

AN ORDINANCE OF THE CITY OF DILLINGHAM, ALASKA, AMENDING CHAPTER 5.30 OF THE DILLINGHAM MUNICIPAL CODE RELATING TO DISPOSAL OF MUNICIPAL PROPERTY TO PROMOTE HOUSING DEVELOPMENT

WHEREAS, the City of Dillingham faces a critical housing shortage that impacts economic development, workforce recruitment, and the overall quality of life for residents; and

WHEREAS, land acquisition costs represent the single largest barrier to residential development in Dillingham, Alaska; and

WHEREAS, the availability of developable land in Dillingham is severely constrained due to extensive native allotments and Alaska Native Claims Settlement Act (ANCSA) lands covering substantial portions of the area, with few new subdivisions available; and

WHEREAS, the City of Dillingham possesses certain municipal properties suitable for residential development that could help address the housing shortage; and

WHEREAS, the City Council finds that strategic disposal of municipal property for housing development serves a compelling public purpose and will benefit the community; and

WHEREAS, the City Council desires to establish clear procedures and requirements for the disposal of municipal property specifically for housing development purposes while ensuring accountability and successful project completion.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DILLINGHAM DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendment of Section 5.30.020 - Terms and Conditions of Sale

Section 5.30.020(A) of the Dillingham Municipal Code is hereby amended to add the following subsection:

8. Development Requirements for Housing Projects.

For disposals of municipal property intended for housing development, the city council shall establish specific requirements in the disposal documents, including but not limited to:

a. **Number of Housing Units.** The minimum number of residential housing units to be constructed on the property, which may vary based on property size, zoning, and development capacity;

b. **Development Timeline.** A binding timeline establishing clear milestones including:

- Submission of final development plans and building permits
- Commencement of construction
- Substantial completion of infrastructure
- Completion of housing units
- Certificate of occupancy for completed units

c. **Design Standards and Requirements.** Standards addressing:

- Architectural compatibility with surrounding neighborhoods
- Energy efficiency requirements
- Building materials suitable for local climate conditions
- Minimum square footage requirements
- Accessibility standards
- Snow load and foundation requirements appropriate for Dillingham conditions

d. **Infrastructure Requirements.** Developer obligations for:

- Road construction and paving to city standards
- Water and sewer line extensions
- Storm drainage facilities
- Street lighting
- Sidewalks or pedestrian pathways where appropriate
- Coordination with existing municipal infrastructure systems

Section 2. Amendment of Section 5.30.020 - Below-Market Pricing for Housing Development

Section 5.30.020 of the Dillingham Municipal Code is hereby amended to add the following subsection:

C. Adjusted Pricing for Housing Development Disposals.

For disposals of municipal property whose primary purpose is promoting housing development, the city council may, after considering the public benefit, authorize the sale of property at a price below the appraised fair market value. The city council shall consider the following factors in determining any price adjustment:

1. Number and Type of Housing Units. The quantity and variety of housing units to be developed, with consideration given to:

- Total number of residential units
- Mix of unit types (single-family, duplex, multi-family)
- Unit sizes and bedroom counts
- Projects providing diverse housing options for different family sizes and demographics

2. Infrastructure Investment. The infrastructure costs to be borne by the developer, including:

- Extension of utilities beyond the immediate property boundaries
- Road construction or improvements benefiting the broader community
- Drainage improvements
- Any off-site improvements required to support the development
- Connection fees and utility capacity costs

3. Affordable Housing Component. Projects that include affordable housing units meeting the following criteria:

- Units designated for households at or below 80% of Area Median Income (AMI)
- Duration of affordability restrictions (minimum 15 years recommended)
- Number and percentage of total units designated as affordable
- Deed restrictions or covenants ensuring long-term affordability
- Priority consideration for projects with 20% or more affordable units

4. Economic Benefit to the Community. The expected economic impact, including:

- Job creation during construction and operation
- Property tax revenue generation
- Commercial development potential
- Workforce housing for local businesses and industries
- Population stabilization and growth
- Enhanced community services viability

5. Development Risk and Market Conditions. Recognition of financial risks including:

- Remote location construction cost premiums
- Limited contractor availability
- Material transportation costs
- Short construction season
- Market absorption rates
- Financing challenges in rural Alaska communities

The city council may reduce the purchase price by up to seventy-five percent (75%) of the appraised value for projects demonstrating exceptional public benefit through the factors listed

above. Any reduction exceeding fifty percent (50%) shall require specific findings by the city council documenting the public benefit justification.

