

**Town of Erie  
Ordinance No. 21-2021**

**An Ordinance of the Board of Trustees of the Town of Erie  
Amending Section 10-7-20 of the Erie Municipal Code Regarding  
Development Improvement Guarantees**

**Now be it Ordained by the Board of Trustees of the Town of Erie,  
Colorado, that:**

**Section 1.** Section 10-7-20.C. of the Erie Municipal Code is hereby amended as follows:

**10-7-20 – Improvement guarantees.**

\* \* \*

C. Methods: The development agreement shall include one or more of the following methods to guarantee the construction of required public improvements:

1. Deposit in escrow: The developer may elect to deposit a cash sum equal to the guarantee as required herein. In the case of an escrow account, the developer shall file with the Town an escrow agreement in a form approved by the Town Attorney, that includes the following terms:

a. Funds of the escrow account shall be held in trust until released by the Town and may not be used or pledged by the developer as security in any matter during that period other than payment for the improvements.

b. In the case of a failure on the part of the developer to complete any improvement within the required time period, the funds in such account shall be used by the Town for the completion or partial completion of those improvements.

2. Letter of credit: The developer may elect to provide from a bank or other responsible financial institution authorized to do such business in the state an irrevocable letter of credit in a form acceptable to the Town *Attorney*. Such letter shall be filed with the Town and shall certify the following:

a. That the creditor irrevocably guarantees funds in an amount equal to the estimated cost of all required public improvements plus overrun allowances as provided herein for the completion of all such improvements.

b. That in the case of failure on the part of the developer to complete any specified improvements within the required time period, the Town may immediately and without further action draw upon the letter of credit ~~use funds~~ as are necessary to finance the completion or partial completion of those improvements ~~up to the limit of credit stated in the letter.~~

3. If any portion of the development governed by the development agreement is being funded by the Town or the Town of Erie Urban Renewal Authority, the Town may, in the Town's sole discretion and subject to approval by the Town Attorney, accept other forms of improvement guarantees, including without limitation performance bonds, warranty bonds and pledges of bond proceeds.

**Section 2.** Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

**Section 3.** Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

**Section 4.** Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

**Introduced, read, passed and ordered published this 24<sup>th</sup> day of August, 2021.**

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Jennifer Carroll, Mayor

**Attest:**

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Heidi Leatherwood, Town Clerk