

TOWNSHIP OF MAPLE SHADE

Ordinance 2019-07

AN ORDINANCE AMENDING CHAPTER 178 OF THE TOWNSHIP CODE REGARDING PERFORMANCE, MAINTENANCE, AND RELATED GUARANTEES AND CHAPTER 88 REGARDING LAND USE DEVELOPMENT ESCROW

WHEREAS the State Legislature has amended provisions of the Municipal Land Use Law at N.J.S.A. 40:55D-53 governing the scope of performance, maintenance, and related guarantees which the Township may require, and the Township Council now desires to amend the Township Code to incorporate the full scope of permissible guarantees; and

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Maple Shade, County of Burlington, that the Township Code be and is hereby amended as follows:

Section 1. Chapter 178, Section 29 entitled “Guarantees Required, Surety and Release” is hereby replaced with the following:

178-29 Guarantees and Inspections

A. Before the Chairman and Secretary of the Planning Board, the Board of Adjustment, the Township Clerk and/or the appropriate administrative authority shall affix their signatures to the final subdivision plats, subdivision deeds, subdivision improvement plans, site plans (both minor and major), or as a condition of a zoning permit or prior to the owner’s or developer’s commencement of construction of any improvements or infrastructure, the Township of Maple Shade 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.

B. Scope of Performance and Maintenance Bonds/Guarantees.

(1) All bonds and/or guarantees required under Section 178-29 shall be required to cover the following improvements, to the fullest extent permitted by N.J.S.A. 40:55D-53, as amended by P.L. 2017, c.312, and as may be further amended from time to time:

- (a) The developer shall furnish a performance guarantee in favor of the Township in an amount not to exceed 120% of the costs of installation of all improvements to be dedicated to the Township and/or any other public entity, as determined by the Township Engineer.
- (b) The developer's performance guarantee shall include any privately-owned and/or on-site perimeter buffer landscaping.
- (c) If a temporary certificate of occupancy is sought by the developer for a development, unit, lot, building, or phase of the development project, the developer shall be required to furnish a separate guarantee in favor of the Township, in an amount equal to 120% of the cost of remaining improvements to be completed under the temporary certificate of occupancy, not covered by an existing performance guarantee.
- (d) The developer shall be required to furnish a Safety and Stabilization Guarantee, either as a separate guarantee or as a line item of a performance guarantee, at the developer's option. The scope, amount, and form of this Guarantee shall be governed by N.J.S.A. 40:55D-53, as amended by P.L. 2017, c.312, and as may be further amended from time to time.
- (e) Prior to the release of performance guarantees required pursuant to paragraphs (a) and (b) of this section, the developer shall be required to post a two-year maintenance guarantee not to exceed 15% of the cost of the installation of the improvements being released.
- (f) Upon inspection and issuance of final approval by the Township engineer, the developer shall be required to post a two-year maintenance guarantee in an amount not to exceed 15% of the cost of installation for the following private, on-site improvements: stormwater management basins, in-flow and water quality structures within the basins, and out-flow pipes and structures of the stormwater management system, if any.
- (g) All methods of inspection, calculation, and release or reduction of any bond and/or guarantee with respect to bonded improvements required in this section shall be undertaken in accordance with the terms of N.J.S.A. 40:55D-53, as amended by P.L. 2017, c.312, and as may be further amended from time to time. All other improvements for which a bond and/or guarantee is not required shall otherwise be governed by the Township Code.

Section 2. Chapter 88, Section 10, Subsection D, entitled Escrow for Inspection, is hereby re-titled and modified as follows:

Section 88- 10 D Inspection Fees and Escrow

- (1) In accordance with N.J.S.A 40:55D-53, as amended by P.L. 2017, c. 312, the obligor shall reimburse the Township for all reasonable fees paid to the municipal engineer for the inspection of improvements.
- (2) The municipality shall require from the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of:
 - 1. \$500.00, or

2. Five (5%) percent of all private and public site improvements.

For those developments for which the inspection fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited 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, the developer shall deposit the remaining 50% of the inspection fees. For those developments for which the inspection fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited 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.

Current section 88-10 D (2) shall be renumbered as subsection 88-10 D (3)

Section 3. REPEALER, SEVERABILITY AND EFFECTIVE DATE.

- A. Repealer. Any and all provisions of the Township Code which are inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Council hereby declares its intent that the balance of the Ordinance shall not be affected by said invalidity, and shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect immediately upon passage as provided by law.

Introduction: March 28, 2019

COUNCIL	MOTION	SECOND	AYES	NAYS	ABSTAIN	ABSENT
Manchello						x
Nunes	x		x			
Volpe		x	x			
Wiest						x
Kauffman			x			

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Maple Shade Township Council at a meeting held on May 9, 2019.

Andrea T. McVeigh, Township Clerk

Adoption: May 9 , 2019

COUNCIL	MOTION	SECOND	AYES	NAYS	ABSTAIN	ABSENT
Manchello			x			
Nunes		x	x			
Volpe	x		x			
Wiest			x			
Kauffman			x			