

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 2161

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON ADDING A NEW SECTION 19.68.115 TO THE FIFE MUNICIPAL CODE REGARDING DEVELOPMENT AGREEMENTS AND REPEALING SECTION 19.68.110

WHEREAS, the City's current provisions for development agreements in FMC 19.68.110 are minimal and mirror the minimum provisions in RCW 36.70B.170-210; and

WHEREAS, this is also the limitations and authority of what the city can do with a development agreement. The current provisions for development agreements are extremely ridged and do not offer flexibility that could be achieved through updated provisions and conformance with best practices; and

WHEREAS, on May 4, 2026, the Planning Commission held a public hearing and made a recommendation to the city council to adopt the proposed amendments; and

WHEREAS, the City Council held a public hearing on the proposed amendments on June 9, 2026; now, therefore

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new section 19.68.115 is hereby added to the Fife Municipal Code to read as follows:

A) **Purpose** - Certainty in the development review process can significantly encourage development or redevelopment of real property. This certainty is especially important for large-scale or multiphase developments that take years to complete and that require substantial financial commitments at an early stage. The city may, when appropriate, enhance certainty by entering into a development agreement with a project sponsor that addresses the "ground rules" for review of the development application and construction of the project. A development agreement provides the opportunity for the city and the developer to agree on the scope and timing of the project, applicable regulations and requirements, mitigation requirements and other matters relating to the development process. A development agreement promotes the general welfare by:

- 1) Balancing public and private interests

- 2) Producing a development which would be as good or better than that resulting from the traditional lot by lot development.
- 3) Correlating comprehensively the provisions of state law, the Comprehensive Plan, the Fife Municipal Code, and other ordinances, codes, and initiatives of the city, to permit developments which will provide a desirable and stable environment in harmony with that of the surrounding area.
- 4) Encouraging a more creative approach in the development of land that will result in a more efficient, aesthetic, and desirable use of open area, while at the same time maintaining substantially the same population density and area coverage permitted in the zone in which the project is located.
- 5) Permitting flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and utilizing the potential of sites characterized by special features of geography, topography, size, or shape.

B. Process

- 1) **Generally** – Development agreements shall be drafted and negotiated by city staff in conjunction with developer and/or applicant representatives. If necessary to determine the interests of the city council prior to expending significant staff time on negotiations, staff may introduce the proposal for council discussion at a council study session. The decision of the city council to approve or reject a request for a development agreement shall be a discretionary, legislative act.
- 2) **Application** - Consideration of a development agreement may be initiated by City Council, City staff, or an applicant. Any individual may personally, or through an agent, propose a development agreement application regarding property they own. The applicant shall file a complete application pursuant to the currently adopted submittal requirements and fee schedule. At a minimum the following should be included in the application:
 - i) Applicable permit fee or deposit
 - ii) Site plan with vicinity map
 - iii) Names and address of all current owners
 - iv) Project narrative and phasing plan if applicable
 - v) Narrative of proposed modifications and incentives being sought, and the public benefit being proposed.
 - vi) Any additional information or material that the director determines is reasonably necessary to determine compliance with this section.
- 3) **Public notice** – Public notice of application and notice of hearing shall be posted in accordance with FMC Title 14.
- 4) **Public hearing** – The city council shall hold a public hearing prior to execution of a development agreement.

5) Council authority

- i) Pursuant to RCW 36.70B.170 through 36.70B.210, the city council may approve and enter into a development agreement with any person, partnership, corporation or other entity that controls real property within the city or within the city's urban growth area.
- ii) The city council may approve and enter into a proposed development agreement if the council finds, in its sole discretion, that the proposed agreement is consistent with the city's comprehensive plan, the development regulations and the purpose of this chapter, and that entering into the agreement is in the city's best interest.

- 6) Recording required** - Within 30 days after approval by the city council, the city shall record the development agreement with the real property records office of Pierce County. The City's official zoning map shall include an overlay with active development agreement boundaries.