Section 3. Amendment of Section 5.30.040 - Methods of Disposal

Section 5.30.040 of the Dillingham Municipal Code is hereby amended to add the following subsection:

E. Request for Proposals (RFP) Process for Housing Development.

When the city council determines that the primary purpose of a disposal is housing development, the city may solicit proposals from qualified developers through a competitive Request for Proposals (RFP) process as an alternative to public auction or sealed bid procedures. The RFP process shall include the following elements:

1. RFP Publication and Distribution. The city shall publish the RFP and make it available to interested parties for a minimum of forty-five (45) days. Publication shall include:

- Local newspaper advertisement
- Posting on the city's official website
- Notice to the Alaska Housing Finance Corporation
- Notice to regional development organizations
- Distribution to known housing developers and contractors operating in rural Alaska

2. Minimum Requirements. The RFP shall specify mandatory minimum requirements including:

- Minimum number of housing units to be constructed
- Unit type requirements or preferences
- Percentage of affordable housing units, if any
- Construction quality standards
- Energy efficiency standards

3. Development Timeline Requirements. Clear timeline expectations including:

- Maximum time for plan submission and permitting
- Required construction commencement date
- Phase completion schedules for multi-phase projects
- Final completion deadline
- Penalty provisions for delays not attributable to force majeure

4. Design Standards. Specifications addressing:

- Architectural design expectations
- Building materials and methods appropriate for Dillingham's climate
- Lot layouts and density requirements
- Open space or common area provisions
- Parking requirements
- Landscaping expectations

5. Infrastructure Requirements. Detailed requirements for:

- Utility installation and connections
- Road construction specifications
- Drainage and stormwater management
- Street lighting and signage
- Snow storage areas
- Compliance with all applicable city codes and standards

6. Proposal Content Requirements. Mandatory elements of responsive proposals including:

- Developer qualifications and experience
- Project concept and unit mix
- Site plans and preliminary architectural renderings
- Development timeline with specific milestones
- Project budget and pro forma
- Evidence of financial capacity or commitment letters
- Proposed purchase price
- Identification of all team members (contractors, architects, engineers)
- References from previous projects

7. Evaluation Criteria. The RFP shall establish weighted evaluation criteria, which may include:

- Developer qualifications and experience (15-20%)
- Project design quality and appropriateness (15-20%)
- Number and type of housing units proposed (20-25%)
- Inclusion of affordable housing (10-15%)
- Development timeline and feasibility (15-20%)
- Financial capacity and project financing (15-20%)
- Proposed purchase price (5-15%)
- Community benefit and economic impact (10-15%)

8. Selection Process.

- An evaluation committee appointed by the city manager shall review and score all responsive proposals
- The committee may conduct interviews with top-ranked proposers
- The committee shall make a recommendation to the city council

- The city council shall make the final selection decision through resolution
- The city council may reject all proposals if none adequately serve the public interest

9. Negotiation Authority. Following selection, the city manager is authorized to negotiate final terms and conditions with the selected developer, provided that any material changes from the accepted proposal must be approved by the city council.

Section 4. Amendment of Section 5.30.070 - Post-Award Requirements

Section 5.30.070 of the Dillingham Municipal Code is hereby amended to add the following subsection:

B. Additional Requirements for Housing Development Disposals.

For all disposals of municipal property for housing development purposes, whether through auction, sealed bid, or RFP process, the successful bidder or selected developer must submit the following within sixty (60) days of the city council's approval of the disposal:

1. Detailed Development Plans, including:

- Final site plan prepared by a licensed engineer or surveyor
- Preliminary architectural plans for all housing units
- Civil engineering plans for infrastructure improvements
- Utility connection plans coordinated with city departments
- Grading and drainage plans
- Erosion and sediment control plans
- Environmental assessment or mitigation plans if required

2. Comprehensive Project Timeline, containing:

- Gantt chart or similar scheduling document showing all major activities
- Specific dates for key milestones including:
 - Completion of final engineering
 - Building permit applications
 - Infrastructure construction start and completion
 - Building construction start for each phase
 - Substantial completion of each phase
 - Final completion and certificate of occupancy
- Identification of critical path items
- Contingency plans for weather delays or other foreseeable obstacles

3. Evidence of Financing Capability, such as:

- Commitment letters from financial institutions
- Proof of equity investment or down payment
- Personal financial statements (for individual developers)
- Corporate financial statements (for entity developers)
- Evidence of insurance coverage or ability to obtain coverage
- For projects over \$2 million, a third-party financial feasibility analysis

4. Performance Security, in one of the following forms:

- Performance bond issued by a surety company licensed to do business in Alaska
- Irrevocable letter of credit from a financial institution
- Cash escrow deposit
- Other security acceptable to the city attorney

The amount of performance security shall equal at minimum twenty-five percent (25%) of the total estimated development cost, including land acquisition, infrastructure, and construction costs. The city council may require higher security amounts for larger or higher-risk projects.

