

**CITY OF REDDING, CALIFORNIA  
COUNCIL POLICY**

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BACKGROUND

Section 65864 of the State Government Code allows local agencies to enter into development agreements with owners of property. To do so, the Agency must establish procedures and requirements for the consideration of development agreements. The City Council adopted Resolution No. 81-87 to provide for development agreements.

PURPOSE

The purpose of this Policy is to establish procedures for the review and consideration of applications for development agreements with the City and to incorporate these procedures into the Council Policy Manual.

POLICY

It is the Policy of the City of Redding to review and consider applications for development agreements in accordance with the procedures described in Exhibit "A" attached hereto.

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EXHIBIT A  
REGULATIONS ESTABLISHING  
PROCEDURES AND REQUIREMENTS FOR CONSIDERATION OF  
DEVELOPMENT AGREEMENTS

Table of Articles

Article 1 Applications  
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Article 1. Applications

Section 101 Authority for adoption  
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 Section 104 Qualification as an applicant  
 Section 105 Proposed form of agreement  
 Section 106 Review of application

Section 101. Authority for adoption. These regulations are adopted under the authority of Government Code Sec. 65864 - 65869.5.

Section 102. Forms and information.

(a) The Planning Director shall prescribe the form for each application, notice and document provided for or required under these regulations for the preparation and implementation of development agreements.

(b) The Planning Director may require an applicant to submit such information and supporting data as the Planning Director considers necessary to process the application.

Section 103. Fees. The City Council shall by separate resolution fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations.

Section 104. Qualification as an applicant. Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or

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equitable interest in the real property which is the subject of the development agreement. Applicant includes authorized agent. The Planning Director may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Planning Director shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

Section 105. Proposed form of agreement. Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by designating the City's standard form of development agreement and including specific proposal for changes in or additions to the language of the standard form.

Section 106. Review of application. The Planning Director shall endorse on the application the date it is received. He shall review the application and may reject it if it is incomplete or inaccurate for processing. If he finds that the application is complete, he shall accept it for filing. The director shall review the application and determine the additional requirements necessary to complete the agreement. After receiving the required information, he shall prepare a staff report and recommendation and shall state whether or not the agreement proposed or in an amended form would be consistent with the general plan and any applicable specific plan.

**Article 2. Notices and Hearing**

- Section 201 Duty to give notice
- Section 202 Requirements for form and time of notice  
of intention to consider adoption of  
development agreement
- Section 203 Failure to receive notice
- Section 204 Rules governing conduct of hearing
- Section 205 Irregularity in proceedings

Section 201. Duty to give notice. The Planning Director shall give notice of intention to consider adoption of development agreement and of any other public hearing required by law or these rules.

Section 202. Requirements for form and time of notice of intention to consider adoption of development agreement.

- (a) Form of notice. The form of the notice of intention to consider adoption of development agreement shall contain:
- (1) the time and place of the hearing;

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- (2) a general explanation of the matter to be considered, including a general description of the area affected; and
- (3) other information required by specific provision of these regulations or which the Planning Director considers necessary or desirable.

(b) Time and manner of notice. The time and manner of giving notice is by:

(1) Publication or posting. Publication at least once in a newspaper of general circulation, published and circulated in the City of Redding, or if there is none, posting in at least three public places in the City of Redding.

(2) Mailing. Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement. If the number of owners to whom notice is to be mailed is greater than 1,000, the Planning Director may, as an alternative, provide notice in the manner set forth in Section 65854.5(b) of the Government Code.

(c) Additional notice. The Planning Commission or City Council, as the case may be, may direct that notice of the public hearing to be held before it shall be given in a manner that exceeds the notice requirements prescribed by state law.

(d) Declaration of existing law. The notice requirements referred to in subsections (a) and (b) are declaratory of existing law (Govt. Code Section 65867 and Section 65854, 65854.5 and 65856 as incorporated by reference). If state law prescribes a different notice requirement, notice shall be given in that manner.

Section 203. Failure to receive notice. Lack of receipt by any person entitled to notice required by law or these regulations does not affect the authority of the City to enter into a development agreement.

Section 204. Rules governing conduct of hearing. The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted under Government Code Section 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

Section 205. Irregularity in proceedings. No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by

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reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error, the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not presumption that error is prejudicial or that injury was done if error is shown.

