



## Planning Commission Staff Report

**Date:** November 8, 2022

**Item Initiated By:** Douglas L. White, City Attorney

**Authorized By:** Raffi Boylan, Community Development Director

**Prepared By:** Douglas L. White, City Attorney

**Subject:** **A Resolution of the City of Dixon Planning Commission  
Recommending Adoption of an Ordinance Adding Chapter 18.32,  
Development Agreements, to Title 18, Zoning, of the Dixon Municipal  
Code to establish Requirements and Procedures for Development  
Agreements**

### **RECOMMENDATION/REQUESTED ACTION:**

Staff recommends that the Planning Commission review the proposed Ordinance, accept public comment, and by motion vote to approve the Resolution recommending to the City Council adoption of an Ordinance adding Chapter 18.32, Development Agreements, to Title 18, Zoning, of the Dixon Municipal Code to establish requirements and procedures for development agreements.

### **BACKGROUND**

Government Code section 65864 *et seq.* establishes requirements for processing Development Agreements and allows local agencies, such as the City of Dixon (“City”), to adopt implementing procedures for those agreements. The City continues to receive development project applications that would benefit from the clarity and long-term planning a development agreement can provide. By recommending adoption of the Ordinance, the Planning Commission is providing clarity and consistency in the Development Agreement process for the public and future development project applicants, especially as the City continues to grow.

## **ANALYSIS**

The proposed Ordinance establishes that either a development project applicant may request, or the Community Development Director or the City Manager have the discretion to require, that the City and a development project applicant enter into a Development Agreement for a proposed development project. It also sets forth the required contents of a Development Agreement, the requirements for the process and adoption of those agreements, the monitoring requirements for the agreement, and how the agreement may be amended or cancelled.

The key points of the proposed Ordinance are:

1. Unless otherwise provided in the Development Agreement, the applicable rules, regulations, and policies are those that are in force at the time the Development Agreement is executed.
2. In approving a Development Agreement, the project the agreement governs must be consistent with the General Plan and any applicable Specific Plan.
3. The City may negotiate for additional public dedications, fees, or improvements than would otherwise be deemed constitutional.
4. The City's decision to enter into a Development Agreement is a legislative act subject to appeal by referendum.
5. A Development Agreement must be monitored annually to ensure compliance with its terms and conditions.
6. The City may terminate the Development Agreement, subject to notice and a public hearing, where it finds that a developer is not in compliance with the terms and conditions of a development agreement.

The City already follows these procedures in its negotiation and administration of development agreements as established under the Government Code. By codifying these requirements and procedures, the City is ensuring that the public and development project applicants have a clear process to follow in submitting their development project applications and building their projects in the City where that project is subject to a Development Agreement.

## **ENVIRONMENTAL**

The Ordinance is not a "project" under the California Environmental Quality Act ("CEQA") since it does not have the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code, § 21065), therefore no CEQA review is required.

## **CONCLUSION**

The Ordinance, if adopted, would: 1) codify the City's procedures and requirements for consideration of Development Agreements, as allowed under Government Code section 65864 et seq., and 2) provide clarity and certainty in the planning process by establishing procedures for review and approval of a Development Agreement. The City would be formalizing the process that it already follows related to Development Agreements, ensuring that land use development applicants and the public are informed of the process.

## **PUBLIC CORRESPONDENCE**

Notice of this hearing was published in both local newspapers, 10 days in advance of this hearing. At the issuance of this staff report, no comments, adverse or otherwise, had been received by staff in response to the public notice for the proposed project.

## **ATTACHMENTS**

1. Draft Resolution 2022-\_\_\_\_ recommending adoption of the Ordinance to the City Council
2. Draft Ordinance 2022-\_\_\_\_

**DIXON PLANNING COMMISSION**

**RESOLUTION NO. 2022-\_\_\_\_\_**

**RESOLUTION RECOMMENDING THE DIXON CITY COUNCIL ADOPT AN  
ORDINANCE ADDING CHAPTER 18.32, DEVELOPMENT AGREEMENTS TO TITLE  
18 (ZONING) OF THE DIXON MUNICIPAL CODE, ESTABLISHING REQUIREMENTS  
AND PROCEDURES FOR DEVELOPMENT AGREEMENTS**

