

Submitted by:
Prepared by: Dept. of Law
For reading: _____

ANCHORAGE, ALASKA
AO No. 2015-_____

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21, LAND USE PLANNING, FOR SUBDIVISION AGREEMENTS UNDER SECTION 21.08.060 OF THE "NEW" TITLE 21 CODE AND SECTION 21.08.060 OF THE "OLD" TITLE 21 CODE, TO EXEMPT GOVERNMENTAL UNITS FROM POSTING FINANCIAL PERFORMANCE AND WARRANTY GUARANTEES.

(Planning and Zoning Commission Case No. 2014-0207)

WHEREAS, pursuant to Anchorage Municipal Code Title 21, Land Use Planning, all subdividers are required to enter into a subdivision agreement that includes a requirement to post performance guarantees in the form of escrowed cash, performance bonds, or letters of credit;

WHEREAS, the Municipality of Anchorage and state or federal governmental units that receive their funding from the public are treated as subdividers under Title 21, Land Use Planning;

WHEREAS, setting aside public funds for purposes of performance guarantees reduces the amount of public funds available for the actual construction of a given project;

WHEREAS, unlike the Municipality's experience with private developers, there is no known instance where a governmental unit has failed to meet its performance or warranty obligations such that posting a performance guarantee is necessary;

WHEREAS, the Municipality of Anchorage and its own agencies should not and need not post performance guarantee funds to themselves; and

WHEREAS, governmental units will still contractually perform and warrant their work; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code (OLD CODE) 21.08.060 is hereby amended to read as follows (*language indicating no amendment is included for context only and other subsections not affected are not set out*):

21.08.060 Subdivision agreements.

A. Agreement required; application; contents.

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3. Contents. Except as provided in subsection A.4. below, the

subdivision agreement shall include but need not be limited to
the following provisions:

d. The guarantee required by subsection 21.08.060G[E].

g. The warranty required by subsection 21.08.060I[G].

4. Exceptions.

a. If the subdivider elects to complete and obtain
acceptance of all required public improvements before
the approval or filing of a final plat for the subdivision, the
subdivision agreement need not include the guarantee
provisions specified in items 3.c. and d. above.

b. If the subdivider is a governmental unit, the subdivision
agreement need not include the guarantee required by
3.d. above.

I. Improvement warranty.

2. To secure the warranty:

c. A governmental unit acting as the subdivider, in executing
the subdivision agreement, agrees:

i. To the warranty terms in this section and its
subdivision agreement, but need not post a
guarantee, and

ii. Shall, upon breach of the warranty, either correct
the deficiencies or pay the municipality's costs, in
accordance with subsection J.

(AO 2006-172, § 3; AO 2007-82, §§ 1, 2, 6-12-07)

Section 2. Anchorage Municipal Code (NEW CODE) 21.08.060 is hereby amended
to read as follows (*language indicating no amendment is included for context only and
other subsections not affected are not set out*):

21.08.060 Subdivision agreements.

A. Agreement required; application; contents.

4. Exceptions.

a. If the subdivider elects to complete and obtain acceptance of all required public improvements before the approval or filing of a final plat for the subdivision, the subdivision agreement need not include the guarantee provisions specified in items 3.c. and d. above.

b. If the subdivider is a governmental unit, the subdivision agreement need not include the guarantee required by 3.d. above.

I. Improvement warranty.

*** ** *

2. To secure the warranty:

*** ** *

c. A governmental unit acting as the subdivider, in executing the subdivision agreement, agrees:

i. To the warranty terms in this section and its subdivision agreement, but need not post a guarantee, and

ii. Shall, upon breach of the warranty, either correct the deficiencies or pay the municipality's costs, in accordance with subsection J.

(AO 2006-172, § 3; AO 2007-82, §§ 1, 2, 6-12-07)

Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2015.

Chair of the Assembly

ATTEST:

Municipal Clerk