



## OFFICE OF THE COUNTY ATTORNEY

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## MEMORANDUM

DATE: August 1, 2019

TO: Cheri Coryea, County Administrator  
John Barnott, Director, Building and Development Services Department

THROUGH: Mitchell O. Palmer, County Attorney *by [Signature] 8/1/19*

FROM: William E. Clague, Chief Assistant County Attorney *[Signature] 8/1/19*  
Sarah A. Schenk, Assistant County Attorney *[Signature] 8.1.19*

RE: **Land Development Code and Comprehensive Plan Amendments**

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Recently, our office provided briefings to you and to members of the Board of County Commissioners (Board) in which we identified the need to address certain amendments to the County's Land Development Code (LDC) and Comprehensive Plan to assure that the County's land use decisions are legally defensible. You have asked this office to provide you with a summary of those amendments so that staff can prioritize them for consideration.

Attached is the summary that you requested, which reflects issues identified by this office in past discussions with staff, as well as issues arising from recent land use litigation. Please keep in mind that we have deliberately kept this summary as succinct as possible, such that it identifies only those amendments needed to address legal concerns of this office. It should not be treated as an exhaustive list of all potential LDC or Comprehensive Plan amendments that might be considered from a policy standpoint, or might otherwise be warranted to provide more user-friendly land use regulations.

\* Board Certified in Construction Law

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You have indicated that you would like to meet with us to discuss the details of the listed amendments, which we are happy to do at your convenience. As always, this office stands ready to provide any legal advice and assistance that may be helpful to the Board and staff regarding amendments to the LDC or Comprehensive Plan.

Copies to:

Board of County Commissioners  
John Osborne, Deputy County Administrator  
Karen Stewart, Deputy County Administrator  
Anne M. Morris, Assistant County Attorney

Enclosure:

Land Development Code and Comprehensive Plan Amendments

## Land Development Code and Comprehensive Plan Amendments

The County Attorney's Office has advised that the following amendments to the Land Development Code (LDC) and Comprehensive Plan (Comp Plan) should be addressed in order to assure legal defensibility of the County's land development decisions:

1. LDC Section 106.3, Enforcement: Clarify who has standing to seek injunctive relief to enforce the LDC. Clarify that this action cannot be brought against the County.
2. LDC Chapter 2, Definitions: Reconcile definitions that are duplicative of definitions in the Comp Plan.
3. LDC Sections 304 & 312, Procedures: Revise to incorporate procedures implementing recent amendments to Section 125.022, Florida Statutes (Laws of Florida 2019-165). Also change the term "sufficiency" to "substantive review".
4. LDC Sections 311 and 402, Interpretations / Uses: For planned development zoning districts, clarify available uses and authority of Director to interpret.
5. LDC Sections 316.12 & 324, Changes to Special Permits and Site Plans: Clarify when changes to special permits or site plans require public hearings before hearing officers or the Board, respectively.
6. LDC Section 321.C, Large Projects: Revise to reflect current County practices for large project approvals.
7. LDC Sections 370 & 371, Appeals: In Section 370, clarify who has standing to file an appeal. In Section 371, revise for consistency with the Florida Rules of Appellate Procedure.
8. LDC Chapter 6, Signs: Amend to reflect current case law regarding content neutrality.
9. LDC Section 1001.1, Required Access: Incorporate interpretations and criteria for specific approvals. Incorporate standards for utilization of planned thoroughfares.
10. LDC Section 1106.3, Application for Impact Fee Credits: Amend to require up-front agreements for significant improvements.
11. Comp Plan Policy 3.3.1.1. and LDC Chapter 706, Wetland Impacts: Amend to reflect current case law and Florida Statutes.