

ORDINANCE NUMBER 18 - 17

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK  
AND KANE COUNTIES, ILLINOIS AMENDING THE REQUIREMENTS FOR  
ASSURANCE FOR COMPLETION OF REQUIRED SUBDIVISION IMPROVEMENTS

WHEREAS, the Village of East Dundee ("Village") is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the President and Board of Trustees of the Village have deemed it to be in the best interest of the Village that the Village of East Dundee Village Code ("Village Code") provisions regarding assurances required for completion of certain public improvements be amended to comply with the requirements of the Illinois Public Construction Bond Act, 30 ILCS 550/0.01, *et seq.*;

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

**SECTION 1: Incorporation.** That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

**SECTION 2: Village Code Amendments.** That the Village Code is hereby amended as follows, with additions underlined and deletions struck through:

**Amendment 1:**

Section 51.16(D) of the Village Code is hereby amended and shall read as follows:

After approval of the plans and specifications by the village and receipt of an Illinois Environmental Protection Agency permit, the applicant shall submit to the village the following documents prior to starting the extension:

(1) A guarantee for completion of the work by filing with the Village Clerk ~~a bond~~ an instrument, in the form approved, in writing, by the Village Attorney, in the principal amount of 425 110% of the estimated cost as approved by the Village Engineer, and secured by an instrument of the type permitted in Section 3 of the Illinois Public Construction Bond Act, 30 ILCS 550/3, as amended from time to time;

~~—— (a) A certificate of deposit with or an escrow account at a federally insured bank or savings and loan association with resources at least \$10,000,000 under the provisions of an escrow agreement approved in form by the Village Attorney, in an amount equal to 125% of the estimated construction cost as approved by the Village Engineer and subject to draw by the village to complete improvements if they are not completed by the applicant within the prescribed time limit; (Reduction of the bond or security thereon may be permitted only upon recommendation of the Village Engineer and approval of the Village Board upon application for payout by the applicant in amount that funds remaining in the escrow account will always equal 125% of the value of the uncompleted work, as determined by the Village Engineer, and such that not more than 95% of the approved cost estimated is released prior to final inspection of the improvements by the village.)~~

~~—— (b) A clean, non-declining, irrevocable letter of credit in a form as approved by the Village Attorney, issued by a federally insured bank or savings and loan association with resources of at least \$10,000,000, in an amount equal to 125% of the estimated construction cost as approved by the Village Engineer. The letter shall ~~proved~~ provide that funds may be drawn only by the village. Reduction of the bond or security thereon may be permitted only upon recommendation of the Village Engineer and approval of the Village Board upon application for payout by the applicant in amounts such that the credit remaining will always equal 125% of the value of the uncompleted work and such that not more than 95% of the approved cost estimate is drawn prior to final inspection of the improvements by the village.~~

(2) A maintenance bond, escrow account or irrevocable letter of credit in an amount equal to 15% of the approved estimated cost of the improvements or not less than \$1,000, whichever is greater, for a period of 15 months after completion of the construction; ~~(The funds in the escrow accounts or letter of credit for maintenance purposes shall be directly available for draw by the village prior to substitution of a maintenance bond for a completion bond and the security therefore.);~~

(3) Copies of all permits required; and

(4) Certificates of insurance protecting the village from any liability or damage whatsoever from injury, including death, to any person or property.

**Amendment 2:**

Section 51.16(F) of the Village Code is hereby amended and shall read as follows:

The village shall refund and/or release the completion bond as set forth in Section 3 of the Illinois Public Construction Bond Act, 30 ILCS 550/3, as amended from time to time. The performance completion bond will not be released until the following documents are filed with the Director of Public Works and approved by the village:

- (1) As-built drawings, one reproducible set and two sets of prints;
- (2) Release of all permits; and
- (3) Copies of all tests required by the Village Engineer or Director of Public Works.

**Amendment 3:**

Section 53.011(D) of the Village Code is hereby amended and shall read as follows:

Document required prior to starting extension. After approval of the plans and specifications by the village and receipt of an Illinois Environmental Protection Agency permit, the applicant shall submit to the village the following documents prior to starting the extension:

- (1) A guarantee for completion of the work by filing with the Village Clerk ~~a bond~~ an instrument, in the form approved in writing by the Village Attorney, in the principal amount of ~~425~~110% of the estimated cost as approved by the Village Engineer, and secured by an instrument of the type permitted in Section 3 of the Illinois Public Construction Bond Act, 30 ILCS 550/3, as amended from time to time;
- (2) A maintenance bond, escrow account, or irrevocable letter of credit in an amount equal to 15% of the approved estimated cost of the improvements or not less than \$1,000, whichever is greater, for a period of 15 months after completion of the construction. The funds in the escrow accounts or letter of credit for maintenance purposes shall be directly available for draw by the village. Approval shall be granted by the village prior to substitution of a

maintenance bond for a completion bond and the security therefor.

