

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

ANCHORAGE, ALASKA
AO No. 2015-_____

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING**
2 **ANCHORAGE MUNICIPAL CODE TITLE 21, LAND USE PLANNING, FOR**
3 **SUBDIVISION AGREEMENTS UNDER SECTION 21.08.060 OF THE "NEW" TITLE**
4 **21 CODE AND SECTION 21.08.060 OF THE "OLD" TITLE 21 CODE, TO EXEMPT**
5 **GOVERNMENTAL UNITS FROM POSTING FINANCIAL PERFORMANCE AND**
6 **WARRANTY GUARANTEES.**

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8 (Planning and Zoning Commission Case No. 2014-0207)
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10 **WHEREAS**, pursuant to Anchorage Municipal Code Title 21, Land Use Planning, all
11 subdividers are required to enter into a subdivision agreement that includes a
12 requirement to post performance guarantees in the form of escrowed cash,
13 performance bonds, or letters of credit;

14
15 **WHEREAS**, the Municipality of Anchorage and state or federal governmental units
16 that receive their funding from the public are treated as subdividers under Title 21,
17 Land Use Planning;

18
19 **WHEREAS**, setting aside public funds for purposes of performance guarantees
20 reduces the amount of public funds available for the actual construction of a given
21 project;

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

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

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

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33 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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

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39 **21.08.060 Subdivision agreements.**

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41 A. Agreement required; application; contents.

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43 *** **

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

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

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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.
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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.

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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