

27 substantial deviation; specifying that if the
 28 presumption is not rebutted, the development must
 29 undergo further development-of-regional-impact review;
 30 providing that certain phase date extensions to amend
 31 a development order are not substantial deviations
 32 under certain circumstances; specifying conditions
 33 under which certain proposed developments are not
 34 required to undergo the state coordinated review
 35 process; amending s. 380.0651, F.S.; providing that
 36 lands acquired for development are not subject to
 37 aggregation under certain circumstances; amending s.
 38 380.115, F.S.; providing the procedures to be used by
 39 a development that elects to rescind a development
 40 order; providing an effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Subsection (5) of section 163.3167, Florida
 45 Statutes, is amended to read:

46 163.3167 Scope of act.—

47 (5) ~~Nothing in~~ This act does not shall limit or modify the
 48 rights of any person to complete any development that has been
 49 authorized as a development of regional impact pursuant to
 50 chapter 380 or who has been issued a final local development
 51 order and development has commenced and is continuing in good
 52 faith. A person does not lose his or her right to proceed with a

53 development authorized as a development of regional impact if a
54 change is made to the development that has the effect only of
55 reducing the height, density, or intensity of the originally
56 approved development.

57 Section 2. Paragraph (c) of subsection (2), paragraph (e)
58 of subsection (5), and paragraph (d) of subsection (7) of
59 section 163.3184, Florida Statutes, are amended, and paragraph
60 (d) is added to subsection (2) of that section, to read:

61 163.3184 Process for adoption of comprehensive plan or
62 plan amendment.—

63 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

64 (c) Plan amendments that are in an area of critical state
65 concern designated pursuant to s. 380.05; propose a rural land
66 stewardship area pursuant to s. 163.3248; propose a sector plan
67 pursuant to s. 163.3245 or an amendment to an adopted sector
68 plan; update a comprehensive plan based on an evaluation and
69 appraisal pursuant to s. 163.3191; ~~propose a development that~~
70 ~~qualifies as a development of regional impact pursuant to s.~~
71 ~~380.06;~~ or are new plans for newly incorporated municipalities
72 adopted pursuant to s. 163.3167 shall follow the state
73 coordinated review process in subsection (4).

74 (d) Proposed developments as set forth in s. 380.06(30),
75 or plan amendments thereto, shall follow the state coordinated
76 review process in subsection (4).

77 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
78 AMENDMENTS.—

79 (e) If the administrative law judge recommends that the
 80 amendment be found in compliance, the judge shall submit the
 81 recommended order to the state land planning agency.

82 1. If the state land planning agency determines that the
 83 plan amendment should be found not in compliance, the agency
 84 shall make every effort to refer the recommended order and its
 85 determination expeditiously to the Administration Commission for
 86 final agency action, but at a minimum within the time period
 87 provided by s. 120.569.

88 2. If the state land planning agency determines that the
 89 plan amendment should be found in compliance, the agency shall
 90 make every effort to enter its final order expeditiously, but at
 91 a minimum within the time period provided by s. 120.569.

92 3. The recommended order submitted under this paragraph
 93 becomes a final order within 90 days after issuance unless the
 94 state land planning agency acts as provided in subparagraph 1.
 95 or subparagraph 2. or all parties consent in writing to an
 96 extension of the 90-day period.

97 (7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

98 (d) Absent a showing of extraordinary circumstances, the
 99 Administration Commission shall issue a final order, in a case
 100 proceeding under subsection (5), within 45 days after ~~the~~
 101 issuance of the recommended order, unless the parties agree in
 102 writing to extend the 45-day period a longer time. If the
 103 recommended order recommends a finding of in compliance, the
 104 recommended order becomes final 45 days after issuance unless

105 the state land planning agency acts, or the parties agree in
 106 writing, to extend the 45-day period.

