

P.O. Box 60933, Fort Myers, FL 33906



P: 844.988.8244 | www.swfrpc.org

COUNCIL MEETING AGENDA

April 21, 2022

9:00am – 11:00am

Location: SFWMD Office, 2301 McGregor Blvd., Ft. Myers Florida 33901

In Person and Virtual

Join Zoom Meeting:

<https://us06web.zoom.us/j/91588729954?pwd=OVerTVNQVVpRZjQrY1Jab1dpMDBPUT09>

Join by phone: 1-929-205-6099

Meeting ID: 915 8872 9954

Passcode: 082520

Mission Statement:

To work together across neighboring communities to consistently protect and improve the unique and relatively unspoiled character of the physical, economic and social worlds we share...for the benefit of our future generations.

1	INVOCATION	
2	PLEDGE OF ALLEGIANCE	
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12	COUNCIL MEMBERS' COMMENTS	
13	ADJOURN	

Two or more members of the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program may be in attendance and may discuss matters that could come before the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program, respectively, for consideration.

In accordance with the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this meeting should contact the Southwest Florida Regional Planning Council 48 hours prior to the meeting by calling (239) 338-2550; if you are hearing or speech impaired call (800) 955-8770 Voice/(800) 955-8771 TDD.

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UPCOMING SWFRPC MEETING DATES:

May 19, 2022

June 16, 2022

July 21, 2022

Two or more members of the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program may be in attendance and may discuss matters that could come before the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program, respectively, for consideration.

In accordance with the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this meeting should contact the Southwest Florida Regional Planning Council 48 hours prior to the meeting by calling (239) 338-2550; if you are hearing or speech impaired call (800) 955-8770 Voice/(800) 955-8771 TDD.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL MEMBERSHIP

OFFICERS

Mr. Donald McCormick, Chair	Councilman Fred Burson, Vice-Chair
Commissioner Bill McDaniel, Secretary	Councilman Jaha Cummings, Treasurer

CHARLOTTE COUNTY

COLLIER COUNTY

Commissioner Joe Tiseo, Charlotte BCC	Commissioner Bill McDaniel, Collier BCC
Commissioner Ken Doherty, Charlotte BCC	Commissioner Rick LoCastro, Collier BCC
Councilman Jaha Cummings, City of Punta Gorda	Councilman Raymond Christman, City of Naples
Mr. Donald McCormick, Governor Appointee	(City of Marco Island Vacancy)
Ms. Suzanne Graham, Governor Appointee	(Governor Appointee Vacancy)
	(Governor Appointee Vacancy)

GLADES COUNTY

HENDRY COUNTY

Commissioner Donna Storter-Long, Glades BCC	Commissioner Emma Byrd, Hendry BCC
(Glades BCC Vacancy)	Commissioner Mitchell Wills, Hendry BCC
(City of Moore Haven Vacancy)	Vice-Mayor Greg Thompson, City of Clewiston
Mr. Thomas Perry, Governor Appointee	(City of LaBelle Vacancy)
	Mr. Mel Karau, Governor Appointee

LEE COUNTY

SARASOTA COUNTY

Commissioner Frank Mann, Lee BCC	Commissioner Ron Cutsinger, Sarasota BCC
Commissioner Cecil Pendergrass, Lee BCC	(Sarasota BCC Vacancy)
Councilman Fred Burson, City of Fort Myers	Mayor Erik Arroyo, City of Sarasota
Mayor Ray Murphy, Town of Fort Myers Beach	Mayor Ron Feinsod, City of Venice
Councilman Jesse Purdon, City of Bonita Springs	(Governor Appointee Vacancy)
(Governor Appointee Vacancy)	(Governor Appointee Vacancy)
(Governor Appointee Vacancy)	

EX-OFFICIO MEMBERS

Jon Iglehart, FDEP	Keith Robbins, FDOT
Phil Flood, SFWMD	(Vacant) SFWMD

STAFF

Margaret Wuerstle, Executive Director

Rebekah Harp

Amelia Williams

Jim Burch

Tracy Whirls

Asmaa Odeh



Apalachee • Central Florida
 East Central Florida • North Central Florida
 Northeast Florida • South Florida • Southwest Florida
 Tampa Bay • Treasure Coast • West Florida • Withlacoochee

104 West Jefferson Street, Tallahassee, FL 32301-1713 • 850.224.3427

Regional Planning Council Functions and Programs

March 4, 2011

- **Economic Development Districts:** Regional planning councils are designated as Economic Development Districts by the U. S. Economic Development Administration. From January 2003 to August 2010, the U. S. Economic Development Administration invested \$66 million in 60 projects in the State of Florida to create/retain 13,700 jobs and leverage \$1 billion in private capital investment. Regional planning councils provide technical support to businesses and economic developers to promote regional job creation strategies.
- **Emergency Preparedness and Statewide Regional Evacuation:** Regional planning councils have special expertise in emergency planning and were the first in the nation to prepare a Statewide Regional Evacuation Study using a uniform report format and transportation evacuation modeling program. Regional planning councils have been preparing regional evacuation plans since 1981. Products in addition to evacuation studies include Post Disaster Redevelopment Plans, Hazard Mitigation Plans, Continuity of Operations Plans and Business Disaster Planning Kits.
- **Local Emergency Planning:** Local Emergency Planning Committees are staffed by regional planning councils and provide a direct relationship between the State and local businesses. Regional planning councils provide thousands of hours of training to local first responders annually. Local businesses have developed a trusted working relationship with regional planning council staff.
- **Homeland Security:** Regional planning council staff is a source of low cost, high quality planning and training experts that support counties and State agencies when developing a training course or exercise. Regional planning councils provide cost effective training to first responders, both public and private, in the areas of Hazardous Materials, Hazardous Waste, Incident Command, Disaster Response, Pre- and Post-Disaster Planning, Continuity of Operations and Governance. Several regional planning councils house Regional Domestic Security Task Force planners.
- **Multipurpose Regional Organizations:** Regional planning councils are Florida's only multipurpose regional entities that plan for and coordinate intergovernmental solutions on multi-jurisdictional issues, support regional economic development and provide assistance to local governments.
- **Problem Solving Forum:** Issues of major importance are often the subject of regional planning council-sponsored workshops. Regional planning councils have convened regional summits and workshops on issues such as workforce housing, response to hurricanes, visioning and job creation.
- **Implementation of Community Planning:** Regional planning councils develop and maintain Strategic Regional Policy Plans to guide growth and development focusing on economic development, emergency preparedness, transportation, affordable housing and resources of regional significance. In addition, regional planning councils provide coordination and review of various programs such as Local Government Comprehensive Plans, Developments of Regional Impact and Power Plant Ten-year Siting Plans. Regional planning council reviewers have the local knowledge to conduct reviews efficiently and provide State agencies reliable local insight.

- **Local Government Assistance:** Regional planning councils are also a significant source of cost effective, high quality planning experts for communities, providing technical assistance in areas such as: grant writing, mapping, community planning, plan review, procurement, dispute resolution, economic development, marketing, statistical analysis, and information technology. Several regional planning councils provide staff for transportation planning organizations, natural resource planning and emergency preparedness planning.
- **Return on Investment:** Every dollar invested by the State through annual appropriation in regional planning councils generates 11 dollars in local, federal and private direct investment to meet regional needs.
- **Quality Communities Generate Economic Development:** Businesses and individuals choose locations based on the quality of life they offer. Regional planning councils help regions compete nationally and globally for investment and skilled personnel.
- **Multidisciplinary Viewpoint:** Regional planning councils provide a comprehensive, multidisciplinary view of issues and a forum to address regional issues cooperatively. Potential impacts on the community from development activities are vetted to achieve win-win solutions as council members represent business, government and citizen interests.
- **Coordinators and Conveners:** Regional planning councils provide a forum for regional collaboration to solve problems and reduce costly inter-jurisdictional disputes.
- **Federal Consistency Review:** Regional planning councils provide required Federal Consistency Review, ensuring access to hundreds of millions of federal infrastructure and economic development investment dollars annually.
- **Economies of Scale:** Regional planning councils provide a cost-effective source of technical assistance to local governments, small businesses and non-profits.
- **Regional Approach:** Cost savings are realized in transportation, land use and infrastructure when addressed regionally. A regional approach promotes vibrant economies while reducing unproductive competition among local communities.
- **Sustainable Communities:** Federal funding is targeted to regions that can demonstrate they have a strong framework for regional cooperation.
- **Economic Data and Analysis:** Regional planning councils are equipped with state of the art econometric software and have the ability to provide objective economic analysis on policy and investment decisions.
- **Small Quantity Hazardous Waste Generators:** The Small Quantity Generator program ensures the proper handling and disposal of hazardous waste generated at the county level. Often smaller counties cannot afford to maintain a program without imposing large fees on local businesses. Many counties have lowered or eliminated fees, because regional planning council programs realize economies of scale, provide businesses a local contact regarding compliance questions and assistance and provide training and information regarding management of hazardous waste.
- **Regional Visioning and Strategic Planning:** Regional planning councils are conveners of regional visions that link economic development, infrastructure, environment, land use and transportation into long term investment plans. Strategic planning for communities and organizations defines actions critical to successful change and resource investments.
- **Geographic Information Systems and Data Clearinghouse:** Regional planning councils are leaders in geographic information systems mapping and data support systems. Many local governments rely on regional planning councils for these services.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL (SWFRPC) ACRONYMS

ABM - Agency for Bay Management - Estero Bay Agency on Bay Management

ADA - Application for Development Approval

ADA - Americans with Disabilities Act

AMDA -Application for Master Development Approval

BEBR - Bureau of Economic Business and Research at the University of Florida

BLID - Binding Letter of DRI Status

BLIM - Binding Letter of Modification to a DRI with Vested Rights

BLIVR -Binding Letter of Vested Rights Status

BPCC -Bicycle/Pedestrian Coordinating Committee

CAC - Citizens Advisory Committee

CAO - City/County Administrator Officers

CDBG - Community Development Block Grant

CDC - Certified Development Corporation (a.k.a. RDC)

CEDS - Comprehensive Economic Development Strategy (a.k.a. OEDP)

CHNEP - Charlotte Harbor National Estuary Program

CTC - Community Transportation Coordinator

CTD - Commission for the Transportation Disadvantaged

CUTR - Center for Urban Transportation Research

DEO - Department of Economic Opportunity

DEP - Department of Environmental Protection

DO - Development Order

DOPA - Designated Official Planning Agency (i.e. MPO, RPC, County, etc.)

EDA - Economic Development Administration

EDC - Economic Development Coalition

EDD - Economic Development District

EPA – Environmental Protection Agency

FAC - Florida Association of Counties

FACTS - Florida Association of CTCs

FAR - Florida Administrative Register (formerly Florida Administrative Weekly)

FCTS - Florida Coordinated Transportation System

FDC&F -Florida Department of Children and Families (a.k.a. HRS)

FDEA - Florida Department of Elder Affairs

FDLES - Florida Department of Labor and Employment Security

FDOT - Florida Department of Transportation

FHREDI - Florida Heartland Rural Economic Development Initiative

FIAM – Fiscal Impact Analysis Model

FLC - Florida League of Cities

FQD - Florida Quality Development

FRCA -Florida Regional Planning Councils Association

FTA - Florida Transit Association

IC&R - Intergovernmental Coordination and Review

IFAS - Institute of Food and Agricultural Sciences at the University of Florida

JLCB - Joint Local Coordinating Boards of Glades & Hendry Counties

JPA - Joint Participation Agreement

JSA - Joint Service Area of Glades & Hendry Counties

LCB - Local Coordinating Board for the Transportation Disadvantaged

LEPC - Local Emergency Planning Committee

MOA - Memorandum of Agreement

MPO - Metropolitan Planning Organization

MPOAC - Metropolitan Planning Organization Advisory Council

MPOCAC - Metropolitan Planning Organization Citizens Advisory Committee

MPOTAC - Metropolitan Planning Organization Technical Advisory Committee

NADO – National Association of Development Organizations

NARC -National Association of Regional Councils

NOPC -Notice of Proposed Change

OEDP - Overall Economic Development Program

PDA - Preliminary Development Agreement

REMI – Regional Economic Modeling Incorporated

RFB - Request for Bids

RFI – Request for Invitation

RFP - Request for Proposals

RPC - Regional Planning Council

SHIP -State Housing Initiatives Partnership

SRPP – Strategic Regional Policy Plan

TAC - Technical Advisory Committee

TDC - Transportation Disadvantaged Commission (a.k.a. CTD)

TDPN - Transportation Disadvantaged Planners Network

TDSP - Transportation Disadvantaged Service Plan

USDA - US Department of Agriculture

WMD - Water Management District (SFWMD and SWFWMD)

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Executive Committee Secretary
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**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
MARCH 17, 2022, MEETING**

The in-person meeting of the Southwest Florida Regional Planning Council Executive Board was held on March 17, 2022, at the South Florida Water Management District Office with a conference call option. Governor Appointee and Council Chair, Mr. Don McCormick called the meeting to order at 9:05 a.m. There was a quorum of the board present.

BOARD MEMBERS PRESENT

Charlotte County: Mr. Don McCormick – Chair, Commissioner Jaha Cummings (*Phone*)

Collier County: Commissioner Bill McDaniel, Commissioner Rick LoCastro (*Phone*), Councilman Raymond Christman, City of Naples – *Phone*

Glades County: Mr. Tommy Perry - Governor Appointee (*Phone*), Chairman Tim Stanley (*Phone*), Commissioner Donna Storter-Long (*Phone*)

Hendry County: Mr. Mel Karau - Governor Appointee

Lee County: Commissioner Frank Mann, Councilman Jesse Purdon, City of Bonita Springs (*Phone*)

Sarasota County: Councilman Jim Boldt, City of Venice

Ex-Officio: Mr. Phil Flood, SFWMD, Mr. Jon Iglehart, FDEP

OTHERS PRESENT

Ms. Cheryl Cook
Ms. Margaret Wuerstle - Executive Director, SWFRPC
Ms. Rebekah Harp - SWFRPC
Ms. Tracy Whirls - SWFRPC
Mr. Jim Burch - SWFRPC
Ms. Asmaa Odeh - SWFRPC

AGENDA ITEM #6(a)
MINUTES OF THE JANUARY 20, 2022, EXECUTIVE COMMITTEE MEETING

Commissioner Bill McDaniel offered a motion to accept the minutes of the January 20, 2022, Executive Committee meeting as presented. Commissioner Frank Mann seconded the motion to accept the minutes. The action was approved unanimously.

AGENDA ITEM #7
FINANCIALS

AGENDA ITEM #7(a)
DECEMBER 2021 - JANUARY 2022 FINANCIALS

Ms. Wuerstle explained that December and January financials follow the typical financial pattern and that the anticipated net loss will be reduced during our quarterly billings and receivables.

Commissioner Bill McDaniel offered a motion to approve the December 2021 - January 2022 financials. Commissioner Frank Mann seconded the motion for approval of the December 2021 - January 2022 financials. The action was approved unanimously.

AGENDA ITEM #7(b)
AUDIT REPORT FY 2020 -2021

AGENDA ITEM #7(i)
AUDIT GRAPHS AND CHARTS

Mr. Jeff Tuscan presented the board with a copy of the full audit along with a copy of the graphs and charts. Mr. Tuscan explained that the Council did well with only an approximate \$10,000 loss for the year, which is comparatively better than previous years.

Commissioner Bill McDaniel offered a motion to approve the Audit Report for FY 2020 - 2021. Commissioner Frank Mann seconded the motion for approval of the Audit Report for FY 2020 - 2021. The action was approved unanimously.

AGENDA ITEM #8(a)
INLAND PORT, FREIGHT RAIL RESOLUTION DISCUSSION

Ms. Whirls explained that the purpose of this item is to provide the Councils with: 1) information related to prior planning efforts and current discussions about an alternative freight rail route using the U.S. Highway 27 corridor and beyond to link Miami and Orlando; and 2) an opportunity to execute a joint resolution urging Florida Department of Transportation (FDOT) to expedite the process for transforming U.S. Highway 27 into a new multimodal corridor, including a new freight rail line from Miami to Orlando and beyond. Ms. Whirls

continued to explain that the South Florida and Treasure Coast Regional Planning Councils have also adopted this resolution and asked the board for their approval.

Commissioner Bill McDaniel offered a motion to adopt the Freight Rail Resolution. Commissioner Frank Mann seconded the motion to adopt Freight Rail Resolution. The action was adopted unanimously.

AGENDA ITEM #8(b) 5 YEAR CEDS UPDATE DISCUSSION

Ms. Tracy Whirls explained the process for the CEDS update and stated that the new document would come before the Council in July or August. The 2023-2027 CEDS is due to EDA by September 30, 2022.

AGENDA ITEM #8(c) ORGANIZATION STRUCTURE DISCUSSION

Commissioner Bill McDaniel expressed a need to reorganize the Regional Planning Council to provide value to the Counties. Commissioner McDaniel continued to explain that he has formed a regional transportation committee with the Sarasota MPO, Charlotte MPO and Lee MPO which should be done through the SWFRPC. Commissioner McDaniel asked Margaret how many transportation committee meetings has the SWFRPC had since he has been elected to the SWFRPC? Ms. Wuerstle replied, "none". Commissioner McDaniel expressed that this is the reason that a rebranding should be done to provide value and get the counties back to the table. The Commissioner continued to explain that the SWFRPC could offer a 50% reduction in the per capita cost to counties to get them back on board, which would provide revenue to the SWFRPC. Commissioner McDaniel noted that the auditor presented a continuing loss of revenue. He also explained that he and Margaret worked on putting together a revised Inter-local agreement and bylaws that he would like the Council to review for discussion at the next meeting. For this reason, Commissioner Bill McDaniel urged the board to move to monthly meetings.

Commissioner Bill McDaniel offered a motion to move to monthly meetings. Commissioner Frank Mann seconded the motion to move to monthly meetings. The action was adopted unanimously.

Commissioner Bill McDaniel offered a motion to review the ILA and By-laws during the April meeting. Commissioner Frank Mann seconded the motion to review the ILA and By-laws during the April meeting. The action was adopted unanimously.

AGENDA ITEM #9 DIRECTOR'S REPORT

Ms. Wuerstle explained that the FRCA annual report is available to review and has been handed out to those present. She went on to explain some of the grants that are being worked on by staff and partners.

AGENDA ITEM #9(a)
UPDATE ON CARES ACT – DISASTER RECOVERY & RESILIENCY GUIDE

Ms. Wuerstle explained that both Jim Burch and Tracy Whirls worked on the COVID Cares Act grant which will be ending in June. Ms. Wuerstle explained that the RPC is working with the Southwest Florida Enterprise Center to put together a training program for small business needs as well as implement the Disaster Recovery and Resiliency Guide.

Mr. Burch explained that the guide started with how to reach the small businesses, however during outreach to businesses and distributing surveys, it was determined that what was needed was this guide. In this guide, there are several different ways to stay strong and be somewhat structurally sound during events, such as a pandemic or a hurricane. Several options are proposed in the guide to help mitigate a lot of those problems. Mr. Burch continued to explain that the guide is roughly 60 pages of which half are worksheets and the other half is information to help in different areas of recovery.

AGENDA ITEM #9(b)
RESILIENCY STRATEGY FOR LOCAL FOOD SYSTEMS

Ms. Wuerstle introduced Ms. Asmaa Odeh with the SWFRPC as the Collier County Food Policy Coordinator.

Ms. Asmaa Odeh provided a presentation of the Collier County Food Policy Council. Ms. Odeh explained what the mission and vision as well as what Food Policy Council's do. She continued to explain that the Collier County BCC adopted a proclamation recognizing and supporting the SWFRPC's Food Policy Council to the Collier County communities. Ms. Odeh listed the current partner organizations and explained the best practices from other counties in Florida. Ms. Odeh ended with explaining the new grant award that the SWFRPC received through USDA, which will continue to support ongoing efforts withing the regional food system.

AGENDA ITEM #9(c)
MEETING LOCATION

Ms. Wuerstle originally stated that the next scheduled meeting would be Thursday, April 15th. However, it was later corrected to Thursday, April 21st. Ms. Wuerstle asked Mr. Flood if the Council could request the SFWMD meeting space for the April meeting.

AGENDA ITEM #9
COMMITTEE REPORTS

No Committee Reports were given

**AGENDA ITEM #9(a)
EXECUTIVE COMMITTEE**

There was no update given.

**AGENDA ITEM #9(b)
QUALITY OF LIFE & SAFETY COMMITTEE**

There was no update given.

**AGENDA ITEM #10
NEW BUSINESS**

There was no new business.

**AGENDA ITEM #11
STATE AGENCIES COMMENTS/REPORTS**

Mr. Flood announced that on Monday the Florida Legislature passed the 2022 state budget. It was enrolled the previous day and is ready to be sent to the Governor for his consideration. Mr. Flood said it is very positive and a great time for the environment.

Mr. Iglehart explained that FDEP is continuing to move forward with applications. He explained that if there are any urgent issues to please reach out to him.

**AGENDA ITEM #12
COUNCIL MEMBERS' COMMENTS**

None.

**AGENDA ITEM #13
ADJOURN**

The meeting adjourned at 10:28 a.m.

Don McCormick, Chairman

The meeting was duly advertised in the March 3, 2022, issue of the FLORIDA ADMINISTRATIVE REGISTER, Volume 48, Number 44.

Agenda Item

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Discussion Items

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Organization Structure:
Interlocal Agreement and
Bylaws – Councilman
McDaniel

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Executive Summary

Meeting Date: Meeting November 19, 2020

Submitted by: Commissioner Bill McDaniel

RE: Southwest Florida Regional Planning Council Interlocal Agreement and By-Laws

OBJECTIVE: To reconstitute and rebrand the Southwest Florida Regional Planning Council (SWFRPC) by repealing the existing Interlocal Agreement and the existing By-Laws and replacing them with an Interlocal Agreement that is consistent with State Statutes and a corresponding set of By-Laws, while the six member counties work on establishing the relevancy of the SWFRPC.

