

PLAINFIELD TOWN COUNCIL

ORDINANCE NO. 04-2020

An Ordinance of the Town Council of the Town of Plainfield, Indiana

Amending Chapter 153, Article 2.2, Sections 2.3A and 2.3B of the Plainfield Town Code by the Inclusion-Deletion of Sections 2.3A and 2.3B Entitled Completion of Improvements, Installations and Lot Improvements Before Signing Secondary Plat and Surety for Improvements, Installations and Lot Improvements Not Installed Before Signing Secondary Plat

WHEREAS, the Town of Plainfield, Indiana (“Town”) has adopted the Plainfield Town Code (“Town Code”); and

WHEREAS, the Town Code includes the rules and regulations regarding planning and zoning in the Town; and

WHEREAS, the laws of the State of Indiana provide for the amendment to the Town’s Subdivision Control Ordinance and the Town Code Section 10.14 sets forth requirements for amending the Plainfield Town Code; and

WHEREAS, the Plainfield Plan Commission has determined that it is in the best interest of the Town to amend certain provisions of the Town Code relating to the Subdivision Control Ordinance; and

WHEREAS, the Plainfield Plan Commission on February 3, 2020 held a public hearing on Plainfield Plan Commission Resolution No. 2020-1 regarding the amendments that are the subject of this Ordinance; and

WHEREAS, after said public hearing the Plan Commission approved Resolution No. 2020-1 regarding the amendments.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Plainfield, Indiana as follows:

Section 1. Chapter 153, Article 2.2, Section 2.3A and 2.3B of the Plainfield Town Code are hereby amended to read as follows:

§2.3 COMPLETION AND MAINTENANCE OF IMPROVEMENTS

Insofar as allowable pursuant to and in accordance with Indiana Code Sections 36-7-4-701 et seq. as amended, improvements, installations and Lot Improvements required by this Ordinance shall either be: (i) complete, as set forth in subsection A below; or, (ii) assurance for their completion and maintenance shall be provided as set forth in subsection B below; for all Subdivisions which involve the dedication and extension of any easement or public improvement, or the acceptance of any easement or public improvement by the Town of Plainfield. Minor Residential Subdivisions which do not involve the dedication and extension of any easement or public improvement shall be exempt from the provisions of this Article 2.3.

A. COMPLETION OF IMPROVEMENTS, INSTALLATIONS AND LOT IMPROVEMENTS BEFORE SIGNING SECONDARY PLAT

Before the secondary plat is signed by the President and Secretary of the Plan Commission, the subdivider shall complete, in accordance with the Plan Commission's decision and to the satisfaction of the town, all public improvements (including, but not limited to: street, street signs, sanitary sewer, storm drainage, sidewalk and water) and lot improvements (including, but not limited to: erosion control, final grading and soil preservation, lot drainage, removal of debris and waste, fencing and lawn seeding or sodding), as required by this ordinance and specified in the secondary plat approved pursuant to this ordinance, and dedicate the public improvements to the town, free and clear of all liens and encumbrances on the dedicated property and public improvements.

B. SURETY FOR IMPROVEMENTS, INSTALLATIONS AND LOT IMPROVEMENTS NOT INSTALLED BEFORE SIGNING SECONDARY PLAT.

(A) Before the secondary plat is signed by the President and Secretary of the Plan Commission, the subdivider shall post a performance bond or irrevocable letter of credit in a form acceptable to the Plan Commission in which the subdivider covenants to complete unfinished streets, sanitary piping, storm water piping systems, water mains, and ornamental landscaping in common areas, and erosion control no later than two years following the date on which the President and Secretary of the Plan Commission sign and certify the secondary plat. The subdivider shall covenant to maintain each required improvement and also shall warrant that

all required improvements will be free from defects for a period of three years following the acceptance by the town of the dedication of the last completed improvement. The performance bond shall provide that the covenants contained in the performance bond shall run with the land and bind all heirs, executors, administrators, successors and assigns of the subdivider. The performance bond shall contain such other terms and conditions as agreed to by the subdivider and the Plan Commission.