5. Insurance Requirements, including:

- Commercial general liability insurance with minimum limits of \$2,000,000 per occurrence
- Builder's risk insurance during construction
- Workers' compensation insurance as required by Alaska law
- Professional liability insurance for architects and engineers
- Proof that the City of Dillingham is named as additional insured

6. Contractor and Professional Team Information, including:

- Executed contracts or letters of intent with general contractors
- Licensing verification for all contractors (Alaska Business License, appropriate contractor licenses)
- Qualifications of architects, engineers, and other professionals
- Safety records and past performance documentation

Failure to Submit Required Documentation. If the successful bidder or selected developer fails to submit all required documentation within the sixty (60) day period, or within such extension as may be granted by the city manager for good cause, the city council may:

- Declare the bidder/developer in default
 - Retain any earnest money or deposits
 - Offer the property to the next qualified bidder/proposer
 - Re-advertise the property for disposal
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Section 5. Amendment of Section 5.30.080 - Specific Disposal Provisions

Section 5.30.080 of the Dillingham Municipal Code is hereby amended to add the following subsection:

E. Disposal for Housing Development - Special Provisions.

The city council may dispose of municipal real property specifically to promote housing development under the following conditions and requirements:

1. Housing Development Finding. The city council must make a specific finding that:

- The disposal will result in the development of residential housing units within a reasonable and specified timeframe
- The housing development serves a compelling public purpose
- The benefits to the community outweigh the value of retaining the property in municipal ownership
- The proposed development is consistent with the city's comprehensive plan and zoning regulations
- The developer has demonstrated capability to complete the project

2. Minimum Unit Requirements. The disposal agreement shall specify:

- The minimum number of housing units to be constructed
- Any requirements for unit types or mix (single-family, multi-family, etc.)
- Minimum habitable square footage standards for units
- Any requirements for affordable housing units with specific income restrictions
- Occupancy restrictions, if any (e.g., primary residences only, no short-term rentals)

3. Binding Development Timeline with Milestones. The agreement shall include a detailed timeline with specific, enforceable milestones such as:

Phase 1 - Planning and Permitting (Months 0-6)

- Submission of final development plans
- Completion of all required surveys and studies
- Application for and receipt of all necessary permits
- Execution of utility service agreements

Phase 2 - Infrastructure Development (Months 6-12)

- Commencement of site work
- Installation of utilities
- Construction of roads and drainage

- Completion of all infrastructure to city standards

Phase 3 - Vertical Construction (Months 12-24)

- Commencement of building construction
- Substantial completion of structures
- Inspection and approval of all work

Phase 4 - Final Completion (Months 24-30)

- Final grading and landscaping
- Utility connections and service activation
- Certificate of occupancy for all units
- Transfer of infrastructure to city ownership (if applicable)

The city council may establish different timelines based on project size, complexity, and market conditions, but the total time from disposal to final completion shall not exceed five (5) years without specific council authorization.

4. Reversionary Clause - Mandatory Inclusion. Every disposal for housing development shall include a reversionary clause providing that:

- Title to the property shall revert to the City of Dillingham if the developer fails to meet specified development milestones
- The city may enforce the reversion through a recorded deed restriction or covenant
- Upon reversion, the developer shall be entitled to reimbursement only for documented infrastructure improvements that benefit the city, at a value determined by independent appraisal, less any damages or costs incurred by the city
- Any structures or improvements not meeting building code standards shall be removed by the developer at developer's expense prior to reversion
- The reversionary right shall remain in effect until all development milestones are completed and accepted by the city

5. Extension Provisions. The development agreement shall specify that:

- Extensions of milestone deadlines may be granted by the city council for good cause shown
- "Good cause" includes force majeure events such as:
 - Natural disasters or extreme weather beyond normal seasonal expectations
 - Unforeseeable changes in federal, state, or local regulations
 - Documented nationwide or regional shortage of critical building materials
 - Documented unavailability of contractors or skilled labor despite good faith efforts
 - Delays in utility connections caused by utility providers
- Requests for extensions must be submitted in writing at least thirty (30) days before a milestone deadline

