

Monday, September 12, 2022
Immediately Follow First Budget Hearing



Town Hall Commission Chambers
247 Edwards Lane
Palm Beach Shores, FL 33404

Mayor Alan Fiers
Vice Mayor Scott McCrannels

Commissioner Tracy Larcher
Commissioner Janet Kortenhaus
Commissioner Brian Tyler

Town Attorney Keith Davis
Town Administrator Wendy Wells
Town Clerk Jude M. Goudreau

PLEASE NOTE:

THIS MEETING IS ALSO CONDUCTED USING COMMUNICATION MEDIA TECHNOLOGY

Join information

Meeting link: Meeting link:

<https://townofpalmbeachshores.my.webex.com/townofpalmbeachshores.my/j.php?MTID=m640c1006be0a8f5b2c00ebd909653f76>

Meeting number: 2634 042 3653 Password: 0912

Join by phone +1-408-418-9388 United States Toll: Access code: 2634 042 3653

COMMISSION WORKSHOP AGENDA

1) CALL TO ORDER

- a) Pledge of Allegiance
- b) Roll Call

2) Guest Speaker

- Kathleen Joy, Director of Community Engagement for Palm Beach North Chamber of Commerce – Resilience Action Plan Presentation

3) Discussion Items:

- Fee Schedule – Revised
- Community Center Kitchen Remodel – update
- Lawn Maintenance
- Fire Inspection Services and Plan Review – Options
- Consider payoff of short-term debt
- Proposed ordinance to update variance process

4) Public Comments: (please state your name)

5) Adjournment:

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the Town Commission with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings, and for such purpose may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The meeting/hearing will be continued from day to day, time to time, place to place, as may be found necessary during the aforesaid meeting. IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), THIS DOCUMENT CAN BE MADE AVAILABLE IN AN ALTERNATE FORMAT (LARGE PRINT) UPON REQUEST AND SPECIAL ACCOMMODATIONS CAN BE PROVIDED UPON REQUEST WITH THREE (3) DAYS ADVANCE NOTICE. FOR HEARING ASSISTANCE: If any person wishes to use a hearing device, please contact the Town Clerk.

Town of Palm Beach Shores Fee Schedule



TYPE OF FEE	AMOUNT	
<u>ADMINISTRATIVE FEES</u>		
Certified Copies	\$ 5.00	each
Lien Search	\$ 25.00	\$ 15.00
Lot File Review	\$ 15.00	free for owners
Meeting with:		
Code Official	\$ 150.00	\$ 75.00 per hour
Building Official	\$ 150.00	\$ 85.00 per hour
Zoning Official	\$ 150.00	\$ 135.00 per hour
Open Records:		
Search/Retrieval		See Open Record Rate Schedule - Exhibit B
Electronic Copies		No charge if available
Black & White Copies	\$ 0.15	\$ 0.10 per page
Color Copies	\$ 0.20	\$ 0.15 per page
Business Tax Receipt (administrative fees):		
Annual BTR Inspections by Code Officer - residential		
Code Compliance Inspections	\$ 50.00	
Annual BTR Inspections by Code Officer - commerical		
Building Official Inspections	\$ 100.00	\$ 50.00 includes timeshares
Fire Inspections - residential	\$ 50.00	
Fire Inspections - commercial	\$ 75.00	
Re-Inspections BTR	\$ 50.00	\$ 25.00
Transfer (to new owner)		10% of BTR max \$25; min \$3; per F.S. Sec 205.033(2)
Transfer (to new location)		10% of BTR max \$25; min \$3; per F.S. Sec 205.033(3)
Transfer (to new name)	\$ 15.00	
Duplicate	\$ 15.00	
Annual Fire Inspection Fee		Equals amount billed by PBC Fire Rescue
Solicitor Fees for all commercial activity (See Sec. 18-42 of the Town Code of Ordinances)		
Annual Fee	\$ 300.00	
Monthly Fee, 30 day - (minimum required)	\$ 50.00	
For Sale or For Rent Sign purchase	\$ 55.00	per sign
Garage Sale Sign deposit (refundable)	\$ 40.00	per sign
Garage Sale Permit	\$ 15.00	\$ 10.00

Beach Parking Permit:		
Resident (annual)	\$	10.00
Hotel/Motel -Guest Pass or Hotel/Motel	\$	10.00
Non-Resident (annual; limited to # of permits issued per year – set by Town Commission)	\$ 350.00	\$ 200.00
Special Event Permit (Town Beach or on any Town Property)		
Timely Application	\$	50.00
Untimely Application	\$	150.00
No Special Event Permit on Beach or any Town Property	\$	500.00 Fine
Community Center Rental		
First Floor of Community Center		
Security Deposit	\$	50.00 Refundable
Rental Fee (10 Hours) <i>includes sales tax 7%</i>	\$	53.50
Additional Hours - <i>includes sales tax 7%</i>	\$	53.50 per hour
Grill - <i>includes sales tax 7%</i>	\$	26.75
Kitchen - <i>includes sales tax 7%</i>	\$	26.75
Cleaning Fee (non refundable)	\$	255.00 Non refundable
Special Permit (over 50 guests)	\$	50.00
Second Floor Community Center		
Security Deposit	\$	500.00 Refundable
Rental Fee (10 Hours) <i>includes sales tax 7%</i>	\$	428.00
Additional Hours - <i>includes sales tax 7%</i>	\$	107.00 per hour
Cleaning Fee (non refundable)	\$	255.00 Non Refundable
Special Permit (over 50 guests)	\$	50.00
Approved Service Provider		
Security Deposit	\$ 2,000.00	Held while approved service provider
First Floor - Rental Fee (10 Hours)	\$	250.00
Second Floor - Rental Fee (10 Hours)	\$	2,100.00
Additional Hours	\$	150.00 per hour
Special Permit (over 50 guests)	\$	50.00
Underground Utility Waiver Application	\$	50.00
Unauthorized Sewer Connection; Per Incident (See Town Code of Ordinances, Sec. 74-131)	\$	500.00
Sewer System Usage Rates (See Town Code of Ordinances, Sec. 74-131)		
Single unit / vacant single unit lot accounts	\$	32.00
Multiple units w/ facilities for meal preparation	\$	26.00
Multiple units w/o facilities for meal preparation	\$	23.58
Each seat in restaurant/lounge/bar	\$	3.93
Each marina boat slip	\$	2.62
Proportionate Fair-Share Program Application	\$	50.00
Special Meetings/Hearings	\$	75.00 plus advertising costs

