

ORDINANCE NO. 24-09

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, ENACTING THE PENDING ORDINANCE DOCTRINE AND ESTABLISHING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR ANNEXATIONS, REZONINGS, BUILDING PERMITS, PLANNED DEVELOPMENTS, MASTER PLANNED COMMUNITIES, DEVELOPMENT ORDER(S), AND DEVELOPMENT PERMIT(S); PROVIDING EXEMPTIONS; PROVIDING FOR VESTED RIGHTS AND PROCEDURES; PROVIDING FOR THE INCORPORATION OF FACTUAL RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER’S ERRORS; PROVIDING FOR CODIFICATION; PROVIDING BUSINESS IMPACT ESTIMATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Dundee (the “Town”) is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, pursuant to Section 6.01.07.04 of the Town of Dundee Land Development Code (LDC), the Town is the sole provider of water utility service(s) within its Chapter 180, Florida Statutes, Utility Service Area (the “USA”) and all new development is required to connect to the Town of Dundee Water System; and

WHEREAS, the Town of Dundee continues to experience substantial residential growth in a short time causing the addition of new residential annexations, land use modifications, rezonings, major Planned Unit Development (PUD) amendments, master planned communities, and conditional uses for residential development(s) over one (1) acre resulting in significant increased demand for Town-provided potable water; and

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers

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and mandates the Town of Dundee, Florida, to plan for future development and growth and to adopt and amend comprehensive plans, or elements, or portions thereof, to guide the future growth and development of the Town; and

WHEREAS, on March 12, 2024, at a duly noticed public meeting, the Town Commission of the Town of Dundee (the “Town Commission”) approved RFQ 24-01 for municipal planning and revisioning services (the “RFQ”); and

WHEREAS, the RFQ authorized qualified consultants, pursuant to the *Master Continuing Professional Consulting Agreement For Professional Planning and Visioning Services* entered into between the Town and consultant(s), to assist the Town with amending its 2030 Comprehensive Plan, updating the Town of Dundee Land Development Code to implement any adopted comprehensive plan amendments, and assist the Town with planning for the impacts of unprecedented growth and new residential development(s); and

WHEREAS, due to the historically high number of proposed and/or approved new residential development projects within the boundaries of the Town, the Town is at and/or has exceeded its maximum allocable daily potable water capacity allowed under the Town’s current consumptive water use permits (WUPs) issued by the Southwest Florida Water Management District (SWFWMD); and

WHEREAS, on August 23, 2022, at a duly noticed public meeting of the Town Commission, the Town Commission considered and approved the *Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, and The Town of Dundee, Florida* (the “Interconnect Agreement”); and

WHEREAS, pursuant to the Interconnect Agreement and subject to availability, in order for the Town to meet its existing need for potable water, the City of Winter Haven agreed to provide **0.5 MGD** of potable water to the Town during the term of the Interconnect Agreement; and

WHEREAS, in accordance with the Interconnect Agreement, the Town engaged the Chastain-Skillman, Inc. engineering firm to prepare conceptual construction plans (the “Concept Plans”) for the design and construction of the interconnect facilities which included, but were not limited to, the Town of Dundee Potable Water Main Interconnect Layout and Construction Plans for the Town of Dundee Potable Water Interconnect; and

WHEREAS, on September 27, 2023, the Town engaged CHA Consulting, Inc. (“CHA”) for engineering services to evaluate the capacity of the high service pump station at the Town’s Riner Water Treatment Plant for purposes of constructing the potable water interconnect with the City of Winter Haven and perform a comprehensive evaluation of the Town’s water distribution network related to the Town’s Riner Water Treatment Plant in order to identify and plan for improvements necessitated by and/or through concurrency management, substandard infrastructure, and new growth within the corporate limits of

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the Town; and

WHEREAS, on February 27, 2024, at a duly noticed public meeting, the Town Commission passed and adopted Resolution No. 24-02 accepting and approving the CHA Memorandum Riner Water Treatment Plant Capacity Evaluation, dated January 9, 2024; and

