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## Chapter 22.70

### DEVELOPMENT AGREEMENTS

Sections:

<b>22.70.010</b>	<b>Purpose.</b> No Change
<b>22.70.020</b>	<b>Applicability.</b> No Change
<b>22.70.040</b>	<b>Review process.</b> REVISED
<b>22.70.050</b>	<b>Enforcement.</b> No Change
<b>22.70.060</b>	<b>Appeals.</b> No Change

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#### **22.70.040 Review process.**

A. *Review Type.* Pursuant to RCW [36.70B.020\(4\)](#), development agreements are not “project permit applications.” The decision of the city council to approve or reject a request for a development agreement shall be processed subject to the requirements in this chapter and shall include a fee, as established by the current fee resolution.

B. *Development Agreement Contents.* The proposed development agreement shall set forth the development standards and other provisions that apply to, govern, and vest the development, use, and mitigation of the real property for the duration of the agreement. The development agreement shall include all of the following provisions, when relevant, in accordance with any applicable laws or rules in effect at the time:

1. *Development Regulations and Design Standards.*
  - a. Affordable housing units to be provided.
  - b. Any land use actions and/or permits required to be completed prior to commencing development.
  - c. Bulk requirements, including, but not limited to:
    - i. Maximum building height.

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- ii. Maximum lot coverage.
  - iii. Minimum and maximum residential densities.
  - iv. Size range in square feet for each building.
  - v. Yard setbacks.
- d. Critical areas and associated buffers.
  - e. Dedications.
  - f. Design standards.
  - g. Exterior lighting requirements.
  - h. Landscaping requirements and standards.
  - i. Legal description(s) of the site(s) encumbered by the development agreement.
  - j. Location(s) of nonresidential development.
  - k. Location(s) of residential development.
  - l. Parking stalls to be provided and applicable standards.
  - m. Parks and open space requirements.
  - n. Permitted uses for the site subject to the development agreement.
  - o. Proposed uses for the site subject to the development agreement.
2. *Environmental Impacts and Mitigation.*
- a. Financing details for the implementation of required mitigation measures.
  - b. Measures to mitigate potential environmental impacts of the development agreement proposal per Chapter [43.21C](#) RCW, including impacts to:
    - i. Aesthetics.
    - ii. Air.
    - iii. Animals.
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- iv. Earth.
  - v. Energy and natural resources.
  - vi. Environmental health.
  - vii. Historic and cultural preservation.
  - viii. Housing.
  - ix. Land use.
  - x. Light and glare.
  - xi. Noise.
  - xii. Plants.
  - xiii. Public facilities and services.
  - xiv. Recreation.
  - xv. Shoreline use.
  - xvi. Transportation.
  - xvii. Utilities.
  - xviii. Water.
- c. Timing of implementation of required mitigation measures.
3. *Fees and Financial Obligations.*
- a. Amount of fees agreed to or imposed.
  - b. Financial securities required.
  - c. Method and schedule of payment of fees agreed to or imposed.
  - d. Reimbursement provisions for the financing of services, infrastructure, and/or other facilities.
4. *Process Timing.*
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- a. Phasing schedule.
  - b. Review process and timing.
  - c. Vesting period for the development agreement.
5. Any other items deemed necessary by the city.

C. *Associated Land Use Actions.* Applications for land use actions associated with the development agreement shall comply with the following requirements:

1. Associated land use applications shall meet all submittal requirements applicable to the specific land use action, as identified in Chapter [22.84](#) MMC, Permit Processing.
2. Applications for associated land use actions shall be made on forms prescribed by the city.
3. Each land use application shall be subject to all applicable fees as established by the current fee resolution.
4. The review of other land use applications associated with the development agreement shall be consolidated under Chapter [22.84](#) MMC, Permit Processing, unless the applicant requests that the applications be submitted and processed separately.

D. *Public Notice.* Development agreements shall be subject to all noticing requirements applicable to Type ~~VIII~~ project permits, as specified in Chapter [22.84](#) MMC, Permit Processing.

E. *Public Hearing.* The city council shall only approve a development agreement after a public hearing has been conducted by the city council. 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.

F. *Approval.* The city council is the final decision authority on development agreements. Approval by the city council of a development agreement shall be made by ~~resolution~~  
ordinance.

G. *Decision Criteria.* The city council may enter into a proposed development agreement if the council finds, in its sole discretion, that the development agreement meets the following criteria:

1. The development agreement is consistent with applicable development regulations;
2. The development agreement is consistent with RCW [36.70B.170](#) through [36.70B.210](#);
3. The development agreement does not provide means of waiving or amending development regulations that would otherwise apply to the project;
4. The development agreement does not bypass any procedural requirements that would otherwise apply to the project;
5. The development agreement demonstrates reasonable certainty for completion of a project;
6. The development agreement shall promote the general welfare by balancing public and private interests; and
7. The project proposed by the development agreement must provide a significant public benefit.

H. *Recording.* According to RCW [36.70B.190](#), a development agreement shall be recorded with the real property records of the Snohomish County recording division. The development agreement shall be recorded within thirty days of the date of approval by the city council of the development agreement.

I. *Modifications.* Unless stated otherwise in the development agreement, modifications to an approved development agreement require city council approval. Requests for modifications shall follow the requirements of this chapter for an initial development agreement approval.

J. *Validity.* Once recorded, development agreements are binding between the parties and their successors throughout the duration of the development agreement specified within the agreement.

K. *Annual Review.* The city shall, at least every twelve months during the term of an executed development agreement, review the extent of good faith substantial compliance with the contractual obligations of the development agreement by the parties specified within the agreement.