LAW ENFORCEMENT

Impoundment:

Towing	\$ 150.00
Storage	\$ 35.00 per day

Parking Penalties:

Obstructing Traffic	\$ 35.00
Parallel parking within 10 ft. of fire hydrant	\$ 60.00
Parking on any street or right-of-way, including the "10-foot strip"	\$ 35.00
Double-parking	\$ 35.00
Parking in prohibited area posted with a "No Parking" sign	\$ 35.00
Parallel parking w/in 15 ft. of a "STOP" sign	\$ 45.00
Blocking driveway, public or private	\$ 45.00
Parking on private property w/out permission	\$ 45.00
Parking at beach parking lot w/out permit	\$ 60.00
Parking at beach parking lot with expired permit	\$ 35.00
Parking in handicapped parking space w/o permit	\$ 260.00
Parking in fire lane or zone	\$ 85.00
Parking in any manner as to block any portion of a sidewalk and/or bicycle path or cross walk	\$ 35.00
Parking outside of designated lines at beach or Town Hall parking lots	\$ 35.00

Other Penalties

Littering	\$ 200.00
Animals (Chapter 10) Violations:	
First violation	written or verbal warning citation
Second violation	\$ 100.00
Subsequent violations	\$ 200.00 each
Illegal use of bicycles, roller-skates, rollerblades, skateboards, quadricycles on Parkway or Inlet Park	\$ 25.00

PLANNING AND ZONING

Development Orders *

Development Application Fee	\$ 350.00	Plus Contracted Services and legal ads
P&Z Application Fee	\$ 350.00	Plus Contracted Services and legal ads
Comprehensive Plan Amendment	\$ 750.00	
Variance	\$ 750.00	\$ 350.00 Plus Contracted Services and legal ads
Special Exception	\$ 250.00	
Comprehensive Plan Amendment	\$ 750.00	
Re-zoning	\$ 750.00	
Plat Approval	\$ 600.00	Plus Contracted Services and legal ads
Site Plan Review or Modification	\$ 350.00	
Telecom Site Plan Review of Modification	\$ 500.00	
Building Plan Review & Inspections	\$ 150.00	
Administrative Appeal	\$ 250.00	

**All development orders are subject to the fees listed herein in addition to any legal fees associated with the Town's review/processing of the development application, any costs associated with the Town's consultants' review of the development application, postage and advertising, which may exceed the fee amount listed herein.*

Specially set meetings of the DRC, Planning & Zoning Board and/or Town Commission at the request of an applicant shall require the applicant to pay actual cost (minimum one hour) in advance for all Town consultants' involvement in said meeting(s), including, but not limited to the Town Attorney, Planner, Engineer and other consultants as applicable.

BUILDING PERMIT FEES

Building permit fees are determined based on the valuation formula as follows:

<i>Structure Cost</i>		<i>Permit</i>
<i>Over:</i>	<i>But Not Over:</i>	<i>Fee:</i>
\$ -	\$ 1,000.00	\$ 30.00
\$ 1,000.00	\$ 100,000.00	\$30 + 3% of amount over \$1,000.00
\$ 100,000.00	\$ 250,000.00	\$3,000 + 2% of amount over \$100,000.00
\$ 250,000.00	\$ 500,000.00	\$6,000 + 1.5% of amount over \$250,000.00
\$ 500,000.00	---	\$9,750 + 1% of amount over \$500,000.00

IMPORTANT NOTE:

Pursuant to Section 553.721 Florida Statutes, the Building Department is required to assess and collect a **1% surcharge** (minimum \$2.00) on all permit fees associated with the enforcement of the Florida Building Code. Pursuant to Section 468.631 Florida Statute, the Building Department is required to assess and collect at **1.5% surcharge** (minimum \$2.00) on all permit fees associated with the enforcement of the Florida Building Code. **The total minimum amount collected on any permit pursuant to these state statute provisions will be \$4.00.**

Additional Fees:

Plan Review	\$ 80.00 per hour
Permit Revision (not including plan revisions)	\$ 75.00
Change of Contractor Fee	\$ 30.00
Re-Inspection fee	\$ 50.00
Electrical Permit	\$ 30.00
Demolition Permit	\$ 100.00
Telecom or Utilities Registration	\$ 100.00
Reinstate Expired Permit of Less Than 1 Year	\$ 30.00 Half of Valuation Formula Above
Reinstate Expired Permit of More Than 1 Year	Per Valuation Formula Above
(May be waived in part or in total by the Building Official)	

Town of Palm Beach Shores

Fee Schedule



TYPE OF FEE	AMOUNT
<u>ADMINISTRATIVE FEES</u>	
Certified Copies	\$ 5.00 each
Lien Search	\$ 25.00
Lot File Review	\$ 15.00
Meeting with:	
Code Official	\$ 150.00 per hour
Building Official	\$ 150.00 per hour
Zoning Official	\$ 150.00 per hour
Open Records:	
Search/Retrieval	See Open Record Rate Schedule - Exhibit B
Electronic Copies	No charge if available
Black & White Copies	\$ 0.15 per page
Color Copies & Double Sided	\$ 0.20 per page
Business Tax Receipt (administrative fees):	
Annual BTR Inspections by Code Officer - residential	\$ 50.00
Annual BTR Inspections by Code Officer - commercial	\$ 100.00 includes timeshares
Re-Inspections	\$ 50.00
Transfer (to new owner)	10% of BTR max \$25; min \$3; per F.S. Sec 205.033(2)
Transfer (to new location)	10% of BTR max \$25; min \$3; per F.S. Sec 205.033(3)
Transfer (to new name)	\$ 15.00
Duplicate	\$ 15.00
Annual Fire Inspection Fee	Equals amount billed by PBC Fire Rescue
Solicitor Fees for all commercial activity (See Sec. 18-42 of the Town Code of Ordinances)	
Annual Fee	\$ 300.00
Monthly Fee, 30 day (minimum required)	\$ 50.00
For Sale or For Rent Signs	\$ 55.00 per sign
Garage Sale Sign deposit (refundable)	\$ 40.00 per sign
Garage Sale Permit	\$ 15.00

