

ORDINANCE NO. 2011-02
AMENDING SPECIFIC SECTIONS OF ARTICLE 5, APPROVAL PROCEDURES, AND
ARTICLE 10, LANDSCAPING, OF THE NORTH AUGUSTA DEVELOPMENT CODE,
CHAPTER 18 OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA CODE OF
ORDINANCES, RELATED TO MAINTENANCE GUARANTEES, PERFORMANCE
GUARANTEES AND OTHER FINANCIAL MATTERS ASSOCIATED WITH PUBLIC
INFRASTRUCTURE INSTALLATION AND ACCEPTANCE

WHEREAS, on December 17, 2007, by Ordinance 2007-22, the North Augusta City Council adopted the North Augusta Development Code which is consistent with the City's 2005 Comprehensive Plan and which incorporates all City zoning and land development regulations including procedures for the completion, dedication and guarantee of public infrastructure; and

WHEREAS, the Development Code may be amended for the purposes of technical clarification and to accommodate the needs of the City; and

WHEREAS, City staff, in consultation with the City Attorney, have proposed technical clarification amendments which address financial and liability matters related to public infrastructure dedicated to the City and recommend said amendments to the City Council for approval.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

I. The North Augusta Development Code, Chapter 18 of The City of North Augusta, South Carolina Code of Ordinances, Providing for New Zoning and Land Development Regulations for the City of North Augusta, South Carolina, is hereby amended and shall read as described in each of the following sections. The section of the Code affected by each proposed amendment is identified by the section number.

A. A new Section 5.8.4.3.2 is added to read:

5.8.4.3.2 A final subdivision plat will not be approved for recording or a site development plan, if applicable, approved for a certificate of occupancy until the documents required in §§5.8.4.5, 5.8.5 and 5.8.6, including but not limited to a deed of dedication, maintenance guarantee, performance guarantee and associated letters of credit, as applicable, have been submitted and approved as to form by the City Attorney.

B. Subsections 'a' and 'c' of Section 5.8.4.5 are amended to read:

5.8.4.5 **Scope of Approval –**

a. The final approval of the site development plan or subdivision plat shall not automatically constitute or effect an acceptance by the City of North

Augusta of the dedication of any street, utility easement or other public ground shown upon the final plat or final site plan. Public acceptance of the lands must be by action of the City Council customary to these transactions.

- c. The Department shall forward the deed of dedication documents to the City Clerk for consideration by the City Council within thirty (30) days from the date of final approval of the final plat or site development plan.

C. Section 5.8.5.1 is amended to read:

5.8.5.1 In order to assure the satisfactory condition of completed improvements (water, sewer, storm water, road and pedestrian circulation systems, landscaping, etc.) the developer, at the time of final subdivision plat or site development plan approval, shall submit a maintenance guarantee in a form specified by the city. The maintenance guarantee shall include the developer's representation that the improvements will not fail, for any reason with the exception of force majeure, shall be equal to fifteen percent (15%) of the estimated cost of the improvements as determined by the City Engineer and shall be for a period of twenty-four (24) months from the approval of the final subdivision plat. The maintenance guarantee shall be reviewed by the City Attorney for compliance with this section.

D. Section 5.8.5.2 is amended to read:

5.8.5.2 The maintenance guarantee shall be supported by a letter of credit or other security acceptable to the City. The letter of credit or other security shall be dated on the same date as the maintenance guarantee and shall expire no sooner than twenty-four (24) months from the approval of the final subdivision plat or site development plan.

E. Section 5.8.6.1 is amended to read:

5.8.6.1 If all improvements as required by this Chapter or by the Planning Commission at the major subdivision plan or site development plan approval stage are not entirely installed and constructed in accordance with the required standards prior to the submission of a final plat application, or in the case of a site plan, an application for final approval and a certificate of occupancy, and the developer desires to proceed with building construction within a subdivision or occupancy of a site, and the City Engineer certifies that all necessary infrastructure and other installations required for the safe use, continued development and occupancy of a subdivision or a site have been completed satisfactorily, the developer shall submit a performance guarantee in an amount equal to one hundred twenty-five percent (125%) of the cost of the unfinished improvements as certified by the City Engineer. The performance guarantee shall be supported by a letter of credit or other security.

F. Section 5.8.6.2 is amended to read:

5.8.6.2 The performance guarantee and any security acceptable to the City or Letter of Credit must be approved by the Director, the City Engineer and the City Attorney, and must include a specific, reasonable and satisfactory date for the completion of the necessary improvements. In no case shall the performance guarantee be valid for more than two (2) years.

G. Section 10.4.5.4 is amended to read:

10.4.5.4 The Director shall determine if a certificate of occupancy subject to completion of landscaping improvements is appropriate and if the cost to complete estimate is acceptable. The Director may consult with appropriate city staff, a landscape architect or other landscape contractor prior to acceptance to verify the estimated completion cost and may modify the amount of the performance guarantee accordingly. If the Director determines that a certificate of occupancy may be issued, the applicant shall submit a performance guarantee on approved forms supported by a certified check, cashier's check or letter of credit. Such guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the cost to complete the landscaping installation for a period not exceeding fourteen (14) months.

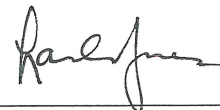
- II. All other Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.
- III. This Ordinance shall become effective immediately upon its adoption on third reading.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS 21ST DAY OF February, 2011.

First Reading 2/7/11

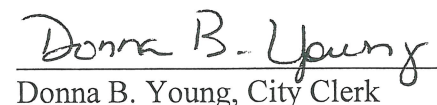
Second Reading 2/7/11

Third Reading 2/21/11



Lark W. Jones, Mayor

ATTEST:



Donna B. Young, City Clerk