

**ORDINANCE CODE PART VII, CHAPTER 9**  
**DEVELOPMENT AGREEMENTS**

(Adopted by Ord. No. 2586, effective 2-16-84 (formerly Chapter 1.8);  
chapter and sections renumbered by Ord. No. 3133, effective 9-19-95)

**ARTICLE 1. APPLICATION**

**FORMS AND  
INFORMATION**

**SECTION 7-09-1000 (formerly section 7143).**

- (a) The Planning and Development Director shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements pursuant to Sections 65864-65869.5 of the Government Code of the State of California.
- (b) The Planning and Development Director may require an applicant to submit such information and supporting data as the Planning and Development Director considers necessary to process the application. (Amended by Ord. No. 2807, effective 12-10-87.)

**FEES**

**SECTION 7-09-1005 (formerly section 7143.1).** Unless otherwise provided, the Board of Supervisors shall adopt, from time to time by resolution, a schedule of fees to be paid by applicants to defray the expenses incidental to processing an application to enter into a development agreement, pursuant to this chapter. (Amended by Ord. No. 2667, effective 9-12-85; amended by Ord. No. 2807, effective 12-10-87; amended by Ord. No. 2885, effective 9-9-89; amended by Ord. No. 2921, effective 9-8-90; amended by Ord. No. 3002, effective 8-29-92; amended by Ord. No. 3035, effective 8-21-93; amended by Ord. No. 3184, effective 7-1-97; amended by Ord. No. 3262, effective 12-1-01.)

**QUALIFICATION  
FOR APPLICANT**

**SECTION 7-09-1010 (formerly section 7143.2).** Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement or the authorized agent of such person. The Planning and Development Director may require an applicant to submit proof of his or her interest in the real property and of the authority of an agent to act for the applicant. Before accepting the application as complete, the Planning and Development Director may obtain the opinion of the County Counsel as to the sufficiency of the applicant's interest in the real property to enter into the agreement. (Amended by Ord. No. 2807, effective 12-10-87.)

**PROPOSED  
FORM OF  
AGREEMENT**

**SECTION 7-09-1015 (formerly section 7143.3).** Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by designating the County's standard form of development agreement and including specific proposals for changes in or additions to the language of the standard form.

**REVIEW OF  
APPLICATION**

**SECTION 7-09-1020 (formerly section 7143.4).** The Planning and Development Director shall endorse on the application the date it is received, shall review the application, and may reject it for processing if it is incomplete or inaccurate. If the Planning and Development Director finds that the application is complete, it shall be accepted for filing and copies shall be transmitted to those public and private agencies that may be affected by the agreement in accordance with Section 7-01-1695(e) (formerly section 7060 (e)) of this Ordinance Code. After consideration of any recommendations, the Planning and Development Director shall review the application and determine the additional requirements necessary to complete the agreement. After receiving the required information and any recommendations from affected agencies, the Planning and Development Director shall prepare a staff report and recommendations, including the recommendations of the agencies, and shall state whether or not the agreement proposed or in an amended form would be consistent with the Tulare County General Plan and any applicable specific plan. (Amended by Ord. No. 2807, effective 12-10-87.)

**ARTICLE 3. NOTICES AND HEARING  
(Formerly Article 2)**

**DUTY TO  
GIVE NOTICE**

**SECTION 7-09-1070 (formerly section 7144).**

- (a) The Planning and Development Director shall give notice of intention of the Planning Commission to consider recommending adoption of the development agreement and of any other public hearing before the Planning Commission required by law or this Chapter.
- (b) The Clerk of the Board of Supervisors shall give notice of intention of the Board of Supervisors to consider approving a development agreement and of any other public hearing before the Board of Supervisors required by law or this Chapter. (Amended by Ord. No. 2807, effective 12-10-87.)

**NOTICE  
REQUIREMENTS**

**SECTION 7-09-1075 (formerly section 7144.1).**

- (a) The notice of intention to consider approving a 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 affected; and
  - (3) Other information required by provision of state law or this Chapter, or which the Planning and Development Director considers necessary or desirable.
- (b) Notice shall be given not less than ten (10) days prior to the hearing in the following manner:
  - (1) Publication at least once in a newspaper of general circulation, published and circulated in the County of Tulare. Insofar as practical, said notice shall be published in a newspaper circulated in the general area of the property subject to the proposed agreement.
  - (2) Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement. If the number of owners to whom notice is to be mailed is greater than 1,000, an alternative notice in the manner set forth in Section 65854.5(b) of the California Government Code may be provide.
- (c) The Planning Commission or Board of Supervisors, as the case may be, may direct that notice of the public hearing to be held before it shall be given in a manner that exceeds the notice requirements prescribed by this Ordinance Code or state law.
- (d) The provisions of this section notwithstanding, notice shall be given in a manner which conforms to the law of the State of California. (Amended by Ord. No. 2807, effective 12-10-87.)

**FAILURE TO  
RECEIVE  
NOTICE**

**SECTION 7-09-1080 (formerly section 7144.2).** The failure of any person, entitled to notice required by state law or this Chapter, to receive notice as a result of mistake or inadvertence does not affect the authority of the County to enter into a development agreement.

**CONDUCT OF  
HEARING**

**SECTION 7-09-1085 (formerly section 7144.3).** The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted under California Government Code Section 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

**IRREGULARITY  
IN PROCEEDINGS**

**SECTION 7-09-1090 (formerly section 7144.4).** 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 procedures whatever unless after an examination of the entire case 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 no presumption that error is prejudicial or that injury was done if error is shown.

