

Introduction date: March 26, 2018

Adoption date: April 9, 2018

ORDINANCE 2018-8
TOWNSHIP OF EASTAMPTON
BURLINGTON COUNTY

**AN ORDINANCE OF THE TOWNSHIP OF EASTAMPTON TO AMEND THE
TOWNSHIP CODE AT CHAPTER 460 "SUBDIVISION OF LAND AND SITE PLAN
REVIEW" IN PARTICULAR, THE PROVISIONS OF CHAPTER 460--54
ADDRESSING GUARANTIES REQUIRED, SURETY AND RELEASE**

§460-54 entitled "Guaranties required; surety; release" shall be deleted in its entirety and replaced with the following language:

§460-54. Guarantees required; surety; release; inspection fees.

A. Developers shall post the necessary performance guarantees and maintenance guarantees as provided for in N.J.S.A. 40:55D-53, as modified by P.L.2017, c.312.

B. In accordance with N.J.S.A. 40:55D-53, as modified by P.L.2017, c.312, the Township requires any performance guarantee to include, within an approved phase or section of a development privately-owned perimeter buffer landscaping, as required by local ordinance or imposed as a condition of approval. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

C. In the event that the 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," (TCOG) in favor of the Township in an amount equal to 120% of the cost of installation of only those improvements or items (including both private on-site and to be publicly dedicated) 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 an existing performance guarantee. Upon posting of a "temporary certificate of occupancy guarantee," all sums remaining under a performance guarantee, required pursuant to section A above, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. No same item may be included in multiple performance bonds. The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the municipal engineer. The "temporary certificate of occupancy guarantee" shall be released by the municipal 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, upon submission of a Maintenance Guarantee.

D. A developer shall furnish to the Township a “safety and stabilization guarantee,” in favor of the Township. 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. A “safety and stabilization guarantee” shall be available to the Township 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: (i) 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 (ii) work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township's intent to claim payment under the guarantee.

The amount of a “safety and stabilization guarantee” for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.

The amount of a “safety and stabilization guarantee” for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000.

The Township shall release a separate “safety and stabilization guarantee” to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.

The Township shall release a “safety and stabilization guarantee” upon the municipal engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

E. Inspection fees.

(a) not to exceed, except for extraordinary circumstances, the greater of \$500 or, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee pursuant to section A above; and

(b) not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under section A above, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.

2) For those developments for which the inspection fees are total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has

been reduced by the amount paid to the municipal engineer for inspection inspections, the developer shall deposit the remaining 50% of the inspection fees.

3) For those developments for which the inspection fees are total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the municipal engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees. The municipal engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

4) If the Township determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to sections E(1)(a) and (b), is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow provided that the Township delivers to the developer a written inspection escrow deposit 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.

§460-58(D) shall be amended to now read as follows:

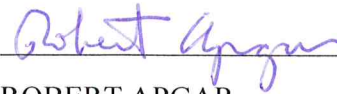
§460-58(D) - The escrow for inspection of improvements shall be calculated in accordance with §460-54(E). Legal fees incurred with respect to reviewing of bonds, inspection uses and the preparation of various resolutions with respect thereto shall be charged against said escrow.

ATTEST:



KIM-MARIE WHITE

Municipal Clerk



ROBERT APGAR

Mayor

Adopted: 4.9, 2018

Introduction 3.26.18

Council	Motion	2nd	Ayes	Nays	Abstain	Absent
Councilman Adams			X			
Councilman Edson	X		X			
Councilman Springer			X			
Councilman Zeno		X	X			
Mayor Apgar			X			
		VOTE	5	0		

Adoption 4.9.18

Council	Motion	2nd	Ayes	Nays	Abstain	Absent
Councilman Adams	X		X			
Councilman Edson						X
Councilman Springer		X	X			
Councilman Zeno			X			
Mayor Apgar			X			
		VOTE	4	0		