

A Primer on Live Local and SB 180

Estero Planning Zoning and Design Board

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Nancy E. Stroud, FAICP, JD

Live Local

Section 166.04151 (7), Florida Statutes

History:

- Enacted originally by the state legislature in 2023. Then Senate President Kathleen Passidomo championed the legislation to create “missing middle” or workforce housing.
- Amended in 2025 with clarifications and modifications

Expires October 1, 2033

Live Local

Key Provisions:

- Preempts municipal land use regulation for **qualifying** multifamily or mixed-use affordable housing development
 - Qualifying development is one that sets aside a **minimum of 40% of the units are rentals for households with incomes of up to 120% of area median income (AMI)**. In 2025, Lee County AMI is \$92,500. 120% = \$111,000)
 - Must be affordable for at least 30 years
- Requires that qualifying development be reviewed and approved administratively, without action by the PZDB or city council (no public hearing). Demolition on the parcel also approved administratively

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- Must allow in any area zoned for **commercial, industrial or mixed use**, including portions of “flexibly zoned” areas (i.e. planned development zones) allowing those uses. Mixed use must allow at least two of the following uses: residential, commercial and industrial.
 - NOTE: The statute exempts municipalities with less than 20% of land in commercial zoning from solely residential projects, so only mixed use qualifying projects are required. Estero is one of these.
- Must allow certain **density, height and floor area ratio**, regardless of comprehensive plan restrictions or zoning restrictions, based on highest currently allowed or allowed as of July 1, 2023 (least restrictive):
 - **Density.** Highest allowed on **any land in the municipality where residential use is allowed**. Does not include bonus densities available as incentives.

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- **Height.** Highest allowed for commercial or residential building in the municipality within **1 mile of the proposed development or 3 stories**, whichever is higher. Does not include bonus height available as incentive.
- Exception: If proposed development is adjacent on two or more sides to a single-family zoned parcel within a single-family residential development of more than 25 homes, municipality may restrict height to the higher of
 - 1) 150% of the height of the tallest adjacent building; or
 - 2) higher of the LDR allowed height, or 3 stories; or
 - 3) 10 stories

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- Other height exemptions for historic district, areas of critical state concern
 - **FAR and lot coverage.** 150% of the highest allowed for any land in the municipality. Not including bonus FAR
 - **Reduced parking** by 15% for transit oriented development or where there is available parking within 600 feet of the proposed development
1. **Other local LDR provisions continue to apply (i.e., setbacks, landscaping, parking, stormwater retention, open space etc.)**

“SB 180”

- History:
 - The legislation was enacted in the 2025 legislature, and signed by the Governor in May 2025
 - Part of an omnibus act (ch. 2025-190 Laws of Florida) that includes relatively uncontroversial provisions for disaster management planning, emergency resource coordination and financial transparency in disaster management/storm recovery.
 - Sections 18 and Section 28 were amendments made with little notice before voting was held on the afternoon of the last day of the session

SB 180

- Section 18 creates a new section in the State Emergency Management Act, Section 252.422
- It applies to “impacted local governments”: counties and the municipalities within the county “listed in a federal disaster declaration located entirely or partially within **100 miles of the track of a storm declared to be a hurricane** by the National Hurricane Center while the storm was categorized as a hurricane... .”
 - Example: 2024 Hurricane Debby disaster declaration included 61 of the 67 Florida counties

SB 180

Restrictions: Impacted local governments may not propose or adopt for one year after hurricane landfall:

- 1) a **moratorium** on construction, reconstruction or redevelopment of any property;
- 2) a **more restrictive or burdensome** amendment to its comprehensive plan or LDRs; and
- 3) a **more restrictive or burdensome procedure** concerning review, approval, or issuance of a site plan, development permit, or development order

EXCEPT if:

- 1) initiated by a private party for property the party owns; or
- 2) comprehensive plan amendment was submitted to reviewing agencies before landfall; or
- 3) comprehensive plan amendment or LDR in an area of critical state concern is approved by the state

SB 100

Section 18, cont.

- “Any person” may file suit for declaratory and injunctive relief to enforce the statute
- Before filing suit, plaintiff must notify local government, and local government has 14 days to withdraw or revoke, or declare the action void. Plaintiff may file suit if action is not withdrawn, revoked or voided.
- Prevailing plaintiff (but not the government) is entitled to attorneys’ fees.
- Result: Local government land use planning and regulation, even if unrelated to a disaster emergency, is prohibited if “more restrictive or burdensome”

SB 180

- Section 28 (not codified, refer to Act)
 - Applies to hurricanes Debby, Helene and Milton. It effectively applies statewide as all 67 counties were listed in federal disaster declarations when all hurricanes are considered
 - Broadens provisions of SB 250 (Ch. 2023-304, Laws of Florida) which was effective until Oct 1, 2024 for 10 counties affected by 2022 Hurricanes Ian and Nicole

Restrictions:

- Same as section 18, except moratoria are prohibited on construction, reconstruction, or redevelopment of **property specifically “damaged by such hurricanes.”**
- It applies **retroactively to August 1, 2024**. Restrictions apply until **October 1, 2027**. Act expires June 30, 2028.

SB 180

Section 28, cont.

Procedural differences from Section 18:

- Plaintiff limited to **resident or owner of business** in the county or municipality
- Plaintiff not required to provide notice, but if prevailing then does not get attorneys' fees

Questions?