

## CHAPTER 29I-4 DEVELOPMENTS OF REGIONAL IMPACT (DRI's)

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### 29I-4.001 DRI Review Process.

(1) The DRI Review Process incorporates the following Council practices and procedures in conjunction with the required guidelines, reviews, reports, recommendations, and time limitations imposed by Chapter 380, F.S. The Southwest Florida Regional Planning Council (SWFRPC) has been charged by the State with the responsibility of reviewing Developments of Regional Impact (DRI's) as defined and authorized by Chapter 380, F.S. The SWFRPC is responsible for State Region IX, encompassing the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

(2) By law, the SWFRPC has 50 days in which to review an Application for Development Approval (ADA) after receiving notice that the legislative body of the local government will hold a DRI Public Hearing. However, the local government cannot schedule a DRI Public Hearing until it has received a letter from the SWFRPC indicating that the application is sufficient for review or that the SWFRPC has received notification from the developer that the additional requested information will not be supplied.

(3) Upon receiving a DRI-ADA, the SWFRPC has 30 calendar days in which to determine the sufficiency of the information provided. In order to provide an applicant with reasonable assurance that ADA will be acceptable, all information requested must be in the ADA. If the information in an ADA is determined by the SWFRPC to be insufficient, the applicant and the local government will be notified, in writing, of any information desired. If additional information is requested, the applicant has two options:

(a) To provide a letter within five working days of the receipt of the statement, requesting additional information, stating that the additional information will be provided to the SWFRPC and the local government. The applicant may choose to supply some of the requested information and decline, in writing, to provide the balance.

(b) To notify the SWFRPC that the requested additional information will not be provided. In this case, the SWFRPC may find it necessary to recommend that the ADA be denied for lack of information.

(4) Within 30 calendar days after receipt of such additional information, the SWFRPC shall review it following procedures specified in (3)(a) and (b) above and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information.

(5) If an applicant does not provide the information requested by the SWFRPC within 120 days of its request, the application shall be considered withdrawn. The SWFRPC Executive Director, at his discretion, may grant an additional 45 day extension, upon formal written request for an extension by the applicant. Any further time extension, beyond the discretionary 45 day time extension, must be formally requested by the applicant and approved by the SWFRPC board at its regular monthly meeting, prior to expiration of the discretionary 45 day extension.

Any such extension shall be based upon the complexity, availability of data and additional analysis caused by a time extension and any unnecessary hardships upon the developer.

(6) If the application is sufficient or if the developer has notified the SWFRPC that the additional requested information will not be provided, the SWFRPC, within 10 days of finding the application sufficient or receipt of notice from the applicant, will notify the local government and the applicant in writing. The local government is then required to set a DRI Public Hearing date at its next scheduled meeting. The notice of Public Hearing must be published at least 60 days in advance of the Hearing. The DRI Public Hearing date should be at least 10 days after the SWFRPC's meeting at which the DRI Assessment Report is officially adopted.

(7) The receipt of the local government notice of a DRI Public Hearing by the SWFRPC initiates the statutorily provided 50-day review period within which the Council must prepare and transmit a DRI Assessment Report to the local government. To eliminate the possibility of having to set up special Council meeting dates, the local government and the SWFRPC must coordinate the transmittal of the notice of the DRI Public Hearing so it is received by the SWFRPC no less than 45 days before the Council meeting at which the DRI Assessment Report would be officially adopted by the Council.

(8) After the DRI Public Hearing is held, the local government has 30 days to issue a Development Order. However, a time extension may be requested by the applicant. During the DRI Public Hearing, the local governments must consider the report and recommendations of the SWFRPC. The Development Order should approve, approve with conditions or deny the DRI. The Development Order should address all the regional issues raised by the SWFRPC indicating how these issues have or have not been resolved.

