163.3220 Short title; legislative intent.—

(1) Sections 163.3220-163.3243 may be cited as the “Florida Local Government Development Agreement Act.”

(2) The Legislature finds and declares that:

(a) 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.

(b) Assurance to a developer that upon receipt of his or her development permit or brownfield designation he or she 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.

(3) In conformity with, in furtherance of, and to implement the Community Planning Act and the Florida State Comprehensive Planning Act of 1972, it is the intent of the Legislature 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.

(4) This intent is effected by authorizing local governments to enter into development agreements with developers, subject to the procedures and requirements of ss. 163.3220-163.3243.

(5) Sections 163.3220-163.3243 shall be regarded as supplemental and additional to the powers conferred upon local governments by other laws and shall not be regarded as in derogation of any powers now existing.

History.—s. 19, ch. 86-191; s. 902, ch. 95-147; s. 8, ch. 99-378; s. 22, ch. 2011-139.

163.3221 Florida Local Government Development Agreement Act; definitions.—As used in ss. 163.3220-163.3243:

(1) “Brownfield designation” means a resolution adopted by a local government pursuant to the Brownfields Redevelopment Act, ss. 376.77-376.85.

(2) “Comprehensive plan” means a plan adopted pursuant to the Community Planning Act.

(3) “Developer” means any person, including a governmental agency, undertaking any development.

(4) “Development” means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(a) The following activities or uses shall be taken for the purposes of this act to involve “development”:

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.

2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in s. 161.021.

4. Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

5. Demolition of a structure.

6. Clearing of land as an adjunct of construction.

7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(b) The following operations or uses shall not be taken for the purpose of this act to involve "development":

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

2. Work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, or renewing on established rights-of-way or corridors, or constructing on established or to be established rights-of-way or corridors, any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

5. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

6. A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

7. A change in the ownership or form of ownership of any parcel or structure.

8. The creation or termination of rights of access, riparian rights, easements, distribution and transmission corridors, covenants concerning development of land, or other rights in land.

(c) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this subsection.

(5) “Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

(6) “Governing body” means the board of county commissioners of a county, the commission or council of an incorporated municipality, or any other chief governing body of a unit of local government, however designated.

(7) “Land” means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(8) “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.

(9) “Laws” means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, and rules adopted by a local government affecting the development of land.

(10) “Local government” means any county or municipality or any special district or local governmental entity established pursuant to law which exercises regulatory authority over, and grants development permits for, land development.

(11) “Local planning agency” means the agency designated to prepare a comprehensive plan or plan amendment pursuant to the Community Planning Act.

(12) “Person” means any individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, state agency, or any legal entity.

(13) “Public facilities” means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

(14) “State land planning agency” means the Department of Economic Opportunity.

History.—s. 20, ch. 86-191; s. 4, ch. 92-129; s. 9, ch. 99-378; s. 23, ch. 2011-139; s. 10, ch. 2012-96; s. 1, ch. 2018-34.

163.3223 Applicability.—Any local government may, by ordinance, establish procedures and requirements, as provided in ss. 163.3220-163.3243, to consider and enter into a development agreement with any person having a legal or equitable interest in real property located within its jurisdiction.

History.—s. 21, ch. 86-191.

163.3225 Public hearings.—

(1) Before entering into, amending, or revoking a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, one of the public hearings may be held by the local planning agency.

(2)(a) 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 the county where the local government is located. 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.

(b) 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.

History.—s. 22, ch. 86-191.

163.3227 Requirements of a development agreement.—

(1) A development agreement shall include the following:

(a) A legal description of the land subject to the agreement, and the names of its legal and equitable owners;

(b) The duration of the agreement;

(c) The development uses permitted on the land, including population densities, and building intensities and height;

(d) 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;

(e) A description of any reservation or dedication of land for public purposes;

(f) A description of all local development permits approved or needed to be approved for the development of the land;

(g) A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(h) 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

(i) 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.

(2) A development agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time.

History.—s. 23, ch. 86-191; s. 31, ch. 91-45.

163.3229 Duration of a development agreement and relationship to local comprehensive plan.—The duration of a development agreement may not exceed 30 years, unless it is extended by mutual consent

of the governing body and the developer, subject to a public hearing in accordance with s. 163.3225. No development agreement shall be effective or be implemented by a local government unless the local government's comprehensive plan and plan amendments implementing or related to the agreement are in compliance with s. 163.3184.

History.—s. 24, ch. 86-191; s. 32, ch. 91-45; s. 11, ch. 92-129; s. 5, ch. 2007-204; s. 24, ch. 2011-139.

163.3231 Consistency with the comprehensive plan and land development regulations.—A development agreement and authorized development shall be consistent with the local government's comprehensive plan and land development regulations.

History.—s. 25, ch. 86-191.

163.3233 Local laws and policies governing a development agreement.—

(1) The local government's laws and policies governing the development of the 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.

(2) A local government may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the local government has held a public hearing and determined:

(a) 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;

(b) 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;

(c) They are specifically anticipated and provided for in the development agreement;

(d) The local government demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or

(e) The development agreement is based on substantially inaccurate information supplied by the developer.

(3) This section does not abrogate any rights that may vest pursuant to common law.

History.—s. 26, ch. 86-191.

163.3235 Periodic review of a development agreement.—A local government shall review land subject to a 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 local government 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 local government.

History.—s. 27, ch. 86-191; s. 12, ch. 92-129; s. 25, ch. 2011-139.

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest. A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally subject to the development agreement, unless the amendment or cancellation directly modifies the allowable uses or entitlements of such owners' property.

History.—s. 28, ch. 86-191; s. 3, ch. 2021-195.

163.3239 Recording and effectiveness of a development agreement.—Within 14 days after a local government enters into a development agreement, the local government shall record the agreement with the clerk of the circuit court in the county where the local government is located. A development agreement is not effective until it is properly recorded in the public records of the 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.

History.—s. 29, ch. 86-191; s. 13, ch. 92-129; s. 26, ch. 2011-139.

163.3241 Modification or revocation of a development agreement to comply with subsequently enacted 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.

History.—s. 30, ch. 86-191.

163.3243 Enforcement.—Any party or aggrieved or adversely affected person as defined in s. 163.3215(2) may file an action for injunctive relief in the circuit court where the local government is located to enforce the terms of a development agreement or to challenge compliance of the agreement with ss. 163.3220-163.3243.

History.—s. 31, ch. 86-191; s. 27, ch. 2011-139.