(Ord. 22-97, passed - -1997)

(B) The subdivider shall provide a performance bond or irrevocable letter of credit meeting the requirements of the foregoing subsection (A) before the seal of the Plan Commission is affixed and attached to the secondary plat. The performance bond or irrevocable letter of credit posted hereunder shall be released upon completion to the satisfaction of the Town of the subject matter upon which the instrument was obtained. The performance bond or irrevocable letter of credit shall be partially released on an annual basis, or on a more frequent basis in accordance with a partial release schedule agreed to in a signed writing by the Director and the subdivider either before or during development.

FORM A: PERFORMANCE BOND.

PERFORMANCE BOND FOR SUBDIVISION IMPROVEMENTS

This Performance Bond (the "Bond"), is hereby presented by *(Name of Subdivider)*, (the "Principal"), and *(Name of Bonding Company)*, (the "Surety Company") to the Town of Plainfield Plan Commission (the "Plan Commission") this _____ day of _____, _____, to induce the President and Secretary of the Plan Commission to sign the secondary plat of a subdivision to be known as *(Name of Subdivision and Section #, if applicable)* (the "Subdivision").

WHEREAS, Principal has petitioned for and conditionally received primary plat approval by the Plan Commission under Docket No. _____ for the Subdivision; and

WHEREAS, the installation of improvements required by the Town of Plainfield Subdivision Control Ordinance (Plainfield Ordinance No. 21-97) (the "Subdivision Control Ordinance") and the installation of improvements required the Plan Commission as a condition of approval of the primary plat have not been completed, constructed, and installed as required by the Subdivision Control Ordinance and the Plan Commission; and

WHEREAS, Surety Company has pledged surety for the actions of the Principal related to the completion, construction and installation of the improvements required by the Subdivision Control Ordinance and the Plan Commission; and

WHEREAS, Surety Company and Principal agree that the covenants contained herein shall (i) run with the land and (ii) jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Town of Plainfield, Hendricks County, Indiana (the "Town"), and the Plan Commission, jointly and severally, for the completion, construction and installation of the improvements required by the Subdivision Control Ordinance and the Plan Commission.

NOW, THEREFORE, Principal agrees to the following obligations for the completion, construction and installation of the improvements, installations and lot improvements related to the development of the Subdivision:

1. Principal shall construct, install and complete the following required improvements, installations, and lot improvements for the Subdivision in compliance with all requirements, standards and specifications of the Subdivision Control Ordinance and other applicable Ordinances of the Town within two (2) years from the date on which the President and Secretary of the Plan Commission sign and certify the secondary plat.

(Check all items covered by this Bond):

<input type="checkbox"/>	street base	<input type="checkbox"/>	street binder
<input type="checkbox"/>	curbs	<input type="checkbox"/>	sanitary sewer
<input type="checkbox"/>	storm drainage	<input type="checkbox"/>	water system
<input type="checkbox"/>		<input type="checkbox"/>	

2. Principal shall also construct, install and complete the following improvements as required by the Plan Commission within _____ () years from the date on which the President and Secretary of the Plan Commission sign and certify the secondary plat:

- a. _____;
- b. _____;
- c. _____.

3. Principal shall construct, install and complete the following required improvements, installations, and lot improvements for the Subdivision in compliance with all requirements, standards and specifications of the Subdivision Control Ordinance and other applicable Ordinances of the Town.

- a. for single family or two family Subdivisions, prior to the time that single family or two family dwellings are upon ninety (90) percent of the lots shown upon the secondary plat or within three (3) years after the date on which the President and Secretary sign and certify the secondary plat, whichever occurs first, or
- b. for multifamily, commercial or industrial Subdivisions, within three (3) years after the date on which the President and Secretary sign and certify the Secondary Plat.