(9) Copies of the Development Orders shall be sent by the local government to the Department of Community Affairs, the SWFRPC, and the applicant. Upon receipt of a copy of the Development Order to Department of Community Affairs, the SWFRPC, the owner, and the developer, a 45 day period begins during which appeals may be initiated. Four parties may appeal a Development Order: the landowner, the developer, the SWFRPC or the Department of Community Affairs. No development permit should be issued by the local government during this 45 day period. Should an appeal take place, no development permit should be issued by the local government until the appeal is adjudicated. An appeal is made to the Land & Adjudicatory Commission (Governor and Cabinet). Decisions of the Commission are subject to judicial review under Chapter 120, F.S.

(10) The Council will review substantial deviation determinations made by local government on approved DRI Development Orders. The Council will assist the Department of Veteran and Community Affairs in monitoring the progress of the development and its compliance with the terms of the approved development. The Council will notify local governments if the required annual report is not received from the developer.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01, 186.505, 380.06, 380.07 FS. History—New 2-9-76, Amended 2-20-77, 9-26-77, 7-18-82, Formerly 291-4.01, Amended 7-27-86, 2-19-92.*

#### **291-4.003 Procedures for Filing an ADA.**

(1) An Application for Development Approval (ADA) may be received at any time by the SWFRPC. Before filing an ADA, the applicant shall contact the SWFRPC to arrange for a preapplication conference. During this conference, SWFRPC shall provide the applicant information about the DRI Process and the use of preapplication conferences to identify the appropriate listed regional issues and coordinate appropriate state, district, and local agency requirements.

(2) If during a preapplication meeting, the applicant states that any question(s) from the ADA appear unnecessary for a DRI and requests such question(s) be eliminated, the SWFRPC shall review the arguments of the applicant and then draft a written agreement for the elimination of any question(s) it deems unnecessary. If the SWFRPC determines during sufficiency review of a DRI that elimination of any ADA question(s) was based upon erroneous information, the question shall be immediately reinstated.

(3) The applicant must send a "Letter of Intent" to the Council at least one week prior to the submission of the DRI-ADA. All DRI communication and requests should be directed to:

Executive Director

Southwest Florida Regional Planning Council

(Please contact the agency for appropriate mailing address)

(4) At various intervals in the DRI Review Process, the Council's staff and the developer/owner, or a representative, may meet to discuss information deficiencies of the ADA and regional issues identified in the ADA. These meetings will be used to establish communication with the applicant and to seek appropriate measures to changes in the ADA necessary to resolve the regional issues prior to final review of the ADA by the Council.

(5) State, regional, and local governmental agencies will be invited to participate in the DRI Review process. Comments or reports on a particular DRI provided by such agencies will be included in the report of the staff to the Council.

(6) Standards used in review of DRI projects shall be as specified within SWFRPC rules and Regional Comprehensive Policy Plans. The SWFRPC shall also consider other appropriate Federal, State and Local Government Standards and Policies during the review of DRI projects.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01, 186.505, 380.06, 380.07 FS. History—New 2-9-76, Amended 2-20-77, 7-18-82, Formerly 291-4.03, Amended 7-27-86, 2-19-92.*

#### **291-4.004 DRI-ADA Form.**

(1) An application for development approval shall be submitted using the Department of Community Affairs official ADA forms specified within Rules of the Department of Community Affairs Chapter 9J-2, F.A.C. Rule Form RPM-BSP-ADA-1, Development of Regional Impact Application for Development Approval under Section 380.06, F.S., effective 11/90, hereby incorporated by reference, shall be used and may be obtained from the SWFRPC. Each question shall be fully answered. The Standard ADA form is subject to clarification to reflect specific regional concerns and to clarify the intent and response necessary to specific questions or parts of questions. Such supplemental questions shall be provided to the applicant at the preapplication meeting.