WHEREAS, on June 25, 2024, at a duly noticed public meeting, the Town Commission considered and approved the *Interlocal Agreement For Potable Water and Wastewater Utility Services* for a proposed mobile home development (Cypress Creek Village Phase V) within the Town’s municipal limits (the “Interlocal Agreement”) between the Town and City of Winter Haven, Florida; and

WHEREAS, on the effective date of the Interlocal Agreement, the Town did not have sufficient allocable potable water capacity to provide the necessary potable water utility service(s) for the *Cypress Creek Village Phase V* development; and

WHEREAS, pursuant to the Interlocal Agreement, in order to ensure that utility facilities and service(s) needed to support the *Cypress Creek Village Phase V* development located within the Town’s corporate limits are available, the City of Winter Haven agreed to provide extra-jurisdictional utility services for the *Cypress Creek Village Phase V* development; and

WHEREAS, SWFWMD regulates, through the issuance of a WUP, the amount of water the Town is permitted to provide to users of the Town's potable water supply; and

WHEREAS, the Town of Dundee has applied for an expansion of its public supply WUP and that application is under review by SWFWMD; and

WHEREAS, beginning in or about September 2022, the Town has processed and approved certain application(s) for development order(s) and/or development permit(s) which include, but are not limited to, conditional Certified Subdivision Plan (CSP) approvals for residential development(s); and

WHEREAS, pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the “Code”) and Section 6.01.07.03 of the LDC, a *Concurrency Developer’s Agreement* has been required as a condition of approval for any CSP in order to provide, at a minimum, as follows: (1) detail the Town’s inability to currently provide allocable potable water capacity; (2) detail the necessary expansion of the Town’s potable water treatment facilities in order to serve the proposed development; and (3) detail the terms and conditions under which the Town will provide potable water utility service(s); and

WHEREAS, the *Concurrency Developer’s Agreement(s)* also clearly and unequivocally identifies that the Town does not presently have the necessary utility infrastructure, utility facilities, and/or allocable potable water capacity to serve the

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proposed residential development and, for the purpose of providing a basis upon which a final plat may be considered for approval by the Town Commission, the conditional CSP approval will not be considered complete until the Town has the ability to provide allocable potable water capacity; and

WHEREAS, the Town has conditionally approved a CSP for approximately twelve (12) applicants and, in certain instances, entered into a Water Supply Allocation Agreement for the transfer of capacity associated with applicable agricultural wells associated with such proposed residential developments; and

WHEREAS, the purpose of this Ordinance is to place a temporary moratorium on accepting and processing applications for residential development orders and development permits for real property consisting of more than one (1) acre located within the corporate limits of the Town of Dundee, Florida; and

WHEREAS, the Town Commission hereby finds that the temporary moratorium imposed by this Ordinance is being imposed for a reasonable duration which is intended to give the Town a reasonable period of time to construct the interconnect and receive **0.5 MGD** of potable water from the City of Winter Haven, apply for and obtain the proper and necessary increases to the Town’s public supply WUP including, but not limited to, the transfer of allocated capacity of certain agricultural wells and perhaps others not yet identified, and adopt and implement necessary amendments and/or revisions to various aspects of the 2030 Comprehensive Plan and LDC in order to accommodate the unprecedented residential growth and development within the corporate limits of the Town; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, hereby finds that the expected impacts of the unprecedented residential growth and development on public facilities and infrastructure necessary to serve such new residential development and maintain required levels of service may negatively affect the public health, safety, and welfare of the Town; and

WHEREAS, on August 26, 2024, pursuant to the requirements in Chapter 163 of the Florida Statutes, the Town’s Planning & Zoning Board, sitting as the Town’s Local Planning Agency at a duly advertised and noticed public meeting, conducted a public hearing on this Ordinance and, after considering all such comments and/or matters considered at said public hearing, voted to recommend approval of this Ordinance to the Town Commission; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, hereby finds that this Ordinance advances an important government purpose by preventing the demand for Town-provided potable water service to exceed the current allowable daily withdrawal limits authorized in its WUPs; and

