



AGENDA ITEM REPORT

Ordinance 23-15, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Section 11.20.070 to Specify that a Performance Guaranty is Required for New Subdivisions. Davis/Erickson.

Item Type: Ordinance
Prepared For: Mayor & City Council
Meeting Date: 28 Mar 2023
Staff Contact: Janette Keiser, PE, Public Works Director
Through: Rob Dumouchel, City Manager

Issue:

The purpose of this Memorandum is to recommend that the City Council amend HCC 11.20.070 to require a performance guaranty for subdivision developments.

Background:

Homer City Code currently requires that performance guarantees be waived for new subdivisions:

A performance bond or other acceptable guarantee in the amount of 100 percent of the project cost, which bond shall be waived in the case of new subdivisions, in which right-of-way dedication, via plat filing or recordation, cannot occur until improvements are installed and accepted. HCC 11.20.070(f)

This language allows potential developers to initiate the process of real estate development and then, abandon it, leaving the City to manage the consequences, which could include increased costs and risks to the Homer public. This is not a speculative risk – it happened at the Foothills Subdivision. The developer initiated the subdivision process, clear cut the area of trees, and then, abandoned the platting process. The land lay, undeveloped and denuded for years. This is not in the public's best interests.

The City requires the developer to provide collateral, which guarantees that if defects in the infrastructure development show up within two years of completion, the developer will correct the defects or the City can foreclose on the collateral. The collateral can be a warranty bond, cash or in some cases, one of the lots in the subject development. The City should require similar collateral to guarantee that the subdivision project will be completed. This will ensure that subdivision developments do not become "paper plats", but are progressed to completion.

This can be done by a simple edit to existing code. HCC 11.20.070(f) can be amended to read as follows:

11.20.070(f) A performance bond or other acceptable guaranty in the amount of 150 percent of the Design Engineer's Construction Cost Estimate is required.

Staff Recommendation:

Introduce Ordinance 23-15 and schedule public hearing and second reading on April 10, 2023.

Attachments:

Ordinance 23-15

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager/
4 Public Works Director

5 ORDINANCE 23-xx
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
8 AMENDING HOMER CITY CODE SECTIONS 11.20.070 TO SPECIFY
9 THAT A PERFORMANCE GUARANTY IS REQUIRED FOR NEW
10 SUBDIVISIONS.

11
12 WHEREAS, Current Homer City Code does not require a performance guaranty to ensure
13 the completion of proposed infrastructure improvement in a new subdivision; and
14

15 WHEREAS, This omission allows potential developers to initiate the process of real
16 estate development and then, abandon it, leaving the City to manage the consequences, which
17 could include increased costs and risks to the Homer public; and
18

19 WHEREAS, The City Council desires to ensure that subdivision developments become
20 more than “paper plats” and are progressed to completion.
21

22 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
23

24 Section 1. Homer City Code Chapter 11.20.070 entitled “Preconstruction
25 Requirements” is hereby amended as follows:
26

27 f. A performance bond or other acceptable ~~guarantee~~ **guaranty** in the amount of ~~100~~ **150**
28 percent of the ~~project cost, which bond shall be waived in the case of new subdivisions, in~~
29 ~~which right-of-way dedication, via plat filing or recordation, cannot occur until improvements~~
30 ~~are installed and accepted~~ **Design Engineer’s Construction Cost Estimate is required;**
31

32 Section 2. This ordinance is of a permanent and general character and shall be included
33 in the City Code.
34

35 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ___ day of _____, 2023.
36

37 CITY OF HOMER
38

39
40 _____
41 KEN CASTNER, MAYOR
42

43 ATTEST:

44

45

46

47 _____
MELISSA JACOBSEN, MMC, CITY CLERK

48

49 YES:

50 NO:

51 ABSTAIN:

52 ABSENT:

53

54 First Reading:

55 Public Hearing:

56 Second Reading:

57 Effective Date: