

RESOLUTION R202507-001

AN ORDINANCE AMENDING TITLE 14.20.020 – SITE PLAN DEVELOPMENT BONDING; AMEND SECTION 14.20.010 AND 15.03.080(I) – SITE PLAN REVIEW BONDING OF THE BALLARD CITY MUNICIPAL CODE.

- WHEREAS,** the Ballard City Council ("Council") met in regular session on July 1, 2025, to consider, among other things, amending Title 14.20.020 – Site Plan Development Bonding; Amend Section 14.20.010 and 15.03.080(I) – Site Plan Review Bonding of the Ballard City Municipal Code.
- WHEREAS,** the Ballard City Planning Commission held a duly noticed public hearing on July 1, 2025, regarding this amendment and recommended approval of the amendment; and
- WHEREAS,** after careful consideration, the Council has determined that it is in the best interests of the health, safety, and welfare of the residents of Ballard City to approve the amendments.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Ballard City, Utah, as follows:

SECTION 1: Amendment. New Section 14.20.020 – Site Plan Development Bonding of the Ballard City Municipal Code is hereby amended to read as follows:

This new section establishes clear rules for when bonding is required for site plan developments:

- When the City takes ownership of improvements: Bonding is required unless improvements are completed before certificate of occupancy.
- When the City does not take ownership: Certificate of occupancy may be issued upon completion without bonding requirements.
- Compliance with state law: Better implements Utah Code 10-9a-604.5 requirements.

SECTION 2: Amendment to Existing Section 14.20.010

1. Minor clarifying language to distinguish between subdivision bonding (existing section) and site plan bonding (new section).

SECTION 3: Amendment to Section 15.03.080(I) - Site Plan Review Bonding:

1. Replace the existing general bonding language with a specific reference to the comprehensive bonding requirements in Section 14.20.020, eliminating potential conflicts and ensuring consistent application.

SECTION 4: Benefits

- **Legal Compliance:** Ensures the City meets state code requirements for improvement completion assurance.
- **Risk Management:** Protects the City from taking ownership of incomplete or defective infrastructure.
- **Clear Process:** Provides developers with clear expectations about when bonding is required.
- **Flexibility:** Allows certificate of occupancy for private improvements without unnecessary bonding.
- **Consistency:** Eliminates conflicts between code sections by centralizing site plan bonding requirements in one location.


ATTACHMENT -- See Proposed language in attachment with resolution.

SECTION 5: Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

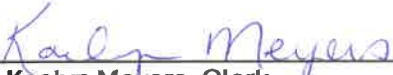
SECTION 6: Effective Date. This ordinance shall take effect immediately upon publication or posting as required by law.

ADOPTED AND RESOLVED BY THE BALLARD CITY COUNCIL THIS 1 DAY OF JULY, 2025 WITH A ROLL CALL VOTE AS FOLLOWS:

Mayor Robert Abercrombie	Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>	Absent	<input type="checkbox"/>	Abstain	<input type="checkbox"/>
Council Member Ben Allred	Aye	<input type="checkbox"/>	Nay	<input type="checkbox"/>	Absent	<input checked="" type="checkbox"/>	Abstain	<input type="checkbox"/>
Council Member Shaun Murray	Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>	Absent	<input type="checkbox"/>	Abstain	<input type="checkbox"/>
Council Member Nile Mathisen	Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>	Absent	<input type="checkbox"/>	Abstain	<input type="checkbox"/>
Council Member Al Kettle	Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>	Absent	<input type="checkbox"/>	Abstain	<input type="checkbox"/>



 Mayor Robert Abercrombie

ATTEST:


 Kaelyn Meyers, Clerk

14.20 Security: Performance

14.20.010 Improvement Bonding And Warranty

14.20.010 Improvement Bonding And Warranty

1. Security for Subdivision Improvements:

- a. A final plat of a subdivision of land shall not be signed by the City without a certification by the City's Engineer that the improvements described in the applicant's or subdivider's plans and specifications have been constructed and installed in conformance with City standards, **or that adequate security has been posted in accordance with this section.**
- b. In lieu of installing ~~all required~~ improvements prior to recording a final plat, the applicant or subdivider may enter into a security for performance agreement acceptable to the City as security to ensure completion of all required improvements. The security for performance agreement shall be in a form approved by the City council and may contain specific provisions approved by the City's Attorney. The agreement shall include but not be limited to:
 - i. Subdivider's agreement to complete all improvements within a period of time not to exceed eighteen (18) months from the date the agreement is executed;
 - ii. The improvements shall be completed to the satisfaction of the City and in accordance with City's standards as adopted by the City Council;
 - iii. The security for performance shall be equal to one hundred ten percent (110%) of the City Engineer's estimated cost of the improvements to be installed and shall be in effect for two (2) years from completion of subdivision.
 - iv. The City shall have immediate access to the security proceeds;
 - v. The security proceeds may be released at intervals determined by the City's Engineer upon the request of the applicant or subdivider as improvements are completed. The amount of the release shall be determined by the City but in no case shall it be in excess of the amount estimated by the City's Engineer plus ten percent (10%) at the time the original security amount for the proposed and now completed improvement was established. Such requests for release may be made only once every thirty (30) days and no release shall be authorized until such time as the City has inspected the improvements and found them to be in compliance with the city's standards. The final ten percent (10%) of the security proceeds shall be released following completion of all

required improvements provided no deficiencies are found. All releases shall be by written authorization by the City's Engineer.

- c. The security for performance agreement shall require the establishment of one of the following:
 - i. An escrow account, in any bank acceptable to both the City and applicant, subdivider or developer. The bank shall agree to hold and apply the proceeds in the escrow account only for the named improvements. The agreement shall give the City the right to withdraw those funds necessary to complete any improvements not installed within the eighteen (18) month time limit established;
 - ii. An irrevocable letter of credit which shall require the following specifications:
 - 1. Have an expiration date of not less than eighteen (18) months with the actual period being established by the Land Use Authority,
 - 2. Be obtained from a bank which meets the following standards:
 - a. Have total assets of fifty million dollars (\$50,000,000.00) or more,
 - b. Have an equity capital to total assets ratio of five percent (5%) or more,
 - c. Have a minimum capitalization of fifty million dollars (\$50,000,000.00),
 - d. Have a good profitability trend,
 - 3. Be approved by the Land Use Authority and City's Attorney;
 - iii. A cash bond agreement accompanied by a cashier's check payable only to Ballard City.
- d. This section applies to subdivision developments. Site plan development performances are governed by Section 14.20.020.

2. Warranty Period and Warranty Deposit:

- a. In addition to the security for performance agreement described in this chapter, the applicant, developer or subdivider shall present a warranty deposit to the City equal to fifteen percent (15%) of the total cost for all improvements.
- b. A warranty period shall commence upon the date that all improvements required by the City to be installed within the subdivision have been completed to the satisfaction of the City and a final inspection thereof has been made approving the same. The warranty period shall commence at that date and shall continue for a period of one (1) year thereafter unless otherwise determined by the Land Use Authority. If any deficiencies are found by the City during the warranty period in materials or workmanship, the applicant, developer or subdivider shall

promptly resolve such defects or deficiencies and request the City's Engineer to re-inspect the improvements. At the end of the two (2) year warranty period, the applicant, developer or subdivider shall request the City's Engineer to make a final warranty period inspection of all improvements. If the City's Engineer verifies that the improvements are acceptable, the City Engineer shall notify the City Recorder who shall refer the matter to the Land Use Authority. The Land Use Authority shall then review the matter and upon approval of the same shall release the warranty deposit posted by the subdivider. In the event deficiencies are found and not corrected within the two (2) year warranty period, the warranty deposit shall be forfeited to the City. The City shall then use the proceeds to correct the deficiencies. Any funds remaining shall be released to the subdivider upon approval of the City Council, and any costs incurred by the City to correct deficiencies shall be billed to and paid by the subdivider.

- c. The warranty deposit may be made separately or with the security for performance agreement. In any event, the warranty deposit shall be made prior to the signing of the final plat by the City.