Town of Palm Beach Shores

Fee Schedule



TYPE OF FEE	AMOUNT		
Beach Parking Permit:			
Resident (annual)	\$	10.00	
Guest Pass or Hotel/Motel	\$	10.00	
Non-Resident (annual; limited to # of permits issued per year – set by Town Commission)	\$	350.00	
Special Event Permit (Town Beach or on any Town Property)			
Timely Application	\$	50.00	
Untimely Application	\$	150.00	
No Special Event Permit on Beach or any Town Property	\$	500.00	Fine
Community Center Rental			
First Floor of Community Center			
Security Deposit	\$	50.00	Refundable
Rental Fee (10 Hours) <i>includes sales tax 7%</i>	\$	53.50	
Additional Hours - <i>includes sales tax 7%</i>	\$	53.50	per hour
Grill - <i>includes sales tax 7%</i>	\$	26.75	
Kitchen - <i>includes sales tax 7%</i>	\$	26.75	
Cleaning Fee (non refundable)	\$	255.00	Non refundable
Special Permit (over 50 guests)	\$	50.00	
Second Floor Community Center			
Security Deposit	\$	500.00	Refundable
Rental Fee (10 Hours) <i>includes sales tax 7%</i>	\$	428.00	
Additional Hours - <i>includes sales tax 7%</i>	\$	107.00	per hour
Cleaning Fee (non refundable)	\$	255.00	Non Refundable
Special Permit (over 50 guests)	\$	50.00	
Approved Service Provider			
Security Deposit	\$	2,000.00	Held while approved service provider
First Floor - Rental Fee (10 Hours)	\$	250.00	
Second Floor - Rental Fee (10 Hours)	\$	2,100.00	
Additional Hours	\$	150.00	per hour
Special Permit (over 50 guests)	\$	50.00	
Underground Utility Waiver Application	\$	50.00	
Unauthorized Sewer Connection; Per Incident	\$	500.00	
<i>(See Town Code of Ordinances, Sec. 74-131)</i>			

Town of Palm Beach Shores
Fee Schedule



TYPE OF FEE	AMOUNT	
Sewer System Maintenance Rates		
<i>(See Town Code of Ordinances, Sec. 74-131)</i>		
Single unit / vacant single unit lot accounts	\$	32.00
Multiple units w/ facilities for meal preparation	\$	26.00
Multiple units w/o facilities for meal preparation	\$	23.58
Each seat in restaurant/lounge/bar	\$	3.93
Each marina boat slip	\$	2.62
Proportionate Fair-Share Program Application	\$	50.00
Special Meetings/Hearings	\$	150.00 plus advertising costs

Town of Palm Beach Shores

Fee Schedule



TYPE OF FEE	AMOUNT
<u>LAW ENFORCEMENT</u>	
Parking Penalties:	
Obstructing Traffic	\$ 35.00
Parallel parking within 10 ft. of fire hydrant	\$ 60.00
Parking on any street or right-of-way, including the "10-foot strip"	\$ 35.00
Double-parking	\$ 35.00
Parking in prohibited area posted with a "No Parking" sign	\$ 35.00
Parallel parking w/in 15 ft. of a "STOP" sign	\$ 45.00
Blocking driveway, public or private	\$ 45.00
Parking on private property w/out permission	\$ 45.00
Parking at beach parking lot w/out permit	\$ 60.00
Parking at beach parking lot with expired permit	\$ 35.00
Parking in handicapped parking space w/o permit	\$ 260.00
Parking in fire lane or zone	\$ 85.00
Parking in any manner as to block any portion of a sidewalk and/or bicycle path or cross walk	\$ 35.00
Parking outside of designated lines at beach or Town Hall parking lots	\$ 35.00
Other Penalties	
Littering	\$ 200.00
Animals (Chapter 10) Violations:	
First violation	written or verbal warning citation
Second violation	\$ 100.00
Subsequent violations	\$ 200.00 each
Illegal use of bicycles, roller-skates, rollerblades, skateboards, quadricycles, electric vehicles of any kind	\$ 25.00

Town of Palm Beach Shores Fee Schedule



TYPE OF FEE	AMOUNT		
<u>PLANNING AND ZONING</u>			
Development Orders *			
Development Application Fee (DRC)	\$	350.00	Plus Contracted Services
P&Z Application Fee	\$	350.00	Plus Contracted Services
Variance	\$	750.00	Plus Legal Ads/Contracted Services
Special Exception	\$	250.00	
Comprehensive Plan Amendment	\$	750.00	
Re-zoning	\$	750.00	
Plat Approval	\$	600.00	Plus Contracted Services
Site Plan Review or Modification	\$	350.00	
Telecom Site Plan Review of Modification	\$	500.00	
Building Plan Review & Inspections	\$	150.00	
Administrative Appeal	\$	250.00	

**All development orders are subject to the fees listed herein in addition to any legal fees associated with the Town's review/processing of the development application, any costs associated with the Town's consultants' review of the development application, postage and advertising, which may exceed the fee amount listed herein per Sec 14-83 and pf 17.4 of the Town Code*

Specially set meetings of the DRC, Planning & Zoning Board and/or Town Commission at the request of an applicant shall require the applicant to pay actual cost (minimum one hour) in advance for all Town consultants' involvement in said meeting(s), including, but not limited to the Town Attorney, Planner, Engineer and other consultants as applicable.

