

**ORDINANCE NO. 97-06**

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON  
ADDING A NEW ARTICLE 9, CHAPTER 19.37  
REGARDING PROCEDURES AND STANDARDS  
FOR THE PROCESSING DEVELOPMENT AGREEMENTS TO TITLE 19  
OF THE AMERICAN CANYON MUNICIPAL CODE**

**WHEREAS**, to strengthen the planning process, to encourage private participation in comprehensive planning, and to reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, et. seq., of the Government Code which authorizes the City to adopt a resolution or an ordinance establishing standards and procedures for processing development agreements; and

**WHEREAS**, Section 65865 of the Government Code specifically authorizes the City to enter into a property development agreement with any person having a legal or equitable interest in real property for the development of such property, in order to establish certain development rights in the property; and

**WHEREAS**, the advantages to the City for entering into development agreements include the orderly development of projects, assurances of the timely installation of public improvements, the provision of public services appropriate for each phase of development, maximum utilization of resources within the City at the least economic cost to its citizens, and the ability of the City to include provisions in the development agreement to require the applicant to fund necessary public facilities for development, subject to reimbursement over time; and

**WHEREAS**, the City wishes to codify the procedures set forth in Resolution No. 95.34 applicable to development agreements in the City's Zoning Ordinances (Title 19 of the American Canyon Municipal Code); and

**WHEREAS**, the Planning Commission held a public hearing on AUGUST 14, 1997 on this ordinance and recommended its adoption;

**NOW, THEREFORE**, the City Council for the City of American Canyon does hereby ordain as follows;

**Section 1.** This ordinance is exempt from CEQA pursuant to Section 15064(b)(3) of the State CEQA Guidelines.

**Section 2.** The procedures set forth herein are adopted pursuant to Government Code Sections 65864 through 65869.5.

Section 3. Article 9, Chapter 19.37 regarding development agreements, is hereby added to Title 19 of the American Canyon City Code, to read as follows:

**CHAPTER 19.37 - DEVELOPMENT AGREEMENTS**

Section 19.37.010. Purpose

The purpose of this chapter is to provide procedures for the processing and review of applications for development agreements by the City.

Section 19.37.020. Qualifications and Standards for Filing Application for Development Agreement

- A. Only a qualified applicant may file an application for a development agreement. A qualified applicant is a person who has a legal or equitable interest in the real property which is the subject of the development agreement, or an authorized agent of a person who has legal or equitable interest. The Planning Director may require an applicant to submit a title report or other evidence satisfactory to the Planning Director to verify the applicant's interest in the real property and the authority of the agent to act for the applicant.
- B. Applications from qualified applicants for development agreements for property in unincorporated areas within the City's Sphere of Influence will be processed as provided in this section. However, the agreement shall not become operative unless annexation proceedings annexing the property to the City are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement shall be null and void.
- C. An application for a development agreement may be filed concurrently with other application(s) having a direct relationship to the property which is the subject of the proposed agreement.

Section 19.37.030. Application Procedure

- A. An application for a development agreement shall be made in the form of a written request submitted to the Planning Department. The Planning Department shall provide an application form for this purpose.
- B. A draft of the proposed development agreement may be submitted along with the application. Said agreement shall be in a form acceptable to the City Attorney, and shall contain all information required under Section 65865.2 of the Government Code. If deemed appropriate by the City, or if agreed upon

prior to submittal, the City Attorney may draft the initial agreement for review by the parties thereto.

- C. The application shall be accompanied by an application fee in the amount (if any) established by a Resolution adopted by the City Council.
- D. Any legal fees incurred by the City in drafting or reviewing a development agreement shall be paid by the applicant prior to its becoming effective.
- E. The Planning Director, City Manager, and/or City Attorney may require additional information to supplement the application, if deemed necessary to conduct the environmental analysis required by the California Environmental Quality Act (Public Resources Code Section 21000 et. seq.) and/or to enable the Planning Commission and City Council to determine whether the development agreement is consistent with the objectives of the City's General Plan and any applicable specific or community area plan, the effect of the proposed agreement on capital facilities, and/or whether the proposed agreement otherwise meets the City's standards for approval.

