

DEVELOPMENT AGREEMENTS

94.504 Development agreements; contents; duration; effect on affordable housing covenants.

(1) A city or county may enter into a development agreement as provided in ORS 94.504 to 94.528 with any person having a legal or equitable interest in real property for the development of that property.

(2) A development agreement shall specify:

- (a) The duration of the agreement;
- (b) The permitted uses of the property;
- (c) The density or intensity of use;
- (d) The maximum height and size of proposed structures;
- (e) Provisions for reservation or dedication of land for public purposes;
- (f) A schedule of fees and charges;
- (g) A schedule and procedure for compliance review;
- (h) Responsibility for providing infrastructure and services;
- (i) The effect on the agreement when changes in regional policy or federal or state law or rules render compliance with the agreement impossible, unlawful or inconsistent with such laws, rules or policy;
- (j) Remedies available to the parties upon a breach of the agreement;
- (k) The extent to which the agreement is assignable; and
- (L) The effect on the applicability or implementation of the agreement when a city annexes all or part of the property subject to a development agreement.

(3) A development agreement shall set forth all future discretionary approvals required for the development specified in the agreement and shall specify the conditions, terms, restrictions and requirements for those discretionary approvals.

(4) A development agreement shall also provide that construction shall be commenced within a specified period of time and that the entire project or any phase of the project be completed by a specified time.

(5) A development agreement shall contain a provision that makes all city or county obligations to expend moneys under the development agreement contingent upon future appropriations as part of the local budget process. The development agreement shall further provide that nothing in the agreement requires a city or county to appropriate any such moneys.

(6) A development agreement must state the assumptions underlying the agreement that relate to the ability of the city or county to serve the development. The development agreement must also specify the procedures to be followed when there is a change in circumstances that affects compliance with the agreement.

(7) A development agreement is binding upon a city or county pursuant to its terms and for the duration specified in the agreement.

(8) The maximum duration of a development agreement entered into with:

- (a) A city is 15 years; and
- (b) A county is seven years.

(9) ORS 94.504 to 94.528 do not limit the authority of a city or county to take action pursuant to ORS 456.270 to 456.295. [1993 c.780 §1; 2005 c.315 §1; 2007 c.691 §7]

Note: 94.504 to 94.528 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 94 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

94.505 [Repealed by 1971 c.478 §1]

94.508 Approval by governing body; findings; adoption. (1) A development agreement shall not be approved by the governing body of a city or county unless the governing body finds that the agreement is consistent with local regulations then in place for the city or county.

(2) The governing body of a city or county shall approve a development agreement or amend a development agreement by adoption of an ordinance declaring approval or setting forth the amendments to the agreement. Notwithstanding ORS 197.015 (10)(b), the approval or amendment of a development agreement is a land use decision under ORS chapter 197. [1993 c.780 §2; 2005 c.22 §74; 2007 c.354 §27]

Note: See note under 94.504.

94.510 [Repealed by 1971 c.478 §1]

94.513 Procedures on consideration and approval. (1) A city or county may, by ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the owner of property on which development is sought or another person having a legal or equitable interest in that property.

(2) Approval of a development agreement requires compliance with local regulations and the approval of the city or county governing body after notice and hearing. The notice of the hearing shall, in addition to any other requirements, state the time and place of the public hearing and contain a brief statement of the major terms of the proposed development agreement, including a description of the area within the city or county that will be affected by the proposed development agreement. [1993 c.780 §3]

Note: See note under 94.504.

94.515 [Repealed by 1971 c.478 §1]

94.518 Application of local government law and policies to agreement. Unless otherwise provided by the development agreement, the comprehensive plan, zoning ordinances and other rules and policies of the jurisdiction governing permitted uses of land, density and design applicable to the development of the property subject to a development agreement shall be the comprehensive plan and those ordinances, rules and policies of the jurisdiction in effect at the time of approval of the development agreement. [1993 c.780 §4]

Note: See note under 94.504.

94.520 [Repealed by 1971 c.478 §1]

94.522 Amendment or cancellation of agreement; enforceability. (1) A development agreement may be amended or canceled by mutual consent of the parties to the agreement or their successors in interest. The governing body of a city or county shall amend or cancel a development agreement by adoption of an ordinance declaring cancellation of the agreement or setting forth the amendments to the agreement.

(2) Until a development agreement is canceled under this section, the terms of the development agreement are enforceable by any party to the agreement. [1993 c.780 §5]

Note: See note under 94.504.

94.525 [Repealed by 1971 c.478 §1]

94.528 Recording. Not later than 10 days after the execution of a development agreement under ORS 94.504 to 94.528, the governing body of the city or county shall cause the development agreement to be presented for recording in the office of the county clerk of the county in which the property subject to the agreement is situated. In addition to other provisions required by ORS 94.504 to 94.528, the development agreement shall contain a legal description of the property subject to the agreement. [1993 c.780 §6]