

SPONSORED BY: MAYOR DOWNING

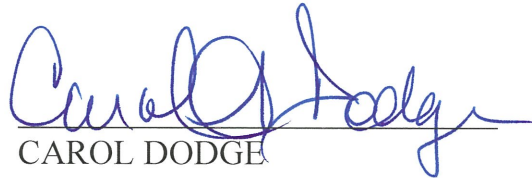
COUNCILMAN'S RESOLUTION

NO. CB-1872
Series of 2016

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN,
COLORADO, THAT:

A PUBLIC HEARING WILL BE HELD ON CB-1872, SERIES OF 2016, ENTITLED "A BILL FOR AN ORDINANCE AMENDING SECTION 12-2-3 OF THE NORTHGLENN MUNICIPAL CODE BY THE ADDITON OF A NEW SUB-SUBSECTION(C)(13) REGARDING THE INCLUSION OF A PLAT NOTE ON CERTAIN FINAL PLATS" OCTOBER 10, 2016 AT 7:00 P.M., CITY HALL COUNCIL CHAMBERS, 11701 COMMUNITY CENTER DRIVE, NORTHGLENN.

DATED this 12th day of September, 2016.



CAROL DODGE
Mayor Pro Tem

ATTEST:



JOHANNA SMALL, CMC
City Clerk

AFFIDAVIT OF POSTING:

I, Johanna Small, certify that CB-1872 was posted at the authorized posting places in the City of Northglenn this 15th day of September, 2016.


City Clerk's Office

**PLANNING & DEVELOPMENT MEMORANDUM
MEMORANDUM #16-21**

DATE: September 12, 2016
TO: Honorable Mayor Joyce Downing and City Council Members
FROM: James A. Hayes, AICP, City Manager JH
Brook Svoboda, Director of Planning and Development 
SUBJECT: CB-1872 Construction Defects

BACKGROUND:

The proposed amendment to the Subdivision Regulations is provide for a final plat note to the for multi-family projects, would require a legislative condition that certain claims on the property would be subject to binding arbitration in lieu of submitting any such claim to a court of law.

Over the past several years, there have been several attempts at the state legislative level to address construction defect litigation reform. During the last legislative session SB 15-177 was introduced and eventually blocked from a formal vote.

As a result, the Northglenn City Council requested that Staff explore alternative options that would address this issue at the local level. The proposed ordinance (Attachment A) is represents Council's preferred approach to addressing this at the local level.

ORDINANCE OVERVIEW:

A general overview of these amendments are as follows:

- Applies only to multifamily projects.
- Requires binding arbitration, in lieu of court of law for any claims against the
- The final plat note would be applied at the request of the applicant

PROCESS:

As required by the City's ordinance (12-7-3), the Planning Commission must hear and provide a recommendation to the City Council any amendment to Chapter 12 of the Municipal Code. The Planning Commission is scheduled to hear this at the September 6th 2017 meeting, where they will make a recommendation to City Council.

RECOMMENDATION:

Staff recommends that the City Council to set a public hearing for Oct 10th, 2016.

STAFF REFERENCE:

Brook Svoboda, Director of Planning & Development bsvoboda@northglenn.org 303.450.8737

ATTACHMENTS:

ATTACHMENT 1

Planning Commission Resolution 16-07

ATTACHMENT A

**RESOLUTION 2016-07
NORTHGLENN PLANNING COMMISSION**

**A RESOLUTION RECOMMENDING AN ORDINANCE TO AMEND THE
NORTHGLENN MUNICIPAL CODE CONCERNING LOCAL CONSTRUCTION
DEFECT REFORM.**

WHEREAS, the Planning Commission desires to amend the Subdivision Regulations to include the ability to add a plat note on certain final plats concerning construction defects for multi-family projects, and

WHEREAS, such note would add a legislative condition to a final plat that certain claims involving the property would be subject to binding arbitration in lieu of submitting such a claim to a court of law;

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Planning Commission hereby recommends, to the City Council, approval of the new amendment to Section 12-2-3, of the Northglenn Municipal Code, part 13, (c).

