

Section 8

Bond Procedures And Bond Agreement

8.1 As part of the application, the applicant shall provide an estimate of the cost of all work to be performed, which the Commission may use to determine the amount of the bond. Prior to the issuance of a Zoning Permit, the applicant shall post a bond in an amount stated in the Commission's approval, to guarantee one of the following:

(Amended 10/1/2013)

8.1.1 Satisfactory completion of all work shown on the plan; or

(Amended 10/1/2013)

8.1.2 Restoration of the development site to a safe and attractive condition in lieu of the completion of work.

(Amended 10/1/2013)

8.2 To satisfy any bond or surety requirement in this Section, the Commission shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds including, but not limited to, letters of credit, provided such other financial guarantee is in a form acceptable to the Commission and the financial institution or other entity issuing any letter of credit to the Commission.

(Amended 10/1/2013)

8.2.1 Such bond or surety shall be posted prior to the commencement of any activity on the site of proposed work.

(Amended 10/1/2013)

8.2.2 The bond shall be maintained until all work associated with the approved project is completed and accepted.

(Amended 10/1/2013)

8.3 **Bond Requirements:** When a Performance Bond is to be posted, the following provisions shall be satisfied prior to any activity taking place on the site.

(Amended 10/1/2013)

8.3.1 **Amount:** The amount or fee value of the Performance Bond shall be estimated prior to the approval of the application and shall take into account no less than the following:

- (a) The full cost of the required work as if let-to-bid by the Town of a current date for completion within two (2) years;
- (b) No less than ten percent (10%) additional compounded for each of three (3) subsequent years to cover changing cost; and
- (c) Not less than twenty-five percent (25%) of the full cost to cover non-aggregated construction items in the event of default.

8.3.2 Form: The applicant shall submit completed forms provided by the Commission and with proper references to all plans showing work to be done, accompanied by the bond.

(Amended 10/1/2013)

8.3.3 Bonds: Such bonds shall be cash bonds in the form of a bank or certified check made payable to the Town of Clinton, passbook or statement savings accounts listing the Town of Clinton as a co-account holder, or other financial guarantee, including but not limited to, letters of credit, provided such guarantee is in a form acceptable to the Commission and the financial institution or other entity issuing any letter of credit is acceptable to the Commission. The passbook for any savings account must remain in the possession of the Office of Director of Finance. No passbook or statement savings account shall permit any funds to be withdrawn without the signature of an authorized agent of the Town. A list of all such bonds shall be kept by the Commission and by the Director of Finance, setting forth the name and address of each obligor, the name of the project, and the disposition of the bond. Interest accruing to each such bond shall belong to the obligor and shall be remitted to such obligor when the Commission approves the final release of the bond. Such accrued interest shall be reported on an annual 1099-INT form, issued by the Office of the Director of Finance of the Town of Clinton.

(Amended January 1, 1998)

8.4 Term: Every two (2) years the cost of the remaining work shall be reviewed and the bond amount adjusted to reflect the current and projected construction and other costs.

8.5 Bond Reduction: If the applicant desires the Commission to vote to release a portion of a bond, the applicant shall submit a request in writing by the deadline set by resolution of the Commission. Applicants should confirm with the Land Use Staff the deadline set by the current resolution.

(Amended 10/1/2013)

8.5.1 Within sixty-five (65) days of the receipt of such request, the Commission shall either:

- (a) Release or authorize the release of any such bond or financial guarantee or portion thereof, provided the Commission or its agent is reasonable satisfied that the site improvements for which such financial guarantee or portion thereof was post have been completed or have been completed, or
- (b) Provide the person posting such bond or financial guarantee with a written explanation as to the additional site improvements that must be completed before such bond or financial guarantee or portion thereof may be released.