

VILLAGE OF INDIANTOWN - Land Development Regulations

Chapter X

ARTICLE 9 – DEVELOPMENT AGREEMENTS

Sec. 9-1. - Purpose.

(a) This article is intended to implement and be consistent with the Village of Indiantown Comprehensive Plan and Land Development Regulations.

(b) The purpose of this article is to define a process for review and acceptance of agreements between an applicant and the Village of Indiantown that complies with Sections 163.3220 – 163.3243 F.S. This will ensure the adequacy of public facilities and sound capital improvement planning, while providing certainty in the process of obtaining development approval and reducing the economic costs of development by providing greater regulatory certainty.

(c) The provisions of this article are the minimum requirements necessary to accomplish the stated purpose of this article. Nothing in this article shall be interpreted as characterizing a development agreement as anything other than a discretionary, bilateral contract between the Village and the property owner or other applicants, having a power of attorney from the owner to make the application, with consideration given by both parties to the contract.

Sec. 9-2 - Application.

(a) An application for a development agreement shall be filed with the Village by the property owner or other applicants, having a power of attorney from the owner to make the application. The development review procedures set forth in Article 12, Land Development Regulations, shall be applicable to development agreements except as set forth in Sec. 9-3 below.

(b) The application shall include:

(1) The requirements of a development agreement pursuant to Section 163.3227 F.S.

(2) A statement that the initial duration of the agreement shall not exceed 20 years.

(3) Any additional information that the Village may require because of the nature or location of the development.

(c) The application, all required documents, fees and other relevant evidence will be considered a complete application.

Sec. 9-3. - Process

(a) The applicant shall submit a proposed development agreement which contains all of the components listed in Sec. 9-4 of this article.

- (1) Preapplication coordination with the director is recommended but not required.
- (b) A minimum of two public hearings shall be required.
 - (1) Advertising, notice of hearings and criteria for acceptance shall be in compliance with Section 163.3225, F.S.

Sec. 9-4. - Final Development Agreement.

- (a) Pursuant to Section 163.3227, F.S. the approved development agreement shall include:
 - (1) A legal description of the land subject to the agreement, and the names of all owners.
 - (2) The duration of the agreement.
 - (3) The permitted uses, including population densities, building intensities and height.
 - (4) A description of public facilities that will service the development, including who shall provide such facilities; the date by which 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.
 - (7) A finding that the development permitted or proposed is consistent with the comprehensive plan and LDRs.
 - (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.
 - (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 those permitting requirements, conditions, terms or restrictions.

Sec. 9-5. - Applicability of Regulations.

- (a) The ordinances and regulations of the Village governing the development of the land at the time of the execution of a development agreement shall continue to govern the development of the parcel subject to the development agreement for the duration of the development agreement, except as provided in Sec. 9-4(b) and (c). At the expiration of the development agreement, all existing LDRs shall become applicable to the development, regardless of the terms of the development agreement.
- (b) The Village may apply ordinances and policies adopted after the execution of the development agreement, only if the Village has held a public hearing and determined that:

- (1) The new ordinances or policies are not in conflict with the development agreement and do not prevent development of the land uses, intensities or densities as allowed under the terms of the development agreement;
- (2) The new ordinances or policies are essential to the public health, safety or welfare;
- (3) The new ordinances or policies expressly state that the ordinances or policies apply to a development that is subject to a development agreement;
- (3) The new ordinances or policies are specifically anticipated and provided for in the development agreement;
- (4) The Village demonstrates that substantial changes have occurred in conditions that existed at the time of the development agreement approval; or
- (5) The development agreement is based on substantially inaccurate information, which was supplied by the developer.

(c) In the event that state and 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.

(d) The director shall review all parcels, subject to development agreements, not less than once every 12 calendar months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. In the event that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the Village upon 30 days' notice to the property owner, as shown on the records of the property appraiser. Such termination or amendment shall be accomplished only after a public hearing and notice and made on the basis of competent substantial evidence. Amendment or cancellation of the development agreement by mutual consent of the Village and the property owner may be accomplished following the notice required for initial adoption of the development agreement as is set forth in Article 12 of this LDR.

Sec. 9-6. - Recordation.

No more than 14 days after the execution of a development agreement, the Village shall record the approved development agreement with the Clerk of Circuit Court and Comptroller in Martin County. 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. The cost of recordation of the development agreement shall be the responsibility of the applicant.