

CHAPTER 29F-3 — REGIONAL DISPUTE RESOLUTION PROCESS

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29F-3.101 — 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 two required components: (a) process initiation (initiation and response letters); and (b) settlement meetings; and four optional components: (a) pre-initiation meeting; (b) situation assessments; (c) mediation; or (d) advisory decision-making.
- (2) The RDRP's intent is to provide a flexible process 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 extra-jurisdictional impacts arising from: the intergovernmental coordination elements of local comprehensive plans required by s. 163.3177, F.S.; inconsistencies between port master plans and local comprehensive plans; the siting of community residential homes required by s. 419.001(5), F.S.; and any other matters covered by statutes that 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) Use of the RDRP shall not alter a jurisdiction's, organization's, group's or individual's right to judicial or administrative determination of any issue if that entity is entitled to such a determination under statutory or common law.
- (6) 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.
- (7) The RDRP does not supplant local processes established for resolving intra-jurisdictional disputes and is not intended to be used by parties dissatisfied with the appropriate application of local rules and regulations within their jurisdiction.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.102 — Definitions.

- (1) "Situation Assessment" is a procedure of information collection or "fact finding" that may involve review of documents, interviews or an assessment meeting leading to a written or verbal report identifying: the issues in dispute; the stakeholders; information needed before a decision can be made; and a recommendation for appropriate dispute resolution procedures.
- (2) "Pre-Initiation Meeting" is an informal conference with the RPC staff in order to ascertain whether the likely dispute is appropriate for the RDRP.
- (3) "Facilitation" is a procedure in which the facilitator helps the parties design and follow a meeting agenda and assists 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 person 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 may take more control of the process than a facilitator and usually works in more complex cases where 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, or any combination of these 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 or regional public agency, including a special district, authority or school board.
- (7) "Named Party" shall be any jurisdiction, public or private organization, group or individual who is named in an initiation letter, including the initiating jurisdiction, or is admitted by the named parties to participate in settlement of a dispute pursuant to 29F-3.103. Being a "named party" in the RDRP does not convey or limit standing in any judicial or administrative proceeding.
- (8) "Representative" is an authorized agent who is given guidance by a named party to represent the named party in an RDRP case. Section 29F-3.103(5) sets forth the designation process.
- (9) "Initiation Letter" is a letter from a jurisdiction formally identifying a dispute and asking named parties to engage in this process to resolve the dispute, and, at a minimum, attend the initial settlement meeting. Section 29F-3.110 specifies what must be included in an initiation letter.
- (10) "Response Letter" 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.
- (11) "Settlement Agreements" are voluntarily approved by the individual or governing body authorized to bind the named party. Agreements shall take the form of memorandums of understanding, contracts, interlocal agreements or other forms 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 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.103 — Participation.

- (1) Named parties shall automatically be allowed to participate. Other jurisdictions, public or private organizations, groups, or individuals suggested by named parties in response letters or during RDRP meetings or submitting a petition to participate, may become named parties if agreed to by a two-thirds majority of the participating named parties, except as provided for in 29F-3.103(2). Fee allocation agreements will be amended as appropriate.
- (2) All initiation and response letters made in accordance with intergovernmental coordination elements (ICE) of local government comprehensive plans shall only list affected jurisdictions as named parties. The named parties may at the initial settlement meeting or at subsequent RDRP meetings add public or private named parties by mutual agreement of all the current named parties.
- (3) Named parties who do not respond within 21 calendar days of receipt of the initiation letter may not participate in the RDRP unless they submit a petition for participation.
- (4) Jurisdictions, public or private organizations, groups or individuals seeking to become named parties shall submit to the East Central Florida Regional Planning Council (RPC) staff a written petition to participate, including reasons for the request. Such jurisdictions, public or private organizations, groups, or individuals shall become named parties if agreed to by a two-thirds majority of the named party, prior to or during RDRP meetings.
- (5) Each of the jurisdictions, organizations, groups or individuals participating as named parties 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, subject to such qualifications imposed by the party as the representative may advise all other named parties in advance, and the responsibility for representing that party's interest in this process and for maintaining communications with that party throughout the process. Jurisdictions are encouraged to designate a representative to participate in the RDRP in advance of initiating or receiving a request.
- (6) Any named party may invite individuals or organizations to attend meetings under this process who can provide information and technical assistance useful in the resolution of the dispute. The parties, by agreement, or the presiding neutral shall determine when and under what circumstances such invited parties may provide input.
- (7) 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.

- (8) All named parties who agree to participate in this process commit to a good faith effort to resolve problems or disputes.
- (9) Any named party may withdraw from participation in the RDRP at any time upon written notice to all other named parties and the RPC staff.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.104 — Costs.

- (1) The RPC shall be compensated for situation assessments, facilitation of settlement meetings, mediation, technical assistance and other staff services based on reasonable actual costs. 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 arbitration shall be split equally between the parties unless the parties mutually agree to a different allocation. The agreed upon cost allocation shall be documented in a written fee agreement.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.105 — Timeframes.

- (1) The initial meeting of the participating parties shall be scheduled and held within 30 days of the date of receipt of the last response letter or conclusion of the 21 calendar day response period referenced in 29F-3.103(3), whichever occurs first.
- (2) Additional settlement meetings, mediation or advisory decision-making shall be completed within forty-five (45) days of the date of the conclusion of the initial settlement meeting.
- (3) Excepting the 30-day period for the initial meeting, all time frames specified or agreed to in this process may be shortened or extended by mutual agreement of the named parties.
- (4) Where necessary to allow this process to be effectively carried out, named parties should address deferring or seeking stays of judicial or administrative proceedings.
- (5) The participating parties may, by agreement, utilize procedures in the RDRP in any order.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.106 — Public Notice, Records and Confidentiality.