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**WHEREAS**, the Dixon Municipal Code's ("D.M.C.") zoning title does not currently contain any requirements or procedures for entering into Development Agreements between a developer and the City of Dixon ("City"); and

**WHEREAS**, the proposed Ordinance would add requirements and procedures to the City's zoning regulations to guide the City's process for entering into Development Agreements; and

**WHEREAS**, Development Agreements allow a development applicant to secure vested rights and the City to secure benefits and a level of certainty within the planning process not generally obtainable otherwise; and

**WHEREAS**, the Ordinance authorizes the City Manager or the Community Development Director to require a development applicant to negotiate a Development Agreement with the City for projects where such an agreement is deemed to be necessary by the City Manager or the Community Development Director; and

**WHEREAS**, the Ordinance provides for periodic review of Development Agreements at least once every twelve months as required by state law; and

**WHEREAS**, the California Legislature in Section 65864 of the Government Code found that the lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and the commitment to comprehensive planning which would maximize utilization of resources at the least economic cost to the public; and

**WHEREAS** the Dixon Planning Commission held duly a noticed public hearing on November 8, 2022 to consider the merits of the project, and hear testimony in favor of and in opposition to the project. The Community Development Department has provided public notice identifying the scope of the amendment to Title 18 of DMC and the date of the public hearings prior to the hearing. This notice was published in the Dixon Independent Voice and the Dixon Tribune papers on October 28, 2022; and

**WHEREAS**, the Ordinance is not a "project" under the California Environmental Quality Act ("CEQA") since it does not have the potential to cause a direct or reasonably

foreseeable indirect physical change in the environment. (Pub. Res. Code, § 21065), therefore no CEQA review is required.

**WHEREAS**, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department.

**NOW, THEREFORE, BE IT RESOLVED** that the Dixon Planning Commission (“Planning Commission”) of the City of Dixon hereby finds:

1. The revisions to the Dixon Zoning Code will clarify the City's guidelines with regard to Development Agreements ensuring the public may successfully participate in the Development Agreement process.
2. The requirements and procedures for Development Agreements contained in the Ordinance advance the health, safety, convenience, and public welfare of City residents.
3. The proposed amendment achieves the objectives of Title 8 (Zoning) prescribed in DMC 18.01.010, as required by DMC 18.42.080.B, including
  - a. Providing a guide for the physical development of the City and to achieve the land uses depicted in the General Plan land use diagram and to foster implementation of other goals and policies of the General Plan dealing with land use, urban design, environmental protection, and public health and safety.
  - b. Fostering a harmonious, convenient, workable relationship among land uses
  - c. Promoting the stability of existing land uses which conform with the General Plan and to protecting them from inharmonious influences and harmful intrusions.
  - d. Ensuring that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City.
  - e. Preventing excessive population densities and overcrowding of the land with structures.
  - f. Promoting a safe, effective traffic circulation system.
  - g. Fostering the provision of adequate off-street parking and truck-loading facilities.
  - h. Facilitating the appropriate location of community facilities and institutions.

- i. Promoting commercial and industrial activities in order to strengthen the City's tax base.
- j. Protecting and enhancing real property values.
- k. Safeguarding and enhancing the appearance of the City.

**NOW THEREFORE BE IT FURTHER RESOLVED**, the Dixon Planning Commission recommends that the City Council adopt Ordinance No. 2022-\_\_\_\_, adding Chapter 18.32, Development Agreements to Title 18, Zoning, of the Dixon Municipal Code.

**THE FOREGOING PLANNING COMMISSION RESOLUTION IS HEREBY ADOPTED** at a regular meeting of the Planning Commission of the City of Dixon, State of California, on the 8<sup>th</sup> day of November 2022:

AYES:

NOES:

ABSENT:

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JACK CALDWELL, CHAIR  
DIXON PLANNING COMMISSION

ATTEST:

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BRANDI ALEXANDER  
SENIOR ADMINISTRATIVE CLERK/SECRETARY

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DIXON, ADDING  
CHAPTER 18.32 DEVELOPMENT AGREEMENTS, TO TITLE 18, ZONING, OF THE  
DIXON MUNICIPAL CODE, ESTABLISHING PROCEDURES AND REQUIREMENTS  
FOR DEVELOPMENT AGREEMENTS.**

