

March 4, 2010 Version

ORDINANCE 2010 _____

AN ORDINANCE OF THE CITY OF KUNA, IDAHO, AMENDING TITLE 6, "SUBDIVISION REGULATIONS", CHAPTER 4, "FINANCIAL GUARANTEE RELATING TO COMPLETION OF SUBDIVISION IMPROVEMENTS", AND PROVIDING EFFECTIVE DATE

WHEREAS, discussions have been held by the Kuna City Council to amend the required public improvement section of the subdivision regulations found in Title 6, Chapter 4, Section 3;

WHEREAS, this amendment complies with the Kuna Comprehensive Plan; and

WHEREAS, it is deemed to be in the best interest of the City of Kuna to amend the noted portion of Title 6, Chapter 4, Section 3.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KUNA, IDAHO that:

Section 1. Title 6, Chapter 4, Section 3 of Kuna City Code is amended, which shall read as follows:

6-4-3: FINANCIAL GUARANTEE RELATING TO COMPLETION OF SUBDIVISION IMPROVEMENTS:

A. Financial Guarantee Arrangements: The actual installation of all required subdivision public improvements must be either physically completed or financially guaranteed for physical completion by the subdivider prior to signage of the final plat and noting that certain improvements, as identified in Kuna City Code 6-2-4 are not eligible for financial guarantee, rather they must be installed prior to the subdivision or its phases final plat approval. (Ord. 2007-02, 2-20-2007)

B. Form of Financial Guarantee:

1. Cash deposit, intended to be held by the city of Kuna [City], pending final completion of the improvements; or

2. Cash-backed, irrevocable standby letter of credit, drawn from a FDIC or FSLIC insured financial institution located within 75 miles of the City, that remains irrevocable until final completion of all noted financially pledged improvements; or

3. Alternate forms of financial guarantee may be acceptable at the sole discretion of the City upon a finding by the City Treasurer and City Engineer, the offered alternate form of financial guarantee is satisfactory.

4. A financial guarantee shall be constructed to provide the City opportunity to draw upon it within 30 days preceding expiration or earlier if subdivider [or its successor] has ceased to

pursue completion of improvements and the public health, safety or general welfare is jeopardized by the delay in completing the improvements.

5. The City shall not release the financial guarantee until all improvements (including required dedications) have been completed by the subdivider and accepted by the City Engineer, City departments and other public agencies responsible for the subdivision or its phase's acceptance and maintenance.

6. Cash the City holds as a financial guarantee will be held in the City's primary interest bearing account and the subdivider will be entitled to the interest accrued at the interest bearing rate once the improvements have been completed satisfactorily.

C. Method of Financial Guarantee: Financial guarantees shall be submitted to and accepted by the City Engineer prior to any City signatures on the final plat according to the following protocol:

1. The initial financial guarantee shall be an amount equal to 110% of the City Engineer's estimate of cost on all the remaining subdivision work to be completed including additional cost factors such as inflation, City bidding disadvantage and City project management.

2. The City Engineer's estimated cost of the remaining work shall be determined, in part, from the detailed bids provided by the subdivider's contractors on contractor's letterhead. To the initial 110% estimated cost may be added sums for the following considerations: three to ten percent (3 -10%) for inflation, ten to fifteen percent (10 - 15 %) for the City's bidding disadvantage and twelve percent to twenty percent (12 – 20 %) for City project management as determined by the City Engineer.

3. The scope of the remaining work shall be determined by the Engineering Department, in cooperation with the Planning and Zoning Department; this work shall be described in the form of a punch list, which shall be compiled and updated following onsite inspection(s).

4. For the duration of the financial guarantee no more than 50% of the total building permits available for the subdivision or its phases shall be issued by the City until the work to be covered by the financial pledge is completed, inspected and approved by the City Engineer.

5. If construction of all financially pledged improvements is not completed within 120 days following the date of recordation of the final plat, no further building permits shall be issued by the City until final completion of all improvements has occurred and the City has inspected and approved them. However, if the remaining improvements are not completed within the 120 day period, through no fault of the subdivider, the City Engineer may grant a one-time, 120 day time extension. The determination of what may be considered a "no fault circumstance" shall be determined by the City Engineer.

D. Time Periods and Extensions:

1. The financial guarantee shall be limited to not exceed one (1) year. If construction of improvements has not been completed within that time period, the City Engineer may allow a one-time, one-year time extension, provided that action is complemented by the financial guarantee remaining intact during that time extension period, which may entail the reissuing of the financial guarantee.

2. The renewal amount [for the one-year time extension] shall be set as defined in 6-4-3 C for the remaining work.

3. If the financial guarantee is drawn by the City, the City Engineer shall inform the City Council of this fact along with providing them a recommendation on how to proceed with completing required subdivision public improvements.

4. The City Council may, upon request of subdivider, approve a second one-year time extension. The City Council's renewal amount shall be set as defined in 6-4-3 C for the remaining work.

Section 2. All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

Section 3. This ordinance shall be in full force and in effect from and after its passage, approval and publication, according to law.