

Annexation /Rezone Agreement

1: PURPOSE:

Development agreements are a discretionary tool to be used by the council as a condition of rezoning and annexations. Development agreements allow a specific project with a specific use to be developed on property in an area that is not appropriate for all uses allowed or conditional in the requested zone.

2: INITIATION:

- A. Method Of Initiation: A development agreement may be initiated for the rezoning of a particular parcel of land or collection of parcels of land through the following methods:
1. On application by the property owner.
 2. On recommendation of the zoning administrator.
 3. On recommendation of the commission.
 4. Required by the council.
- B. By Commission: In the event of a determination by the commission that a development agreement should be entered into, the commission will make recommendations to the City Council for the development agreement. The commission shall then proceed as specified in this section.
- C. By Council: In the event of a determination by the council that a development agreement should be entered into, the council shall negotiate the development agreement.
- D. In Either Case: In the event of either of the above, all time limits required by this code may be stayed upon affirmative vote of the commission or council.

3: FORM:

A development agreement shall be in the form required by the zoning administrator. No agreement shall be accepted by the zoning administrator, which does not include the following:

- A. An affidavit by the owner of the parcel agreeing to submit the parcel to a development agreement.
- B. The specific use or uses of the parcel for which the development agreement is sought.

- C. The allowed or conditional use in the conditional zone for which application has been made.
- D. A concept plan of the project to be developed on the parcel. The concept plan shall include:
 - 1. A description of the density allowed or sought.
 - 2. Maximum height, size, and location of any structures on the property.
- E. The time required to begin the use on the property.
- F. A statement by the owner of the parcel that failure to comply with the commitments in the development agreement shall be deemed consent to rezone the use to the pre existing zone or, in the case of an initial zone at annexation, a zone deemed appropriate by the council.
- G. Any other matter mutually agreeable to the parties.

4: APPROVAL:

- A. The council may require a development agreement be executed to allow a rezone if, in the opinion of the council, approval of the requested rezone does not satisfy the requirements set forth in the zoning ordinance for rezone approval, but the particular project or use contemplated has a value to the community that would justify the use of a development agreement. A development agreement may not allow a use on the parcel that is not a permitted or conditional use in the requested zone.
- B. Development agreements may be approved by the council only after a public hearing. The public hearing shall follow the notice and hearing provisions of Idaho Code section 67-6509.
- C. The council may add conditions, terms, duties or obligations to the development agreement.

5: RECORDATION:

Following approval of a development agreement by the city council, the development agreement shall be recorded in the office of the county recorder at the expense of the property owner. The development agreement, and all conditions, terms, duties or obligations included therein, shall run with the land and shall be considered continuing obligations of the owner or subsequent owner and each other person acquiring an interest in the property.

6: DUTY TO COMPLY:

An owner, subsequent owner, and each other person acquiring an interest in property that is restricted by a development agreement adopted pursuant to this chapter, shall comply with the terms, conditions, obligations and duties contained in the development agreement.

7: MODIFICATION:

A development agreement may be modified by the city council only after complying with the notice and public hearing provisions of Idaho Code section 67-6509.

8: TERMINATION:

- A. Hearing Required: A development agreement may be terminated by the city council for failure to comply with the commitments expressed in the development agreement. Such termination shall take place after a public hearing on the termination at which time testimony shall be taken to establish noncompliance with the conditions, terms, obligations or duties contained within the development agreement. The public hearing shall follow the notice and hearing provisions of Idaho Code section 67-6509.

- B. Failure to Comply or Termination of the Agreement: Upon termination of the development agreement, the property shall revert to the previous zone assigned prior to adoption of the development agreement or, in the case of an initial zone at annexation, a zone deemed appropriate by the council.