107 Section 3. Subsection (1) of section 163.3245, Florida
 108 Statutes, is amended to read:

109 163.3245 Sector plans.—

110 (1) In recognition of the benefits of long-range planning
 111 for specific areas, local governments or combinations of local
 112 governments may adopt into their comprehensive plans a sector
 113 plan in accordance with this section. This section is intended
 114 to promote and encourage long-term planning for conservation,
 115 development, and agriculture on a landscape scale; to further
 116 support innovative and flexible planning and development
 117 strategies, and the purposes of this part and part I of chapter
 118 380; to facilitate protection of regionally significant
 119 resources, including, but not limited to, regionally significant
 120 water courses and wildlife corridors; and to avoid duplication
 121 of effort in terms of the level of data and analysis required
 122 for a development of regional impact, while ensuring the
 123 adequate mitigation of impacts to applicable regional resources
 124 and facilities, including those within the jurisdiction of other
 125 local governments, as would otherwise be provided. Sector plans
 126 are intended for substantial geographic areas that include at
 127 least 5,000 ~~15,000~~ acres of one or more local governmental
 128 jurisdictions and are to emphasize urban form and protection of
 129 regionally significant resources and public facilities. A sector
 130 plan may not be adopted in an area of critical state concern.

131 Section 4. Subsection (2) of section 171.046, Florida
 132 Statutes, is amended to read:

133 171.046 Annexation of enclaves.—

134 (2) In order to expedite the annexation of enclaves of 110
 135 ~~10~~ acres or less into the most appropriate incorporated
 136 jurisdiction, based upon existing or proposed service provision
 137 arrangements, a municipality may:

138 (a) Annex an enclave by interlocal agreement with the
 139 county having jurisdiction of the enclave; or

140 (b) Annex an enclave with fewer than 25 registered voters
 141 by municipal ordinance when the annexation is approved in a
 142 referendum by at least 60 percent of the registered voters who
 143 reside in the enclave.

144 Section 5. Paragraph (g) of subsection (15), paragraphs
 145 (b) and (e) of subsection (19), and subsection (30) of section
 146 380.06, Florida Statutes, are amended to read:

147 380.06 Developments of regional impact.—

148 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

149 (g) A local government shall not issue a permit ~~permits~~
 150 for a development subsequent to the buildout date contained in
 151 the development order unless:

152 1. The proposed development has been evaluated
 153 cumulatively with existing development under the substantial
 154 deviation provisions of subsection (19) after ~~subsequent to~~ the
 155 termination or expiration date;

156 2. The proposed development is consistent with an

157 abandonment of development order that has been issued in
158 accordance with ~~the provisions of~~ subsection (26);

159 3. The development of regional impact is essentially built
160 out, in that all the mitigation requirements in the development
161 order have been satisfied, all developers are in compliance with
162 all applicable terms and conditions of the development order
163 except the buildout date, and the amount of proposed development
164 that remains to be built is less than 40 percent of any
165 applicable development-of-regional-impact threshold; or

166 4. The project has been determined to be an essentially
167 built-out development of regional impact through an agreement
168 executed by the developer, the state land planning agency, and
169 the local government, in accordance with s. 380.032, which will
170 establish the terms and conditions under which the development
171 may be continued. If the project is determined to be essentially
172 built out, development may proceed pursuant to the s. 380.032
173 agreement after the termination or expiration date contained in
174 the development order without further development-of-regional-
175 impact review subject to the local government comprehensive plan
176 and land development regulations ~~or subject to a modified~~
177 ~~development-of-regional-impact analysis.~~ The parties may amend
178 the agreement without the submission, review, or approval of a
179 notification of proposed change pursuant to subsection (19). For
180 purposes of ~~As used in~~ this paragraph, a ~~an~~ "essentially built-
181 out" development of regional impact is considered essentially
182 built out, if means:

183 a. The developers are in compliance with all applicable
 184 terms and conditions of the development order except the
 185 buildout date; and

186 b.(I) The amount of development that remains to be built
 187 is less than the substantial deviation threshold specified in
 188 paragraph (19)(b) for each individual land use category, or, for
 189 a multiuse development, the sum total of all unbuilt land uses
 190 as a percentage of the applicable substantial deviation
 191 threshold is equal to or less than 100 percent; or

192 (II) The state land planning agency and the local
 193 government have agreed in writing that the amount of development
 194 to be built does not create the likelihood of any additional
 195 regional impact not previously reviewed.

