

WEST DEPTFORD TOWNSHIP

ORDINANCE 2021-23

ORDINANCE OF THE TOWNSHIP OF WEST DEPTFORD AMENDING CHAPTER 102, LAND USE PROCEDURES, ARTICLE VI, FEES FOR APPLICATIONS TO PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT, OF THE CODE BOOK OF THE TOWNSHIP OF WEST DEPTFORD

BE IT ORDAINED by the Mayor and Township Committee of the Township of West Deptford, County of Gloucester and State of New Jersey that Chapter 102, Land Use Procedures, be and is hereby amended to read as follows:

Section 1: Chapter 102-40, Purpose, is hereby amended to read as follows:

The purposes of this Article are to provide a uniform set of procedures for administering the issuance of applications and payment of fees in processing applications for subdivision and development submitted to the Planning Board and Zoning Board of Adjustment; to assure the completion and maintenance of the off-site and on-site improvements included in the site plan as will affect the public interest; to establish fees to reimburse the township for costs of administrative review of applications, technical review of plans, issuance of permits and inspections to ensure compliance with requirements; and to incorporate the mandatory provisions of the New Jersey Municipal Land Use Law expressed in N.J.S.A. 40:55D-53 in their entirety, as if fully set forth at length herein.

Section 2: Chapter 102-43, Requirement and acceptance of guarantees, is hereby repealed and replaced to read as follows:

Before the Planning Board, Township Clerk and/or appropriate approving authority shall affix their signatures to the final subdivision plats, subdivision improvement plans or site plans, or as a condition of a zoning permit or prior to the applicant's commencement of construction of any improvements or infrastructure, the Township shall require and accept, in accordance with the standards as contained herein and for the purpose of assuring the installation and maintenance of any required certain on-tract/or off-tract improvements, the furnishing of the following guarantees, as appropriate. No plans will be signed by the appropriate authority until and unless the required guarantees have been approved by the Township's Attorney and Engineer.

A. Performance Guarantees

1. Any such performance guarantee, whether a surety performance bond, guaranty, cash escrow security, letter of credit or other form of security acceptable in form and content to the Township Solicitor, that is required by the Township, shall be furnished in favor of the Township in an amount not to exceed one hundred and twenty percent (120%) of the costs of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed.
2. The cost shall be determined by the Township Engineer according to the method of calculation set forth herein and in N.J.S.A. 40:55D-53.4, et. seq. and shall

include the following improvements as shown on the approved plans or plat: streets, pavements, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, water mains, sanitary sewers, community septic systems, drainage structures, public improvements to open space, and any grading necessitated by the preceding improvements.

3. Performance guarantees shall consist of cash or a certified check for not less than ten percent (10%) of the estimated cost of the improvements, and the balance of the cost shall be guaranteed by a corporate surety performance bond issued by a corporation authorized to issue bonds in the State of New Jersey, or letter of credit or other form of security guaranty approved by the Township Solicitor. The amount of the performance bond may be reduced by resolution of the Township Committee upon certification of the Township Engineer when portions of the required improvements have been installed, but no part of the cash security shall be refunded until all of the improvements have been completed.

B. Inspection fee escrow deposit

1. The applicant shall post inspection fees in escrow in an amount not to exceed, except in extraordinary circumstances, the greater of \$500 or 5% of the cost of bonded improvements that are subject to performance guarantees under paragraphs A(1) above and C. below, and not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under paragraph A(1) above, the cost of which shall be determined pursuant to section 15 of P.L.1991, c.256 (C.40:55D-53.4 provided, however, that the minimum escrow deposit shall be as set forth in Chapter 11 and shall be deposited at the time of application.
2. If at any time during the inspection of the construction of the said improvements it becomes evident that the escrow deposit is or will be insufficient to cover the costs thereof, the applicant shall make such additional deposits in amounts to be determined by the Zoning Officer based upon the estimated remaining costs required to properly review and inspect the on- and off-site improvements. provided, however, that the municipality delivers to the developer a written inspection escrow request, signed by the municipal engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections and estimates the cost of performing those inspections.

