



MEMORANDUM

To: Board of Commissioners

From: Renea Vincent, AICP, CPM, Planning and Zoning Director

Date: February 6, 2024

Subject: **Amendment to Article VI – Development Agreements**

Background / Planning and Zoning Board Recommendation:

At the Planning and Zoning Board's request, a discussion was held at their regular meeting of January 22, 2024 regarding amendment of Article VI of the City's Land Development Code pertaining to development agreements. The draft amendment revises the maximum duration of a development agreement from ten (10) years to five (5) years and allows for extension of a development agreement for up to five (5) additional years. The proposed amendment would also require a super majority vote of the Board of Commissioners for the extension of a development agreement. The Planning and Zoning Board voted unanimously, with all members present, to recommend that the Board of Commissioners initiate processing of the draft amendment (attached).

Staff Recommendation:

Review and consider the draft amendment language for Article VI – Development Agreements (attached). Direct staff with respect to initiation of a text amendment to the Land Development Code.

ARTICLE VI. DEVELOPMENT AGREEMENTS

§ 96.00 AUTHORITY AND REQUIREMENTS.

- (A) The Board of Commissioners of the City of Tarpon Springs shall have the authority to enter into Development Agreements with the legal and equitable owners of real property within, or to be annexed within, the City limits of Tarpon Springs as provided for in F.S. Ch. 163 and as further set forth under the terms of this Article.
- (B) The entry into a development agreement by the City shall not limit or modify any legislative power by the City to adopt ordinances, resolutions, regulations or to make administrative or legislative decisions of any kind which it had the power to make prior to the entry into such development agreement, except to the degree that the development agreement, by its express terms and not by implication, gives vested rights as to certain development permissions, required improvements and similar matters.
- (C) A development agreement and authorized development shall be consistent with the City's Comprehensive Plan and Land Development Code.
- (D) The initial duration of a development agreement shall not exceed 10-5 years. It may be extended for one additional 5 year period (or less) by mutual consent of a super majority of the Board of Commissioners and the developer, subject to a public hearing in accordance with the requirements of this Article and a review for compliance with current City ordinances and regulations.
- (E) A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest subject to a public hearing in accordance with the requirements of the Article.
- (F) The City's ordinances and regulations governing the development of the land at the time of the execution of the development agreement, with the exception of any fee structure, including impact fees, shall govern the development of the land for the duration of the development agreement. The City may apply subsequently adopted local ordinances and regulations to a development that is subject to a development agreement only if the Board of Commissioners determines the following after undertaking a public hearing and considering all evidence presented at the public hearing:
 - (1) The subsequently adopted ordinances and regulations are not in conflict with the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement;
 - (2) The subsequently adopted ordinances and regulations 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) The subsequently adopted ordinances and regulations 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; or
 - (5) The development agreement is based upon substantially inaccurate information supplied by the applicant for development agreement.

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- (G) 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 the development agreement, such agreement shall be modified or revoked as necessary to comply with the relevant state or federal laws.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2019-02, passed 2-26-19)

§ 97.00 DEVELOPMENT AGREEMENT PROCEDURES.

- (A) A property owner desiring to enter into a development agreement shall make application through the Planning Department and pay the required fee.
- (B) Upon receipt of an application for development agreement, the City Manager shall request authorization from the Board of Commissioners to negotiate with the applicant.
- (C) Upon authorization from the Board of Commissioners to negotiate, the applicant shall submit a development proposal consisting of the following minimum information:
- (1) Required additional review fee.
 - (2) Legal description, including the identification of out parcels to be exempt from the agreement.
 - (3) The persons, firms or corporations having a legal or equitable interest in the land.
 - (4) The desired duration of the development agreement not to exceed 5 years.
 - (5) The development uses desired, including residential density, building intensity, and building height.
 - (6) An analysis of the impact upon existing and proposed public facilities and services; including who shall provide such facilities, the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities and services are available concurrent with the impacts of the development.
 - (7) A description of any reservation or dedication of land for public purposes.
 - (8) A description of all City development approvals necessary, including any zoning or land use modifications required.
 - (9) Accurate survey of boundary and existing conditions including but not limited to easements, streets, buildings, land uses, historic sites, zoning, wetlands, watercourses, utilities, general topographic contours, and existing zoning and land uses for all contiguous properties.
 - (10) A preliminary master drainage and grading plan.
 - (11) The location of proposed buffers or screening.
 - (12) An existing tree survey.
 - (13) A conceptual master plan showing the locations and acreages of general land uses including dwelling unit types, general types of nonresidential uses, open spaces, recreational facilities, and other proposed uses.
 - (14) Circulation plan showing locations and types of all access points and internal streets.
 - (15) Proposed development phasing.
 - (16) A list of all federal, state, and local permit requirements.
 - (17) Any further information deemed necessary to conduct a complete review of the proposal.

