

RULES
OF THE
NORTH CENTRAL FLORIDA REGIONAL PLANNING COUNCIL
CHAPTER 29C-8
RULES OF PROCEDURE AND PRACTICE PERTAINING TO
THE REGIONAL DISPUTE RESOLUTION PROCESS (RDRP)

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29C-8.001 PURPOSE

(1) The purpose of the 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 basic components: process initiation (initiation and response letters), and settlement meetings; and five optional components: pre-initiation meeting, situation assessments, mediation, advisory decision-making, and reference to other dispute resolution processes (judicial, administrative or arbitration proceedings).

(2) The intent of the RDRP is to provide a flexible process to reconcile differences on planning and growth management issues. The process is designed to 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 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 163.3177, F.S.; inconsistencies between port master plans and local comprehensive plans, as required by 163-3178. F.S. ; the siting of community residential homes, as required by 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 of 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 a judicial 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.

Specific Authority 186-509, F.S. Law Implemented 186.509. F.S. History - New 7/12/94.

29C-8.002 DEFINITIONS

(1) SITUATION ASSESSMENT is a procedure of information collection that may involve review of documents, interviews and an assessment meeting to identify the issues in dispute, the stakeholders, information needed before a decision can be made, or a recommendation for appropriate dispute resolution procedures.

(2) PRE-INITIATION MEETINGS are opportunities for a party to discuss the suitability of the RDRP with the RPC staff for resolving their dispute before formally initiating the RDRP.

(3) FACILITATION is a procedure in which a neutral party, acting as a facilitator, helps the named 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 party, acting as a mediator, assists named parties in a negotiation process in exploring their interests, developing and evaluating options, and reaching a mutually-acceptable agreement. 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 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, regional, or state government or agency, including special districts, authorities and school boards.

(7) NAMED PARTY shall be any Jurisdiction, public or private organization, group or individual which (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 Subsections 29C-8.003 (1), (2) and (3). 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 29C-8.003(4) 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. Subsection 29C-8.010(2) 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. Subsection 29C-8.010(3) 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 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, F.S. Law Implemented 186-509, F.S. History - New 7/12/94.

29C-8.003 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, shall be allowed to become named parties if agreed to by a two-thirds majority of the participating named parties, except as provided for in 29C-8-003(2). Fee allocation agreements may 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 local government jurisdictions as named parties. The named parties may, at the initial settlement or at subsequent RDRP meetings, add public or private named parties by mutual agreement of all the current named parties.

(3) Other jurisdictions, public or private organizations, group or individuals seeking to become named parties shall submit to the North Central Florida Regional Planning Council (Council) a written petition to participate, including reasons for the request and information required in Subsection 29C-8.010(2). Such jurisdictions, public or private 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 provided-by 29C-8.003(2). Named parties who do not respond within thirty days 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 named parties in this process shall designate a representative, in writing, or be represented by the chief administrative officer. Such a representative shall have responsibility for representing that party's interest in this process and for maintaining communications with that party throughout the process and, to the extent possible, shall have the authority to act for that party. Jurisdictions are encouraged to designate a representative to participate in the RDRP in advance of initiating or receiving a request.

(5) Any named or neutral party may invite individuals or organizations to attend meetings under this process who (which) 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.

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

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

(8) Any named party may withdraw from participation in the RDRP upon written notice to all other named parties and the Council.

Specific Authority 186-509, F.S. Law Implemented 186.509, F.S. History - New 7/12/94.

29C-8.004 COSTS

(1) There shall be no charge for processing a RDRP initiation request and facilitation of the initial settlement meeting. The RPC shall be compensated for situation assessments, facilitation of additional 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 named parties or according to another agreed upon allocation. The agreed upon cost allocation shall be documented in a written fee agreement.

Specific Authority 186.509, F.S. Law Implemented 186-509, F.S. History - New 7/12/94.

29C-8.005 TIMEFRAMES

(1) The initial settlement meeting shall be scheduled and held within forty-five 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 sixty days of the date of the conclusion of the initial settlement meeting.

(3) All timeframes specified or agreed to in this process may be shortened or extended if agreed to by a two-thirds majority of the named parties.

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

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

Specific Authority 186.509, F.S. Law Implemented 186-509, F.S. History - New 7/12/94.

29C-8.006 ADMINISTRATIVE PROTOCOLS

The Council may adopt administrative procedures to implement this rule. These may address staff and council roles, procedures for situation assessment, selection of neutrals, consumer guides or other matters. Where required pursuant to Section 120.52, F.S., policies and guidelines should be adopted as rules.

Specific Authority 186-509, F.S. Law Implemented 186.509, F.S. History - New 7/12/94.

29C-8.007 PUBLIC NOTICE RECORDS AND CONFIDENTIALITY

(1) Named parties should provide appropriate opportunities for public input at each step in this process, such as submitting written or oral comments on issues, alternative solutions and 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) Parties utilizing these procedures agree that no comments, meeting records, or written or oral offers of settlement shall be presented by them as evidence in any 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 186-509, F.S. Law Implemented 186-509, F.S. History - New 7/12/94.

