

# CITY OF ALACHUA

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## **ORDINANCE 04 18**

**AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (ORDINANCE NO. 93-04, AS AMENDED) BY ADDING SECTION 14.14 IMPLEMENTING PROVISIONS OF THE “FLORIDA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT” AND PROVIDING PROCEDURES BY WHICH THE CITY MAY ENTER INTO DEVELOPMENT AGREEMENTS PURSUANT TO SUCH ACT; PROVIDING FOR A REPEAL OF INCONSISTENT LAWS; AND PROVIDING FOR AN EFFECTIVE DATE.**

*WHEREAS*, the authority for the enactment of this Ordinance is Sections 163.3220 through 163.3242, 166.021, and 166.041, *Florida Statutes*; and,

*WHEREAS*, the City Commission has determined that the comprehensive, long-range planning of the City’s facilities and infrastructure serves to implement the City’s Comprehensive Plan and to insure the presence of infrastructure necessary for coordinated growth; and,

*WHEREAS*, the City Commission has determined that the ability to provide proposed developments with greater certainty in the application of land use policy and the application of the City’s laws and codes will attract greater capital to the City and more desirable projects for the City; will result in a more efficient use of economic and land resources; will encourage sound capital improvement, planning and financing; will lower the cost of development; and will encourage commitment to comprehensive planning; and,

*WHEREAS*, the City Commission has determined that implementation of the provisions of the “Florida Local Government Development Agreement Act,” Sections 163.3220 through 163.3241, Florida Statutes (“Act”), will provide a formal method that supplements the City’s home rule authority and will provide additional means by which the foregoing goals can be attained with even greater certainty; and,

*WHEREAS*, the City Commission, as the applicable local government, is empowered by the Act to adopt procedures to govern the adoption of the development agreements; and,

*WHEREAS*, a public hearing was conducted on March 9, 2004, after “due public notice” by the City’s Planning and Zoning Board, sitting as the Local Planning Agency, with its recommendations reported to the City Commission; and,

*WHEREAS*, a public hearing was conducted on April 5, 2004, and April 19, 2004, after “due public notice” by the City Commission; and,

*WHEREAS*, the City Commission has determined that this Ordinance is consistent with the City’s adopted Comprehensive Plan and is in the best interest of the City and its citizens.

*NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA.*

**Section 1. Creation of Section 14.14 of the City of Alachua Land Development Regulations.**

Section 14.14 of the City of Alachua Land Development Regulations is created to read as follows:

**Section 14.14 Authorization to Adopt Development Agreements under Chapter 163, Florida Statutes.**

**14.14.1 Authority.** The City Commission may, in its sole discretion, decide to enter into development agreements in accordance with the provisions of this section and applicable Florida law.

**14.14.2 Application.** A proposed development agreement may be presented to the City Commission upon payment of an application fee of \$2,500. The application shall set forth all of the items required to be included in a development agreement pursuant to section 14.14.7.

**14.14.3 Hearings.** The City Commission shall conduct two (2) public hearings on an application for development agreement. Prior to the City Commission public hearings, the Local Planning Agency shall hold one public hearing on the proposed development agreement and forward a recommendation to the City Commission.

**14.14.4. Notice for Local Planning Agency.** Notice for intent to consider a development agreement shall be provided as follows:

- a) By mail, at least fourteen (14) days before the public hearing, to all “affected property owners” within 400 feet of the property boundary of the subject property.
- b) By publication, at least seven (7) days before the public hearing, in a newspaper of general circulation in Alachua County.
- c) Notice shall specify the location of land subject to the development agreement; the proposed development uses; the proposed population densities; the proposed building intensities; and, shall specify a place where a copy of the proposed development agreement can be obtained.

**14.14.5 Notice for City Commission.** Notice of intent to consider a development agreement shall be provided as follows:

- a) By mail, at least fourteen (14) days before the first public hearing, to all “affected property owners” within 400’ of the property boundary of the subject property.
- b) By publication, at least seven (7) days before each public hearing, in a newspaper of general circulation in Alachua County.
- c) The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.
- d) Notice shall specify the location of land subject to the development agreement; the proposed development uses; the proposed population densities; the proposed building intensities; and, shall specify a place where a copy of the proposed development agreement can be obtained.

**14.14.6. Criteria for Review.** In reaching a decision as to whether or not the development agreement should be approved, approved with changes, approved with conditions, or disapproved, the City Commission shall determine:

- a) whether the development agreement and the authorized development is consistent with the City’s Comprehensive Plan and Land Development Regulations; and

- b) whether it furthers the public health, safety and welfare to enter into the development agreement.

**14.14.7. Contents of Adopted Development Agreements.** An approved development agreement shall contain, at a minimum, the following items:

- a) A legal description and boundary sketch of the land subject to the development 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 heights and intensities;
- d) A description of public facilities that will serve 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 all local development permits approved or needed to be approved for the development of the land;
- f) A description of any reservation or dedication of land for public purposes;
- g) Findings to show how the development permitted or proposed is consistent with the City's Comprehensive Plan and Land Development Regulations;
- h) 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; and
- i) A statement indicating that the failure of the development 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, terms, or restrictions.

Requirements that the entire development or any phase thereof be commenced or completed within a specific period of time may be proscribed within the terms of the development agreement.

**14.14.8. Duration of a Development Agreement.** The duration of a development agreement shall not exceed ten (10) years. It may be extended by mutual consent of the City and the developer, subject to a public hearing before the City Commission in accordance with section 14.14.3.

**14.14.9 Consistency with the Comprehensive Plan and Land Development Regulations.** A development agreement and authorized development shall be consistent with the City of Alachua Comprehensive Plan and Land Development Regulations.

**14.14.10. City of Alachua Laws and Policies Governing Development Agreements.** The City'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. The City may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the City Commission 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; or,
- b) They are essential to public health, safety, and welfare, and expressly state that they shall apply to a development that is subject to a development agreement; or,
- c) They are specifically anticipated and provided for in the development agreement; or,
- d) Substantial changes have occurred in pertinent conditions existing at the time of the approval of the development agreement; or,
- e) The development agreement is based on substantially inaccurate information supplied by the developer.

Prior to conducting a public hearing to consider the application of subsequently adopted laws and policies, the City shall provide, except in case of emergency, thirty (30) days written notice to all parties to the development agreement. This provision does not abrogate any rights that may vest pursuant to common law.

**14.14.11. Recordation and Effectiveness.** The City shall record the development agreement, within fourteen (14) days of entering into the development agreement, with the Clerk of Circuit Court of Alachua County. A copy of the recorded development agreement shall be submitted to the Department of Community Affairs within fourteen (14) days after the development agreement is recorded. A development agreement shall not be effective until it is properly recorded in the public records of Alachua County, and until thirty (30) days after having been received by the Department of Community Affairs pursuant to this section. The burdens of the development agreement shall be binding upon, and the benefits of the development agreement shall inure to, all successors in interest to the parties to the development agreement.

**14.14.12. Review** The City Commission shall review land subject to a development agreement at least once every twelve (12) months to determine if there has been a demonstration of good faith compliance with the terms of the development agreement. For each annual review conducted during the years 6 through 10 of a development agreement, the review shall be incorporated into a written report, which shall be submitted to the parties to the development agreement and the Department of Community Affairs. If the City Commission finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the City Commission may revoke or modify the development agreement.

**Section 2. Repeal of any conflicting ordinances.**

This ordinance hereby repeals all provisions of Ordinances or Resolutions in conflict.

**Section 3. Severability**

It is the declared intent of the Alachua City Commission that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by a court of agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of this ordinance after the exclusion of such part or parts shall be deemed to be valid.

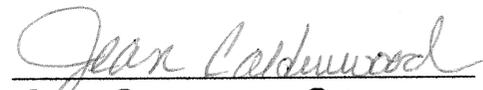
**Section 4. Effective Date**

This ordinance shall become effective immediately upon adoption.

**PASSED** on first reading this 5<sup>th</sup> day of April 2004.

**PASSED and ADOPTED**, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 19<sup>th</sup> day of April 2004.

*CITY COMMISSION OF THE  
CITY OF ALACHUA, FLORIDA*

  
Jean Calderwood, Mayor

Attest:

Approved as to form and correctness:

  
Clovis Watson, Jr. MPA  
City Manager

  
Marian B. Rush  
City Attorney