Article 3. Standards of Review, Findings and Decision

- Section 301 Determination by Planning Commission
- Section 302 Decision by City Council
- Section 303 Approval of development agreement

Section 301. Determination by Planning Commission. After the hearing by the Planning Commission, the Planning Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

- (1) is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- (2) is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- (3) is in conformity with public convenience, general welfare and good land use practice;
- (4) will be detrimental to the health, safety and general welfare; and
- (5) will adversely affect the orderly development of property or the preservation of property values.

The recommendation shall include the reasons for the recommendation.

Section 302. Decision by City Council.

(a) After the City Council completes the public hearing, it may accept, modify or disapprove the recommendation of the Planning Commission. It may, but need not, refer matters not previ-

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ously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

(b) The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

Section 303. Approval of development agreement. If the City Council approves the development agreement, it shall do so by the adoption of an ordinance.

After the ordinance approving the development agreement takes effect, the City Council may enter into the agreement.

Article 4. Amendment and Cancellation of Agreement by Mutual Consent

- Section 401 Initiation of amendment or cancellation  
by mutual consent
- Section 402 Procedure

Section 401. Initiation of amendment or cancellation. Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

Section 402. Procedure. The procedure for proposing and adoption of an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement in the first instance (Articles 1 through 3).

However, where the City initiates the proposed amendment to or cancellation in whole or in part of the development agreement, it shall first give notice to the property owner of its intention to initiate such proceedings at least 15 days in advance of the giving of notice of intention to consider the amendment or cancellation required by Section 202.

Article 5. Recordation

- Section 501 Recordation of development agreement,  
amendment or cancellation

Section 501. Recordation of development agreement,  
amendment or cancellation.

(a) Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

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(b) If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code Section 65868, or if the City terminates or modifies the agreement as provided in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

**Article 6. Periodic Review**

- Section 601 Time for and initiation of review
- Section 602 Notice of periodic review
- Section 603 Delegation to Planning Director
- Section 604 Hearing
- Section 605 Findings upon hearing
- Section 606 Procedure upon findings

Section 601. Time for and initiation of review. The City shall review the development agreement every 12 months from the date the agreement is entered into.

The time for review may be modified either by agreement between the parties or by initiation in one or more of the following ways:

- (1) recommendation of the Planning staff;
- (2) affirmative vote of at least four members of the Planning Commission
- (3) affirmative vote of at least three members of the City Council

Section 602. Notice of periodic review. The Planning Director shall begin the review proceeding by giving notice that the City intends to undertake a periodic review of the development agreement to the property owner. He shall give the notice at least 15 days in advance of the time at which the matter will be considered by the Planning Director.

Section 603. Delegation to Planning Director. Review shall be conducted by the Planning Director.

Section 604. Hearing. The Planning Director shall conduct a hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.

Section 605. Findings upon hearing. The Planning Director shall determine, upon the basis of substantial evidence, whether or not the property owner has, for the period under review,

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complied in good faith with the terms and conditions of the agreement.

Section 606. Procedure upon findings.

(a) If the Planning Director finds and determines, on the basis of substantial evidence, that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded, and a notice of that determination shall be published and mailed as provided in Section 202(b).

(b) If the Planning Director finds and determines, on the basis of substantial evidence, that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the City may modify or terminate the agreement, based upon a report filed with it by the Planning Director.

(c) The property owner may appeal a determination pursuant to paragraph (b) to the Planning Commission in accordance with City's rules for consideration of appeals.

Article 7. Modification or Termination

Section 701 Proceedings upon modification or Termination

Section 702 Hearing on modification or termination

Section 701. Proceedings upon modification or termination.  
If upon a finding under Section 606(b), the City determines to proceed with modification or termination of the agreement, the City shall give notice to the property owner of its intention to do so. The notice shall contain:

- (1) the time and place of the hearing;
- (2) a statement as to whether or not the City proposes to terminate or to modify the development agreement; and
- (3) other information which the City considers necessary to inform the property owner of the nature of the proceeding.

Section 702. Hearing on modification or termination. At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Director for further proceedings or for report and recommendation. The City council may impose those conditions to the action it takes as it considers necessary to protect the interests of the City. The decision of the City Council is final.