



# CITY OF HIGHLAND

27215 Base Line, Highland, CA 92346  
Telephone (909) 864-8732 FAX: (909) 862-3180

## COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

### DEVELOPMENT AGREEMENT APPLICATION

**FEES:** "Fully burdened" hourly rate for all personnel involved, plus any out-of-pocket expenses for contract personnel, special equipment or supplies, other state or county fees applicable charged an initial deposit, or flat fee as of April 2017.

**\$31,600** Deposit

**CHECKLIST:** *(All items must be included at the time of filing)*

1. **One (1) copy** of Land Use Application Form (attached). All owners must sign the Application Certificate (attached). The Notarized Power of Attorney must contain names of all owners, if applicable.
2. **Twelve (12) copies** of the Development Agreement which specifies all of the information required by the Highland Municipal Code Section 16.08.080 (see Development Agreements attached, which may be amended from time to time)
3. **One (1) copy** of a full document in PDF format.
4. **One (1) signed** and dated copy of the "Hazardous Waste Site Certification" and the current list (attached).
5. **One (1) copy** of recorded grant deed for each lot or parcel.
6. **One (1) Reduced** Site Plan (8 1/2" x 11")
7. **One (1) copy** of the signed surrounding property owners list with names and mailing addresses and three sets of mailing labels. (Sample included. Property owners information may be obtained from Assessor's Parcel Books in the County Assessor's office, 172 W. Third St., San Bernardino, CA 92415).
8. Additional information may be required by the Planning Division pursuant to the City's Land Use and Development Code Section 16.08.080(E)(1).



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### LAND USE APPLICATION

1. APPLICANT NAME: \_\_\_\_\_ TEL #: \_\_\_\_\_

2. MAILING ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

3. EMAIL ADDRESS: \_\_\_\_\_

4. SITE ADDRESS & ASSESSORS PARCEL NUMBER: \_\_\_\_\_

5. BRIEF PROJECT DESCRIPTION:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### 6. REPRESENTATIVE INFORMATION:

NAME: \_\_\_\_\_ TEL#: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
EMAIL ADDRESS: \_\_\_\_\_

#### 7. APPLICATION TYPE: (Mark all applicable types):

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> General Plan Amendment             | <input type="checkbox"/> Zone Change                      | <input type="checkbox"/> Development Code Amendment |
| <input type="checkbox"/> Conditional Use Permit             | <input type="checkbox"/> Variance                         | <input type="checkbox"/> Specific Plan Review       |
| <input type="checkbox"/> Design Review                      | <input type="checkbox"/> Tentative Tract                  | <input type="checkbox"/> Parcel Map                 |
| <input type="checkbox"/> Development Agreement              | <input type="checkbox"/> Lot Line Adjustment              | <input type="checkbox"/> Planned Development Agree. |
| <input type="checkbox"/> Revisions                          | <input type="checkbox"/> Sign Review                      | <input type="checkbox"/> Environmental Review       |
| <input type="checkbox"/> Tree Removal/<br>Relocation Permit | <input type="checkbox"/> Outdoor Sales/<br>Display Permit | <input type="checkbox"/> Planned Unit Development   |
|   |   | <input type="checkbox"/> Other _____                |

8. Signature: I certify under penalty of perjury that I am the Legal Owner(s) (all individuals must sign as their names appear on the property deed), or Owner's Legal Agent and that the foregoing is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

### (FOR OFFICE USE ONLY)

FILE NO.: \_\_\_\_\_ FILING DATE: \_\_\_\_\_ FEE: \_\_\_\_\_



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## COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

### APPLICATION CERTIFICATE

NOTE: All owners of record must sign this Certificate. List Assessor's Parcel Number(s) of the project property:

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List Assessor's Parcel Number(s) of all property contiguous to the project property which is owned or beneficially controlled by the individual(s) signing this Certificate:

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The undersigned owner(s) or officer(s) in the organization owning the lands for which this application is made, states that he or the organization is aware the application is being filed with the City of Highland Planning Division, and certifies under penalty of perjury the information contained in this application is true and correct.

I (We) further agree that if any such information proves to be false or incorrect, the City of Highland and any special purpose or taxing district affected thereby are and shall be release from any liability incurred if a Certificate of Compliance is or has been issued on basis of this application. I understand that under such circumstances any such certificate shall be null and void and shall be returned to the City for cancellation.