BACKGROUND:

Attached as Exhibit A are the existing Interlocal Agreement adopted November 8, 1973 and an Amendment adopted in October 1980. The existing By-Laws are attached as Exhibit B. The existing Interlocal Agreement as well as the current By-Laws are inconsistent with State Statutes. A document attached as Exhibit C explains the history of the Interlocal Agreement and compares it to the By-Laws and the Florida Statutes.

- The original Interlocal Agreement creating the Southwest Florida Regional Planning Council was adopted November 8, 1973 but was not recorded.
- On June 6, 1974 an Amendment to Interlocal Agreement was adopted to revise final date of budget approval from June 1 to August 15.
- On June 27, 1974 an Amendment to the Interlocal Agreement was adopted to provide for alternate voting members, the checks to be signed by the Treasurer, the meeting date moved to the first Thursday of the month, and for special meetings to require 24-hour notice.
- On August 1, 1974 the By-Laws for the Southwest Florida Regional Planning Council were adopted.
- On January 18, 1976 the Regional Planning Council board agrees to changed meeting date to third Thursday of month and to hold meetings at the Holiday Inn.
- On February 5, 1976 an Amendment to the Interlocal Agreement (that was presented at the 1/18/76 meeting) was adopted that removes meeting day from the Interlocal Agreement and provides wording changes.
- In October 1980 an Amendment to the Interlocal Agreement was adopted that changed the requirement for approval of amendments to the Interlocal Agreement from 3/4 of voting members to 2/3 of voting members and majority (4) of principal members;

changes 15-day notice of amendments to 7 days; and added the 9 governor appointees or ½ of total voting members to the membership.

- In 2004 the 1973 original Interlocal Agreement along with the 1976 and 1980 amendments were recorded by all counties to facilitate the purchase of the building on Victoria Avenue in Ft. Myers.

CONSIDERATION:

In 1993 the State Legislature removed the DRI Appeal Authority from the statutes. The Appeal Authority allowed the RPCs to appeal to the Florida Land and Water adjudicatory Commission which is the governor and cabinet. Losing the DRI Appeal Authority meant that the RPC recommendations were advisory and the “teeth” in the recommendations were lost. Then in 2015, the legislature eliminated the requirement that a DRI be subject to the state coordinated review process, thereby removing the DRI process from the RPCs authority. A number of legislative changes over the years have weakened the RPC land use advisory ability.

In an effort to bring the Interlocal Agreement into compliance with the State Statutes, I am recommending that the current Interlocal Agreement be repealed and replaced with the Replacement Interlocal Agreement attached as Exhibit D. The Replacement Interlocal Agreement is consistent with State Statutes. Additionally, the existing By-Laws should be repealed and the Replacement By-Laws that are consistent with the Replacement Interlocal Agreement be adopted. The Replacement By-Laws are attached as Exhibit E.

LEGAL CONSIDERATIONS:

1. Termination and adoption of a new interlocal agreement must be done by the county commissions of the six counties. The RPC can recommend that the existing Interlocal be terminated and that the replacement interlocal be adopted but it is the County Commissions that must approve the Interlocal Agreement.
2. Termination may only occur concurrent with a subsequent Interlocal Agreement being adopted due to the requirement of Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor’s designation of Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

RECOMMENDATIONS:

- That the members of the Southwest Florida Regional Planning Council recommend to the six counties that comprise Comprehensive Planning District IX that the existing Interlocal Agreement be terminated and the Replacement Interlocal and Replacement By-Laws be adopted and further

- That the SWFRPC members meet monthly to reconstitute and rebrand the SWFRPC including a new Mission Statement and By-Laws.

ATTACHMENTS:

- Exhibit A: The existing Interlocal Agreement adopted November 8, 1973 and an Amendment adopted in October 1980
- Exhibit B: Existing By-Laws
- Exhibit C: History Summary of the Interlocal Agreement
- Exhibit D: Replacement Interlocal Agreement
- Exhibit E: Replacement By-Laws

INTERLOCAL AGREEMENT CREATING THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

THIS AGREEMENT, made and entered into this 8th day of November, 1973, pursuant to the authority of Section 163.01, Florida Statutes, by and between CHARLOTTE COUNTY, COLLIER COUNTY, GLADES COUNTY, HENDRY COUNTY, LEE COUNTY and SARASOTA COUNTY, each being a political subdivision of the State of Florida,

WITNESSETH:

WHEREAS, the continuing "Comprehensive State Planning" process described by Chapter 23 of the Florida Statutes includes, but is not limited to the following areas of regional and Local Development and concern:

1. Economic Development, including agriculture, industry and commerce;
2. Natural Resources Development, including oceanic and water resources, fish and wildlife, parks and recreation, pollution and environmental health;
3. Social Development, including housing, employment, education, mental and physical health and social welfare, and cultural development, public utilities and services;
4. Transportation Development, including provisions for airports, highways, roads and waterways;
5. Public and Industrial Safety, including the prevention and suppression of fires, explosions and unsafe conditions and practices including the prevention of crime, identification, custody and correction of criminals and those criminally inclined:

WHEREAS, the Environmental Land and Water Management Act, Chapter 380 of the Florida Statutes, grants to Regional Planning Agencies the right and duty to study, review and make recommendations concerning "Areas of Critical State Concern" and "Developments of Regional Impact" to local governments and through the Division of State Planning to the Governor and the

Cabinet, and

WHEREAS, Rule 22E-1.01 of the Florida Administrative Code requires every State Board, Department, Commission, District, Agency, County and Municipality Agency created by Florida Statutes or laws, except judicial or legislative circuits and districts, to use the ten (10) multi-county regional planning district boundaries to prepare regional studies, reports and plans and for programs and budgets, including but not limited to comprehensive planning and land and water management, and

WHEREAS, the Division of State Planning is responsible for conducting a "continual process of State Comprehensive Planning" by considering studies, reports and plans of each Federal, State, Regional and Local Governmental Department, Agency, Institution and Commission and considering existing and prospective resources, capabilities, and needs of State and Local governments based upon the best available data to establish goals, objectives and policies for the long-range guidance for orderly social, economic, and physical growth of Florida, and

WHEREAS, "Comprehensive Regional Planning Districts" are an integral part of "State Comprehensive Planning" as established by Part I of Chapter 23 of the Florida Statutes, and

WHEREAS, the parties hereto desire to make the most efficient use of their powers to cooperate for mutual advantages to provide services and facilities in an effort to optimize the employment of geographic human, economic and natural resources in an effort to optimize economic, natural resources, social, land use, transportation and public safety development, and

WHEREAS, Section 163.01(4) of the Florida Statutes provides "a public agency of the State of Florida may exercise jointly with any other public agency of the State, or any other State or of the United States Government any power, privilege, or authority which such agencies share in common and which each might

exercise separately."

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises, covenants, benefits to accrue and agreements herein contained and set forth, the parties signatory hereto do hereby establish the "Southwest Florida Regional Planning Council", hereinafter referred to as Council a separate legal entity, and do further agree as follows:

1. Purpose: The purpose of this Agreement is:
 - a. To provide a means of exercising the rights, duties and powers of a Regional Planning Agency set forth by Chapters 23, 163 and 380 of the Florida Statutes, including those functions enumerated hereinabove by preambles, and other applicable Florida, Federal and Local law.
 - b. To serve as a regional coordinator for the members of the Region.
 - c. To exchange, interchange and review various programs of the individual members which have a relationship to regional problems.
 - d. To promote communication between the members for the conservation and compatible development of the member counties.
 - e. To cooperate with Federal, State, Local and non-governmental agencies to accomplish these objectives.
2. Effective Date, Duration, Termination and Withdrawal:
 - a. The principle member units of the Region shall be the Charlotte, Collier, Glades, Hendry, Lee and Sarasota Boards of County Commissioners.
 - b. This agreement shall continue from year to year without the necessity of a formal renewal by any party hereto, unless terminated as hereinafter provided.
 - c. Amendments to this agreement, except as to its membership provisions, shall be made effective by an affirmative vote

of a majority of the voting members of the Council. Changes in membership provisions shall require a majority of the principal member units. Any amendment to this agreement shall be submitted, in writing, to each regular voting member at least seven (7) days prior to the meeting at which such amendment is to be voted upon.

d. Any party hereto or principal member unit may withdraw its membership by resolution duly adopted by its governing body, and upon giving twelve (12) months written notice of withdrawal to the chairman of the governing body of each other principal member unit without the effect of terminating this agreement. Contractual obligations of the withdrawing member shall continue until the effective date of the withdrawal. All property, real or personal, of the Region on the effective date of withdrawal shall remain the property of the Region and the withdrawing principal member unit shall have no right thereto.

e. In the event there is a complete termination of this agreement which would involve the disposition of the property of the Council, such property shall be liquidated and each principal member unit shall be entitled to a share of the proceeds bearing the same ratio to the total proceeds as the contribution of the principal member bore to total contributions made by all principal member units during the preceding fiscal year of the Region.

f. In case of a complete termination of this agreement, the non-Federal matching contribution to any approved Federal grant shall be firm, the project shall be completed and the required reports and accounting shall be completed.

g. This agreement may be terminated at any time by resolution duly adopted by the governing body of each principal member unit.

3. Membership: Each principal member unit as defined in Article 2(a) above shall be represented by one alternate and three (3) regular voting members of whom two (2) regular voting members will be members of the elected governing body of the principal member unit and the third a regular voting member of the elected governing body of a municipal corporation located within the boundaries of the principal member unit appointed after seeking the recommendation of the governing bodies of all municipalities within the County. Each voting member shall to be appointed by the governing body of the appropriate principal member unit. Each appointed member shall serve at the pleasure of the appointing Board of County Commissioners. An alternate shall be eligible to vote in the absence of a regular voting member.

4. Officers: The officers of the Region shall consist of the following:

- a. A Chairman, who shall serve as Chairman of the Council. He shall be an ex-officio member of all subsidiary committees and boards.
- b. A Vice-Chairman, who shall act for the Chairman in his absence. He shall also perform such other functions as the members, from time to time, shall assign.
- c. A Secretary, who shall conduct the correspondence of the Council, approve minutes of the meetings, be custodian of the records, keep the roll of all members and discharge such other duties as may be assigned by the Chairman or the members.
- d. A Treasurer, who shall supervise the financial affairs of the corporation and perform such other duties as usually pertain to that office.
- e. The officers of the Region shall be elected at the annual meeting of the Region and shall hold office for a term of one (1) year or until their respective successors are elected and qualified.

5. Meetings:

- a. The annual election of officers shall be held during the regular January meeting in each year.
- b. Regular meetings shall be held on the days and times established by the Council.
- c. Special meetings may be called by the Chairman at his discretion and shall be called by the Chairman when requested by one (1) voting member from each of two-thirds (2/3) of the principal member units.
- d. The place and time of each meeting shall be determined by the membership prior to the adjournment of the previous meeting. In the absence of such a determination, the time and place of meetings shall be determined by the Chairman.
- e. A quorum at any meeting shall consist of a majority of the voting members present provided, however, no quorum shall exist unless a voting member is present from each of more than one-half (1/2) of the principal member units. When a quorum has been determined to be present, a majority of those present and voting may take action on all matters presented at the meeting. Each member present shall vote on each question presented to the Council except in the event he disqualifies himself. Proxy voting is prohibited.
- f. The Secretary or his nominee shall keep minutes of each meeting and distribute a copy thereof to each voting member.

6. Finances:

- a. On or before August 15th of each year, the Region shall adopt a budget and certify a copy thereof to the Clerk of the governing body of each principal member unit. Upon approval thereof by the governing body of the principal member unit, each principal member unit shall include in its annual budget and cause the levy of a millage sufficient to produce an amount sufficient to fund the proportionate share of each principal member unit of the Region's budget.

- b. The fiscal year of the Region shall commence on the first day of October and end on the last day of September in each year.
 - c. The Region shall have the right to receive and accept in furtherance of its functions, funds, grants and services from federal, state and local governments or their agencies and from private and community sources, and to expend therefrom such sums of money as shall be deemed necessary from time to time for the attainment of its objectives.
 - d. The proportionate share of the budget of the Region shall be an amount which bears the same ratio to the total budget as the population of each principal member unit bears to the total population of Region, all as determined annually by the Department of Administration pursuant to Section 23.019, Florida Statutes, for the year preceding each budget determination.
 - e. The contribution of each principal member unit shall be thirty cents (30¢) per capita of the population of the principal member unit according to the last available determination under Section 23.019.
7. Powers: The Region shall have all powers granted by law, including without limiting the generality of the foregoing:
- a. The powers granted by Chapters 23, 163 and 380 of the Florida Statutes as now existing or as, from time to time, are amended.
 - b. To adopt rules of policy and procedure and by-laws, to regulate its affairs and conduct business.
 - c. To adopt an official seal.
 - d. To maintain an office at such place within the Region as may from time to time be determined.
 - e. To employ staff members and consultants, including an executive director, planning specialists, clerical personnel,

- attorneys, engineers and other specialists as the Council deems necessary and desirable to the performance of its duties and exercise of its rights and powers.
- f. To utilize staff members employed by principal member units as agreed by the principal member unit and determined by the Council to be desirable to solve regional and local problems and establish Council policies.
 - g. To hold public hearings and sponsor public forums whenever deemed necessary or useful in the execution of the functions of the Council.
 - h. To acquire, own, operate, maintain, lease and sell real or personal property and hold title thereto in the name of the Council.
 - i. To fix and determine by resolution rules and regulations relating to advertisement for bids, manner of bidding and a maximum amount, below which same will not be required.
 - j. To sue and be sued, implead and be impleaded, complain and defend, in all courts and before all administrative boards.
 - k. To receive and accept from any Federal or State agency and institutions grants for, or in aid of, the purposes of the Council.
 - l. To make and enter into all contracts and agreements, and do and perform all acts and deeds necessary and incidental to the performance of its duties and the exercise of its powers.
 - m. To incur debts, liabilities and obligations which are not the debts, liabilities or obligations of any of the parties to this Agreement.
8. It is expressly understood that the terms and conditions of, and this Agreement, shall be effective between and among those parties signatory hereto; and that the validity, force and effect of their Agreement shall not be affected by one or more of the

parties named hereinabove not joining in this Agreement, any other provision of this Agreement to the Contrary notwithstanding.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and their signatures to be affixed on the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
CHARLOTTE COUNTY, FLORIDA

By /S/ DOROTHY FLOWERS
Chairman

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

/S/ RUSS WIMER
Chairman

BOARD OF COUNTY COMMISSIONERS
GLADES COUNTY, FLORIDA

By /S/ TOMMY BRONSON
Chairman

BOARD OF COUNTY COMMISSIONERS
HENDRY COUNTY, FLORIDA

/S/ C. E. HALL
Chairman

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

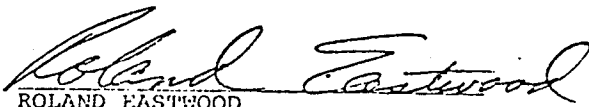
By /S/ R. H. WHAN
Chairman

BOARD OF COUNTY COMMISSIONERS
SARASOTA COUNTY, FLORIDA

/S/ WILLIAM A. MUIRHEAD
Chairman

CERTIFICATE

This is to certify that the attached Interlocal Agreement is a true and accurate copy of the original maintained in my file and that each Board of County Commissioners has duly passed and executed a Resolution approving the attached Interlocal Agreement as indicated by the facsimile signatures affixed thereto.


ROLAND EASTWOOD
EXECUTIVE DIRECTOR
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

AMENDMENT TO AGREEMENT
CREATING THE SOUTHWEST FLORIDA REGIONAL
PLANNING COUNCIL

THIS AGREEMENT, by and between CHARLOTTE COUNTY, COLLIER COUNTY, GLADES COUNTY, HENDRY COUNTY, LEE COUNTY and SARASOTA COUNTY, each being a political subdivision of the State of Florida, and hereinafter collectively referred to as "the COUNTIES",

WITNESSETH:

WHEREAS, the COUNTIES entered into an interlocal agreement on November 8, 1973, pursuant to Section 163.01, Florida Statutes, to create the SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL, said agreement hereinafter referred to as "the Interlocal Agreement"; and

WHEREAS, Chapter 80-315, Laws of Florida, requires certain modifications to the Interlocal Agreement in order for the SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL to continue to exercise its responsibilities under Chapter 23, 163 and 380, Florida Statutes; and

WHEREAS, it is the intent of the COUNTIES by entering into this amendment to the Interlocal Agreement to comply with the provisions of Chapter 80-315, Laws of Florida.

NOW, THEREFORE, FOR AND IN CONSIDERATION on the mutual promises, covenants, benefits to accrue and agreements herein contained and set forth, the COUNTIES signatory hereto do agree to the following amendments to the Interlocal Agreement to comply with the provisions of Chapter 80-315, Laws of Florida:

1. Paragraph 1.a. of the Interlocal Agreement is amended to read as follows:

1. a. To provide a means of exercising the rights, duties and powers of a Regional Planning Agency set forth by Chapters 23, 160, 163 and 380 of the Florida Statutes, including those functions enumerated hereinabove by preambles, and other applicable Florida, Federal and Local law.

2. Paragraph 2.c. of the Interlocal Agreement is amended to read as follows:

2. c. Amendments to this agreement, except as to its membership provisions, shall be made effective by an affirmative vote not less than two-thirds of the voting members of the Council. Changes in membership provisions shall require consent of a majority of the principal member units in addition to the two-thirds vote of the members of the Council. Any amendment to this agreement shall be submitted, in writing, to each regular voting member at least seven (7) days prior to the meeting at which such amendment is to be voted upon.

3. Paragraph 3 of the Interlocal Agreement is amended to read as follows:

3. Membership: At least eighteen voting members shall be elected County Commissioners or City Councilmen. Each principal member unit as defined in Article 2(a) above shall be represented by three voting members of whom two voting members will be members of the elected governing body of the principal member unit and the third a voting member of the elected governing body of a municipal corporation located within the boundaries of the principal member unit chosen by all municipalities within the County. In addition, the Governor of the State of Florida shall appoint representatives to the Regional Planning Council equalling one-half of the total of members appointed by the member counties and municipalities. These appointments shall be citizens of the Region and no two appointees of the Governor shall have their residences in the same county until each county within the Region is represented by a Governor's appointee.

4. Except as amended herein, the COUNTIES ratify and affirm the provisions of the Interlocal Agreement dated November 8, 1973.

IN WITNESS WHEREOF, the COUNTIES have caused the Agreement to be executed and their signatures to be affixed on the day and year indicated below their respective signatures.

Attest:

Buddy C. Alexander, Clerk of
Circuit Court and Ex-
Officio Clerk to the Board
of County Commissioners of
Charlotte County, Fl

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: Buddy C. Alexander
Deputy Clerk

By: Paul G. Foy
Chairman

Date: October 28, 1980

ATTEST:

William J. Reagan, Clerk of
Circuit Court and Ex-
Officio Clerk to the Board
of County Commissioners of
Collier County, FL

By: William J. Reagan
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: Clifford L. Lenzel
Chairman

Date: October 7, 1980

ATTEST:

Jerry L. Beck, Clerk of
Circuit Court and Ex-
Officio Clerk to the Board
of County Commissioners of
Glades County, FL

By: Jerry L. Beck
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF GLADES COUNTY, FLORIDA

By: Vernon L. Lister
Chairman

Date: 10-13-80

ATTEST:

Charlotte R. Fitzsimmons,
Clerk of Circuit Court and
Ex-Officio Clerk to the Board
of County Commissioners of
Hendry County, Florida

By: Charlotte R. Fitzsimmons
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF
HENDRY COUNTY, FLORIDA

By: Donald C. Pratt
Chairman

Date: Oct. 14, 1980

ATTEST:

Sal Geraci, Clerk of
Circuit Court and Ex-
Officio Clerk to the Board
of County Commissioners of
Lee County, Florida

By: Betty L. LaCasse
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: K. L. Steele
Chairman

Date: Oct 1, 1980

ATTEST:

R. H. Hackney, Jr., Clerk of
Circuit Court and Ex-
Officio Clerk to the Board
of County Commissioners of
Sarasota County, Florida

By: R. H. Hackney Jr.
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: James D. Dodder
Chairman

Date: Oct 31, 1980

APPROVED AS TO FORM

By: Thomas M. Brundette
OFFICE OF COUNTY ATTORNEY

SWFRPC ADOPTED BY-LAWS

29I-1.001 Name and Scope.

The name of this agency is the Southwest Florida Regional Planning Council (SWFRPC, or “Council”), a voluntary association of counties and cities formed as of November 8, 1973, under the laws of Florida and comprising the 9th Comprehensive Regional Planning District as provided for by the Florida Statutes.

Rulemaking Authority 186.502, 186.504(6), 186.505(2) FS. Law Implemented 186.504 FS. History—New 2-9-76, Formerly 29I-1.01, Amended 5-14-09.

29I-1.002 Purpose.

(1) Purpose. The purposes of the Southwest Florida Regional Planning Council shall be:

(a) To provide a means to permit local governmental units to make the most efficient use of their powers to cooperate for mutual advantages in order to provide services and facilities that will accord best with geographic, economic, social, land use, transportation, public safety resources and other factors influencing the needs and development of local communities within Planning District No. 9;

(b) To serve as a regional coordinator for the local governmental units comprising the planning district;

(c) To exchange information on and review programs of region concerns;

(d) To promote communication between the local governments for the conservation and compatible development of the Southwest Region;

(e) To cooperate with Federal, State and local government and non-government agencies to accomplish regional objectives; and

(f) To do all things authorized for a Regional Planning Agency under Chapters 163, 186 and 380, F.S., and other applicable Florida, Federal and Local Laws, rules and regulations.

(2) Mission. It is the mission of the Council:

To work together across neighboring communities to consistently protect and improve the unique and relatively unspoiled character of the physical, economic and social worlds we share for the benefit of our future generations.

Rulemaking Authority 186.505(1) FS. Law Implemented 186.502 FS. History—New 2-9-76, Amended 7-18-82, Formerly 29I-1.02, Amended 5-7-92, 5-14-09.

29I-1.003 Staff Functions; General Description.

The Council shall appoint an Executive Director who shall have the responsibility for the general management of the affairs of the Council, subject to the governing laws of the State and such regulations as may be adopted by the Council.

(1) The Executive Director shall annually prepare a budget for the Council and transmit the Council’s budget request to the member governmental units.

(2) The Executive Director shall be responsible for the general management of the Council’s office, for assisting the Secretary of the Council in the recording and maintenance of Council minutes and other documents of record, for any moneys received on behalf of the Council, for the keeping of financial statements in such form and in accordance with such procedures as shall be required by the Treasurer.

(3) The Executive Director may appoint and discharge any employee or subordinates in accordance with the policies of the Council and applicable Federal and Florida Statutes and regulations, and shall fix compensation within such limits as may be provided by the approved Council budget.

(4) The Executive Director may make agreements on behalf of the Council in performing the duties entrusted to him/her and shall attest all necessary instruments.

Rulemaking Authority 186.505(1), 186.505(4) FS. Law Implemented 186.505 FS. History—New 2-9-76, Formerly 29I-1.03, Amended 5-7-92, 5-14-09.

29I-1.004 Council Membership and Appointments, Term of Service, Vacancies, Removal from Office.

(1) Membership and Appointments.

(a) The Council shall include the Counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota, each of which shall be represented on the Council by two voting representatives appointed by their respective Board of County Commissioners.

(b) All municipalities within each county shall select one representative of one of the municipalities within the county who will be a voting representative.

(c) Further, each city has the option to be a member local government and to appoint one representative from the city's governing board; cities taking this option shall not participate in the process in (b) above.

(d) The representative(s) to the Council from each member local government shall be the elected chief representative of said local government or a member of its governing body chosen by such body to be its representative.

(e) Changes in membership provisions shall require a two thirds vote of the members.

(2) Terms of Service.

(a) Council members shall serve, and may be reappointed, at the pleasure of the appointing authority for terms not to exceed 3 years.

(b) Member governments may appoint alternate representative(s) to the Council. Alternate representative(s) shall be the chief elected official of said local government or a member of its governing body chosen by such body to be its alternate representative.

(3) Vacancies.

Any vacancy shall be filled for the unexpired term in the same manner as the initial appointment.

(4) Removal from Service.

Should a Council member have three consecutive unexplained absences from regular Council meetings, the Council shall so advise the appropriate appointing authority and request another appointment. Voting representatives will continue to occupy their offices until the Council is notified in writing of their replacement.

Rulemaking Authority 186.502, 186.505(1) FS. Law Implemented 186.504 FS. History—New 2-9-76, Amended 2-20-77, 7-18-82, Formerly 29I-1.04, Amended 5-4-88, 3-1-95, 5-14-09.

29I-1.005 Officers, Term, Duties, Committees.

(1) The regular January monthly meeting shall include electing from the regular membership officers with duties as follows:

(a) Chair – The Chair shall be the Chief Executive Officer, responsible for executing contracts for the Council, for overseeing the organization of the work of the Council, for seeing that all policy decisions of the Council are carried out, and for such other executive level functions as the Council shall assign. Except as provided for elsewhere, the Chair shall serve as a non-voting member of each advisory committee.

(b) Vice-Chair – The Vice-Chair shall act for the Chair in his/her absence, or in the event of the Chair's inability to act, perform all the functions of the Chair.

(c) Secretary – The Secretary shall conduct the correspondence of the Council, keep and distribute the minutes of the meetings, be custodian of the records and seal, keep the roll of all members, and discharge such other duties as may be assigned by the Chair or the members. The Executive Director shall serve as deputy to the Secretary.

(d) Treasurer – The Treasurer shall supervise the financial affairs of the Council, including recommending designation of checking and savings account depositories, and perform such other duties as usually pertain to that office. Except as provided for elsewhere, each negotiable check or warrant shall bear the signature of the Treasurer.

(2) Each officer so elected shall serve one (1) year or until re-elected or a successor is elected.

(3) A Nominating Committee comprised of at least three (3) Council members, each from a different County shall be appointed by the Chair at the regular December meeting of the Council for the purpose of proposing candidates for all offices for the following year. Additional nominations may be made by any Council member at the January monthly meeting. Newly elected officers shall be declared to be installed following their election at the January monthly meeting and shall assume the duties of office upon adjournment of said meeting.

(4) Standing and Special Committees.

The Council is empowered to designate and appoint standing committees, study groups, boards, and consultants consisting of members or non-members as the Council determines are essential or desirable to carry out its policies and objectives. The Council is empowered to direct the Executive Director to assign staff to support such standing committees, study groups, boards and

consultants to carry out the Council's policies and objectives. The Chair may appoint such special Advisory Committees consisting of members or non-members as he/she deems necessary or expedient to assist the Council and staff from time to time. Standing Committee members shall serve for terms of one (1) year. Special advisory committee members shall serve for the same period as the appointing Chair. All Committee actions shall be advisory only to the Council. The Council may, however, delegate certain specific administrative and review prerogatives to a committee in order to expedite the Council's work.

Rulemaking Authority 186.505 FS. Law Implemented 186.505 FS. History—New 2-9-76, Amended 2-20-77, Formerly 29I-1.05, Amended 5-14-09.

29I-1.006 Conduct of Meetings.

(1) The Council shall hold regular monthly meetings at a time and place to be determined by the membership prior to adjournment of the previous meeting or by the Chair in the absence of such determination. A monthly meeting may be waived by a majority of the Council. Business to have been conducted at the waived meeting shall be considered at the next successive monthly meeting.

(2) Special meetings of the Council may be called by the Chair at his/her discretion or when requested by six (6) voting members.

(3) Voting.

(a) Council members must be present to vote. A quorum shall consist of a majority of the total voting membership of the Council, representing at least four (4) of the Counties. When a quorum is present, a majority of those present may take action on matters properly presented at the meeting. Members present shall vote on each question presented to the Council unless they disqualify themselves. Business shall be transacted only at regular or special called meetings and shall be duly recorded in the minutes thereof.

(b) As permitted by Florida Statutes, Council members are present at a meeting when participating through interactive video and telephone systems.

(4) Minutes.

(a) The Council shall record minutes of its proceedings and official actions in the office of the Council.

(b) The minutes of prior meetings approved by a majority of the members present, shall become the official minutes.

(c) Each resolution shall be signed by the presiding officer at the meeting and by the Executive Director and entered in the minutes.

(5) Rules of Debate.

(a) Chair Participation: The presiding Chair shall not be deprived of any rights and privileges of a Council member by reason of being the presiding Chair, but may move or second a motion only after the gavel has been passed to the Vice-Chair or another member of the Council.

(b) Form of Address: Members shall address only the presiding officer for recognition; shall confine themselves to the question under debate; and shall avoid personalities and indecorous language.

(c) The Question: Upon the closing of debate the Chair shall call the question by voice or roll call vote. Members may give a brief statement or file a written explanation of their vote.

(6) Amending the Agenda.

If a subject is not on the Agenda it may be added by motion and a majority vote that the subject should not be delayed until the next meeting.

(7) DRI Recommendations.

(a) When the Council is considering the recommendations it shall make to a local government, the Council, in addition to its normal staff presentation, shall allow limited presentations by the following: the developer; the adjacent or contiguous city and county involved; technical consultants to the Council; and members of the public, who shall be required to submit a "Request to Speak" form. The applicant may request additional time for presentation. The Chair may limit or restrict the time available for any presentation. Any Council member may ask the developer, or any person present, specific questions concerning specific issues of the proposed development.

(b) The Council may close debate by a majority vote of the members present.

(8) Voting shall be by voice, but members shall have their votes recorded in the minutes if they so desire. A roll call vote shall be held upon proper motion. All other questions of procedure shall be governed by Robert's Rules of Order, Revised.

(9) Staff memoranda and committee resolutions, minutes and reports are prepared for the purpose of providing the Council with the basic information it requires to make decisions. Such staff memoranda and committee resolutions, minutes and reports are advisory only and not final actions or conclusions of the Council itself. The Council shall release all such data to the chief executive officer of each member governmental unit upon his request.

(10) All official meetings of the Council shall be open to the public as required by Florida Sunshine Laws, Chapter 286, F.S., and shall meet the requirements of the applicable sections of the Florida Administrative Procedures Act, Chapter 120, F.S. The Council shall give seven (7) days notice of meetings and workshops, in addition to any other notices as required by Florida Statutes.

Rulemaking Authority 186.505(1) FS. Law Implemented 186.505 FS. History—New 2-9-76, Amended 2-20-77, 7-18-82, Formerly 29I-1.06, Amended 5-7-92, 5-14-09.

29I-1.007 Budget and Finances.

(1) The Council shall cause to be prepared and shall adopt on or before August 15 of each year a budget for the development and implementation of the planning and development programs by such means and through such agencies as the Council shall determine and shall certify a copy thereof to the Clerk of the governing body of each local government that is a member established through (a) and (c) of subsection 29I-1.004(1), F.A.C., above. Upon approval thereof by the governing body each member local government shall include in its annual budget and cause the levy of a millage sufficient to produce the amount necessary to fund its proportionate share of the Council's total budget for the District, which, beyond minimums for individual membership established by the Council, bears the same ratio to the total budget as the population of each member unit bears to the total population of the District, all as determined annually by official population forecasts by the state of Florida for the year preceding each budget determination.

(2) The fiscal year of the Council shall commence on the first day of October of each year and end on the last day of September of the following year.

(3) The Council shall have the right to receive and accept in furtherance of its functions, funds, grants and services from Federal, State and Local Governments or their agencies and from private and community sources, and to expend therefrom such sums of money as shall be deemed necessary from time to time for the attainment of its objectives.

(4) Services Charges. The Council may establish fees for its services reasonably related to the general cost of providing such service including but not limited to the processing of Applications for Developments of Regional Impact.

(5) The Council shall maintain bank accounts, including, but not limited to, checking and savings accounts, and to do those things generally authorized by law for such public authorities.

(6) Designation of Authorized Fiscal Signatures. Each check or warrant issued by the Council shall be co-signed by one of two designated Council officers and by one of two designated Council employees in the following manner:

(a) Authorized Council Officers. Treasurer, or in his absence, a voting member designated by the Council.

(b) Authorized Council Employees. Executive Director, or in his absence, the Director of Planning, shall verify that budgeting provisions have been made therefor, and that quid pro quo has been received and shall have the check or warrant prepared.

All such Officers or Employees of the Council to whom authority to receive and disburse funds has been delegated shall be sufficiently bonded under a general fidelity bond to be paid by the Council.

(7) The Council shall prepare or cause to be prepared annually a report of its activities for the preceding fiscal year, to include an independently audited financial statement. The annual report shall be officially presented to the Council at its Annual Meeting.

(8) Council members shall receive no compensation for their services but shall be reimbursed for travel expenses incurred while engaged in specific, authorized activities on behalf of the Council.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 186.502, 163.01 FS. History—New 2-9-76, Amended 7-18-82, Formerly 29I-1.07, Amended 5-4-88.

29I-1.008 Responsibilities and Authority.

The Council shall exercise all powers granted to regional planning councils, or regional planning agencies by Section 186.505 F.S., and by its Interlocal Agreement dated, November 8, 1973, amended October 28, 1980, incorporated by reference and available from the Council.

Rulemaking Authority 186.505(1) FS. Law Implemented 186.502 FS. History--New 2-9-76, Amended 7-18-82, Formerly 29I-1.08, Amended 5-7-92, 5-14-09.

29I-1.009 Amendments.

These rules shall be amended by a majority vote of the Council. All proposed amendments shall be voted on at a regular meeting, the call of which meeting shall have included notice of the proposed amendment, and which shall have been duly advertised in accordance with the provisions of Chapter 120, Florida Statutes.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 163.01 FS. History--New 2-9-76, 2-20-77, Formerly 29I-1.09.

29I-1.010 Information Requests.

(1) The principal office of the Southwest Florida Regional Planning Council is located at 1926 Victoria Avenue, Fort Myers, Florida 33901-3414. The office hours are Monday through Friday, from 8:00 a.m. to 5:00 p.m. All official forms, publications or documents of the Council are available for public inspection at the Council's principal office during regular business hours.

(2) All information requests are fulfilled in compliance with the Florida Public Records Law, Chapter 119, F.S.

(3) Copies of the Council's forms, publications and official documents prepared for public dissemination are available as follows:

(a) Public agencies, defined as those organizations representing the public; government agencies situated in the State of Florida receive Council publications at no charge.

(b) Private organizations situated in Florida and all parties outside of Florida can receive Council publications at cost.

(c) Publications out of print or singular documents are available for inspection at its principal office. Persons wishing photocopies may receive same at cost.

Rulemaking Authority 186.505(1) FS. Law Implemented 186.505 FS. History--New 2-9-76, Formerly 29I-1.10, Amended 5-14-09.

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 9, 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) Certified copies of the Development Orders shall be sent by the local government to the state land planning agency, the SWFRPC, and the applicant. Upon receipt of a copy of the Development Order to the state land planning agency, the SWFRPC, the owner, and the developer, a 45 day period begins during which appeals may be initiated. Three parties may appeal a Development Order: the landowner, the developer, or the state land planning agency. 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 and Water Adjudicatory Commission. 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 state land planning agency 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.

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History--New 2-9-76, Amended 2-20-77, 9-26-77, 7-18-82, Formerly 29I-4.01, Amended 7-27-86, 2-19-92, 5-14-09.

29I-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 29I-4.03, Amended 7-27-86, 2-19-92.

29I-4.004 DRI-ADA Form.

(1) An application for development approval shall be submitted using the state land planning agency official ADA forms specified within Rule 9J-2.010, F.A.C. 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 submitted on 8 1/2 x 11 inch paper. Digital files and geo-referenced data may also be required. Each question must be repeated in the application text with the answer following.

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History--New 2-9-76 Amended 2-20-77, 7-18-82, Formerly 29I-4.04, Amended 7-27-86, 2-19-92, 5-14-09.

29I-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 29I-4.05, Amended 7-27-86, 2-19-92.

29I-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 developments of regional impact,” (eff. 7/2006 available from Southwest Florida Regional Planning Council).

Rulemaking Authority 186.505(1) FS. Law Implemented 186.505, 380.06 FS. History—New 2-9-76, Amended 2-20-77, Formerly 29I-4.06, Amended 2-19-92, 5-14-09.

29I-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).

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06, 380.07 FS. History—New 8-19-76, Amended 2-20-77, 7-18-82, Formerly 29I-4.07, Amended 7-27-86, 9-20-88, 2-19-92, 5-14-09.

29I-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 state land planning agency 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 state land planning agency 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 state land planning agency, 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 state land planning agency, within 30 days after the order becomes effective.

(5) The petitioner, an owner of property within the defined planning area, or the state land planning agency 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.

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 7-27-86, Amended 5-14-09.

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 state land planning agency, 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.

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 7-27-86, Amended 5-14-09.

29I-4.013 Review of Amendments to Development Orders.

(1) The developer shall submit, simultaneously, to the local government, the SWFRPC, and the state land planning agency, 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.

(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.

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 7-27-86, Amended 5-14-09.

29I-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.

29I-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.

29I-5.001 General.

(1) The Southwest Florida Regional Planning Council was designated as the are awide clearinghouse pursuant to United States Office of Management and Budget Circular A-95 for substate District Nine on May 17, 1974.

(2) The Council's Clearinghouse Review function addresses projects requiring review under OMB Circular A-95 as well as U.S. Army Corps of Engineers/Department of Environmental Regulation Permits, Environmental Impact Statements, Florida Highway Projects, and Coast Guard Permits.

Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History--New 9-5-78, Amended 10-15-78, Formerly 29I-5.01.

29I-5.002 Classification of Projects.

(1) Because of the high volume of Clearinghouse reviews, and the desire of the Council to provide more detailed analysis of those projects of regional significance, without duly burdening those applications of a local nature, a classification system is employed. All applications are classified as either a) Projects of Regional Significance, b) Projects of Less Than Regional Significance.

(2) Projects of Regional Significance include:

(a) All federally assisted projects or programs of organizations or agencies having multi-jurisdictional responsibility within all or part of the Region.

(b) All applications for comprehensive planning and management grants.

(c) All applications for projects which cross county boundaries, impact two or more counties, or projects of significant multi-jurisdictional impact.

(d) All applications for projects which approach the DRI threshold.

(e) All Environmental Impact Statements.

(f) All Proposals with a significant water quality impact on the Council's 208 study area.

(g) Any project which, due to its unique aspects, has regional significance.

(3) Projects of Less Than Regional Significance.

All applications NOT determined to be of Regional Significance are considered Projects of Less Than Regional Significance.

Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History--New 9-5-78, Amended 10-15-78, Formerly 29I-5.02.

29I-5.003 Review Criteria.

(1) Projects of Regional Significance.

In reviewing Projects of Regional Significance, the following criteria is generally used in whole or in part:

(a) Project's consistency with adopted regional and local goals, objectives and policies.

(b) The need for the project and whether it duplicates an existing program.

(c) Appropriateness of the proposed funding levels and its project costs.

(d) Accuracy of data utilized; appropriateness of methodology, and the completeness of the proposal.

(e) The project's potential for air, noise and water pollution.

(f) The potential impact on historic/archeologic sites, wildlife habitats and sensitive ecosystems.

(g) The potential for increased surface water runoff and/or erosion.

(h) The accessibility to adequate infrastructure.

(i) The location of project in relation to those it will serve.

(j) If the project is located in the coastal zone, the project's compatibility with the State's Coastal Zone Management Program.

(k) The impact of traffic generated by the project.

(l) The effects on energy resource supply and demand.

(m) The project's potential secondary impacts including impacts on neighboring communities.

(n) The potential displacement of people, housing or business.

(o) The project's relationship to flood plain.

(2) Projects of Less than Regional Significance.

In reviewing Projects of Less Than Regional Significance, consistency with adopted regional and local goals, objectives and policies is assessed.

Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 9-5-78, Amended 10-15-78, Formerly 29I-5.03, Amended 5-14-09.

29I-5.004 Review Procedures.

All projects and programs which are reviewed by the Council are processed as follows:

(1) Receipt of Project.

When a proposal (Notification of Intent, Pre-Application, Permit Application, EIS, etc.) is received, it is date stamped, logged in and assigned a file number by the A-95 Coordinator. The Council has thirty (30) days to complete its Clearinghouse review of a project.

(2) Emergency Situations.

There are emergency situations when the Council will accept projects for Clearinghouse review with less than thirty (30) days remaining to review the project. The Council will work closely with the applicant to ensure that potential funding is not jeopardized. Review will commence when the documents are in a draft stage. Before the applicant is notified in writing of the Clearinghouse comments, however, the Council requires that the application in its final form be officially transmitted to it.

(3) Local Government Comment.

The A-95 Coordinator solicits comment from the local governments and other agencies whose interests might be affected. These letters indicate a deadline for comments. Comments received from local government or other agencies will either be included in the Council's comments or attached to them. If no comment is received by this date, it is presumed that the project or program is not inconsistent with local plans.

(4) Staff Action.

Each project or program is screened by the Council staff to determine if it is a new application or a continuation/modification of an existing program. The staff member then determines if the project is of regional significance and applies the appropriate review criteria.

(5) Staff Recommendations.

Utilizing the classification system and respective review criteria, described previously, each project is identified to be within one of four categories as follows:

- (a) Less than Regional Significance – Consistent with goals, objectives and policies,
- (b) Less than Regional Significance – Not consistent with goals, objectives and policies,
- (c) Regional Significance – Consistent with goals, objectives and policies,
- (d) Regional Significance – Not consistent with goals, objectives and policies.

When initial staff review determines that a proposal of regional significance does not appear consistent with regional goals, objectives and policies, every effort is made with the applicant to resolve the issues. This includes requesting additional information, meeting with the applicant, or discussing the issues with local government or other commenting agencies. If the issues are resolved through this effort, the project is recategorized.

The identification of the projects as to category, along with all analysis and comments, constitutes the staff's recommended action. Prior to each Council meeting, a report is prepared identifying the staff's recommended action for all Clearinghouse projects received during the previous month.

(6) Council Action.

Unless prevented by extenuating circumstances, the Council shall approve or disapprove the staff's recommended action for the Clearinghouse projects received during the previous month. Due to their importance, staff recommendations regarding Projects of Regional Significance that are not consistent with Regional and local goals, objectives, and policies shall be considered by the Council on an individual basis.

Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History—New 9-5-78, Amended 10-15-78, Formerly 29I-5.04.

29I-5.005 Review Procedure – Graphic Presentation.

SEE FLORIDA ADMINISTRATIVE CODE FOR “REVIEW PROCEDURE - GRAPHIC PRESENTATION”

Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History–New 9-5-78, Amended 10-15-78, Formerly 29I-5.05.

29I-6.002 Strategic Regional Policy Plan.

There is hereby adopted, for the Southwest Florida Region, the Strategic Regional Policy Plan for the Southwest Florida Regional Planning Council, August 2001, which is incorporated herein by reference and copies of which are kept at the Council office at: 4980 Bayline Drive, 4th Floor, North Fort Myers, Florida 33917. Copies are also available at our website: www.swfrpc.org/publctns.htm.

VOLUME TWO: GOALS, STRATEGIES, AND ACTIONS.

Specific Authority 186.508(1) FS. Law Implemented 120.53(1) FS. History—New 10-23-95, Amended 7-3-02.

29I-7.001 Purpose.

(1) The purpose of this rule is to establish a voluntary regional dispute resolution process (RDRP) to reconcile differences on planning, growth management, and other issues among local governments, regional agencies and private interests. The process consists of seven components: (a) process initiation (initiation and response letters), (b) settlement meetings, (c) pre-initiation meeting, (d) situation assessment, (e) mediation, (f) advisory decision-making, and (g) reference to other dispute resolution processes (judicial, administrative, or arbitration proceedings). Components (a) and (b) are required while components (c), (d), (e), (f), and (g) are optional.

(2) The intent of the RDRP is to provide a flexible process to reconcile differences on planning and growth management issues that will clearly identify and resolve problems as early as possible; utilize the procedures in a low-to-high cost sequence; allow flexibility in the order in which the procedures are used; provide for the appropriate involvement of affected and responsible parties; and provide as much process certainty as possible.