C. Contents of the agreement - Development agreements shall include the following as applicable to the scope of the agreement:

- 1)** A site plan depicting boundaries and project elements, including but not limited to:
 - i) location, acreage, type and densities for residential development
 - ii) location, acreage, type and intensity of uses of nonresidential development
 - iii) location and acreage of active and passive recreational areas
 - iv) location and size of critical areas and buffers, landscaping, open space, and/or perimeter buffers
 - v) motorized and nonmotorized circulation routes, including route connections to streets and pedestrian routes servicing and/or abutting the site.
 - vi) Other public and private development features that are a component of the development.
- 2)** Description of development standards and other provisions that shall govern the use and development of the property.
- 3)** Description of regulations and standards that are, and are not, vested through the life of the development agreement.
- 4)** Description of any capacity in capital facilities that is held in reserve through execution of the development agreement.
- 5)** Schedule and timelines for build-out of all components of the development agreement.
- 6)** Project milestones, sequencing, and a phasing plan if applicable.
- 7)** Identification of modifications and incentives utilized by the development agreement.
- 8)** Relationship with the state environmental policy act (SEPA) and any mitigation measures applied to the project.
- 9)** Provisions for termination
- 10)** Review procedures and standards for implementing decisions within the confines of the development agreement.
- 11)** A statement agreeing to pay for reasonable staff time in administering the development agreement
- 12)** Provisions for minor and major modifications

- 13) Provision reserving the city's authority to impose new or different regulations to the extent required by a serious threat to the public health or safety or where required by state or federal legislation.
- 14) Expiration

D. Flexibility authorized via a development agreement - A development agreement may modify certain provisions of the code as well as provide incentives and longer-range vesting for certain components. In addition to the allowances and requirements spelled out elsewhere in the code, a development agreement may authorize the following actions:

- 1) **Modifications** – The following standards and regulations may be modified, subject to the limitations in subsection F below.
 - i) Street construction standards
 - ii) Building design standards
 - iii) Performance standards
 - iv) Bulk and dimensional standards
 - v) Landscaping standards
 - vi) Parking standards
 - vii) Utility design standards
 - viii) Increase the density from the base density in a zoning designation, to the density authorized through a Planned Residential Development (PRD)
- 2) **Incentives** – The following incentives may be realized.
 - i) Credit for both transportation and parks impact fees may be given based on developer funded improvements and/or facility, or real property dedications, which are not otherwise eligible for credit under FMC title 20.
 - ii) Capacity reservation in utility systems (transportation, water, sewer, storm)
- 3) **Vesting** – The following provisions may be vested with extended periods
 - i) Those standards which are authorized for modifications in section 1 above.
 - ii) Authorized uses
 - iii) Permitting processes and framework
 - iv) Density and unit type mix

E. Decision criteria

- 1) **Criteria for Approval** – The City Council may direct the city manager enter into a development agreement if it finds the following criteria are met.
 - i) The agreement advances the goals and policies of the comprehensive plan, applicable subarea plan, and/or adopted strategic plans.
 - ii) The agreement must provide public benefit as described in subsection 2 below, that may not otherwise be achieved through implementation of the municipal code, unless the development agreement process is mandated for a specific use elsewhere in the municipal code.
 - iii) The agreement is consistent with the purpose and requirements of this chapter.

- 2) **Public Benefit** - The city council may seek to balance flexibility allowed in subsection D above, with additional public benefits by incorporating public benefit elements into the development agreement. Public benefits shall be borne by more than just the project meeting the minimum applicable requirements and standards. The development agreement may include, but need not be limited to, public benefits such as the following:
- i) **Affordable Housing** – The project may provide affordable housing. The specifics of the unit type, affordability level, number of units, etc. shall be proposed by the applicant.
 - ii) **Parks and Open Space** – A development may dedicate land for use as parks or open space or propose other capital improvements or investments.
 - iii) **Economic Benefits** – Economic benefits cannot be solely related to increased tax base due to construction/redevelopment and must substantiate a larger economic benefit to the city because of the development and/or its occupants. An economic analysis may be required depending on the scope of the agreement.
 - iv) **Public Infrastructure** – Public infrastructure improvements may provide for a larger overall benefit to the community, synergy in multimodal connections, or construction economies of scale.
 - v) **Sustainability** – Beyond the requirements of SEPA, shorelines, or critical areas regulations, a development may propose obtaining LEED certification, providing public electric vehicle infrastructure, advancing climate resiliency, or other environmental initiatives.
 - vi) **Public Art and Placemaking** – The project may propose additional placemaking improvements and/or displays of publicly accessible art.
 - vii) **Other Public Benefits** – Other public benefits, including recording the above benefits on title in perpetuity, may be proposed within the confines of a legitimate and legal governmental interest.

