

ZONING ORDINANCE 16- ____
(Docket R-16-02)

**AMENDING SECTION 501.01(ASSURANCE AGREEMENT) OF THE
COCHISE COUNTY SUBDIVISION REGULATIONS**

WHEREAS, Section 821 of Title 11 of the Arizona Revised Statutes gives the County Board of Supervisors the authority to adopt subdivision regulations to address land use; and

WHEREAS, the Cochise County Board of Supervisors originally adopted Subdivision Regulations in Cochise County pursuant to that authority in 1974, and has with periodic modification, maintained them in effect since that time; and

WHEREAS, the Cochise County Board of Supervisors recognizes that amendment to the Subdivision Regulations affect countywide land use patterns and therefore warrant careful consideration of regional impacts;

WHEREAS, Article 5 of the Subdivision Regulations currently defines Assurance Agreement requirements; and

WHEREAS, on December 6, 2016, the Board of Supervisors held a duly noticed public hearing of these proposed amendments to the Subdivision Regulations, hereby know as Docket R-16-02, and attached hereto as “Exhibit A” which will amend the Assurance Agreement requirements and found them to be in the public interest,

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Cochise County, Arizona that the Cochise County Subdivision Regulations shall be amended as contained in Exhibit B:

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[See Exhibit "A" and attached.]

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this 6th day of December, 2016.

Richard Searle, Chair
Cochise County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Arlethe G. Rios,
Clerk of the Board

Britt Hanson,
Chief Civil Deputy County Attorney

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EXHIBIT "A"

Proposed Update to the Cochise County Subdivision Regulations

501 Securing Subdivision Improvements

The purpose of this article is to describe the acceptable methods to guarantee that the required on-site and off-site improvements and utilities are provided before lots are sold. Unless all required improvements are completed, and approved by the County before final plat approval, some method of security to guarantee improvements shall be approved at the time of final plat approval. Any such agreement between the County and the subdivider, Title Company, escrow agent, surety or financial institution shall:

- A. Be in favor of the County.
- B. Be continuous in form.
- C. Designate the County as the beneficiary.
- D. Be approved by the County Attorney.

501.01 Assurance Agreement

An assurance agreement (third party trust agreement) is the most commonly used method of providing assurances.

- A. The Board of Supervisors approves assurance agreements at the time of final plat approval.
- B. The title to the subdivided property is placed in trust with a third party escrow agency or trust company authorized to do business in the State of Arizona along with an agreement between the trustee and the County that title to any lot or parcel within the subdivision will not be transferred until written approval is given by the County for the release or partial release of property held in trust. The County will not authorize any such release until the necessary improvements have been completed.
- C. The agreement must contain an accurate legal description of the subdivision.
- D. Special conditions or improvements unique to the subdivision shall be listed in an attached exhibit.
- E. The agreement must be recorded at the time of final plat recordation.
- F. The agreement must provide authorization for County to abandon the subdivision final plat and convert the property to unsubdivided land if the required improvements fail to be installed in compliance with the County's standard specifications within three years:
 - 1. The Planning Director, or representative, under authority vested by the Board of Supervisors, may extend the time specified to complete improvements for one (1) year if the purposes of these Regulations would still be served.
 - 2. The Board of Supervisors may extend the time specified to complete improvements for additional terms if the purposes of these Regulations would still be served.
 - 3. The subdivider must demonstrate that progress has been made to complete improvements or that an undue hardship would result.
 - 4. The developer must request an extension before the assurance agreement expires. The determination whether to extend an assurance agreement will be at the sole discretion of the Board of Supervisors, who may consider the following factors in making that determination:
 - i) Whether the property taxes on the subject parcel are current.
 - ii) If the subdivision is phased, whether the subdivision infrastructure improvements for at least 20% of the proposed phases have been completed. If it is not phased, whether at least 25% of the subdivision infrastructure improvements have been completed.
 - iii) The number of extensions previously granted. A maximum of three extensions, not exceeding a total of ten (10) years since either the original approval of the assurance agreement or the most recent release of a lot, whichever has occurred later.

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- iv) The economic conditions or other circumstances that are affecting the developer's ability to complete subdivision improvements.
 - v) Has the character of the area or physical factors such as drainage, floodplain, water issues or circulation patterns changed significantly since plat approval that compliance with current County Subdivision and/or Zoning Regulations is necessary
- G. If the subdivision is sold, a new assurance agreement shall be executed concurrently with the sale.
- H. Assurances shall be released as follows:
1. After final plat approval, lots for five (5) model homes per phase can be permitted to the developer or duly authorized sales representative prior to completion of improvements. These homes shall not be sold to individual property owners or occupied for residential use until they are released for sale. Model homes will be permitted by phase and additional model homes shall not be permitted for subsequent phases until improvements are completed in the previous phase.
 2. Upon the recommendation of the County Engineer, the Planning Director, or representative, under authority hereby vested by the Board of Supervisors, may release assurances upon a determination that all improvements are completed in accordance with all conditions of final plat approval.
 3. The Planning Director shall record a form in the County Recorder's Office indicating which lots have been released from an assurance agreement within a recorded subdivision.
 4. Partial releases shall only be approved for completed phases.