- Extensions shall be granted for reasonable periods related to the cause of delay
- Extensions due to developer's financial difficulties or poor planning shall not constitute good cause

6. Priority for Affordable Housing. When evaluating competing proposals or applications for housing development disposals, the city council shall give priority consideration to projects that:

- Include at least twenty percent (20%) of units as affordable housing for households at or below 80% AMI
- Provide longer-term affordability commitments (20+ years preferred)
- Include workforce housing for essential community occupations (teachers, healthcare workers, public safety personnel)
- Demonstrate partnerships with Alaska Housing Finance Corporation or other housing assistance programs

7. Development Agreement Required. All housing development disposals shall be memorialized in a comprehensive development agreement approved by the city council that includes:

- All terms and conditions of the disposal
- Development requirements and timelines
- Performance security provisions
- Reversionary clauses
- Inspection and enforcement provisions
- Default and remedy provisions
- Insurance and indemnification requirements
- Dispute resolution procedures

8. Progress Reporting. The developer shall provide quarterly written progress reports to the city manager documenting:

- Work completed during the period
- Milestones achieved
- Any challenges or delays encountered
- Projected schedule for upcoming work
- Current photographs of the development

9. City Inspection Rights. The city reserves the right to inspect the property and all work in progress at reasonable times to verify compliance with the development agreement. The developer shall provide access and cooperate with city inspectors.

10. Assignment Restrictions. The developer may not assign or transfer its rights under the development agreement without prior written consent of the city council, which consent may be granted if the proposed assignee demonstrates equivalent or superior financial capacity and development experience.

F. Individual Homebuilder Disposal Program - Simplified Track.

The city council may dispose of individual building lots to qualified individuals for construction of owner-occupied primary residences under simplified requirements that recognize the difference between commercial development projects and individual homebuilding. This provision is intended to make municipal land accessible to Dillingham residents and workers seeking to build their own homes.

1. Eligibility Requirements. To qualify for the individual homebuilder program, the purchaser must:

- Be a natural person or married couple (not a corporation, LLC, or partnership)
- Commit to constructing a single-family dwelling as their primary residence
- Occupy the completed home as their primary residence for a minimum of two (2) years after completion
- Not have previously defaulted on a city land disposal agreement

2. Lot Designation. The city council shall designate specific lots or parcels as available for individual homebuilder disposal, considering:

- Lot size appropriate for single-family residence (typically 7,500 to 20,000 square feet)
- Access to utilities or reasonable utility extension capability
- Compatibility with surrounding residential uses
- Lots may be created through subdivision of larger municipal parcels

3. Pricing for Individual Lots. The city council may reduce the purchase price for individual homebuilder lots based on:

- The purchaser's commitment to build within specified timeframe
- Owner-occupancy commitment duration
- Local workforce connection (current Dillingham resident, employee of local government, school district, healthcare facility, or essential business)
- Income qualification for affordable housing programs
- Utility extension costs to be borne by purchaser

Price reductions of up to fifty percent (50%) of appraised value may be authorized for qualified individual homebuilders. Additional reductions up to seventy percent (70%) may be authorized for purchasers meeting affordable housing income limits (at or below 100% Area Median Income).

4. Simplified Application Process. Individual homebuilder applicants shall submit:

- Completed application form with personal and employment information

- Preliminary home design or description (professionally drafted plans not required at application stage)
- Evidence of financial capacity to complete construction, which may include:
 - Pre-approval letter from mortgage lender
 - Bank statements showing construction funds
 - Construction loan commitment
 - Personal financial statement
 - Combination of savings and approved financing
- Written commitment to owner-occupancy for minimum two (2) years
- References from employers or community members

5. Selection Process. If demand exceeds available lots:

- **Preference points system** may be used based on:
 - Length of Dillingham residency (up to 20 points)
 - Local employment in essential services (teachers, healthcare, public safety, municipal employees) (up to 15 points)
 - Income qualification for affordable housing (up to 15 points)
 - Household size and current housing need (up to 10 points)
 - Veteran status (up to 10 points)
 - First-time homebuyer status (up to 10 points)
- **Lottery system** may be used among applicants with equal or similar qualification
- City council makes final selection considering community benefit and applicant qualifications

6. Simplified Performance Security. Instead of commercial performance bonds, individual homebuilders shall provide security through one of the following methods:

- **Earnest money deposit** equal to twenty percent (20%) of the purchase price, held in escrow until construction completion
- **Construction escrow account** funded with minimum \$15,000 or fifteen percent (15%) of estimated construction cost, whichever is greater
- **Letter of credit** from a financial institution for twenty percent (20%) of total project cost (land plus construction)
- **Combination** of down payment and lender-held construction draws monitored by the city

7. Simplified Development Timeline. Individual homebuilders must meet the following timeline:

- **Within 12 months of purchase:** Obtain building permit
- **Within 18 months of purchase:** Begin foundation/site work
- **Within 36 months of purchase:** Obtain certificate of occupancy and occupy as primary residence

Extensions may be granted by the city manager for good cause (medical emergencies, military deployment, extreme material shortages, acts of God) for up to 12 additional months.

8. Reduced Documentation Requirements. Individual homebuilders are not required to submit:

- Professional engineering site plans (basic site sketch acceptable initially)
- Commercial liability insurance (homeowner's insurance required once construction begins)
- Quarterly progress reports (annual certification of progress acceptable)
- Development pro forma or financial feasibility studies
- Performance bonds from surety companies

Instead, individual homebuilders must:

- Obtain all required building permits
- Pass all city inspections
- Comply with building codes and zoning regulations
- Provide annual progress update to city by written certification
- Provide photographic documentation at key milestones (foundation, framing, substantial completion)

9. Inspection and Monitoring. The city building official shall:

- Conduct standard building permit inspections during construction
- Verify occupancy within 30 days of certificate of occupancy
- Verify continued owner-occupancy annually for minimum two-year period
- Monitor compliance with deed restrictions

10. Simplified Reversionary Clause. The deed and purchase agreement shall include provisions that:

- If building permit not obtained within 12 months (absent approved extension), buyer may request 6-month extension or forfeit earnest money and property reverts
- If construction not commenced within 18 months, property reverts to city
- If certificate of occupancy not obtained within 36 months, property reverts to city
- Upon reversion for failure to build, purchaser receives:
 - Refund of purchase price paid (minus earnest money)
 - Reimbursement for documented utility connection fees paid to city utilities
 - No reimbursement for design costs, permit fees, or incomplete construction
- If purchaser sells or ceases to occupy as primary residence within the two-year occupancy period, the city has right of first refusal to repurchase at original sale price plus documented construction costs, or purchaser must pay the city the difference between the discounted price and full appraised value

11. Owner-Occupancy Enforcement. To ensure compliance with primary residence requirements:

- Deed restriction recorded requiring two-year owner-occupancy
- Annual certification by owner that property is primary residence
- Property may not be rented during the two-year period except with city approval for temporary hardship (military deployment, medical treatment requiring relocation, employment transfer)
- Violation of occupancy requirement triggers repayment obligation or city right of repurchase
- After two-year period, occupancy restriction expires and property may be sold freely

12. Resale Restrictions for Affordable Units. For lots sold to purchasers meeting affordable housing income qualifications with price reductions exceeding 50%:

- Deed restrictions shall limit resale price for minimum fifteen (15) years using a formula such as:
 - Original purchase price
 - Plus documented construction costs (verified by receipts)
 - Plus annual appreciation not to exceed 2% per year
 - Less depreciation for property condition if applicable
- City or qualified affordable housing purchaser shall have right of first refusal
- These restrictions ensure long-term affordability for subsequent purchasers
- Restrictions may be subordinated to mortgage lender requirements to enable financing

13. Infrastructure Coordination. For lots requiring utility extensions:

- City shall provide cost estimate for water/sewer connection
- Purchaser responsible for connection fees and any extension costs
- City may allow purchaser to finance connection fees over time with interest
- If multiple lots in same area, purchasers may cooperatively share extension costs
- City may defer connection fee payment until certificate of occupancy if purchaser provides security

14. Design Review - Limited Scope. Individual homebuilder projects are subject to limited design review:

- Must comply with zoning district requirements (setbacks, height, lot coverage)
- Must meet minimum habitable square footage (typically 600-800 sq ft minimum)
- Must use construction methods appropriate for Dillingham climate
- Must comply with energy code requirements
- Exterior materials and colors reviewed only to prevent extreme incompatibility with neighborhood
- Detailed architectural review not required - functional, code-compliant homes acceptable

15. Support and Resources. The city manager may:

- Provide list of local contractors and builders
- Share sample home plans suitable for Dillingham conditions