196
 197 The single-family residential portions of a development may be
 198 considered "essentially built out" if all of the workforce
 199 housing obligations and all of the infrastructure and horizontal
 200 development have been completed, at least 50 percent of the
 201 dwelling units have been completed, and more than 80 percent of
 202 the lots have been conveyed to third-party individual lot owners
 203 or to individual builders who own no more than 40 lots at the
 204 time of the determination. The mobile home park portions of a
 205 development may be considered "essentially built out" if all the
 206 infrastructure and horizontal development has been completed,
 207 and at least 50 percent of the lots are leased to individual
 208 mobile home owners. In order to accommodate changing market

209 demands and achieve maximum land use efficiency in an
 210 essentially built-out project, the unbuilt land uses specified
 211 in the agreement may be developed in a manner by which one
 212 approved land use is substituted for another approved land use
 213 at a ratio that ensures there will be no increase in net
 214 external transportation impacts. At the time of building permit
 215 issuance, the developer must demonstrate to the local government
 216 that the exchange ratio will not result in an increase in net
 217 external transportation impacts.

218 (19) SUBSTANTIAL DEVIATIONS.—

219 (b) Any proposed change to a previously approved
 220 development of regional impact or development order condition
 221 which, either individually or cumulatively with other changes,
 222 exceeds any of the following criteria shall be presumed to
 223 create ~~constitute~~ a substantial deviation, and the presumption
 224 may be rebutted by clear and convincing evidence. If not
 225 rebutted, the development is subject to further development-of-
 226 regional-impact review through the notification of proposed
 227 change process and shall cause the development to be subject to
 228 ~~further development-of-regional-impact review without the~~
 229 ~~necessity for a finding of same by the local government:~~

230 1. An increase in the number of parking spaces at an
 231 attraction or recreational facility by 15 percent or 500 spaces,
 232 whichever is greater, or an increase in the number of spectators
 233 that may be accommodated at such a facility by 15 percent or
 234 1,500 spectators, whichever is greater.

235 2. A new runway, a new terminal facility, a 25 percent
 236 lengthening of an existing runway, or a 25 percent increase in
 237 the number of gates of an existing terminal, but only if the
 238 increase adds at least three additional gates.

239 3. An increase in land area for office development by 15
 240 percent or an increase of gross floor area of office development
 241 by 15 percent or 100,000 gross square feet, whichever is
 242 greater.

243 4. An increase in the number of dwelling units by 10
 244 percent or 55 dwelling units, whichever is greater.

245 5. An increase in the number of dwelling units by 50
 246 percent or 200 units, whichever is greater, provided that 15
 247 percent of the proposed additional dwelling units are dedicated
 248 to affordable workforce housing, subject to a recorded land use
 249 restriction that shall be for a period of not less than 20 years
 250 and that includes resale provisions to ensure long-term
 251 affordability for income-eligible homeowners and renters and
 252 provisions for the workforce housing to be commenced before
 253 ~~prior to~~ the completion of 50 percent of the market rate
 254 dwelling. For purposes of this subparagraph, the term
 255 "affordable workforce housing" means housing that is affordable
 256 to a person who earns less than 120 percent of the area median
 257 income, or less than 140 percent of the area median income if
 258 located in a county in which the median purchase price for a
 259 single-family existing home exceeds the statewide median
 260 purchase price of a single-family existing home. For purposes of

261 | this subparagraph, the term "statewide median purchase price of
262 | a single-family existing home" means the statewide purchase
263 | price as determined in the Florida Sales Report, Single-Family
264 | Existing Homes, released each January by the Florida Association
265 | of Realtors and the University of Florida Real Estate Research
266 | Center.

267 | 6. An increase in commercial development by 60,000 square
268 | feet of gross floor area or of parking spaces provided for
269 | customers for 425 cars or a 10 percent increase, whichever is
270 | greater.