Town of Palm Beach Shores Fee Schedule



TYPE OF FEE	AMOUNT
BUILDING PERMIT FEES	

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\$ 100,000.00	\$ 250,000.00	\$3,000 + 2% of amount over \$100,000.00
\$ 250,000.00	\$ 500,000.00	\$6,000 + 1.5% of amount over \$250,000.00
\$ 500,000.00	---	\$9,750 + 1% of amount over \$500,000.00

IMPORTANT NOTE:

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Permit Revision (not including Plans revisions)	\$ 75.00
Change of Contractor Fee	\$ 30.00
Re-Inspection fee	\$ 50.00
Electrical Permit	\$ 30.00
Reinstate Expired Permit of Less Than 1 Year	Half of Valuation Formula Above
Reinstate Expired Permit of More Than 1 Year	Per Valuation Formula Above

(May be waived in part or in total by the Building Official)

ORDINANCE NO. O-X-22

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT APPENDIX A. ZONING. AT SECTION XV. VARIANCES AND SPECIAL EXCEPTIONS. BY REPEALING REFERENDUM LANGUAGE PROHIBITED BY STATE LAW AND UPDATING THE LEGAL ADVERTISING AND PUBLIC NOTICE PROCEDURES FOR ALL VARIANCE AND SPECIAL EXCEPTION APPLICATIONS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF APPENDIX A. ZONING. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, remnant language remains in Pf. 15.4 of the Town's Zoning Code requiring a referendum prior to acting upon variance requests to increase building height or lot coverage more than ten percent (10%); and

WHEREAS, this remnant language is in direct conflict with Section 163.3167(8), Florida Statutes and the precedent established by Archstone Palmetto Park LLC v. Kennedy, 132 So.3d 347 (Fla. 4th DCA 2014); and

WHEREAS, the same Pf. 15.4 prescribing the legal advertising and public notice requirements for variances and special exceptions contains antiquated language which exceeds the requirements of state law, creates a longer development application processing timelines and is generally burdensome on Town Staff;

WHEREAS, the Town Commission of the Town of Palm Beach Shores desires to amend the Town's Zoning Code to repeal the referendum language that is violative of state law and update the legal advertising and public notice requirements to reflect current practice and facilitate efficient development application processing while maintaining adequate notice to affected residents; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores believes that these revisions to the Town Code of Ordinances are in the best interests of the Town of Palm Beach Shores and will promote the public health, safety and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AS FOLLOWS:

Section 1: Appendix A, Section XV. Variances and Special Exceptions. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Pf. 15.4. Procedure. to repeal referendum language prohibited by state law and to update the legal advertising and notice procedures for all variance and special exception applications submitted to the Town; providing that Pf. 15.4 shall hereafter read as follows:

Pf. 15.4. - Procedure.

Every person requesting a variance shall make written application to the Town Clerk ~~Building Official~~ therefor and file the same, with the necessary copies thereof, with the supporting facts and data as required by this Zoning Code. ~~The Building Official shall forthwith examine said application and endorse his recommendations thereon to the Chairman of the Planning and Zoning Board.~~ The Planning and Zoning Board shall consider such ~~the~~ applications and submit its recommendations to the Town Commission. ~~Thereupon, a~~ A notice ~~copy of said application shall be mailed by regular-certified mail to the owners of the property immediately adjacent thereto and across the street therefrom, at the address shown in-on the Palm Beach County Tax Collector's records Town tax records, together with a notice from the Building Official advising of the time of the public hearings on said application before the Planning and Zoning Board and the Town Commission.~~

The Town Clerk ~~Building Official~~ shall also cause to be published in a newspaper of general circulation in the Town a brief summary of said application and the date of the hearing, ~~directed "To all whom it may concern";~~ said notice shall be published once at least ten (10) ~~fifteen (15)~~ days prior to the date set for said hearing before the Planning and Zoning Board and the Town Commission, and notice shall be posted on the official bulletin board in the Town Hall and at two (2) other conspicuous locations in the Town.

~~Any request for a ten (10) percent or more increase in building height variance or a ten (10) percent or more increase in permitted lot coverage variance shall require the Town Commission to first determine the public interest through a referendum prior to making its final decision on the variance request.~~

No application shall be heard less than ~~ten (10) fifteen (15)~~ days after mailing to property owners directly affected as herein provided; and all applications will be heard at regular meetings of the Planning and Zoning Board and Town Commission, unless otherwise ordered by the Board or Commission, with statement of the reasons therefor spread on the official minutes.

All costs and expenses in the application and notification to adjacent owners {must} be paid by the applicant before the hearing on the application of a variance.

~~Building Construction~~ permits for granted variances must be obtained within six (6) months of variance approval. A single renewable six-month period to obtain ~~building construction~~ permits may be allowed at the discretion of the Town Commission.

Any variance granted by the Town Commission prior to the enactment of Ordinance No. 201 on August 8, 1983, upon which a building permit was required not heretofore issued must be reviewed by the Planning and Zoning Board of Adjustment and Appeal.

~~{The} following~~ notice ~~required appears~~ pursuant to F.S. § 286.0105, as amended from time to time, shall appear on all Town public agenda notices.;

~~PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the Planning and Zoning Board or Town Commission with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings, and for such purpose may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The meeting/hearing will be continued from day to day, time to time, place to place, as may be found necessary during the aforesaid meeting.~~

Section 2: Each and every other section and subsection of Appendix A. Zoning. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify and incorporate this Ordinance into the existing Code of Ordinances of the Town of Palm Beach Shores.

Section 6: This Ordinance shall become effective immediately upon passage.