HISTORY

Adopted by Ord. [202402-002](#) on 2/6/2024

14.20.020 Site Plan Development Bonding

1. Scope and Application:

- a. This section applies to all site plan developments that require public infrastructure improvements or landscaping improvements that will be:
 - i. Dedicated to and maintained by the City; or
 - ii. Associated with and proximate to improvements that connect to planned or existing public infrastructure.
- b. This section does not apply to single-family residential subdivisions governed by Section 14.20.010.

2. Security Requirements for Site Plan Developments:

- a. **When City Takes Ownership:** If public infrastructure improvements or landscaping improvements will be dedicated to and maintained by the City, the applicant shall either:
 - i. Complete all required public infrastructure improvements and landscaping improvements prior to recording the site plan or obtaining a certificate of occupancy; or
 - ii. Post an improvement completion assurance in accordance with subsection (3) below.

- b. **When City Does Not Take Ownership:** If infrastructure improvements will remain private and will not be dedicated to the City, the applicant may obtain a certificate of occupancy upon completion of all improvements required for public health, safety, and welfare, without posting a bond.

3. Improvement Completion Assurance Requirements:

- a. If an applicant elects to post an improvement completion assurance, the assurance shall provide for:
 - i. Completion of 100% of the required public landscaping improvements or infrastructure improvements; or
 - ii. If the City has inspected and accepted a portion of the improvements, 100% of the incomplete or unaccepted improvements.
- b. The improvement completion assurance shall be in a form acceptable to the City, including but not limited to:
 - i. A surety bond with a surety company licensed to do business in Utah;
 - ii. An irrevocable letter of credit issued by a federally- or state-insured financial institution;
 - iii. A cash deposit, cashier's check, or money market certificate made payable to Ballard City; or
 - iv. An escrow account established in accordance with Section 14.20.010(1)(b)(3)(a).
- c. The amount of the improvement completion assurance shall not exceed:
 - i. 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and
 - ii. 10% additional to cover administrative costs incurred by the City to complete the improvements, if necessary.

4. Release of Assurance:

- a. The improvement completion assurance may be released incrementally as improvements are completed and accepted by the City Engineer.
- b. No release shall be authorized until the City has inspected the improvements and found them to be in compliance with City standards.
- c. The final release shall occur only after all required improvements are completed and accepted by the City.

5. Compliance with State Code:

- a. This section implements the requirements of Utah Code Section 10-9a-604.5.

- b. The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.
- 6. Building Permits:** The City shall issue a building permit even if infrastructure improvements are not complete, provided:
- a. The improvements are not essential for issuing a building permit under the building and fire codes; and
 - b. The City has accepted a completion assurance for the improvements; and
 - c. There is no other valid reason besides the incomplete improvement to deny the permit.
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15.03.080 Site Plan Review

- A. Purpose.** This section set forth the procedures for all site plan applications and required submittals. These standards and procedures are established to encourage adequate advanced site planning and review in order to assure the highest quality of development for the City. Such standards and procedures are intended to provide for orderly, harmonious, safe and functionally efficient development consistent with priorities, values, and guidelines stated in the various elements of the City's General Plan and this title. This section is not intended to so rigidly control design so as to stifle creativity or individual expression, or to cause substantial, unnecessary expense, rather, any control exercised is intended to be the minimum necessary to efficiently achieve the objectives stated herein.
- B. Authority.** The Land Use Authority for site plan reviews is outlined in 15in15.3.005.
- C. Initiation.** A property owner or their designated agent may request approval of a site plan as provided in this section.
- 1. A site plan shall be required for any of the following uses, unless expressly exempted from such requirement by another provision of this title:
 - a. Any multifamily residential use;
 - b. Any commercial use;
 - c. Any professional use;
 - d. Any manufacturing use; and
 - e. Any institutional use
 - 2. In situations requiring site plan approval, no building permit for the construction of any building, structure, or other improvement to the site shall be issued prior to approval of the site plan by the Land Use Authority. Furthermore, no clearing,

grubbing, grading, drainage work, parking lot construction, or other site improvements shall be allowed prior to site plan approval.

