

EXPLANATORY COVER SHEET

COUNCILMAN'S BILL NO. CB-1532

SPONSOR: COUNCIL MEMBERS CARLOW, GARNER, PAIZ, TICHY

TITLE: A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE 13 TO CHAPTER 10 OF THE NORTHGLENN MUNICIPAL CODE REQUIRING A COMPLETION BOND FOR MULTI-FAMILY AND COMMERCIAL DEVELOPMENT PROJECTS.

PURPOSE: THIS ORDINANCE WILL REQUIRE THE DEVELOPER OF A MULTI-FAMILY OR COMMERCIAL DEVELOPMENT PROJECT TO FILE A COMPLETION BOND WITH THE CITY TO GUARANTEE COMPLETION OF THE PROJECT.

ADDITIONAL EXPLANATORY REMARKS:

THE COMPLETION BOND MAY BE IN THE FORM OF CASH, A LETTER OF CREDIT, OR A CORPORATE SURETY BOND.

SPONSORED BY: COUNCIL MEMBERS CARLOW, GARNER, PAIZ, TICHY

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1532
Series of 2005

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A BILL FOR AN ORDINANCE REQUIRING A FINANCIAL GUARANTEE FOR MULTI-FAMILY AND COMMERCIAL DEVELOPMENT

WHEREAS, in order to ensure that multi-family and commercial development projects in the City are completed in a timely manner and in compliance with City-approved development plans, the City finds it necessary to require developers to file completion bonds with the City, which shall provide the City with funds to complete the project if the developer fails to do so.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT THE NORTHGLENN MUNICIPAL CODE BE AMENDED BY THE ADDITION OF A NEW ARTICLE 13 TO CHAPTER 10, WHICH SHALL READ AS FOLLOWS:

ARTICLE 13. COMPLETION BOND

Section 10-13-1. Application

No planning or building plans for any multi-family or commercial property within the City shall receive final approval from the City unless the developer of the property files a completion bond with the City in a sum sufficient to cover one hundred percent (100%) of the site improvement costs as described in section 10-13-3 (a). The completion bond may be in the form of cash, a letter of credit from an F.D.I.C. Insured Financial Institution in a form acceptable to the City, or a corporate surety bond in a form acceptable to the City. A building permit shall not be issued by the City until such time as the completion bond is filed with the City Clerk.

Section 10-13-2. Bond Requirements

The conditions for City acceptance of a completion bond are as follows:

- (a) When the required public and private guarantees total less than twenty five thousand dollars (\$25,000.00), developer shall deposit cash or certified funds with the City Clerk to ensure project performance. Letters of credit and corporate surety bonds are not permitted when the guarantees total less than twenty five thousand dollars (\$25,000). Partial releases shall not be considered by the City. The City shall place the cash/certified funds in an interest-bearing account at a bank of its choosing. The funds shall remain on deposit with the City until such time as the terms of the development improvements agreement are fulfilled to the City's satisfaction. If the work is completed to the City's satisfaction based on an inspection by the City Manager or his designee, the original sum of money, along with any accrued interest, shall be returned to the developer within thirty

(30) days of the inspection. It is the developer's responsibility to request in writing and to schedule the inspection with the City Engineer and/or City Planner.

(b) When the required public and private guarantees total twenty five thousand dollars (\$25,000.00) or more, developer shall deposit cash, or file an irrevocable letter of credit or a corporate surety bond with the City Clerk.

(c) When filing a completion bond with the City of twenty five thousand dollars (\$25,000.00) or more, partial releases may be considered by the City Engineer when major work items are completed.

(d) Irrevocable letters of credit are acceptable when the following criteria are met:

(1) The letter of credit shall be from a Colorado bank or savings institution. Said bank or savings institution may be asked by the City to provide proof of financial stability.

(2) The irrevocable letter of credit shall conform to the standard City form which is on file in the City Clerk's office. All documents shall be approved by the City Attorney.

(3) The letter of credit shall be for a minimum period of two years.

(4) Partial releases or reductions in the initial amount of the letter of credit will only be allowed as major work items are completed and accepted by the City. A new letter of credit shall be executed when partial releases are approved with such amounts being approved by the City Manager or his designee. Developer may apply to the City Council for the purposes of defining the amount of a partial release when a disagreement occurs with the City Manager or his designee. Any decision of the City Council regarding such application for partial releases shall be final.

(5) Developer shall notify the City of the need to extend the expiration date of the letter of credit no less than sixty (60) days in advance of the expiration date. If the letter of credit is not renewed or extended within said sixty (60) day period, the City shall be entitled to draw upon the letter of credit in the full principal amount thereof.

(e) Corporate surety bonds are acceptable when the following criteria are met:

(1) The surety bond shall be from a responsible company licensed to do business in Colorado. Said company may be asked by the City to provide proof of financial stability.

(2) The surety bond shall conform to the standard City form which is on file in the City Clerk's office. All documents shall be approved by the City Attorney.

(3) The surety bond shall remain in force for the duration of the development project, plus a maintenance period of not less than two years approved by the City.

(4) The bond shall provide that at least thirty days' prior written notice of intention not to renew, cancellation or material change be given to the City by filing the same with the City Clerk.

Section 10-13-3. Completion of Work and Extensions

(a) A developer must complete within one year (365 days) of the issuance of a building permit all site improvements, meaning all exterior work (such as, but not limited to, the exterior of the building, landscaping, paving driveways and parking lots, completing drainage and utility improvements, etc.) in a manner which complies with the approved planning and building plans. If such site improvements are not completed within one year, plus any approved extension, from the date of issuance of the building permit and in compliance with all approved site plans and approved building plans, the cash deposit shall be retained, the letter of credit shall be drawn upon, or the surety bond shall be collected upon by the City, which may complete all required work utilizing the funds so retained or drawn, or use the same funds to demolish the unfinished structure and restore the property.

(b) The developer may submit a letter to the City Council requesting one or more extensions of up to six (6) months each to complete the required work. The extension request(s) must be submitted in writing to the building department no less than sixty (60) days in advance of the expiration date of the original three hundred sixty five (365) day period or a previously granted extension period. The City Council may grant the extension for good cause shown by the developer.

Section 10-13-4. Default

When a developer defaults and the required work is not completed to the City's satisfaction, the City, at its option, may enter onto the developer's property either utilizing its own employees or utilizing agents and/or contractors retained for that purpose, and, utilizing the monies retained from a cash deposit, drawn on a letter of credit, or collected from the surety bond, complete such work as it deems necessary to complete the project improvements or at a minimum to take measures that will restore/reclaim the property. Any cost associated with such work which is in excess of the security or collateral above described shall be billed to the developer, and if not paid within one hundred twenty (120) days, the outstanding bill may be collected in the manner provided by Colorado Revised Statutes 31-20-105 or any other means provided by law. No additional plans or design review will be processed by the City and no building permits will be issued when a developer has not yet satisfied the provisions set forth above.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____, 2005.

KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2005.

KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk

APPROVED AS TO FORM:

HERBERT C. PHILLIPS
City Attorney