ENROLLED

CS/CS/HB 537, Engrossed 1

2013 Legislature

1
2 An act relating to growth management; amending s.
3 163.3167, F.S.; clarifying the prohibition on an
4 initiative or referendum process in regard to
5 development orders; clarifying the prohibition on an
6 initiative or referendum process in regard to
7 comprehensive plan amendments and map amendments;
8 clarifying that the exception to the prohibition on an
9 initiative or referendum process in regard to any
10 local comprehensive plan amendment or map amendment is
11 limited to a local government charter provision in
12 effect on June 1, 2011, that specifically authorized
13 an initiative or referendum process for local
14 comprehensive plan or map amendments that affect more
15 than five parcels of land; providing legislative
16 intent; providing for retroactive application;
17 providing for the retroactive repeal of s. 4 of
18 chapter 2012-75, Laws of Florida, relating to a
19 presumption regarding agricultural enclaves; providing
20 an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (8) of section 163.3167, Florida
25 Statutes, is amended to read:

26 163.3167 Scope of act.—

27 (8) (a) An initiative or referendum process in regard to
28 any development order ~~or in regard to any local comprehensive~~



ENROLLED

CS/CS/HB 537, Engrossed 1

2013 Legislature

~~plan amendment or map amendment is prohibited. However, any local government charter provision that was in effect as of June 1, 2011, for an initiative or referendum process in regard to development orders or in regard to local comprehensive plan amendments or map amendments may be retained and implemented.~~

(b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is prohibited. However, an initiative or referendum process in regard to any local comprehensive plan amendment or map amendment that affects more than five parcels of land is allowed if it is expressly authorized by specific language in a local government charter that was lawful and in effect on June 1, 2011; a general local government charter provision for an initiative or referendum process is not sufficient.

(c) It is the intent of the Legislature that initiative and referendum be prohibited in regard to any development order. It is the intent of the Legislature that initiative and referendum be prohibited in regard to any local comprehensive plan or map amendment, except as specifically and narrowly permitted in paragraph (b) with regard to local comprehensive plan or map amendments that affect more than five parcels of land. Therefore, the prohibition on initiative and referendum stated in paragraphs (a) and (b) is remedial in nature and applies retroactively to any initiative or referendum process commenced after June 1, 2011, and any such initiative or referendum process that has been commenced or completed thereafter is hereby deemed null and void and of no legal force and effect.



ENROLLED

CS/CS/HB 537, Engrossed 1

2013 Legislature

57 Section 2. Section 4 of chapter 2012-75, Laws of Florida,
58 is repealed, retroactive to June 30, 2012.
59 Section 3. This act shall take effect upon becoming a law.

Select Year: 2022 ▾ Go

The 2022 Florida Statutes

[Title XI](#)
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

[Chapter 163](#)
INTERGOVERNMENTAL
PROGRAMS

[View Entire
Chapter](#)

163.3167 Scope of act.—

- (1) The several incorporated municipalities and counties shall have power and responsibility:
 - (a) To plan for their future development and growth.
 - (b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.
 - (c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.
 - (d) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

The powers and authority set out in this act may be employed by municipalities and counties individually or jointly by mutual agreement in accord with this act and in such combinations as their common interests may dictate and require.

(2) Each local government shall maintain a comprehensive plan of the type and in the manner set out in this part or prepare amendments to its existing comprehensive plan to conform it to the requirements of this part and in the manner set out in this part.

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. [163.3174](#), and prepare and adopt a comprehensive plan of the type and in the manner set out in this act within 3 years after the date of such incorporation. A county comprehensive plan is controlling until the municipality adopts a comprehensive plan in accordance with this act. A comprehensive plan for a newly incorporated municipality which becomes effective after January 1, 2016, and all land development regulations adopted to implement the comprehensive plan must incorporate each development order existing before the comprehensive plan's effective date, may not impair the completion of a development in accordance with such existing development order, and must vest the density and intensity approved by such development order existing on the effective date of the comprehensive plan without limitation or modification.

(4) Any comprehensive plan, or element or portion thereof, adopted pursuant to this act, which but for its adoption after the deadlines established pursuant to previous versions of this act would have been valid, shall be valid.

(5) Nothing in this act shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order and development has commenced and is continuing in good faith. Any landowner with a development order existing before the incorporation of a municipality may elect to abandon the development order and develop the vested density and intensity contained therein pursuant to the municipality's comprehensive plan and land development regulations adopted pursuant to subsection (3) so long as the vested uses, density, and intensity are consistent with the municipality's comprehensive plan and all existing

obligations in the development order regarding concurrency remain.

(6) The Reedy Creek Improvement District shall exercise the authority of this part as it applies to municipalities, consistent with the legislative act under which it was established, for the total area under its jurisdiction.

(7) Nothing in this part shall supersede any provision of ss. [341.8201-341.842](#).

(8)(a) An initiative or referendum process in regard to any development order is prohibited.

(b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is prohibited unless it is expressly authorized by specific language in a local government charter that was lawful and in effect on June 1, 2011. A general local government charter provision for an initiative or referendum process is not sufficient.

(c) It is the intent of the Legislature that initiative and referendum be prohibited in regard to any development order. It is the intent of the Legislature that initiative and referendum be prohibited in regard to any local comprehensive plan amendment or map amendment, except as specifically and narrowly allowed by paragraph (b). Therefore, the prohibition on initiative and referendum stated in paragraphs (a) and (b) is remedial in nature and applies retroactively to any initiative or referendum process commenced after June 1, 2011, and any such initiative or referendum process commenced or completed thereafter is deemed null and void and of no legal force and effect.

(9) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. [373.709](#).

(10)(a) If a local government grants a development order pursuant to its adopted land development regulations and the order is not the subject of a pending appeal and the timeframe for filing an appeal has expired, the development order may not be invalidated by a subsequent judicial determination that such land development regulations, or any portion thereof that is relevant to the development order, are invalid because of a deficiency in the approval standards.

(b) This subsection does not preclude or affect the timely institution of any other remedy available at law or equity, including a common law writ of certiorari proceeding pursuant to Rule 9.190, Florida Rules of Appellate Procedure, or an original proceeding pursuant to s. [163.3215](#), as applicable.

History.—s. 4, ch. 75-257; s. 1, ch. 77-174; s. 3, ch. 85-55; s. 6, ch. 86-191; s. 1, ch. 87-338; s. 1, ch. 92-129; s. 5, ch. 93-206; s. 1, ch. 95-322; s. 23, ch. 96-410; s. 158, ch. 2003-261; s. 11, ch. 2004-5; s. 1, ch. 2004-37; s. 3, ch. 2004-372; s. 1, ch. 2004-381; s. 42, ch. 2010-102; s. 3, ch. 2010-205; s. 7, ch. 2011-139; s. 1, ch. 2012-99; s. 1, ch. 2013-115; s. 3, ch. 2013-213; s. 1, ch. 2014-178; s. 3, ch. 2019-165; s. 1, ch. 2021-195; s. 1, ch. 2021-206.

