

## **Chapter 18.20: Development Agreements**

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### **18.20.010 Purposes**

- A. The purpose of this chapter is to implement Government Code Sections 65864–65869.5, authorizing governmental entities to enter into legally binding agreements with private parties. This chapter outlines the procedures and minimum requirements for the review and consideration of development agreements upon application by, or on behalf of, property owners, the Planning Commission, or the City Council.
  
- B. It is intended that the provisions of this chapter shall be fully consistent and in full compliance with the provisions of the Government Code and shall be so construed. In construing the provisions of any development agreement entered into in compliance with this chapter, those provisions shall be read to fully effectuate and to be consistent with the language of this chapter, State law, and the agreement. Should any apparent discrepancies between the meaning of these documents arise, reference shall be made to the following documents and in the following order:
  - 1. The plain terms of the development agreement.
  - 2. The provisions of this chapter.
  - 3. The provisions of State law.

### **18.20.020 Application**

- A. Any owner of real property may request and apply through the Director to enter into a development agreement. Acceptance of the application is contingent on the following:
  - 1. The status of the applicant, as an owner of the property, is established to the satisfaction of the Director.
  - 2. The application is made on forms approved and contains all information required by the Director.

3. The application is accompanied by all lawfully required documents, materials, and information.
- B. The Director shall receive, review, and process all applications for development agreements and prepare recommendations for Planning Commission and City Council consideration for all such applications.
- C. Processing fees, as established by resolution of the Council, shall be collected for any application for a development agreement made in compliance with this chapter. Additionally, appropriate fees shall be established and collected for periodic reviews conducted by the Director in compliance with State law.

### **18.20.030 Public Hearings**

- A. The Director, upon finding the application for a development agreement complete, shall set the application, together with recommendations, for a public hearing before the Planning Commission in compliance with Chapter 18.11, Common Procedures. Following conclusion of a public hearing, the Planning Commission shall make a written recommendation to the Council that it approves, conditionally approves, or denies the application.
- B. Upon receipt of the Planning Commission's recommendation, the City Clerk shall set the application and written report of the Planning Commission for a public hearing before the Council in compliance with Chapter 18.11, Common Procedures. Following conclusion of the public hearing, the Council shall approve, conditionally approve, or deny the application.
- C. Notice of the hearings shall be given in the form of a notice of intention to consider approval of a development agreement in compliance with State law, Government Code Section 65867.

### **18.20.040 Findings**

The City Council may approve or conditionally approve a development agreement only after first making all the following findings:

- A. The development agreement would be in the best interest of the City.
- B. The development agreement would promote the public interest and welfare of the City.

### **18.20.050 Execution and Recordation**

- A. The City shall not execute any development agreement until on or after the date upon which the ordinance approving the agreement becomes effective.
- B. The provisions of this chapter shall not be construed to prohibit the Director, Board,

Planning Commission, or City Council from conditioning approval of a discretionary entitlement on the execution of a development agreement where the condition is otherwise authorized by law.

- C. A development agreement shall be recorded with the County Recorder no later than 10 days after it is executed.

#### **18.20.060 Effect of Development Agreement**

Unless otherwise provided by the development agreement, the rules, regulations, and official policies governing allowed uses of the land, density, design, improvement, and construction standards and specifications applicable to development of the property subject to a development agreement are the rules, regulations, and official policies in force at the time of execution of the agreement.

The agreement does not prevent the City in subsequent actions from conditionally approving or denying any subsequent development project application on the basis of existing or new rules, regulations, and policies.

#### **18.20.070 Annual Review**

- A. Development agreements shall be limited to a period not to exceed a maximum of 10 years from the effective date of the adopting ordinance. The City may specify in the agreement options to renew the term of the agreement.
- B. Development agreements may be reviewed once every 12 months at the request of the City Council, Director, or applicant unless the agreement provides for a different review period, in which case the agreement shall prevail.
- C. The purpose of the review shall be to inquire into the good faith compliance of the applicant with the terms and conditions of the agreement and for any other purpose specified in the agreement.
- D. Prior to each review, the Director shall prepare a report on all development that has occurred under the agreement subsequent to the last review and any other matters the department wishes to bring to the Council's attention.
- E. If the Director review determines that all terms and conditions of the agreement were met and the Council concurs, no further review is required.
- F. If the Director recommends modification or termination of the agreement, a public hearing shall be scheduled before the Planning Commission on the agreement. Notice of intention
- G. to modify or terminate the agreement shall be given in the same manner as set forth in Section 18.20.030. At such hearing, the applicant shall have the burden of demonstrating his/her good faith compliance with the terms and conditions of the agreement. After

closing the public hearing, the Planning Commission shall determine whether to recommend that the agreement be terminated, modified, or confirmed as is.

- H. Upon receipt of the Director's or Planning Commission's recommendation, the City Council shall schedule a public hearing. Notice of intention to modify or terminate the agreement shall be given as prescribed in Section 18.20.030. If, after the public hearing is closed, the City Council finds and determines on the basis of substantial evidence that the applicant or its successor in interest has not complied in good faith with the terms and conditions of the agreement, the City Council may modify or terminate the agreement

### **18.20.080      Approved Development Agreements**

Development agreements approved by the City Council shall be on file with the City Clerk.