Any persons signing wit Power of Attorney for others must print the names of those individuals in the signatures block and attach a certified copy of the Power of Attorney.

\_\_\_\_\_  
Signature of Legal Agent/Power of Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Registration No.  
(If Registered Engineer/Licensed Land Surveyor)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print) Owner(s) of Record

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print) Owner(s) of Record

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print) Owner(s) of Record

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## 16.08.080 Development agreements<sup>1</sup>.

Development agreements may be entered into and implemented by the city of Highland pursuant to the following procedures:

### A. Purpose.

1. The Legislature of the State of California adopted Section 65864 et seq. of the Government Code, authorizing local governments to enter into development agreements with applicants for development projects. Under appropriate circumstances, development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services and the allocation of costs therefor in order to achieve the maximum utilization of public and private resources in the development process, and assure, to the extent feasible, that appropriate measures to enhance and protect the environment of the city are achieved.

2. The objective of such an agreement is to provide assurances that, upon approval of the project, the applicant may proceed with the project in accord with existing policies, rules and regulations, subject to the conditions of approval, thus vesting certain development rights in the property. Development agreements will also ensure that all conditions of approval, including the construction of off-site improvements made necessary by such land developments, will proceed in an orderly and economical fashion to the benefit of the city. The purpose of this chapter is to establish procedures and requirements for consideration of development agreements by the city consistent with state law.

### B. Application Requirements and Forms.

1. An applicant may propose that the city consider entering into a development agreement pursuant to Article 2.5, Title 7 of the California Government Code commencing with Section 65864, by filing an application with the community development department and demonstrating that the project satisfies the eligibility requirements of this section.

The form of said application shall be as established by the community development director.

2. Applicant. An application may be filed only by the property owner or other person having a legal or equitable interest in the property that is the subject of the development agreement or by that person's authorized agent. The term "applicant" shall also include any successor in interest to the property owner, or successor in interest to any other person having a legal or equitable interest in the property.

3. Eligibility Requirements. The city council finds that it may be in the city's best interest to enter into a development agreement when construction of the project will be phased over a several-year period, is a large scale development, shall occupy substantial acreage, or in some other way requires long-term certainty on the part of the developer and the city. The city council reserves the sole right to determine whether a development agreement is appropriate and in the best interest of the city for a specific development project.

### C. Proposed Development Agreement.

1. Each application shall be accompanied by a proposed development agreement which shall specify the duration of the agreement, the permitted uses of the property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.

2. A proposed agreement may include conditions, terms, restrictions and requirements for subsequent discretionary actions; provided, that such conditions, terms, restrictions and requirements for subsequent discretionary actions shall not unreasonably prevent development of the land for the uses and to the density or intensity of the development set forth in the agreement. A proposed agreement may also provide that construction shall be commenced within a specified time and that the project or any phases thereof be completed within a specified time.

3. A program and standards for periodic review of the agreement shall be included.

4. Appropriate provisions, acceptable to the city attorney, providing security for the performance of the developer under the development agreement.
5. A development agreement shall include all conditions imposed by the city with respect to the development project, including those conditions required as a result of any environmental review prepared under the California Environmental Quality Act; provided, agreements for special purposes may be adopted covering only certain aspects of the project. Any such special purpose development agreement shall be identified as such.
6. All development agreements shall contain an indemnity and insurance clause, in form and substance acceptable to the city attorney, requiring the developer to indemnify the city against claims arising out of the development process; provided, that such a provision does not violate applicable law or constitute a joint venture, partnership or other participation in the business affairs of the developer by the city.
7. All development agreements, or any part of such development agreements, may be subject to subsequent condemnation proceedings by the city.
8. A proposed agreement may include such additional conditions, terms, restrictions or requirements as determined by the planning commission and city council to be in the public interest.

#### D. Parties to the Development Agreement.

1. Only a qualified applicant may file an application to enter into a development agreement with the city. The community development director may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Such proof may include a preliminary title report issued by a title company licensed to do business in the state of California evidencing the requisite interest of the applicant in the real property. Before processing the application, the community development director may obtain the opinion of the city attorney as to the sufficiency of the applicant's interest in the real property to enter into the development agreement as a qualified applicant.
2. In addition to the city and the qualified applicant, any federal, state or local governmental agency or body may be included as a party to any development agreement. Any such additional party may be made a party to the development agreement pursuant to the provisions of the Joint Exercise of Powers Act (Government Code 6500, et seq.) providing for joint powers agreements, or provisions of other applicable federal, state or local law, in order to create a legally binding agreement among such parties.