(Check all items covered by this Bond):

<input type="checkbox"/>	street topcoat	<input type="checkbox"/>	monumentation
<input type="checkbox"/>	lot drainage	<input type="checkbox"/>	soil preservation
<input type="checkbox"/>	erosion control	<input type="checkbox"/>	fencing
<input type="checkbox"/>	debris and waste removal	<input type="checkbox"/>	final grading and lawn preparation
<input type="checkbox"/>	street signs	<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	

4. Principal shall, upon completion of the improvements, installations and lot improvements identified in paragraphs one (1.), two (2.) and three (3.) above, but prior to acceptance thereof for public maintenance by the Town, provide a three (3) year maintenance bond in the amount of ten (10) percent of this bond.

Upon receipt by the Surety Company of written notice from the Director of the Department of Planning and Zoning (the "Director") of the Town stating that the Principal has failed to complete, construct and install the improvements, installations and lot improvements required by the Subdivision Control Ordinance and the Plan Commission, the Surety Company shall, at the option and direction of the Town, promptly and at the Surety Company's expense take one of the following actions:

5. Arrange for the Principal, with consent of the Town, to perform and complete the construction and installation of the improvements, installations and lot improvements required by the Subdivision Control Ordinance and the Plan Commission;

6. Undertake to perform and complete the construction and installation of the improvements, installations and lot improvements required by the Subdivision Control Ordinance and the Plan Commission; or

7. Make payment to the Town in the amount to be incurred by the Town to complete the construction and installation of the improvements, installations and lot improvements required by the Subdivision Control Ordinance and the Plan Commission, and the amount of this Bond shall be credited for any payments made in good faith by the Surety Company, provided that the Surety Company's obligations under this paragraph three (3.) shall not exceed (written dollar amount of bond) dollars, (\$ _____), in the aggregate.

If Surety Company does not proceed as provided for above with reasonable promptness, but in all events within thirty (30) days, the Surety Company shall be deemed to be in default on this Bond fifteen (15) days after receipt of an additional written notice from the Director to the Surety Company demanding that the Surety Company perform its obligations under this Bond, and the Town shall be entitled to enforce any remedy available to the Town.

Upon compliance with the terms and provisions of this Bond and the execution of a written Release of Performance Bond by the Director, this Bond shall become null and void.

IN WITNESS WHEREOF, the undersigned have executed this instrument this _____ day of _____, _____.

<u>(Principal)</u>	<u>(Surety Company)</u>
By: _____	By: _____
Signature	Signature
Printed: _____	Printed: _____
Title: _____	Title: _____
Notice Address: _____	Notice Address: _____

TOWN OF PLAINFIELD

Approved this _____ day of _____, _____.

By: _____
Printed: _____

Director, Department of Planning and Zoning
Town of Plainfield, Hendricks County, Indiana

(Ord. 22-97, passed - -1997)

FORM B: IRREVOCABLE LETTER OF CREDIT.

IRREVOCABLE LETTER OF CREDIT FOR SUBDIVISION IMPROVEMENTS

(Name of Bank or Agency) hereby establishes our Irrevocable Letter of Credit No. _____ in favor of the Town of Plainfield, at the request and for the account of (Name of Subdivider), for any sum or sums not exceeding (amount of credit) dollars, (\$ _____), available upon presentation by the Director of the Department of Planning and Zoning of the Town of Plainfield, or any employee acting under the Director’s authority, of a letter signed by the President of the Town of Plainfield Plan Commission (the “Plan Commission”) enumerating any and all improvements, installations, and lot improvements (the “Improvements”) not completed as required by the Town of Plainfield Subdivision Control Ordinance (Plainfield Ordinance No. 21-97) and the Plan Commission for the subdivision known as (Name of Subdivision and Section #, if applicable) (the “Subdivision”), Plan Commission Docket No. _____. The President’s letter shall indicate the estimated cost for completing the Improvements.

This Letter of Credit shall be applicable to the following Improvements *(Check all items covered by this Letter)*:

<input type="checkbox"/>	street base	<input type="checkbox"/>	street binder
<input type="checkbox"/>	Curbs	<input type="checkbox"/>	sanitary sewer
<input type="checkbox"/>	storm drainage	<input type="checkbox"/>	water system
<input type="checkbox"/>	street topcoat	<input type="checkbox"/>	street signs
<input type="checkbox"/>	lot drainage	<input type="checkbox"/>	monumentation
<input type="checkbox"/>	erosion control	<input type="checkbox"/>	soil preservation
<input type="checkbox"/>	debris and waste removal	<input type="checkbox"/>	fencing
<input type="checkbox"/>		<input type="checkbox"/>	final grading and lawn preparation
<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	

The drafts drawn under this Letter of Credit must state “Drawn under Letter of Credit No. ____ of (Name of Subdivider), dated the _____ day of _____, _____”. The amounts of the drafts must be noted on the back of this Letter of Credit by the (Name of Bank or Agency).

This Letter of Credit is effective as of _____ day of the _____, _____, and shall expire on the _____ day of _____, _____, provided, however, such expiration date shall be automatically extended for successive periods of one (1) year, unless: (i) a Release of Credit is received from the Director of the Department of Planning and Zoning of the Town of Plainfield; or (ii) (Name of Bank or Agency), by certified mail, return receipt requested, notifies both the Director of the Department of Planning and Zoning of the Town of Plainfield and (Name of Subdivider) at least ninety (90) days before the current expiration date, that (Name of Bank or Agency) has decided not to extend this Letter of Credit beyond the current expiration date. In the event of such notification by (Name of Bank or Agency), the credit established by this Letter of Credit shall be available to the Town of Plainfield upon its sight draft or demand for payment for ninety (90) days after receipt of such notice by the Town of Plainfield, as shown on the signed returned receipt.

The credit established by this Letter of Credit and the obligation to pay the same shall not be affected by the receivership, bankruptcy or insolvency of (Name of Subdivider) or the attachment of his/her property. Nor shall this credit and the obligation to pay the same be affected by any security agreement between (Name of Subdivider) and (Name of Bank or Agency).

Whenever this Letter of Credit is drawn on under and in compliance with the terms of this Letter of Credit, (Name of Bank or Agency) shall pay the amount of the draft directly to the Plan Commission or in accordance with the instructions of the Plan Commission.

(Name of Bank or Agency)

By: _____

Signature

Printed: _____

Title: _____

Date: _____

(Ord. 22-97, passed - -1997)

FORM D: RELEASE OF PERFORMANCE BOND.

RELEASE OF PERFORMANCE BOND

This Release of Performance Bond (the "Release") is hereby presented by the Director of the Town of Plainfield to (Name of Subdivider), (the "Principal"), and (Name of Bonding Company), (the "Surety Company") as of this _____ day of _____, _____.

WHEREAS, Principal and Surety Company have posted a Performance Bond for the improvements, installations and lot improvements (the "Improvements") required by the Town of Plainfield Subdivision Control Ordinance (the "Subdivision Control Ordinance"), other applicable Ordinances of the Town of Plainfield, and the Town of Plainfield Plan Commission (the "Plan Commission") for the subdivision known as (Name of Subdivision and Section #, if applicable) (the "Subdivision"); and

WHEREAS, the Town of Plainfield has received an Letter of Compliance from the responsible design professional representing that all Improvements have been constructed and installed in compliance with all requirements, standards and specifications of the Subdivision Control Ordinance, other applicable Ordinances of the Town of Plainfield and the Plan Commission (*Check all items to be covered by this Release*):

<input type="checkbox"/>	street base	<input type="checkbox"/>	street binder
<input type="checkbox"/>	curbs	<input type="checkbox"/>	sanitary sewer
<input type="checkbox"/>	storm drainage	<input type="checkbox"/>	water system
<input type="checkbox"/>	street topcoat	<input type="checkbox"/>	street signs
<input type="checkbox"/>	lot drainage	<input type="checkbox"/>	monumentation
<input type="checkbox"/>	erosion control	<input type="checkbox"/>	soil preservation
<input type="checkbox"/>	debris and waste removal	<input type="checkbox"/>	fencing
<input type="checkbox"/>		<input type="checkbox"/>	final grading and lawn preparation
<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	; and

WHEREAS, the Town of Plainfield has issued a Completion Letter indicating that the Town of Plainfield has accepted the above indicated Improvements for maintenance.