(3) The RDRP may be used to resolve disputes involving extrajurisdictional impacts as provided for in the intergovernmental coordination elements of local comprehensive plans, as required by Section 163.3177, F.S.; inconsistencies between port master plans and local comprehensive plans, as required by Section 163.3178, F.S.; the siting of community residential homes, as required by Section 419.001(5), F.S.; and any other matters covered by statutes which reference the RDRP.

(4) The RDRP shall not be used to address disputes involving environmental permits or other regulatory matters unless all the parties involved agree to initiate use of the RDRP.

(5) The RDRP does not replace local processes and is not intended to be used by parties dissatisfied with the appropriate application of local rules and regulations.

(6) Use of the RDRP shall not alter the right of a jurisdiction, organization, group, or individual to judicial or administrative determination of any issues if that entity is entitled to such a determination under statutory or common law.

(7) Participation in the RDRP as a named party or in any other capacity does not convey or limit intervenor status in any judicial or administrative proceedings.

(8) All named parties who agree to participate in this process commit to a good faith effort to resolve problems or disputes.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.002 Definitions.

(1) "Situation assessment" is a procedure of information collection that may involve review of documents, interviews, and an assessment meeting leading to a written or oral report identifying the issues in dispute, the stakeholders, the information needed before a decision can be made, and a recommendation for appropriate dispute resolution procedures. This procedure is sometimes referred to as "fact finding."

(2) "Pre-initiation meeting" is a meeting which provides the opportunity for a party to discuss with the RPC staff the suitability of the RDRP for resolution of a dispute before formal initiation of the RDRP.

(3) "Facilitation" is a procedure in which the facilitator helps the parties to design and follow a meeting agenda and assists the parties to communicate more effectively throughout the process. The facilitator has no authority to make or recommend a decision.

(4) "Mediation" is a procedure in which a neutral party assists disputing parties in a negotiation process to explore their interests, develop and evaluate options, and reach a mutually acceptable agreement without prescribing a resolution. A mediator (who may take more control of the process than a facilitator) usually works in more complex cases in which a dispute is more clearly defined.

(5) "Advisory decision-making" is a procedure aimed at enhancing the effectiveness of negotiations and helping parties more realistically evaluate their negotiation positions. This procedure may include fact-finding, neutral evaluation, or advisory arbitration in which a neutral party or panel listens to the facts and arguments presented by the parties and renders a non-binding advisory decision.

(6) "Jurisdiction" is any local government or regional agency, including any special district, authority, or school board.

(7) "Named party" is any jurisdiction, organization, group, or individual who is named in an initiation letter, including the initiating jurisdiction, or any jurisdiction, organization, group, or individual who is permitted by the named parties to participate in settlement of a dispute pursuant to subsections 29I-7.003(1), (2), and (3), F.A.C. Being a "named party" in the RDRP does not convey or limit standing in any judicial or administrative proceeding.

(8) “Representative” is an individual who is given guidance and authority to act, to the extent possible, by a named party in a RDRP case. Subsection 29I-7.003(4), F.A.C., sets forth the process for designation of a representative.

(9) “Initiation letter” is a letter from a jurisdiction that formally identifies a dispute, asks named parties to engage in this process to resolve the dispute, and, at a minimum, requests the named parties to attend the initial settlement meeting. Rule 29I-7.010, F.A.C., specifies what must be included in an initiation letter.

(10) “Response letter” is a letter that formally notifies the initiator and other named parties that a party is willing to participate in the RDRP and, at a minimum, attend at least one settlement meeting. Subsection 29I-7.010(3), F.A.C., specifies what must be included in a response letter.

(11) “Settlement agreements” may be voluntarily approved by the individual or governing body authorized to bind the named party. Agreements may take the form of memorandums of understanding, contracts, interlocal agreements, or some other form mutually agreed to by the signatory parties or as required by law. A settlement may be agreed to by some or all of the named parties.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 4-12-94.

29I-7.003 Participation.

(1) Named parties shall automatically be allowed to participate. Other jurisdictions, public or private organizations, groups, or individuals may be suggested by a named party in response letters or during RDRP meetings. Any such entity or individual may also submit a petition to participate. In any case, such an entity or individual may become a named party if agreed to by a two-thirds majority of the participating named parties, except as provided for in subsection 29I-7.003(3), F.A.C. Fee allocation agreements will be amended as appropriate.

(2) All initiation and response letters that are made in accordance with intergovernmental coordination elements of local government comprehensive plans shall list only affected local government jurisdictions as named parties. The named parties, at the initial settlement meeting or at subsequent RDRP meetings, may add public or private named parties by mutual agreement of all the current named parties.

(3) Other jurisdictions, public or private organizations, groups or individuals seeking to become named parties shall submit to the Regional Planning Council (RPC) staff a written petition to participate, including reasons for the request and information required in subsection 29I-7.010(2), F.A.C. Such jurisdictions, organizations, groups, or individuals shall become named parties if agreed to by a two-thirds majority of the named parties, prior to or during RDRP meetings, except as pursuant to subsection 29I-7.003(2), F.A.C. Named parties who do not respond within 21 days of the date of the initiation letter may not participate in the RDRP unless they submit a petition for participation.

(4) Each of the jurisdictions, organizations, groups, or individuals participating as a named party in this process shall designate a representative, in writing, or be represented by the chief executive officer. Such a representative shall have authority to act, to the maximum extent feasible, and shall have responsibility to represent that party’s interest in this process and to maintain communications with that party throughout the process. Jurisdictions are encouraged to designate a representative to participate in this process in advance of initiating or receiving a request.

(5) Individuals or organizations who can provide information and technical assistance useful in the resolution of the dispute may be invited by a named party or the presiding neutral to attend meetings under this process. The parties, by agreement, or the presiding neutral shall determine when and under what circumstances such individuals or entities may be invited. Invited parties may provide input as agreed by the named parties or the presiding neutral.

(6) All communications by a named party called for in this process shall be submitted to all other named parties and the RPC staff in writing.

(7) Any named party may withdraw from participation in dispute resolution under this process upon written notice to all other named parties and the RPC staff.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 4-12-94.

29I-7.004 Costs.

(1) There shall be no charge for processing a RDRP initiation request and facilitation of the initial settlement meeting. The SWFRPC shall be compensated for situation assessments, facilitation of additional settlement meetings, mediation, technical assistance, and other staff services at its standard rate or as negotiated by the parties. Outside professional neutrals shall be compensated at their standard rate or as negotiated by the parties.

(2) The costs of administration, settlement meetings, mediation, or advisory decision-making shall be split equally between the parties or as otherwise agreed. The agreed upon cost allocation shall be documented in a written fee agreement.

(3) Jurisdictions formally adopting this process shall establish budgeting procedures for paying the cost of participation in this process.

Rulemaking Authority 186.505(1) FS. Law Implemented 186.505(5), 186.505(19) FS. History--New 4-12-94, Amended 5-14-09.

29I-7.005 Time Frames.

(1) The initial settlement meeting shall be scheduled and held within 30 days of the date of receipt of the initiation letter at a time and place convenient to the named parties.

(2) Additional settlement meetings, mediation, or advisory decision-making shall be completed within 45 days of the date of the conclusion of the initial settlement meeting.

(3) All time frames specified or agreed to in this process may be altered by mutual agreement of the named parties.

(4) The parties may, by agreement, utilize procedures in the RDRP in any order.

(5) Where necessary to allow this process to be carried out effectively, named parties should consider deferring or seeking stays of judicial or administrative proceedings.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.006 Administrative Protocols.

The Regional Planning Council is authorized to write and adopt such administrative procedures as are necessary to implement this rule. These may address staff and Council roles, procedures for situation assessment and the selection of neutrals, development of consumer guides, or other matters. Where required pursuant to Chapter 120.52, F.S., policies and guidelines should be adopted as rules.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.007 Public Notice, Records, and Confidentiality.

(1) Named parties should consider the provision of appropriate opportunities for public input at each step in this process. This could include the submission of comments on issues, alternative solutions, and the impacts of proposed agreements.

(2) Applicable public notice and public records requirements shall be observed as required by Chapters 119 and 120, F.S.

(3) Participants in these procedures agree by their participation that no comments, meeting records, or written or oral offers of settlement shall be offered by them as evidence in a subsequent judicial or administrative action.

(4) To the extent permitted by law, mediation under this process will be governed by the confidentiality provisions of Chapter 44, F.S., and other applicable law.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.008 Pre-Initiation Meeting.

A jurisdiction, organization, group, or individual contemplating initiation of this process may request an informal pre-initiation meeting with the RPC staff in order to ascertain whether the potential dispute would be appropriate for this process. The Regional Planning Council at the next regularly scheduled or emergency meeting shall authorize the staff to act as appropriate pursuant to Rules 29I-7.009, .010, .011, .012, .013, and .014, F.A.C.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.009 Situation Assessment.

(1) A jurisdiction, organization, group, or individual may request that the RPC staff or other neutral perform a situation assessment at any time, before or after initiation of the process.

(2) The situation assessment may involve examination of documents, interviews, and assessment meetings and shall recommend issues to be addressed, parties that may participate, appropriate resolution procedures, and a proposed schedule.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.010 Initiation of the Process by Jurisdictions.

(1) This process is initiated by an initiation letter from the representative of the governing body of a jurisdiction, other than a regional planning council, to the named parties as provided for in subsections 29I-7.003(1) and (2), F.A.C., and to the RPC staff. The initiation letter must be accompanied by a resolution of the governing body authorizing initiation or by a copy of a written authorization for the representative to initiate a request to use the RDRP process.

(2) Such an initiation letter shall identify the issues to be discussed, named parties to be involved in the dispute resolution process, the initiating party's representative and others who will attend, and a brief history of the dispute indicating why it is appropriate for this process.

(3) Named parties shall send a response letter to the RPC staff and all other named parties confirming their willingness to participate in a settlement meeting within twenty-one (21) days of receipt of the initiation letter. This response letter shall include any additional issues and potential named parties that the respondent wishes considered, as well as a brief history of the dispute and a description of the situation from the respondent's point of view.

(4) Upon receipt of a request, the RPC staff shall assess the interest of the RPC in the case. If the RPC is a named party or sees itself as a potential party, it shall notify the named parties of the nature of its interest and ascertain whether the parties desire an outside facilitator for the initial settlement meeting.

(5) The RPC may not initiate the RDRP but may recommend that a potential dispute is suitable for this process and transmit its recommendation to potential parties who may, at their discretion, initiate the RDRP.

(6) The RPC staff shall schedule a meeting at the most convenient time within thirty (30) days of the date of the receipt of the initiation request, unless the named parties agree otherwise.

(7) In the event that a dispute involves jurisdictions under two or more Regional Planning Councils, the process adopted by the Regional Planning Council of the initiating jurisdiction shall govern, unless the named parties agree otherwise.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.011 Requests to Initiate Submitted by Others.

(1) Private interests may ask any jurisdiction to initiate the process.

(2) Any public or private organization, group, or individual may request that the RPC recommend use of this process to address a potential dispute in accordance with subsection 29I-7.010(5), F.A.C. Such a request shall be submitted in writing and shall include the information required for an initiation letter in subsection 29I-7.010(2), F.A.C.

(3) After reviewing the material submitted by, and consulting with, the requesting organization, group, or individual, the RPC staff will conduct a situation assessment and prepare a written report. The Council at the next regularly scheduled or emergency meeting, shall act to amend, reject, or affirm the recommendations of its staff.

(4) If the RPC determines that the potential dispute is suitable for the process, it shall transmit that determination in writing to the potential parties, as agreed upon by the RPC and the requesting organization, group, or individual. The determination may include a recommendation that one or more of the jurisdictions among the potential parties initiate the procedure. The RPC may also suggest that other resolution processes be considered.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.012 Settlement Meetings.

(1) Settlement meetings shall, at a minimum, be attended by the properly designated representatives of the named parties.

(2) Settlement meetings shall be facilitated by an RPC staff member or other neutral facilitator acceptable to the parties and shall be held at a time and place acceptable to the parties within 30 days after the date of the receipt of the initiation request, unless

the named parties agree otherwise.

(3) At the settlement meeting, the parties shall consider the addition of named parties, consider guidelines for participation, identify the issues to be addressed, present their concerns and constraints, explore options for a solution, and seek agreement.

(4) The parties shall submit a settlement meeting report in accordance with subsection 29I-7.015(4), F.A.C., of this process.

(5) If an agreed-upon settlement meeting is not held or a settlement meeting produces no agreement to proceed to additional settlement meetings, mediation, or advisory decision-making, any party who has agreed to participate in this procedure may withdraw or may proceed to a joint meeting of governing bodies pursuant to Chapter 164, F.S., litigation, an administrative hearing, or arbitration, as appropriate.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.013 Mediation.

(1) If two or more named parties submit a request for formal mediation to the RPC, the RPC shall assist them to select and retain a mediator or the named parties may request that the RPC select a mediator. An informal mediation may be administered by the staff of the Regional Planning Council or a member of the Regional Planning Council.

(2) All formal mediations shall be mediated by a mediator who understands Florida growth management issues, has mediation experience, and is acceptable to the parties. Parties may consider mediators who are on the Florida Growth Management Conflict Resolution Consortium rosters or any other mutually acceptable mediator. Mediators shall be guided by the Standards of Professional Conduct, Florida Rules of Civil Procedure, Rule 10, Part II, Section 020-150, F.S.

(3) The parties shall submit a mediation report in accordance with subsection 29I-7.015(4), F.A.C., of this process.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.014 Advisory Decision-Making.

(1) If two or more of the named parties submit a request for advisory decision-making to the Regional Planning Council,

(a) The RPC shall assist the parties to select and retain an appropriate neutral;

(b) The parties may request that the RPC make the selection; or

(c) The parties may request the RPC to provide an advisory opinion at a regularly scheduled or emergency meeting. Parties serving on the Regional Planning Council may excuse themselves from voting on advisories which directly address their jurisdiction.

(2) A neutral handling a dispute must understand Florida growth management issues, have appropriate experience, and be acceptable to the parties.

(3) The parties shall submit an advisory decision-making report in accordance with subsection 29I-7.015(4), F.A.C., of this process at the conclusion.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.015 Settlement Agreements and Reports.

(1) The form of all settlements reached through this process shall be determined by the named parties, and may include interlocal agreements, concurrent resolutions, memoranda of understanding, plan amendments, deed restrictions, or other forms as appropriate.

(2) Agreements signed by designated representatives may be in the form of recommendations to formal bodies and subject to their formal approval.

(3) Agreements may be reached by two or more parties even if all of the named parties do not agree or do not sign a formal agreement.

(4) After settlement meetings, mediation, or advisory decision-making under this process, the named parties shall submit a joint report to the RPC which shall, at a minimum, include

(a) An identification of the issues discussed and copies of any agreement reached;

(b) A list of potentially affected or involved jurisdictions, organizations, groups, or individuals (including those which may not be named parties);

(c) A time frame for starting and ending informal negotiations, additional settlement meetings, mediation, advisory decision-making, joint meetings of elected bodies, administrative hearings, or litigation;

- (d) Any additional RPC assistance requested;
- (e) A written fee allocation agreement to cover the costs of agreed-upon RDRP procedures;
- (f) A description of responsibilities and schedules for implementation and enforcement of agreements reached; and,
- (g) Any statements that any named party wishes to include.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

29I-7.016 Other Dispute Resolution Processes.

(1) The RDRP is a voluntary opportunity for parties to negotiate a mutual agreement. It may be used before, in parallel with, or after judicial or administrative proceedings.

(2) When appropriate, parties may obtain a stay of judicial or administrative proceedings to provide time for RDRP negotiations.

(3) Use of the RDRP shall not alter the right of a jurisdiction, organization, group, or individual to a judicial or administrative determination of any issue if that entity or person is entitled to such a determination under statutory or common law.

(4) Participation in the RDRP as a named party or in any other capacity does not convey or limit intervenor status or standing in any judicial or administrative proceedings.

(5) In addition to the Regional Dispute Resolution Process authorized by Section 186.509, F.S., parties may consider the applicability of other resolution processes within Florida statutes, including the following: Intergovernmental Coordination Element, Sections 163.3177(5)(h)1. and 2., F.S.; Port Master Plans, Section 163.3178, F.S.; Community Residential Homes, Section 419.001(5), F.S.; Cross Acceptance Negotiation Process, Section 186.505(22), F.S.; Location of Spoil Sites, Section 380.32(14), F.S.; Administrative Procedures Act, Chapter 120, F.S.; Florida Governmental Cooperation Act, Chapter 164, F.S.; and Mediation Alternatives to Judicial Action, Chapter 44, F.S.

Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.

History

November 8, 1973	Original Interlocal Agreement (ILA) adopted (not recorded)
June 6, 1974	Amendment to ILA adopted to revise final date of budget approval from June 1 to August 15.
June 27, 1974	Amendment to the ILA adopted to provide for alternate voting members, the checks to be signed by the Treasurer, the meeting date moved to the first Thursday of the month, and for special meetings to require 24-hour notice.
August 1, 1974	By-Laws are adopted
January 18, 1976	RPC agrees to changed meeting date to third Thursday of month and to hold meetings at Holiday Inn.
February 5, 1976	<p>Amendment to the ILA (that was presented at the 1/18/76 meeting) adopted that removes meeting day from ILA and provides wording changes as follows:</p> <ul style="list-style-type: none"> • Adds "regional" to title of Southwest Florida Planning Council • Pg 1-2nd whereas: added: "to local government" • Pg 2-2nd whereas: deleted • Pg 2- 4th whereas: deleted • Pg 3- now therefore: added regional to SWFPC and "region" changed to "Council" • Pg 3- Purpose: Chapter 160 removed • Pg 3- item 2a "principle" inserted, "Board of County Commissioners" inserted and wording regarding organizational meeting eliminated. • Pg 4- b: reworded to remove initial term • Pg 4- c: changes the amendment votes from ¾ to majority, changes the submission to council from 15 days to 7 days, removes "unanimous consent" of principle members for changes to membership and changes "region" to "council". • Pg 5-e: "region" changed to "council" • Pg 5- 4: Officers wording changed to remove to: be chief executive officer to supervise all functions". • Pg 6- c: Changed "maintains" minutes to "approves" minutes • Pg 6- e: removes language regarding "first officers of the region". • Pg 6- 5 Meetings: Annual meeting changed from December to January • Pg 6- 5b: changed working of regular meeting to: "dates and times established by Council" instead of a specific day of the month. • Pg 6 -quorum: changed to voting members "present"

- Pg 7 – took out “and leave the room” for disqualifying members or those that recuse themselves from voting on an issue/project.
- Pg8 – 7a: section 160 removed
- Pg 8 – 7b: added the word “policy” to the sentence
- Pg 8-7e; 7f and 7h: Changed “region” to “Council”.
- Pg 8- 7j: added words “and before all administrative boards” regarding the ability to be sued and to defend.
- Pg9 – 7k added the word “institution” regarding the ability to accept grants and changed “region” to “council”.
- Pg9- 7m changed wording regarding the ability to incur debts such that they are not the debts, liabilities or obligations of any of the parties to the ILA

October 1980 Changed requirement for approval of amendments to the ILA from $\frac{3}{4}$ of voting members to $\frac{2}{3}$ of voting members and majority (4) of principal members; changes 15-day notice of amendments to 7 days; and added the 9 governor appointees or $\frac{1}{2}$ of total voting members to the membership.

2004 1973 original document with the 1976 and 1980 amendments were recorded by all counties to facilitate the purchase of the building on Victoria Avenue in Ft. Myers.

The following is a comparison of the recorded Interlocal Agreement to the Bylaws and Florida Statutes

<u>Interlocal Agreement (IA)</u>	<u>Bylaws</u>	<u>Florida Statutes (Fl.St.)</u>
Section 1: Purpose: <ol style="list-style-type: none"> exercise rights and duties per chapters 23, 163, 380 Fl.St. regional coordinator review programs promote communication cooperate w/ federal, state, local 	29I-1.002 Purpose CONSISTENT with IA but references chapters 163, 186, 380 Fl.St.	Chapters 163, 186 and 380 Fl.St. govern 186.502 establishes RPC as “only multipurpose regional entity in a position to plan for and coordinate intergovernmental solutions to growth-related problems on great than local issues, provide technical assistance to local governments and meet other needs of the communities in each region.” (186.502(4)) 186.505 Fl.St. is primary in listing powers and duties of RPC.

