TITLE 6
ELMORE COUNTY
ZONING and DEVELOPMENT ORDINANCE

CHAPTER 29– DEVELOPMENT AGREEMENT (DA) STANDARDS AND REQUIREMENTS

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Section 6-29-1: Purpose:

A. The purpose of this ordinance is to:

1. Provide for the creation and administration of development agreements, as provided in Idaho Code section 67-6511A; and

2. Provide for the application of conditions on zoning ordinance map amendments where such conditions shall satisfy the findings of fact and conclusions of law for zoning ordinance map amendments required by this Chapter.

Section 6-29-2: Applicability:

A. Applications for Planned Communities, Planned Unit Developments, and Planned Unit Development Districts map amendments shall require a concurrent submission of a development agreement application.

B. Applications for all other zoning ordinance map amendments shall require a concurrent submission of a development agreement application.

Section 6-29-3: Process:

A. An application and fees, as set forth in this Title, shall be submitted to the Director on forms provided by the Growth and Development Department. The application shall include the following materials:

1. An affidavit by the property owner(s) agreeing to the submission of the development agreement; and

2. A listing of any proposed modifications to the standards imposed by other regulations of this Title; and

3. A legal description for the proposed map amendment boundary subject to the development agreement. The legal description shall be in presented in meets and bounds, documenting the exterior boundary only of the proposed map amendment. This document shall be drafted by a Qualified licensed Engineer, verified to close and submitted to Growth and Development with the following:

   a. An 8 ½ x 11 map of the subject property, showing the proposed boundary, abutting properties within three hundred (300') feet of the proposed boundary, scaled and with an appropriate legend; and

   b. A printed copy of the legal description signed and stamped by the Engineer; and

   c. A digital copy of the legal description in a MS Word format copied to a CD or DVD.

4. A project description of the uses proposed for the property subject to the development agreement describing the following:

   a. The specific uses proposed for the property; and

   b. The form, and name if available, of the organization proposed to own and maintain any dedicated open space; and

   c. The proposed systems for water supply, sewage systems, and storm water management; and

   d. The substance of the covenants, grants, easements, or other restrictions proposed to be imposed upon the use of property and structures including any proposed easements for public utilities; and

   e. A project schedule and phasing plan showing the proposed times when all other applications subject to the development agreement are intended to be

filed, or in the case of a plan which provides for a development over a period of years, the periods within which application for final approval of each phase is intended to be filed; and

f. Proposed financing of necessary public facilities with or without subsequent reimbursement over time; and

g. Other terms and conditions related to the proposed project; and

5. A draft development agreement prepared by the applicant in conformance with a model agreement provided by the Director.

B. The Director shall forward the draft development agreement to the Prosecuting Attorney of Elmore County for review. The Commission shall not make a recommendation upon the draft development agreement prior to review by the prosecuting attorney.

C. The Commission shall review the development agreement and make a recommendation upon the draft development agreement, which has been initially reviewed by the Director, and the Prosecuting Attorney of Elmore County, with the attached conditions of approval as deemed necessary.

D. The applicant or owner shall sign the development agreement prior to the Board action on the final development agreement.

E. Approval of the zoning ordinance map amendment by the Board shall be contingent upon prior approval of the final development agreement.

F. Upon approval by the Board, the development agreement shall be recorded in the Elmore County recorder's office;

1. For PC ordinance map amendments, the PC Comprehensive Plan, development plan and zoning ordinance shall be attached as addenda to the Development Agreement; and

2. For PUD ordinance map amendments, the PUD Conceptual Intensities and Densities Map, the Development Standards (exceptions/modifications), and the Development Plan shall be attached as addenda to the development agreement; and

3. For PUDD ordinance map amendments, the PUDD Conceptual Development Pattern Maps, the Ordinance and the Development District Plan Pattern Maps shall be attached as addenda to the development agreement.

G. Final approval of the zoning ordinance map amendment by the Board shall be contingent upon approval, execution and recordation of the final development agreement.

Section 6-29-4: General Regulations:

A. The Board is hereby authorized to adopt, by resolution, rules governing the creation, form, recording, modification, enforcement, and termination of Development Agreements.

B. The allowed uses, densities and standards shall be those in effect at the time the development agreement is effective.

1. For PC, PUD and PUDD ordinance map amendments, the allowed uses, densities and standards shall be those approved on the date of Elmore County's letter to the applicant indicating that the development agreement was properly executed and recorded, and those standards for modifications or amendments shall be those in effect at on the date of initial-application acceptance as defined by this Title.

C. A development agreement shall not prevent the Board, in subsequent actions applicable to the property, from adopting new ordinances, resolutions, and regulations that conflict with those ordinances, resolutions and regulations in effect at the time the agreement is made, except that any subsequent action by the Board shall not prevent the development of the property as set forth in the approved development agreement.

D. The Board may suspend the issuance of any permits after a noticed public hearing if it finds that a clear and imminent danger to the public health, safety, or welfare requires the suspension or as otherwise directed by this Title.

E. In the event that State or Federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more regulations of the development agreement, such agreement may be amended or terminated pursuant to this Chapter, as may be necessary to comply with the new State or Federal laws or regulations.

Section 6-29-5: Required Finding:

A. In order to approve the application, the Board shall make the following finding:

1. That the proposed development agreement complies with the regulations of this Chapter.

Section 6-29-6: Periodic Review:

A. The Director shall monitor the terms and conditions of the final development agreement as set forth in this Chapter and the final development agreement. A more frequent review may be undertaken at the Director's discretion or at the direction of the Board.

B. As part of the review, the applicant, owner, or successor in interest shall be required to demonstrate good faith compliance with the final development agreement.

C. If the Director finds that the applicant or owner has failed to perform or comply with the terms of this agreement, the Director shall notify the applicant or owner of the failure of performance or compliance. If after ninety (90) days, the applicant or owner has not made a good faith effort toward compliance with the terms of this agreement, the Director shall forward the development agreement to the Board for review and action.

D. If the Board finds and determines, on the basis of substantial evidence, that the applicant, owner, or successor in interest has not complied in good faith with the terms and/or conditions of the final development agreement, action may be taken to terminate the agreement by the Board.

Section 6-29-7: Amendment or Termination of Final Development Agreement:

A. A final development agreement may be amended or terminated in whole or in part, by either a request of the parties to the agreement, or their successors in interest, with approval by the Board or by action initiated by the Board as set forth in this Section.

B. Notice of intention to amend or terminate any portion of the final development agreement shall be in accordance with this Section.

C. To amend a development agreement, the Board shall make the required finding as specified in this Chapter for approval of an amendment to the final development agreement.

D. The Board may terminate a final development agreement if one of the following applies:

   1. The parties to the agreement or their successors in interest request the termination, and the Board determines that the termination would not be materially detrimental to the general public, health, safety, and welfare of the County.

   2. The Board determines that the parties to the agreement, or their successors in interest, have failed to comply with the terms of the development agreement.

E. The termination of a development agreement shall result in the reversal of the zoning ordinance map amendment approval and applicable development approval for any undeveloped portion of property subject to the development agreement. The undeveloped property subject to the development agreement shall be rezoned to the base zone classification in effect prior to approval of the development agreement.

F. Any action by the Board to amend or terminate a previously recorded development agreement shall result in the recordation of the amended development agreement or termination thereof in the office of the Elmore County Recorder, by the Clerk to the Board.