C. Perimeter Buffer Landscaping Performance Guarantee

The Township shall require a performance guarantee to include, within an approved phase or section of a development, privately-owned perimeter buffer landscaping as required by Township ordinance or imposed as a condition of approval. At the applicant's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

D. Safety and Stabilization Guarantee

The Township shall require a Safety and Stabilization Guarantee; provided, however, that, at the developer's option, such guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee. The safety and stabilization guarantee shall be available to the municipality solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

1. Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and
2. Work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee. A municipality shall not provide notice of its intent to claim payment under a safety and stabilization guarantee until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.
3. The amount of the Safety and Stabilization Guarantee shall be as follows:
 - (a) For a development with bonded improvements in an amount not exceeding \$100,000.00, the guarantee shall be \$5,000.00.
 - (b) For a development with bonded improvements exceeding \$100,000.00, the amount shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000.00 for the first \$100,000.00 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000.00 up to \$1,000,000.00, plus one percent of bonded improvement costs in excess of \$1,000,000.00.

E. Temporary Certificate of Occupancy Guarantee

1. In the event that the developer seeks 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 favor of the municipality in an amount equal to 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 and which are not covered by the existing performance guarantee.

2. The Temporary Certificate of Occupancy Guarantee shall include items such as, but not limited to, sidewalks, landscaping and street trees at subject property, roadway paving (including surface course) from the property to the fully improved roadway, water and sewer infrastructure from the property to an operating main, stormwater conveyance to serve property, and stormwater management structures/basins for the current project phase. When uncompleted community facilities, such as recreation, are to be included in said guarantee, it shall be required at the point of 50% occupancy of the development or phase.
3. The above items shall apply for both residential and non-residential developments. Upon posting of a Temporary Certificate of Occupancy Guarantee, all sums remaining under a performance guarantee, required pursuant to subparagraph (a) of this paragraph, which correspond to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of the Temporary Certificate of Occupancy Guarantee shall be determined by the Township Engineer, or other municipal official designated by ordinance. At no time may more than one guarantee or bond of any type be held with respect to the same line item. The temporary certificate of occupancy guarantee shall be released by the Township upon completion of the list of outstanding items.

F. Maintenance Guarantee

1. The applicant shall post with the Township Council, prior to the release of the Performance Guarantee and / or Perimeter Landscape Buffer Performance Guarantee, a maintenance guarantee, approved by the Township Solicitor as to form, sufficiency and execution, for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed fifteen percent (15%) of the cost of the improvements, which cost shall be determined by the Township Engineer in accordance with the method of calculation set forth in section 15 of P.L. 1991, c.256 (C.40:55D-53.4).
2. The developer shall post with the Township Council, upon the inspection and issuance of final approval, 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 structures and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system.

Section 3: Chapter 102-44, Schedule of fees, Introductory paragraph only be and is hereby amended to read as follows:

No subdivisions, development or site plans shall be approved and no building permits shall be issued by the Township of West Deptford until such time as all application and technical review


fees have been paid and all escrow accounts established for inspections and performance and maintenance guaranties posted, where required, in accordance with the requirements of §102-43 and with the provisions below. Fees and escrow deposits shall be as follows:

TOWNSHIP OF WEST DEPTFORD



DENICE DICARLO, Mayor

ATTEST:



LEE ANN DEHART, Registered Municipal Clerk

INTRODUCED at a meeting of the Township Committee of the Township of West Deptford, held on October 20, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo				/
Megan Kerr	/			
James Mehaffey	/			
Adam Reid	/			
James Robinson	/			
TALLY:	4			/

ADOPTED at a meeting of the Township Committee of the Township of West Deptford, held on December 1, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo	/			
Megan Kerr	/			
James Mehaffey				/
Adam Reid	/			
James Robinson	/			
TALLY:	4			/