**WHEREAS**, the Dixon Municipal Code's ("D.M.C.") zoning title does not currently contain any requirements or procedures for entering into development agreements between a developer and the City of Dixon ("City"); and

**WHEREAS**, the proposed Ordinance would add requirements and procedures to the City's zoning regulations to guide the City's process for entering into development agreements; and

**WHEREAS**, Development Agreements allow a development applicant to secure vested rights and the City to secure benefits and a level of certainty within the planning process not generally obtainable otherwise; and

**WHEREAS**, the Ordinance authorizes the City Manager or the Community Development Director to require a development applicant to negotiate a Development Agreement with the City for projects where such an agreement is deemed to be necessary by the City Manager or the Community Development Director; and

**WHEREAS**, the Ordinance provides for periodic review of Development Agreements at least once every twelve months as required by state law; and

**WHEREAS**, the California Legislature in Section 65864 of the Government Code found that the lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and the commitment to comprehensive planning which would maximize utilization of resources at the least economic cost to the public; and

**WHEREAS** the Dixon Planning Commission held duly a noticed public hearing on November 8, 2022 to consider the merits of the project, and hear testimony in favor of and in opposition to the project and ultimately voted to adopt Planning Commission Resolution No 2022-\_\_\_\_\_, recommending approval of the Ordinance to the City Council; and

**WHEREAS** the Dixon City Council held duly a noticed public hearing on \_\_\_\_\_ to accept the recommendation of the Planning Commission, consider the merits of the project and hear testimony in favor of and in opposition to the project. The Community Development Department has provided public notice identifying the scope of the amendment to Title 18 of DMC and the date of the public hearings prior

to the hearing. This notice was published in the Dixon Independent Voice and the Dixon Tribune papers on \_\_\_\_\_; and

**WHEREAS**, the Ordinance is not a "project" under the California Environmental Quality Act ("CEQA") since it does not have the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code, § 21065), therefore no CEQA review is required; and

**WHEREAS**, the City Council finds and determines that under appropriate circumstances, development agreements will strengthen the public planning process, encourage participation in comprehensive planning by providing a greater degree of certainty in the process, and through corresponding assurances by the developers, reduce the economic costs to government of development, allow for the orderly planning of public improvements and services and the allocation of costs in order to achieve the maximum utilization of public and private resources in the development process, and assure, to the extent feasible, that appropriate measures to enhance and protect the environment of the city are achieved; and

**WHEREAS**, the City Council further finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the adoption of these requirements in order to provide a mechanism for the enactment of development agreements with flexibility of adding supplementary regulations to development standards for particular projects and to provide a mechanism to respond selectively to development proposals, to encourage the achievement of growth management goals, including assurances of adequate public facilities at the time of development, proper timing and sequencing of development, effective capital improvement programming and appropriate development incentives to accomplish the foregoing purposes and aims and the realization of benefits to be derived therefrom; and

**WHEREAS**, the City Council further finds that proposed amendment achieves the objectives of Title 8 (Zoning) prescribed in DMC 18.01.010, as required by DMC 18.42.080.B, including:

1. Providing a guide for the physical development of the City and to achieve the land uses depicted in the General Plan land use diagram and to foster implementation of other goals and policies of the General Plan dealing with land use, urban design, environmental protection, and public health and safety.
2. Fostering a harmonious, convenient, workable relationship among land uses
3. Promoting the stability of existing land uses which conform with the General Plan and to protecting them from inharmonious influences and harmful intrusions.
4. Ensuring that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City.

5. Preventing excessive population densities and overcrowding of the land with structures.
6. Promoting a safe, effective traffic circulation system.
7. Fostering the provision of adequate off-street parking and truck-loading facilities.
8. Facilitating the appropriate location of community facilities and institutions.
9. Promoting commercial and industrial activities in order to strengthen the City's tax base.
10. Protecting and enhancing real property values.
11. Safeguarding and enhancing the appearance of the City.