#### E. Review of Application.

1. The community development director shall endorse the application the date it is received. He shall review the application and may reject it if it is incomplete or inaccurate for processing. If he finds that the application is complete, he shall accept it for filing. The community development director shall review the application and determine any additional requirements necessary to complete the form of development agreement. After receiving the required information, he shall prepare a staff report and recommendation and shall state whether or not the development agreement, as proposed, or in an amended form (specifying the nature of the amendments), would be consistent with the general plan and any applicable specific plan, and with the provisions contained herein and whether it meets the needs and requirements of the city.
2. The community development director shall, as part of his review of the application, circulate copies of the proposed development agreement to those city departments and other agencies having jurisdiction over the development project to be undertaken pursuant to the development agreement, for review and comment by such city agencies. The city attorney shall also review the proposed development agreement for legal sufficiency and shall prepare a proposed ordinance authorizing the city to enter into the development agreement, for action by the city council upon hearing thereof as specified herein. The staff report and recommendation of the community development director shall include any appropriate recommendations received by other city agencies.
3. The community development director shall, at the applicant's expense and in accord with city procedures for implementation of the California Environmental Quality Act, undertake environmental review and, upon completion of such review, transmit the application, together with the department's recommendation thereon, to the planning commission.

4. Upon receipt of an application, the results of the environmental review, and the recommendations of the community development director, the planning commission shall schedule a public hearing. Notice of intention to consider the application shall be given as provided in Sections 65090 and 65091 of the California Government Code and as provided for in HMC [16.08.170](#). In addition, if the application is being processed together with the development project, notice of such intention shall be given as required for consideration of the development project.

5. Review Standard. The planning commission may recommend use of a development agreement as a method of implementing or providing standards and criteria for any development approval including:

- a. A development approval pursuant to the zoning ordinance;
- b. An amendment to the general plan of the city;
- c. The formation of an assessment district, benefit district, maintenance district or special benefit district or any other procedure, for the installation of required on-site or off-site improvements or infrastructure; and/or
- d. Mitigation measures imposed upon a development project after approval of an environmental impact report in which such mitigation measures have been proposed as a mechanism for eliminating or reducing environmental impacts.

6. Recommendation of Planning Commission. After the public hearing, the planning commission shall make its recommendation in writing to the city council. The recommendation shall include the planning commission's determination as to whether or not the proposed development agreement:

- a. Is consistent with the objectives, policies, general land uses, and programs specified in the general plan and any applicable specific plan;
- b. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is or will be located;
- c. Is in conformity with and will promote public convenience, general welfare and good land use practice;
- d. Will be detrimental to the health, safety and general welfare;
- e. Will adversely affect the orderly development of property or the preservation of property values; and
- f. Will promote and encourage the development of the proposed project by providing a greater degree of requisite certainty.

#### F. Hearing by City Council.

1. Adoption by Ordinance. A development agreement is a legislative act, and shall be enacted by ordinance only after a public hearing before the city council is held pursuant to the procedures described herein. The ordinance shall refer to and incorporate by reference the text of the development agreement.

2. Conduct of Hearing. At the hearing, the city council shall consider the planning commission's recommendation together with any additional public testimony, and may approve, disapprove, or modify any recommendation of the planning commission. If public testimony is presented on an issue which was not considered by the planning commission, then the city council may refer the issue back to the planning commission for further hearings and recommendations.

3. Consistency with the General Plan and any Specific or Policy Plans. Before the city council may approve the development agreement, it must find that its provisions are consistent with the general plan and any applicable specific plans or policy plans of the city. If the city council approves the development agreement in the form recommended by the planning commission, without further findings, then it shall be deemed to have also adopted the findings of the planning commission.

4. Execution of a Development Agreement. If the city council adopts an ordinance approving a

development agreement, then the parties thereto shall execute the development agreement within 30 calendar days after adoption of the ordinance; provided, however, that the development agreement shall not become effective until the ordinance authorizing the development agreement also becomes effective. The time for executing the agreement may be extended by the mutual consent of the city council and the applicant.

