

HOUSE BILL NO. HB0205

Development agreements.

Sponsored by: Representative(s) Storer, Chadwick and Zwonitzer, Dn and Senator(s) Gierau

A BILL

for

1 AN ACT relating to administration of the government;
2 authorizing cities, towns and counties to enter into
3 development agreements as specified; specifying
4 requirements for development agreements; specifying the
5 effect of a development agreement when unincorporated
6 territory is incorporated into a city or town; specifying
7 the effect of state and federal law; and providing for an
8 effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 9-8-401 through 9-8-407 are created
13 to read:

14

15

ARTICLE 4

1

DEVELOPMENT AGREEMENTS

2

3

9-8-401. Definitions.

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5 As used in this article "local agency" means a city, town,
6 county or any combination of cities, towns and counties
7 that may enter into a development agreement.

8

9

9-8-402. Development agreements; requirements.

10

11 (a) Any local agency may enter into a development
12 agreement under this article. Unless otherwise specified in
13 the development agreement, a development agreement under
14 this article shall provide that the rules, regulations and
15 official policies governing the applicable land including
16 any rules, regulations or policies governing zoning of the
17 property and any design, improvement or construction
18 standards applicable to development of the property that is
19 subject to a development agreement shall be those rules,
20 regulations and official policies in force at the time of
21 execution of the development agreement regardless of
22 whether those rules, regulations or official policies are
23 changed after the execution of the development agreement.

1 Any requirement or standard in the rules, regulations or
2 official policies that is not changed by the terms of a
3 development agreement shall apply to the development that
4 is subject to the development agreement. A development
5 agreement shall specify that it does not prevent a local
6 agency, in subsequent actions applicable to the property,
7 from applying new rules, regulations and policies that do
8 not directly conflict with the rules, regulations and
9 policies applicable to the property that were in force at
10 the time of the execution of the development agreement as
11 provided in this subsection. A development agreement shall
12 not prevent a local agency from denying or conditionally
13 approving any subsequent development project application on
14 the basis of existing or new rules, regulations or
15 policies.

16

17 (b) Unless amended or canceled as provided in W.S.
18 9-8-404(b) or (c), and subject to W.S. 9-8-407, a
19 development agreement shall be enforceable by any party to
20 the agreement notwithstanding any change in any applicable
21 general or specific land use plan, comprehensive plan,
22 zoning ordinance, subdivision or building regulation
23 adopted by the local agency that alters or amends the

1 rules, regulations or policies that were in force at the
2 time of the execution of the development agreement as
3 specified in subsection (a) of this section.

4

5 (c) A development agreement shall specify the
6 duration of the agreement, the permitted uses of the
7 property, the type of use, the maximum height and size of
8 proposed buildings, provisions for reservation or
9 dedication of land for public purposes, any required
10 exactions or mitigation necessary to offset impacts of
11 development and any other requirements for the development
12 of the property subject to the agreement.

13

14 (d) A development agreement may:

15

16 (i) Include conditions, terms, restrictions and
17 requirements for subsequent discretionary actions, provided
18 that any conditions, terms, restrictions or requirements
19 for subsequent discretionary actions shall not prevent
20 development of the land for the uses set forth in the
21 agreement;

22

1 (ii) Provide that construction shall be
2 commenced within a specified time and that the project or
3 any phase thereof be completed within a specified time;

4
5 (iii) Include terms and conditions relating to
6 applicant financing of necessary public facilities and
7 subsequent reimbursement over time;

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9 (iv) Provisions that allow applicants to be
10 reimbursed over time for financing public facilities.

11
12 **9-8-403. City, town and county powers.**

13
14 (a) Any local agency may enter into a development
15 agreement with any person having a legal or equitable
16 interest in real property for the development of the
17 property as provided in this article.

18
19 (b) Any city or town may enter into a development
20 agreement with any person having a legal or equitable
21 interest in real property in unincorporated territory that
22 the city or town is seeking to annex for the development of
23 the property as provided in this article, provided that the

1 development agreement shall not become operative unless
2 annexation proceedings annexing the property to the city or
3 town are completed within the period of time specified by
4 the agreement. If the annexation is not completed within
5 the time specified in the agreement or any extension of the
6 agreement, the agreement is null and void.

7

8 (c) Prior to entering into a development agreement
9 under this article, a local agency shall establish
10 procedures and requirements by resolution or ordinance for
11 the consideration of development agreements. The procedures
12 established under this subsection shall include all
13 application requirements for applicants and shall require
14 periodic review of each development agreement not less than
15 once every twelve (12) months, at which time the applicant,
16 or successor in interest, shall be required to demonstrate
17 compliance with the terms of the agreement.

