

ORDINANCE
2011-79

**AN ORDINANCE AMENDING CHAPTER 11 OF THE
LAND DEVELOPMENT CODE; ESTABLISHING
PROCEDURES AND REQUIREMENTS GOVERNING
DEVELOPMENT AGREEMENTS; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, in Chapter 125, Florida Statutes, the Legislature of the State of Florida has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizens; and

WHEREAS, Sections 163.3220 and 163.3243, F. S., authorize local governments to consider and enter into a Development Agreement; and

WHEREAS, the Board of County Commissioners of Walton County ("Board"), to ensure the County's continued orderly growth and development, finds it prudent to establish procedures and requirements governing Development Agreements; and

WHEREAS, the Board finds it is in the best interest of the welfare of the people of Walton County to establish and provide certainty in the approval of developments in accordance with existing laws and policies, subject to the conditions of a Development Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, that the Walton County Land Development Code be amended as follows:

Section 1: Amendment.

A new Section 11.08.00 of the Walton County Land Development Code is created as follows:

Section 11.08.00 Development Agreements.

A. Purpose and Intent. It is the intent of this Section to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage efficient use of resources, and reduce the economic cost of development, all in conformity with and to carry out the purposes of the Walton County Comprehensive Plan and the Local Government Comprehensive Planning and Land Development Regulation Act.

B. Authority. This intent is affected by exercising the authority granted to the County to

enter into Development Agreements with applicants under Sections 163.3220 through 163.3243, F.S. This Section shall be regarded as supplemental and additional to the powers conferred upon the County by other laws and shall not be regarded as derogation of any powers now existing.

C. Definitions. The definitions set forth in Section 163.3221, F.S. of the Local Government Comprehensive Planning and Land Development Regulation Act are incorporated by reference for the purposes of this Section as fully set forth herein.

D. Applicability. A Development Agreement may be entered into based on the following:

1. The subject property must be one approved for civic or institutional uses, and
 - a. The development is proposed to be constructed in phases with commitments to substantial site infrastructure improvements being required in early phases, or
 - b. Commitments to public improvements beyond those ordinarily required of similar development are desirable by reason of location, topography, or other characteristics of the property, or
 - c. It is desirable to provide incentives to coordinate developments with a specific plan.
2. If applicable, provides the guarantee and security requirement as set forth in Section 11.01.07 of this Code.

E. Application.

1. Application for a Development Agreement shall be made to the Planning Director in conjunction with an application for development approval in a form to be prescribed by the Planning Director.
2. Applications shall be signed by all property owners or their designated agent.
3. Each application shall be accompanied by the Development Agreement proposed by the applicant.
4. The Board may establish, and amend from time to time, by resolution, a schedule of fees listing the charges imposed for the filing and processing of each application.
5. Only a qualified applicant may file an application to enter into a Development Agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject to the Development Agreement.
6. The applicant shall demonstrate that any new construction or improvement of any facility under a proposed Development Agreement shall be based upon either the applicable or adopted levels of service standards made a condition of said Development Agreement.

F. Requirements of a Development Agreement.

1. The development agreement shall include the following:
 - a. A legal description of the land subject to the agreement and the names of all persons with a legal or equitable interest in such land;
 - b. A listing of all parties to the agreement and the relationship between said parties;
 - c. The duration of the agreement, which shall not exceed the maximum length of time allowed by law;
 - d. A statement indicating the sole means of relief from this agreement shall be by an action for injunctive relief filed in a Circuit Court of Walton County and any appropriate appeal thereof;
 - e. The development uses permitted on the land, including population and unit densities, and building intensities and height;
 - f. A description of the 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;
 - g. A description of any reservation or dedication of land for public purposes;
 - h. A description of all local development permits approved or needed to be approved for the development of land;
 - i. A finding that the development, permitted or proposed, is consistent with the Comprehensive Plan and this Code;
 - j. A description of any conditions, terms, restriction, or any other requirements determined to be necessary by local government for the public health, safety, or welfare of its citizens;
 - k. A statement indicating that failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions; and
 - l. A statement that the burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest including all mortgages to the parties of the agreement.
 - m. The effective dates shall be as specified in Section 163.3239, F. S.
2. Development Agreements may require a phasing schedule which includes start and completion dates for the development and subsequent phases.
3. In addition to the information listed above, a Development Agreement may contain any terms agreed to by the parties so long as such terms are not inconsistent with Florida law, the Walton County Land Development Code and Comprehensive Plan.
4. The burdens of a Development Agreement shall be binding upon, and the benefits of an Agreement shall inure to, all successors in interest to the parties of the Agreement.

G. Public Hearings; Notice.

1. There shall be two (2) public hearings prior to approval of a proposed Development Agreement or a proposed amendment or revocation.
2. Public hearings shall be conducted in accordance with the procedures and requirements of Section 10.02.03 of this Code.
3. Notice of intent to consider a Development Agreement shall be published and shall also be mailed to all affected property owners in accordance with Section 163.3225, F.S. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.

H. Review and Recommendation. Review of a Development Agreement shall be performed by the Planning Director and the Public Works Director or their designees. Recommendations on the proposed Development Agreement shall be provided to the applicant, the Planning Commission, and to the Board.

1. **Review and Action by the Planning Commission and Board of County Commissioners.** The Board and Planning Commission shall each hold a public hearing to review the application for Development Agreement and hear recommendations from the Planning Director and Public Works Director.
2. **Planning Commission.** The Planning Commission shall hold a public hearing on each application for a Development Agreement. After conducting the public hearing the Planning Commission shall make a recommendation to the Board on each application for a Development Agreement.
3. **Board of County Commissioners.** The Board shall conduct a public hearing in accordance with the procedures and requirements of Section 10.02.03 of this Code and after a review by the County Attorney for consistency, the Chairman upon final approval by the Board shall execute the Development Agreement on behalf of the County.

I. Recording. The County, at the applicant's expense, shall record the Development Agreement within fourteen (14) days after Board approval, and shall provide a copy to the applicant.

J. Annual Review. The Planning Director shall review land subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the Planning Director finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the Development Agreement, the Planning

Director, shall notify the parties to the agreement of the failure. A reasonable time period, not less than fourteen (14) days shall be provided for the parties to come into compliance with the agreement. If the violating parties have failed to comply within the specified time period, the Planning Director shall forward to the Board a recommendation that the agreement be revoked or modified. Notice of this recommendation, the reasons therefore, and the time and place of the hearing on this matter will be sent to all parties not less than fourteen (14) days prior to said hearings.

K. Amendment or Cancellation. A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or their successors in interest.

L. Modification or Revocation.

1. The Development Agreement may be modified or revoked by the Board:
 - a. For failure or inability of the Parties to comply with the terms of the agreement; or
 - b. In order to apply subsequently adopted local laws pursuant to subsection M below.
2. A Development Agreement shall be modified as is necessary to comply with relevant state or federal laws enacted after the execution of the agreement which preclude the parties' compliance with the terms of the agreement.

M. Application of Subsequently Adopted Local Laws and Policies. The County may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the Board has held a public hearing and determined that the subsequently adopted laws and policies:

- a. 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; or
- b. 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; or
- c. Are specifically anticipated and provided for in the development agreement; or
- d. The development agreement was based on inaccurate information supplied by the parties to the agreement or their agents.

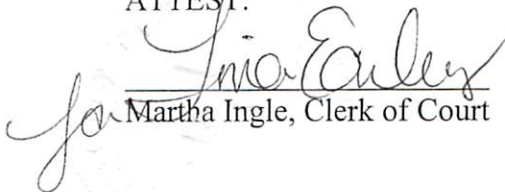
N. Enforcement. Any party, any aggrieved or adversely affected person, as defined in Section 163.3215(2), F.S., may file an action for injunctive relief in the Circuit Court of Walton County to enforce the terms of a Development Agreement.

SECTION 2. SEVERABILITY. Should any word, phrase, sentence, or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then such shall be severed from this ordinance and the remainder of the ordinance shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect as provided by law.

PASSED AND DULY ADOPTED in regular session, by the BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA, this 8th day of November, 2011.

ATTEST:


Martha Ingle, Clerk of Court

BOARD OF COUNTY COMMISSIONERS
OF WALTON COUNTY, FLORIDA

By: 
Larry Jones, Chair

