

Commentary

ATTACHMENT A – LEWIS COUNTY CODE 1.30 DEVELOPMENT AGREEMENTS

RCW 36.70B.107

A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. 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 the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter [36.70A](#) RCW.

*This is a new code section and
is not underlined for ease of reading.*

**Chapter 1.30
DEVELOPMENT AGREEMENTS**

Sections:

- 1.30.010 Purpose
- 1.30.020 Statuary Authority
- 1.30.030 Procedure
- 1.30.040 Applicability
- 1.30.050 Approval Criteria
- 1.30.060 Vesting

Commentary

1.30.010

The purpose is to better meet the intent of the County regarding development. The County acknowledges that the development regulations cannot address every situation and there are unique development situations that warrant alternative processes or standards.

1.30.030

Development is intended to be concentrated within Urban Growth Areas and LAMIRDS (as such term is referred to below). Allowing development agreements in these same areas can expedite development and support growth targets.

1.30.040

(1) Although it may be requested by the property owner or developer, only the Board of County Commissioners may formally initiate a development agreement process via resolution. This is to ensure that County staff and resources are appropriately used on priority issues. If the BOCC does not pass a resolution directing staff to negotiate a development agreement, the development of the subject property may proceed through typical permit processes and under adopted development regulations.

(2) Depending on the type of agreement, public engagement may take on a range of approaches. Some agreements may only need one open house, while others would benefit from an ad-hoc advisory committee. The County Manager (or designee), working with the BOCC, will determine the appropriate public engagement.

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1.30.010 Purpose.

A development agreement is a voluntary contract between Lewis County and a person or entity who owns or controls property within the unincorporated county, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property in order to better achieve the goals and policies of the Lewis County Comprehensive Plan than would otherwise be achieved by the existing Lewis County Code standards.

1.30.020 Statutory Authority.

The Local Project Review Act (Ch. 36.70B RCW and 365-196-845 WAC), enacted in 1995, provides specific authority and direction for development agreements. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a threat to public health and safety.

1.30.030 Applicability.

Development Agreements may only be recorded to parcels of land located within an Urban Growth Area, including Major Industrial Districts and Master Planned Resorts, or parcels of land designated as a Limited Area of More Intense Development, herein called LAMRID.

1.30.040 Procedure.

- (1) Initiation. The development agreement process shall be initiated by the Board of County Commissioners via resolution directing the County Manager, or County Manager's designee, to negotiate the terms of the agreement on behalf of the County. The resolution shall identify departmental leads, including but not limited to Department of Community Development, Public Works, and Public Health & Social Services, who shall participate in the negotiation process as necessary.
- (2) Public Engagement. The County Manager or designee shall determine the appropriate approach to engaging with potentially impacted members of the public. Engagement shall potentially include, but not be limited to, agencies with jurisdiction, tribal governments, special districts, local community groups and owners of property within a 500-foot radius of the subject property.
- (3) Fees. The legal representative of the subject party agrees to pay fees as adopted in the Lewis County Fee Schedule.

Commentary

1.30.040

(4) Development agrees are noticed similar to other land use actions taken by the County. Direct noticing, publication in the newspaper of record and posting on the subject property are intended to provide a wide distribution of the notice and allow for full engagement in the public hearing process.