NOW, THEREFORE, the Irrevocable Letter of Credit issued for the above indicated Improvements is hereby released.

TOWN OF PLAINFIELD

By: _____

Printed: _____

Director, Department of Planning and Zoning

Town of Plainfield, Hendricks County, Indiana

(Ord. 22-97, passed - -1997)

FORM E: RELEASE OF IRREVOCABLE LETTER OF CREDIT.

RELEASE OF IRREVOCABLE LETTER OF CREDIT

This Release of Irrevocable Letter of Credit (the "Release") is hereby presented by the Director of the Town of Plainfield to (Name of Subdivider), (the "Principal"), and (Name of Bank or Agency), (the "Surety Company") as of this _____ day of _____, _____.

WHEREAS, Principal and Surety Company have posted an Irrevocable Letter of Credit, Letter of Credit No _____, in favor of the Town of Plainfield as surety for the improvements, installations and lot improvements (the "Improvements") required by the Town of Plainfield Subdivision Control Ordinance (the "Subdivision Control Ordinance"), other applicable Ordinances of the Town of Plainfield, and the Town of Plainfield Plan Commission (the "Plan Commission") for the subdivision known as (Name of Subdivision and Section #, if applicable) (the "Subdivision"); and

WHEREAS, the Town of Plainfield has received an Letter of Compliance from the responsible design professional representing that all Improvements have been constructed and installed in compliance with all requirements, standards and specifications of the Subdivision Control Ordinance, other applicable Ordinances of the Town of Plainfield and the Plan Commission (*Check all items to be covered by this Release*):

<input type="checkbox"/> street base	<input type="checkbox"/> street binder
<input type="checkbox"/> curbs	<input type="checkbox"/> sanitary sewer
<input type="checkbox"/> storm drainage	<input type="checkbox"/> water system
<input type="checkbox"/> street topcoat	<input type="checkbox"/> street signs
<input type="checkbox"/> lot drainage	<input type="checkbox"/> monumentation
<input type="checkbox"/> erosion control	<input type="checkbox"/> soil preservation
<input type="checkbox"/> debris and waste removal	<input type="checkbox"/> fencing

[]		[]	final grading and lawn preparation
[]		[]	
[]		[]	; and

WHEREAS, the Town of Plainfield has issued a Completion Letter indicating that the Town of Plainfield has accepted the above indicated Improvements for maintenance.

NOW, THEREFORE, the Irrevocable Letter of Credit issued for the above indicated Improvements is hereby released.

TOWN OF PLAINFIELD

By: _____

Printed: _____

Director, Department of Planning and Zoning
Town of Plainfield, Hendricks County, Indiana

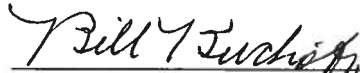
(Ord. 22-97, passed - -1997)

PASSED and ADOPTED by the Town Council of the Town of Plainfield, Indiana this 10th day of February, 2020.


TOWN COUNCIL, TOWN OF PLAINFIELD
HENDRICKS COUNTY, INDIANA




Robin G. Brandgard, President



Bill Kirchoff, Vice-President



Kent McPhail

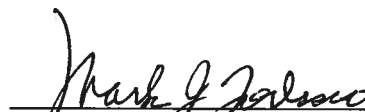


Dan Bridget



Lance K. Angle

Attested by:



Mark J. Todisco, Clerk-Treasurer
of the Town of Plainfield