29C-8.008 PRE-INITIATION MEETING

A jurisdiction, organization, group, or individual contemplating initiation of this process must request an informal pre-initiation meeting with the Council staff in order to ascertain whether the potential dispute would be appropriate for this process.

Specific Authority 186-509, F.S. Law Implemented 186.509, F.S. History - New 7/12/94.

29C-8.009 SITUATION ASSESSMENT

(1) A jurisdiction, organization, group, or individual may request that the Council (or other entity if the Council is one of the named parties) 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 should participate, appropriate resolution procedures, and a proposed schedule.

Specific Authority 186-509, F.S. Law Implemented 186.509, F.S. History - New 7/12/94.

29C-8.010 FORMAL INITIATION OF THE PROCESS BY JURISDICTIONS

(1) A formal 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 29C8.003(1) and 29C-8.003(2) and to the Council. The initiation letter must be accompanied by a resolution of the governing body authorizing the specific initiation or by a letter which authorizes its designated representative as defined in this rule to initiate requests utilizing the RDRP.

(2) Such an initiation letter shall identify the following: the issues to be discussed; the 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 Council and all other named parties confirming their willingness to participate in a settlement meeting within thirty days of receipt of the initiation letter. This response letter 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 an initiation letter, the Council shall assess its interest in the case. If the Council 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 Council may not initiate the RDRP but 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 Council shall schedule a settlement meeting within thirty days of the date of receipt of the initiation request.

(7) In the event that a dispute affects jurisdictions involving two or more regions, the process adopted by the region of the initiating jurisdiction shall govern, unless the named parties agree otherwise.

Specific Authority 186-509, F.S. Law Implemented 186.509, F.S. History - New 7/12/94.

29C-8.011 REQUESTS TO INITIATE PROCESS SUBMITTED BY OTHERS

- (1) Private interests may request any jurisdiction to initiate the process.
- (2) Any public or private organization, group, or individual may request that the Council recommend use of this process to address a potential dispute in accordance with 29C-8.010(5). Such a request shall be submitted in writing and shall include the information required for an initiation letter as outlined in 29C-8.010(2).
- (3) After reviewing the rationale submitted by and consulting with the requesting organization, group, or individual, the Council will conduct a situation assessment and respond in writing.
- (4) If the Council determines that the potential dispute is suitable for the process, it shall transmit that determination in writing to the potential parties. The determination may include a recommendation that one or more of the jurisdictions among the potential parties initiate the procedure. The Council may also suggest that other resolution processes be considered.

Specific Authority 186-509, F.S. Law Implemented 186-509. F.S. History - New 7/12/94.

29C-8.012 SETTLEMENT MEETINGS

- (1) Settlement meetings shall, at a minimum, be attended by the named parties' representatives designated pursuant to Subsection 29C-8.003(4).
- (2) Settlement meetings may be facilitated by a Council staff member or other neutral facilitator acceptable to the named parties and shall be held at a time and place acceptable to the named parties.
- (3) At the settlement meeting, the named 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 named parties shall submit a settlement meeting report in accordance with 29C-8-015(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 named party who has agreed to participate in this procedure 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. F.S. Law Implemented 186.509. F.S. History - New 7/12/94.

29C-8.013 MEDIATION

(1) If two or more of the named parties submit a request for mediation to the Council, the Council shall assist them in selecting and retaining a mediator or the named parties may request that the Council 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. Named 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.

(3) Named parties shall submit a mediation report in accordance with 29C-8.015(4) at the conclusion of advisory decision-making.

Specific Authority 186.509, F.S. Law Implemented 186-509. F.S. History - New 7/12/94.

29C-8.014 ADVISORY DECISION-MAKING

- (1) If two or more of the named parties submit a request for advisory decision-making to the Council, the Council shall assist the named parties in selecting and retaining an appropriate neutral party or the named parties may request that the Council make the selection.
- (2) All disputes shall be handled by a neutral party who understands Florida growth management issues has appropriate experience and is acceptable to the named parties.
- (3) The named parties shall submit an advisory decision-making report in accordance with Subsection 29C-8.015(4) of this process.

Specific Authority 186.509, F.S. Law Implemented 186.509. F.S. History - New 7/12/94.

29C-8.015 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 the named parties 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 Council 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 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 Council assistance requested;

(e) a written fee allocation agreement to cover the costs of RDRP procedures;

(f) a description of responsibilities and schedules for implementing and enforcing agreements reached. The report shall include any statements that any named party wishes to include.

Specific Authority 186-509, F.S. Law Implemented 186-509, F.S. History - New 7/12/94.

29C-8.016 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 a jurisdiction's, organization's group's or individual's right to a 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) Other resolution processes that the parties may wish to consider utilizing which exist within Florida Statutes include the following: 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.;

Administrative 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 186-509, F.S. Law Implemented 186-509. F.S. History - New 7/12/94.