



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4g

Title:

**Recommendation to amend Title 15 “Buildings and Construction” regarding Engineering requirements for Building Permits**

Presenter:

**Russell Colby, Community Development Director**

**Meeting:** Planning & Development Committee

**Date:** December 11, 2023

**Proposed Cost:**

**Budgeted Amount:**

**Not Budgeted:**

**TIF District:** None

**Executive Summary** (if not budgeted, please explain):

The Building Code, Title 15, includes information regarding requirements and procedures for engineering approvals for building permit projects.

This proposed amendment is intended to clean up some redundant code language and better document processes used by staff to grant approvals for site engineering.

The most significant change is to formalize a process for temporary building occupancies for projects where some portion of the site improvements are incomplete. This frequently includes final site grading and landscaping.

Often, when a building is completed and fully inspected, a building, developer or business will want to occupy the building while the other site improvements remain incomplete. If the City’s building or engineering inspector determines that there are no safety issues, a Temporary Certificate of Occupancy may be issued, under the condition that there be a cash deposit provided.

This deposit is intended to motivate a builder/developer to complete the improvements, in order to have the funds returned. Alternately, if for whatever reason the work is not completed in a timely manner, these funds could be used by the City to complete the work. However, this rarely happens and the funds are almost always returned.

Currently, the code allows for this type of Temporary Occupancy during the winter months, when site work may not be possible. However, over the past two years, projects have encountered other issues with timing, such as a deadline for business opening or tenant move-in date, that have created a need for a Temporary Occupancy.

The code amendment would set a process and standard for the cash deposit as:

- \$5,000 or the cost of remaining improvements for single-family residential buildings
- \$50,000 or the cost of remaining improvements for multi-family or commercial buildings

Staff has been utilizing cash deposits within this range and has found these amounts to be acceptable.

**Attachments** (please list):

Code amendment draft

**Recommendation/Suggested Action** (briefly explain):

Recommendation to amend Title 15 “Buildings and Construction” regarding Engineering requirements for Building Permits.

### 15.101.010 – Administration provisions adopted

**Add Sections 107.2.5.2, 107.2.5.3, and 107.2.5.4 as follows:**

#### **Section 107.2.5.2 Engineering Plan.**

For building permit applications that include Land Improvements as defined in Title 16 “Subdivisions and Land Improvement”, an Engineering Plan shall be submitted with the Site Plan. The Engineering Plan shall be in substantial conformance to and show the necessary items identified in Title 16, “Appendix E - Drawing Requirements Checklist – Final Engineering Plans.” of the St. Charles Municipal Code.

For all other building permit applications that involve any grading or site improvements, an engineering plan shall be submitted showing information necessary to review the proposed project, as determined by the Building Official. The minimum required information shall be listed in the building permit application.

~~{Ord. 2013-M-15 § 4.}~~

**Section 107.2.5.3 Guarantee for Completion of Land Improvements.** For building permit applications that include public Land Improvements, a Guarantee for Completion of the Land Improvements shall be provided in accordance with the procedures and requirements of Title 16, “Subdivisions and Land Improvements”, Chapter 16.04 “Procedures”.

~~to the Director of Public Works or Development Engineering Division Manager prior to issuance a building permit.~~

~~The guarantee shall be in one of the following formats, with the form, amount and provider being subject to approval by the Development Engineering Division Manager or Designee.~~

- ~~1. Cash in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed.~~
- ~~2. A performance letter of credit, in substantially the form attached as Appendix C in Title 16 Subdivisions and Land Improvements, in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed, issued by a sound and reputable banking institution authorized to do business in the state of Illinois and meeting the criteria set forth below.~~
- ~~3. A surety bond in the amount of 115% of the estimated cost of the Land Improvements remaining to be completed, issued by a surety company authorized to do business in Illinois and meeting the criteria set forth below.~~

~~The form, amount and provider of the guarantee for completion shall be subject to the approval of the Director of Community Development, Development Engineering Division Manager or their Designee, and shall meet the following criteria:~~

- ~~1. Banks (for letters of credit): Each letter of credit shall be drawn on an institution 1) acceptable to the Director of Finance; 2) having assets of at least \$10 Million; 3) having an office in the Chicago Metropolitan Area; and 4) that is a member of the Federal Deposit Insurance Corporation; or~~

2. ~~Insurance Companies (for surety bonds): Must have an A.M. Best Company rating of Superior (A++ and A+), Excellent (A and A-), or Very Good (B++ and B+) (or equivalent).~~

~~Completed Land Improvements may be omitted from the amount of the guarantee. For purposes of this section, completed Land Improvements shall be those Land Improvements which have been previously accepted by the City Council, and, if applicable, conveyed to the City via a Bill of Sale substantially in the form set forth in Appendix C of Title 16 "Subdivisions and Land Improvement" of the St. Charles Municipal Code, pursuant to the terms and conditions of the Land Improvement Agreement.~~

~~The guarantee shall be accompanied by a Land Improvement Agreement in substantially the form set forth in Appendix D of Title 16 "Subdivisions and Land Improvement" of the St. Charles Municipal Code. The Mayor is authorized to execute a Land Improvement Agreement and authorization from the City Council is not required.~~