WHEREAS, to the extent that this Ordinance is determined to substantially affect

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the use of land located within the corporate limits of the Town under Florida common law, the Town Commission of the Town of Dundee, Florida, specifically finds that the Town issued all necessary or required statutory notices, held and duly convened all necessary or required public hearings, and complied with all necessary or required formalities for the adoption of an ordinance seeking to involuntarily zone or rezone property pursuant to the rule established in *Sanibel v. Buntrock*, 409 So. 2d 1073 (Fla. 2d DCA 1981) and Section 166.041(3)(c), Florida Statutes; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this Ordinance No. 24-09 is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest and preserves, enhances, and encourages the most appropriate use of land; and this Ordinance No. 24-09 is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE TOWN OF DUNDEE, FLORIDA:

Section 1. Incorporation of Factual Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this Ordinance, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this Ordinance.

Section 2. Authority.

This Ordinance is enacted pursuant to Chapter 163 of the Florida Statutes and the Town’s home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution.

Section 3. Enactment of Pending Ordinance Doctrine.

From and after the effective date of this Ordinance, no development permit and/or development order shall be issued where an amendment to the Land Development Code of the Town of Dundee, Florida, is pending before the Town Commission, which amendment, if adopted, would make illegal the use authorized by the development permit and/or development order.

From and after the effective date of this Ordinance, a valid and current local development order shall be required prior to the issuance of any building permit to authorize development or a change of use. No development or change of use shall be made or continued without a lawful building permit; and no development permit shall be

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issued where an amendment to the Land Development Code, Town of Dundee, Florida, is pending before the Town Commission or Planning and Zoning Board, which amendment, if adopted, would make nonconforming the development authorized by the development order and/or development permit.

Subject to applicable Florida law, an amendment to the Land Development Code, Town of Dundee, Florida, shall be considered “pending” within the meaning of this rule so long as there is active and documented efforts on the part of the Town which, in the normal course of municipal action, culminates in the requisite amendment to the Land Development Code; and, at a minimum, the Town Commission or Town Planning and Zoning Board must be aware of and have documented such efforts.

Section 4. Temporary Moratorium.

(a) **Purpose.** The purpose of this temporary moratorium is to provide a reasonable period of time for the Town to construct a potable water interconnect, in accordance with the *Interlocal Agreement For The Interconnection of Potable Water Between The City of Winter Haven, Florida, and The Town of Dundee, Florida*, and receive up to **0.5 MGD** of potable water from the City of Winter Haven; apply to SWFWMD for the transfer of potable water capacity from applicable agricultural wells including but not limited to those identified in Section 5 (e) of this Ordinance and obtain the proper and necessary increases to the Town’s public supply WUP; and, pursuant to Section 163.3184, *Florida Statutes*, and applicable Florida law, adopt and implement necessary amendments and/or revisions to various aspects of the 2030 Comprehensive Plan and LDC in order to accommodate the unprecedented residential growth and development within the corporate limits of the Town.

(b) **Moratorium.** Beginning on the effective date of this Ordinance, the moratorium shall continue for twelve (12) consecutive months.

The moratorium shall be imposed on the Town’s consideration of applications for annexation(s), permit applications, planned developments, master planned communities, rezonings, special exceptions, and residential development permits and/or development orders as defined in §380.031, *Florida Statutes (2024)* (collectively hereinafter referred to as the “Applications”); and, during the pendency of the moratorium, the Town of Dundee shall not accept, review, or process any of the Applications.

No Applications (including applications that may have been submitted prior to July 23, 2024) for properties subject to the moratorium established herein may be processed by Town staff until the expiration and/or termination of this moratorium, unless provided for by this Ordinance.

The Applications for properties subject to the moratorium established herein

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received by the Town on or before July 23, 2024, will be held in abeyance until the conclusion of the moratorium, unless provided for by this Ordinance.

- (c) **Expiration and/or Termination.** Subject to the *extension* provision(s) provided for below, the moratorium imposed by this Ordinance shall terminate upon the earliest of two (2) occurrences, as follows: (1) one (1) calendar year at 11:59 P.M. on the 365th day after the effective date of this Ordinance; or (2) a date before **September 9, 2025**, if provided for by Ordinance of the Town Commission of the Town of Dundee, Florida.
- (d) **Extension.** The provisions of this Ordinance may be extended once by ordinance for a period of not more than twelve (12) additional months, upon a finding by the Town Commission following a public hearing/public comment that good cause exists and an extension would be in the best interests of the citizens and residents of the Town of Dundee, Florida.

Section 5. Exemptions. Exemptions from this Ordinance are, as follows:

- (a) Subject to Sections 7.02.03 and 6.01.00 of the LDC, upon confirmation that a satisfactory concurrency evaluation has been performed, the moratorium imposed by this Ordinance shall not apply to any development permit and/or development order, as the terms are defined in §380.031, Florida Statutes (2024), on and/or for real property consisting of one (1) acre or less.
- (b) The moratorium shall not include building permits that are issued by the Town for interior remodeling, maintenance, repair(s), reroofing, and/or health and safety improvements on lawfully existing structures.
- (c) The moratorium shall not apply to building permits for the demolition and/or replacement of lawfully existing structures which pose a life, health, and safety hazard, so long as the structure, once replaced, complies with all applicable provision(s) of the Town’s LDC, Code of Ordinances, and 2030 Comprehensive Plan. For purposes of this exception, any application(s) for local building permit(s) for the replacement of a lawfully existing structure shall include a written certification from a professional engineer registered and licensed in the State of Florida as being necessary to correct and/or remedy the structural deficiencies which pose a threat to the life, health, safety and general welfare of the public.
- (d) Upon written confirmation from Town staff that, pursuant to Sections 7.02.03 and 6.01.00 of the LDC, a satisfactory concurrency evaluation has been performed, the following residential developments are specifically and conditionally exempt from this Ordinance, as follows:

- (i) *Seasons at Bella Vista;*
- (ii) *Crystal Lake Preserve;*
- (iii) *Landings at Lake Mabel Loop;*

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- (iv) *Reserve at Dundee Lakes (up to limit of 304 ERCs);*
- (v) *Seasons at Hilltop;*
- (vi) *Shores at Lake Dell; and*
- (vii) *Sol Vista*

(e) Upon written confirmation from Town staff that, pursuant to Florida law and applicable provision(s) of the LDC, the Town has received a credit and/or increase to its public supply WUP from SWFWMD arising out of the transfer of agricultural wells pursuant to and/or in accordance with a Concurrency Developer’s Agreement and/or Water Supply Allocation Agreement, the transferor thereof shall be specifically and conditionally exempt and only to the extent of such credit and/or increase actually credited to the Town’s public supply WUP. For purposes of this exemption, the potable water capacity credited to or causing an increase in the Town’s public supply WUP by SWFWMD for each agricultural well transferred pursuant to a Concurrency Developer’s Agreement and/or Water Supply Allocation Agreement shall, to the extent of such credit and/or increase provided, be specifically and conditionally exempt from this Ordinance and reserved for certain residential development(s) which include, but are not limited to, the following:

- (i) *Woodland Ranch Phase(s) 1, 2 & 3;*
- (ii) *Alford Ridge;*
- (iii) *Reserve at Dundee Lakes (Remaining Phases);*
- (iv) *Landings at Lake Trask Phases 1 & 2;*
- (v) *Legacy Hills Phases 1 & 2;*
- (vi) *Valencia Ridge Reserve;*
- (vii) *Weiberg West Development;*
- (viii) *Estes Planned Unit Development; and*
- (ix) *Vista Del Lago Phase 4.*

(f) The moratorium imposed by this Ordinance shall not apply to any vested right and/or vested status as provided for by this Ordinance.

(g) The moratorium shall not apply to the Town’s acceptance of a petition for the establishment of a Community Development District (CDD), which is a local unit of special-purpose government, created pursuant to chapter 190, Florida Statutes. In the event a petition for the establishment of a CDD includes any other matter(s) which are the subject of the moratorium, this exception shall not prevent the abeyance of the subject petition until the termination of the moratorium.

