

PART II
WEKIVA RIVER PROTECTION

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369.301 Short title.—This part may be cited as the “Wekiva River Protection Act.”

History.—s. 1, ch. 88-121; s. 26, ch. 88-393.

369.303 Definitions.—As used in this part:

(1) “Council” means the East Central Florida Regional Planning Council.

(2) “Counties” means Orange, Seminole, and Lake Counties.

(3) “Department” means the Department of Economic Opportunity.

(4) “Development of regional impact” means a development that is subject to s. 380.06.

(5) “Land development regulation” means a regulation covered by the definition in s. 163.3164 and any of the types of regulations described in s. 163.3202.

(6) “Local comprehensive plan” means a comprehensive plan adopted pursuant to ss. 163.3164-163.3215.

(7) “Revised comprehensive plan” means a comprehensive plan prepared pursuant to ss. 163.3164-163.3215 which has been revised pursuant to chapters 85-55, 86-191, and 87-338, Laws of Florida, and subsequent laws amending said sections.

(8) “Wekiva River development permit” means any zoning permit, subdivision approval, rezoning, special exception, variance, site plan approval, or other official action of local government having the effect of permitting the development of land in the Wekiva River Protection Area. “Wekiva River development permit” shall not include a building permit, certificate of occupancy, or other permit relating to the compliance of a development with applicable electrical, plumbing, or other building codes.

(9) “Wekiva River Protection Area” means the lands within: Township 18 south range 28 east; Township 18 south range 29 east; Township 19 south range 28 east, less those lands lying west of a line formed by County Road 437, State Road 46, and County Road 435; Township 19 south range 29 east; Township 20 south range 28 east, less all lands lying west of County Road 435; and Township 20 south range 29 east, less all those lands east of Markham Woods Road.

(10) “Wekiva River System” means the Wekiva River, the Little Wekiva River, Black Water Creek, Rock Springs Run, Sulphur Run, and Seminole Creek.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 46, ch. 91-221; s. 4, ch. 93-206; s. 50, ch. 2011-139; s. 242, ch. 2011-142; s. 13, ch. 2018-158.

369.305 Review of local comprehensive plans, land development regulations, Wekiva River development permits, and amendments.—

(1) It is the intent of the Legislature that Orange, Lake, and Seminole Counties emphasize the Wekiva River Protection Area in their planning and regulation efforts. Therefore, each county’s local comprehensive plan and land development regulations applicable to the Wekiva River Protection Area must meet the following criteria:

(a) Each county’s local comprehensive plan must contain goals, policies, and objectives that result in the protection of the:

1. Water quantity, water quality, and hydrology of the Wekiva River System;
2. Wetlands associated with the Wekiva River System;
3. Aquatic and wetland-dependent wildlife species associated with the Wekiva River System;
4. Habitat within the Wekiva River Protection Area of species designated pursuant to rules 39-27.003, 39-27.004, and 39-27.005, Florida Administrative Code; and
5. Native vegetation within the Wekiva River Protection Area.

(b) The various land uses and densities and intensities of development permitted by the local comprehensive plan shall protect the resources enumerated in paragraph (a) and the rural character of the Wekiva River Protection Area. The plan must also include:

1. Provisions that ensure the preservation of sufficient habitat for feeding, nesting, roosting, and resting so as to maintain viable populations of species designated pursuant to rules 39-27.003, 39-27.004, and 39-27.005, Florida Administrative Code, within the Wekiva River Protection Area.
2. Restrictions on the clearing of native vegetation within the 100-year flood plain.
3. Prohibition of development that is not low-density residential in nature, unless the development has less effect on natural resources than low-density residential development.
4. Provisions for setbacks along the Wekiva River for areas that do not fall within the protection zones established pursuant to s. 373.415.
5. Restrictions on intensity of development adjacent to publicly owned lands to prevent adverse impacts to such lands.
6. Restrictions on filling and alteration of wetlands in the Wekiva River Protection Area.
7. Provisions encouraging clustering of residential development if it promotes protection of environmentally sensitive areas and ensures that residential development in the aggregate is rural in density and character.

(c) The local comprehensive plan must require that the density or intensity of development permitted on parcels of property adjacent to the Wekiva River System be concentrated on those

portions of the parcels which are the farthest from the surface waters and wetlands of the Wekiva River System.

(d) The local comprehensive plan must require that parcels of land adjacent to the surface waters and watercourses of the Wekiva River System not be subdivided so as to interfere with the implementation of protection zones as established pursuant to s. 373.415, any applicable setbacks from the surface waters in the Wekiva River System which are established by local governments, or the policy established in paragraph (c) of concentrating development in the Wekiva River Protection Area as far from the surface waters and wetlands of the Wekiva River System as practicable.