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF DIXON ORDAIN AS FOLLOWS:**

**SECTION 1:** Chapter 18.32, Development Agreements, is added to Title 18, Zoning, of the DMC to read as follows:

### **Chapter 18.32 Development Agreements**

#### **Sections:**

<b>18.32.005</b>	<b>Purpose.</b>
<b>18.32.010</b>	<b>Definitions.</b>
<b>18.32.020</b>	<b>Applications.</b>
<b>18.32.030</b>	<b>Development Agreement Contents.</b>
<b>18.32.040</b>	<b>Hearings.</b>
<b>18.32.050</b>	<b>Findings of Consistency.</b>
<b>18.32.060</b>	<b>Adoption and Recordation.</b>
<b>18.32.070</b>	<b>Regulations Applicable to Development.</b>
<b>18.32.080</b>	<b>Subsequently Enacted State and Federal Laws.</b>
<b>18.32.090</b>	<b>Enforceability.</b>
<b>18.32.100</b>	<b>Periodic Review.</b>
<b>18.32.110</b>	<b>Modification or Cancellation.</b>
<b>18.32.120</b>	<b>Miscellaneous Provisions.</b>

#### **18.32.005 Purpose.**

The purpose of this chapter is to:

- A. Reduce the uncertainty in the approval of development projects that can result in a waste of resources that can escalate the cost of housing and other development.

- B. Encourage the investment in and commitment to comprehensive planning in order to maximize the efficient utilization of resources at the least cost to the public.
- C. Provide assurances to the applicant for a development project that, upon approval of the project, the applicant may proceed with the project in accordance with the terms and conditions of a negotiated development agreement, and subject to the conditions of approval adopted by the Planning Commission and City Council, as applicable.
- D. Promote the timely financing and construction of adequate public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities prior to the development of new housing.
- E. Increase the community benefit derived from new development beyond the level that can be achieved through the traditional land use regulatory process.
- F. Allow greater flexibility and creativity in advancing the City's land use policies.

#### **18.32.010 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

“Director” means the Community Development Director or their designee.

“Developer” means an applicant for an official financing incentive or official land use action before any council, agency, board, commission or official of the City.

“Development agreement” means a development agreement enacted by legislation between the city and a qualified applicant pursuant to Government Code Sections 65864 through 65869.5.

“Project” means a proposed construction, improvement or use of land within the City for which a Developer seeks one or more land use planning applications.

#### **18.32.020 Applications.**

- A. An applicant may propose that the City enter into a Development Agreement pursuant to Article 2.5, Title 7 of the California Government Code, commencing with Section 65864, by filing an application with the planning department and demonstrating that the project satisfies the eligibility requirements of this section. The form of said application shall be established by the Director or the City Manager.

B. Applicant. An application may be filed only by the property owner or other person having a legal or equitable interest in the property that is subject to the Development Agreement or by that person's authorized agent. The term "applicant" shall also include any successor in interest to the property owner, or successor in interest to any person having a legal or equitable interest in the property.

C. Eligibility Requirements. The City Council finds that it may be in the City's best interest to enter into a Development Agreement when the construction of the project will be phased over a several year period, is a large-scale development, shall occupy substantial acreage, or in some other way requires long term certainty on the part of the Developer and the City. A Development Agreement may be required for Projects where the Director or City Manager, in their discretion, determines that a Development Agreement is necessary due to the aforementioned factors or any other factors which the Director or City Manager deem relevant.

#### **18.32.030 Development Agreement Contents.**

A. Development Agreements shall include terms relating the following:

1. The duration of the agreement;
2. The permitted uses of the property;
3. The density or intensity of use;
4. The maximum height, size and location of proposed buildings;
5. The reservation or dedication of land for public purposes to be secured, including, but not limited to, rights-of-way, open space preservation, and public access easements; and
6. The time schedule established for periodic review as required by Section 18.32.100.