KEITH W. DAVIS

ATTORNEY AT LAW

Board Certified in City, County and Local Government Law

MEMORANDUM

TO: Mayor Myra Koutzen, Palm Beach Shores
FROM: Attorney Davis
DATE: October 17, 2016
RE: Development Order Referendum

You have asked me to provide you with a Memorandum explaining the legality of the Town of Palm Beach Shores' ("Town's") charter provision on building height regulation.

A. Palm Beach Shores' Charter

The Town's Charter currently includes Section 9.1. - Building height regulation, which states:

Any increase in the maximum height of any building by 10% or more and any increase of 10% or more in the maximum building lot coverage, currently existing in all zone districts, shall be submitted to the electors of the town for approval or disapproval in a referendum election to be held in conjunction with the next scheduled general election.

This charter provision was enacted through Ordinance No. 217, § 1 on December 9, 1985.

B. Florida Statutes

The Florida Legislature amended Section 163.3167(8), *Florida Statutes*, most recently in 2014. This section currently states that:

- (a) An initiative or referendum process in regard to any development order is prohibited.
- (b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is prohibited unless it is expressly authorized by specific language in a local government charter that was lawful and in effect on June 1, 2011. A general local government charter provision for an initiative or referendum process is not sufficient.
- (c) **It is the intent of the Legislature that initiative and referendum be prohibited in regard to any development order.** It is the intent of the Legislature that initiative and referendum be prohibited in regard to any local comprehensive plan amendment or map amendment, except as specifically and narrowly allowed

by paragraph (b). Therefore, the prohibition on initiative and referendum stated in paragraphs (a) and (b) is remedial in nature and applies retroactively to any initiative or referendum process commenced after June 1, 2011, and any such initiative or referendum process commenced or completed thereafter is deemed null and void and of no legal force and effect. (emphasis added)

Section 163.3164(15), *Florida Statutes*, defines development order as “any order granting, denying, or granting with conditions an application for a development permit.” Subparagraph (16) further defines development permit as “any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.”

C. Relevant Case Law

In *Archstone Palmetto Park*¹, the court reversed a declaratory judgment in favor of a group of Boca Raton residents with instructions for trial court to enter declaratory judgment in favor of the City of Boca Raton. In this case, the court discussed several amendments made to this section 163.3167(8) in 2011, 2012 and 2013, and the legislative intent behind each. In this case, the court noted that “[t]he limitations placed upon referenda for development orders originated in 1995, when the Legislature enacted section 163.3167(12) Florida Statutes (1995), which provided as follows: An initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment that affects five or fewer parcels of land is prohibited.”

Applying this statute, in 2010 this court decided *Town of Palm Beach*² which involved the determination as to whether a proposed charter amendment constituted a development order, and thus was statutorily barred from referendum. In finding section 163.3167(12) to apply, this court noted “the due process problems associated with subjecting small property owners to public referendum votes when they would otherwise be entitled to a quasi[-]judicial hearing and review procedures.”

Less than a year later, the Legislature enacted the 2011 Amendment, which served to bar referenda for all development orders, comprehensive amendments, and map amendments. A year later, the Legislature enacted the 2012 Amendment which stated:

An initiative and referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment is prohibited. However, any local government charter provision that was in effect as of June 1, 2011, for an initiative or referendum process in regard to development orders or in regard to local comprehensive plan amendments or map amendments may be retained and implemented.

¹ *Archstone Palmetto Park, LLC v. Kennedy*, 132 So. 3d 347, 2014 Fla. App. LEXIS 1017, 39 Fla. L. Weekly D 230, 2014 WL 305086 (Fla. Dist. Ct. App. 4th Dist. 2014).

² *Preserve Palm Beach Political Action Committee v. Town of Palm Beach*, 50 So. 3d 1176 (Fla. 4th DCA 2010), rev. denied, 63 So. 3d 750 (Fla. 2011).

In 2013, § 163.3167(8) was again amended to state:

(a) An initiative or referendum process in regard to any development order is prohibited.

(b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is prohibited. However, an initiative or referendum process in regard to any local comprehensive plan amendment or map amendment that affects more than five parcels of land is allowed if it is expressly authorized by specific language in a local government charter that was lawful and in effect on June 1, 2011. A general local government charter provision for an initiative or referendum process is not sufficient.

(c) It is the intent of the Legislature that initiative and referendum be prohibited in regard to any development order. . . . Therefore, the prohibition on initiative and referendum stated in paragraphs (a) and (b) is remedial in nature and applies retroactively to any initiative or referendum process commenced after June 1, 2011, and any such initiative or referendum process that has been commenced or completed thereafter is hereby deemed null and void and of no legal force and effect.

As grounds for this amendment, the committee staff made express reference to the instant case in its accompanying May 14, 2013 staff analysis, stating:

In October 2012, the Palm Beach County Circuit Court ruled that CS/HB 7081 (2012) extended the exception to all local government general referendum or initiative charter provisions in effect as of June 1, 2011. The court held that such a general provision encompassed specific land amendments, such as development orders and comprehensive map amendments, despite the charter language not specifically authorizing either. This broad interpretation is contrary to the intent of the 2011 and 2012 legislation, which sought to restrict these voting mechanisms.

Note that the amended language from 2013 was carried over in the most recent 2014 amendment to this statutory section. Ultimately, the court in *Archstone Palmetto Park* held that “[b]ecause the 2012 amendment to § 163.3167(8), Fla. Stat., served to reaffirm the long-standing prohibition on referenda for development orders while grandfathering in specific charter provisions permitting referenda in place as of June 1, 2011, it was error to interpret the amendment as requiring a city to submit a development order to public referenda.”³

Given the long-standing prohibition on referenda for development orders, and the plain language of section 163.3167(8)(a) expressly prohibiting the use of an initiative or referendum process in regard to any development order, the Town’s Charter Section 9.1 should be removed.

