

ORDINANCE #124

AN ORDINANCE OF SHOSHONE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, PROVIDING FOR THE CREATION AND ADMINISTRATION OF DEVELOPMENT AGREEMENTS AS PROVIDED IN IDAHO CODE SECTION 67-6511A

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHOSHONE COUNTY, IDAHO AS FOLLOWS:

Section 1. PURPOSE

The purpose of this ordinance is to provide for the creation and administration of development agreements, as provided in Idaho Code section 67-6511A.

Section 2. APPLICABILITY

Dependent on the impact report and the compatibility rating including the applicant's proposed site improvements and structure to be used or constructed, the Administrator may recommend bonds; a Development Agreement; reimbursement of fees or impact fees of the applicant. The Board of County Commissioners shall have the option of exclusively dealing with the issues of bonds, reimbursement fees, and/or application fees, in the case of developments, which are deemed by the Board of County Commissioners to be large enough in scale to have significant impact on County services and infrastructure. In such case, pursuant to the direction of the Board of County Commissioners, the Planning and Zoning Commission shall defer such matters to the Board of County Commissioners.

The Commission or Administrator may impose and collect fees from the applicant for the cost of monitoring and enforcement of standards.

Section 3. PROCESS

- A. An application shall be submitted to the planning administrator. The application shall include the following materials:
1. An affidavit by the property owner agreeing to the submission of the development agreement.
 2. A listing of any proposed modifications to the standards imposed by other regulations of this title.
 3. A legal description for the property subject to the development agreement.
 4. A project description shall be provided which sets forth the uses proposed for

the property subject to the development agreement describing the following:

- a. The specific uses proposed for the property.
 - b. The form, and name if available, of the organization proposed to own and maintain any dedicated open space.
 - c. The proposed systems for water supply, sewage, and storm water management.
 - d. The proposed covenants, grants, easements, or other restrictions to be imposed upon the use of property and structures including any easements for public utilities.
 - e. A project schedule and 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.
 - f. Proposed financing for the necessary public facilities with or without subsequent reimbursement over time.
 - g. Other terms and conditions related to the proposed project.
5. A draft development agreement prepared by the applicant in conformance with a model agreement provided by the administrator.
- B. The administrator shall forward the draft development agreement to the Board of County Commissioners and the prosecuting attorney of Shoshone County for review. The commission shall not make a recommendation upon the draft development agreement prior to review by the prosecuting attorney.
- C. The applicant or owner may sign the development agreement prior to board action on the final development agreement.
- D. Upon approval by the board, the development agreement shall be recorded in the Shoshone County recorder's office.

Section 4. GENERAL REGULATIONS

- A. 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.
- B. The Board of County Commissioners 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.

- C. 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 as may be necessary to comply with the new state or federal laws or regulations.

Section 5. REQUIRED FINDING

In order to approve the application, the board shall find that the proposed development agreement complies with the regulations of the article.

Section 6. PERIODIC REVIEW

- A. The administrator shall monitor the terms and conditions of the final development agreement as set forth in the final development agreement. A more frequent review may be undertaken at the administrator=s discretion or at the direction of the board.
 - 1. 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.
 - 2. If the administrator finds that the applicant or owner has failed to perform or comply with the terms of this agreement, the administrator 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 administrator shall forward the development agreement to the board for review and action.
 - 3. 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 taken to terminate the agreement by the board.

Section 7. AMENDMENT OR TERMINATION OF FINAL DEVELOPMENT AGREEMENT

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.

- A. Notice of intention to amend or terminate any portion of the final development agreement shall be in accord with this section.

- B. To amend a development agreement, the board shall make the required finding as specified in section 5 of this article for approval of an amendment to the final development agreement.

- C. The board may terminate a final development agreement if one of following applies:
 - 1. The termination is requested by the parties to the agreement or their successors in interest, 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.

- D. Any action by the board to amend or terminate a previously recorded development agreement shall be recorded in the office of the Shoshone County recorder by the clerk to the board.

Section 8. EFFECTIVE DATE

This Ordinance shall take full force and effect and be in full force and effect after its passage and approval in one publication of the Shoshone County News-Press, a newspaper published in the City of Kellogg, County of Shoshone, State of Idaho, and having general circulation in the County of Shoshone.

APPROVED, by the Shoshone County Board of Commissioners on this 21st day of February 2006.

BOARD OF COUNTY COMMISSIONERS

S/Jim Vergobbi
Jim Vergobbi, Chairman

S/Sherry Krulitz
Sherry Krulitz, Commissioner

S/Jon Cantamessa
Jon Cantamessa, Commissioner

ATTEST:

S/Peggy White
Peggy White, Clerk