B. Development Agreements may include additional terms, conditions and restrictions in addition to those listed in subsection A of this section, including, but not limited to:

1. Development schedules providing that construction of the proposed development as a total project or in phases be initiated and/or completed within specified time periods;
2. The construction of public facilities required in conjunction with such development, including, but not limited to, vehicular and pedestrian rights-of-

way, public art and other landscape amenities, drainage and flood-control facilities, parks and other recreational facilities, sewers and sewage treatment facilities, sewer lift stations, and water well and treatment facilities;

3. Method of financing such improvements and, where applicable, reimbursement to Developer or City;
4. Prohibition of one (1) or more uses normally listed as permitted, accessory, subject to review or subject to conditional use permit in the zone normally allowed by right;
5. Limitations on future development or special terms or conditions under which subsequent development approvals not included in the agreement may occur;
6. The requirement of a faithful performance bond where deemed necessary to and in an amount deemed sufficient to guarantee the faithful performance of specified terms, conditions, restrictions and/or requirements of the agreement. In lieu of a bond, the Developer may deposit with the City Clerk certificates of deposit or other security acceptable to the City Attorney;
7. Specific design criteria for the exteriors of buildings and other structures, including colors and materials, landscaping and signs;
8. Special yards, open spaces, trails, staging areas, buffer areas, fences and walls, public art, landscaping and parking facilities, including vehicular and pedestrian ingress and egress;
9. Performance standards regulating such items as noise, vibration, smoke, dust, dirt, odors, gases, garbage, heat and the prevention of glare or direct illumination of adjacent properties;
10. Limitations on operating hours and other characteristics of operation which the City Council determines could adversely affect the reasonable use and enjoyment of surrounding properties.

### **18.32.040 Hearings.**

A public hearing on an application for a Development Agreement shall be held by the Planning Commission and by the City Council. Notice of intention to consider adoption of a Development Agreement shall be given as provided in Government Code sections 65090 and 65091 in addition to any other notice required by law for other actions to be considered concurrently with the Development Agreement.

### **18.32.050 Findings of Consistency.**

- A. A Development Agreement is a legislative act that shall be approved by ordinance and is subject to referendum.
- B. A Development Agreement shall not be approved unless the City Council finds that the provisions of the agreement are consistent with the General Plan and any applicable specific plan.
- C. A Development Agreement that includes a subdivision, as defined in Government Code section 66473.7, shall not be approved unless the agreement provides that any tentative map prepared for the subdivision will comply with the provisions of Government Code section 66473.7.

### **18.32.060 Adoption and Recordation.**

- A. A Development Agreement is a legislative act and shall be enacted by ordinance only after a public hearing before the City Council is held in accordance with the provisions of Dixon Municipal Code.
- B. No later than ten (10) days after the execution of a Development Agreement by the City, the City Clerk shall record with the county recorder a copy of the agreement, which shall describe the land subject thereto. From and after the time of such recordation, the agreement shall impart such notice thereof to all persons as is afforded by the recording laws of this state. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

### **18.32.070 Regulations Applicable to Development.**

Unless otherwise provided by the Development Agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications applicable to development of the property subject to a Development Agreement shall be those rules, 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, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, 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, regulations, and policies.

### **18.32.080 Subsequently Enacted State and Federal Laws.**

In the event that state and federal laws or regulations enacted after execution of a Development Agreement prevent or preclude compliance with one or more provisions of such agreement, the provisions of such agreement shall be deemed modified or suspended to the extent necessary to comply with such laws or regulations.

### **18.32.090 Enforceability.**

Unless amended or canceled pursuant to Section 18.32.110, or modified or suspended pursuant to Section 18.32.080, a Development Agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City.

### **18.32.100 Periodic Review.**

#### **A. Time for and Initiation of Review.**

1. The City Manager or Director shall review each approved Development Agreement at least once a year during the term of the agreement, at which time the Developer shall be required to demonstrate good faith compliance with the provisions of the Development Agreement.
2. The Developer shall initiate the required annual review by submitting a written request at least sixty (60) days prior to the review date specified in the Development Agreement. The Developer shall also provide evidence as determined necessary by the City Manager or Director to demonstrate good faith compliance with the provisions of the Development Agreement. The burden of proof by substantial evidence of compliance is upon the Developer.

#### **B. Finding of Compliance.** If the City Manager or Director, on the basis of substantial evidence, finds compliance by the Developer with the provisions of the Development Agreement, the City Manager or Director shall issue a written finding of compliance.

#### **C. Finding of Noncompliance.**

1. If the City Manager or Director finds the Developer has not complied with the provisions of the Development Agreement, the City Manager or Director shall issue a finding of noncompliance which shall be recorded by the City with the county recorder after it becomes final. The City Manager or Director shall specify in writing to the Developer the respects in which Developer has failed to comply, and if appropriate, shall set forth terms of compliance and specify a reasonable time for the Developer to meet the terms of compliance.

