

RNO AGREEMENTS WITH DEVELOPERS AND BUSINESSES **(INC PRESENTATION July 18, 2024)¹**

Development, Community Benefit and ‘Good Neighbor’ Agreements.

NOTE THAT THIS TOPIC WAS COVERED IN AN INC DELEGATE MEETING ON AUGUST 16, 2023 PRESENTED BY LOU RADERS AND GERTIE GRANT. THE ENTIRE PRESENTATION WITH DETAILED DISCUSSIONS AND EXAMPLES OF AGREEMENTS MAY BE FOUND ON THE INC WEBSITE: <https://www.denverinc.org/inter-neighborhood-cooperation-aug-16-2023-meeting-good-neighbor-agreements>.

Introduction to RNO Agreements/Sample Agreements.

This presentation will refer to some points in the 8/16/23 presentation but will focus more on the SPECTRUM of these agreements, how they differ and how RNOs can participate in the processes for the benefit of their neighborhoods.

- On this SPECTRUM, think of Good Neighbor Agreements as the least intensive type of agreement: these agreements can be simple and address one specific concern such as noise or trash concerns and are often just for a USE that is not a permanent.
- For larger projects, such as rezonings for a single property, the agreement may need to address many more issues, like uses, heights, access and construction practices. These are the types of agreements that are intended to attach to the property, regardless of whether the developer sells to another entity.
- For rezoning projects that are larger and involve multiple acres or parcels of real estate, then the issues are similarly greater. For these types of projects, the City undertakes a process known as the Large Development Review process (for over 5 acres being rezoned), which can often last a long time and involve all material City departments in addition to City Planning and Development (CPD), such as the Department of Transportation and Infrastructure (DOTI). These agreements can be long and involved and often dove-tail with agreements the City is requiring of the developer as a

¹ Prepared by Lou Raders, INC Board member and retired attorney, not currently licensed to practice law. THIS OUTLINE DOES NOT CONSTITUTE LEGAL ADVICE.

condition of the rezoning.

- Key among all of the agreements on this spectrum is the fact that the City is NOT a party to any agreement; only the developer or use applicant and the RNO or other organizations of neighborhood interests.

1. **Good Neighbor Agreements.** Good Neighbor Agreements (GNA) are agreements between a neighborhood organization, like a Registered Neighborhood Organization (RNO), on the one hand and a developer, property owner, or operator of a new project or business, on the other, regarding a proposed USE.

- GNAs may help neighbors work through issues or concerns in a collaborative, positive way and to document areas of agreement in writing.
- The City is not a party to GNAs but may assist in facilitating and negotiating a GNA.
- When approached in good faith, the process can help the parties understand each other's goals and points of view, with the intended result being a compromise where each party makes commitments that allow the proposed use to move forward with neighborhood support.

(i). **GNAs for Excise and License Applications: Liquor, Cabaret and Marijuana Licenses subject to a "Needs Hearing".** The Denver Department of Excise and License processes licenses that may be REQUIRED for a business under Denver law.

- These include liquor, cabaret and marijuana and, in each instance, the business applicants are REQUIRED to notify the registered RNOs for the neighborhood in which the business property is located.
- These applications are those that will result in a public Needs Assessment Hearing with specific rules and regulations (policies and procedures) for who can participate in the hearing and how they are able to participate (who can testify, for example).

- Please review the presentation by Gerties Grant in the August 2023 presentation linked above for more detail on how these hearings work for these Excise and License Department hearing processes.
- RNOs receive the notices of applications by email and have the right and responsibility to process these GNAs and addressing neighborhood needs, but often they don't have the wherewithal to know where to start and how to get resources to assist in the process. INC continues to work to develop an RNO 101 HANDBOOK that will be on-line and will include more information on how RNO can work address these issues.

(ii). **GNAs for Temporary Safe Outdoor Housing Support Sites.**

- These GNAs are specific to Temporary Safe Outdoor Space (TSOS) which are locations (often at churches or other nonprofit properties on vacant land or parking lots) to provide temporary housing to unhoused Denver residents.
- The GNA often includes provisions that require the TSOS space operator to screen the residents thereof and limit the residential make-up of the TSOS community. Each member is required to agree to follow strict rules prohibiting violence, weapons, illegal drugs, discriminatory or disruptive behavior, and require residents to have mutual respect for one another, staff, surrounding businesses, and the surrounding neighborhood.
- An example of a GNA for a TSOS site will be available on the INC website associated with this presentation.

(iii) Biggest difference between GNAs and larger Development Agreements is that a GNA is not recorded against the property. Certain of the main provisions from a GNA relating to a license application can be included on the face of the license itself!

2. **Real Estate Rezoning – Development and Community Benefits Agreements.**

When a ‘Developer/Applicant’ seeks to rezone or develop a parcel of land for a specific use or development, there is an opportunity for the RNO to work with that Applicant to determine if there are agreements that can be reached to facilitate the development in a manner that will “work for the neighborhood”.

- What does this mean? It can mean anything from limiting uses and building rights otherwise allowable under the zoning to addressing other issues that are

of a concern to the neighborhood, such as height and density if not otherwise specified in the zone district being sought by the Applicant. For example, when an RNO and a developer agree that the building should be limited to 4 stories and there is not a zone district that would apply that specifies 4 stories.

- Agreements come in all sizes. These agreements also cover a SPECTRUM, from small, single use rezonings, such as a single-family home or vacant lot being rezoned to accommodate a mixed-use building, to larger plots of land that are being considered for full-scale, neighborhood changing developments, like the Park Hill Golf Course and Ball Arena Neighborhood.

(ii). Small Development Example. An example of a Development Agreement that involves a single rezoning for an office building in Cherry Creek North is included with the materials the August 2023 presentation linked above.

- The single office development at 2nd and Adams Street sample agreement, along with another example agreement called the Gateway Agreement are both accessible by using the August 2023 program link above. Both of these examples include restrictions on uses, heights, requirements for compliance with good construction practices, addresses Transportation Management Plans and more.
- RNOs can review samples like these to see what types of issues may be of concern in their own neighborhoods. Use them to develop your own RNO priority checklist for reviewing new rezoning or license applications.

(ii) Large Development Example. can include those for very large proposed developments like the 48-page Park Hill Golf Course Community Benefits Agreement (a copy of which can be found here:

https://drive.google.com/file/d/1_MroSDBW0KZAm0RmiSmpaHJihvae8a8O/view) (the “Park Hill Agreement”) for the proposed rezoning and reuse of the Park Hill Golf Course. The Park Hill Golf Course initiative was defeated by Denver voters, and the Park Hill Agreement was terminable as a result thereof. But whether you supported or opposed this failed measure, the Park Hill Agreement is a well-drafted example of a large development agreement that

includes a wide range of provisions that would bring agreed 'benefits' to the community.

CONCLUSION. This outline is intended to provide a PRIMER on the SPECTRUM of agreements between developers/business operators and RNOs. The simplest of which are Good Neighbor Agreements, which are often used when a liquor or marijuana license is applied for through the Denver Department of Excise and Licensing. And the most complicated of these are Development and Community Benefit Agreements that RNOs can utilize to address many issues anticipated in connection with large scale developments and rezonings through the Denver Community Planning Department.

The August 2023 program and materials, linked above, contains a lot MORE specific information on the GNA and Development Agreement topics, including many examples and forms and a more detailed discussion of the content and how to use the provisions to address your own neighborhood concerns. *We encourage you to revisit that information.*

RNOs are encouraged to plagiarize from these sample agreements – use them as a checklist of sorts to see what types of issues can be addressed and what language can be used to address those issues.