



Development Agreement Application Requirements

REVIEW CRITERIA: Approval, Amendment, Assignment: All development agreements shall be negotiated by the Manager and submitted to the Planning Commission for review and recommendation to the City Council. Following a public hearing, the City Council shall review and may approve any negotiated development agreement by ordinance, which shall be recorded in the office of the El Paso County Clerk and Recorder along with the agreement. Any amendment of the terms and conditions of an approved development agreement shall also be negotiated, reviewed, approved and recorded in accord with this section. Unless otherwise provided in the development agreement, the developer shall not assign any right, title or interest in or to the development agreement without the prior written consent of the City Council, which may be accomplished by resolution or ordinance if an amendment to the development agreement is necessary in conjunction with the assignment. (Ord. 03-110; Ord. 04-29; Ord. 04-44; Ord. 09-70; Ord. 09-80)

SUBMITTAL CHECKLIST: Any Development Agreement application must contain the following items.

Applicant	Planner
<input type="checkbox"/> General Development Application Form	<input type="checkbox"/>
<input type="checkbox"/> 1 copy of a DRAFT of the DEVELOPMENT AGREEMENT using the Development Agreement outline which sets forth the format which must be followed	<input type="checkbox"/>
<input type="checkbox"/> A legal description of the proposed project	<input type="checkbox"/>
<input type="checkbox"/> All plans, documents, and reports uploaded to Dropbox folder (Planner to send folder invite link through email)	<input type="checkbox"/>

DEVELOPMENT AGREEMENT CONTENT REQUIREMENTS: The content of the development agreement must include the following information. Other information as agreed upon may be included/required.

- Identification of public benefits the developer intends to provide which are not otherwise available through the City's land use and development ordinances and regulations.

- A clear statement of what rights or densities of development are vested by the agreement and the length of the vesting period.

- A term of effectiveness of not more than twenty (20) years.

- An itemization of any special payments or improvements attributable to the development agreement to be made by the developer.

- A statement that in the event Citywide growth limits or building permit restrictions of general applicability are imposed which would otherwise impact the developer's ability to realize vesting at the maximum intensity of development within the vesting period, terms of the development agreement shall be extended or modified for a reasonable period as required to comply with said limits or restrictions. Such extension or modification shall be negotiated between the developer and the City, based upon the financial amortization of the costs for constructed or previously committed public benefits (as specified in subsection D1 of this section) by the proceeds from development. Following a noticed public hearing, the City Council retains the right to increase the project's pro rata share of development which is otherwise limited by the growth limits or building permit restrictions, provided that the increase in the project's development entitlement is necessary to allow the amortization of constructed or previously committed public benefits described above, and provided the increase in the project's pro rata share of authorized development is compensated by a proportionate decrease of development entitlements elsewhere in the City, as may be required to maintain consistency with the Citywide growth limitation measure.

- A statement that if the need for a public benefit described in subsection D1 of this section no longer exists, the City retains the right to require an alternate benefit of equal value in lieu of the benefit identified in the agreement.

- A statement that the developer understands platting, drainage, impact and other fees or exactions of general applicability shall be imposed and payable by the developer at the time of each subsequent development application in accord with the provisions of the City's Zoning and Subdivision Codes.

- A statement that the City may agree to credit any special payments or improvements attributable to the development agreement made by the developer as a condition of the development agreement against any fees or exactions of general applicability. Any such payments shall be indexed for inflation from the date of the agreement. Credits or special payments shall not be transferred between types of public improvements (e.g., park credits to offset drainage fees).

- A statement that the developer agrees that the development shall be subject to all statutes, ordinances, rules, regulations, tariffs, policies or other regulatory documents governing the supply, availability or use of utility service in effect at the time service is requested or provided.

- A statement that the developer agrees that the development shall be subject to all statutes, ordinances, rules, regulations, tariffs, policies or other regulatory documents of general applicability in effect at the time of any subsequent development application filed on the property subject to the agreement.