(h) The moratorium imposed by this Ordinance shall not apply to any development in the General Retail Commercial (CC), Highway Commercial (CH), and Service Commercial (CS) Zoning Districts within the Town and all such developments shall be otherwise subject to applicable laws, Code of Ordinances, LDC’s and/or other applicable rules and regulations for such development.

(i) The Town Commission may authorize exception(s) to the moratorium

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imposed by this Ordinance when it finds, based upon competent substantial evidence presented at a duly noticed public meeting, that the deferral of action and/or issuance on an application for a development order and/or development permit for the duration of the moratorium imposes an extraordinary hardship. For purposes of requesting a hardship exception, the owner shall request a determination in the same form and manner provided for in **Section 6** of this Ordinance.

In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Commission shall consider all competent substantial evidence and relevant testimony which includes, but is not limited to, the following:

- (i) Prior to July 23, 2024 (date established by pending ordinance doctrine), the extent to which the owner had received permit(s) and/or approvals from the Town.
- (ii) Prior to July 23, 2024, whether the owner had entered into any contractual commitments in reliance upon the permit(s) and/or approval(s) issued by the Town.
- (iii) Prior to July 23, 2024, whether the owner has made a substantial made a substantial expenditure in *good faith* reliance upon the permit(s) and/or approval(s) issued by the Town.
- (iv) Prior to July 23, 2024, in *good faith* reliance upon the permit(s) and/or approval(s) issued by the Town, the owner has incurred financial obligation(s) to a lending institution which cannot be met unless the subject development proceeds (i.e., owner exhausted all available alternatives).
- (v) Whether the moratorium exposes the owner to substantial monetary liability to third-parties, results in the owner's inability to earn a reasonable investment-backed expectation on and/or for the subject real property.

Section 6. Vested Rights and Quasi-Judicial Review Procedures.

- (a) Owner(s) of real property located within the corporate limits of the Town or an authorized agent of the owner(s) may request a vested rights determination by paying an application fee, provided hereunder, and filing a technically complete application with the Town's Chief Administrative Officer or designee.
- (b) The application form shall, at a minimum, contain the following information:

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- (i) The name and address of the applicant(s), who must be the owner(s) of the subject parcel(s) or real property, or an agent expressly authorized to apply on behalf of the owner(s).
- (ii) A legal description, current tax parcel identification number and survey or a sketch of the real property that is the subject of the application.
- (iii) The name and address of each owner of the parcel(s) or real property.
- (iv) Any approved site plan, approved Certified Subdivision Plan, or plat that is applicable to the real property.
- (v) Identify with particularity with specific reference to any ordinance, resolution, or other action of the Town of Dundee or failure to act by the Town of Dundee, any statute or other general law, upon which the applicant relied and which the applicant believes supports the applicant's position that a development order and/or development permit should be issued during the moratorium.
- (vi) A statement of fact that the applicant intends to prove or demonstrate, in support of the application that a vested right exists which warrants the issuance of a development order and/or development permit during the moratorium.

The application shall fully articulate the legal basis for being issued a development order and/or development permit notwithstanding the moratorium.

- (c) The applicant shall provide a sworn statement, executed by all owners of the real property at issue or an authorized agent averring that all factual information set forth in the application is true and accurate.
- (d) The Town's Chief Administrative Officer or designee shall screen each application to determine whether the application is technically complete, as set forth herein. No screening shall take place until an applicant has paid an application processing fee of \$ [REDACTED].

The sufficiency determination shall be made within fourteen (14) calendar days after receipt of the application. If not technically complete, the application shall be returned to the applicant with written notification identifying the deficiencies in the application and the applicant shall be granted fourteen (14) additional calendar days to complete a technically sufficient application. If a response is not submitted to the Town's Chief Administrative Officer or designee within the time specified in this subsection, the application shall be deemed abandoned.

