

**DRAFT ORDINANCE NO. XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING THE DEVELOPMENT AGREEMENT (DA 2007-02) FOR THE VINEYARD OAKS SUBDIVISION PROJECT (MITIGATED NEGATIVE DECLARATION, TENTATIVE TRACT MAP 2007-02 AND DESIGN REVIEW 2008-01), A 15-LOT RESIDENTIAL SUBDIVISION LOCATED AT 2400 GRANT STREET WITHIN THE "RR", RURAL RESIDENTIAL ZONING DISTRICT. (APN 011-010-057)**

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1           **WHEREAS**, on June 3, 2008, the City Council adopted a Mitigated Negative  
2 Declaration and approved required planning actions associated with the Vineyard Oaks  
3 Subdivision project. These planning actions included a Tentative Tract Map and Design  
4 Review to subdivide approximately 18 acres of land into 15 single-family lots. On June  
5 17, 2008, the City Council adopted Ordinance No. 652 authorizing the execution of a  
6 Development Agreement between the City and the owners of the subject property Ira  
7 and Lois Carter and BNK, LLC for the Vineyard Oaks Subdivision Project ("Development  
8 Agreement"); and  
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10           **WHEREAS**, on April 21, 2009, the City Council adopted Ordinance No. 657  
11 approving the first amendment to the Development Agreement between the City and the  
12 owners of the subject properties Ira and Lois Carter and BNK, LLC for the Vineyard  
13 Oaks Subdivision Project; and  
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15           **WHEREAS**, the City has been informed by the property owners, Ira and Lois  
16 Carter, that neither BNK LLC nor any of the principal partners of BNK LLC have any  
17 further relationship with the Vineyard Oaks Subdivision project; and  
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19           **WHEREAS**, the property owners, Ira and Lois Carter, have submitted a request  
20 to the City of Calistoga to extend the term of the Development Agreement to July 18,  
21 2014 and to amend the timeframe for the payment of Special Public Benefit and Utility  
22 Capacity Connection Fees for the project set forth in the Development Agreement; and  
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24           **WHEREAS**, adoption of this Development Agreement amendment will not  
25 conflict with any other appropriate ordinance and to the extent such conflict exists, this  
26 ordinance is hereby repealed;  
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28           **WHEREAS**, the Planning Commission held a duly noticed public hearing on the  
29 ordinance on May 23, 2012, and adopted Resolution PC 2012-15 forwarding a  
30 recommendation that the City Council approve the ordinance; and  
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32           **WHEREAS**, the City Council of the City of Calistoga has reviewed and  
33 considered this ordinance at regular meetings on June XX, 2012 and July XX, 2012,  
34 noticed in accordance with state and local law, and which included written and oral staff  
35 reports, proposed findings and comments received from the general public and  
36 interested agencies and parties; and  
37

38           **WHEREAS**, this action has been determined to not be subject to the California  
39 Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines;  
40 and

41  
42           **WHEREAS**, the City Council adopted the following findings with the introduction  
43 of an Ordinance:

- 44  
45           1.     The City Council duly adopted Ordinance No. 547 enacting procedures  
46                 for entering into development agreements.  
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48           2.     The Development Agreement is a contract negotiated and entered into  
49                 voluntarily between the City of Calistoga and the owners of the subject  
50                 property (Ira and Lois Carter), Developer of the Vineyard Oaks  
51                 Subdivision.  
52  
53           3.     The Development Agreement furthers the public health, safety and  
54                 general welfare and is consistent with the General Plan and that there is  
55                 no applicable specific plan. City and Developer have further determined  
56                 that the Project is a development for which the Development Agreement  
57                 is appropriate. The Development Agreement eliminates uncertainty  
58                 regarding Existing Project Approvals and Subsequent Project Approvals,  
59                 thereby encouraging planning for, investment in and commitment to  
60                 development of the Property. Continued use and development of the  
61                 Property in accordance with the Development Agreement is anticipated to  
62                 provide substantial benefits and contribute to the vitality of the City,  
63                 thereby achieving the goals and purposes for which the Development  
64                 Agreement Statute was enacted.  
65  
66           4.     The Development Agreement contains conditions and obligations relating  
67                 to the performance stated in the resolution(s) approving the project.  
68  
69           5.     That the project known as Vineyard Oaks Subdivision is a project of  
70                 significance to the community and upon the community of Calistoga and  
71                 for that reason a development agreement is a proper use of the City's  
72                 authority to secure the project benefits for the community.  
73

74           **NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY**  
75 **ORDAIN AS FOLLOWS:**

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77           **SECTION ONE:**  
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79           The Term of the Development Agreement is hereby extended for one additional  
80 year beyond the Initial Term identified in Section 2.02(A) of the Development  
81 Agreement.  
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83           **SECTION TWO:**  
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85           Based on the above findings and the conditions and obligations the City Council  
86 adopts this Ordinance to amend the Development Agreement, specifically Exhibit F  
87 Special Public Benefits and Exhibit H Utility Capacity Allocation and Connection Fees to  
88 amend timelines for payment of certain fees.

89 **SECTION THREE:**

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91 The City Council hereby adopts an amendment to the Development Agreement  
92 for the Vineyard Oaks Subdivision Project to incorporate the modifications in  
93 substantially the same form as set forth in Exhibit A, attached hereto and incorporated  
94 herein by reference, and authorizes the City Manager to execute the second amendment  
95 to the Development Agreement upon the effective date of this Ordinance.

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97 Upon execution of the second amendment to the Development Agreement by all  
98 parties, the City Clerk is hereby directed to record the first amendment to the  
99 Development Agreement with the Napa County Recorder's Office.

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101 **SECTION FOUR:**

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103 If any section or portion of this ordinance is for any reason held to be invalid  
104 and/or unconstitutional by a court or competent jurisdiction, such decision shall not affect  
105 the validity of the remaining portions of this ordinance.

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107 **SECTION FIVE:**

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109 **THIS ORDINANCE** shall take effect thirty (30) days after its passage and before  
110 expiration of fifteen (15) days after its passage, shall be published in accordance with  
111 law in a newspaper of general circulation published and circulated in the City of  
112 Calistoga.

113  
114 **THIS ORDINANCE** was introduced with the first reading waived at the City of  
115 Calistoga City Council meeting of the \_\_\_\_ day of \_\_\_\_\_ 2012, and was passed  
116 and adopted at a regular meeting of the Calistoga City Council on the \_\_\_\_ day of  
117 \_\_\_\_\_ 2012, by the following vote:

118  
119 **AYES:**

120 **NOES:**

121 **ABSTAIN: GINGLES, SLUSSER**

122 **ABSENT:**

123  
124  
125 \_\_\_\_\_  
126 **MICHAEL DUNSFORD, Vice-Mayor**

127 **ATTEST:**

128  
129  
130 \_\_\_\_\_  
131 **AMANDA DAVIS, Deputy City Clerk**