³ *Id.*



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ARCHSTONE PALMETTO PARK LLC v. KENNEDY

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ARCHSTONE PALMETTO PARK, LLC, and City of Boca Raton, a Florida Municipality, Appellants, v. Kathleen KENNEDY, James M. Sullivan, Peter S. Barbour, Douglas R. Bloch, Darold R. Hurlbert and John A. Clarke, Appellees.

No. 4D12-4554.

Decided: January 29, 2014

Gerald F. Richman and Manuel Farach of Richman Greer, P.A., West Palm Beach, and Charles L. Siemon and J. Michael Marshall of Siemon & Larsen, P.A., Boca Raton, for appellant Archstone Palmetto Park, LLC. Jamie A. Cole and Daniel L. Abbott of Weiss Serota Helfman Pastoriza Cole & Boniske, P.L., Fort Lauderdale, and Diana Grub Frieser, City Attorney, Boca Raton, for appellant City of Boca Raton, a Florida Municipality. Ralf Brookes, Cape Coral, for appellees. Trela J. White and Jennifer G. Ashton of Corbett, White and Davis, P.A., Lantana, for Amicus Curiae, The Palm Beach County League of Cities, Inc. Jane West, St. Augustine, for Amicus Curiae, Florida Coalition for Preservation.

On occasion, the Legislature provides explicit guidance as to its intent and how a statute is to be applied for a specific case. This is one such instance. We reverse the declaratory judgment in favor of the appellees, which interpreted a 2012 amendment to section 163.3167(8), Florida Statutes, as requiring the City of Boca Raton to submit a development order to public referenda. Read properly, the 2012 amendment served to reaffirm the longstanding prohibition on referenda for development orders while grandfathering in specific charter provisions permitting referenda in place as of June 1, 2011.

Factual Background

In February 2012, the City of Boca Raton adopted Ordinance 5203, which amended a previously-approved development order by, among other things, setting additional development approval requirements for a four-acre parcel of land owned by appellant Archstone. Although Ordinance 5203 was styled as an amendment, the parties stipulated that it was a "local government development order."

One month after the ordinance's passage, the appellees, a group of Boca Raton residents, collectively filed a petition, pursuant to Section 6.02 of the City's charter, seeking a citywide referendum to determine whether Ordinance 5203 should be repealed. Although not specifically addressing development orders, Section 6.02¹ conferred upon the City's residents a general power of referendum with regard to the passage of city ordinances, providing as follows:

The qualified voters of the city shall have the power by petition to require reconsideration by the council of any adopted ordinance or resolution, and if council fails to repeal an ordinance or resolution, to approve or reject it at a city election.

At the time the appellees initiated their petition, section 163.3167(8), Florida Statutes (2011) ("the 2011 Amendment"), barred referendum proceedings for all development orders. As became effective on April 6, 2012, however, the Legislature amended section 163.3167(8) (the "2012 Amendment") to permit local governments to "retain[]" and implement[]" charter provisions that were in effect as of June 1, 2011, and provided "for an initiative or referendum process in regard to development orders." § 163.3167(8), Fla. Stat. (2012) (emphasis added).

Unsure of the 2012 Amendment's impact, the City brought suit in the circuit court seeking a declaratory judgment to the effect that development orders, such as Ordinance 5203, were not statutorily subject to referendum. One week later, Archstone, as the owner of the parcel subject to Ordinance 5203, intervened in the action as a co-plaintiff. Through their pleadings, the appellants collectively argued the City was powerless to process the appellees' referendum petition since the 2012 Amendment's "grandfather" clause applied only to a charter's "express" referendum provision, and "the City has never had a referendum process that specifically applied to development orders."

Following cross-motions for summary judgment, the trial court entered an order denying the appellants' motions while granting that of the appellees. In its order, the trial court found that, through the passage of the 2012 Amendment, "the Legislature intended for the referendum process to be permitted for Development Orders, where . the City Charter provided for this prior to June, 2011." Accordingly, since Section 6.02's general provision "for the referendum process on any Ordinances" impliedly included development orders, the trial court reasoned "the 2012 Amendment support[ed] the referendum process in th[e instant] case."

To support its ruling, the trial court traced section 163.3167(8)'s legislative history, recognizing the 2012 Amendment was enacted to grandfather in previously permitted charter provisions rendered invalid under the 2011 Amendment's blanket prohibition. Nevertheless, the trial court interpreted the statute's inclusion of the phrase "development orders" to evidence the Legislature's intent to expand the referendum process to all general charter provisions, such as Section 6.02, which inferentially, although not directly, apply to development orders. Additionally, given this expansive view, the trial court interpreted the 2012 Amendment as overruling this Court's decision in Preserve Palm Beach Political Action Committee v. Town of Palm Beach, 50 So.3d 1176 (Fla. 4th DCA 2010), which questioned the efficacy of subjecting development orders to referendum.

The appellants challenge the trial court's interpretation as contrary to the Legislature's intent. Specifically, they argue the 2012 Amendment did nothing to disturb the previous bar on referendum for development orders, since its express purpose was to satisfy a contingent settlement agreement by grandfathering in a municipality's limited charter provision. As an issue of statutory interpretation, our review is de novo. See Kephart v. Hadi, 932 So.2d 1086, 1089 (Fla.2006), cert. denied, 549 U.S. 1216 (2007).

"Referendum is the right of the people to have an act passed by the legislative body submitted for their approval or rejection." City of Coral Gables v. Carmichael, 256 So.2d 404, 411 (Fla. 3d DCA 1972) (quotation marks and citation omitted). In Florida, the availability of the referendum is constrained to those situations where "the people through their legislative bodies decide it should be used." Fla. Land Co. v. City of Winter Springs, 427 So.2d 170, 172-73 (Fla.1983)

(footnote omitted). In this regard, Article VI, section 5(a) of the Florida Constitution provides that "referenda shall be held as provided by law," with the phrase "as provided by law" equating to "as passed 'by an act of the legislature.'" *Holzendorf v. Bell*, 606 So.2d 645, 648 (Fla. 1st DCA 1992) (quoting *Broward Cnty. v. Plantation Imports, Inc.*, 419 So.2d 1145, 1148 (Fla. 4th DCA 1982)); *Grapeland Heights Civic Ass'n v. City of Miami*, 267 So.2d 321, 324 (Fla.1972) (defining "law" as used in the Florida Constitution as "enact[ed] by the State Legislature"). Thus, as applied to this case, the appellees' right to referendum is effectively tied to the reach of the 2012 Amendment.