(2) Applications are required to be on 8 1/2 x 11 inch bond. Each question must be repeated in the application text with the answer following.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01, 186.505, 380.06, 380.07 FS. History—New 2-9-76 Amended 2-20-77, 7-18-82, Formerly 291-4.04, Amended 7-27-86, 2-19-92.*

#### **291-4.005 DRI-ADA Submission.**

Copies of the completed ADA shall be submitted to the local government on the same date submitted to the SWFRPC. A minimum of 20 copies shall be submitted to the SWFRPC. Additional copies may be requested based on the number of regional review agencies expected to participate in the review process.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01, 186.505, 380.06, 380.07 FS. History—New 2-9-76, Amended 1-3-77, 2-20-77, 7-18-82, Formerly 291-4.05, Amended 7-27-86, 2-19-92.*

#### **291-4.006 Request for DRI Review.**

The applicant must complete and deliver with the application for development approval (ADA) a "SWFRPC receipt and review fee agreement for review of development of regional impact" (eff. 1/91, available from Southwest Florida Regional Planning Council).

*Specific Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01, 380.06, 380.07 FS. History—New 2-9-76, Amended 2-20-77, Formerly 291-4.06, Amended 2-19-92.*

#### **291-4.007 DRI Review Fee.**

The DRI review fee for each DRI application, Florida Quality Development application, substantial deviation application, substantial deviation determination, supplemental plans and reviews identified in a development order requiring regional review or approval and review of each annual report are governed by the provisions of Rule 9J-2.0252, F.A.C. (DRI Review Fee Rule). Please refer to this rule when determining the appropriate fee. The applicant may request a review and final determination of a fee less than \$75,000 by the SWFRPC at a regularly scheduled meeting, consistent with the provisions of Rule 9J-2.0252 F.A.C.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01(5)(h), 380.06, 380.07 FS. History—New 8-19-76, Amended 2-20-77, 7-18-82, Formerly 291-4.07, Amended 7-27-86, 9-20-88, 2-19-92.*

#### **291-4.0081 Master Development Approval Alternative Review Procedure.**

(1) If a proposed development is planned for development over an extended period of time, the developer may follow an alternative development of regional impact review procedure by filing an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This alternative procedure shall follow development of regional impact procedures established by statute and rule but shall not be used for the optional coordinated review process. The developer shall consult with the local government and the SWFRPC regarding information to be provided; the timing of review of phases, increments, or issues related to regional impacts of the proposed development; and any other considerations that must be addressed in the application for master development approval and the agreement required by Section 380.06, F.S. The agreement shall be entered into by the developer, the SWFRPC, and the local government having jurisdiction before the application for master development approval is filed.

(2) In determining sufficiency of information contained in an application for master development approval, the SWFRPC shall give consideration to: the adequacy and availability of sufficient, reliable information; the necessity of subsequent review of phases, increments, or issues related to regional impacts; additional information which may be required in subsequent incremental applications; and issues which could result in the denial of an incremental application.

(3) Prior to adoption of the master plan development order by the local government, the SWFRPC board shall review the draft development order and, if appropriate, related agreements, at a regularly scheduled board meeting, to ensure that the requirements of Section 380.06, F.S., are met.

(4) The review of subsequent incremental applications shall be as prescribed in Section 380.06, F.S. Substantial changes in conditions underlying the approval of the master development order was based are to be construed to mean changed conditions or inaccurate information that creates a reasonable likelihood of additional adverse regional impact or any other regional impact not previously reviewed by the regional planning agency.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07, FS. History—New 7-27-86.*

#### **291-4.009 Conceptual Agency Review.**

In order to facilitate the planning and preparation of permit applications for projects that undergo development-of-regional-impact review, and in order to coordinate the information required to issue such permits a developer may elect to request conceptual agency review pursuant to Section 380.06, F.S., either concurrently with development-of-regional-impact review and comprehensive plan amendments, if applicable, or subsequent to a preapplication conference. The developer should notify the SWFRPC and appropriate review agencies of his intent to request Conceptual Agency Review at the pre-application conference.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07 FS. History—New 7-27-86.*

#### **29I-4.010 Downtown Development Authorities.**

(1) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to Section 380.06, F.S. The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in Section 380.031(5), F.S. For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown development authority.

(2) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category.

*Specific Authority 120.53, 163.01, 186.505, FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07, FS. History—New 7-27-86.*

#### **29I-4.011 Areawide Development of Regional Impact.**

(1) An authorized developer may submit an areawide development of regional impact to be reviewed pursuant to the procedures and standards set forth in Section 380.06, F.S. The areawide development-of-regional-impact review shall include an area wide development plan in addition to any other information required by rule pursuant to Section 380.06, F.S., and the information required in the Department of Community Affairs official ADA form.

(2) Prior to filing an Areawide DRI, the authorized developer shall submit a petition to the local government, the SWFRPC, and the Department of Community Affairs requesting authorization to submit an Areawide ADA. Such petition shall include proof that timely, actual notice has been provided by the petitioner to each person owning land within the proposed areawide development plan. This notice shall be in addition to other notice of public hearings as required by Section 380.06, F.S.

(3) Criteria used by the SWFRPC for evaluating a petition shall include, but not be limited to:

(a) Whether the developer is financially capable of processing the application for development approval through final approval pursuant to this section.

(b) Whether the defined planning area and anticipated development therein appear to be of a character, magnitude, and location that a proposed areawide development plan would be in the public interest. Any public interest determination under this criterion is preliminary and not binding on the Department of Community Affairs, the SWFRPC, or local government.

(4) The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the SWFRPC, and to the Department of Community Affairs, within 30 days after the order becomes effective.

(5) The petitioner, an owner of property within the defined planning area, the SWFRPC by vote at a regularly scheduled meeting, or the Department of Community Affairs may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The procedures established in Section 380.07, F.S., shall be followed for such an appeal.

(6) In reviewing an application for a proposed areawide development of regional impact, the SWFRPC shall evaluate the following criteria, in addition to any other criteria set forth in this rule:

(a) Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development of regional impact.

(b) Whether the developer has demonstrated that all property owners within the defined planning area consent or do not object to the proposed areawide development of regional impact.

(c) Whether the area and the anticipated development are consistent with the applicable, local, regional, and state comprehensive plans and any state land development plan.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07 FS. History—New 7-27-86.*

#### **29I-4.012 Florida's Quality Developments Program.**

(1) An authorized developer may file an application under the Florida's Quality Developments program pursuant to Section 380.061, F.S. The developer shall submit the application to the Department of Community Affairs, the SWFRPC, and the appropriate local government for review. The review shall be conducted under the time limits and procedures set forth in Section 120.60, F.S., except that the 90-day time limit shall cease to run when all three entities reviewing the project have notified the applicant of their decision on whether the development should be designated under this program.

(2) Criteria used by the SWFRPC for review of an application submitted under this program shall be as specified within Section 380.06, F.S.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07 FS. History—New 7-27-86.*

#### **29I-4.013 Review of Amendments to Development Orders.**

(1) The developer shall submit, simultaneously, to the local government, the SWFRPC, and the Department of Community Affairs, the request for approval of a proposed change to a previously approved development of regional impact. The form for this submission shall be as prescribed by rule of the Department of Community Affairs.

(2) The SWFRPC shall review the proposed change and may, in its discretion and within 30 days of submittal by the developer of the request for approval of a change, advise the local government of its intention to participate at the public hearing before the local government.

(3) The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review, shall be subject to the appeal provisions of Section 380.07, F.S. However, the SWFRPC shall not appeal the local government decision if the SWFRPC declined to participate at the local hearing.

(4) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

(a) The development-of-regional-impact review conducted by the SWFRPC shall address only those issues raised by the proposed change except as provided in paragraph (b).

(b) The SWFRPC shall consider, and recommend whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development.

(c) If the SWFRPC determines that the proposed change as it related to the entire development should be approved, any new conditions in the amendment to the development order recommended by the SWFRPC shall address only those issues raised by the proposed change.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07, FS. History—New 7-27-86.*