

ARTICLE 6: FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS

Section 610 – Required Public Improvements

- A. The construction or installation of any improvements or facilities other than roads, for which a financial guarantee has been made pursuant to this Article (is acceptable) shall be completed within one (1) year from the date of the posting of this guarantee. Road improvements shall be completed within two (2) years from the date of the posting of the guarantee.
- B. The applicant may request an extension of time to perform required public improvements provided he can show reasonable case for inability to construct and install said improvements within the required time. Such extension of time shall not exceed six (6) months. At the end of such extension of time, if the required public improvements are not completed and accepted by the Town, the Town may use as much of the financial security required by this Article (is acceptable) to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules and regulations.
- C. At least five (5) days prior to commencing construction of required public improvements the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designed by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board

Section 620 – Required Financial Security

If required by the Planning Board pursuant to Section 360 of this law, applicants for subdivision plat approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings, and traffic signs and signals, sidewalks, and other public improvements commonly required of applicants for subdivision plat approvals.

Acceptable financial security shall be provided to the Town in one of the following ways.

- A. The applicant shall furnish a bond executed by the applicant and by a surety company, approved by the Town Board in amount equal to the estimated cost of construction of the public improvements required by the Planning Board pursuant to this law or such additional amount as the Planning Board may deem reasonable and appropriate taking into consideration cost overruns.
- B. The applicant shall present to the Town Clerk a certified check in an amount equal to the amount approved by the Planning Board for the estimated cost of construction and overruns and Article.
- C. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of

the Town in an amount approved by the Planning Board for the estimated cost of construction and overruns to the cost of construction of the public improvements required by the Planning Board pursuant to this law. The Town shall have the right to approve the source of such letter of credit.

Section 630 – Review of Proposed Financial Security

For each of the above options, the required public improvements shall be shown on subdivision plats, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and its Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

Section 640 – Schedule of Improvements

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

Section 650 – Staged Refunding of Financial Guarantees

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted; the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements.

The applicant, after preparing such statement shall submit it for review, approval, and signature by an engineer acting on behalf of the town, by the appropriate municipal inspectors, and by the Town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct in writing to the surety company or financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant or reduce the bond as the case may be.

Section 660 – Acceptance of Required Public Improvements

When the project inspector following final inspection of the project certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

Section 670 – Required Maintenance Guaranteed

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten (10) percent of the financial guarantee originally required of the applicant. The applicant may provide a maintenance guarantee by one of the methods provided for in Section 620 of this Article, but no maintenance bond shall be for less than five thousand (\$5,000) (face value). All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two (2) years from the June first next succeeding the acceptance of the required public improvements, whichever period is longer.

ARTICLE 7: MISCELLANEOUS PROVISIONS

Section 710 – Penalty Provisions

- A. Any person, firm, or corporation who violates any of the provisions of the Subdivision Control Law of the Town of Augusta shall, upon conviction, be deemed guilty of a violation. Each week an offense is continued shall be deemed a separate violation of this law. A fine of up to \$1,000 per offense may be assessed for each such violation.
- B. In addition to the penalties provided by statute, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this law

Section 720 – Certification and Filing with County

The Town Clerk is hereby directed to forthwith file a certified copy of this local law with the Clerk of Oneida County.

Section 730 – Severability

If any clause, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate any other clause, sentence, paragraph, section, or part of this local law.

Section 740 – Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.