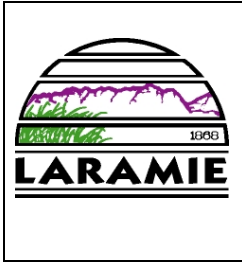


CITY OF LARAMIE COUNCIL REGULAR MEETING March 2, 2021



Agenda Item: Orig. Ordinance - 1st Reading

Title: Original Ordinance No.2024, amending various sections of Laramie Municipal Code 15.18.030.C & 15.18.070 regarding financial security options related to public improvements.

Recommended Council MOTION:

Move to **approve** Original Ordinance No. 2024, on first reading, based on findings of fact and conclusions of law.

Administrative or Policy Goal:

Regular review of Laramie Municipal Code (LMC) is important and necessary to keep regulations and requirements up-to-date and reflective of the community's needs and values. Doing so is a widely recognized best practice policy for communities and, thereby, is a routine aspect of the job description of all senior staff.

In this case, the following text amendment has been submitted by a Laramie citizen and is not a staff driven request. No matter if submitted by a citizen or if staff driven, city staff members examine requests and code requirements for areas of refinement that will benefit the community drawing upon their professional training, day-to-day experiences applying and enforcing municipal code, and interactions with applicants and residents subject to the code and subsequently bring forward changes for council's consideration.

Background:

Staff frequently field concerns from developers, and it has been raised many times at council meetings as well over the years, that the current requirement for financial security do not align with the realities of funding development projects. Developers (and their lenders) have expressed that current code does not align with the processes banks and lenders use to help developers finance their projects, and/or the timing of revenue flowing in from a project. *The proposed changes, if approved, will provide additional financial security options for developers that, if used, could decrease the amount of financial security required while maintaining reasonable and manageable risk to the city for completion of public improvements.*

What the Laramie Municipal Code (LMC) currently requires...

... Nearly all development projects must complete a development agreement and place an associated financial security with the City in the amount of 125% of the value of the improvements in the form of cash, bond, letter of credit, certificate of deposit or cash escrow (*or 150% if delaying construction of the public improvements*) under one of the following two scenarios:

- a) "[Development Completion Agreement \(DCA\)](#)" – for site/building construction.

In the context of Site Plan, a DCA is used to provide flexibility to the property owner to use their site or building prior to all *site* improvements being installed. As construction and inspections of the building near completion, an owner may be allowed to occupy the building and start business activities that generate revenue, even though some of the site work remains incomplete. Typical site improvement work can include things like parking lot construction, landscaping, drainage, etc. The DCA is most commonly used for landscaping to allow work to be done at the appropriate time of year to ensure plants, trees, bushes survive and the ground is workable. With a DCA and the corresponding financial security in place, the developer may use the building but complete site work at a later time.

- b) "[Subdivision Completion Agreement \(SCA\)](#)" – for subdivisions/preliminary and final plats.

In the context of subdivisions, before a Final Plat can be considered by the City Council the developer must enter into the SCA and provide the required financial security related to all *public* improvements associated with the project. For example, a residential subdivision may be required to build streets, install water and sewer lines, and drainage infrastructure. This financial security remains with the city and is "held" until the project is completed, inspected and accepted into the city's system(s). At that time, 100% of the total amount is released back to the developer, while the remaining 25% is held as warranty on the work. Land sales begin after plat approval and the purpose of this process is to ensure that purchasers of land receive the improvement(s) agreed to by the developer at the time of plat approval.

What will change within the Laramie Municipal Code (LMC)....

Developers will have additional options to use when placing a financial security with the City:

- Change 1: A developer would be allowed to utilize a new method for "cash escrow drawdown" as an alternative to cash, bond or letter of credit, etc.
- Change 2: A developer would be able to enter into a "no lot sale" agreement to be recorded with the plat, as an alternative to having a financial security in place at the time of plat approval. This action will allow developers to clear regulatory review and gain plat approval, thus demonstrating to lenders the project is viable and increasing the developer's ability to secure loans and financial backing for an approved subdivision.

Requiring the financial security at time of plat (as in current code) can create a classic "chicken and egg" dilemma for many projects - lenders won't extend the financial security without plat approval and the city won't approve the plat until a lender extends financing to the developer.

More detail regarding how these amendments would be applied to development projects can be found in the attached Planning Commission Staff Report and Ordinance. The Laramie Planning Commission reviewed the proposed amendments to LMC at their January 25, 2021 meeting and recommended City Council approve the Text Amendments.

Recommended Amendment:

Following consideration by the Planning Commission, staff noted that the proposed language found in 15.18.070.A.3 could cause confusion related to the use of the word "may" in the section. Staff recommends the following amendment to tighten up this language and remove any ambiguity. The change will allow

staff to choose to manage projects as able to do so. The following language will be needed to clear up this section:

I move to amend section 15.18.070.A.3, replacing the word “may” with the word “shall” and add this sentence at the end of the Section 3, “The City may act in a 3rd party construction management and administration role if the City Engineer determines there is adequate capacity to do so.”

Legal/Statutory Authority:

- Laramie Municipal Code: Title 15
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Responsible Staff:

Todd Feezer, Assistant City Manager,
721-5304
Derek T. Teini, AICP, Planning Manager,
721-5245

Future dates are subject to change

Advertised	
Public Hearing (PH) Held	March 16, 2021
PH Advertised	February 27, 2021
Introduction/1 st Reading	March 2, 2021
2 nd Reading	March 16, 2021
3 rd Reading	April 6, 2021

Attachments:

- Proposed Ordinance No. 2024 and Attachment A
- Planning Commission Staff Report