F. Development Agreement Limitations – Development agreements shall not:

- 1) Allow a use or unit type not already authorized by the underlying zoning designation.
- 2) Increase the density beyond what is allowed via a Planned Residential Development (PRD) process.
- 3) Be allowed in the low-density residential zone
- 4) Amend or vest critical areas, shoreline, or floodplain regulations
- 5) Amend or vest the international building code, Washington state amendments, the American with Disabilities Act (ADA) or other similar regulations the city does not control regulatory authority.
- 6) Have a vesting period longer than 20 years
 - i) If the agreement provides a vesting period that is longer than five years, the agreement shall include milestones for development of the project, which shall be met in order to maintain the extended vesting period.
 - ii) Negotiated vesting provisions cannot defeat the city's ability to require a developer to comply with later-adopted state or federal mandates not subject to vesting, or prevent the city from taking action to prevent a public safety, welfare, or health emergency.

7) Contain a binding arbitration clause.

G. Previously approved land use agreements – Previously approved land use agreements including, but not limited to, contract rezones and concomitant agreements shall be terminated, concurrent with the approval of a development agreement applicable to the same property or portion thereof. Any amendments or other changes to an approved contract rezone, concomitant agreement, or other land use agreement, shall be adopted as a development agreement.

H. Minor and major amendments - From time-to-time amendments to the development agreement may be necessary to maintain the original intent of the agreement and to update the agreement to address unique nuances and site design.

1) **Minor amendments** – Minor amendments to the Site Plan may be approved administratively by the City Manager without an amendment to the Agreement. Minor amendments are any changes to the sizes and locations of buildings, drive aisles, parking areas, and/or buffer landscape and screening plan, so long as the standards set forth in the agreement are still met. In order to issue such a minor amendment the City Manager must determine that the amendment is consistent with the intent and purpose of the agreement and the findings set forth in the enabling ordinance, is equivalent or superior to the item being amended, and has no adverse impact on public health, safety, welfare, or the environment.

2) **Major amendments** - Any amendment other than a minor amendment to the site plan or development agreement requires approval by the City Council by ordinance.

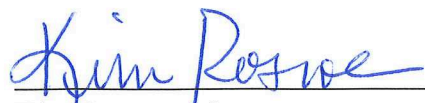
Section 2. Repealer. Section 19.68.110 of the Fife Municipal Code is hereby repealed.

Section 3. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 4. This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication in summary form as provided by law.

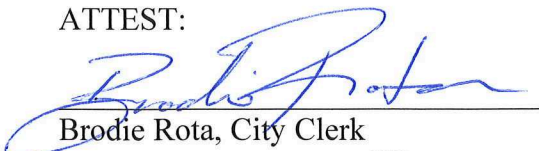
Introduced the 14th day of July, 2026.

Passed by the City Council on the 28th day of July, 2026.

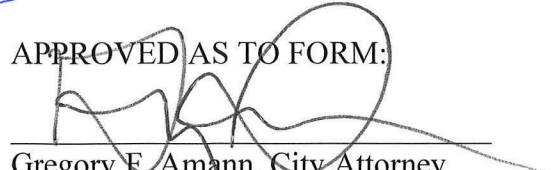


Kim Roscoe, Mayor

ATTEST:


Brodie Rota, City Clerk

APPROVED AS TO FORM:


Gregory F. Amann, City Attorney

Published: August 2, 2026
Effective Date: August 7, 2026