

ARTICLE X. - DEVELOPMENT AGREEMENTS

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Sec. 33-111. - Generally.

33-111.01. *Findings of fact.* The city commission finds and declares that the lack of certainty in the approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development, and discourage commitment to Comprehensive Planning. The city commission also finds and declares that assurance to a developer that upon receipt of his development permit he may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in Comprehensive Planning, and reduces the economic costs of development.

33-111.02. *Statement of intent.* It is the intent of this article to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development, all in conformity with and to carry out the purposes of the DeLand Comprehensive Plan and the Local Government Comprehensive Planning and Land Development Regulation Act.

33-111.03. *Authority.* This intent is effected by exercising the authority granted the City to enter into development agreements with developers under §§ 163.3220—163.3243, Florida Statutes. This article shall be regarded as supplemental and additional to the powers conferred upon the city by other laws and shall not be regarded as in derogation of any powers now existing.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-112. - Procedures.

33-112.01. *Application for development agreement.* The developer shall make application for a development agreement through the planning department and pay an application fee set by resolution.

33-112.02. *Public hearing.* Before entering into, amending or revoking a development agreement, the city shall conduct at least two public hearings; the planning board will hold one of which [one of which the planning board will hold].

33-112.03. *Notice of hearing.* Notice of intent to consider a development agreement shall be advertised approximately seven days before each public hearing in a newspaper of general circulation and readership in Volusia County. Notice of intent to consider a development agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

33-112.04. *Contents of notice.* The notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed agreement can be obtained.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-113. - Development agreement.

33-113.01. *Contents and duration of agreement.*

(a) *Contents.* A development agreement shall include the following:

1. A legal description of the land subject to the agreement and the names of its legal and equitable owners.
2. The duration of the agreement.
3. The development uses permitted on the land, including population densities, and building intensities and height.
4. A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development.
5. A description of any reservation or dedication of land for public purposes.
6. A description of all local development permits approved or needed to be approved for the development of the land.
7. A finding that the development permitted or proposed is consistent with the city's Comprehensive Plan and Land Development Regulations.
8. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the city for the public health, safety, or welfare of its citizens.
9. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.
10. A development agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time.

(b) *Duration of agreement.* The duration of a development agreement shall not exceed ten years. It may be extended by mutual consent of the city and the developer, subject to a public hearing in accordance with this article.

33-113.02. *Applicability of laws.*

(a) *Consistency with plan and regulations.* A development agreement and authorized development shall be consistent with the city's Comprehensive Plan and Land

Development Regulations.

(b) *Development governed by laws in effect at execution.* The city's laws and policies governing the development of land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement.

(c) *Applicability of subsequent laws.* The city may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the city has held a public hearing and determined:

1. They are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement.
2. They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement.
3. They are specifically anticipated and provided for in the development agreement.
4. The city demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement.
5. The development agreement is based on substantially inaccurate information supplied by the developer.

33-113.03. *Review, amendment, termination.*

(a) *Periodic review of agreements.* The city shall review land subject to development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the city finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the city.

(b) *Amendment or cancellation of agreement.* A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

(c) *Modification or revocation to comply with subsequent state and federal law.* If state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms of a development agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.

33-113.04. *Recording and enforcement.*

(a) *Recording of agreement.* Within 14 days after the city enters into a development agreement, the city shall record the agreement with the clerk of the circuit court. A copy of the recorded development agreement shall be submitted to the state land planning agency within 14 days after the agreement is recorded. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all

successors in interest to the parties to the agreement.

(b) *Enforcement of agreement.* Any party, any aggrieved or adversely affect person as defined in § 163.3215 (2), Florida Statutes, or the state land planning agency, may file an action for injunctive relief in circuit court to enforce the terms of a development agreement or to challenge the validity of the agreement.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Secs. 33-114—33-120. - Reserved for future use.