18

19 **9-8-404. Approval, amendment and cancellation of**
20 **development agreements.**

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22 (a) A development agreement shall be approved by the
23 local agency through the adoption of a resolution or

1 ordinance. A development agreement shall not be approved
2 unless the legislative body of the local agency finds that
3 the provisions of the agreement are consistent with
4 applicable local land use and comprehensive plans. The
5 local agency shall hold a public hearing prior to approving
6 any development agreement under this article. At least
7 fifteen (15) days notice of the time and place of the
8 hearing shall be published in a newspaper of general
9 circulation in the area of the local agency. If the local
10 agency is a combination of more than one (1) city, town or
11 county, each member of the local agency shall separately
12 comply with the requirements of this subsection.

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14 (b) A development agreement may be amended or
15 canceled, in whole or in part, by mutual consent of the
16 parties to the agreement or their successors in interest.
17 Any amendment to a development agreement shall be subject
18 to the provisions of subsection (a) of this section.

19

20 (c) If, as a result of the periodic review required
21 under W.S. 9-8-403(c), the local agency finds and
22 determines on the basis of substantial evidence that the
23 applicant or successor in interest has not complied with

1 the terms or conditions of the development agreement, the
2 local agency may terminate or modify the development
3 agreement.

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5 **9-8-405. Recording of development agreement.**

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7 Not later than ten (10) days after a local agency enters
8 into a development agreement under this article, the local
9 agency shall record a copy of the development agreement in
10 the office of the county clerk where the land subject to
11 the development agreement is located. The development
12 agreement shall describe the land subject to the agreement.
13 When the development agreement is recorded under this
14 section, the agreement shall impart notice of the agreement
15 to all persons as is afforded by the recording laws of this
16 state. The burdens of the agreement shall be binding upon,
17 and the benefits of the agreement shall inure to, all
18 successors in interest to the parties to the agreement.

19

20 **9-8-406. Incorporation of unincorporated territory**
21 **subject to a development agreement.**

22

1 (a) Except as otherwise provided in subsections (b)
2 and (c) of this section and subject to the provisions of
3 W.S. 9-8-407, if a newly incorporated city or town or an
4 area newly annexed to a city or town comprises territory
5 that was formerly unincorporated, any development agreement
6 entered into by the county prior to the effective date of
7 the incorporation or annexation shall remain valid for the
8 duration of the agreement or for eight (8) years from the
9 effective date of the incorporation or annexation of the
10 territory, whichever is earlier. The holder of the
11 development agreement and the city or town may agree that
12 the development agreement shall remain valid for a period
13 of more than eight (8) years, provided that the period
14 shall not exceed fifteen (15) years from the effective date
15 of the incorporation or annexation. The holder of the
16 development agreement and the city or town shall have the
17 same rights and obligations with respect to each other as
18 if the property had remained in the unincorporated
19 territory of the county.

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21 (b) The city or town may modify or suspend the
22 provisions of the development agreement if the city or town
23 determines that the failure to amend the development

1 agreement would place the residents of the territory
2 subject to the development agreement, the residents of the
3 city or town, or both, in a condition dangerous to their
4 health or safety.

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6 (c) Except as otherwise provided in subsection (d) of
7 this section, this section applies to any development
8 agreement that meets all of the following requirements:

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10 (i) The application for the development
11 agreement is submitted to the county prior to the date that
12 the application or petition to incorporate or annex the
13 territory was filed;

14

15 (ii) The county enters into the development
16 agreement with the applicant prior to the date of the
17 election on the question of incorporation or the date that
18 the city or town adopts an ordinance to annex the
19 territory; and

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21 (iii) The annexation proposal is initiated by
22 the city or town.

23

1 (d) If the annexation proposal is initiated by a
2 petitioner other than the city or town, the development
3 agreement is valid unless the city or town adopts written
4 findings that implementation of the development agreement
5 would create a condition injurious to the health, safety or
6 welfare of its residents.

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8 **9-8-407. State and federal law.**

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10 In the event that state or federal laws or regulations,
11 enacted after a development agreement has been entered
12 into, prevent or preclude compliance with one (1) or more
13 provisions of the development agreement, those provisions
14 of the agreement shall be modified or suspended as may be
15 necessary to comply with the state or federal laws or
16 regulations.

17

18 **Section 2.** This act is effective July 1, 2024.

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(END)