

IV.
Florida Administrative Code (F.A.C.)–
Administration Commission Rules

CHAPTER 28-10 CERTIFICATION OF LOCAL GOVERNMENTS TO REVIEW DEVELOPMENTS OF REGIONAL IMPACT

28-10.001 Purpose.

28-10.002 Definitions.

28-10.003 Petitions for Certification.

28-10.004 Department of Community Affairs Report and Recommendations.

28-10.005 Certification of Local Governments. (Repealed)

28-10.006 Denial of Certification. (Repealed)

28-10.007 Voluntary Withdrawal from Certification. (Repealed)

28-10.008 Revocation of Certification. (Repealed)

28-10.009 Monitoring Certified Local Governments.

28-10.010 Appeals and Enforcement.

28-10.011 Development Orders for Developments of Regional Impact.

28-10.012 Department of Community Affairs Annual Progress Report. (Repealed)

28-10.001 Purpose.

The purpose of this rule chapter is to establish procedures by which the Administration Commission shall determine whether to:

- (1) Certify a local government to review:
 - (a) Developments without the development of regional impact (DRI) provisions of Section 380.06, Florida Statutes, being applicable within its jurisdiction, or
 - (b) DRI's located within its jurisdiction in lieu of the regional review requirements set forth in Section 380.06, Florida Statutes, so that the certified local government would perform the regional review responsibilities of the regional planning agency.
- (2) Revoke the certification of a local government that does not meet the criteria specified in Subsection 380.065(2), Florida Statutes.

Specific Authority 380.065(6)FS. Law Implemented 380.065 FS. History—New 6-1-87.

28-10.002 Definitions.

As used in this rule chapter:

- (1) "Certification" means the granting of authority by the Commission to a local government to review developments without the DRI provisions of Section 380.06, Florida Statutes, being applicable within its jurisdiction, or to review DRI's located within its jurisdiction in lieu of the regional review requirements set forth in Section 380.06, Florida Statutes, pursuant to the provisions specified in Section 380.065, Florida Statutes.
- (2) "Certified local government" means a local government authorized by the Commission to review developments without the DRI provisions specified in Section 380.06, Florida Statutes, being applicable within its jurisdiction, or to review DRI's located within its jurisdiction in lieu of the regional review requirements set forth in Section 380.06, Florida Statutes, pursuant to the provisions of Section 380.065, Florida Statutes.
- (3) "Chief executive officer" means the chairman of the governing body or, in the case of a municipality, the mayor.
- (4) "Commission" means the Administration Commission.
- (5) "Department" means the Department of Community Affairs.

- (6) “Developments of regional impact” and “DRI’s” means any development that meets the definition or criteria specified in Sections 380.06 and 380.0651, Florida Statutes, and Chapters 27F-2, and 28-11, Florida Administrative Code.
- (7) “Local government” means any county or municipality.
- (8) “Regional planning agency” means the agency with designated authority by the Department of Community Affairs to exercise responsibilities under Chapter 380, Florida Statutes, in a particular region of the state.

Specific Authority 380.065(6)FS. Law Implemented 380.065 FS. History–New 6-1-87.

28-10.003 Petitions for Certification.

- (1) Local governments may petition the Commission for certification to review developments situated within their jurisdiction without the DRI provisions of Section 380.06, Florida Statutes, being applicable or to review DRI’s located within their jurisdiction in lieu of the regional review requirements set forth in Section 380.06, Florida Statutes.
- (2) A county may petition the Commission for certification to review DRI’s situated within a municipality when so provided in the county charter, a special act, or when approved by the municipality. Any municipality not included in the jurisdiction for which the county has been certified to review developments pursuant to Section 380.065, Florida Statutes, may:
 - (a) By petitioning the Commission pursuant to this rule, seek certification on its own behalf, or
 - (b) Request that the county petition the Commission, pursuant to this rule, for inclusion of the municipality within the jurisdiction for which the county is certified to review developments pursuant to Section 380.065, Florida Statutes.
- (3) Petitions for a county shall be submitted by the County Commission. Petitions for a municipality shall be submitted by the governing body of the municipality. All petitions shall be signed by the chief executive officer for the particular local government or the individual specifically designated by the governing board.
- (4) Petitions submitted to the Commission for certification shall, at a minimum, include:
 - (a) A cover page that identifies the petitioning agency, specifies the action requested, and includes the date and signature of the chief executive officer for the particular local government or the individual specifically designated by the governing body.
 - (b) A map of appropriate size and clarity which delineates the specific boundaries of the geographic area for which the petitioning agency seeks certification to review developments pursuant to Section 380.065, Florida Statutes.
 - (c) Documentation of the petitioning agency’s compliance with the criteria set forth in Subsection 380.065(2), Florida Statutes, including those criteria relating to Section 163.3202, Florida Statutes, and Chapter 9J-5, Florida Administrative Code. The documentation shall be of sufficient scope and detail to permit an evaluation by the Department of the petitioning agency’s policies, goals, and capabilities relevant to these statutory criteria. The documentation shall include those procedures adopted by ordinance of the petitioning agency for the review of developments as may be required by law. In addition, such review procedures may be of the petitioning agency’s own design or choice so long as they provide for:
 - 1. A comprehensive analysis of developments;
 - 2. Identifying and resolving impacts on resources and facilities of state and regional significance; and
 - 3. Reviewing developments in their entirety.
 - (d) A disclosure of the staffing and financial resource commitments made by the petitioning agency for the review of proposed developments. The financial resources disclosure shall include estimates of operating budgets for the five years preceding the petition for

- certification as well as the projected operating budget for the forthcoming five year period.
- (e) A copy of the procedures adopted by ordinance by the petitioning agency to permit local citizen participation in public hearings held for the review of proposed developments.
 - (f) When a county is the petitioning agency and wishes to include a municipal government, a copy of the resolution, special act, or applicable portion of the county charter authorizing inclusion of the municipality within the jurisdiction of the local government certified pursuant to Section 380.065, Florida Statutes.
 - (g) A copy of the procedures adopted by the petitioning agency for notifying the Department of any amendments to the local comprehensive plan or development regulations.
 - (h) A copy of the procedures adopted by the petitioning agency for transmitting copies of applications and development orders to the Department and appropriate regional planning agency for developments that meet or exceed 80 percent of a DRI threshold or which would otherwise be a DRI pursuant to Sections 380.06 and 380.0651, Florida Statutes, and Chapter 27F-2, Florida Administrative Code.
- (5) The petitioning agency shall file:
- (a) One original and two copies of its petition with the Clerk of the Commission.
 - (b) One copy of its petition with the appropriate regional planning agency.
 - (c) Twenty copies of its petition with the Secretary of the Department.

Specific Authority 380.065(6)FS. Law Implemented 380.065 FS. History–New 6-1-87.

28-10.004 Department of Community Affairs Report and Recommendations.

- (1) The Department shall review all petitions submitted for certification.
- (2) The Department shall, upon receipt of a petition for certification, place a notice in the Florida Administrative Weekly for the purpose of soliciting public comments.
- (3) Within 10 days after receipt of a petition for certification the Department shall distribute copies of the petition to appropriate public agencies for their comments regarding the proposed certification.
- (4) The Department shall, for each petition, submit a report to the Commission which contains:
 - (a) The Department's analysis of the petition.
 - (b) The Department's conclusions as to whether the petitioning agency has met the criteria specified in Subsection 380.065(2), Florida Statutes.
 - (c) The Department's recommendations as to whether certification should be granted as well as the specific conditions of certification recommended for inclusion in the order of certification.
- (5) The Department shall, in reviewing a petition and in preparing its report, consider comments received from the public and public agencies and attach these comments as addenda to the report.
- (6) The Department's report shall be submitted to the Commission within 90 days after the filing of the petition.
- (7) The Department shall furnish one original and two copies of its report to the Clerk of the Commission. The Department shall also provide copies of its report to the petitioning agency and appropriate regional planning agency.

Specific Authority 380.065(6)FS. Law Implemented 380.065 FS. History–New 6-1-87.

28-10.009 Monitoring Certified Local Governments.

- (1) The Department shall maintain intergovernmental coordination with and monitor the actions of certified local governments.
- (2) The Department shall provide the Commission periodic reports apprising the Commission of the performance of certified local governments and including any recommendations the Department may have for administrative improvements. The report shall include any recommendations for revocation of certification.
- (3) The Department shall furnish one original and two copies of its periodic report to the Clerk of the Commission, one copy to certified local governments, and one copy to each appropriate regional planning agency.

Specific Authority 380.065(6)FS. Law Implemented 380.065 FS. History–New 6-1-87.

28-10.010 Appeals and Enforcement.

- (1) Any approval or denial of a development order issued by a certified local government for a proposed development that meets or exceeds 80 percent of a DRI threshold or which would otherwise be a DRI pursuant to Sections 380.06 and 380.0651, Florida Statutes and Chapters 27F-2, and 28-11, Florida Administrative Code, may be appealed by the owner, the developer, Department or appropriate regional planning agency pursuant to Subsections 380.07(2) and 380.065(3), Florida Statutes.
- (2) If a landowner or developer is in doubt whether his proposed development may be subject to an appeal pursuant to Sections 380.065 and 380.07 Florida Statutes and this rule, he may request a determination from the Department in accordance with Rule 9J-2.016, Florida Administrative Code.
- (3) When the Department or appropriate regional planning agency identifies a disputed issue that may be the basis of an appeal of a local development order, the Department may attempt to resolve the dispute prior to the issuance of the development order or the filing of any petition appealing the order. This may be done through the use of an informal conference.
- (4) All enforcement procedures and remedies granted the Department under Section 380.11, Florida Statutes, shall be retained for developments that reach or exceed 80 percent of a DRI threshold or which would otherwise be a DRI pursuant to Sections 380.06 and 380.0651, Florida Statutes, and Chapters 27F-2 and 28-11, Florida Administrative Code.
- (5) Nothing in this rule shall affect the provisions of Chapter 163, Part II, Florida Statutes.

Specific Authority 380.065(6)FS. Law Implemented 380.065 FS. History–New 6-1-87.

28-10.011 Development Orders for Developments of Regional Impact.

- (1) Prior to commencement of development, any project that reaches or exceeds 80 percent of a DRI threshold, or which would otherwise be a DRI pursuant to Sections 380.06 and 380.0651, Florida Statutes, and Chapters 27F-2 and 28-11, Florida Administrative Code, shall be issued a development order from the certified local government approving, approving with conditions, or denying development.
- (2) The certified local government shall issue an amended development order whenever there is a change in the plan of development or development order conditions for:
 - (a) A DRI that was approved prior to the certification of that local government.
 - (b) A development approved after certification that meets or exceeds 80 percent of a DRI threshold or which would otherwise be a DRI pursuant to Sections 380.06 and 380.0651, Florida Statutes and Chapters 27F-2 and 28-11, Florida Administrative Code.
- (3) Copies of such amended development orders shall be forwarded to the Department and appropriate regional planning agency.