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- (e) Upon the Town's Chief Administrative Officer or designee's acceptance of a technically complete application, for which the application fee has been submitted and paid, the Town Commission shall review the application, hold a public hearing, and make a final determination within forty-five (45) calendar days as to whether or not it has been clearly and convincingly demonstrated that the real property at issue has a vested right and/or vested status and therefore should be issued a development order and/or development permit for new residential development notwithstanding this moratorium.

- (f) Within seven (7) calendar days after making a final determination of vested rights status, the Town Commission shall provide the applicant with a written order, notifying the applicant of the determination of vested rights status. Notwithstanding the moratorium, if the Town Commission determines that a vested right and/or vested status exists, and all other applicable provisions of the Code of Ordinances, LDC, and 2030 Comprehensive Plan have been met, then a development order and/or development permit for the new residential development shall issue and the applicant shall have the right to rely upon such written notification that the real property is vested. The Town Commission's written notification shall be final and not subject to further appeal to the Town, revocation, or modification.

- (g) The public hearing on the application for vested rights shall be a quasi-judicial hearing before the Town Commission. The applicant shall present all the applicant's evidence in support of the application. The technical Florida Rules of Evidence shall not apply to the hearing, but basic notions of due process will be observed, and all testimony of witnesses shall be given under oath.

- (h) The Town Commission's decision to grant vested rights status shall be based on common law criteria for vested rights determinations which includes, but shall not be limited to, the following:
 - 1. Evidence that warrants a finding that this Ordinance has denied the owner(s) of beneficial use of the subject property in violation of State and Federal Constitutions; or
 - 2. Owner has relied in good faith upon the act or omission of the Town;
 - 3. Owner has made a substantial change in position or incurred extensive obligations and expenses; and
 - 4. Owner(s) change in position results in a highly inequitable and unjust deprivation of the right(s) that the owner acquired.

- (i) The Town Commission's decision to grant vested rights status shall be final.

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- (j) Any property expressly exempt from this moratorium, as set forth in Section 5(b)-(c) is presumptively vested for purposes of this Ordinance and shall not be required to file an application under this Section.

Section 7. Conflicts. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the 2030 Comprehensive Plan of the Town of Dundee, unless such repeal is explicitly set forth herein.

Section 8. Severability. The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase of this Ordinance, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this Ordinance for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this Ordinance shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 9. Administrative Correction of Scrivener's Errors and Codification. It is the intention of the Town Commission that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the Town of Dundee is accomplished, sections of this Ordinance may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 10. Codification. It is the intention of the Town Commission of the Town of Dundee that Section 3 of this Ordinance incorporated herein shall become and be made a part of the Code of Ordinances, Town of Dundee, Florida.

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Section 11. Business Impact Estimate.

On October 1, 2023, Senate Bill 170 (“SB 170”), *Chapter 2023-309, Laws of Florida*, was enacted amending Section 166.041, Florida Statutes, requiring a local government to prepare a *business impact estimate* before the enactment of an ordinance. Section 166.041(4)(c)1, as amended, provided that municipal ordinances enacted to implement Part II of Chapter 163, Florida Statutes, were not subject to the *business impact estimate* requirement.

On October 1, 2024, Senate Bill 1628 (“SB 1628”), as codified under *Chapter 2024-145, Laws of Florida*, becomes effective and further amends Section 166.041, Fla. Stat. (2023), by creating express exclusion(s) for *development orders* and *development permits*, as defined by Section 163.3164, Florida Statutes (2023).

In this instance, this Ordinance is enacted and is necessary to implement the issuance of *development orders* and/or *development permits* (as defined by §163.3164, Florida Statutes). As such, pursuant to applicable Florida law, this Ordinance is exempt and does not require a business impact estimate

Section 12. Effective Date. This Ordinance shall take effect immediately upon its adoption.

INTRODUCED AND PASSED, on First Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 29th day of August, 2024.

PASSED AND DULY ADOPTED, on Second Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 10th day of September, 2024.

TOWN OF DUNDEE

MAYOR – Sam Pennant

Attest:

TOWN CLERK – Lita O’Neill

