

AN ORDINANCE OF THE TOWNSHIP OF WOOLWICH REPEALING CHAPTER 149-5(1) OF THE CODE OF THE TOWNSHIP OF WOOLWICH AND REPLACING WITH THE FOLLOWING

2021-05

WHEREAS, Section 25 entitled "Required Guarantees" of Chapter 149 of the Code of the Township of Woolwich entitled "Site Plan", details the process and amounts required from developers for submission of Performance Guarantees; and

WHEREAS, N.J.S.A. 40:55D-53 (The Municipal Land Use Law) requires the posting of certain guarantees by developers; and

WHEREAS, the above referenced state statute has been amended, with the changes including specifics as to what can and cannot be bonded among other changes; and

WHEREAS, the Woolwich Township Committee, in an effort to remain consistent with state statute, wishes to amend its Ordinances to comply with said state statute;

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Woolwich as follows:

SECTION 1. REPEALER

Chapter 149, Section 1 of the Code of the Township of Woolwich shall hereby be repealed and replaced with the following:

A. *Performance Guaranties, Maintenance Guaranties & Inspection Fees*

As a condition of final site plan approval or final subdivision approval, the Joint Land Use Board may require the developer to post a performance guarantee for the purpose of assuring the installation of on-tract improvements consistent with the provisions of N.J.S.A. 40:55D-53 and pursuant to the following procedures:

(1) *The developer shall furnish a performance guarantee in favor of the Township in an amount not to exceed one hundred twenty percent (120%) of the cost of installation of the following on-site improvements that are to be dedicated to a public entity, and that have not yet been installed, as shown on the approved plans or plat, as the case may be: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements.*

(2) *The developer shall furnish a performance guarantee to include, within an approved phase or section of a development privately-owned perimeter buffer landscaping, as required by N.J.S.A. 40:55D-53(1)(b).*

(3) *The developer shall furnish to the municipality a "safety and stabilization guarantee," in favor of the municipality as described in N.J.S.A. 40:55D-53(1)(d). At the developer's option, a "safety and stabilization guarantee" may be furnished either as a separate guarantee or as a line item of the performance guarantee.*

(4) *The developer shall have the option to post each required guarantee in any of the following forms:*

(a) *A cash value equal to one hundred twenty percent (120%) of the total cost of construction as determined by the Township Engineer pursuant to this Section; or*

(b) *An irrevocable performance bond or letter of credit in the amount of one hundred twenty percent (120%) of the construction as determined by the Township Engineer pursuant to this Section.*

(5) *The cost of any performance guarantee required hereunder shall be determined by the Township Engineer who shall prepare an itemized cost estimate of the improvements covered by the performance guarantee which itemized cost estimate shall be appended to each performance guarantee posted by the developer. Said itemization shall be the basis for determining the amount of performance guaranty and maintenance guaranty required by the approving authority consistent with this Section. The Township Engineer shall forward his estimate of the cost of improvements to the developer within thirty (30) days of the date of receipt of a request sent by certified mail for said estimate.*

(6) *Prior to the release of a performance guarantee, the developer shall furnish a maintenance guarantee in an amount not to exceed fifteen percent (15%) of the cost of the installation of the improvements which are being released. The term of the maintenance guarantee shall be for a period not to exceed two (2) years and shall automatically expire at the end of the established term.*

(7) *The developer shall post with the municipality, upon the inspection and issuance of final approval of the following private site improvements by the municipal engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4).*

(8) *In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty issued for the benefit of another governmental agency, no performance or maintenance guaranty, as the case may be, shall be required for such utilities or improvements.*

(9) *Temporary Certificate of Occupancy.*

(a) *In the event that a developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof the developer shall furnish a separate guarantee, referred to herein as a temporary certificate of occupancy guarantee, in an amount equal to one hundred twenty percent (120%) of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under a performance guarantee which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought shall be released.*

(b) *The scope and amount of the temporary certificate of occupancy guarantee shall be determined by the Township Engineer based upon the projected cost of improvements remaining for issuance of the temporary certificate of occupancy which shall be provided by the applicant to the Township Engineer, and shall include items such as sidewalks and street trees at the subject property, roadways (including surface course) from the property to the fully improved roadway; water and sewer infrastructure from the property to the main, stormwater conveyance to serve the property and stormwater management structures/basins for the current project phase.*

(c) *The temporary certificate of occupancy guarantee shall be released by the Township Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates*

(10) *Inspection Fees.*

The obligor shall reimburse the municipality for reasonable inspection fees paid to the municipal engineer for the foregoing inspection of improvements as described in N.J.S.A. 40:55D-53.

Inconsistency:

All Ordinances or parts of Ordinances that are inconsistent with the terms of this Ordinance are hereby repealed to the extent of their inconsistency.

Effective Date:

This Ordinance shall take effect immediately upon proper passage, publication in accordance with law and after final adoption as provided by law.

TOWNSHIP OF WOOLWICH

Vernon Marino, Mayor

ATTEST: _____
Jane DiBella, Clerk

NOTICE

Notice is hereby given that the foregoing ordinance was introduced and passed on first reading at a meeting of the Township Committee of the Township of Woolwich, held on the 19th day of April, 2021 and will be considered for final passage at a meeting of the Township Committee of the Township of Woolwich, to be held on the 3rd day of May 2021 at 6:00 p.m. at which time and place any interested party will be given the opportunity to be heard.

Jane DiBella, Township Clerk

CERTIFICATION OF ADOPTION

The foregoing Ordinance was adopted by the Township Committee of the Township of Woolwich upon second reading and subsequent to a public hearing conducted on said Ordinance at a meeting of the Woolwich Township Committee held on May 3, 2021.

Jane DiBella, Clerk