- Coordinate with Alaska Housing Finance Corporation for financing assistance programs
- Provide information on weatherization and energy efficiency programs
- Assist with permit process navigation
- Maintain database of available lots and program information

16. Annual Program Review. The city manager shall report annually to the city council on:

- Number of lots sold through individual homebuilder program
- Number of homes completed
- Number of defaults or reversions
- Program effectiveness in addressing housing needs
- Recommended program adjustments

17. Coordination with Development Program. The individual homebuilder program shall operate alongside, not replace, the development project program. The city council may choose either approach depending on:

- Size and characteristics of available property
- Market conditions and developer interest
- Community preference for owner-built vs. developer-built housing
- Mix of housing types needed
- Infrastructure considerations

18. Prohibition on Speculation. To prevent speculation and ensure lots go to genuine homebuilders:

- Purchasers may not acquire more than one (1) lot through this program at a time
- Property may not be transferred or assigned before completion of construction and two-year occupancy period without city approval
- Any attempted transfer in violation of restrictions is void and triggers reversion
- After completing one home and satisfying occupancy requirement, individual may apply for additional lot

19. Special Considerations for Multi-Generational Homes. The city council may approve modifications to the single-family requirement to accommodate:

- Accessory dwelling units for family members
- Duplex or two-family homes where both units are owner-occupied by related family members
- Multi-generational designs with separate living spaces
- Such modifications must be requested at application and approved by city council

20. Program Cap. To ensure the program serves genuine housing needs without overwhelming city monitoring capacity:

- Maximum ten (10) individual lots may be sold per calendar year through this program

- City council may adjust cap based on staff capacity and demand
 - Applicants not selected in one year may reapply in subsequent years with priority consideration
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Section 6. Amendment of Section 5.30.090 - Reversionary Clauses

Section 5.30.090 of the Dillingham Municipal Code is hereby amended to add the following subsection:

B. Reversionary Clauses for Housing Development Disposals.

For all disposals of municipal property for housing development purposes, the deed and development agreement shall include a reversionary clause containing the following provisions:

1. Specific Milestone Triggers. The reversionary clause shall specify each development milestone and the corresponding deadline. Failure to achieve any milestone by its deadline, absent an approved extension, shall constitute grounds for reversion.

2. Notice and Cure Period. Before exercising its right of reversion, the city shall:

- Provide written notice to the developer specifying the milestone(s) not achieved
- Allow a cure period of ninety (90) days for the developer to remedy the default
- If the default cannot reasonably be cured within ninety (90) days, allow a reasonable cure period if the developer commences cure within the initial ninety (90) days and diligently pursues completion

3. City Council Determination. After expiration of the cure period, the city manager shall report to the city council regarding the status of the development. The city council may:

- Determine that reversion is appropriate and direct the city attorney to initiate reversion proceedings
- Grant an additional extension for good cause shown
- Modify the development agreement to address changed circumstances
- Negotiate a settlement with the developer

4. Good Cause Extensions. The city council may grant extensions of milestone deadlines upon finding of good cause, which includes but is not limited to:

- **Force Majeure Events:** Acts of God, natural disasters, pandemics, civil unrest, or other events beyond the developer's reasonable control
- **Regulatory Delays:** Delays in obtaining permits or approvals from federal, state, or local agencies despite developer's diligent efforts

- **Documented Material Shortages:** Nationwide or regional shortages of essential building materials that prevent construction progress
- **Market Disruption:** Extraordinary economic conditions that make project financing temporarily unavailable despite developer's good faith efforts
- **Utility Provider Delays:** Delays in utility connections or capacity caused by utility providers beyond developer's control

Good cause shall not include:

- Developer's financial difficulties due to poor planning or inadequate capitalization
- Developer's failure to secure contractors or labor due to inadequate effort
- Developer's decision to pursue other projects
- General market conditions that were foreseeable at the time of property acquisition

5. Extension Request Procedures.

- Extension requests must be submitted in writing at least thirty (30) days prior to a milestone deadline
- Requests must include detailed documentation of the circumstances justifying the extension
- Requests must include a revised timeline showing when the milestone will be achieved
- The city manager may grant extensions of up to ninety (90) days; longer extensions require city council approval
- The city council shall act on extension requests within sixty (60) days of submission

6. Compensation Upon Reversion. In the event of reversion:

- The developer shall receive compensation only for infrastructure improvements that:
 - Were completed to city standards and accepted by the city
 - Provide benefit to the city for future use or development
 - Are documented with receipts and invoices
- Compensation shall be based on independent appraisal of the value of the improvements to the city
- No compensation shall be provided for planning costs, permit fees, incomplete work, or non-conforming improvements
- The city may offset compensation with:
 - Costs incurred by the city in re-marketing the property
 - Property taxes, assessments, or fees owed to the city
 - Costs of removing non-conforming structures or correcting code violations
 - Damages to the property or surrounding area caused by developer

7. Removal of Non-Conforming Improvements. If the developer has constructed improvements that do not meet building codes or development agreement standards:

- The developer shall remove such improvements and restore the property to a safe condition

- Removal shall be completed within ninety (90) days of notice
- If the developer fails to remove improvements, the city may remove them and charge the developer for costs incurred
- The city may draw upon performance security to cover removal costs

8. No Penalty for Early Completion. If the developer completes all development milestones ahead of schedule, the city shall promptly release all performance security and remove the reversionary clause from the property title upon final inspection and acceptance.

9. Partial Reversion for Phased Development. For multi-phase developments:

- The property may be subdivided by phase with separate reversionary provisions for each phase
- Successful completion of one phase does not cure default on another phase
- The city may exercise reversion rights on defaulted phases while allowing completed phases to stand
- Performance security may be released proportionally as phases are completed

10. Recording and Notice. The reversionary clause shall be:

- Recorded with the deed in the appropriate recording district
- Referenced in the development agreement
- Included in any financing documents to ensure lenders have notice
- Binding upon successors and assigns

Section 7. New Section - Performance Security

The Dillingham Municipal Code Chapter 5.30 is hereby amended to add a new section:

5.30.095 Performance Security for Housing Development

A. Required Security. For all disposals of municipal property for housing development, the developer shall provide performance security to guarantee completion of the development in accordance with the development agreement.

B. Amount. The performance security shall equal no less than:

- Twenty-five percent (25%) of total estimated project costs for projects under \$1,000,000
- Thirty percent (30%) of total estimated project costs for projects between \$1,000,000 and \$3,000,000
- Thirty-five percent (40%) of total estimated project costs for projects over \$3,000,000

The city council may require higher security amounts based on project risk factors.

C. Acceptable Forms. Performance security may be provided as:

- Performance bond from a surety company rated A- or better by A.M. Best and licensed in Alaska
- Irrevocable letter of credit from a financial institution insured by FDIC or NCUA
- Cash deposit or cash escrow with a financial institution approved by the city
- A combination of the above forms totaling the required amount

D. Maintenance. The developer shall maintain the performance security in full force and effect until:

- All development milestones are completed
- Final inspection is passed
- Certificates of occupancy are issued for all units
- All infrastructure is completed and accepted by the city
- All applicable warranty periods have expired

E. Draw Provisions. The city may draw upon the performance security to:

- Complete development work if the developer defaults
- Remedy code violations or safety hazards
- Remove non-conforming structures
- Cover unpaid city fees, taxes, or assessments
- Compensate for documented damages to city property or infrastructure

F. Release. Security shall be released:

- Proportionally as phases are completed for multi-phase developments
- In full upon final completion and acceptance of all work
- Within thirty (30) days of the city's determination that all obligations are satisfied

Section 8. New Section - Monitoring and Compliance

The Dillingham Municipal Code Chapter 5.30 is hereby amended to add a new section:

5.30.096 Monitoring and Compliance for Housing Developments

A. City Manager Authority. The city manager or designee shall monitor all housing development projects to ensure compliance with development agreements and timelines.

B. Inspection Schedule. The city shall conduct inspections:

- Within thirty (30) days of each milestone deadline
- At any time upon reasonable notice to verify progress

- Upon complaint or concern about non-compliance
- Prior to release of performance security
- As otherwise deemed necessary

C. Developer Cooperation. The developer shall:

- Provide access to the property for inspections
- Respond to city information requests within fifteen (15) business days
- Attend progress meetings as requested by the city
- Provide quarterly progress reports including photographs and documentation

D. Non-Compliance Procedures. If the city determines the developer is not in compliance:

- Written notice shall be provided specifying deficiencies
- A cure period shall be established (typically 30-90 days depending on the deficiency)
- A follow-up inspection shall be conducted after the cure period
- Continued non-compliance may result in:
 - Additional cure periods with penalties
 - Draw on performance security
 - Initiation of reversion proceedings
 - Legal action to enforce the development agreement

E. Penalty Provisions. Development agreements may include:

- Liquidated damages for missed milestones
- Additional performance security requirements for repeated delays
- Increased city oversight and inspection frequency at developer expense
- Other remedies deemed appropriate by the city council

F. Annual Reporting. The city manager shall provide an annual report to the city council on the status of all active housing development projects, including:

- Projects in compliance with timelines
- Projects experiencing delays and reasons
- Extension requests granted
- Enforcement actions taken
- Completed projects and outcomes

Section 9. New Section - Affordable Housing Definitions and Standards

The Dillingham Municipal Code Chapter 5.30 is hereby amended to add a new section:

5.30.097 Affordable Housing Standards

A. Definitions. For purposes of housing development disposals under this chapter:

"Affordable Housing" means housing for which the occupant household is paying no more than thirty percent (30%) of its gross income for housing costs, including utilities.

"Area Median Income (AMI)" means the median family income for the Bristol Bay Borough or Dillingham Census Area as determined annually by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size.

"Affordable Housing Unit" means a dwelling unit that is:

- Sold or rented at a price affordable to households at or below eighty percent (80%) of AMI
- Subject to deed restrictions or covenants ensuring affordability for a minimum period
- Comparable in quality, design, and amenities to market-rate units in the same development

B. Income Qualification. Households shall qualify for affordable housing units if their gross annual income does not exceed:

- Eighty percent (80%) of AMI for rental units
- One hundred percent (100%) of AMI for owner-occupied units

Income shall be verified through:

- Federal tax returns for the previous year
- Employment verification and pay stubs
- Social Security or pension statements
- Other documentation acceptable to the city or its designee

C. Deed Restrictions for Affordable Units. Affordable housing units sold to qualified purchasers shall be subject to deed restrictions providing:

- Resale price limitations based on income qualification formulas
- Owner-occupancy requirements
- Right of first refusal for the city or qualified buyers if owner desires to sell
- Minimum affordability period of fifteen (15) years (twenty (20) years preferred)
- Recapture provisions if units are sold before the end of the affordability period
- Prohibition on short-term rental or vacation use

D. Rental Affordable Housing Requirements. Affordable rental units shall be subject to:

- Rent restrictions based on household income and bedroom count
- Tenant income verification at initial lease and annually

- Lease terms and tenant protections meeting applicable landlord-tenant laws
- Professional property management standards
- Compliance monitoring by the city or designated housing authority

E. Affordability Period. The minimum period of affordability for units included in housing development disposals shall be:

- Fifteen (15) years for rental units
- Fifteen (15) years for owner-occupied units
- Twenty (20) years or more for projects receiving substantial public subsidy (greater than 30% reduction in land price)

F. Incentives for Affordable Housing. Projects including affordable housing units may receive:

- Land price reductions of up to seventy-five percent (75%) based on the percentage and number of affordable units
- Priority in proposal evaluation and selection
- Expedited permit review
- Fee waivers or reductions for city permit and impact fees
- Favorable payment terms for land purchase
- Technical assistance from city staff

G. City Monitoring. The city shall monitor compliance with affordable housing requirements through:

- Annual reporting from developers/owners
- Periodic inspection of units and review of rent rolls or sales records
- Verification of tenant/owner income qualification
- Enforcement of deed restrictions and covenants

Section 10. Severability

If any provision of this ordinance or any application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this ordinance and the application of such provision to other persons or circumstances shall not be affected thereby and shall remain in full force and effect. To this end, the provisions of this ordinance are declared to be severable.

Section 11. Codification

The City Clerk is directed to codify the amendments set forth in this ordinance by incorporating them into the Dillingham Municipal Code. The codified version shall include appropriate section numbering and formatting consistent with the existing code structure.

Section 12. Effective Date

This ordinance shall become effective immediately upon passage by the City Council and publication as required by law. The City Clerk shall publish this ordinance in a newspaper of general circulation within the City of Dillingham within ten (10) days of passage.

Section 13. Implementation

The City Manager is hereby authorized and directed to:

- Develop necessary forms, applications, and procedures to implement this ordinance
- Create RFP templates and evaluation criteria matrices for housing development disposals
- Establish inspection protocols and compliance monitoring procedures
- Prepare standard development agreement templates incorporating the requirements of this ordinance
- Coordinate with the City Attorney to ensure all legal documents are properly drafted
- Report to the City Council within ninety (90) days on implementation progress and any recommended refinements