Legislative History

"Legislative intent is the polestar that guides the interpretation and construction of a statute." *Anderson v. State*, 87 So.3d 774, 777 (Fla.2012). "Where a statute is clear and unambiguous, courts will not look behind the statute's plain language for legislative intent." *Beyel Bros. Crane & Rigging Co. of S. Fla., Inc. v. Ace Transp., Inc.*, 664 So.2d 62, 64 (Fla. 4th DCA 1995) (citing *City of Miami Beach v. Galbut*, 626 So.2d 192 (Fla.1993)). "However, when a statute is unclear or ambiguous as to its meaning, the Court must resort to traditional rules of statutory construction." *Murray v. Mariner Health*, 994 So.2d 1051, 1061 (Fla.2008). In conducting such analysis, "courts are permitted to consider subsequently enacted legislation in determining the meaning of a statute," *Edward T. Byrd & Co. v. WPSC Venture I*, 66 So.3d 979, 983 (Fla. 5th DCA 2011) (citing *Martin Daytona Corp. v. Strickland Constr. Servs.*, 941 So.2d 1220, 1224 (Fla. 5th DCA 2006)), particularly where the "amendment was enacted soon after a controversy regarding the statute's interpretation arose." *McKenzie Check Advance of Fla., LLC v. Betts*, 928 So.2d 1204, 1210 (Fla.2006) (citing *Lowry v. Parole & Prob. Comm'n*, 473 So.2d 1248, 1250 (Fla.1985)).

To discern the Legislature's intent in enacting the 2012 Amendment, first we must navigate the statute's history. The limitations placed upon referenda for development orders originated in 1995, when the Legislature enacted section 163.3167(12), Florida Statutes (1995), which provided as follows:

An initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment that affects five or fewer parcels of land is prohibited.

Applying this statute, this Court decided *Preserve Palm Beach Political Action Committee v. Town of Palm Beach*, 50 So.3d 1176 (Fla. 4th DCA 2010), rev. denied, 63 So.3d 750 (Fla.2011). *Preserve Palm Beach* involved the determination as to whether a proposed charter amendment constituted a development order, and thus was statutorily barred from referendum. In finding section 163.3167(12) to apply, this Court noted "'the due process problems associated with subjecting small property owners to public referendum votes when they would otherwise be entitled to a quasi[-]judicial hearing and review procedures.'" *Id.* at 1179. Furthermore, we questioned the wisdom of subjecting a development order to referendum, stating:

The right of the people to vote on issues they are entitled to vote on is one of utmost importance in our democratic system of government. But there are issues—such as the right of a small landowner to use his property subject only to government regulations—which should not be determined by popular vote. Section 163.3167(12) rightfully protects the small landowner from having to submit her development plans to the general public and ensures that those plans will be approved or not, instead, by the elected officials of the municipality in a quasi-judicial process.

Id.

Less than a year after *Preserve Palm Beach*, the Legislature enacted the 2011 Amendment, which served to bar referenda for all development orders, comprehensive amendments, and map amendments. See § 163.3167(8), Fla. Stat. (2011). Besides simply placing a limitation on referenda power, however, the 2011 Amendment also had the residual effect of invalidating the in-place charter provisions promulgated by several Florida municipalities, not including Boca Raton,² which tracked the 1995 statute's limited permission of referenda.

The Town of Yankeetown's charter, for example, contained the following provision, which specifically permitted referenda for comprehensive plans affecting more than five parcels of land:

Section 11. Voter approval is required for approval of comprehensive land use plan or comprehensive land use plan amendments affecting more than five parcels except for amendments to the Capital Improvements Element of the Comprehensive Plan, including annual updates to the capital improvement schedule shall not require voter approval.

To combat their provision's invalidation, the Town of Yankeetown filed a complaint in the Leon County circuit court seeking a declaratory judgment which would maintain its right to enforce Section 11, notwithstanding the 2011 Amendment's prohibition. See *Town of Yankeetown, FL v. Dep't of Cmty. Affairs, et al.*, Case No. 37 2011 CA 002036 (Fla.2d Cir.Ct.2011).

To resolve the matter, Yankeetown and the Department of Community Affairs reached a proposed settlement contingent upon the Legislature amending section 163.3167(8) to "grandfather-in those charter provisions, such as Yankeetown's, in place on the effective date of the Act that specifically provided for an initiative or referendum process relating to approval of any development order or any comprehensive plan or map amendment." Fla. H.R. Comm. on Econ. Affairs, Subcomm. on Community & Military Affairs, and Workman, HB 7081 (2012), Staff Analysis 4 (Apr. 9, 2012) (emphasis added). From this settlement, the 2012 Amendment was enacted, providing in full as follows:

An initiative and referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment is prohibited. However, any local government charter provision that was in effect as of June 1, 2011, for an initiative or referendum process in regard to development orders or in regard to local comprehensive plan amendments or map amendments may be retained and implemented.

§ 163.3167(8), Fla. Stat. (2012).

Drawing from the statute's history, the Legislature intended to enforce the 2011 Amendment's impediment on the referendum process while exempting specific charter provisions permitting referendum, such as Yankeetown's Section 11, in place as of June 2011. Without express wording to the contrary, we decline to infer that the Legislature intended to radically expand the referendum process through general charter provisions, where such provisions are commonplace throughout our state. See *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253–54 (1992) ("[C]ourts must presume that a legislature says in a statute what it means and means in a statute what it says there.").

2013 Amendment and the Intent of the Legislature

Such interpretation is cemented by a 2013 amendment to section 163.3167(8), which provided as follows:

(8) (a) An initiative or referendum process in regard to any development order is prohibited.

(b) An initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is

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