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- (4) Notice.
- (a) Timing. At least 15 calendar days before a public hearing to consider adoption of the development agreement, the Board of County Commissioners shall issue a notice of hearing.
 - (b) Content. The notice shall include, but not be limited to, all of the applicable information required by RCW 36.70B.110(2).
 - (b) Distribution. A copy of the notice shall be mailed to all of the following and the mailing shall be postmarked at least 15 calendar days prior to the hearing date:
 - (i) The legal representative of the subject property.
 - (ii) Agencies with jurisdiction, including tribal governments.
 - (iii) Special Districts with jurisdiction, including but not limited to water, sewer, fire and school.
 - (iv) Owners of property located within a 500-foot radius of the subject property, as measured from the outer parcel boundaries.
 - (v) Community groups that the County Manager or designee may identify as having an interest in the agreement.
 - (vi) Other people who request such notice in writing.
 - (c) Publication. The notice shall be published in the legal newspaper of record at least 15 calendar days prior to the hearing date.
 - (d) Posting. A notice sign(s) shall be placed on the subject property. The sign shall be in a location that is clearly visible and readily readable from any public right-of-way that provides primary vehicular access to the subject property. The posting shall include a summary of the notice, instructions for obtaining additional information, and the date, time and location of the public hearing. The sign(s) shall be removed from the subject property and properly disposed of by the county after an action on the agreement has been taken by the Board of County Commissioners.
- (5) Public Hearing. Development agreements are quasi-judicial governmental action that requires an open record public hearing and decision by the Lewis County Board of County Commissioners.
- (6) Recording. Development agreements shall be recorded with the County Auditor.
- (7) Appeals. Development agreement decisions by the Board of County Commissioners may be appealed to the appropriate court.

Commentary

1.30.050

(1) and (2) Development agreements are not a way to "get out of" meeting the Comprehensive Plan goals and policies. Development agreements are a way to better achieve the goals and policies. It is expected that an attachment to the agreement will be findings of fact in relation to the applicable goals and policies, demonstrating how they are better implemented by the agreement than by the Lewis County Code.

(3) Permitted uses, as specified in LCC 17.42 Table 2, are not included in the list and may not be altered by a development agreement. Likewise, road standards may not be altered by a development agreement; however, transportation mitigation may be considered in a development agreement.

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1.30. 050 Approval Criteria.

- (1) Lewis County Comprehensive Plan. The terms of the development agreement shall be consistent with and implement applicable Lewis County Comprehensive Plan goals and policies and shall achieve an overall public benefit.
- (2) Functional equivalent. The terms of the development agreement shall be consistent with applicable development regulations to the fullest extent possible; provided, a development agreement may allow development standards different from those otherwise imposed under the Lewis County Code in order to provide flexibility to respond to changing community needs.
- (3) Development regulations. Any development regulations approved pursuant to a development agreement that differ from those in this code shall not require any further zoning reclassification, variance from county standards or other county approval apart from development agreement approval. The development regulations, as approved through a development agreement, shall apply to and govern the development of the subject property in lieu of any conflicting or different standards or regulations elsewhere in the Lewis County Code. The terms of the development agreement may alter applicable development regulations or standards related to only the following:
 - (a) Development density, intensity or building lot coverage.
 - (b) Design standards including, but not limited to, height, setbacks, parking, roads, drainage, or landscaping.
 - (c) Mitigation measures including, but not limited to, transportation and environmental, except as required by state or federal laws.
 - (d) Creation or preservation of public open space.
 - (e) Development phasing, including provision of utilities.
 - (f) Amount and timing of fees, or dedications, except as required by state laws.
 - (g) Review procedures or standards for implementing terms of the agreement.
 - (h) Terms or timing of annexation.
 - (i) Development agreements authorized within designated Urban Growth Areas (UGAs) may include provisions addressing off-site improvements or mitigation measures located outside UGA boundaries, where such improvements or mitigation are reasonably necessary to serve or mitigate impacts of the subject development. Consideration of such off-site improvements shall be limited to those directly related to the development.

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1.30.060

Vesting means that, even if Lewis County Code is amended the terms of the development agreement prevail for the term of the agreement. This provide certainty for projects that may take 10 or more years for all phases to be completed.

Commentary

1.30.060 Vesting

Subsequently adopted regulations or standards that differ from those of a development agreement adopted by the Board of County Commissioners, as provided in this chapter, shall apply to the covered development project only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified. Determination of the appropriate standards for future phases which are not fully defined during the initial approval process may be postponed. Building permit applications shall be subject to the building codes in effect as of the date the County receives a complete building permit application.