

ORDINANCE NO. 2019- 40

ORDINANCE AMENDING ORDINANCE 2009-72, AS AMENDED, CHAPTER 425, ARTICLE VI, SECTION 425-52 ENTITLED GUARANTEES REQUIRED; SURETY; RELEASE IN ACCORDANCE WITH RESOLUTION 6335 OF THE PLANNING BOARD.

WHEREAS, the City of Vineland has required developers to post performance guarantees and or maintenance guarantees in the format as mandated by the New Jersey Administrative Code; and

WHEREAS, Municipal Land Use Law, N.J.S.A. 40:55D-53 amended performance guarantees and or maintenance guarantees thereby no longer requiring municipalities to have standardized performance or maintenance guarantees; and

WHEREAS, Chapter 425, Article VI, Section 425-52 A of the Code of the City of Vineland required that as a condition of final site plan approval or the issuance of a zoning permit, the City required performance and/or maintenance guarantees for certain on-tract improvements on standardized forms which no longer are required; and

WHEREAS, the Planning Board has adopted Resolution 6335 recommending the City Council consider an amendment to Section 425-52 A so as to allow City Council to adopt by Resolution such standardized forms for a performance guaranty, a maintenance guaranty and a letter of credit pursuant to N.J.S.A. 40:55D-53(a).

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vineland that Chapter 425, Article VI, Section 425-52A be amended by the addition of the following sentence at the end of said Section:

“Until such time as the Department of Community Affairs adopts by regulation a standardized form for a performance guarantee, a maintenance guarantee and letter of credit, pursuant to N.J.S.A. 40:55D-53(a), the standardized forms adopted by Resolution of City Council shall be used verbatim.”

BE IT FURTHER ORDAINED that the balance of Ordinance not amended hereby shall remain in full force and effect.

BE IT FURTHER ORDAINED that should any Ordinance or portion thereof be inconsistent herewith, such Ordinance or portion thereof shall be void to the extent of such inconsistencies.

This Ordinance shall take effect upon adoption and publication according to law.

Passed first reading:

Passed final reading:

President of Council

ATTEST:

City Clerk

CITY OF VINELAND LAND USE ORDINANCE AMENDMENT FOR PERFORMANCE AND MAINTENANCE GUARANTEE TEMPLATES

Background

In accordance with N.J.S.A. 40:55D-53(a), the Department of Community Affairs had adopted standardized forms for performance and maintenance guarantees. Unfortunately, the forms were allowed to expire. Additionally, revisions to the statutes now allow for a variety of performance and maintenance guarantees, for which new standardized forms have not been developed.

This amendment adds language to the Land Use Ordinance that will require utilization of standardized forms, adopted by resolution of City Council. The forms are the same as those previously adopted by the Department of Community Affairs, but modified to reflect the variety of performance and maintenance guarantees now allowed. This will expedite the posting and review of performance and maintenance guarantees.

Proposed Amendments

Amend §425-52. Guarantees required; surety; release.

Replace Section A with the following:

A. Before filing of final major subdivision plats, or recording of minor subdivision plats or deeds, or as a condition of final site plan approval, or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65(d), the City shall require and shall accept, in accordance with the standards in this section and the regulations contained in N.J.S.A. 40:55D-53, as amended, the furnishing of performance guarantees and provision of maintenance guarantees, for the purpose of assuring the installation and maintenance of certain on-tract improvements. More specifically, the City shall require the furnishing of a performance guarantee for improvements required by an approval or developer's agreement, ordinance or regulation to be dedicated to a public entity that have not yet been installed; a performance guarantee for privately owned perimeter buffer landscaping; a temporary certificate of occupancy guarantee; a safety and stabilization guarantee; and provision for a maintenance guarantee, for the purpose of assuring the installation and maintenance of certain on-tract improvements; and a maintenance guarantee for the purpose of assuring the installation and maintenance of certain private site improvements, in accordance with the standards in this section and the regulations contained in N.J.S.A. 40:55D-53, as amended. Until such time as the Department of Community Affairs adopts by regulation a standardized forms for a performance guarantee, a maintenance guarantee and a letter of credit, pursuant to N.J.S.A. 40:55D-53(a), the standardized forms adopted by resolution of City Council shall be used verbatim.

RESOLUTION NO. 6335
RESOLUTION OF FINDINGS AND CONCLUSIONS AND
DECISION OF THE VINELAND PLANNING BOARD

WHEREAS, the Planning Board of the City of Vineland recommends to City Council of the City of Vineland certain changes to the City's Land Use Ordinance; and

WHEREAS, the Planning Board, having considered the sworn testimony of Kathleen Hicks, PP, Supervising Planner, City of Vineland, as well as having considered the proposed revisions to the Land Use Ordinance prepared by Kathleen Hicks, PP, made the following factual findings:

1. The Municipal Land Use Law, NJSA 40:55D-53, amended, performance guarantees and maintenance guarantees.
2. Previously, the City required developers to post performance guarantees and/or maintenance guarantees in the format as mandated by the New Jersey Administrative Code.
3. The standardized form of performance and maintenance guarantees expired therefore, the State of New Jersey no longer has standardized performance or maintenance guarantees.
4. The City's Planning Staff has developed standard forms of surety in accordance with NJSA 40:55D-53.
5. Kathleen Hicks, PP, recommended the Planning Board adopt or recommend to City Council that Council amend the City's Land Use Ordinance, specifically, Section 425-52. Guarantees required; surety; release. That amended section incorporates by reference standardized forms of surety.

THEREFORE, the Planning Board recommends to City Council of the City of Vineland that the attached language amending Section 425-52 of the City's Land Use Ordinance attached hereto and incorporated by reference be adopted by City Council in its entirety.

The Planning Board also recommends City Council adopt the standardized guarantee forms by Resolution.


NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the City of Vineland, that recommendation is made to City Council to amend the Land Use Ordinance so as to include the attached "City of Vineland Land Use Ordinance Amendments for Performance and Maintenance Guaranteed Templates" in its entirety.

The foregoing is a true copy of the Resolution of decision adopted by the Planning Board of the City of Vineland at a meeting held on March 13, 2019 as reflected in the recorded minutes of said meeting.

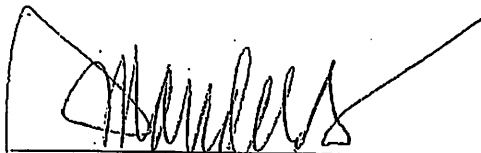
ADOPTED DATE: March 13, 2019

PLANNING BOARD OF THE
CITY OF VINELAND

Attest:



YASMIN RICKETTS, Secretary



DAVID MANDERS, Chairperson

ROLL CALL VOTE

VOTING IN FAVOR

DAVID MANDERS
MICHAEL PANTALIONE
ROBERT ODORIZZI
JOHN CASADIA
DAVID ACOSTA
STEPHEN PLEVINS
DAVID CATALANA

ABSTAINING

NONE

ABSENT

SANDY VELEZ
SAMUEL FIOCCHI
KEITH SALERNO
CHRISTINE SCARPA

OPPOSED

NONE