DATED this _____ day of _____, 2016

Sonia Di Carlo
Planning Commission Chair

ATTEST:

Rebecca M Smith
Secretary

SPONSORED BY: MAYOR DOWING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1872
Series of 2016

Series of 2016

A BILL FOR AN ORDINANCE AMENDING SECTION 12-2-3 OF THE NORTHGLENN MUNICIPAL CODE BY THE ADDITION OF A NEW SUB-SUBSECTION (c)(13) REGARDING THE INCLUSION OF A PLAT NOTE ON CERTAIN FINAL PLATS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 12-2-3 of the Northglenn Municipal Code is amended by the addition thereto of a new sub-subsection (c)(13) to read as follows:

(13) The City shall include a plat note on final plats for multi-family developments, at the request of the Applicant, as follows:

THE CITY COUNCIL OF THE CITY OF NORTHGLENN HEREBY ESTABLISHES THE FOLLOWING LEGISLATIVE CONDITION TO THE APPROVAL OF THIS FINAL PLAT TO PROMOTE THE PROMPT, EFFICIENT, AND COST EFFECTIVE RESOLUTION OF DISPUTES PERTAINING TO THE DEVELOPMENT OF THE PROPERTY AS A MULTI-FAMILY PROJECT, EXCLUDING ANY PROPERTY OWNED BY THE CITY (THE "PROPERTY"), FOR THE PURPOSE OF ENCOURAGING AND FOSTERING THE DEVELOPMENT OF AFFORDABLE HOUSING IN THE CITY AND THE CONSTRUCTION OF OWNER-OCCUPIED MULTI-FAMILY DEVELOPMENTS IN THE CITY.

AS A LEGISLATIVE CONDITION TO THE CITY'S APPROVAL OF THIS FINAL PLAT, THE FOLLOWING CLAIMS INVOLVING THE PROPERTY SHALL BE SUBMITTED TO BINDING ARBITRATION IN LIEU OF SUBMITTING ANY SUCH CLAIM TO A COURT OF LAW:

ANY AND ALL CLAIMS (1) THAT ARE BETWEEN ANY TWO OR MORE OF THE FOLLOWING PERSONS OR ENTITIES: (A) ANY OWNER OF ANY PORTION OF THE PROPERTY, (B) ANY COMMON INTEREST COMMUNITY ASSOCIATION CREATED WITH RESPECT TO THE PROPERTY, (C) THE SUBDIVIDER, DEVELOPER OR ANYONE CLAIMING UNDER OR THROUGH ANY SUCH PERSONS, (D) ANY PARTY THAT CONSTRUCTS OR DESIGNS ANY PORTION OF ANY RESIDENTIAL DWELLING UNITS UPON THE PROPERTY, AND (E) ANY CONSTRUCTION PROFESSIONAL AS DEFINED IN THE CONSTRUCTION DEFECT ACTION REFORM ACT, C.R.S. § 13-80-802.5, ET SEQ., AS AMENDED ("CADARA"), AND (2) THAT PERTAINS TO ANY OF (A) THE PROPERTY, (B) ANY DWELLING UNIT OR OTHER IMPROVEMENTS CONSTRUCTED ON THE PROPERTY OR COMMON AREA DEVELOPMENT STRUCTURE, (C) THE

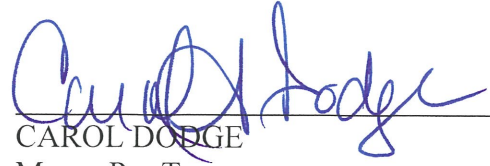
COMMON INTEREST COMMUNITY TO BE CREATED FOR THE PROPERTY OR ANY PORTION THEREOF, OR (D) THE DECLARATION OR OTHER DOCUMENTS GOVERNING SUCH COMMUNITY.