<p>Section 2: Date, Duration, Termination, Withdrawal</p> <ul style="list-style-type: none"> a. principal (but misspelled principle) units are the 6 counties b. continuous agreement c. Amendments except re: membership can be made by majority of voting members; changes in membership by <i>majority of principal units</i>; 7 days notice required d. Any party or principal member can withdraw by resolution by giving 12 months notice; contractual obligations of withdrawing entity continue; all property remains property of Region (NOTE: THIS LANGUAGE PREDATES THE FLORIDA STATUTE REQUIRING RPCs and most other RPCs have similar language within their IAs) e. If complete termination of agreement, property will be liquidated and each principal member unit entitled to a share of proceeds pro rata f. If complete termination, non-federal matching grants are firm and all projects and reporting must be completed g. Agreement may be terminated at any time by resolution of each principal unit 	<p>29I-1.009 Amendments to Bylaws by majority vote</p> <p>29I-1.004(1)(e) changes in membership requires $\frac{2}{3}$ <i>vote of members</i></p>	<p>186.504(1) and 186.512(1)(h) REQUIRES SWFRPC to exist and requires 6 counties as participating members</p>
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<p>Section 3: Membership Each principal unit (county) shall be represented by 1 alternate and 3 regular voting members of whom 2 regular voting members will be elected county officials and 1 will be an elected official of a municipal corporation within the county appointed after seeking the recommendation of the governing bodies of all municipalities within the county. Each appointed member serves at pleasure of appointing board of county commissioners. Alternate is eligible to vote in absence of regular voting member.</p>	<p>29I-1.004 (1) (a) Each county shall be represented by 2 voting representatives. (b) all municipalities shall elect 1 representative who will be a voting representative (c) each city has option to be a member local government (cities doing this do not participate in process in (b) above (d) representative from each local government shall be its elected chief representative OR member of its governing body chosen by governing body to be representative (2) Terms of Service (a) members may serve terms up to 3 years (b) alternates permitted (3) Vacancies shall be filled for unexpired term (4) Removal-where member has 3 consecutive unexplained absences from regular meetings, Council must advise appointing authority and request another appointment. Voting representatives will continue until Council is notified in writing of replacement.</p>	<p>186.504(2)-(4) Fl.St. membership requires: -representatives appointed by each of the member counties -representatives from other member local general-purpose governments -representatives appointed by Governor including an elected school board member to be nominated by Florida School Board Association. (3) Not less than $\frac{2}{3}$ of representatives serving as voting members shall be elected officials from cities and counties. Each county must have at least 1 vote. Remaining $\frac{1}{3}$ voting members shall be appointed by Governor. No 2 appointees of the Governor shall be from same county UNTIL each county is represented by a Governor's appointee. (4) In addition to voting members, Governor appoints ex officio NON-voting members (representative from DOT, DEP, DEC, and WMD). Governor may also appoint ex-officio nonvoting member from MPO and regional water supply authorities. (5) No requirement that municipalities become members.</p>
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<p>Section 4 Officers Include: Chair, Vice Chair, Secretary, Treasurer. All officers elected at annual meeting and hold officer for 1 year or until successors are elected and qualified.</p> <p>Section 5 Meetings</p> <ul style="list-style-type: none"> a. January elections b. Regular meetings established by Council c. Special meetings - shall be called where one voting member of $\frac{2}{3}$ principal units request d. Place and time e. quorum=majority voting members PRESENT as long as a voting member present from at least $\frac{1}{2}$ principal units. If quorum established, majority voting may take action on all matters. Each member shall vote unless disqualifies. Proxy voting prohibited. f. Secretary keeps minutes 	<p>29I-1.005 Officers, Term, Duties, Committees. Consistent with IA but goes further to specify regular January meeting includes elections of officers. Also, includes provisions for Nominating and Standing and Special Committees.</p> <p>29I-1.006(2) special meetings must occur when at least 6 voting members request</p> <p>(3)(a) quorum is "majority of the total voting membership of the Council, representing at least 4 of the counties." (3)(b) member is present when participating through interactive video and telephone systems (4) Minutes (5) Rules of Debate (6) Amending Agenda (7) DRI Recommendations (8) voting by voice (9) staff memoranda (10) all official meetings open to public as required by chapter 286 Fl.St. and shall satisfy APA chapter 120 Fl.St.</p>	
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<p>Section 6 Finances. (a)by 8/15 budget adopted; each principal member unit shall include in its annual budget and cause the levy of a millage sufficient to produce an amount sufficient to fund it's proportionate share of budget (b)defines FY (c)right to receive and accept funds, grants (d)proportionate share of budget of Region is per capita (e)30cents per capita= dues.</p>	<p>29I-1.007 Budget and Finances Not inconsistent but also includes (4)service charges, (5)maintenance of banking accounts, (6) signatures, (7)annual report and audit and (8)Council members receive no compensation but shall be reimbursed for travel expenses "incurred while engaged in specific, authorized activities on behalf of the Council"</p>	<p>185.505(12) Fl.St. RPC has power to fix and collect membership dues</p>
<p>Section 7 Powers References chapters 23, 163 and 380</p>	<p>29I-1.008 Responsibilities and Authority references Section 186.505 Fl.St. and IA dated 11/8/73 and amended 10/28/80</p>	<p>186.505 Fl.St. is primary delineation of RPC's powers and duties. Chapters 163, 186 and 380 Fl.St. govern.</p>
<p>Section 8 Severability provision- if a provision is invalid, it does not invalidate the remaining provisions</p>	<p>29I-1.010 Information Requests contain past address and provides for requests of public documents pursuant to chapter 119 Fl.St.</p>	
	<p>29I-4.001-5.004 DRI Related</p>	<p>DRI LAWS REPEALED/AMENDED.</p>
	<p>29I-6.002 Strategic Regional Policy Plan- includes past address</p>	<p>186.507 and 186.508 Fl.St. requires SRPP. 186.511 Fl.St. requires SRPP at least every 5 years.</p>

	<p>29I-7.001-7.005 RDRP-regional dispute resolution process</p> <p>29I-7.006 Administrative protocols</p> <p>29I-7.007 Public Notice, Records, Confidentiality</p> <p>29I-7.008 Pre-Initiation Meeting</p> <p>29I-7.009 Situation Assessment</p> <p>29I-7.010 Initiation of the Process by Jurisdictions</p> <p>29I-7.011 Requests to Initiate Submitted by Others</p> <p>29I-7.012 Settlement Meetings</p> <p>29I-7.013 Mediation</p> <p>29I-7.014 Advisory Decision-Making</p> <p>29I-7.015 Settlement Agreements and Reports</p> <p>29I-7.016 Other Dispute Resolution Processes</p>	<p>186.509 Fl.St. requires Dispute Resolution Process</p>
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EXHIBIT D

REPLACEMENT INTERLOCAL

CREATING

THE

SOUTHWEST FLORIDA REGIONAL COUNCIL

EFFECTIVE XXXX, XXXX

AMENDED AND RESTATED
INTERLOCAL AGREEMENT
CREATING THE SOUTHWEST FLORIDA
REGIONAL COUNCIL

THIS AMENDED AND RESTATED AGREEMENT, made and entered into this ____ day of _____, pursuant to authority of Section 163.01, Florida Statutes, by and between:

CHARLOTTE COUNTY
COLLIER COUNTY
GLADES COUNTY
HENDRY COUNTY
LEE COUNTY
and
SARASOTA COUNTY

WITNESSETH:

WHEREAS, The Florida Interlocal Cooperation Act of 1969, Section 163.01 et seq., Florida Statutes, permits local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, this Agreement replaces the Interlocal Agreement entered on November 8, 1973, as amended June 6, 1974, as amended June 27, 1974, as amended February 5, 1976, and as amended October 28, 1980 by and among the parties to this agreement pursuant to which the Southwest Florida Regional Planning Council was originally created; and

WHEREAS, the Florida Regional Planning Council Act, Section 186.501, Florida Statutes, mandates the creation of a Regional Planning Council in each of the several comprehensive planning districts of the state; and,

WHEREAS, Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor have designated that the Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota; and

WHEREAS, the declared purpose of the Florida Regional Planning Council Act is to establish a common system of regional planning councils for areawide coordination and related cooperative activities of federal, state and local governments and ensure a broad-based regional organization that can provide a truly regional perspective enhancing the ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries; and

WHEREAS, it is the desire of the parties hereto to establish a regional council to serve in an advisory capacity to the constituent local governments and

WHEREAS, the parties hereto desire to make the most efficient use of their powers to cooperate for mutual advantage in conducting the regional planning process

and for providing coordination and cooperation within the Southwest Florida region;
and,

WHEREAS, the Community Planning Act, Chapter 163, Part II Florida Statutes assigns to regional planning agencies the responsibility to determine the relationship and effect of a local government's plan or element thereof to or on the strategic regional policy plan and extra jurisdictional impacts; and,

WHEREAS, Governor's Executive Orders 83-150 and Presidential Executive Order 82-12372, designates the comprehensive regional planning agencies as areawide clearinghouses responsible for review and coordination regarding certain Federal programs; and,

WHEREAS, Regional Planning Councils are statutorily assigned various duties and responsibilities in Chapter 129, 163, 186, 258, 260, 288, 339, 380, 403, 420 and 1013, Florida Statutes and other applicable federal, state and local laws.

NOW, THEREFORE, for and in consideration of mutual promises, covenants, benefits to accrue from conduct of a regional planning process, and agreements herein contained and set forth, the member counties to hereby establish, pursuant to the authority of Section 163.01 and Section 186.501, Florida Statutes, the Southwest Florida Regional Planning Council located in Comprehensive Planning District IX consisting of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota, hereinafter referred to as the Council, a separate legal entity, and do further delegate such powers as are specified herein and agree as follows:

1. Purpose.

The purposes of this agreement are:

- (a) To provide local governments with a means of exercising the rights, duties and powers of a regional planning council as defined in Chapter 186, Florida Statutes and other applicable federal, state and local laws.
- (b) To provide a means for conducting the regional planning process.
- (c) To provide regional coordination for local governments in the Southwest Florida region.
- (d) To act in an advisory capacity to exchange, interchange, and review the various programs referred to it which are of regional concern.
- (e) To promote communication among local governments in the region and the identification and resolution of common regional-scale problems.
- (f) To cooperate with Federal, State, local, and non-governmental agencies and citizens to ensure the orderly and harmonious coordination of Federal, State, and local planning and development programs in order to insure the orderly, and balanced growth and development of this region, consistent with protection of the natural resources and environment of the region, and to promote safety, welfare and to enhance the quality of life of the residents of the region.

- (g) To encourage and promote communications between neighboring regional planning districts in attempt to ensure compatibility in development and long-range planning goals.
- (h) To establish an organization that will promote areawide coordination and related cooperative activities of federal, state and local governments, ensuring a broad based-regional organization that can provide a truly regional perspective and enhance that ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries.
- (i) To establish an organization to carry out the duties, functions and activities that are to the mutual advantage of one or more of the local governments within Southwest Florida.

2. Definitions.

- (a) Appointed Representative – a voting member of the Council.
- (b) Comprehensive Planning Districts – the geographic areas within the State specified by the Executive Office of the Governor, and/or by statute.
- (c) Strategic Regional Policy Plan – a plan prepared pursuant to Section 186.507 Florida Statutes and containing goals and policies that address, at a minimum, affordable housing, economic development, emergency preparedness, natural resources of regional significance and regional transportation and that may address any other subject

that relates to the particular needs and circumstances of the comprehensive planning district as determined by the regional planning council. Regional plans shall identify and address significant regional resources and facilities. Regional plans shall be consistent with the State Comprehensive Plan.

- (d) Contribution – any monies received by the Council from a member county or otherwise.
- (e) Council – the Southwest Florida Regional Planning Council.
- (f) Elected Official – a member of the governing body of a municipality or county or a county elected official chosen by the governing body.
- (g) Federal or Federal Government – the government of the United States or any department, commission, agency, or other instrumentalities thereof.
- (h) Governing body – the Board of County Commissioners or City/Town Council/Commission of any member county.
- (i) Local General Purpose Government – any municipality or county created pursuant to the authority granted under ss. 1 and 2, Article VIII of the Florida Constitution.
- (j) Member County – any county within the Southwest Florida Comprehensive Planning District IX.
- (k) Municipality – any incorporated municipality located within a member county.

(l) Principal Member Units – shall be the Charlotte, Collier, Glades, Hendry, Lee and Sarasota Boards of County Commissioners.

3. Effective Date, Duration, Amendment, Withdrawal, and Termination.

(a) The effective creation date of the Council is November 8, 1973.

(b) This agreement shall continue in effect until terminated as provided in Section 3.e.

(c) Any amendments to this agreement shall be in writing and set forth an effective date. To put into effect any amendment, each member county shall adopt, by a majority vote of its governing body, a resolution authorizing its chairman or chief elected official to execute the amendment.

(d) Termination may only occur concurrent with a subsequent Interlocal Agreement being adopted due to the requirement of Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor's designation of Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

(e) In the case of a complete termination of this agreement, the non-Federal matching contribution required to match any approved Federal or State grant shall be firm. The project shall be completed, and the required reports and accounting shall be completed.

4. Membership, Voting and Term.

(a) Membership of the Council shall be provided pursuant to 186.504 Florida Statutes, as amended from time to time.

(b) A regional planning council shall be created in each of the several comprehensive planning districts of the state. Only one agency shall exercise the responsibilities granted herein within the geographic boundaries of any one comprehensive planning district.

(c) Membership on the regional planning council shall be as follows:

(1) Representatives appointed by each of the member counties in the geographic area covered by the regional planning council.

(1.1) There shall be two elected officials appointed from each of the member counties.

(2) Representatives from other member local general-purpose governments in the geographic area covered by the regional planning council.

(2.1) Each county shall decide which of cities, towns and or villages will be voting members of the regional planning council.

(3) Representatives appointed by the Governor from the geographic area covered by the regional planning council, including an elected school board member from the geographic area covered by the regional planning council, to be nominated by the Florida School Board Association.

(4) Not less than two-thirds of the representatives serving as voting members on the governing bodies of such regional planning councils shall be

elected officials of local general-purpose governments chosen by the cities and counties of the region, provided each county shall have at least one vote.

(5) The remaining one-third of the voting members on the governing board shall be appointed by the Governor, to include one elected school board member, subject to confirmation by the Senate, and shall reside in the region. No two appointees of the Governor shall have their places of residence in the same county until each county within the region is represented by a Governor's appointee to the governing board.

(6) Nothing contained in this section shall deny to local governing bodies or the Governor the option of appointing either locally elected officials or lay citizens provided at least two-thirds of the governing body of the regional planning council is composed of locally elected officials.

(7) In addition to voting members appointed pursuant to paragraph (2)(c), the Governor shall appoint the following ex officio nonvoting members to each regional planning council:

- (i) A representative of the Department of Transportation.
- (ii) A representative of the Department of Environmental Protection.
- (iii) A representative nominated by the Department of Economic Opportunity.
- (iv) A representative of the appropriate water management district or districts.

(8) The Governor may also appoint ex officio nonvoting members representing appropriate metropolitan planning organizations and regional water supply authorities.

(d) Nothing contained in this act shall be construed to mandate municipal government membership or participation in a regional planning council. However, each county shall be a member of the regional planning council created within the comprehensive planning district encompassing the county.

(e) The existing regional planning council in each of the several comprehensive planning districts shall be designated as the regional planning council specified under subsections (1)-(5), provided the council agrees to meet the membership criteria specified therein and is a regional planning council organized under either s. 163.01 or s. 163.02 or ss. 186.501-186.515.

(f) The names of all the appointed representatives shall be recorded in the Council minutes.

i. Each Board Member shall have an equal vote, which shall be one (1) vote for each Board Member. The basic term of office for appointed representatives of the Council shall be set by the respective appointing authority. All representatives shall serve until a replacement is appointed by the appropriate appointing authority or until written resignation is received by the Council.

5. Officers.

The officers of the Council shall consist of:

- (a) A Chairman, who shall be responsible for overseeing the working organization of the Council, for seeing that all policies of the Council are carried out, and for presiding over all Council meeting. The Chairman or a designated representative shall be ex officio member of all subsidiary committees and boards.
- (b) A Vice-Chairman who shall preside in the Chairman's absence or inability to act. The Vice-Chairman shall perform such other functions as the Council may from time to time assign.
- (c) A Secretary, who shall be responsible for correspondence of the Council, approve minutes of the meetings, be custodian of the records, keep the roll of all members and discharge other duties as may be assigned by the Chairman or the members
- (d) A Treasurer, who shall supervise the financial affairs of the Council and perform such other duties as may be assigned.
- (e) The officers shall be elected at the annual meeting of the Regional Planning Council and shall hold office for a term of one (1) year or until their respective successor(s) are elected and qualified.
- (f) An Executive Committee, consisting of the Chairman, immediate past Chairman, Vice Chairman, Secretary, Treasurer shall be established to act for the Council when necessary to meet any emergency or to deal with any matters when it would be

impossible or inconvenient to convene a meeting of the full Council.

6. Meetings.

- (a) The annual election of officers shall occur in a timely manner, so the terms of officers may commence with their installation at the January meeting.
- (b) Regular meetings shall be held on the days and times established by the Council.
- (c) Special meetings shall be called by the Chairman either at his/her discretion or when she/he is requested by at least three (3) appointed representatives, none of which may be from the same member county; provided adequate notice shall be given to all appointed representatives stating the date, hour and place of the meeting and the purpose for which such meeting is called, and no other business shall be transacted at that meeting.
- (d) The place and time of each meeting shall be determined by the membership prior to the adjournment of the previous meeting. In the absence of such determination, the time and place of the meeting(s) shall be determined by the Chairman.
- (e) All meetings of the Council shall be open to the public.
- (f) A quorum at any meeting shall consist of at least one-half of all voting members. When a quorum has been established, a

majority of those present and voting may take action on all matters presented at the meeting. Each member shall vote on each question presented to the Council except in the event he disqualifies himself. Proxy voting is prohibited.

(g) The Secretary or his/her designee shall keep minutes of each meeting and distribute a copy thereof to each member county.

7. Finances.

(a) The work year and fiscal year of the Council shall be twelve (12) months beginning the first day of October and ending the thirtieth day of September.

(b) On or before August 15th of each year, the Council shall adopt an annual budget and certify a copy thereof to the Clerk or authorized recipient of the governing body of each member county. Each member county shall include in its annual budget and provide to the Council funds in an amount sufficient to fund its proportionate share of the Council's adopted budget, which bears the same ratio to the total budget as the population of each member unit bears to the total population of the region, all as determined annually by official population forecasts by the state of Florida for the year preceding each budget determination.

- i. Each municipal government having a voting seat on the Council shall provide its proportionate share of funds based on population.
 - ii. Each member county shall pay the full assessment to the regional planning council. Each County will collect the proportionate share of assessments for cities, towns and villages within each county that are voting members of the regional planning council.
- (c) Contributions for each fiscal year shall be payable in four equal installments. Payments shall be made within thirty (30) days from receipt of invoicing. The contribution of each member county shall be fifteen cents (15 cents) per capita of the population of the member county according to the most recent available determination under Section 186.901 Florida Statutes.
- (d) Each member county who does not remit the contribution amounts in accordance with Section 7(c) above shall lose all voting privileges until payment is made.

8. Powers

The Council shall have the right to receive and accept in furtherance of its function; gifts, grants, assistance funds, bequeaths, and services from Federal, State and local governments or their agencies and from private and community sources, and to expend therefrom such sums of money

as shall be deemed necessary from time to time for the attainment of its objectives in accordance with all applicable laws. Pursuant to Chapter 186.505 F.S. the Council shall have all powers granted herein including:

- (a) To adopt rules of procedure for the regulation of its affairs and the conduct of its business and to appoint from among its members a chair to serve annually; however, such chair may be subject to reelection.
- (b) To adopt an official name and seal.
- (c) To maintain an office at such place or places within the comprehensive planning district as it may designate.
- (d) To employ and to compensate such personnel, consultants, and technical and professional assistants as it deems necessary to exercise the powers and perform the duties set forth in this act.
- (e) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.
- (f) To hold public hearings and sponsor public forums in any part of the regional area whenever the council deems it necessary or useful in the execution of its other functions.
- (g) To sue and be sued in its own name.
- (h) To accept and receive, in furtherance of its functions, funds, grants, and services from the Federal Government or its agencies; from departments, agencies, and instrumentalities of state, municipal, or local government; or from private or civic sources. Each regional planning council shall render an accounting of the receipt and disbursement of all funds received by it, pursuant to the federal Older Americans Act, to the Legislature no later than March 1 of each year.

- (i) To receive and expend such sums of money as shall be from time to time appropriated for its use by any county or municipality when approved by the council and to act as an agency to receive and expend federal funds for planning.
- (j) To act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.
- (k) To cooperate, in the exercise of its planning functions, with federal and state agencies in planning for emergency management as defined in s. 252.34.
- (l) To fix and collect membership dues, rents, or fees when appropriate.
- (m) To acquire, own, hold in custody, operate, maintain, lease, or sell real or personal property.
- (n) To dispose of any property acquired through the execution of an interlocal agreement under s. 163.01.
- (o) To accept gifts, grants, assistance, funds, or bequests.
- (p) To conduct studies of the resources of the region.
- (q) To participate with other governmental agencies, educational institutions, and private organizations in the coordination or conduct of its activities.
- (r) To select and appoint such advisory bodies as the council may find appropriate for the conduct of its activities.
- (s) To enter into contracts to provide, at cost, such services related to its responsibilities as may be requested by local governments within the region and which the council finds feasible to perform.
- (t) To provide technical assistance to local governments on growth management matters.

- (u) To perform a coordinating function among other regional entities relating to preparation and assurance of regular review of the strategic regional policy plan, with the entities to be coordinated determined by the topics addressed in the strategic regional policy plan.
- (v) To coordinate land development and transportation policies in a manner that fosters regionwide transportation systems.
- (w) To review plans of independent transportation authorities and metropolitan planning organizations to identify inconsistencies between those agencies' plans and applicable local government plans.
- (x) To use personnel, consultants, or technical or professional assistants of the council to help local governments within the geographic area covered by the council conduct economic development activities.
- (y) To provide consulting services to a private developer or landowner for a project, if not serving in a review capacity in the future, except that statutorily mandated services may be provided by the regional planning council regardless of its review role.

9. Rules of Procedure

See attached Replacement By-laws

10. Immunity

All of the privileges and immunities from liability and exemptions from laws, ordinance and rules which apply to the activity of the officials, officers, agents or employees of the members shall apply to the officials,

officers, agents of employees of the Council when performing their respective functions and duties under the provisions of this Agreement.

11. Limited Liability

Except as provided in Section 3(e) and Section 7 herein, no member shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Council, the representatives of any other agents, employees, officers or officials of the Council to have any authority or power to otherwise obligate the members in any manner.

12. Severability.

If any provision of this agreement or the application of such provisions to any person or circumstance shall be invalid, such invalidity shall not affect other provisions or applications of this agreement which can be given effect without invalid provisions or applications, and to this end the provisions of this agreement are declared severable.

13. Signatories.

It is expressly understood that the terms and conditions of this agreement shall be effective between and among those parties signatory hereto; and that the validity, force and effect to their agreement shall not be affected by one or more of the parties named herein not joining in this agreement any other provisions of this agreement to the contrary notwithstanding.

IN THE WITNESS WHEREOF, the parties have officially adopted and caused this amended and restated agreement to be executed and their signature to be affixed by their respective Chairman or Chief Elected Official as of the day and year first above written.

Execution of parties follows on next page.

