

9J-2.0252 Development of Regional Impact Review Fee Rule.

(1) **PURPOSE.** The purpose of this rule is to set forth policies and procedures for the assessment and collection of fees by regional planning agencies for the review of developments of regional impact (DRI) and Florida Quality Developments (FQD). The rule also sets forth the procedures to be utilized by the Department of Community Affairs in reviewing and determining whether a fee in excess of \$75,000 may be assessed by a regional planning agency.

(2) **FEES.** The applicant shall enter into a contract with the regional planning agency which obligates the applicant to reimburse the regional planning agency for the cost of coordinating and reviewing an application for development approval, an application for development approval of a substantial deviation, an application for development designation, or an application for development designation of a substantial change. The applicant shall also deposit a total of \$35,000 with the regional planning agency in the following manner:

(a) For each application for development approval or application for development approval of a substantial deviation, the regional planning agency shall collect a fee deposit of \$15,000, of which \$5,000 is non-refundable, prior to conducting a preapplication conference in accordance with subsection 380.06(7), Florida Statutes, or a related issue methodology meeting, whichever occurs first. The application for development approval of application for development approval of a substantial deviation shall not be accepted for review unless accompanied by an additional \$20,000 deposit.

(b) For each application for development designation or application for development designation of a substantial change, the regional planning agency shall collect a fee deposit of \$35,000, of which \$5,000 is non-refundable, prior to conducting a preapplication conference in accordance with paragraph 380.061(5)(a), Florida Statutes, or related issue methodology meeting, whichever occurs first.

(c) All fees shall be payable by certified check or bank draft, in U.S. funds, made payable to the regional planning agency. Upon receipt of the initial fee deposit, the regional planning agency will establish an account or cost center for the project to be reviewed.

(3) ALLOWABLE CHARGES.

(a) The applicant shall be liable to the regional planning agency for 100% of the actual costs, both direct and indirect, of coordinating or reviewing an application for development approval, an application for development approval of a substantial deviation, an application for development designation, or an application for development designation of a substantial change. Costs associated with an appeal filed pursuant to Section 380.07, Florida Statutes, shall not be charged to an applicant.

(b) No fee charged and collected by a regional planning agency for the coordination or review of an application for development approval, an application for development approval of a substantial deviation, and application for development designation, or an application for development designation of a substantial change shall exceed \$75,000 unless the Department of

Community Affairs determines, after reviewing any disputed expenses in accordance with subsection (4) below, that the expenses were reasonable and necessary for an adequate regional review of the impacts of the project.

(c) The applicant shall be notified by the regional planning agency when the funds in the project's account or cost center are less than or equal to \$5,000. The notice shall indicate whether the regional planning agency estimates the costs of coordinating or reviewing the application will exceed the existing deposit and, if so, will request an additional deposit sufficient to cover the estimated remaining costs, not to exceed a total deposit of \$75,000. The applicant shall make an additional deposit with the regional planning agency in an amount specified in the notice within 15 days of receipt of this notice.

(d) Upon completion of the review process, if the actual costs exceed the total amount deposited in the project's account or cost center, but are less than \$75,000, the regional planning agency shall bill the applicant within 90 days. The applicant shall pay the amount due to the regional planning agency within 30 days after receipt of the bill. Any dispute regarding expenses included in a final bill which is less than \$75,000 shall be submitted directly to the regional planning agency and handled by that agency in the same manner as other types of expense disputes. Upon completion of the review process, if the actual costs exceed the total amount deposited in the project's account or cost center, but are greater than \$75,000, the regional planning agency shall bill the applicant within 90 days. If the applicant disputes any of the expenses included in a final bill which exceeds \$75,000, the applicant shall notify the Department and the regional planning agency within 15 days of receipt of the bill in accordance with subsection (4) below.

(4) DISPUTED EXPENSES.

(a) If an applicant disputes any expenses incurred by a regional planning agency and included in a final bill which exceeds \$75,000, the applicant shall notify the Agency Clerk in the Department of Community Affairs and the regional planning agency in writing of the specific expenses in dispute and the reasons why these expenses should not be considered reasonable and necessary for the regional review of the project. This notice shall be rendered within 15 days of receipt of the final bill; failure to do so shall be considered as a waiver of the applicant's right to dispute any expenses. Within 15 days of receipt of this notice, the regional planning agency shall submit to the Agency Clerk in the Department of Community Affairs a response to the applicant's notice of disputed expenses, including any other documentation or information which the regional planning agency deems appropriate to show that the disputed expenses were reasonable and necessary.

(b) Upon receipt of the regional planning agency's response, the Department of Community Affairs shall have thirty days in which to render a determination as to whether the disputed expenses were reasonable and necessary for an adequate regional review of the impacts of the proposed project. The Department of Community Affairs, in making its determination, shall consider without limitation the normal review practices of the regional planning agency, the issues and impacts associated with the project and the nature of the disputed expenses. This determination shall constitute final agency action. Within 15 days of receipt of the Department of

Community Affairs' determination regarding the disputed expenses, the applicant shall pay any amount remaining outstanding.

(5) REFUNDS. If the applicant's deposit exceeds the final fee total, any remaining balance shall be refunded to the applicant within sixty days of the final charge to the project's account or cost center. Should the applicant notify the regional planning agency, in writing, at any time during the review process that he wishes to withdraw the application and discontinue the review process, the regional planning agency shall, within 60 days, refund to the applicant any remaining balance in the project's account or cost center, excluding the non-refundable \$5,000 deposit, after deducting all costs incurred prior to receipt of written notification of withdrawal of the application

(6) OTHER REVIEWS. The applicant shall be responsible for 100% of the costs for the review of requests for a substantial deviation determination pursuant to paragraph 380.06(19)(f), Florida Statutes, requests for a substantial change determination pursuant to paragraph 9J-28.024(2)(a), Florida Administrative Code, or supplemental plans and reviews identified in a development order requiring regional review or approval. The submittal of these requests shall be accompanied by a deposit of \$2,500 and charges will be handled in the same manner as for an application for development approval, an application for development approval of a substantial deviation, an application for development designation, or an application for development designation of a substantial change. In addition, the regional planning agency may charge \$250 for the review of each annual report submitted in accordance with subsection 380.06(18), Florida Statutes, or subsection 9J-28.023(6), Florida Administrative Code.

(7) APPLICABILITY AND EFFECTIVE DATE. This rule shall be effective on 11-14-90, and shall supersede any existing regional planning agency rules pertaining to development of regional impact review fees. This rule shall apply to all projects for which an application for development approval or development designation has not yet been filed and to all projects for which a development order has been rendered but for which a substantial deviation determination, a substantial change determination, an application for development approval of a substantial deviation, an application for development designation of a substantial change or a supplemental plan or review request is not already in the review process as of 11-14-90. If a preapplication conference or issue methodology meeting has been held and review fees have been paid pursuant to an adopted regional planning agency rule prior to 11-14-90, such fees shall be converted to a project account or cost center pursuant to this rule and credited towards the deposit required pursuant to subsection (2).

Specific Authority 380.032(2)(a), 380.06(23)(a), (d) FS. Law Implemented 380.06(23)(d) FS. History—New 11-14-90, Amended 2-21-01.