THE LEGISLATIVE CONDITION SHALL NOT PRECLUDE ANY OF THE PERSONS OR ENTITIES DESCRIBED ABOVE FROM ENDEAVORING TO RESOLVE ANY SUCH CLAIM(S) THROUGH EITHER NEGOTIATION OR MEDIATION BEFORE SUBMITTING SUCH CLAIM TO BINDING ARBITRATION. ADDITIONALLY, THE PROPERTY MAY ALSO BE SUBJECT TO A DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS THAT MAY IMPLEMENT AND EXPAND UPON THE REQUIREMENTS OF THIS PLAT NOTE, AND THAT MAY EXEMPT CERTAIN CLAIMS FROM THE REQUIREMENT THAT SUCH CLAIMS MUST BE SUBMITTED TO BINDING ARBITRATION, INCLUDING CLAIMS BROUGHT TO FORECLOSE LIENS FILED AS A PART OF THE CONSTRUCTION PROCESS, CLAIMS BROUGHT BY A COMMON INTEREST COMMUNITY ASSOCIATION TO RECOVER UNPAID ASSESSMENTS PAYABLE TO SUCH ASSOCIATION, OR TO OBTAIN A TEMPORARY RESTRAINING ORDER OR INJUNCTION FROM A COURT OF LAW PROHIBITING A VIOLATION OF SUCH COVENANTS, CONDITIONS AND RESTRICTIONS; PROVIDED; HOWEVER, THAT ANY SUBSEQUENT AMENDMENT OR CHANGE TO SUCH DECLARATION OF COVENANTS, CONDITIONS OR RESTRICTION SHALL NOT ELIMINATE THE REQUIREMENT THAT THE CLAIMS DESCRIBED IN THIS PLAT NOTE, INCLUDING CONSTRUCTION DEFECT CLAIMS, AS MORE PARTICULARLY DEFINED BY THE CADARA, SHALL BE SUBMITTED TO BINDING ARBITRATION IN LIEU OF SUBMITTING ANY SUCH CLAIM TO A JUDICIAL PROCEEDING.

FOR PURPOSES OF THIS PLAT NOTE, BINDING ARBITRATION SHALL MEAN SUBMISSION OF ANY CLAIM DESCRIBED ABOVE BE SUBMITTED TO A SINGLE ARBITRATOR WHO MUST BE, AT A MINIMUM, A RETIRED COLORADO STATE DISTRICT COURT JUDGE OR FEDERAL DISTRICT COURT JUDGE, OR THROUGH THE USE OF SUCH ORGANIZATION THAT SUCH RETIRED JUDGE MAY BE A MEMBER OF, INCLUDING SUCH ORGANIZATIONS AS THE JUDICIAL ARBITER GROUP OR ITS SUCCESSORS. IN SUCH ARBITRATION, THE COSTS AND EXPENSES OF ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES AND SHALL BE CONDUCTED UTILIZING SUCH RULES OF PROCEDURE AS THE ARBITRATOR MAY REASONABLY ADOPT TO PROMOTE THE EFFICIENT AND ECONOMICAL RESOLUTION OF ANY SUCH CLAIM.

ALL FUTURE PURCHASERS OF ANY INTEREST IN THE PROPERTY ARE DEEMED TO HAVE ACCEPTED AND AGREED TO THE TERMS AND CONDITIONS OF THIS PLAT NOTE, WHICH IS RECORDED IN THE ADAMS COUNTY CLERK AND RECORDERS OFFICE AND IS DEEMED TO BE A COVENANT RUNNING WITH THE PROPERTY.

INTRODUCED, READ AND ORDERED POSTED this 12^m day of September, 2016.


CAROL DODGE
Mayor Pro Tem

ATTEST:


JOHANNA SMALL, CMC
City Clerk

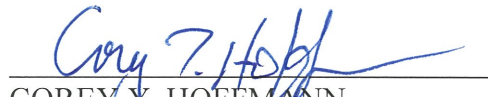
PASSED ON SECOND AND FINAL READING this ____ day of _____, 2016.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney