



## Legislation Text

File #: 57051, Version: 1

### Fiscal Note

No Appropriation Required

### Title

Amending Section 16.23(9)(c)2. and 4. of the Madison General Ordinances to update developer agreement security requirements.

### Body

DRAFTER'S ANALYSIS: This ordinance makes changes to the City's security requirements for developer's agreements to bring the City's ordinance in line with recent changes made under the "Developer's Bill" (2017 Wis. Act 243) to Wis. Stat. § 236.13(2). This statutory provision, which is binding on the City, has been amended numerous times over the last decade.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Paragraph 2. entitled "Surety" of Subdivision (c) entitled "Contract for Public Improvements for Subdivisions" of Subsection (9) entitled "Required Improvements for Subdivisions" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"2. Surety Security. The subdivider shall file with said contract, subject to the approval of the City Attorney, security in the form of a bond, an irrevocable letter of credit or a certified check, in an amount that is not more than one hundred twenty percent (120%) of the estimated total cost of to complete the required public improvements ~~prepared by the City Engineer~~ as security to guarantee that the improvements will be completed by the subdivider or her/his contractors as provided by the contract for subdivision improvements. If the improvements will be installed in phases, the amount of the security shall be limited to the phase being constructed. The subdivider shall provide the security for not more than fourteen (14) months after the date the public improvements for which the security is provided are substantially completed and upon substantial completion of the public improvements, the amount of the security the subdivider is required to provide may be no more than an amount equal to the total cost to complete any uncompleted public improvements plus ten percent (10%) of the total cost of the completed public improvements. Public improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed upon the installation of the asphalt or concrete binder course on roads to be dedicated, or, if the required public improvements do not include a road to be dedicated, at the time that ninety percent (90%) of the public improvements by cost are completed. Interpretation of these requirements shall be consistent with Wis. Stat. § 236.13(2)."

2. Paragraph 4. entitled "Guarantee of Work" of Subdivision (c) entitled "Contract for Public Improvements for Subdivisions" of Subsection (9) entitled "Required Improvements for Subdivisions" of Section 16.23 entitled "Land Subdivision Regulations" of the Madison General Ordinances is amended to read as follows:

"4. Guarantee of Work. Upon completion of the construction of major components of the work, i.e., public water distribution system, public sewerage system, public drainage system, public streets and walkways, street lighting, intersection area improvements, traffic signals, park improvements or buffer

and planting strips, the subdivider shall request an inspection by the City Engineer. Upon acceptance by the City Engineer, submittal of the lien waivers, affidavits regarding payment and compliance with the prevailing wage rate from all contractors, and detailed and itemized breakdown of the work to be accepted, each major component of the work shall be submitted to the Board of Public Works and Common Council for acceptance. Upon substantial completion, as defined below, the City Engineer is authorized to accept a reduction in the security to an amount equal to the estimate of the City Engineer of the cost of work remaining to be completed, plus ten percent (10%) of the total cost of the public improvements to insure performance of any one-year guarantee against defects in workmanship and materials of the work component accepted. When work on major components of construction has been substantially completed except for work which cannot be completed because of weather conditions or other reasons which, in the judgment of the City Engineer are valid for noncompletion, the City Engineer is authorized to accept the reduction in the amount of security sufficient to cover the work remaining to be completed plus ten percent (10%) of the total cost of the public improvements to insure performance of a one-year guarantee period against defects in workmanship and materials. Prior to authorizing said reduction, the City Engineer may require the subdivider to submit a lien waiver from her or his contractors. ~~Public improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed at the time the binder coat is installed on roads to be dedicated, or, if the required public improvements do not include a road to be dedicated, at the time that ninety percent (90%) of the public improvements by cost are completed.~~ The City Engineer may require additional deposits or subsequent contracts and security for components of the work that are not constructed at the time of substantial completion.”