CHARLOTTE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

COLLIER COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

GLADES COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

HENDRY COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

LEE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

SARASOTA COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

EXHIBIT E REPLACEMENT BYLAWS

of the
SOUTHWEST FLORIDA REGIONAL PLANNING
COUNCIL



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1. ORGANIZATION

The name of the agency shall be the Southwest Florida Regional Planning Council. It is a regional planning council formed in November 1973 under the authority of Chapter 160, Florida Statutes, as a voluntary association of local governments of the counties and municipalities which comprise the Region, namely, the counties of Charlotte, Collier, Hendry, Glades, Lee and Sarasota. The regional boundaries are those defined as Comprehensive Planning District IX as specified by rule by the Executive Office of the Governor pursuant to 27E-1.002, F.A.C.

2. POWERS AND DUTIES

The Council shall have the following powers and duties prescribed and granted by Chapter 186.505(1) through (25), Florida Statutes, and as they may be amended from time to time.

3. MEMBERSHIP

The Council shall consist of twenty-seven (24) voting members. A voting member shall represent each Principal member unit of the Council as described in the following.

- a. Two voting members from each member county shall be a member of that county's Board of County Commissioners and appointed by that Board. If an alternate is assigned on the annual appointment form, the alternate must also be a county elected official.
- b. One voting member from each member county shall be a Mayor, a City Commission or Council member, or other elected municipal official from one of the local general-purpose governments in the county, appointed by the Board of County Commissioners from the respective County.
- c. There shall be six (6) voting members appointed by the Governor, subject to confirmation by the Florida Senate. One (1) member who is a resident of that county shall represent each County.
- e. **Ex-officio Members:** There may be (1) non-voting ex-officio member from the South Florida Water Management District (SFWMD), from the Southwest Florida Water Management District (SWFWMD) from the Florida Department of Transportation (FDOT), from the Florida Department of Environmental Protection (FDEP), and a representative nominated by the Florida Department of Economic Opportunity (FDEO).

4. OFFICERS, TERM OF OFFICE AND STANDING COMMITTEES

- a. **Officers:** The Council shall elect from its membership, a Chairman, a Vice-Chairman a Secretary and a Treasurer. The Chairman shall preside over regular and special meetings of the Council. The Chairman may also represent and speak for the Council at other official meetings and functions. The Vice-Chairman shall assume duties of the Chairman on request of the Chairman or in the absence of the Chairman.
- b. **Terms of Office:** The Chairman, Vice Chairman, Secretary and Treasurer shall be elected annually. All officers are limited to two consecutive two-year terms.
- c. **Elections:** The election of the Chairman, Vice Chairman and other officers as may be created or appointed by the Council shall be at the January meeting of the calendar year every year. Installation shall follow immediately.

- d. **Standing Committees:** The Council may establish such standing committees, as it may deem appropriate to the efficient pursuit of its duties and responsibilities. Members of all committees shall be appointed by the Chairman and shall serve at his or her discretion. Ad hoc and special committees may be appointed and dissolved by the Chairman with the approval of the Council. The following committee is hereby established as a standing committee.
 - 1. **Executive Committee:** Duties of the Executive Committee shall be to represent and act on behalf of the Council between regular meetings, on personnel relations and regulations, budget control, and on contractual relationships with individuals, agencies and firms. The Committee may meet in lieu of the regular Council meeting and shall have the authority to conduct Council business. Membership shall be composed of the Chairman, Vice Chairman, Secretary, Treasurer, and Past Chairman.

5. EXECUTIVE DIRECTOR

- a. The Executive Director of the Southwest Florida Regional Planning Council shall be selected by the Executive Committee and shall be appointed by a majority of those Council members present and voting at an official meeting of the Council at which an appointment is being considered. Compensation for the Executive Director shall be set and adjusted from time to time by the Executive Committee and ratified by the Full Council.
- b. The Executive Director shall be appointed for an indefinite term to continue for such time as both parties find the association to be satisfactory. Neither party shall terminate the period of employment with less than sixty (60) days written notice, unless the other party waives the rights to such notice. The Council retains the right to remove the Executive Director from office for just cause without notice or compensation in the event of fraud, dishonesty, or criminal actions and may suspend said Executive Director pending investigation and hearings on charges before the Council.
- c. The Executive Director shall operate the Regional Planning Agency with the concurrence of the Council, and shall report at each meeting of the Council on the progress, problems and status of the approved programs. The duties and the limits of his or her authority shall, from time to time, be prescribed by the Council and shall include, but not be limited to the following:
 - 1. Recruit, employ, set compensation, and train and direct all authorized staff personnel in accordance with the annual budget as approved by the Council.

2. Approve all expenditures and account for all budgeted funds.
3. Prepare all budgets for Council review and approval.
4. Negotiate for all available funding from local, state and/or federal or private sources.
5. Conduct such research, planning and economic development programs as will benefit the member governments as approved by the Council.
6. Coordinate the programs of all departments to insure maximum benefit and minimum costs.

6. GENERAL INFORMATION

The mailing address of the Southwest Florida Regional Planning Office is P.O. Box 60933, Ft. Myers, Florida 33906.

7. PUBLIC RECORDS

Any and all Council correspondence, reports, publications, memoranda and other documents are public records and thus open for public inspection during office hours.

The Council maintains a list of publications available and the cost per document. Individuals using the Council's copying machine are charged a set per page fee. Any person may purchase documents. Local general-purpose governments within the region shall be charged only the direct cost of production and are not subject to regular cost schedules.

8. PUBLIC MEETINGS

The Council normally meets every other month on the third Thursday of the month at 9:00 a.m. Eastern Time. The date and time of regular meetings may change for the convenience of the Council. The Chairman or any two Executive Committee members may call Executive Committee meetings. The Council and Executive Committee meetings shall be conducted pursuant to Roberts Rules of Order Revised.

- a. **Quorum:** Half of the voting members shall constitute a quorum. For purposes of establishing a quorum, the following rules shall apply. (1) Vacant seats on the Council shall not count as a “voting member”. (2) Any member who has been reasonably notified by the appointing body and is unresponsive, shall not count as a “voting member”. In the event that a quorum is not present, a majority of the voting members present may reschedule and adjourn the meeting.

A quorum for the Executive Committee will consist of three (3) voting members. During circumstances that require immediate action, the Executive Committee may conduct its business via teleconference.

- b. **Annual Meeting:** The regular January meeting shall be known as the Annual Meeting and shall be for the purpose of installing the Chairman, Vice-Chairman, Secretary and Treasurer, and conducting other business as may come before the membership.
- c. **Notice:** The general public is cordially invited to all Council meetings and proceedings. Notice of these meetings is published at least seven (7) days prior thereto in the Florida Administrative Register. In addition, notice is mailed to all Council members and to anyone who has requested notice.

Adopted on the _____ day of _____ 2020 at the Council’s Board Meeting.

Chair, Southwest Florida Regional Planning Council

Agenda Item

: b

: b

Florida Administrative Code:
Rule Making Style Guide

: b



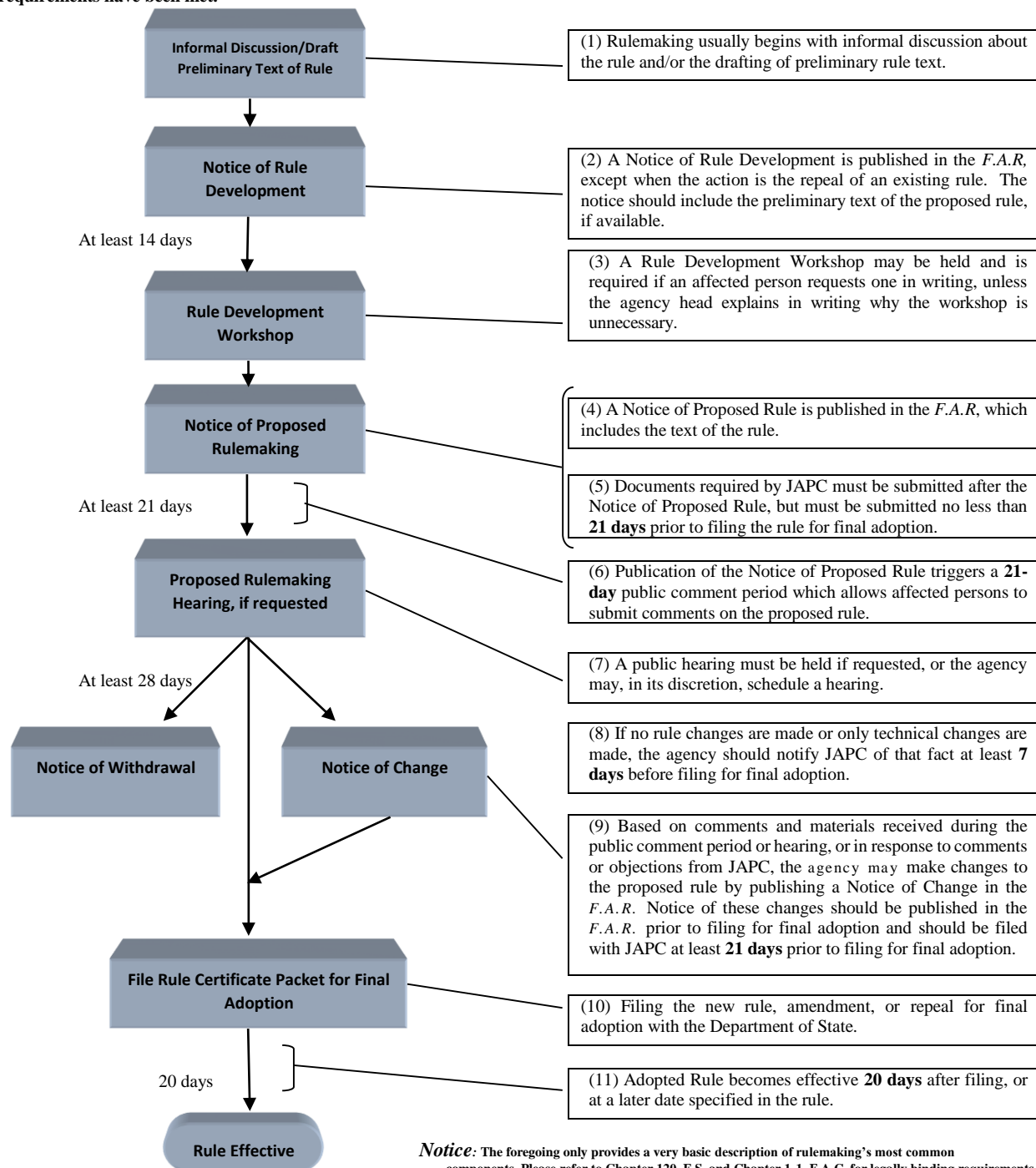
OFFICE OF THE GENERAL COUNSEL

Florida Administrative Code & Register Section

Rulemaking Style Guide

BASICS OF RULEMAKING

Rulemaking is the multi-step process for adopting new rules and amending or repealing existing rules. The following flowchart illustrates the most common steps encountered during rulemaking. Although this Handbook contains a detailed discussion of rulemaking, be sure to completely review all applicable statutory and rule provisions and consult with your agency's counsel to ensure that all rulemaking requirements have been met.



Drafting Proposed Rule Language

Refer to Section 120.54, F.S. and Chapter 1-1, F.A.C. for specific requirements for agency rulemaking.

The very first step in preparing an amendment to an existing rule is find the final version of the rule in effect and published at FLRules.org. This is the only official version of a rule and it is available to download from the website.

Identify what needs to be changed in the rule. Are you adding language? Do that first and use the underline formatting function for Times New Roman 10pt font. Are you deleting language? Show deleted text after the added, underlined, language. To show deletions, use the strikethrough format for Times New Roman 10 pt. font. Never, under any circumstance, use the track changes feature. When these are removed, the author's original intention is also lost. Double coding (both strikethrough and underline) can also appear and be very confusing!

Here is an example:

(1) The application to become ~~for~~ a Florida Civil-law Notary must be complete and on the above form prescribed by the Department of State. The application must contain be accompanied by:

Notice that the spaces between individual words being added or removed (“for” and “must”)

Note: Notice of Rule Development (NRD) to be published first, unless the action is to repeal a rule. In the case of repeals ONLY, the agency may go straight to submitting the Notice of Proposed Rule (NPR). A NPR can be published as early as the next day following the publication of a NRD (some agencies publish proposed language in the NRD to encourage a negotiated process and wait for hearings to take place before publishing the proposed rule). If you chose to publish suggested text in the NRD, the text published in the actual NPR can deviate from the original language in the NRD.

Recap: You are not required to publish proposed language in the NRD, but you may select that option to provide a focus for the purposes of a workshop. If you know there are many stakeholders that need to have input in the rule, you may want to publish text in the NRD.

Drafting Notices of Change

Paragraph 1-1.011(5)(f), F.A.C., says, in pertinent part, “The rule text published in the Notice of Proposed Rule shall be used as the basis for coding the additional rule changes included in the Notice of Change.” Therefore, any change to rule text must be noticed using the proposed rule text as the starting point. This means you should incorporate the changes originally proposed as if the rule were ready to go into effect as the amendment was first proposed. Then by applying the same coding convention described in 1-1.011, F.A.C., code the changes to that proposed rule.

Please note that the same layout as used in a proposed rule is expected for a Notice of Change. This means that the rule number and title should precede the rule text and where a lead-in sentence is provided in advance of a list, the verbiage must be included. Also, any unaffected areas can have the notation “No change,” but ensure the word “through” is used to represent a range of subsections/paragraphs not affected. History notes are not required for notices of change, unless citations need to be edited. Refer to the below (correct) example.

NOTICE OF CHANGE EXAMPLE

1-1.023 Standards.

(1) Material transactions shall be subject to the following standards:

(a) through (e) No change.

(f) For cost sharing services and management services, such agreements shall, as applicable:

1. through 2. No change.

3. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the National Association of Practices and Procedures Manual; as adopted in Rule 1-1.023(4), F.A.C.

4. through 12. No change.

13. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding the initiation of proceedings pursuant to Chapter 1-1, F.S. a seizure by the commissioner, and will make them available to the receiver, for so long as the affiliate continues to be contractually and legally obligated to receive timely payment for the cost of services rendered.

(2) No change.

(3) No one shall pay any costs, unless:

(a) No change.

(b) The Office shall have approved such payment within such 30 calendar day period.

Do not refer to the below (incorrect) example:

(1)(a) – (f)2. No change.

3. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the National Association of Practices and Procedures Manual; as adopted in Rule 1-1.023(4), F.A.C.

4. through 12. No change.

13. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding the initiation of proceedings pursuant to Chapter 1-1, F.S. a seizure by the commissioner, and will make them available to the receiver, for so long as the affiliate continues to be contractually and legally obligated to receive timely payment for the cost of services rendered.

(2) – (3)(a) No change.

(b) The Office shall have approved such payment within such 30 calendar day period.

Or worse...

Subparagraph (1)(f)3. should now read:

3. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the National Association of Practices and Procedures Manual; as adopted in Rule 1-1.023(4), F.A.C.

CHANGES TO FORMS

If you are changing forms, the changes may be described beneath the rule text. If you are changing only forms, indicate the rule number and title, state the subsections and “No change” then the statement:

The following changes are made to form XYZ:

Describe changes

Notices of Change: Rule Text

A Notice of Change allows your agency to notify the public that the rule text as it appeared in the Notice of Proposed Rule is being changed by the addition of new text or the deletion of previously proposed text.

Incorporate the additions and deletions of the Notice of Proposed Rule as though adopted. This will be your template for the Notice of Change. Code this version of the rule in the same fashion you would your original Notice of Proposed Rule by underlining language being added to the rule as proposed and striking through language that is being taken out of the rule as proposed.

Remember that the final rule text in your final adoption packet will indicate the changes being made to the rule as it currently appears in the Florida Administrative Code. Edits that relate to the proposed version, but not the current version, need not be indicated. See the example below.

Example:

Current Version:

Separate licenses shall not be required for separate buildings on the same grounds when used by the same center as of 10/8/19.

Proposed Rule:

Separate licenses will ~~shall~~ not be required for separate buildings on the same grounds when used by the same center as of 5/12/18 ~~10/8/19~~.

**The agency has decided to change the word “shall” to “will” and change the date from “10/8/19” to “5/12/18.”*

Notice of Change:

Separate licenses shall ~~will~~ not be required for separate buildings on the same grounds when used by the same center as of 3/13/16 ~~5/12/18~~.

**The agency has decided to change the word “will” back to “shall” and change the date from “5/12/18” to “3/13/16.” Note that the agency has “incorporated” the changes proposed in the Notice of Proposed Rule to use as their template.*

Final Version for Filing:

Separate licenses shall not be required for separate buildings on the same grounds when used by the same center as of 3/13/16 ~~10/8/19~~.

**This is the final coded version that the agency will bring to file. Note that the agency is not coding any changes to the word “shall” because they are not changing it from the current effective version. For the date, they are simply showing us that they are removing “10/8/19” as it appears in the current effective version and replacing it with “3/13/16” which is the final date they decided on.*

Material Incorporated by Reference

On the agency user page of FLRules.org there is a PDF Manual titled “User Guide for Electronic Reference Material.” It is strongly recommended that you refer to this when electronically submitting material incorporated by reference.

Some things to keep in mind:

Section 120.55(1)(a)5., F.S., states that no active links outside of the Department of State rules website (i.e.: FLRules.org) are allowed. Additionally, Section 120.54(1)(i)1., F.S., and subsection 1-1.013(3), F.A.C., stipulate that material incorporated by reference can only show the material as it was adopted “...in the form that the material exists on the day it was adopted.” Therefore, no live links pointing to websites outside FLRules.org may exist in rule text or on documents uploaded as material incorporated by reference. You may include urls (website addresses), but they should not be active. This requirement can be tricky because helpful PDF software automatically detects links in documents. You should be able to deactivate the links (so they won’t open any internet pages) or, failing that, you should scan the document and submit the scan copy.

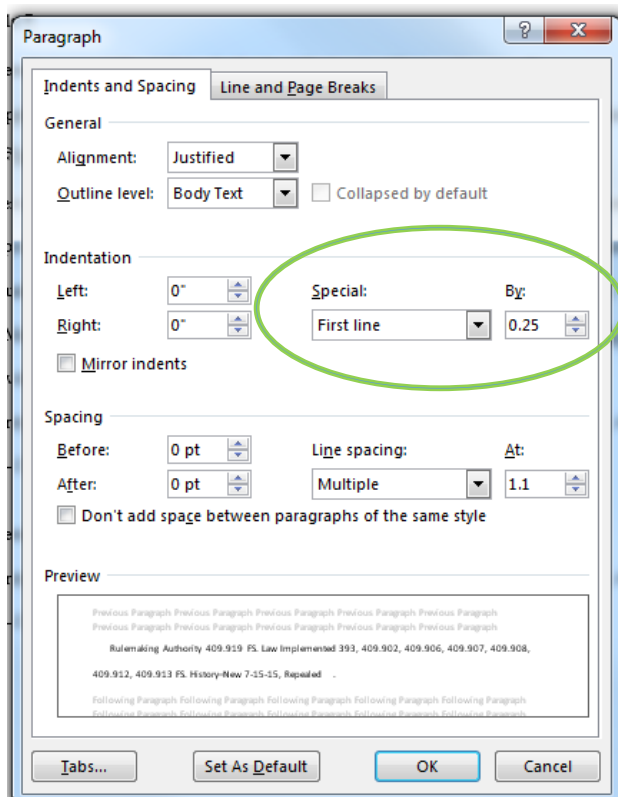
Agency users have found information listed on this blog to be helpful in removing live hyperlinks in PDF documents: <http://blogs.adobe.com/acrolaw/2013/03/removing-hyperlinks-from-a-pdf-and-featuregotcha/>

The facility to add material incorporated by reference electronically also allows ACR staff to approve or return the material, as necessary. When you are ready to submit your rule for adoption, ensure you have both the agency certification of materials incorporated by reference (found in paragraph 1-1.013(5)(d), F.A.C.) and the approval email that is automatically sent to the person who submits the material once it is approved for publication.

Please note for incorporated material submitted electronically that both the name of the uploaded document (i.e. how it is titled on your computer), the reference name and the description are visible to the public once the material is adopted. It is therefore recommended that the reference name and the document name reflect the title as described in the rule. Equally, the document/ form title should be reported on the Certificate of Materials Incorporated by Reference with that same consistent name.

Crafting Rule Language – Some helpful things to know

1. Never use automatic numbering. You may have to “turn off automatic numbering” several times.
2. Never use tab indentation (go to the paragraph options pop-up box and select *First line 0.25"*).



3. There is a specific legal numbering system that is strictly adhered to in the Florida Administrative Code. The convention goes (please note capitalizations):
 Chapter 1-1
 Rule 1-1.010
 subsection 1-1.010(1)
 paragraph 1-1.010(1)(a)
 subparagraph 1-1.010(1)(a)1.
 sub-subparagraph 1-1.010(1)(a)1.a.
 sub-sub-subparagraph 1-1.010(1)(a)1.a.(I)
 sub-sub-sub-subparagraph 1-1.010(1)(a)1.a.(I)(A)
 sub-sub-sub-sub- subparagraph 1-1.010(1)(a)1.a.(I)(A)I.
 sub-sub-sub-sub- sub-subparagraph 1-1.010(1)(a)1.a.(I)(A)I.A.
 sub-sub-sub-sub- sub-sub-subparagraph 1-1.010(1)(a)1.a.(I)(A)I.A.(i)
 sub-sub-sub-sub- sub-sub-sub-subparagraph 1-1.010(1)(a)1.a.(I)(A)I.A.(i)i.
4. When you refer to a rule or a chapter in the code, you do not need to capitalize. However, if you refer to Rule 1-1.010, F.A.C., or Chapter 1-1, F.A.C., you should use capital letters for the words “Rule” and “Chapter.”

5. All references to the Florida Administrative Code should be noted as F.A.C. and be preceded by (and followed by, if the sentence continues) a comma. For example: 1-1.010, F.A.C., notwithstanding 1-1.011, F.A.C.
6. All references to the Florida Statutes should be noted as F.S., and be preceded by (and followed by, if the sentence continues) a comma. For example: 120.54, F.S., notwithstanding 120.55, F.S.
7. Does your rule have a list? Does that list have two or more columns? Then you probably have tabular data. Remember to always use a table if you have tabular data. Here is an example of tabular data:

"What sport do you play?"

Sport	People
Soccer	106
Tennis	45
Gymnastics	54
Swimming	82
Track	68

Table 1 © 2014 MathsIsFun.com

8. For common punctuation and grammar usage, the Florida Administrative Code and Register staff use the ***AP Style Guide***. Agencies are encouraged to refer to the AP Style Guide as a tool to maintain convention throughout their agency's rules.
9. For other conventions related to legal citations, the recommended source is ***The Bluebook: A Uniform System of Citation***, published by the Harvard Law Review Association.

New Rules, Changing Rule and Chapter Titles

NEW RULES

Before you post a Notice of Development for a new rule, go to your agency page on FLRules.org and select “Add a New Rule.” Your permissions may need to be changed to access this feature – permissions may be changed by an FLRules.org administrator in your agency, or by calling the ACR section at (850)245-6270.

To add the rule, select the chapter and see if you can identify a rule number that has not been used before. ***YOU MUST MAKE CONTACT WITH ACR STAFF TO CONFIRM THE SELECTED NUMBER WILL NOT CONFLICT WITH A RULE NUMBER REPEALED PRIOR TO 2006 (AS THOSE ARE NOT PUBLISHED ON THE WEBSITE)***

When the rule number and title are confirmed, follow the instructions on the screen to complete adding the new rule.

Once the rule is in the system, it will appear on the dropdown box on the template for submitting notices. This step must be completed to ensure JAPC and ACR can follow your rulemaking process.

CHANGING TITLES

If you decide to change the title of a new rule or chapter BEFORE the Notice of Proposed Rule is published, you may call the ACR staff who can change it immediately. However, if the NPR has published or if you are amending an existing rule, it is recommended that you incorporate proposed rule title changes into the full text of the proposed rule in the NPR/Notice of Change. This keeps the amendment process more transparent. Once adopted, the rule title will be changed in the system and on the uploaded word document showing the effective rule.

Filing with the Department of State

Assuming you have met all other requirements of Section 120.55, F.S., the rule adoption package may be brought to the Department of State for filing. You will need to have **an original set and two copies** of the following:

- ☐ A cover letter containing all of the contact information for the agency person including, mailing address, phone, and email address (this may be single spaced).
- ☐ Joint Administrative Procedures Committee (JAPC) Certification (**JAPC emails these directly to our office and we will provide it for you**). Prior to filing, please ensure that JAPC has issued their certification for the rule numbers you wish to file. Please reach out to your JAPC contact or visit the web link <http://www.japc.state.fl.us/> to search by rule number for filing deadline and Certifications.
- ☐ Agency Certification (template found in Rule 1-1.010, F.A.C.), double spaced and signed.*
- ☐ Minor Violation Certification, double spaced and signed. <https://www.flrules.org/gateway/reference.asp?No=Ref-08723>
- ☐ Certification of Materials Incorporated by Reference, if required (template found in Rule 1-1.013, F.A.C.), double spaced and signed.* (**if you are not adopting material, you do not need to include this**).
- ☐ Approval email received from the Department of State. Please allow 72 hours after submitting incorporated reference material to receive the approval email. If the reference material is copyrighted, then a hard copy is required (See information provided in Rule 1-1.013, F.A.C.). (**if you are not adopting material, you do not need to include this**).
- ☐ Summary of the rule, double spaced, Times New Roman font size 10.
- ☐ Statement of Facts and Circumstances, double spaced, Times New Roman font size 10
- ☐ Summary of Hearing(s). When no public hearing was held, include the following statement: “No timely request for a hearing was received by the agency, and no hearing was held,” double spaced, Times New Roman font size 10.
- ☐ Coded rule text, double spaced, Times New Roman font size 10, do not code spaces, indent 0.25” (do not use tabs), and number the pages of rule text, even if there’s only one. No auto-numbering for subsections/paragraphs or tracked changes. If your rule has electronically filed Material Incorporated by Reference, the rule text must be updated to include the link generated by the FLRules.org system. Repeals require the coded repeal language and the complete text with a diagonal line (see example, below). For amendments, text must show how the rule in effect at the time of filing is being changed. Therefore, notice/s of change must be integrated with the notice of proposed rules to reflect how the current rule will change. Substantial rewrites shall have the phrase required in subparagraph 1-1.011(3)(c)3., F.A.C.
- ☐ A CD with the coded rule text.

* Certifications listed in Rule 1-1.010, F.A.C., are formatted for the FAC, not for direct use. Please reformat the text after copying and pasting from Rule 1-1.010, F.A.C. and ensure it is double spaced.

All documents within the certification packet should be on single sided 8.5” x 11” white paper, formatted with double spacing and Times New Roman font size 10 throughout and no hole punches.

If your agency wishes to have a copy for their records, please bring a third copy.

For a Repeal, the rule text needs to be shown in two manners; the complete rule, title and history note intact with a diagonal line across the text, then just the title and the history note with the word Repealed and a blank line for the effective date. New language always precedes the stricken language.

Example for Repeals:

59G-13.070 Developmental Disabilities Individual Budgeting Waiver Services.

Rulemaking Authority 409.919 FS. Law Implemented 393, 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History—
New 7-15-15, Repealed.

59G-13.070 Developmental Disabilities Individual Budgeting Waiver Services.

~~(1) This rule applies to all providers of Developmental Disabilities Individual Budgeting Waiver services who are enrolled in the Florida Medicaid program.~~

~~(2) All providers of Developmental Disabilities Individual Budgeting Waiver services who are enrolled in the Florida Medicaid program must be in compliance with the provisions of the Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook July 2015. The handbook is available from the Medicaid fiscal agent's Web site at www.mymedicaid-florida.com. Select Public Information for Providers, then Provider Support, and then Provider Handbooks.~~

Rulemaking Authority 409.919 FS. Law Implemented 393, 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History—
New 7-15-15.

Agenda Item

: c

: c

Rule Repeal Cheat Sheet

: c

Regional Planning Council Rule Repeal Instructions

For other Questions, refer to Section 120.54, F.S. and Chapter 1-1 F.A.C. for specific requirements for agency rulemaking, and to the attached Rule Making Style Guide, provided by the Office of the General Counsel.

Step 1: Identify who is the user on the RPC account with FDOS and www.flrules.org, as that person will be required to Submit a Notice of Proposed Rule (NPR).

When that user can login, they then select their role that was authorized for the specific section of code being repealed it should look like the one below. → **Select the appropriate Role and Click “Continue”**

Kwentin Eastberg
Select a Role
 Department--Division / Role
 select a role
 29L Apalachee Regional Planning Council/Rule Notice Editor
 Continue

Select **NOTICE OF PROPOSED RULE** in the drop-down box. → **Click “Add a New Notice”**

29 Regional Planning Councils
 29L Apalachee Regional Planning Council

Agency Main Menu

Add a New F. A. R. Notice

Notice of Proposed Rule ▼ Add a New Notice

- [Work on Notices in Preparation](#)
- [View Notices Submitted to/Confirmed by Administrative Code & Register Staff](#)
- [View Published Notices](#)
- [Add a New Rule No., an Emergency Rule No., or a Chapter](#)
- [Review/Reply Public Comments](#)
- [Manage Payment Profiles of the Agency](#)
- [Report a Case to Administrative Code & Register Staff](#)

Select the Rule to be Repealed. → Click “Continue”

***Note: If removing more than one section, a separate NPR must be completed for each rule being repealed.**

Add A NOTICE OF PROPOSED RULE

29L-3 A-95 REVIEW PROCESS, LGCPA, REGIONAL PLAN REVIEWS, AND OTHER REVIEW PROCEDURES ▼

☐ Check for Fast Track Proposed Rules

Continue

On the next page it has several drop-down and fill in boxes. In order, be sure to select:

Select a type: **Repeal**

Rule: **Select all sub-sections that need to be repealed**

Purpose and Effect: **The purpose of the proposed rule is to repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures. The effect will be to eliminate this rule.** (Insert your own Chapter number and title, make sure it is exactly as the Rule reads.)

Summary: **Repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures.** (Insert your own Chapter number and title, make sure it is exactly as the Rule reads.)

Summary of Statement of Estimated Regulatory Costs and Legislative Ratification: Drop down Boxes → “will not” → “has not” → Check the box next to “The Agency has Determined...” → “is not” → in the last box type the following: **“The determination by Agency staff that the proposed rule's potential economic impact did not exceed any of the criteria established in Section 120.541(2)(a), F.S.”**

Rule Making Authority: **120.53(1), 163.01 FS.**

Law Implemented: **120.53(1), 163.01 FS.**

Select the statement that says “IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD)”

****This allows you to only have a public meeting if requested. If not requested, you can skip the public hearing.**

Date and Time: Insert a Date and Time **at least 21 days after the NPR first publishes in the FAR**

Place: Pick an ADA accessible venue to have a public hearing if requested:

****Again, this meeting only needs to happen if someone requests it, that’s why you selected the box you did in the previous step.**

Check the box that says: “Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least”

(Insert # days/hours) before workshop if requiring ADA assistance (I chose 5 days)

(Insert Contact) – I listed whoever would be running the meeting or our PIO in charge of making those arrangements.

The Person to be contacted: **Executive Director**

Name of Person Originating Proposed Rule: **Executive Director**

Name of Agency Head: **Chairman of the RPC Board**

Date Proposed Rule Approved: **Whatever date of the Board meeting it was approved at.**

Do not check the final box, as it's a repeal we don't need to develop anything, we're simply removing it.

See APPENDIX A for screenshot example

- STEP 2:** Wait 21 Days from when the NPR is published in the FAR. (This is considered the public Comment Period) During this time you can put together and submit your Packet for JAPC. **See Appendix B** for an example. Include the follow:
- Memo indicated all enclosed documentation
 - Detailed statement of facts and circumstances justifying the proposed rule.
 - For most of our repeals we were able to use the following statement: "State law does not allow agencies to promulgate rules without specific authority in legislation. This rule was adopted prior to the legislative requirement for specific authority. As there is no specific legislative authority for this rule's existence, this rule is deemed antiquated and therefore this rule needs to be repealed."
 - On one rule we got a letter from JAPC asking us to explain more, for only that rule, none of the others, I've included both the letter and our explanation in **Appendix B-2**.
 - A copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541
 - A statement of the extent to which the proposed rule relates to federal standards or rules on the same subject; and
 - A copy of the legal notice of proposed rulemaking.

All the above, along with our explanations are found in **Appendix B**.

- STEP 3:** Between day 21 and 28 should be when the Public Hearing would take place (if requested).

- STEP 4:** If there were no public comments received, you draft a follow up letter to JAPC indicating your **Notice of Adoption**. In this memo it must say 2 things: 1) that no changes were made, or if there were technical changes, what they were; and 2) The

date you would like to file the rule for adoption (Must be at least 7 days from the day JAPC receives the letter). **See Appendix C** for example language of both a rule filed without changes and a rule filed with changes.

STEP 5: File the new rule with the Department of State (DOS) on the same day you outlined in STEP 4. This packet must contain everything as outlined in the Rulemaking Style Guide, and Chapter 1-1.010 F.A.C to include 10-point Times New Roman Font. Please refer to the Code for specific details. I've included our example in **Appendix D**. This submission will include the Certification Accompanying Materials including the Minor Violation Certification, and Coded Rule Text (Diagonal strike through) but also the "Repealed" text above it, you'll see in the example, it must be underlined and it must say "Repealed" at the end of each Rule. They ask for a CD with the documents on it as well. All our submitted materials are attached in the Appendix as an example for you to review.

STEP 6: The Rule becomes effective 20 days after filing with the DOS.

A Couple of Notes:

- Suzanne Printy at JAPC and Anya Grosenbaugh at DOS are amazing resources please use them. I've included their contact info below.
- You can also reach out to me as well. Kwentin Eastberg, keastberg@thearpc.com, 850-488-6211 x 105
- Its not overly difficult, just very detail orientated. Make sure dates match and titles of memos match the name of the actual Rule.
- To keep everything organized I had a separate folder on my computer for each rule I was repealing, each document started with the rule chapter then the name of document.
- The clock from start to finish is **90 days** from the Day you publish in the FAR to the day you file for adoption with DOS. If the paperwork is complete and turned in by the 90th day, the Rule can become effective on day 110. If you don't have all the paperwork filed within the 90 days, you must go back to the beginning. If you're in a rush you can probably have it done in a little over than a month. The biggest wait is the 21-day public comment period, then you must give JAPC at least 7 days to review before filing.

Points of Contact for Clarification:

JAPC:

Suzanne Printy
Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, FL. 32399-1400
Phone: (850)488-9110
FAX: (850) 922-6934

DOS:

Anya Grosenbaugh
Government Operations Consultant III
Florida Administrative Code and Register
Room 701, The Capitol
Tallahassee, FL
Phone: (850) 245-6271

Appendix A

Add A NOTICE OF PROPOSED RULE	
Notice of Proposed Rule REGIONAL PLANNING COUNCILS Apalachee Regional Planning Council	
Select a type:	<div style="border: 1px solid #ccc; padding: 2px;"> new amendment repeal </div>
RULE	<div style="border: 1px solid #ccc; padding: 2px;"> Select rule(s) 29L-3.001--General (Repealed) 29L-3.002--A-95 Review Procedure (Repealed) </div>
PURPOSE AND EFFECT	<div style="border: 1px solid #ccc; padding: 2px;"> The purpose of the proposed rule is to repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures. The effect will be to eliminate this rule. </div>
SUMMARY	<div style="border: 1px solid #ccc; padding: 2px;"> Repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures </div>
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:	
<p>The Agency has determined that this <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">will will not</div> have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">has has not</div> been prepared by the Agency.</p> <div style="border: 1px solid #ccc; height: 40px; margin-top: 5px;"></div>	
<p><input checked="" type="checkbox"/> The Agency has determined that the proposed rule <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">is is not</div> expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:</p> <div style="border: 1px solid #ccc; padding: 2px; margin-top: 5px;"> The determination by Agency staff that the proposed rule's potential economic impact did not exceed any of the criteria established in Section 120.541(2)(a), F.S. </div>	
<p>Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.</p>	
RULEMAKING AUTHORITY	<div style="border: 1px solid #ccc; padding: 2px;">120.53(1), 163.01 FS.</div>
LAW IMPLEMENTED	<div style="border: 1px solid #ccc; padding: 2px;">120.53(1), 163.01 FS.</div>

☐ IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

☒ IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

☐ A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME (Insert Date and Time)

PLACE (Insert Place)

☐ IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

☒ Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least

(# Days)

hours
days

before the workshop/meeting by contacting:

(Insert Contact)

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

(Insert Contact)

THE FULL TEXT OF THE PROPOSED RULE IS: (FULL TEXT OF RULE)

NAME OF PERSON ORIGINATING PROPOSED RULE:

(Insert Contact)

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

(Insert Contact)

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: (Insert Date)

☐ DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR:

Save and Continue

Cancel

The Final Repeal that comes from the FAR should look like this:

Notice of Proposed Rule

REGIONAL PLANNING COUNCILS**Apalachee Regional Planning Council**

RULE NOS.: RULE TITLES:

29L-3.001 General

29L-3.002 A-95 Review Procedure

PURPOSE AND EFFECT: The purpose of the proposed rule is to repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures. The effect will be to eliminate this rule.

SUMMARY: Repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The determination by Agency staff that the proposed rule's potential economic impact did not exceed any of the criteria established in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.53(1), 163.01 FS.

LAW IMPLEMENTED: 120.53(1), 163.01 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: May 3, 2019, 10:00 a.m.

PLACE: Apalachee Regional Planning Council, 2nd floor conference room, 2507 Callaway Road, Suite 200, Tallahassee, FL. 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mr. Kwentin Eastberg at Apalachee Regional Planning Council, phone (850)488-6211, email keastberg@theaprc.com... If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Chris Rietow, Executive Director, Apalachee Regional Planning Council, 2507 Callaway Road, Suite 200, Tallahassee, FL. 32303. Phone (850)488-6211, email crietow@theaprc.com

THE FULL TEXT OF THE PROPOSED RULE IS:

29L-3.001 General.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.01. Repealed .

29L-3.002 A-95 Review Procedure.

Rulemaking Authority 120.53(1), 160.06, 160.08, 163.01, 163.3164, 23.012 FS. Law Implemented 120.53(1), 160.06, 160.08, 163.01, 163.3164, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.02. Repealed .

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Chris Rietow, Executive Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Hon. Randy Merritt, Board Chairman

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2019

APPENDIX B

Apalachee Regional Planning Council

Serving Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson,
Liberty, Leon and Wakulla counties and their municipalities



April 10, 2019

Suzanne G. Printy, Esq.
Chief Attorney
Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, FL, 32399-7400

RE: Repeal of Rule 29L-3: A-95 Review Process, LGCPA, Regional Plan Reviews, and Other
Review Procedures, Florida Administrative Code

Dear Ms. Printy:

Please find enclosed:

- A copy of the proposed rule;
- A detailed statement of facts and circumstances justifying the proposed rule;
- A copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541;
- A statement of the extent to which the proposed rule relates to federal standards or rules on the same subject; and
- A copy of the legal notice of proposed rulemaking published in Volume 45, Number 63, ID # 21682621 of the Florida Administrative Register on April 1, 2019 regarding the proposed rule.

Please contact us if you have any questions or require further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Rietow".

Chris Rietow
Executive Director

Enclosures

OFFICE
2507 Callaway Rd, Ste 200
Tallahassee, Florida 32303

CONTACT
850.488.6211
www.theaprc.com

Notice of Proposed Rule

REGIONAL PLANNING COUNCILS**Apalachee Regional Planning Council****RULE NOS.:RULE TITLES:**

29L-3.001 General

29L-3.002 A-95 Review Procedure

PURPOSE AND EFFECT: The purpose of the proposed rule is to repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures. The effect will be to eliminate this rule.

SUMMARY: Repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The determination by Agency staff that the proposed rule's potential economic impact did not exceed any of the criteria established in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.53(1), 163.01 FS.

LAW IMPLEMENTED: 120.53(1), 163.01 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: May 3, 2019, 10:00 a.m.

PLACE: Apalachee Regional Planning Council, 2nd floor conference room, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mr. Kwentin Eastberg at Apalachee Regional Planning Council, phone (850)488-6211, email keastberg@theapc.com... If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Chris Rietow, Executive Director, Apalachee Regional Planning Council, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303. Phone (850)488-6211, email crietow@theapc.com

THE FULL TEXT OF THE PROPOSED RULE IS:**29L-3.001 General.**

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.01. Repealed.

29L-3.002 A-95 Review Procedure.

Rulemaking Authority 120.53(1), 160.06, 160.08, 163.01, 163.3164, 23.012 FS. Law Implemented 120.53(1), 160.06, 160.08, 163.01, 163.3164, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.02. Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Chris Rietow, Executive Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Hon. Randy Merritt, Board Chairman

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2019

DETAILED STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE PROPOSED RULE

State law does not allow agencies to promulgate rules without specific authority in legislation. This rule was adopted prior to the legislative requirement for specific authority. As there is no specific legislative authority for this rule's existence, this rule is deemed antiquated and therefore this rule needs to be repealed.

A COPY OF ANY STATEMENT OF ESTIMATED REGULATORY COSTS THAT HAS BEEN PREPARED PURSUANT TO S. 120.541

There were no Statement of Estimated Regulatory Costs that needed to be prepared.

STATEMENT OF THE EXTENT TO WHICH THE PROPOSED RULE RELATES TO FEDERAL STANDARDS OR RULES ON THE SAME SUBJECT

There are no applicable federal standards or rules on the same subject.

29L-2.002 Fees.

Rulemaking Authority 120.53(1), 160, 163.01, 380.06, 380.07 FS. Law Implemented 120.53(1), 160, 163.01, 380.06, 380.07 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-2.02, Amended 8-17-87. Repealed.

29L-2.003 DRI Review Process.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01, 380.06 FS. History—New 4-4-78, Amended 5-13-79, 10-14-81, Formerly 29L-2.03, Amended 8-17-87. Repealed.

29L-2.004 DRI Review Process – Graphic.

Rulemaking Authority 120.53(1), 163.01, 380.06, 380.07 FS. Law Implemented 120.53(1), 163.01, 380.06, 380.07 FS. History—New 4-4-78, Formerly 29L-2.04. Repealed.

29L-2.005 Procedure for Filing an ADA.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01, 380.06, 380.07 FS. History—New 4-4-78, Amended 5-13-79, Formerly 29L-2.05, Amended 8-17-87. Repealed.

29L-2.006 Number of Copies of the ADA.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01, 380.06 FS. History—New 4-4-78, Formerly 29L-2.06, Amended 8-17-87. Repealed.

29L-2.007 Site Inspection and Conference.

Rulemaking Authority 120.53(1), 160, 163.01 FS. Law Implemented 120.53(1), 160, 163.01, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-2.07, Amended 8-17-87. Repealed.

29L-2.008 DRI-ADA Form.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01, 380.06, 380.07 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-2.08, Amended 8-17-87. Repealed.

29L-2.009 DRI Appeal Procedure.

Rulemaking Authority 120.53(1), 160, 163.01, 380.06 FS. Law Implemented 120.53(1), 160, 163.01, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-2.09, Amended 8-17-87. Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Mr. Chris Rietow, Executive Director

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Hon. Randy Merritt, Board Chairman

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: January 17, 2019

REGIONAL PLANNING COUNCILS**Apalachee Regional Planning Council**

RULE NOS.: RULE TITLES:

29L-3.001 General

29L-3.002 A-95 Review Procedure

PURPOSE AND EFFECT: The purpose of the proposed rule is to repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review

Process, LGCPA, Regional Plan Reviews, and Other Review Procedures. The effect will be to eliminate this rule.

SUMMARY: Repeal Rule Chapter 29L-3, F.A.C., regarding A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review Procedures

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The determination by Agency staff that the proposed rule's potential economic impact did not exceed any of the criteria established in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.53(1), 163.01 FS.

LAW IMPLEMENTED: 120.53(1), 163.01 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: May 3, 2019, 10:00 a.m.

PLACE: Apalachee Regional Planning Council, 2nd floor conference room, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mr. Kwentin Eastberg at Apalachee Regional Planning Council, phone (850)488-6211, email keastberg@theapc.com... If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Chris Rietow, Executive Director, Apalachee Regional Planning Council, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303. Phone (850)488-6211, email crietow@theapc.com

THE FULL TEXT OF THE PROPOSED RULE IS:

29L-3.001 General.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.01. Repealed.

29L-3.002 A-95 Review Procedure.

Rulemaking Authority 120.53(1), 160.06, 160.08, 163.01, 163.3164, 23.012 FS. Law Implemented 120.53(1), 160.06, 160.08, 163.01, 163.3164, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.02. Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Mr. Chris Rietow, Executive Director

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Hon. Randy Merritt, Board Chairman

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: January 17, 2019

REGIONAL PLANNING COUNCILS**Apalachee Regional Planning Council****RULE NOS.: RULE TITLES:**

29L-4.001 Discrimination Prohibited

29L-4.002 Definitions

29L-4.003 Appointments and Separations

29L-4.004 Compensation and Expenses

29L-4.005 Work Hours and Overtime

29L-4.006 Holidays

29L-4.007 Leave of Absence

PURPOSE AND EFFECT: The purpose of the proposed rule is to repeal Rule Chapter 29L-4, F.A.C., regarding Personnel. The effect will be to eliminate this rule.

SUMMARY: Repeal Rule Chapter 29L-4, F.A.C., regarding Personnel

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The determination by Agency staff that the proposed rule's potential economic impact did not exceed any of the criteria established in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.53(1), 163.01 FS.

LAW IMPLEMENTED: 120.53(1), 163.01 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: May 3, 2019, 10:00 a.m.

PLACE: Apalachee Regional Planning Council, 2nd floor conference room, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mr. Kwentin Eastberg at Apalachee Regional Planning Council, phone (850)488-6211, email keastberg@theapc.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Chris Rietow, Executive Director, Apalachee Regional Planning Council, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303. Phone (850)488-6211, email crietow@theapc.com

THE FULL TEXT OF THE PROPOSED RULE IS:**29L-4.001 Discrimination Prohibited.**

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Formerly 29L-4.01. Repealed.

29L-4.002 Definitions.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 112.061, 120.53(1), 163.01 FS. History—New 4-4-78, Formerly 29L-4.02. Repealed.

29L-4.003 Appointments and Separations.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 112.061, 120.53(1), 163.01 FS. History—New 4-4-78, Formerly 29L-4.03. Repealed.

29L-4.004 Compensation and Expenses.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 112.061, 120.53(1), 163.01 FS. History—New 4-4-78, Formerly 29L-4.04. Repealed.

29L-4.005 Work Hours and Overtime.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Formerly 29L-4.05. Repealed.

APPENDIX B-2

BILL GALVANO
President



Representative Erin Grall, Chair
Senator Linda Stewart, Vice Chair
Senator Janet Cruz
Senator Ed Hooper
Senator Keith Perry
Senator Tom A. Wright
Representative Vance Arthur Aloupis, Jr.
Representative James "J.W." Grant
Representative Brett Thomas Hage
Representative Cindy Polo
Representative Holly Raschein
Representative Clovis Watson, Jr.

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

JOSE R. OLIVA
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
joint.admin.procedures@leg.state.fl.us

April 24, 2019

Mr. Chris Rietow
Executive Director
Apalachee Regional Planning Council
2507 Callaway Rd., Ste 200
Tallahassee, Florida 32303

**Re: Apalachee Regional Planning Council
Proposed Repeal of Rules 29L-3.001 and 3.002, F.A.C.**

Dear Mr. Rietow,

I have received the documents required by s. 120.54(3)(a)1., F.S., to be sent to the Joint Administrative Procedures Committee prior to adoption of the proposed repeal of Rule 29L-3.001 and 3.002, F.A.C. Apparently, this rule had been adopted because, as stated in the rule, "The Apalachee Regional Planning Council [had been] designated, as the areawide planning and development clearinghouse pursuant to United States Office of Management and Budget Circular A-95, Revised, for substate district two."

The Detailed Statement of the Facts and Circumstances Justifying the Proposed Rule filed with the notice of this proposed repeal, states that the rule is antiquated, as there is no specific legislation authority for the existence of the rule. Please submit a revised Detailed Statement of the Facts and Circumstances Justifying the Proposed Rule, explaining why there is no longer legislation for the existence of the rule, and why there is no longer a necessity to designate the Council as an areawide clearinghouse for substate district 2 to exercise the responsibilities pursuant to the Office of Management and Budget Circular A-95.

Sincerely

A handwritten signature in blue ink, appearing to read "Suzanne G. Printy".

Suzanne G. Printy
Chief Attorney

**AMENDMENT TO DETAILED STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED
RULE No.: 29L-3.001 and 3.002, F.A.C. A-95 Review**

The following rule is antiquated and there is no specific legislative authority for its existence and therefore needs to be repealed:

The Intergovernmental Cooperation Act of 1968 resulted in a variety of federal initiatives dealing with the many categorical programs enacted in the 1960s. A centerpiece of the intergovernmental activity was issuance of the federal Office of Management and Budget's (OMB) Circular A-95, which served as the initial guiding document for state and federal review of federal grant and loan applications. When the OMB later re-evaluated Circular A-95, it was decided that states should be allowed to develop their own review processes with the assurance that federal agencies would be responsive to state recommendations.

On July 14, 1982, President Reagan signed [Executive Order 12372](#) which rescinded Circular A-95 and established general guidelines for the States' review processes. To confirm Florida's participation in the review process, Governor's Executive Order 83-150 required Florida to review its federal projects and plans under the Intergovernmental Coordination and Review (ICAR) process and established the Florida State Clearinghouse as the State's Single Point-of-Contact (SPOC) for the ICAR process."

Governor Lawton Chiles issued Executive Order 95-359 on September 29, 1995, to establish the State's SPOC as the Florida State Clearinghouse within the Department of Community Affairs. The Office of Policy and Budget (OPB) within the Executive Office of the Governor participates in the Clearinghouse process to ensure that the Governor's role as chief planning officer of the State is preserved.

In June 2002, the Clearinghouse was moved to the Department of Environmental Protection, pursuant to Section 403.061(42), Florida Statutes, which states:

(42) "Serve as the state's single point of contact for performing the responsibilities described in Presidential Executive Order 12372, including administration and operation of the Florida State Clearinghouse. The Florida State Clearinghouse shall be responsible for coordinating interagency reviews of the following: federal activities and actions subject to the federal consistency requirements of s. 307 of the Coastal Zone Management Act; documents prepared pursuant to the National Environmental Policy Act, 42 U.S.C. ss. 4321 et seq., and the Outer Continental Shelf Lands Act, 43 U.S.C. ss. 1331 et seq.; applications for federal funding pursuant to s. [216.212](#); and other notices and information regarding federal activities in the state, as appropriate. The Florida State Clearinghouse shall ensure that state agency comments and recommendations on the environmental, social, and economic impact of proposed federal actions are communicated to federal agencies, applicants, local governments, and interested parties."

Under this statute Regional Planning Councils are considered state agencies, thus we are merely a commenting agency to the Florida Department of Environmental Protection.

**STATEMENT OF THE EXTENT TO WHICH THE PROPOSED RULE RELATES TO FEDERAL STANDARDS OR
RULES ON THE SAME SUBJECT**

There are no applicable federal standards or rules on the same subject.

APPENDIX C

Example – Without Changes

Apalachee Regional Planning Council

Serving Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson,
Liberty, Leon and Wakulla counties and their municipalities



May 28, 2019

Suzanne G. Printy, Esq.
Chief Attorney
Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, FL, 32399-7400

RE: Repeal of Rule 29L-2: DRI Review Process, Florida Administrative Code

Dear Ms. Printy:

The Apalachee Regional Planning Council hereby requests your certification for the above-referenced proposed rule. Please be advised that the Council plans to adopt the Rule on June 11, 2019 without change to the proposed Rule as it was published in the Florida Administrative Register on April 1, 2019.

Please contact us if you have any questions or require further information.

Sincerely,

A handwritten signature in cursive script that reads "Chris Rietow".

Chris Rietow
Executive Director

Enclosures

Example – With Changes

Apalachee Regional Planning Council

Serving Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson,
Liberty, Leon and Wakulla counties and their municipalities



May 28, 2019

Suzanne G. Printy, Esq.
Chief Attorney
Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, FL, 32399-7400

RE: Repeal of Rule 29L-3: A-95 Review Process, LGCPA, Regional Plan Reviews, and Other
Review Procedures, Florida Administrative Code

Dear Ms. Printy:

The Apalachee Regional Planning Council hereby requests your certification for the above-referenced proposed rule. Please be advised that the Council plans to adopt the Rule on June 11, 2019. The Council filed a revised statement of facts and circumstances for the Proposed Rule, 29L-3.001 and 3.002, F.A.C. on May 16th, 2019, the original Proposed Rule was published in the Florida Administrative Register on April 1, 2019.

Please contact us if you have any questions or require further information.

Sincerely,

A handwritten signature in cursive script that reads "Chris Rietow".

Chris Rietow
Executive Director

Enclosures

APPENDIX D

Apalachee Regional Planning Council

Serving Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson,
Liberty, Leon and Wakulla counties and their municipalities



June 11, 2019

Carlos A. Rey
Florida Department of State
500 S. Bronough Street
Tallahassee, FL, 32399

RE: Repeal of Rule 29L-3: A-95 Review Process, LGCPA, Regional Plan Reviews, and Other Review
Procedures, Florida Administrative Code

Dear Mr. Rey:

The Apalachee Regional Planning Council hereby files a proposed Rule 29L-3.001-3.002, Florida Administrative Code, for repeal. I, Chris Rietow, Executive Director of the Apalachee Regional Planning Council, am the contact person for this rule filing. My physical address, telephone number and email address are as follows:

Chris Rietow
Apalachee Regional Planning Council
2507 Callaway Road, Suite 200
Tallahassee, FL 32303
(850) 488-6211
CRietow@thearpc.com

As per Rule 1-1.010, Florida Administrative Code, please find enclosed one compact disc containing the coded text of the rule. Also enclosed is the signed rule certification form; a summary of the rule; a detailed written statement of the facts and circumstances justifying the rule; and a summary of the April 28, 2019 public hearing held on the rule; and the coded text of the rule, including the legal citations and history notes.

Sincerely,

A handwritten signature in cursive script that reads "Chris Rietow".

Chris Rietow
Executive Director

Enclosures

FILED
2019 JUN 14 PM 3:10
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

OFFICE
2507 Callaway Rd, Ste 200
Tallahassee, Florida 32303

CONTACT
850.488.6211
www.thearpc.com

CERTIFICATION OF APALACHEE REGIONAL PLANNING COUNCIL
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

[X] (1) That all statutory rulemaking requirements of chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

[X] (2) That there is no administrative determination under section 120.56(2), F.S., pending on any rule covered by this certification; and

[X] (3) All rules covered by this certification are filed within the prescribed time limitations of section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by section 120.54(3)(a), F.S.; and

[X] (a) Are filed not more than 90 days after the notice; or

[] (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

[] (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

[] (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

[] (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

[] (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

[] (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

[] (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor.

FILED
2019 JUN 14 PM 3:10
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

29L-3.001

29L-3.002

Under the provision of section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: _____

(month) (day) (year)



Signature, Person Authorized to Certify Rules

Executive Director

Title

Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF STATE
DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

☒ All rules covered by this certification are not rules the violation of which would be minor violation pursuant to Section 120.695, F.S.

☐ The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

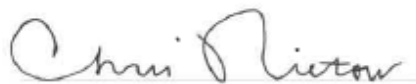
Rule No(s).

Rules covered by this certification:

29L-3.001

29L-3.002

FILED
 2019 JUN 14 PM 3:10
 DEPARTMENT OF STATE
 TALLAHASSEE, FLORIDA



Signature of Agency Head

Executive Director

Title

SUMMARY OF RULE 29L-3.001 – 29L-3.002, FLORIDA ADMINISTRATIVE CODE

This rule adopts the A-95 Review Process, LGCPA, Regional Plan Reviews and Other Review Procedures of the
Apalachee Regional Planning Council

FILED
2019 JUN 14 PM 3:10
CLERK OF SUPERIOR COURT
TALLAHASSEE, FLORIDA

DETAILED STATEMENTS OF FACTS AND CIRCUMSTANCES JUSTIFYING

RULE 29L-3.001 – 29L-3.002, FLORIDA ADMINISTRATIVE CODE

The following rule is antiquated and there is no specific legislative authority for its existence and therefore needs to be repealed:

The Intergovernmental Cooperation Act of 1968 resulted in a variety of federal initiatives dealing with the many categorical programs enacted in the 1960s. A centerpiece of the intergovernmental activity was issuance of the federal Office of Management and Budget's (OMB) **Circular A-95**, which served as the initial guiding document for state and federal review of federal grant and loan applications. When the OMB later re-evaluated Circular A-95, it was decided that states should be allowed to develop their own review processes with the assurance that federal agencies would be responsive to state recommendations.

On July 14, 1982, President Reagan signed **Executive Order 12372** which **rescinded Circular A-95** and established general guidelines for the States' review processes. To confirm Florida's participation in the review process, Governor's Executive Order 83-150 required Florida to review its federal projects and plans under the Intergovernmental Coordination and Review (ICAR) process and established the Florida State Clearinghouse as the State's Single Point-of-Contact (SPOC) for the ICAR process."

Governor Lawton Chiles issued Executive Order 95-359 on September 29, 1995, to establish the State's SPOC as the **Florida State Clearinghouse within the Department of Community Affairs**. The Office of Policy and Budget (OPB) within the Executive Office of the Governor participates in the Clearinghouse process to ensure that the Governor's role as chief planning officer of the State is preserved.

In June 2002, the Clearinghouse was moved to the Department of Environmental Protection, pursuant to Section 403.061(42), Florida Statutes, which states:

FILED
2019 JUN 14 PM 3:10
TALLAHASSEE, FLORIDA

(42) "Serve as the state's single point of contact for performing the responsibilities described in Presidential Executive Order 12372, including administration and operation of the Florida State Clearinghouse. The Florida State Clearinghouse shall be responsible for coordinating interagency reviews of the following: federal activities and actions subject to the federal consistency requirements of s. 307 of the Coastal Zone Management Act; documents prepared pursuant to the National Environmental Policy Act, 42 U.S.C. ss. 4321 et seq., and the Outer Continental Shelf Lands Act, 43 U.S.C. ss. 1331 et seq.; applications for federal funding pursuant to s. [216.212](#); and other notices and information regarding federal activities in the state, as appropriate. The Florida State Clearinghouse shall ensure that **state agency comments** and recommendations on the environmental, social, and economic impact of proposed federal actions are communicated to federal agencies, applicants, local governments, and interested parties."

Under this statute Regional Planning Councils are considered **state agencies**, thus we are merely a commenting agency to the Florida Department of Environmental Protection.

SUMMARY OF HEARING

RULE 29L-3.001 – 29L-3.002, FLORIDA ADMINISTRATIVE CODE

No timely request for a hearing was received by the agency, and no hearing was held.

FILED
2019 JUN 14 PM 3:10
CLERK OF COURT
TALLAHASSEE, FLORIDA

CHAPTER 29L-3

A-95 REVIEW PROCESS, LGCPA, REGIONAL PLAN REVIEWS, AND OTHER REVIEW PROCEDURES

29L-3.001 General

29L-3.002 A-95 Review Procedure

29L-3.001 General.

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.01. Repealed.

29L-3.001 General.

The Apalachee Regional Planning Council was first designated on September 28, 1977, as the areawide planning and development clearinghouse pursuant to United States Office of Management and Budget Circular A-95, Revised, for substate district two, which includes, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Wakulla, and Washington Counties.

(1) Criteria for Analysis.

In reviewing a project the following criteria will be considered in making a recommendation:

- (a) Is consistent with local government comprehensive plans for the area, and all other applicable local, regional, and state plans;
- (b) Does not duplicate other projects or activities being carried out in the area;
- (c) Might be revised to increase its effectiveness or efficiency (e.g., administrative costs, travel, number of clients served);
- (d) Achieves areawide and local objectives relating to the following:
 - 1. Appropriateness of land use,
 - 2. Consistency with overall economic development plans,
 - 3. Balanced transportation systems,
 - 4. Properly planned community facilities;
- (e) Conservation of natural resources;
 - 1. Protection of coastal resources,
 - 2. significant effect on the environment;
- (f) Contributes to a more balanced pattern of settlement and service;
- (g) Impact on health, safety and welfare of the people within the area, and;

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~~(2) Development in Flood Prone Areas.~~

~~The Council recognizes the USGS Flood Prone Area Maps and HUD Flood Hazard Area Maps as authority for determining whether a development lies within a flood prone or flood hazard area unless the applicant proves to the appropriate authority that these maps are inaccurate or that flooding conditions could be corrected by proper engineering.~~

~~(3) Conformance with Council Plan, Reports and Policies.~~

~~Any proposed project found not to be in substantial compliance with any stated or adopted Council plan, report and/or policy may receive negative comment from the Council. The applicant has the burden of proof in demonstrating how the proposed project will be beneficial and be in substantial compliance with Council plans, reports and/or policies.~~

Rulemaking Authority 120.53(1), 163.01 FS. Law Implemented 120.53(1), 163.01 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.01.

29L-3.002 A-95 Review Procedure.

Rulemaking Authority 120.53(1), 160.06, 160.08, 163.01, 163.3164, 23.012 FS. Law Implemented 120.53(1), 160.06, 160.08, 163.01, 163.3164, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.02. Repealed, _____

29L-3.002 A-95 Review Procedure.

~~The following procedures will be used by the Apalachee Regional Planning Council in reviewing a project relative to the A-95 Review Procedure.~~

~~(1) Receipt of Project~~

~~Upon receipt of a Notification of Intent to Apply for Federal Aid (OMB A-95 Standard Form 101P); the staff secretary will give the application to the A-95 Coordinator who will log the project in, assign it a clearinghouse number, and return it to the staff secretary. The staff secretary will send the applicant a notification receipt form letter. A copy of the form letter will also be sent to the State Clearinghouse for coordination purposes. The project will then be returned to the A-95 Coordinator and assigned to a staff person. This same logging procedure shall apply to LGCPA, Regional Plan Reviews, 10 year power plant site plans, and any other reviews assigned to the TRC by the Council. However, LGCPA and other reviews may require a separate log.~~

~~(2) Staff Action.~~

~~(a) The A-95 Coordinator will review the project as to content and determine if sufficient information is available to conduct a review. The review time limits as prescribed in OMB Circular A-95 shall not begin until the application is sufficient to allow a~~

responsible review of the project. As a minimum requirement, the applicant shall submit the completed appropriate standard federal application FORM SF-424, or its successor form, other applicable forms which shall as a minimum include a budget, (including breakdown by county with administrative costs and number of people served per county), and where appropriate, a photocopy as a USGS quadrangle sheet or map of similar detail.

(b) When the A-95 Coordinator has determined that sufficient information exists to conduct a review, a letter will be sent to the applicant to notify him when he is scheduled on the agenda. The letter may request the applicant's attendance. The notification receipt form letter should be mailed seven (7) days prior to the TRC meeting to allow the applicant sufficient time to prepare a presentation. A copy of the form letter will also be sent to the State Clearinghouse and, for Leon County Projects, to the Metropolitan A-95 Clearinghouse.

(c) The staff person designated as A-95 Coordinator will review the project according to the Criteria outlined in Rule 29L-3.001, F.A.C.

1. The A-95 Coordinator may write a report, if necessary, based on an analysis of the project, including a brief one page summary of the report. The A-95 Coordinator should consult with TRC members impacted by the project for their input into the review process. The summary and analysis will be mailed to all TRC members no later than six (6) days prior to the TRC meeting.

2. LGCPA, Regional Plan Reviews, 10 year site plans, and other special reviews will require a separate staff report to be prepared and presented to the TRC by the appropriate Council staff.

(3) Council Action.

(a) If appropriate information is not available, the TRC may choose not to concur on a project.

(b) Recommendations made by the Technical Review Committee, along with the summary sheet will be presented in writing to the Apalachee Regional Planning Council's Executive Board for final review at the next Executive Board Meeting. The TRC shall recommend the following action to the Executive Board:

1. Concurrence.
2. Concurrence with conditions.
3. Non Concurrence, or
4. Pending.

Applicants receiving a negative response by the TRC will be informed in writing of the TRC's recommendation.

(c) Any TRC recommendation may be appealed by an applicant or other affected parties to the Council's Executive Board.

1. The party making an appeal must notify the Council Chairman or Council staff of his intent to appeal within six (6) days

following the date of the Committee meeting.

2. The applicant, TRC, appropriate local government(s) and affected parties will be invited to attend the hearing, the date of which is to coincide with the next regular Executive Board meeting.

3. The Executive Board shall have the power to exercise the appeal function of the Council in cases which require action between meetings of the Full Council.

(d) The Executive Board will review each project based on the Criteria for Analysis (see subsection 29L-3.001(1), F.A.C. Criteria), recommendations of the TRC and TRC staff. In addition, comments will be accepted from the applicant, either written or in person at the TRC and (if necessary) Executive Board meetings. The Executive Board will take one of three (3) actions.

1. Concurrence.

2. Concurrence with conditions, or

3. Non Concurrence.

(e) The applicant will be notified in writing by the Executive Board Chairman as to the Executive Board's decision. This decision will be final.

(f) For LGCPA Reviews, Regional Plan Reviews, 10 year site plan reviews and other special reviews, the Executive Board will be provided with copies of the Council's staff report as referenced in subparagraph 29L-3.002(2)(c)2., F.A.C., and TRC recommendations, as appropriate.

Rulemaking Authority 120.53(1), 160.06, 160.08, 163.01, 163.3164, 23.012 FS. Law Implemented 120.53(1), 160.06, 160.08, 163.01, 163.3164, 380.06 FS. History—New 4-4-78, Amended 10-14-81, Formerly 29L-3.02.

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Adjourn

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