

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1183
92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR DOLAN.

Offered April 13, 2004.

Senate Substitute adopted April 13, 2004.

Taken up for Perfection April 13, 2004. Bill declared Perfected and Ordered Printed, as amended.

3589L06P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 64.825 and 89.410, RSMo, and to enact in lieu thereof two new sections relating to regulations governing the subdivision of land.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 64.825 and 89.410, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 64.825 and 89.410, to read as follows:

64.825. The county planning commission may also prepare, with the approval of the county commission, as parts of the official master plan or otherwise, sets of regulations governing subdivisions of land in unincorporated areas, and amend or change same from time to time as herein provided, which regulations may provide for the proper location and width of streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may also include the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility services shall be provided, to protect public health and general welfare. Such regulations may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety **or other form of security** and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of the improvements and utilities within a period specified by the county planning commission, and the county commission shall have power

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

to enforce the bond **or other form of security** by all proper remedies. The subdivision regulations shall be adopted, changed or amended, certified and filed as provided in section 64.815. The subdivision regulations shall be adopted, changed or amended only after a public hearing has been held thereon, public notice of which shall be given in the manner as provided for the hearing in section 64.815.

89.410. 1. The planning commission shall recommend and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the city, town or village; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan or official map of the city, town or village; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic; provided that, the city, town or village may only impose requirements [and] **for** the posting of bonds [regarding] **or** escrows for subdivision-related [regulations] **improvements** as provided for in subsections 2 to [4] **5** of this section.

2. The regulation may include requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities. Compliance with all of these requirements is a condition precedent to the approval of the plat. The regulations or practice of the council may provide for the tentative approval of the plat previous to the improvements and utility installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council [may accept a] **will accept, at the option of the developer, an escrow secured with cash, or an escrow secured with an irrevocable letter of credit. In the alternative, the developer may, at the developers option, post a surety bond, to secure completion of the work, provided the surety bond must be issued by a surety bonding company with a bond rating reasonably acceptable to the city, town, or village and be otherwise reasonably acceptable to the city, town, or village** [or escrow] in [an] **a form and** amount and with [surety and] other reasonable conditions[, providing]. **The escrow or bond shall provide** for and [securing] **secure** the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the **escrow or** bond; provided that, the release of such escrow **or bond** by the city, town or village shall be as specified in this section. The council may enforce the **escrow or** bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the council is put in an assured position to do the work and make the installations

at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

3. **The regulations shall provide that in the event a developer who has posted an escrow or bond with a city, town, or village in accordance with subsection 2 of this section transfers title of the subdivision property prior to full release of the escrow or bond, the municipality will accept a replacement escrow from the successor developer in the form allowed in subsection 2 of this section and in the amount of the escrow or bond held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement escrow, the city, town, or village shall release the original escrow or bond in full and release the prior developer from all further obligations with respect to the subdivision improvements if the successor developer assumes all of the outstanding obligations of the previous developer.**

4. The regulations shall provide that any escrow **or bond** amount held by the city, town or village to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. **The city, town, or village shall inspect each category of improvement or utility work within twenty business days after a request for such inspection.** Any such category of improvement or utility work shall be deemed to be completed upon certification by the city, town or village that the project is complete in accordance with the ordinance of the city, town or village including the filing of all documentation and certifications required by the city, town or village, in complete and acceptable form. The release shall be deemed effective when the escrow funds **or bond amount** are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds **or bond amount** are hand delivered to an authorized person or place as specified by the owner or developer.

[4.] 5. If the city, town or village has not released the escrow funds **or bond amount** within thirty days as provided in this section **or provided a timely inspection of the improvements or utility work after request for such inspection**, the city, town or village shall pay the owner or developer in addition to the escrow funds due the owner or developer, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until the escrow funds **or bond amount** have been released. Any owner or developer aggrieved by the city's, town's or village's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this

section. In any civil action or part of a civil action brought pursuant to this section, the court may award the prevailing party or the city, town or village the amount of all costs attributable to the action, including reasonable attorneys' fees.

[5.] 6. Nothing in this section shall apply to performance, maintenance and payment bonds required by cities, towns or villages.

[6.] 7. Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council.

8. The provisions of subsection 2 of this section requiring the acceptance of an escrow secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the developer, all of the provisions of subsection 3 of this section, and the provisions of subsections 4 and 5 of this section regarding an inspection of improvements or utility work within twenty business days shall not apply to any home rule city with more than four hundred thousand inhabitants and located in more than one county.

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