(3) Copies of all permits required.

(4) Certificates of insurance protecting the village from any liability or damage whatsoever from injury (including death) to any person or property.

**Amendment 4:**

Section 53.011(F) of the Village Code is hereby amended and shall read as follows:

Requirements for release of performance completion bond. The village shall refund and/or release the completion bond as set forth in Section 3 of the Illinois Public Construction Bond Act, 30 ILCS 550/3, as amended from time to time. The performance completion bond will not be released until the following documents are filed with the Director of Public Works and approved by the village:

(1) As-built drawings. One reproducible set and two sets of prints.

(2) Release of all permits.

(3) Copies of all tests required by the Village Engineer or Director of Public Works.

**Amendment 5:**

Section 155.095 of the Village Code, entitled "Assurance for Completion of Required Improvements," is hereby amended and shall read as follows:

(A) (1) No work shall be started on any improvement until the applicant has posted a guarantee in the amount equal to 110425% of the estimated costs of the subdivision improvements, as approved by the Village Engineer, in order to insure that the work is performed according to the plans and specifications and according to good engineering and installation practices. The performance guarantee shall also be sufficient to secure all lot improvements on the individual lots of the subdivision, as required in these regulations, and shall be conditional upon the installation of the required improvements within two years from the date that the final plat is approved by the Board of Trustees. The performance guarantee shall comply with all statutory requirements

and shall be satisfactory to the Village Attorney as to form and manner of execution and shall be approved by the Village Board as to the amount and surety and conditions satisfactory to the Village Board.

(2) The performance guarantee shall be secured by an instrument of a type permitted in Section 3 of the Illinois Public Construction Bond Act, 30 ILCS 550/3, as amended from time to time, by either:

~~\_\_\_\_\_ (a) A certificate of deposit with or an escrow account at a federally insured bank or savings and loan association with resources of at least \$10,000,000 under the provisions of an escrow agreement approved in form by the Village Attorney, in an amount equal to 125% of the estimated construction cost as approved by the Village Engineer and subject to draw by the Village Engineer to install subdivision improvements if they are not installed by the subdivider in accordance to the plan and specifications and/or according to good engineering practices.~~

~~\_\_\_\_\_ (b) A clean, non-declining, irrevocable letter of credit in such form as approved by the Village Attorney, issued by a federally insured bank or savings and loan association with resources of at least \$10,000,000 in an amount equal to 125% of the estimated construction cost as approved by the Village Engineer. The letter shall provide that funds be drawn only by the village.~~

(B) A performance guarantee shall be reduced only upon recommendation of the Village Engineer and approval by the Village Board upon application for payout by the subdivider in amounts such that funds or credit remaining will always equal 110~~125~~% of the value of the uncompleted work, as determined by the Village Engineer; and such that not more than 90% of the guarantee amount is released prior to the acceptance of the improvements by the village in accordance herewith.

(C) The village shall not release the performance guarantees until there has been filed a maintenance guarantee in accordance herewith and not until there has been an acceptance of the improvements by the village according to the provisions hereof.

\_\_\_\_\_ (D) The village shall refund and/or release the performance guarantee as set forth in Section 3 of the Illinois Public Construction Bond Act, 30 ILCS 550/3, as amended from time to

time.

**SECTION 3: Continuation.** That all provisions of the Village Code not amended herein shall remain in full force and effect.

**SECTION 4: Severability.** That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 5: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**SECTION 6: Effect.** That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

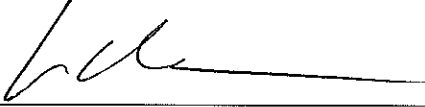
**PASSED** this 9<sup>th</sup> day of July, 2018 pursuant to a roll call vote as follows:

AYES: Trustees Lynam, Selep, Wood, Hall and Andresen

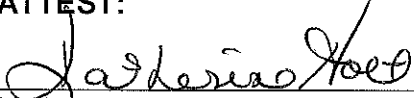
NAYES: Ø

ABSENT: Trustee Mahony

**APPROVED** by me this 9<sup>th</sup> day of July, 2018.

  
\_\_\_\_\_  
Lael Miller, Village President

**ATTEST:**

  
\_\_\_\_\_  
Katherine Holt, Village Clerk

Published in pamphlet form this 12<sup>th</sup> day of July, 2018, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on July 12, 2018.