

CLERK'S OFFICE

APPROVED

Date: 1-5-99

Submitted by: Chairman of Assembly at the
Request of the Mayor

Prepared by: Department of Law

For reading: December 15, 1998

ANCHORAGE, ALASKA

AO NO. 98-191

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 21.87.030, 21.87.035, 21.87.037 TO ALLOW A PRIME CONTRACTOR TO POST THE PERFORMANCE BOND GUARANTEEING IMPROVEMENTS AND WARRANTIES IN SUBDIVISION AGREEMENTS DIRECTLY WITH THE MUNICIPALITY AND SUBJECT TO MUNICIPALITY CONTROL.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. That subsection 21.87.030.C. of the Anchorage Municipal Code is hereby amended to read as follows:

21.87.030. Guarantee of completion of improvements required; amount; methods.
* * *

C. *Methods.* The subdivision agreement shall include one or more of the following methods to guarantee the construction of required public improvements:

1. *Performance bond.* The subdivider may elect to provide a surety bond from a company authorized to do such business in the state. The bond shall be in a form acceptable to the municipal attorney and in an amount equal to the estimated cost of all required public improvements, plus an overrun allowance as provided in subsection B of this section. The bond shall be payable to the municipality if any required public improvements are not finally accepted in accordance with the provisions of this title, and shall be posted by no person other than the subdivider or a contractor obligated by written contract to the subdivider for construction of all the required public improvements. In the event a contractor posts the bond, the subdivider and the municipality may be dual obligees under mutually agreed terms.

Section 2. That section 21.87.035 of the Anchorage Municipal Code is hereby amended to read

as follows:

21.87.035 Release of guarantee of improvements.

The municipality shall release the obligation for performance guarantees upon the final acceptance of the improvement, together with the posting of adequate security for warranty.

The municipality may refuse to release the obligation for any particular public improvement if the subdivider or contractor is in present or imminent default in whole or in part on the completion of any other public improvement or warranty covered by the subdivision agreement.

Section 3. That subsection 21.87.037.B.1 of the Anchorage Municipal Code is hereby amended to read as follows:

21.87.37 Improvement warranty.

A. The subdivider shall warrant and guarantee that required public improvements constructed under the agreement will remain in good condition and meet operating specifications for two years, commencing with final acceptance of each public improvement when it is completed. Such warranty includes defects in design, workmanship, materials and any damage to improvements caused by the subdivider, his agents or others engaged in work to be performed under the subdivision agreement. The subdivider shall not be responsible for cleaning, snow removal, ditching, grading, dust control or similar activities during the warranty period. Nothing in this title, however, is intended to waive the requirements of chapter 24.80, pertaining to miscellaneous use provisions.

B. To secure the warranty:

The guarantee of performance provided for in section 21.87.030 shall remain in effect until the end of the warranty period. If the guarantee is a performance bond posted by a contractor, the bond cannot secure the warranty unless the subdivider and contractor, by written agreement, elected this option at the time the performance bond was posted; or

2 The subdivider shall furnish the municipality with a corporate surety bond, cash deposit or letter of credit in an amount equal to a percent of the total construction costs as set forth in this subsection. This security shall guarantee the payment of any reconstruction or repair costs which may be undertaken due to failures occurring during the warranty period. Responsibility for identifying the necessity of repairs or reconstruction of the improvements shall rest with the municipality.

Total Construction Cost	Percent to Secure Warranty
\$0.00--\$500,000.00	10
\$500,000.00--\$1,000,000.00	7 1/2
\$1,000,000.00 and higher	5

Section 4. That this ordinance shall become effective immediately upon its passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 5th day of January 1998.

Taylor Von Henningsen
Chair of the Assembly

ATTEST:

Lepine Ferguson
Municipal Clerk