

ORDINANCE NO. 2007 - 09

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SAN JUAN BAUTISTA ADDING CHAPTER 10-6 TO TITLE 10
OF THE SAN JUAN BAUTISTA MUNICIPAL CODE, TO PROVIDE FOR
PROCESSING OF DEVELOPMENT AGREEMENTS**

THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Chapter 10-6 (“Development Agreements”) hereby is added to Title 10
of the San Juan Bautista Municipal Code, to read as follows:

10-6-010 Citation and authority.

This Chapter is enacted pursuant to Article 2.5 of Chapter 4 of Division 1 of Title
7 of the Government Code, Section 65864 et seq. This Chapter may be cited as
the development agreement regulations of the City of San Juan Bautista.

10-6-020 Purpose.

The purpose of this Chapter is to strengthen the public planning process,
encourage private participation and comprehensive planning, and reduce the
economic costs of development by providing an option to both the City and
developers to enter into development agreements. Such agreements shall only be
used for projects such as large developments, low income housing developments,
and developments involving public service and facilities installations which may
require several years to complete.

To accomplish this purpose the procedures, requirements and other provisions of
this Chapter are determined to be necessary to promote orderly growth and
development, the economic welfare, and to ensure provision for adequate
circulation, utilities and services.

10-6-030 Applicability.

The procedures and requirements set forth in this Chapter shall apply to all
development agreements proposed by developers and entered into by the City.

10-6-040 Forms, information and fees.

(A) The City Manager (Note: All references herein to the City Manager shall
include as appropriate his or her designee) shall prescribe the form for each
application, and for notice and documents provided for or required under these
regulations for the preparation and implementation of development agreements.

(B) Applicant may be required to submit such information and supporting data
as the City Manager considers necessary to process the application.

(C) Each application shall be accompanied by the development agreement proposed by the applicant.

(D) The City Council shall by resolution fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations, and for the annual review.

10-6-050 Review of application.

The City Manager shall endorse on the application the date it is received. The City Manager shall review the application and may reject it if it is incomplete or inaccurate for processing. If the City Manager finds that the application is complete, it shall be accepted for filing. The City Manager shall review the application and determine the additional requirements necessary to complete the agreement. After the required information is received, a staff report and recommendation shall be prepared and at a minimum shall state whether or not the agreement, as proposed or in an amended form, would be consistent with the general plan and any applicable specific plan.

10-6-060 Notice

(A) The time and manner of giving notice shall be as prescribed in the Government Code for amendments to the zoning ordinance.

(B) The notice of intention to consider adoption of the development agreement shall contain:

(1) The time and place of the hearing;

(2) A general explanation of the matter to be considered, including a general description of the area to be affected; and

(3) Other information required by law or which the City Manager considers necessary or desirable.

(C) The failure of any person entitled to notice to receive such notice shall not affect the authority of the city to enter into a development agreement.

10-6-070 Public hearings, generally.

(A) The public hearings shall be conducted substantially in accordance with the procedural standards prescribed in the Government Code for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant shall have the burden of proof at the public hearing on the proposed development agreement.

(B) No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by the court

by reason of any error, irregularity, informality, neglect or omission (“error”) as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that error is prejudicial or that injury was done if error is shown.

10-6-080 Review by Planning Commission.

The Planning Commission shall first hold a public hearing on a development agreement application and may make a recommendation with reasons therefor in writing to the City Council. If the Planning Commission makes recommendation, the recommendation shall include the Planning Commission’s determination whether or not the development agreement proposed:

- (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 located;
- (C) Is in conformity with 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;
- (F) Is consistent with the provisions of Government Code Sections 65864 through 65869.5.

10-6-090 Decision by City Council.

(A) Following the Planning Commission’s public hearing, the City Council shall hold a duly noticed public hearing, after which the City Council shall approve, disapprove or modify the development agreement. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

(B) The City Council may not approve the development agreement unless it finds that the agreement is in conformity with items (A) through (F), Section 10-6-080.

10-6-100 Approval of development agreement.

If the City Council approves the development agreement, it shall do so by the adoption of an ordinance. The agreement takes effect upon the effective date of the ordinance.

10-6-110 Amendment or cancellation.

(A) Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

(B) The procedure for proposing and adopting an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement.

However, where the City initiates the proposed amendment to or cancellation in whole or in part of the development agreement, it shall first give notice to the property owner of its intention to initiate proceedings at least ten days in advance of the giving of notice of intention to consider the amendment or cancellation required by Section 10-6-060.

10-6-120 Recordation.

(A) Within ten days after the effective date of the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

(B) If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code Section 65865.1 for

failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

10-6-130 Periodic review.

(A) The City shall review the development agreement twelve months from the date the agreement is entered into and every twelve months thereafter. It is the developer's responsibility to apply in a timely fashion for the annual review. The time for review may be modified either by agreement between the parties or at the City's initiation, upon recommendation of the City Manager, and by an affirmative vote of a majority of the Planning Commission.

(B) The City Manager shall give notice to the property owner that the city intends to undertake the review of the development agreement. The City Manager shall give the notice at least ten days in advance of the time at which the matter will be considered by the City Council.

(C) The City Council shall conduct a public hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.

(D) The City Council shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.

If the City Council finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

If the City Council finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may modify or terminate the agreement, as specified in Section 10-6-140 below.

10-6-140 Modification or termination.

(A) If the City Council determines to proceed with modification or termination of the agreement, the City Council shall give notice to the property owner of its intention so to do. The notice shall contain:

(1) The time and place of the hearing;

(2) A statement as to whether the City Council proposes to terminate or to modify the development agreement;

(3) Other information which the City Council considers necessary to inform the property owner of the nature of the proceedings.

(B) At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may impose such conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the City Council is final.

SECTION 2. Severability. This ordinance and the various parts thereto are hereby declared to be severable. Should any section of this ordinance be declared by a

court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section, or part thereof, so declared to be unconstitutional or invalid.

SECTION 3. Effective Date. This ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the 20th day of February, 2007, and was adopted at a regular meeting of the San Juan Bautista City Council on the 20th day of March, 2007, by the following vote:

AYES: Hill, Dias, Paradice, Edge, Laverone

NOES: None

ABSENT: None

ABSTAIN: None

Priscilla J. Hill, Mayor

ATTEST:

Trish Paetz, Deputy City Clerk

APPROVED AS TO FORM:

George Thacher, City Attorney