



CITY OF FORT LAUDERDALE

CITY ATTORNEY'S OFFICE

HOUSE BILL NO. 7103 CHAPTER 2019-165

City of Fort Lauderdale Council of Civic Associations

August 13, 2019

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HOUSE BILL NO. 7103 AMENDS THE FOLLOWING 16 STATUTES:

- Sec. 125.0155 - Affordable Housing (County only)
- Sec. 125.022 - Development permits and orders (County only)
- Sec. 163.3167 - Scope of Act (incorporation of existing development orders)
- Sec. 163.3180 - Concurrency
- **Sec. 163.31801** - **Impact Fees**
- Sec. 163.3202 - Land Development Regulations
- **Sec. 163.3215** - **Standing to enforce local comprehensive plans**
- **Sec. 166.033** - **Development permits and orders**
- **Sec. 166.04151** - **Affordable Housing (municipalities)**
- Sec. 420.502 - Legislative findings (state housing finance strategy)
- Sec. 420.503 - Definitions (state housing finance strategy)
- Sec. 420.5095 - Community Workforce Housing Innovative Pilot Program
- **Sec. 252.363** - **Tolling and extension of permits and other authorizations**
- Sec. 553.791 - Alternative plans review and inspection
- **Sec. 718.112** - **Bylaws (firesafety)**
- Sec. 718.1085 - Certain regulations not to be retroactively applied

Sec. 166.033 - Development permits and orders

NEW TIMELINE

- Within **30 days** after receiving an application for approval of a development permit or development order, a municipality must review the application for completeness and issue a letter in response thereto either indicating compliance or identifying deficiencies.
- If the application is deficient, the applicant has **30 days** to address the deficiencies submitting the required information.
- Within **120 days** after the municipality has deemed the application complete, OR **180 days** for applications that require final action through a quasi-judicial hearing or a public hearing, the municipality must approve, approve with conditions, or deny the application for a development permit or development order.
- Both parties can agree to a reasonable request for an extension of time.

Sec. 166.033 - Development permits and orders (cont'd)

NEW REQUIREMENT FOR DEVELOPMENT APPROVALS

- An approval, approval with conditions, or denial of the application for a development permit or development order must include **written findings** supporting the municipality's decision.
- In addition to new written findings requirement, the City is still required, when denying an application, to provide the applicant a written notice, which includes a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial.
- **Practical Applications**
 - ❖ City Commission – new Resolution language
 - ❖ Planning & Zoning Board – decisions will now be memorialized in orders or resolutions

Sec. 166.04151 - Affordable Housing

- (2) An **inclusionary housing ordinance** may require a developer to provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units. However, in exchange, a municipality must provide incentives to **fully offset all costs** to the developer of its affordable housing contribution. Such incentives may include, but are not limited to:
- (a) Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning;
 - (b) Reducing or waiving fees, such as impact fees or water and sewer charges; or
 - (c) Granting other incentives.

THE CITY DOES NOT CURRENTLY HAVE AN INCLUSIONARY HOUSING ORDINANCE NOR DO WE MANDATE AFFORDABLE HOUSING UNITS.

Sec. 252.363 - Tolling and extension of permits and other authorizations

- (1)(a) The declaration of a state of emergency issued by the Governor **for a natural emergency** tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends to the period remaining to exercise the rights under a permit or other authorization for 6 months in addition to the tolled period. This paragraph applies to the following:
1. The expiration of a development order issued by a local government.
 2. The expiration of a building permit.

Sec. 163.31801 - Impact Fees

- Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee
- The impact fee must be **proportional and reasonably connected to, or have a rational nexus with, the need for the additional capital facilities and the increased impact** generated by the new residential or commercial construction.
- The impact fee must be **proportional and reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing** to the new residential or nonresidential construction.
- The local government **must specifically earmark funds** collected under the impact fee for use in **acquiring, constructing, or improving capital facilities to benefit new users.**

Sec. 163.31801 - Impact Fees (cont'd)

- Revenues generated by the impact fee **may not be used**, in whole or in part, **to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increase impact generated** by the new residential or nonresidential construction.
- A county, municipality, or special district may provide an exception or **waiver for an impact fee for the development or construction of housing that is affordable**. If a county, municipality, or special district provides such an except or waiver, it is not required to use any revenues to offset the impact.

Sec. 163.3215 – Standing to enforce local comprehensive plans through development orders

The Basics

- (3) **Any aggrieved or adversely affected party** may maintain a de novo action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on, a development order, as defined in s. 163.3164, **which materially alters the use or density or intensity of use on a particular piece of property which is not consistent with the comprehensive plan adopted under this part.** The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever occurs later.

Sec. 163.3215 – Standing to enforce local comprehensive plans through development orders (cont'd)

- Either party is now entitled to the summary procedure provided in Sec. 51.011, Fla.Stat.
 - The **prevailing party** in a challenge to a development order filed under subsection (3) is **entitled to recover reasonable attorney fees and costs** incurred in challenging or defending the order, including reasonable appellate attorney fees and costs.
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Sec. 718.112 – Bylaws (Condominiums)

- An association must ensure compliance with the Florida Fire Prevention Code. As to a residential condominium building that is a high-rise building as defined under the Florida Fire Prevention Code, the association **must retrofit either a fire sprinkler system or an engineered life safety system** as specified in the Florida Prevention Code.
- The local authority having jurisdiction **may not require completion of retrofitting with a fire sprinkler system or an engineered life safety system before January 1, 2024.**

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By July 1, 2019, the State Fire Marshall shall issue a data call to all local fire officials to **collect data regarding high-rise condominiums greater than 75 feet in height which have not retrofitted with a fire sprinkler system or an engineered life safety system** in accordance with ss. 633.208(5) and 718.112(2)(1), Florida Statutes. Local fire officials shall submit such data to the State Fire Marshal and shall include, for each individual building, the address, the number of units, and the number of stories. **By July 1, 2020, all data must be received and compiled into a report by city and county.** By September 1, 2020, the report must be sent to the Governor, the President of the Senate, and the Speaker of the House of Representatives.