

Chapter 20.39

DEVELOPMENT AGREEMENTS

Sections:

20.39.005	Development agreements – Authorized.
20.39.010	Development standards defined.
20.39.020	Development standards – Flexibility.
20.39.030	Exercise of city police power and contract authority.
20.39.040	Form – Public Hearing required.
20.39.050	Referral to Hearing Examiner.
20.39.060	Conditions of approval.
20.39.070	Discretionary, legislative act.

20.39.005 Development agreements– Authorized.

The city may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. The city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation. 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.

20.39.010 Development standards defined.

For purposes of this chapter, the term “development standards” means and includes, but is not limited to:

- (1) Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
- (2) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, application fees, administrative charges, inspection fees, drafting fees, or dedications;
- (3) Mitigation measures, development conditions, and other requirements under AMC Chapter 20.98;
- (4) Design standards such as maximum heights, setbacks, lot coverage, drainage and water quality requirements, landscaping, and design guidelines;
- (5) Affordable housing;
- (6) Parks and open space preservation;
- (7) Phasing;
- (8) Review procedures and standards for implementing decisions;
- (9) A build-out or vesting period for applicable standards; and
- (10) Any other development requirement or procedure deemed appropriate by the city council.

20.39.020 Development standards– Flexibility.

A 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 Arlington Municipal Code in order to provide flexibility to achieve public benefits, respond to changing community needs, or encourage modifications which provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards. Any approved development standards that differ from those in the code shall not require any further zoning reclassification, variance from city standards or other city approval apart from development agreement approval, except that no deviation from Airport Protection District regulations or Critical Areas

regulations shall be permitted. The development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered site in lieu of any conflicting or different standards or requirements elsewhere in the Arlington Municipal Code. Subsequently adopted standards which differ from those of a development agreement adopted by the city 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 when the permit is applied for.

20.39.030 Exercise of city police power and contract authority.

As provided in RCW 36.70B.170(4), the execution of a development agreement is a proper exercise of the city's police power and contract authority. Accordingly, 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 serious threat to public health and safety.

20.39.040 Form— Public hearing required.

Development agreements shall be consistent with RCW 36.70B.170 through 36.70B.210. All development agreements shall be in form and content as approved by the city attorney and shall be subject to review and approval by the city council after a duly noticed public hearing pursuant to AMC 20.24.020 Public Notice Requirements.

20.39.050 Referral to Hearing Examiner.

By motion of the city council, development agreements proposing standards that differ from those otherwise applicable under AMC Title 20, Zoning, may first be referred to the hearing examiner for his or her recommendation and report, and the hearing examiner shall promptly report to the council thereon, making such recommendations and giving such counsel as he or she may deem proper.

20.39.060 Conditions of approval.

In approving a development agreement, conditions of approval should at a minimum establish the following, or reference approved plans, conditions, or existing codes addressing such items:

- (1) A site plan for the entire project, showing locations of sensitive areas and buffers, required open spaces, perimeter buffers, location and range of densities for residential development, and location and size of nonresidential development;
- (2) The expected build-out time period for the entire project and the various phases;
- (3) Project phasing and other project-specific conditions to mitigate impacts on the environment, on public facilities and services including transportation, utilities, drainage, police and fire protection, schools, and parks;
- (4) A yearly evaluation of the project status and phasing shall be provided by the applicant and reviewed with city staff.
- (5) All agreements shall be reviewed during each 10-year update of the Comprehensive Plan to ensure every project maintains consistency with the city's goals and policies. Road and storm water design standards that shall apply to the various phases of the project;
- (6) Bulk design and dimensional standards that shall be implemented throughout subsequent development within the project;
- (7) The size and range of uses authorized for any nonresidential development within the project;

- (8) The minimum and maximum number of residential units for the project;
- (9) Any sewer and/or water comprehensive utility plans or amendments required to be completed before development can occur; and
- (10) Provisions for the applicant's surrender of an approved development agreement before commencement of construction or cessation of development based upon causes beyond the applicant's control or other circumstances, with the property to develop thereafter under the base zoning in effect prior to the development agreement approval.

20.39.070 Discretionary, legislative act.

The decision of the city council to approve or reject a request for a development agreement shall be a discretionary, legislative act and an exercise of the City's police power and contract authority.