(e) The local land development regulations must implement the provisions of paragraphs (a), (b), (c), and (d) and must include restrictions on the location of septic tanks and drainfields in the 100-year flood plain and discharges of stormwater to the Wekiva River System.

(2) Each county shall, within 10 days of adopting any necessary amendments to its local comprehensive plan and land development regulations or new land development regulations pursuant to subsection (1), submit them to the department, which shall, within 90 days, review the amendments and any new land development regulations and make a determination.

(3) If the department determines that the local comprehensive plan and land development regulations as amended or supplemented comply with the provisions of subsection (1), the department shall petition the Governor and Cabinet to confirm its determination. If the department determines that the amendments and any new land development regulations that a county has adopted do not meet the criteria established in subsection (1), or the department receives no amendments or new land development regulations and determines that the county's existing local comprehensive plan and land development regulations do not comply with the provisions of subsection (1), the department shall petition the Governor and Cabinet to order the county to adopt such amendments to its local comprehensive plan or land development regulations or such new land development regulations as it deems necessary to meet the criteria in subsection (1). A determination or petition made by the department pursuant to this subsection shall not be final agency action.

(4) The Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission, shall render an order on the petition. Any local government comprehensive plan amendments directly related to the requirements of this subsection and subsections (1), (2), and (3) may be initiated by a local planning agency and considered by the local governing body without regard to statutory or local ordinance limitations on the frequency of consideration of amendments to local comprehensive plans.

(5) In its review of revised comprehensive plans, and in its review of comprehensive plan amendments, the department shall review the local comprehensive plans, and any amendments, which are applicable to portions of the Wekiva River Protection Area for compliance with the provisions of subsection (1) in addition to its review of local comprehensive plans and amendments for compliance

as defined in s. 163.3184; and all the procedures and penalties described in s. 163.3184 shall be applicable to this review.

(6) The department may adopt reasonable rules and orders to implement the provisions of this section.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 14, ch. 95-146; s. 191, ch. 2010-102; s. 74, ch. 2020-2.

369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.—

(1) Notwithstanding s. 380.06(4), the counties shall consider and issue the development permits applicable to a proposed development of regional impact which is located partially or wholly within the Wekiva River Protection Area at the same time as the development order approving, approving with conditions, or denying a development of regional impact.

(2) Notwithstanding the provisions of s. 380.0651 or any other provisions of chapter 380, the numerical standards and guidelines provided in chapter 28-24, Florida Administrative Code, shall be reduced by 50 percent as applied to proposed developments entirely or partially located within the Wekiva River Protection Area.

(3) The Wekiva River Protection Area is hereby declared to be a natural resource of state and regional importance. The East Central Florida Regional Planning Council shall adopt policies as part of its strategic regional policy plan and regional issues list which will protect the water quantity, water quality, hydrology, wetlands, aquatic and wetland-dependent wildlife species, habitat of species designated pursuant to rules 39-27.003, 39-27.004, and 39-27.005, Florida Administrative Code, and native vegetation in the Wekiva River Protection Area. The council shall also cooperate with the department in the department's implementation of the provisions of s. 369.305.

(4) The provisions of s. 369.305 of this act shall be inapplicable to developments of regional impact in the Wekiva River Protection Area if an application for development approval was filed prior to June 1, 1988, and in the event that a development order is issued pursuant to such application on or before April 1, 1989.

(5) The Department of Environmental Protection is directed to proceed to negotiate for acquisition of conservation and recreation lands projects within the Wekiva River Protection Area provided that such projects have been deemed qualified under statutory and rule criteria for purchase and have been placed on the priority list for acquisition by the advisory council created in s. 259.035 or its successor.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 14, ch. 89-116; s. 191, ch. 94-356; s. 10, ch. 95-149; s. 31, ch. 99-247; s. 14, ch. 2018-158.

369.309 Airboats prohibited; exceptions; penalties.—

(1) The operation of an airboat on the Wekiva River System shall be prohibited. For the purposes of this section, an airboat is any boat, sled, skiff, or swamp vessel that is pushed, pulled, or propelled by air power generated by a nondetachable motor of more than 10 horsepower.

(2) The provisions of this section shall not apply in the case of an emergency or to any employee of a municipal, county, state, or federal agency or their agents on official government business.

(3) Persons convicted for violation of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 90-81.