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- (D) A review of the development proposal shall be scheduled within 30 days and conducted by the Technical Review Committee (TRC) to determine compliance with City ordinances, regulations and that the development is consistent with the local comprehensive plan. The development proposal shall be amended as necessary to comply with the requirements of the Technical Review Committee (TRC).
 - (E) Once compliance with City ordinances and regulations has been determined by the Technical Review Committee the development proposal shall be transmitted to the City Manager for negotiation. The City Manager and his/her staff shall review the development of the property and the terms and conditions which are necessary to protect the public interest.
 - (F) The City Manager shall report the status of negotiations to the Board of Commissioners within 90 days of TRC compliance.
 - (1) In the event that the City Manager and the property owner have negotiated the terms of a mutually acceptable development agreement, the essential terms of that development agreement shall be presented in an outline form to the Board of Commissioners. The Board shall review the same and shall, if it determines to proceed further with completion of the development agreement by an affirmative vote of not less than 3 members, direct the City Attorney to reduce the said development terms to contractual form for further consideration by the Board. This direction shall in no manner whatsoever obligate the Board to ultimately approve a development agreement or to approve any of the matters outlined to it by the City Manager as to any specific term or condition.
 - (2) In the event that the City Manager and the property owner have not negotiated a mutually satisfactory development agreement, the City Manager shall so notify the Board of Commissioners and the development agreement process as to the particular land shall be concluded unless by an affirmative vote of 3 members of the Board shall direct that negotiations shall continue. A further development agreement application on the same property may be submitted no sooner than 180 calendar days from the date the Board has concluded consideration of the development agreement.
 - (G) At such time as the City Attorney has reduced the terms of the proposed development agreement to written contractual form, the City Manager shall provide the Planning Department with a written recommendation regarding adoption of the development agreement.
 - (H) The Planning and Zoning Board shall conduct the first public hearing on the proposed development agreement, and forward a recommendation to the Board of Commissioners.
 - (I) The Board of Commissioners shall conduct the second public hearing to determine final action on the proposed development agreement. The Board may, by an affirmative vote of not less than 3 members, approve the form and execution of the development agreement by resolution.
 - (J) Within 14 days after the City enters into a development agreement, the City shall record the agreement with the Clerk of the Circuit Court in Pinellas County. 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 development agreement shall then be binding upon all successors in interest to the parties of the agreement.
 - (K) The City shall review land subject to a development agreement once every 12 months to determine if there has been good faith compliance with the terms of the development agreement. If the City makes a finding 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 after a public hearing held in accordance with the requirements of this Article.
 - (L) Such persons, as are defined by F.S. Ch. 163, shall have standing to enforce a development agreement.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 98.00 PUBLIC HEARINGS REQUIREMENTS.

- (A) Before entering into, amending, or revoking a development agreement, the City shall conduct a minimum of 2 public hearings.
- (B) Notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in Pinellas County. Notice of intent to consider a development agreement shall also be mailed to all property owners within 500 feet of the entire contiguous property which is the subject of the agreement and the applicant 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.
- (C) 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. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2019-08, passed 5-14-19)

§ 99.00 DEVELOPMENT AGREEMENT CONTENT.

- (A) Any development agreement approved under the provisions of this Code shall include the following minimum requirements:
 - (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 development permits approved or needed to be approved for the development of the land, including but not limited to the following:
 - (a) Any required Comprehensive Plan amendments;
 - (b) Any required zoning amendments;
 - (c) Site plan approval;
 - (d) Any required approvals, permits or authorizations from Pinellas County, Florida Department of Transportation, Southwest Florida Water Management District, Florida Department of Environmental Protection, U.S. Army Corps of Engineers, Department of Health and Rehabilitative Services, Tampa Bay Regional Planning Council, Pinellas Planning Council, Department of Community Affairs, or any other agency with competent jurisdiction; and

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- (e) A statement that said development permits will be obtained at the sole cost of the applicant, and in the event that any development permissions are not received, that no further development of the property shall be allowed until such time as the City has reviewed the matter and determined whether to modify or terminate the agreement. Under these conditions, action in reliance on the development agreement shall not vest any development rights in the property.
 - (7) A finding that the development permitted or proposed is consistent with the Comprehensive Plan and land development regulations, and that if amendments are necessary to the zoning or land use designations, that such development agreement is contingent upon those amendments being made and approved by the appropriate governmental agencies.
 - (8) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and
 - (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; and
 - (10) Phasing and phase timing.
 - (B) Development agreements shall be executed by all persons having legal or equitable title in the subject property, including the fee simple owner, any contract purchasers and mortgagees; or include joinders or subordination.
 - (C) A development agreement shall be a legislative act in the furtherance of the City's powers to zone and regulate development within its jurisdiction.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

(§§ 100.00 through 105.00 reserved)