2. If the Developer does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or modification pursuant to Section 18.32.110.

D. Appeal of Determination. Within ten (10) days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the City Manager or Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

E. Referral to the Planning Commission. The City Manager or Director may refer any review to be conducted hereunder to the Planning Commission. Such referral shall be made together with a staff report of the City Manager or Director's preliminary findings. Upon such referral, the Planning Commission shall conduct a noticed public hearing to determine the good faith compliance by the Developer with the terms of the Development Agreement in accordance with the provisions contained herein and shall direct the issuance of a certificate of compliance upon a finding of good faith compliance or make the determination of noncompliance on the basis of substantial evidence. Any such decision by the Planning Commission shall be subject to appeal to the City Council in the same manner as any other such decision.

#### **18.32.110 Modification or Cancellation.**

A. Cancellation or Modification by Mutual Consent. Any Development Agreement may be canceled or modified by mutual consent of the parties, but only in the manner provided in California Government Code Section 65868. Any proposal to cancel or modify a Development Agreement shall be heard and determined in accordance with the same procedures specified in this section for approval of a Development Agreement. A Development Agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the Developer and the City Manager.

B. Termination or Modification after Finding of Noncompliance. If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the City Manager may refer the Development Agreement to the City Council for termination or modification. The City Council shall conduct a public hearing. After the public hearing, the City Council may terminate the Development Agreement, modify the finding of

noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.

C. Rights of the Parties after Cancellation or Termination. In the event that a Development Agreement is canceled or terminated, all rights of the Developer, property owner, or successors in interest under the Development Agreement shall terminate.

#### **18.32.120 Miscellaneous Provisions**

- A. Interpretation. This section governs the interpretation of any Development Agreement approved under this Chapter.
- B. Enforcement of a Development Agreement. The procedures for enforcement, amendment, modification, cancellation or termination of a Development Agreement specified in this Chapter and in Government Code Section 65868 are nonexclusive. A Development Agreement may be enforced, amended, modified, canceled or terminated by any manner otherwise provided by law or by the provisions of the Development Agreement.
- C. Severability Clause. Should any provision a Development Agreement entered into after the effective date of this Chapter be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of the Development Agreement shall remain in full force and effect unimpaired by the holding, except as may otherwise be provided in the Development Agreement.
- D. Notice Requirements. The notice requirements contained in Section 18.32.040 are directory and not mandatory. The failure of any person to receive notice required by law or this section does not affect the authority of the City to enter into a Development Agreement.
- E. Irregularity in Proceedings. No action, inaction, or recommendation regarding a proposed Development Agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the petition, application, notice, finding, record, hearing, report, recommendation, or any matter of procedure whatever, unless the error complained 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 an error is prejudicial or that injury was done if an error is shown.

**SECTION 2. Severability.** If any part, section, subsection, sentence, clause, phrase, or portion of this chapter is, for any reason held to be invalid, ineffective or unconstitutional

by the decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted this chapter, and any part, section, subsection, sentence, clause, phrase or portion of this chapter, irrespective of the fact that any one (1) or more parts, sections, subsections, sentences, clauses, phrases, or portions of this chapter are judicially determined to be invalid, ineffective or unconstitutional.

**SECTION 3.** This Ordinance shall be published by one insertion in The Dixon Tribune, a newspaper of general circulation, printed and published in the City, within fifteen (15) days after its final passage and shall take effect, and be in force, thirty (30) days after its final passage.

This Ordinance was introduced at a regular meeting of the City Council of the City of Dixon, held on the \_\_\_\_ day of \_\_\_\_\_, 2022, and given its first reading at said meeting. Said Ordinance was given a second reading at a regular meeting of the City Council held on \_\_\_\_ day of \_\_\_\_, 2022, and after such reading, Councilmember \_\_\_\_\_, who moved its adoption, seconded by Councilmember \_\_\_\_, said Ordinance was thereupon adopted by the following vote:

AYES:

NOES:

EXCUSED:

APPROVED:

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Steve Bird  
Mayor of the City of Dixon

ATTEST:

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Kristin Janisch  
Elected City Clerk