

## ORDINANCE NO. 09-13

### ROLL CALL

VOTING	YES	NO
G. WAYNE ANDERSEN <i>Mayor (votes only in case of tie)</i>		
ROD DART <i>Council member</i>	X	
RICHARD M. DAVIS <i>Council member</i>	X	
BRANDON B. GORDON <i>Council member</i>	X	
STEVE LEIFSON <i>Council member</i>	ABSENT	
KEIR A. SCUBES <i>Council member</i>	ABSENT	

I MOVE this ordinance be adopted: Council member Davis

I SECOND the foregoing motion: Council member Dart

### ORDINANCE No. 09-13

#### AN ORDINANCE MAKING VARIOUS AMENDMENTS TO THE LAND USE ORDINANCE OF SPANISH FORK CITY

WHEREAS, Spanish Fork City has enacted a land use ordinance to regulate the development of land within the City, establish zoning to protect property values, and establish administrative rules concerning land use; and

WHEREAS, amendments to the land use ordinance need to be made from time to time in order to remain compliant with state and federal law, become more efficient, and to keep standards in line with best construction and safety practices; and

WHEREAS, Utah state law has recently been changed which limits the amount of the bond to guarantee infrastructure improvements to ten percent (10%) of the total bond amount; and

WHEREAS, the City allows developers the benefit of connector's agreements, and should receive that same benefit when it performs improvements which will benefit specific properties; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on Wednesday, the 8th day of May, 2013, whereat public comment was received; and

WHEREAS, a public hearing was held before the Spanish Fork City Council on Tuesday, the 21st day of May, 2013, whereat additional public comment was received;

NOW THEREFORE, be it enacted and ordained by the Spanish Fork City Council as follows:

I.

Spanish Fork Municipal Code §§15.4.16.020 and 110 are hereby amended as follows:

**15.4.16.020 Unavailability of Adequate Public Facilities**

A. In the event that the city engineer determines that adequate public facilities are not available and will not be available by the time of approval, so as to assure that adequate public services are available at the time of occupancy, the following alternatives may be elected, at the discretion of the city council:

1. Allowing the developer to voluntarily construct those public facilities which are necessary to service the proposed development and provide adequate facilities as determined by the city engineer and by entering into an appropriate form of connector's, or developers' agreement, which may include, as deemed appropriate by the city engineer, provisions for recoupment of any expenses incurred above and beyond those reasonably necessary for or related to the need created by or the benefit conferred upon the proposed development, and the method and conditions upon which recoupment is to be obtained. Any connector's agreement authorized by this paragraph must be requested within 30 days of the completion and acceptance by the City of the improvements.
2. Requiring the timing, sequencing, and phasing of the proposed development consistent with the availability of adequate public facilities;
3. Deferring approval and the issuance of building permits until all necessary public facilities are adequate and available; or
4. Denying approval and allowing the applicant to reapply when adequate public facilities are available.

B. In the event the City installs infrastructure improvements which benefits specific properties, it may also recover reimbursement on a pro-rata basis from the benefitted properties when they develop, on the same basis as a developer would recover reimbursement with a connector's agreement as set forth in paragraph A.

C. When a connector's agreement is granted, or the City installs infrastructure for which it will be reimbursed, the City will record a notice against the benefitted properties so that a future owner/developer will be on notice of development costs associated with that parcel.

**15.4.16.110 Security for Improvements Required**

The owners and/or developers of property shall deposit security with the City to guarantee proper installation of all required improvements in accordance with the plans, specifications, time limitations, and conditions relating thereto as meets with the approval of the Council or such personnel as the Council shall designate. The amount of the security shall be 125% of the City's estimated costs of the improvements. Security shall be in the form of cash in the minimum amount of ten percent (10%) of the City's bond amount. The balance of the security shall be in the form of cash, an irrevocable letter of credit, or an escrow bond.

Irrevocable letters of credit or escrow bonds shall be executed by financial institutions acceptable to the City and authorized to conduct business in the State of Utah, and must be in the form approved by the City. The bond or letter of credit as required by this section must be posted prior to recording. Upon completion, inspection, approval, and acceptance of the improvements, the security, less ten percent (10%), shall be released to the developer. Ten percent (10%) of the security amount shall be held for a period of one (1) year following final inspection and acceptance to warrant improvements for this time period.

The ten percent retained for the warranty period shall be in cash. The cash amount may be released one year after installation, final inspection, and acceptance by City, if no repairs or replacement are required to the infrastructure installed.

**II.**

This ordinance shall be effective twenty days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH,  
this 18th day of June, 2013.

  
G. WAYNE ANDERSEN, Mayor

Attest:

  
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Kent R. Clark, City Recorder