#### **Section 107.2.5.4 Release of Guarantee for Completion**

~~The guarantee for completion of the Land Improvements shall be released only upon fulfillment of the following conditions:~~

1. ~~The completion of the Land Improvements;~~
2. ~~The submission of one (1) set of reproducible (mylar) as-built drawings of the Land Improvements;~~
3. ~~A Bill of Sale for all Land Improvements that has been accepted by City Council;~~
4. ~~The acceptance of the Director of Community Development or Development Engineering Division Manager or designee of a guarantee for maintenance of land improvements (See Appendix C in title 16 Subdivisions and Land Improvement). The guarantee shall be in one of the following formats:
  - a. ~~Cash in the amount of 15% of the estimated cost or actual construction costs of the Land Improvements to be accepted or acknowledged as complete by the City.~~
  - b. ~~A maintenance guarantee in the amount of 15% of the estimated cost or actual construction costs of the Land Improvements to be accepted or acknowledged as complete by the City, issued by a sound and reputable banking authorized to do business in the State of Illinois and meeting the criteria set forth below.~~
  - c. ~~A surety bond in the amount of 15% of the estimated cost or actual construction costs of the Land Improvements to be accepted or acknowledged as complete by the City, issued by a surety company authorized to do business in the State of Illinois and meeting the criteria set forth below.~~~~
5. ~~The form, amount and provider of the guarantee shall be subject to the approval of the Development Engineering Division Manager or Designee shall meet the following criteria:
  - a. ~~Banks (for letters of credit): Each letter of credit shall be drawn on an institution a) acceptable to the Director of Finance; b) having assets of at least \$10 Million; c) having an office in the Chicago Metropolitan Area; and d) that is a member of the Federal Deposit Insurance Corporation; or~~~~

- b. ~~Insurance Companies (for surety bonds): Must have an A.M. Best Company rating of Superior (A++ and A+), Excellent (A and A-), or Very Good (B++ and B+) (or equivalent).~~
- 6. ~~Acceptance of the Land Improvements by the City Council of the City shall be as set forth in Title 16, "Subdivisions and Land Improvement Section 16.04.130, "Acceptance of Land Improvements" of the St. Charles Municipal Code.~~

**Section 111: Add Section 111.5, as follows:**

**111.5 Grading Survey and As-Built Elevation Certification.**

1. Requirement: This section applies to single- and multi-family dwelling units and commercial structures. A topographical survey of the construction site, as finally graded, prepared, and certified by a professional land surveyor or a registered professional engineer, shall be submitted to demonstrate compliance with approved plans, and that adequate provisions for drainage have been constructed. Required information on the survey shall be as determined by the Building Official, and shall be listed within the building permit application.
2. Submittal: The survey document shall be submitted as follows:
  - a. Foundation Spot Survey: To be submitted after construction of a foundation to verify foundation location and elevations. Construction shall not continue beyond the backfill of the foundation until the spot survey is approved to be in compliance with approved site grading/engineering plans.
  - b. Final As-Built Survey: To be submitted, reviewed and approved by the City Development Engineer, along with a satisfactory site inspection, prior to final occupancy approval.
3. Deviation from Approved Plans: If there are deviations from approved plans, the site shall be revised to comply with the approved plans, and the survey shall be updated and resubmitted. Alternately, the City Development Engineer may approve revisions to the approved plans, subject to the builder or developer having a Licensed Professional Engineer render an opinion and certify the as-built is in compliance with all applicable code requirements.
  - 1.a. ~~This topographical survey shall depict the location of the structure and the grade elevations designed for the site. The "as-built" elevation contours shall be at one (1) foot increments minimum and shall provide sufficient detail to adequately determine the proper final grading of a parcel as determined by the City Engineer or his designee. Additionally, a registered professional engineer shall certify the final grading of the site is in substantial compliance with the approved grading plans.~~
  - 2.4. Temporary Occupancy prior to completion of Final Grading: Weather Conditions: When weather or other conditions prohibit the final grading of the site in accordance with the approved plans and/or prevents an as-built survey from certifying the same; the City Engineer or his/her designee Building Official, may allow Temporary Occupancy provided the following conditions are met:

- a. The site/building has been inspected and the Inspector or Building Official has determined that the building may be occupied safely without endangering life or public welfare.
- b. A \$3,000 cash deposit or other suitable guarantee as determined by the City Engineer~~Building Official~~ is posted for each lot where grading or other site improvements cannot be completed or verified.
  1. Single Family Dwelling Units: \$5,000 or the cost of the remaining grading work or site improvements.
  2. Multi-family Dwelling Units and Commercial structures: \$50,000, or as determined by the Building Official or Development Engineer, based upon the cost of remaining grading work or site improvements.
- c. Occupancies allowed prior to completion of grading and verification of the same shall have a strict completion date as established by the City Engineer~~Building Official~~ at the time of occupancy. The City shall return the guarantee for the full amount (no interest) after completion of the lot grading, submittal of a final survey and acceptance by the City Inspector~~City Development Engineer~~.
- b-d. In the event that the final grading and site improvements are not completed prior to the expiration of the Temporary Occupancy, the cash deposit may be utilized to complete the remaining grading and site improvements. The builder or developer will receive the remainder of the financial guarantee with an itemized invoice of work completed within thirty days (30) of completion of work activities. A 10% administrative fee will be added to the direct services provided.