

Adopted
08/25/98

8/18/98

TOWN OF RIVERHEAD

Resolution # 751

AUTHORIZES TOWN CLERK TO PUBLISH AND POST PUBLIC NOTICE FOR A
LOCAL LAW TO CONSIDER AN AMENDMENT TO CHAPTER 108 "ZONING" OF
THE RIVERHEAD TOWN CODE
(PERFORMANCE BONDS/LETTERS OF CREDIT)

COUNCILMAN LULL offered the following resolution, was seconded by

COUNCILMAN KWASNA :

RESOLVED, the Town Clerk be and is hereby authorized to publish the attached public notice once in the August 20th issue of the News Review, the newspaper hereby designated as the official newspaper for this purpose, and also to cause a copy of the proposed amendment to Chapter 108 entitled, "Zoning" to be posted on the sign board of the Town; and be it further

RESOLVED, that the Town Clerk be and is hereby directed to forward a copy of this resolution to the Planning Department; the Planning Board; the Zoning Board of Appeals; the Building Department; the Office of Accounting and the Office of the Town Attorney.

THE VOTE

Cardinale Yes No Kent Yes No
Kwasna Yes No Lull Yes No
Vilella Yes No

THE RESOLUTION WAS WAS NOT
THEREUPON DULY DECLARED ADOPTED

**TOWN OF RIVERHEAD
PUBLIC NOTICE**

PLEASE TAKE NOTICE that a public hearing will be held before the Town Board of the Town of Riverhead, in the Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York on the 1st day of September, 1998 at 7:20 o'clock p.m. to consider a local law amending Chapter 108 "Zoning" of the Riverhead Town Code as follows:

§108-3. Definitions.

For the purpose of this chapter, certain terms and words are herewith defined as follows:

IRREVOCABLE LETTER OF CREDIT -

§108-97. Major subdivision.

- A. (4) Improvements. After the approval of the final plat, the subdivider shall submit to the Town Board a properly executed ~~performance bond or other security~~ Irrevocable Letter of Credit as provided in § 27 of the Town Law for review and approval by the Town Board. The ~~performance bond~~ Irrevocable Letter of Credit shall run for a period not to exceed two years with such ~~performance bond~~ Irrevocable Letter of Credit to be extended by one one-year term at the discretion of the Planning Board. In no instance will the Planning Board provide for additional extensions of the ~~security agreement or performance bond~~ Irrevocable Letter of Credit. In the event that any required improvements have not been installed or constructed within the term of the ~~original security agreement~~ Irrevocable Letter of Credit or its extension, the Town Board will thereupon ~~declare the security agreement to be in default~~ call such Irrevocable Letter of Credit and collect the sum remaining payable thereunder, and upon the receipt of the proceeds thereof, the town shall install such improvements as are covered by such ~~security~~ Irrevocable Letter of Credit.
- (6) The Planning Board will recommend to the Town Board the release of the ~~performance bond~~ Irrevocable Letter of Credit upon the satisfactory completion of all work covered in the ~~bond~~ Irrevocable Letter of Credit. After the Town Board and Highway Superintendent have approved the improvements for acceptance and approved release of the ~~performance bond~~ Irrevocable Letter of Credit, the subdivider will be required to furnish a one-year ~~maintenance bond~~ second Irrevocable Letter of Credit to be approved simultaneously with the release of the ~~performance bond~~ first Irrevocable Letter of Credit; such ~~maintenance bond~~ second Irrevocable Letter of Credit to be in an amount equal to 33 1/3% of the ~~original face value~~ amount of the ~~performance bond~~ first Irrevocable Letter of Credit at the time of acceptance of public improvements. During the one-year period of

the ~~maintenance bond~~ second Irrevocable Letter of Credit, the subdivider will be responsible for the repair, replacement or maintenance of all construction work, materials, trees and landscaping.

B. (14) Park and playground sites.

- (c) Where the Planning Board deems it to be in the best interest to require the developer to deposit a payment, the amount to be paid shall be at the rate of \$2,000 per each lot in the subdivision effective immediately. In lieu of a cash payment, the subdivider may post ~~certificate of deposit or pass book~~ an Irrevocable Letter of Credit in the name of the Town of Riverhead equal to the total fee as required herein. Where such cash, ~~certificate of deposit or pass book~~ or Irrevocable Letter of Credit is deposited, the fee of \$2,000 shall be paid to the Town of Riverhead prior to the issuance of each certificate of occupancy of residential structures within the subdivision by the Building Inspector. The balance shall be payable in full on the second anniversary date on which this ~~certificate of deposit or pass book~~ Irrevocable Letter of Credit was deposited and shall be withdrawn from such account by order to the Town Board. Such interest as may accrue on the ~~certificate of deposit or pass book~~ Irrevocable Letter of Credit shall be returned and taxable to the depositor.
- (d) Where land is to be reserved for park, playground or other recreational purposes, the developer shall submit a proposed plan for the development of this area in line with the proposed recreational use, which plan shall be reviewed by the Planning Board. The Planning Board may approve the same or require amendments or changes thereto before granting its approval. The developer shall also submit an estimate of cost to construct the improvements shown on the plan. The Planning Board will review the estimate and approve or revise the amount of the estimate and, if the construction is not completed prior to the approval of the final subdivision plan, will require ~~a performance bond~~ an Irrevocable Letter of Credit to insure that the improvements will be completed.

B. (24) Streetlighting. The following specifications must be met:

- (n) As-built drawings. Prior to final approval by the town, dedication of roads or release of ~~performance bond~~ Irrevocable Letter of Credit, the builder/developer is responsible to furnish the Town Engineer with two (2) sets of as-built drawings. These drawings shall show the location of streetlights, poles, service splice boxes, conduit run and wiring circuits.

§ 108-129. Review authorized; approval required; penalties; issuance of permits and certificates of occupancy; expiration.

- B. Land clearing. No person shall undertake or carry out any such activity or use, including any grading, clearing, cutting and filling, excavating or tree removal associated therewith, without first having obtained site plan approval therefor, pursuant to the provisions of this article and posting ~~the performance bond~~ an Irrevocable Letter of Credit provided for herein. Any landowner found guilty of violating this article shall be fined at the rate of \$1,000 per day from the day of discovery of the incident until an approved restoration plan is enacted.

§ 108-133. Conditions for approval.

I. ~~Performance bond or other equivalent security~~ Irrevocable Letter of Credit. Upon approval of a final site plan by the Town Board and prior to the issuance of a building permit, the applicant shall post ~~a performance bond or other equivalent security~~ an Irrevocable Letter of Credit in a form approved by the Town Attorney and adopted by resolution of the Town Board, in an amount equal to five percent (5%) of the cost of construction as estimated by the Building Department or Town Engineer. The Town Board may, at its discretion, reduce or ~~waive a performance bond~~ an Irrevocable Letter of Credit upon a showing of significant hardship. No certificate of occupancy shall be issued until all site improvements have been inspected and approved by the Planning Department and Architectural Review Board and said ~~performance bond or equivalent security~~ Irrevocable Letter of Credit has been released by resolution of the Town Board. In the event that the applicant fails to comply with the provisions of this Article, the ~~performance bond or other security~~ Irrevocable Letter of Credit shall be forfeited to the town, and the Town of Riverhead shall complete the site plan improvements. Where the cost of the improvements exceeds the forfeited security, the additional cost, including but not limited to any legal fees incurred, shall be and constitute a lien upon the land upon which the improvements are to be made and shall be included in the levy against such property and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Town of Riverhead.

Dated: Riverhead, New York
August 18, 1998

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF RIVERHEAD

BARBARA GRATTAN, Town Clerk