part of such area may be recommended for redesignation until at least 12 months after the date the designation terminates pursuant to this subsection. The running of the 12-month period subsequent to the initial designation shall be tolled upon challenge pursuant to the provisions of chapter 120 to either the designation of the area of critical state concern or the adoption of land development regulations and local comprehensive plans under subsection (6) or subsection (8).

(10) At any time after the adoption of land development regulations and plans by the commission under this section, a local government may propose land development regulations or a local comprehensive plan which, if approved by the state land planning agency as provided in subsection (6), will supersede any regulations or plans adopted under subsection (8).

(11) Land development regulations or a local comprehensive plan submitted by a local government in an area of critical state concern and approved pursuant to subsection (6) may be amended or rescinded by the local government, but the amendment or rescission becomes effective only upon approval thereof by the state land planning agency. The state land planning agency shall either approve or reject the requested changes within 60 days of receipt thereof. Land development regulations or local comprehensive plans for an area of critical state concern adopted by the commission under subsection (8) may be amended or rescinded by rule by the commission in the same manner as for original adoption.