

TOWNSHIP OF MAPLEWOOD



ORDINANCE

2907-18

AN ORDINANCE
TO
ESTABLISH THE REQUIREMENT
FOR PERFORMANCE AND MAINTENANCE
GUARANTIES FOR DEVELOPERS
WITHIN
THE TOWNSHIP OF MAPLEWOOD
AND TO
ESTABLISH A TEMPORARY
CERTIFICATE OF OCCUPANCY GUARANTY
WITHIN THE
THE TOWNSHIP OF MAPLEWOOD

"Interpretive Statement"

This ordinance will establish performance and maintenance guaranties for Developers within the Township of Maplewood and will also establish a Temporary Certificate of Occupancy Guaranty within the Township of Maplewood.

WHEREAS, the Municipal Land Use Law was amended to require Local Municipalities to pass an ordinance in order to require performance and maintenance guaranties for Developers; and

WHEREAS, Municipalities are now permitted to establish a Temporary Certificate of Occupancy Guaranty in certain circumstances; and

WHEREAS, the Township Engineering and the Township Building Department have recommended that these guaranties be established within the Township of Maplewood.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Maplewood, County of Essex, State of New Jersey as follows:

FIRST: Definition:

- (1) There be and is hereby established, within the Township of Maplewood ("Township"), a requirement that before the filing of a Final Subdivision

Plat or recording of a minor Subdivision Deed or Condition of Final Site Plan Approval or as a condition to the issuance of a Zoning Permit, pursuant to the provisions of N.J.S.A. 40:55D-65, a Developer, as defined in N.J.S.A. 40:55D-4, shall furnish a Performance Guaranty in favor of the Township in an amount not to exceed one hundred twenty (120%) percent of the cost of installation of only those improvements required by an approval, Developer's Agreement, Ordinance, or Regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the municipal engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements: as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyors monuments, as shown on the final map and required by the Map Filing Law, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements.

The Municipal Engineer shall prepare an itemized cost estimate of the improvements to be covered by the Performance Guaranty, which itemized cost shall be appended to each Performance Guaranty posted by the Obligor.

Additionally, the Township may also require a Performance Guaranty 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 Guaranty may be posted for the privately owned, perimeter buffer landscaping.

- (2) A Developer shall furnish to the Township a "Safety and Stabilization Guaranty" in favor of the Township. At the Developer's option, a Safety and Stabilization Guaranty, may be furnished either as a separate guaranty

or as a line item of the Performance Guaranty. A Safety and Stabilization Guaranty 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 circumstances that:

- (i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least sixty (60) consecutive days following such commencement for reasons other than force majeure, and
- (ii) work has not recommenced within thirty (30) days following the provision of written notice by the Township to the Developer of the Township's intent to claim payment under the guaranty.

The amount of a ASafety and Stabilization Guaranty@ for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.

The amount of a ASafety and Stabilization Guaranty@ 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 the separate Safety and Stabilization Guaranty to a Developer upon Developer's furnishing of a Performance Guaranty which include the line item for "Safety and Stabilization" in the amount required under this paragraph.

The Township shall release the Safety and Stabilization Guaranty upon the Township Engineer's determination that the development of the project site has reached the point that the improvements installed are adequate to avoid any potential threat to public safety.

3. The Developer shall post with the Township prior to the release of a Performance Guaranty required, a Maintenance Guaranty in an amount not to exceed fifteen (15%) percent of the cost of the installation of the improvements which are being released. The Developer shall post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a Maintenance Guaranty in an amount not to exceed fifteen (15%) percent of the cost of the installation of the following private site improvements: Stormwater, management basins, inflow and water quality structures within the basins, and the out-flow pipes and structure of the stormwater management system, if any, in accordance to the method of calculation set forth in N.J.S.A. 40:55D-33.4.

The term of the Maintenance Guaranty shall be for a period not to exceed two (2) years and shall automatically expire at the end of the established term.

4. In the event 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 to the Township a separate guaranty referred to herein as a "Temporary Certificate of Occupancy Guaranty" in favor of the Township in an amount equal to one hundred twenty (120%) percent 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 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 Guaranty. Upon posting of a Temporary Certificate of Occupancy Guaranty, all sums remaining under the Performance Guaranty, required pursuant to this ordinance, which relate 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 Guaranty shall be determined by the Township Construction Official. The Temporary Certificate of Occupancy Guaranty shall be released upon the issuance of a Permanent Certificate of Occupancy with regard to the development unit, lot, building or phase as to which Temporary Certificate of Occupancy relates.

SECOND: Severability

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

THIRD: Repeal of Prior Ordinances

Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any such inconsistencies.

FOURTH: Effective Date

This Ordinance shall take effect after final passage and publication and as provided by law.

PUBLIC NOTICE is hereby given that the foregoing proposed Ordinance was introduced and read by title at a meeting of the Township Committee of the Township of Maplewood, held on May 1, 2018, and that the Township Committee met again on May 15, 2018, at the Municipal Building, 574 Valley Street, Maplewood, New Jersey, at which time and place the Township Committee held a hearing and proceeded to consider the said Ordinance on final reading and final passage.

ELIZABETH J. FRITZEN, R.M.C.
Township Clerk