271 | 7. An increase in a recreational vehicle park area by 10
272 | percent or 110 vehicle spaces, whichever is less.

273 | 8. A decrease in the area set aside for open space of 5
274 | percent or 20 acres, whichever is less.

275 | 9. A proposed increase to an approved multiuse development
276 | of regional impact where the sum of the increases of each land
277 | use as a percentage of the applicable substantial deviation
278 | criteria is equal to or exceeds 110 percent. The percentage of
279 | any decrease in the amount of open space shall be treated as an
280 | increase for purposes of determining when 110 percent has been
281 | reached or exceeded.

282 | 10. A 15 percent increase in the number of external
283 | vehicle trips generated by the development above that which was
284 | projected during the original development-of-regional-impact
285 | review.

286 | 11. Any change that would result in development of any

287 area which was specifically set aside in the application for
288 development approval or in the development order for
289 preservation or special protection of endangered or threatened
290 plants or animals designated as endangered, threatened, or
291 species of special concern and their habitat, any species
292 protected by 16 U.S.C. ss. 668a-668d, primary dunes, or
293 archaeological and historical sites designated as significant by
294 the Division of Historical Resources of the Department of State.
295 The refinement of the boundaries and configuration of such areas
296 shall be considered under sub-subparagraph (e)2.j.

297
298 The substantial deviation numerical standards in subparagraphs
299 3., 6., and 9., excluding residential uses, and in subparagraph
300 10., are increased by 100 percent for a project certified under
301 s. 403.973 which creates jobs and meets criteria established by
302 the Department of Economic Opportunity as to its impact on an
303 area's economy, employment, and prevailing wage and skill
304 levels. The substantial deviation numerical standards in
305 subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50
306 percent for a project located wholly within an urban infill and
307 redevelopment area designated on the applicable adopted local
308 comprehensive plan future land use map and not located within
309 the coastal high hazard area.

310 (e)1. Except for a development order rendered pursuant to
311 subsection (22) or subsection (25), a proposed change to a
312 development order which individually or cumulatively with any

313 previous change is less than any numerical criterion contained
314 in subparagraphs (b)1.-10. and does not exceed any other
315 criterion, or which involves an extension of the buildout date
316 of a development, or any phase thereof, of less than 5 years is
317 not subject to the public hearing requirements of subparagraph
318 (f)3., and is not subject to a determination pursuant to
319 subparagraph (f)5. Notice of the proposed change shall be made
320 to the regional planning council and the state land planning
321 agency. Such notice must include a description of previous
322 individual changes made to the development, including changes
323 previously approved by the local government, and must include
324 appropriate amendments to the development order.

325 2. The following changes, individually or cumulatively
326 with any previous changes, are not substantial deviations:

327 a. Changes in the name of the project, developer, owner,
328 or monitoring official.

329 b. Changes to a setback which do not affect noise buffers,
330 environmental protection or mitigation areas, or archaeological
331 or historical resources.

332 c. Changes to minimum lot sizes.

333 d. Changes in the configuration of internal roads which do
334 not affect external access points.

335 e. Changes to the building design or orientation which
336 stay approximately within the approved area designated for such
337 building and parking lot, and which do not affect historical
338 buildings designated as significant by the Division of

339 Historical Resources of the Department of State.

340 f. Changes to increase the acreage in the development, if
341 no development is proposed on the acreage to be added.

342 g. Changes to eliminate an approved land use, if there are
343 no additional regional impacts.

344 h. Changes required to conform to permits approved by any
345 federal, state, or regional permitting agency, if these changes
346 do not create additional regional impacts.

347 i. Any renovation or redevelopment of development within a
348 previously approved development of regional impact which does
349 not change land use or increase density or intensity of use.

350 j. Changes that modify boundaries and configuration of
351 areas described in subparagraph (b)11. due to science-based
352 refinement of such areas by survey, by habitat evaluation, by
353 other recognized assessment methodology, or by an environmental
354 assessment. In order for changes to qualify under this sub-
355 subparagraph, the survey, habitat evaluation, or assessment must
356 occur before the time that a conservation easement protecting
357 such lands is recorded and must not result in any net decrease
358 in the total acreage of the lands specifically set aside for
359 permanent preservation in the final development order.

360 k. Changes that do not increase the number of external
361 peak hour trips and do not reduce open space and conserved areas
362 within the project except as otherwise permitted by sub-
363 subparagraph j.

364 l. A phase date extension, if the state land planning

365 agency, in consultation with the regional planning council and
366 subject to the written concurrence of the Department of
367 Transportation, agrees that the traffic impact is not
368 significant and adverse under applicable state agency rules.

369 m.~~1.~~ Any other change that the state land planning agency,
370 in consultation with the regional planning council, agrees in
371 writing is similar in nature, impact, or character to the
372 changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that
373 does not create the likelihood of any additional regional
374 impact.

375
376 This subsection does not require the filing of a notice of
377 proposed change but requires an application to the local
378 government to amend the development order in accordance with the
379 local government's procedures for amendment of a development
380 order. In accordance with the local government's procedures,
381 including requirements for notice to the applicant and the
382 public, the local government shall either deny the application
383 for amendment or adopt an amendment to the development order
384 which approves the application with or without conditions.
385 Following adoption, the local government shall render to the
386 state land planning agency the amendment to the development
387 order. The state land planning agency may appeal, pursuant to s.
388 380.07(3), the amendment to the development order if the
389 amendment involves sub-subparagraph g., sub-subparagraph h.,
390 sub-subparagraph j., sub-subparagraph k., or sub-subparagraph

391 ~~m.1-~~ and if the agency believes that the change creates a
 392 reasonable likelihood of new or additional regional impacts.

393 3. Except for the change authorized by sub-subparagraph
 394 2.f., any addition of land not previously reviewed or any change
 395 not specified in paragraph (b) or paragraph (c) shall be
 396 presumed to create a substantial deviation. This presumption may
 397 be rebutted by clear and convincing evidence.

398 4. Any submittal of a proposed change to a previously
 399 approved development must include a description of individual
 400 changes previously made to the development, including changes
 401 previously approved by the local government. The local
 402 government shall consider the previous and current proposed
 403 changes in deciding whether such changes cumulatively constitute
 404 a substantial deviation requiring further development-of-
 405 regional-impact review.

406 5. The following changes to an approved development of
 407 regional impact shall be presumed to create a substantial
 408 deviation. Such presumption may be rebutted by clear and
 409 convincing evidence:~~:-~~

410 a. A change proposed for 15 percent or more of the acreage
 411 to a land use not previously approved in the development order.
 412 Changes of less than 15 percent shall be presumed not to create
 413 a substantial deviation.

414 b. Notwithstanding any provision of paragraph (b) to the
 415 contrary, a proposed change consisting of simultaneous increases
 416 and decreases of at least two of the uses within an authorized

417 multiuse development of regional impact which was originally
418 approved with three or more uses specified in s. 380.0651(3)(c)
419 and (d) and residential use.

420 6. If a local government agrees to a proposed change, a
421 change in the transportation proportionate share calculation and
422 mitigation plan in an adopted development order as a result of
423 recalculation of the proportionate share contribution meeting
424 the requirements of s. 163.3180(5)(h) in effect as of the date
425 of such change shall be presumed not to create a substantial
426 deviation. For purposes of this subsection, the proposed change
427 in the proportionate share calculation or mitigation plan may
428 not be considered an additional regional transportation impact.

429 (30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development
430 otherwise subject to the review requirements of this section
431 shall be approved by a local government pursuant to s.
432 163.3184(4) in lieu of proceeding in accordance with this
433 section. However, if the proposed development is consistent with
434 the comprehensive plan as provided in s. 163.3194(3)(b), the
435 development is not required to undergo review pursuant to s.
436 163.3184(4) or this section. This subsection does not apply to
437 amendments to a development order governing an existing
438 development of regional impact.

439 Section 6. Paragraph (c) of subsection (4) of section
440 380.0651, Florida Statutes, is amended to read:

441 380.0651 Statewide guidelines and standards.—

442 (4) Two or more developments, represented by their owners

443 or developers to be separate developments, shall be aggregated
444 and treated as a single development under this chapter when they
445 are determined to be part of a unified plan of development and
446 are physically proximate to one other.

447 (c) Aggregation is not applicable when the following
448 circumstances and provisions of this chapter are applicable:

449 1. Developments which are otherwise subject to aggregation
450 with a development of regional impact which has received
451 approval through the issuance of a final development order shall
452 not be aggregated with the approved development of regional
453 impact. However, nothing contained in this subparagraph shall
454 preclude the state land planning agency from evaluating an
455 allegedly separate development as a substantial deviation
456 pursuant to s. 380.06(19) or as an independent development of
457 regional impact.

458 2. Two or more developments, each of which is
459 independently a development of regional impact that has or will
460 obtain a development order pursuant to s. 380.06.

461 3. Completion of any development that has been vested
462 pursuant to s. 380.05 or s. 380.06, including vested rights
463 arising out of agreements entered into with the state land
464 planning agency for purposes of resolving vested rights issues.
465 Development-of-regional-impact review of additions to vested
466 developments of regional impact shall not include review of the
467 impacts resulting from the vested portions of the development.

468 4. The developments sought to be aggregated were

469 authorized to commence development prior to September 1, 1988,
 470 and could not have been required to be aggregated under the law
 471 existing prior to that date.

472 5. Any development that qualifies for an exemption under
 473 s. 380.06(29).

474 6. Lands acquired for development as a part of an existing
 475 development of regional impact that has been developed are not
 476 subject to aggregation if the newly acquired lands comprise an
 477 area that is equal to or less than 10 percent of the total
 478 acreage subject to the existing development-of-regional-impact
 479 development order.

480 Section 7. Subsection (1) of section 380.115, Florida
 481 Statutes, is amended to read:

482 380.115 Vested rights and duties; effect of size
 483 reduction, changes in guidelines and standards.—

484 (1) A change in a development-of-regional-impact guideline
 485 and standard does not abridge or modify any vested or other
 486 right or any duty or obligation pursuant to any development
 487 order or agreement that is applicable to a development of
 488 regional impact. A development that has received a development-
 489 of-regional-impact development order pursuant to s. 380.06~~7~~ but
 490 is no longer required to undergo development-of-regional-impact
 491 review by operation of a change in the guidelines and standards,
 492 a development that ~~or~~ has reduced its size below the thresholds
 493 in s. 380.0651, ~~or~~ a development that is exempt pursuant to s.
 494 380.06(24) or (29), or a development that elects to rescind the

495 development order shall be governed by the following procedures:

496 (a) The development shall continue to be governed by the
497 development-of-regional-impact development order and may be
498 completed in reliance upon and pursuant to the development order
499 unless the developer or landowner has followed the procedures
500 for rescission in paragraph (b). Any proposed changes to those
501 developments which continue to be governed by a development
502 order shall be approved pursuant to s. 380.06(19) as it existed
503 before a change in the development-of-regional-impact guidelines
504 and standards, except that all percentage criteria shall be
505 doubled and all other criteria shall be increased by 10 percent.
506 The development-of-regional-impact development order may be
507 enforced by the local government as provided by ss. 380.06(17)
508 and 380.11.

509 (b) If requested by the developer or landowner, the
510 development-of-regional-impact development order shall be
511 rescinded by the local government having jurisdiction upon a
512 showing that all required mitigation related to the amount of
513 development that existed on the date of rescission has been
514 completed or will be completed under an existing permit or
515 equivalent authorization issued by a governmental agency as
516 defined in s. 380.031(6), provided such permit or authorization
517 is subject to enforcement through administrative or judicial
518 remedies.

519 Section 8. This act shall take effect July 1, 2016.