Section 19.37.040. Contents of Development Agreements

- A. A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development 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 prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time.
- B. The agreement may also include terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

Section 19.37.050. Rules, Ordinances, Regulations and Official Policies of City Applicable to Property Subject to Development Agreement

- A. Unless otherwise provided by the development agreement, the rules, ordinances, regulations, and official policies of the City applicable to the development of property subject to a development agreement shall be those rules, ordinances, regulations and official policies in force at the time of

execution of the agreement. A development agreement shall not prevent the City in subsequent actions applicable to the property, from applying new rules, ordinances, regulations, and policies which do not conflict with those applicable to the property as set forth in the development agreement, nor shall a development agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, ordinances, regulations, and policies.

Section 19.37.060. Action by the Planning Commission

- A. The Planning Commission shall hold at least one public hearing on an application for a development agreement. The hearing shall be set and notice given as prescribed in Sections 65090 and 65091 of the Government Code. The hearing may be continued from time to time.
- B. Following the close of the public hearing, the Planning Commission shall determine whether the proposed development agreement is consistent with the required findings for approval as contained in Section 19.37.080, and shall recommend to the City Council that the application for a development agreement be either approved, approved as amended, or denied.

Section 19.37.070. Action by the City Council

- A. Upon receiving a recommendation from the Planning Commission on a proposed development agreement, the City Council shall hold a public hearing. The hearing shall be set and notice given as prescribed in Sections 65090 and 65091 of the Government Code. The hearing may be continued from time to time.
- B. Following the closing of a public hearing, the Council shall determine if the development agreement is consistent with the findings contained within Section 19.37.080 of this Article. If determined to be consistent, the City Council shall make such findings and introduce an ordinance adopting the development agreement. Such ordinance shall become effective thirty (30) days after its adoption.

Section 19.37.080. Required Findings for Approval

Before taking action to approve or recommend approval of a development agreement, the City Council or Planning Commission shall find as follows:

- A. The proposal for which the development agreement is requested conforms with the maps and policies of the General Plan and any applicable specific, community, or area plans.

- B. The proposal for which the development agreement is requested complies with the requirements of California Government Code Sections 65865 through 65869.5, and any other applicable State Law.
- C. The proposal for which the development agreement is requested is consistent with the Zoning Ordinance and all applicable codes and ordinances.
- D. The proposal for which the development agreement is requested will not be detrimental to or cause adverse effects on adjacent property owners, residents, or the general public.
- E. The proposal for which the development agreement is requested provides clear and substantial benefit the residents of the City of American Canyon.

Section 19.37.090. Recordation of Development Agreement

- A. No later than ten (10) days after entering into a development agreement, the City Clerk shall record with the Napa County Recorder a copy of the agreement.

Section 19.37.100. Ongoing Review/Termination of Development Agreement

- A. The City shall periodically review, at least every twelve (12) months, all approved development agreements to determine whether the applicant, or successor in interest thereto, is demonstrating good faith compliance with the terms of the agreement as established under Section 65865.1 of the Government Code. If, as a result of periodic review, the City finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement, the City may initiate proceedings to terminate or nullify the agreement.

Section 19.37.110. Amendments to Approved Development Agreements

- A. Any proposed amendments to previously approved development agreements shall be reviewed pursuant to the procedures outlined in this Chapter for a new application.
- B. All amendments to development agreements must be in writing, and approved by both the City and the applicant or successor in the interest thereto.

Section 19.37.012. Effect of New State or Federal Laws or Regulations on Development Agreements

- A. 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 provisions of the development agreement, such provisions of the agreement shall be modified or suspended as necessary to comply with such state or federal laws or regulations.

Section 4. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

Section 5. Severability.

This ordinance shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are declared to be severable and are intended to have independent validity.

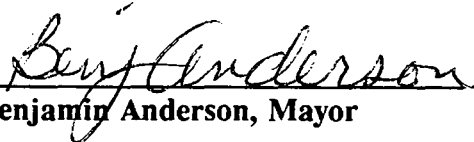
The foregoing ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California held on the 4<sup>th</sup> day of SEPT., 1997, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 18<sup>th</sup> day of SEPT., 1997 by the following vote:

**AYES:**            Anderson, Cypher, Colcleaser, Maples, Winters

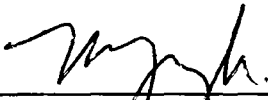
**NOES:**            None

**ABSTAIN:**        None


**ABSENT:**         None

  
Benjamin Anderson, Mayor

**ATTEST:**

  
Mark Joseph, City Clerk

**APPROVED AS TO FORM:**

  
William D. Ross, City Attorney