D. Procedure. City shall process and consider an application for site plan review as provided in this section.

1. **Application.** An application shall be submitted to the Zoning Administrator along with the fee as outlined in the City's fee schedule. The application shall include:

a. One (1) plan set, size 22"x34" drawings; one (1) plan set, size 11"x17" drawings; and one (1) PDF copy. The application and plan sets shall include at a minimum the following documents and information:

1. A plan set cover sheet showing the entire site plan including a title block showing the name, address, and phone number of the applicant, designer, engineer, and any other professionals ~~that~~ ~~professionals that~~ ~~that professionals that~~ contributed to the production of the plans and drawings. The cover sheet shall also include the name (if applicable) and address of the proposed project, and date of preparation of the plans and drawings. A general vicinity map shall be inset on this sheet:

2. A detailed boundary survey sheet showing the following information:

- a. The location and width of existing and proposed abutting streets;
- b. All property and parcel/lot lines;
- c. Existing and proposed easements and dedications, adjacent property owners and holding strips;
- d. The location of all existing and proposed structures on the site, including the building height and any provisions to screen roof-based mechanical equipment, and the location of existing structures on adjoining properties;
- e. The location of existing fencing and significant existing trees and shrubbery;
- f. The location of off-street parking, driveways, loading facilities, and hard-surfaced areas;
- g. The location of existing and proposed curb, gutter, sidewalk, and curb cuts. If the property abuts a State owned highway, the applicant must obtain approval from the Utah Department of Transportation (UDOT) for the location of curb, gutter, and sidewalk. UDOT shall also approve the location and number of curb entrances;
- h. The location of refuse container(s); and

- i. The location of vehicular and pedestrian access and circulation including all existing and proposed traffic, pedestrian, and road safety signs.
 3. A detailed utilities plan showing the location and size of all existing or proposed utilities that will provide service to the project (including location of nearest fire hydrants) consistent with the design standards approved by the City.
 4. A detailed landscaping plan that shows the following information:
 - a. The proposed landscaping including identification of plant species and fencing in sufficient detail for review of screening and aesthetic qualities;
 - b. Irrigation sprinkler designs indicating the location and service size of secondary water connections;
 - c. Location and design of all exterior lighting;
 - d. Data table showing parcel, building, landscaping, parking areas and percentages, and the number of parking stalls required and provided;
 5. Floor plans and elevations including exterior building finishes and colors.
 6. Required engineered drawings for on and off site improvements.
 7. Traffic study and geotechnical study unless waived by the Land Use Authority, Zoning Administrator or City's Engineer.
 8. Each sheet shall be signed and stamped by the relevant design professional registered in the State of Utah (i.e. engineer, professional landscape architect, etc.) as applicable.
- E. Determination Of Complete Application.** After the Zoning Administrator determines the completeness of a ~~site~~ **site** plan application, the Zoning Administrator shall transmit the application to City staff for preparation of a staff report evaluating the application.
- F. Review By Planning Commission In Public Meeting.** The Planning Commission shall review the proposed site plan application including the staff report prepared by City staff and shall recommend approval, approval with modifications, or denial of the proposed site plan to the Land Use Authority.
- G. Planning Commission Decision In Public Meeting.** The City Planning Commission shall review the proposed site plan application. The City Planning Commission may either approve, approve with modifications, or reject the proposed site plan application. The City Planning Commission may also table the matter for further information or future consideration or action.

H. Approval Standards. City Staff may provide advisory comments to the applicant prior to the scheduling of the site plan application before the Land Use Authority. Staff comments or feedback shall not ~~guarantee~~ guarantee or imply approval of any portion of the site plan. The following standards shall apply to the approval of a site plan:

1. The entire site shall be developed at one time, unless a phased development plan is approved by the Land Use Authority.
2. A site plan shall conform to all applicable standards as set forth in the title and the City's Code. In addition, consideration shall also be given ~~be given~~ to the following:
 - a. Considerations relating to buildings and general site layout.
 1. The general silhouette and mass, including the location on the site and elevations in relationship to the character of the neighborhood and the applicable provisions of the City's General Plan; and
 2. Exterior design in relation to adjoining structures in height, bulk, and area openings, breaks in facade fronting onto rights-of-way, line and pitch of roofs, the arrangement of structures on the parcel or lot, and the appropriate use of materials and colors to promote the objectives of the General Plan relating to the character of the area or neighborhood.
 - b. Considerations relating to traffic safety and traffic congestion.
 1. Effect of the proposed site plan of traffic conditions on abutting streets and neighboring land uses, both existing and as planned;
 2. Layout of the site with respect to location and dimensions of vehicular and pedestrian entrances, exits, driveways, and walkways;
 3. Arrangement and adequacy of off-street parking facilities to prevent traffic congestion and compliance with the provision of City ordinances regarding the same;
 4. Locating, arrangement, and dimensions of truck loading and unloading spaces;
 5. Vehicular and pedestrian circulation patterns within the boundaries of the development;
 6. Surfacing and lighting of off-street parking facilities; and
 7. Provision for transportation modes other than personal motor vehicles, including such alternative modes such as pedestrian, bicycle, and mass transit.
 - c. Considerations relating to landscaping.

1. Location, height, and materials of walls, fences, hedges, and screen plantings to provide for harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development;
 2. Planning of ground cover or other surfaces to prevent dust and erosion; and
 3. Unnecessary destruction of existing healthy trees.
- d. Considerations relating to drainage and irrigation.
1. The effect of the site development on the adequacy of the storm and surface water drainage; and
 2. The need for piping of irrigation ditches bordering or within the site.
- e. Other considerations including, but not limited to:
1. Buffering;
 2. Lighting;
 3. Placement of trash containers and disposal facilities;
 4. Location of surface, wall and roof-mounted equipment.
- I. **Bonding.** Site plan bonding requirements are governed by Section 14.20.020. The applicant shall comply with all bonding requirements established in Section 14.20.020 prior to issuance of any building permits or the commencement of any work requiring site plan approval. ~~Bonding. The applicant shall provide a guarantee of installation and construction of all on-site and off-site improvements required by this title, or as required by the Land Use Authority, prior to issuance of any building permits or the commencement of any work. The guarantee shall be in a form acceptable to the City and in an amount equal to one hundred ten percent (110%) of the estimated cost of all improvements. The guarantee shall assure the installation of improvements within one (1) year of the date of site plan approval, and shall provide a one (1) year warranty pertaining to the installed improvements. It shall be the responsibility of the developer to notify the City when the improvements are complete and ready for inspection.~~
- J. **Appeal Of Decision.** Any person adversely affected by a decision of the Land Use Authority regarding approval or denial of a site plan application may appeal to District Court in accordance with the provisions of §10-9a-801 of Utah State Code (as amended).
- K. **Effect Of Approval.** Every site for which a site plan has been approved shall conform to such plan.
1. A building permit shall not be issued for any building or structure, external alterations thereto, or any sign or advertising structure until the provisions of this section have been met. Any building permit issued shall expressly require that

development be undertaken and completed in conformity with the approved site plan. No structures or improvements may be added to a site that are not included on the approved site plan.

2. All improvements shown on the approved site plan or amended site plan shall be maintained in a neat and attractive manner.
 3. Approval of a site plan shall not be deemed an approval of any conditional use permit or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this title.
- L. **Amendments.** Except as may be provided for elsewhere in this title, no element of an approved site plan shall be changed or modified without first obtaining approval of an amended site plan from the Land Use Authority.
- M. **Revocation.** A site plan approval may be revoked using the same process as outlined in 15in15.3.070.
- N. **Expiration.** Failure to obtain a building permit within one (1) year of approval of any site plan shall terminate and cancel the prior site plan approval given, whereupon the Zoning Administrator may require that a new site plan application be submitted and approval obtained pursuant to this section. A written request may be submitted to the Zoning Administrator prior to the expiration of the site plan for an extension of up to six (6) months. The Land Use Authority may grant such an extension where good cause can be shown.

HISTORY

Adopted by Ord. [202403-001](#) on 3/7/2024

Amended by Res. [R202504-004](#) on 5/8/2025