- (1) Named parties should consider appropriate opportunities for public input at each step in this process, such as allowing the submittal of written or verbal comments on issues, alternative solutions and impacts of proposed agreements.
- (2) Applicable public notice, public records, and public meeting requirements shall be observed as required by Chapters 119 and 120 or other applicable Florida Statutes.
- (3) Participants in these procedures agree by their participation that no comments, meeting records, or written or verbal offers of settlement shall be entered 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 applicable laws, which may include Chapter 44, F.S.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.107 — 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.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.108 — 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 assessment meetings or any combination of these and shall recommend issues to be addressed, parties that may participate, appropriate resolution procedures and a proposed schedule.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.109 — 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 the regional planning council, to the named parties as provided for in 29F-3.103 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 of a representative to initiate requests to use the RDRP.
- (2) Such an initiation letter shall identify: the issues to be discussed; named parties to be involved in the RDRP; 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) calendar days of receiving the initiation letter. This response shall include any additional issues and potential named parties the respondent wishes considered, as well as a brief history of the dispute and description of the situation from the respondent's point of view.
- (4) Upon receipt of a request, the RPC staff shall assess its interest 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) In instances where the RPC is not a named or potential party, it may, upon its own initiative, recommend that a potential dispute is suitable for this process and transmit its recommendation to potential parties, who may, at their discretion, choose to initiate the RDRP.
- (6) The RPC staff shall schedule a meeting at the most convenient time within the thirty (30) day period provided for in 29F-3.105(1).
- (7) In the event that a dispute involves jurisdictions under two or more regional planning councils, the process adopted by the region of the initiating jurisdiction shall govern, unless the named parties agree otherwise.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.110 — 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 pertaining to a development proposal that would have an impact on an adjacent local government or identified state or regional resources or facilities, in accordance with 29F-3.109(5). Such a request shall be submitted in writing and shall include the information required for an initiation letter in 29F-3.109(2).
- (3) After reviewing the information submitted by, and consulting with, the requesting organization, group or individual, the RPC staff will conduct a situation assessment and respond in writing. The situation assessment shall involve an informal review of provided documents and other information, interviews or meetings as necessary to determine the issues in dispute, the stakeholders, additional information which is needed to reach a decision and an opinion of whether the dispute meets the intent and purpose of the RDRP, as stated in 29F-3.101.
- (4) If the RPC staff determines, through the situation assessment, 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 requester. If determined to be suitable for the process, the written determination shall include a recommendation that one or more of the jurisdictions among the potential parties initiate the process. The RPC may also suggest that other processes be used. Any party may request that the staff's determination of the suitability of the dispute for this process be reviewed by the governing board of the RPC at its next regularly

scheduled meeting. Such requests must be made in writing and delivered to the Executive Director of the RPC within 15 days of the date of the staff's written determination. In making its decision, the governing board shall consider the situation assessment report, and other information which may be presented, for conformity with the criteria and intent of this chapter.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.111 — Settlement Meetings.

- (1) Settlement meetings shall, at a minimum, be attended by the named parties' representatives designated pursuant to Section 29F-3.103(3).
- (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.
- (3) At the settlement meeting, the parties shall: consider adding 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 29F-3.115(4) 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 and, if so inclined, proceed to a joint meeting of governing bodies pursuant to Chapter 164, F.S., litigation, administrative hearing or arbitration as appropriate.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.112 — Mediation.

- (1) If two or more named parties submit a request for 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.
- (2) All disputes 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 11, Section 020-150.
- (3) The parties shall submit a mediation report in accordance with 29F-3.115(4).

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.113 — Advisory Decision-Making.

- (1) If two or more of the named parties submit a request for advisory decision-making to the RPC, the RPC shall assist the parties to select and retain an appropriate neutral, or the parties may request that the RPC make the selection.
- (2) All disputes shall be handled by a neutral who understands Florida growth management issues, has appropriate experience and is acceptable to the parties.
- (3) The parties shall submit an advisory decision-making report in accordance with 29F-3.115(4).

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.114 — Settlement Agreements and Reports.

- (1) The form of all settlements reached through this process shall be determined by the named parties. The following are examples of acceptable formats for presenting the settlement: interlocal agreements, concurrent resolutions, memoranda of understanding, plan amendments, deed restrictions.
- (2) 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.

- (3) After settlement meetings, mediation or advisory decision-making under this process, the named parties shall submit a joint report to the RPC staff which shall, at a minimum include:
 - (a) identification of the issues discussed and copies of any agreements reached;
 - (b) a list of potentially affected or involved jurisdictions, organizations, groups or individuals (including those which may not be named parties);
 - (c) a description of agreed upon next steps, if any, including measures for implementing agreements reached;
 - (d) 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;
 - (e) any additional RPC assistance requested;
 - (f) a written fee allocation agreement to cover the costs of agreed upon RDRP procedures. The report shall include all material any named party wishes to include.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

29F-3.115 — Other Existing 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 a jurisdiction's, organization's, group's or individual's right to judicial or administrative determination of any issue if that 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 way does not convey or limit intervenor status or standing in any judicial or administrative proceedings.
- (5) In addition to the RDRP 186.509, F.S., parties may consider the applicability of other resolution processes which exist within Florida Statutes including: Intergovernmental Coordination Element, Section 163.3177(h)(1) & (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.; Termination of the Development of Regional Impact Program, Section 380.27, F.S.; Administration Procedures Act, Chapter 120, F.S.; Florida Governmental Cooperation Act, Chapter 164, F.S.; Mediation Alternatives to Judicial Action, Chapter 44, F.S.

Specific Authority 186.505 FS.

Law Implemented 186.509 FS.

History — New 12-8-99.

