

STATE OF WISCONSIN

TOWN OF DELAFIELD

WAUKESHA COUNTY

ORDINANCE NO. 2009-07

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 18.07(1)(F) OF THE TOWN OF DELAFIELD TOWN CODE, REGARDING DEVELOPER FINANCIAL GUARANTEE FOR PREVAILING WAGE AND HOUR COMPLIANCE

The Town Board of the Town of Delafield, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 18 of the Town of Delafield Municipal Code entitled "Subdivision and Platting," Section 18.07 entitled "Required Improvements and Reservations," subsection (f) entitled "Approvals" is hereby repealed and re-created as follows:

(f) Approvals. (Rep. & rec. #93-352) 1. The adequacy of such facilities and improvements and their proper installation shall be subject to approval of the Town Board and the Town Engineer with the acceptance of the facilities only following such approval. Upon written request of the developer, the Town Board may elect to allow the developer to file a letter of credit or other financial guarantee satisfactory to the Town Board after review and recommendation of the Town Attorney to assure completion of all uncompleted construction in order to permit filing of the final plat within the 24 months specified in §18.03(5)(d). All required improvements not installed at the time the final plat is recorded shall be guaranteed by a surety bond, irrevocable letter of credit or other satisfactory financial guarantee in an amount equal to double the cost of the improvements as estimated by the Town Engineer, plus such additional amounts as the Town Engineer deems to be necessary to guarantee that the developer complies with applicable prevailing wage and hour laws. The type and form of the financial guarantee shall be at the discretion of the Town Board after review and recommendation of the Town Attorney. If the improvements are not installed within one year from the date of approval of the final plat by the Town Board, the Board may cause all uncompleted work to be constructed and the parties executing the bond, irrevocable letter of credit or other financial guarantee shall be firmly bound for the payment of all necessary costs thereof. In addition to the foregoing purposes, the financial guarantee shall ensure the developer's compliance with the prevailing wage and hour requirements of Wisconsin Statutes Section 66.0903 and 66.0904, and the letter of credit shall not be reduced below the total cost of the improvement work unless and until (1) the developer proves full compliance with such statutes to the satisfaction of the Town Engineer; or (2) two years has passed from the date of the Town's final

acceptance of all improvements and no claims have been made against the Town or by the Town against the developer in that regard.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.


Dated this 24th day of November, 2009

TOWN OF DELAFIELD



Paul L. Kanter, Town Chair

ATTEST:


Mary Elsner, Town Clerk

Published and/or posted this 10th day of December, 2009.