

#### **17.40 - Development agreements.**

- A. Development Agreements are Discretionary. Consistent with RCW 36.70B.170, the city may, upon approval of the City Council, enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations contained in KMC Title 17 and applicable adopted city, plans polices, and standards. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities.
- B. For the purposes of this section, "development standards" include, but are not limited to:
  - 1. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
  - 2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
  - 3. Mitigation measures, development conditions, and other requirements under KMC 17.14 (SEPA);
  - 4. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
  - 5. Affordable housing;
  - 6. Parks and open space preservation;
  - 7. Phasing;
  - 8. Review procedures and standards for implementing decisions;
  - 9. A build-out or vesting period for applicable standards; and
  - 10. Any other appropriate development requirement or procedure.
- C. Effect. Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period of the project specified in the agreement, and the project may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the city after the execution of the development agreement must be consistent with the development agreement.
- D. Modifications. The development agreement may be amended upon the mutual agreement of the parties and approval of the City Council under the procedures set forth in subsection \_\_\_\_. The city shall reserve authority in each development agreement to unilaterally impose new or different regulations only if necessary, and to the extent necessary, to address a serious threat to public health and safety.
- E. Procedure. A development agreement is a Class 4 decision and shall be processed in accordance with the procedures of KMC 17.10.080; provided however, that the City Council or Planning Commission may conduct the public hearing. A development agreement shall be approved by the Kelso City Council after public hearing. Prior to the public hearing before city council, the proponent of the development agreement shall complete and submit to the planning director a SEPA checklist if required under Chapter 17.10.110 KMC.
- F. Judicial appeal. If the development agreement relates to a project permit application, the provisions of Chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement.

G. Recording. After approval by city council, the development agreement shall be recorded within the real property records of Cowlitz County. During the term of the development agreement, the agreement is binding on the parties and their successors, including successor jurisdictions.