**ARTICLE 5. STANDARDS OF REVIEW, FINDINGS, AND DECISION  
(Formerly Article 3)**

**DETERMINATION  
BY PLANNING  
COMMISSION**

**SECTION 7-09-1140 (formerly section 7145).** After the hearing by the Planning Commission, the Planning Commission shall make its recommendation in writing to the Board of Supervisors. 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 Tulare County General Plan and any applicable specific plan;
- (b) Is compatible with the uses authorized in, and the regulations prescribed for, the zoning 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.

The recommendation shall include the reasons for the recommendation.

**DECISION BY  
BOARD OF  
SUPERVISORS**

**SECTION 7-09-1145 (formerly section 7145.1).**

- (a) After the Board of Supervisors completes the public hearing, it may accept, modify or disapprove the recommendation of the Planning Commission. 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 Board of Supervisors.
- (b) The Board of Supervisors may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the Tulare County General Plan and any applicable specific plan.

**APPROVAL OF  
DEVELOPMENT  
AGREEMENT**

**SECTION 7-09-1150 (formerly section 7145.2).** If the Board of Supervisors approves the development agreement, it shall do so by the adoption of an ordinance. After the ordinance approving the development agreement takes effect, the Board of Supervisors may enter into the agreement.

**ARTICLE 7. AMENDMENT AND CANCELLATION  
OF AGREEMENT BY MUTUAL CONSENT  
(Formerly Article 4)**

**INITIATION OF  
AMENDMENT OR  
CANCELLATION**

**SECTION 7-09-1200 (formerly section 7146).** Either party may propose an amendment to or cancellation, in whole or in part, of a development agreement previously entered into.

**PROCEDURE**

**SECTION 7-09-1205 (formerly section 7146.1).** The procedure for proposing and adopting an amendment to or cancellation, in whole or in part, of a development agreement shall be the same as the procedure for entering into an agreement in the first instance (Section 7-09-1000 through 7-09-1020, including the provisions for the payment of fees.) However, where the Board of Supervisors initiates the proposed amendment to or cancellation, in whole or in part, of a development agreement, it shall first give notice to the property owner of its intention to initiate such proceedings at least ten (10) days in advance of the giving of notice of intention to consider the amendment or cancellation required by Section 7-09-1075.

**ARTICLE 9. RECORDATION  
(Formerly Article 5)**

**RECORDATION  
OF  
DEVELOPMENT  
AGREEMENT**

**SECTION 7-09-1255 (formerly section 7147).**

- (a) Within ten (10) days after the Board of Supervisors enters into the development agreement, the Clerk of the Board 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 California Government Code Section 65868, or if the Board of Supervisors terminates or modifies 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 Clerk of the Board shall have notice of such action recorded with the County Recorder.

**ARTICLE 11. PERIODIC REVIEW  
(Formerly Article 6)**

**TIME FOR AND  
INITIATION  
OF PERIODIC  
REVIEW**

**SECTION 7-09-1305 (formerly section 7148).** The Planning Commission shall review the development agreement at least once every twelve (12) months from the date the agreement is entered into, in order to determine whether the applicant, or any successor in interest, is complying in good faith with the terms of the agreement. The time for review may be modified by the Board of Supervisors acting by Resolution.

**NOTICE OF  
PERIODIC  
REVIEW**

**SECTION 7-09-1310 (formerly section 7148.1).** The Planning and Development Director shall begin the review proceeding by giving notice to the owner of the property that the Planning Commission intends to under-take a period review of the development agreement. The director shall give the notice at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission. (Amended by Ord. No. 2807, effective 12-10-87.)

**PUBLIC  
HEARING**

**SECTION 7-09-1315 (formerly section 7148.2).** The Planning Commission 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.

**PROCEDURE  
UPON  
FINDINGS**

**SECTION 7-09-1320 (formerly section 7148.3).**

- (a) If the Planning Commission 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.
- (b) If the Planning Commission 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 Commission may recommend that the Board of Supervisors modify or terminate the agreement. The written decision of the Planning Commission recommending modification or termination of the agreement shall be delivered to the Board of Supervisors not later than ten (10) days after the final action of the Commission.

- (c) Any person may appeal a determination made by the Planning Commission pursuant to this section to the Board of Supervisors in accordance with the procedures set forth in Section 165 of the Ordinance Code.

### **ARTICLE 13. MODIFICATION OR TERMINATION (Formerly Article 7)**

#### **PROCEEDINGS UPON MODIFICATION OR TERMINATION**

**SECTION 7-09-1370 (formerly section 7149).** If, upon receipt of a finding under Section 7-09-1320, the Board of Supervisors determines to proceed with modification or termination of the agreement, the Board of Supervisors shall set a public hearing and give notice to the property owners of the time and place of such hearing and of its intention to consider modification or termination of the development agreement. The notice shall be given no less than ten (10) days prior to the date of the public hearing.

#### **HEARING ON MODIFICATION OR TERMINATION**

**SECTION 7-09-1375 (formerly section 7149.1).** 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 Board of Supervisors may act to modify or terminate the agreement, may continue the agreement, may impose additional conditions upon the continuance of the agreement or may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The decision of the Board of Supervisors is final.