5. Recordation. Within 10 calendar days after the city enters into the development agreement, the city clerk shall have the agreement recorded with the San Bernardino county recorder. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code Section 65868, or if the city determines or modifies the agreement as provided in Government Code Section 65865.1 for failure of the applicant to materially comply in good faith with the terms or conditions in the agreement, then the city clerk shall have notice of such action recorded with the San Bernardino county recorder.

#### G. Periodic Review.

1. The city shall periodically review the development agreement at least once every 12 months after the city enters into a development agreement.

2. Not less than 45 nor more than 60 calendar days prior to the yearly anniversary of the date the development agreement was entered into, the applicant shall submit evidence to the community development director of the applicant's good-faith compliance with the development agreement. Said notification shall be accompanied by a processing fee in such amount as may hereinafter be established by resolution of the city council.

3. Finding of Compliance. If the community development director finds good-faith compliance by the developer with the terms of the development agreement, a certificate of compliance shall be issued, which shall be in recordable form and may be recorded by the developer in the official records. The issuance of a certificate of compliance by the community development director and the expiration of the appeal period hereinafter specified without appeal, or the confirmation by the city council of the issuance of the certificate on such appeal, shall conclude the review for the applicable period and such determination shall be final.

4. Finding of Noncompliance. If, based on substantial evidence, the community development director finds the developer has not complied in good faith with the terms of the development agreement, the respects in which the developer has failed to comply shall be specified in writing. The community development director shall also specify a reasonable time for the developer to meet the terms of compliance. If such areas of noncompliance are not corrected within the reasonable time limits as prescribed by the community development director, the development agreement shall be subject to cancellation pursuant to provisions herein.

5. Appeal of Determination. Any interested person may file an appeal of the issuance of a certificate of compliance to the city council within 10 days after the certificate's issuance. The developer may also file an appeal to the city council of the finding of the community development director of noncompliance within 10 days after the giving of notice of such determination. All appeals before the city council shall be conducted pursuant to a notice hearing in the same manner as any other appeal before the city council, at which evidence shall be taken and findings thereon made.

6. Referral to the Planning Commission. The community development director may refer any review to be conducted hereunder to the planning commission. Such referral shall be made together with a staff report of the community development director's preliminary findings. Upon such referral, the planning commission shall conduct a noticed public hearing to determine the good-faith compliance by the developer with the terms of the development agreement in accordance with the provisions of contained herein, and shall direct the issuance of a certificate of compliance upon a finding of good-faith compliance, or make the determination of noncompliance on the basis of substantial evidence. Any such decision by the planning commission shall be subject to appeal to the city council in the same manner as any other such decision.

#### H. Cancellation or Modification.

1. Cancellation or Modification by Mutual Consent. Any development agreement may be canceled or modified by mutual consent of the parties, but only in the manner provided in California Government Code Section 65868. Any proposal to cancel or modify a development

agreement shall be heard and determined in accordance with the same procedures specified by this section for approval of a development agreement.

2. If, at any time during the term of a development agreement, the community development director or the planning commission finds, on the basis of substantial evidence, that the developer has not complied in good faith with the terms and conditions of the development agreement, and such noncompliance has not been corrected, the community development director or the planning commission as may be shall, pursuant to the notice provisions of this chapter, request that the city council conduct a public hearing at which the developer must demonstrate good-faith compliance with the terms of the development agreement. The burden of proof of substantial evidence of compliance by the developer is upon the developer. If such compliance cannot be shown, the city council shall either commence proceedings to cancel the development agreement or recommend new terms and conditions intended to remedy the noncompliance.

3. The city council shall conduct a noticed hearing on the recommendations of the community development director or the planning commission at which time the developer and any other interested persons shall be entitled to submit such evidence and testimony as may be germane to the issue of the developer's good-faith compliance with the terms of the development agreement. If the city council finds, based on substantial evidence, noncompliance with the terms and conditions of the development agreement, it may either cancel the development agreement upon giving 60 days' notice to the developer or, in its discretion, may allow the development agreement to be continued by imposition of new terms and conditions intended to remedy such noncompliance. The city council may impose such conditions to the action it takes as it considers necessary to protect the interest of the city. The decision of the city council shall be final.

