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Staff Report Memorandum

June 15, 2023

To: City Council via Planning Commission
From: Community Development Department
Subject: Amendments to Title 21 of the Land Development Code related to Improvement Completion Guarantees (Bonding) CA10262022-0006429

Public Hearing Notice: This item has been noticed on public websites, sent to affected entities and posted in three public locations at least 10 days prior to the Public Hearing.

Request

On behalf of Sandy City, the Community Development Department is proposing to amend Title 21, *Land Development Code*, Chapter 2, *General Provisions*, Section 16, *Guarantee for Improvements*. The proposed Code Amendments would also amend Sec. 21-11-10 *Swimming Pool Regulations*; Sec. 21-11-24 *Wireless Telecommunications Facilities*; Sec. 21-12-6. *Landscaping*; Sec. 21-13-7 *Landscaping*; Sec. 21-19-24 *SD(PO)(Union Heights) Professional Office District*; Sec. 21-22-5 *Maintenance of Premises; Manufactured Home Parks*; Sec. 21-23 *Commercial, Office, Industrial and Transit Corridor Development Standards*; Sec. 21-23 *Landscaping Standards*; and Sec. 21-37-17 *"P" Definitions*.

These amendments have been reviewed by an interdepartmental team consisting of the Public Works, Legal, Community Development, and Public Utilities Departments. The purpose of the code amendments is to implement new state legislation relating to improvement completion assurances (bonding) and to comply with the provisions of the Utah Municipal Land Use, Development and Management Act. The proposed code changes would effectively remove requirements to bond for on-site landscaping and amenities unless it is for public landscaping improvements or essential for public health and safety. The proposed code changes also set forth the administrative procedures and requirements for improvement agreements and financial assurance for construction improvements prior to recording a plat or obtaining a building permit.

Background

During the 2023 Utah Legislative Session, [House Bill 406](#) was passed, which made several amendments related to improvement completion assurance requirements (bonding). House Bill 406 modifies a municipality's authority by limiting the use of bonding to only infrastructure improvements that are public and essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation. The proposed code amendments will bring the City's land use code into compliance with these new state law provisions.

Relevant case history of code amendments to improvement guarantees are provided in the following table.

Case History	
Case Number	Case Summary
Ord. No. 16-02 CODE-10-15-4669	Changes to the guarantee for improvements section of the code, which includes regulations related to performance bonds for all new development projects.
Ord. No. 12-04 CODE-8-11-1935	Created the Utility Systems Connection Protection Guarantee, which is an alternative approach to bonding prior to recording a plat or obtaining a building permit.
Ord. No. 11-15 CODE-11-1-2082	Clarified the Utility Systems Connection Protection Guarantee that this option is not available for projects that do not require a building permit or a plat.

Public Notice

The city issued notice of the public hearing for the proposed code amendments on public websites, mailed notice to affected entities and posted in three public locations at least 10 days prior to the Planning Commission public hearing in accordance with the Land Development Code Sec. 21-36-1 and the Utah State Code § 10-9a-205.

Analysis

The purpose of the code amendments is to implement new state legislation relating to improvement completion assurances (bonding) and to comply with the provisions of the Utah Municipal Land Use, Development and Management Act. The proposed code changes would effectively remove requirements to bond for on-site landscaping and amenities unless it is for public landscaping improvements or essential for public health and safety. The proposed code changes also set forth the administrative procedures and requirements for improvement agreements and financial assurance for construction improvements prior to recording a plat or obtaining a building permit.

Upon reviewing House Bill 406 and other relevant state law provisions, staff propose changes to the Sandy Land Development Code to align with the current State Code. These amendments also update the administrative procedures and requirements for improvement agreements and financial assurance for construction improvements. The specific amendments to the Land Development Code are included as Exhibit “A” (red-lined version) and Exhibit “B” (clean version).

The following is a summary of the proposed changes to Title 21:

1. Sec. 21-2-16 *Guarantee for Improvements* is repealed in its entirety and replaced with a re-write of this Section, titled *Improvement Completion Assurance (Guarantee)*. This new version of Sec. 21-2-16 is reorganized, a purpose and applicability section has been added and definitions have been updated; the procedures and requirements are also clarified and strengthened, consistent with current city business practice and with the state law.
2. Various other Sections of Title 21 are also amended for consistency with state law.
3. A definition for “Public Landscaping Improvements” has been added to Sec. 21-37-17 consistent with the state law definition.

Non-Conforming Uses

This code amendment would not create any non-conforming situations.

Land Development Code Purpose Compliance

The Sandy City Land Development Code in 21-1-3 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

21-1-3 Purpose

This Code is adopted to implement Sandy City’s General Plan and to promote public health, safety, convenience,

aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

1. General

- a. To facilitate the orderly growth and development of Sandy City.*
- b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.*
- c. To stabilize property values.*
- d. To enhance the economic well-being of Sandy City and its inhabitants.*

2. Implementation of General Plan

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

3. Comprehensive, Consistent and Equitable Regulations

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.

4. Efficiently and Effectively Managed Procedures

- a. To promote fair procedures that are efficient and effective in terms of time and expense.*
- b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.*
- c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.*

The proposed code amendment is consistent with the purpose of the Land Development Code because the proposal promotes the public health, safety and welfare; ensures consistency and equitable standards; establishes efficiency in development review and land use administration; and is consistent with the Sandy City General Plan.

General Plan Compliance

The Sandy City General Plan encourages appropriate development standards for all uses and zoning categories within the city. The proposed code amendment furthers that goal and objective by establishing appropriate land development standards for all uses and zoning categories within Sandy City.

Recommendation

Staff recommends that the Planning Commission forward a positive recommendation to the City Council to amend Title 21, of the Sandy Municipal Code, relating to improvement completion guarantees (bonding) as shown in Exhibit "A", based on the following findings:

Findings:

1. The City Council may amend land use ordinances consistent with the purposes of the Sandy Land Development Code, the Sandy City General Plan, and the Utah Code, Municipal Land Use, Development, and Management Act per Title 21 Chapter 5 of the Sandy Municipal Code.
2. The proposal is reviewed by the Planning Commission and City Council in accordance with the requirements of Title 21 Chapter 5 of the Sandy Municipal Code.
3. The proposal complies with the purpose of the Land Development Code under Section 21-1-03 by creating consistent and equitable standards and procedures for review and approval of all new development projects within Sandy City.

4. The proposal complies with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within Sandy City.

Planner:



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