4. In the event that a development agreement should be canceled, or otherwise terminated, unless otherwise agreed, all rights of the developer, property owner or successors in interests under the development agreement shall terminate. Any and all benefits, including money or land, received by the city shall be retained by the city. Notwithstanding the above provision, any termination of the development agreement shall not prevent the developer from completing and occupying a building or other improvements authorized pursuant to a valid building permit previously approved by the city or under construction at the time of termination, but the city may take any action permitted by law to prevent, stop, or correct any violation of law occurring during and after construction, and the developer or any tenant shall not occupy any portion of the project or any building not authorized by a previously issued building permit. As used herein, "construction" means work under a valid building permit, and "completing" means completion for beneficial occupancy for developer's use, or if a portion of the project is intended for use by a lessee or tenant, then for such portion. "Completion" means completion except for interior improvements such as partitions, duct and electrical runouts, floor coverings, wall coverings, lighting, furniture, trade fixtures, finished ceilings and other improvements typically constructed by or for tenants of similar buildings. All such uses shall, to the extent possible, be deemed nonconforming uses, and shall be subject to the nonconforming use provisions of this title.

#### I. Miscellaneous Provisions.

1. All development agreements shall be subject to the regulation and requirements of the laws of the state of California; the Constitution of the United States; any codes, statutes, or executive mandates; and any court decision, state or federal, thereunder. In the event that any such law, code, statute, mandate or decision made or enacted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement, then such provisions of the development agreement shall be modified or suspended in the manner and pursuant to the procedures specified in the development agreement, as may be necessary to comply with such law, code, statute, mandate, or decision.

2. All development agreements entail and consist of a separate procedure from other land use planning procedures, and shall not take the place of the zoning ordinances, the general plan, conditional use permits, subdivision approvals, building permits or any other city development procedures. If so specified in the development agreement, it shall constitute an approval pursuant to such planning procedures as if separately enacted under other provisions of this title or other city ordinances, to the extent practicable, public hearings on a proposed development agreement shall be held concurrently with the public hearings on all related land use approvals and all such approvals shall be made concurrently with the approval of the development agreement.



3. When approved, the development agreement and any development control maps and all notations, references and regulations which are a part of the development agreement shall be part of the development agreement ordinance. Development control maps include, but are not limited to, regulations intended to carry out any plan respecting location or type of activities; height, bulk, siding or design of structures; location or design of open areas; and landscaping and other comparable regulations.

4. This section and any subsequent development agreement with respect to any development agreement enacted under this section, any provision of such a development agreement which is in conflict with this title shall be void. Unless otherwise provided by the development agreement, the city's rules, regulations and official policies governing permitted uses of land, governing density, and governing design, improvement and construction standards and specifications applicable to development of the property subject to a development agreement shall be those city rules, regulations and official policies in force at the time of the approval of the development agreement by the city council; provided, however, that the developer is subject to all increases in city-imposed fees, dedication requirements, and charges with respect to subsequent applications for development and construction within the property subject to a development agreement. (Ord. 171 § 2.80, 1994)



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## COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

### SURROUNDING PROPERTY OWNERS LABELS

Ownership of surrounding properties shall be determine from the most up-to-date information available from the Assessor's/Tax Collection Office. Three (3) complete sets of mailing labels are required.

I certify, under the penalty of perjury, that to the best of my knowledge, the enclosed mailing labels contain the name and addresses of all property owners within the area as prescribed by the enclosed formula from the exterior boundaries of the project property perimeter.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

FORMULA: The property for which this application is being processed is (check one):

- Minor subdivision or Major Variance = all contiguous properties. Contiguous means touching or across the street, including corners.

#### All OTHER APPLICATIONS

- Contain all parcels within 300 feet of all external boundaries.

NOTE: These labels will be utilized to notify surrounding property owners of your proposal. Please provide three (3) complete sets of mailing labels.

#### SAMPLE MAIL LABEL

|  |
|--|
| ASSESSORS PARCEL NO.<br>NAME<br>ADDRESS<br>CITY, STATE, ZIP CODE |
|--|

|   |
|---|
| 1234-567-8910-0000<br>JOHN DOE<br>27215 BASE LINE<br>HIGHLAND, CA 92346 |
|---|