

**TOWN OF EAST OTTO, LOCAL LAW, NO. 3 199 7**

**A local law requiring permits for the construction of public improvements in the Town of East Otto.**

**1. Actions requiring a Permit:**

No improvements intended by a property owner to be dedicated to the Town of East Otto or special district therein, either within a subdivision or as part of the development of a single parcel or lot, (hereinafter called public improvements.) shall be installed without a public improvement permit issued by the Town of East Otto. Without limitation, public improvement permits must be obtained for construction of roadway pavements, curbs or gutters, sanitary sewers, sanitary disposal systems, drainage systems, storm sewers and appurtenances, well systems and watermains, and for all excavation, grading and backfill related to such construction.

**2. Applications:**

Before the construction of any public improvement is commenced, the owner shall apply to the Town Clerk of the Town of East Otto for a public improvement permit for the construction thereof. The application shall be made on the form provided by the Town Clerk and shall be based on complete plans and specifications for the public improvement project approved by the Town Engineer. Such plans and specifications shall include descriptions of the proposed public improvements including locations, dimensions, type of materials proposed to be used and details of all structures to be part of the public improvement.

**3. Fees:**

3.1 Public improvement permit fees are intended to recover the cost of inspection of the construction improvements. Such inspection will be provided by the Town of East Otto or by authorized agents of the Town. Fees for public improvement permits shall be determined on the basis of the estimated construction cost of the proposed improvements.

3.2 The public improvement permit fee does not include survey or stakeout of work. Such survey and stakeout work shall be done by the applicant at its expense. This work shall be performed by licensed surveyors or engineers.

3.3 Public improvement permit fees shall be payable to the Town Clerk prior to the issuance of a public improvement permit.

3.4 Public permit fees shall be as follows;

Cost of Improvements	Fee (percentage of cost)
0 to \$30,000	5%
\$30,001 to \$60,000	4%
over \$60,000	3%

3.5 The estimated cost of the proposed public improvements, as used to determine the amount of the permit fee shall be subject to the approval of the Town Engineer.

#### **4. Performance Security:**

4.1 Where by action of the Town Board, the owner is permitted to defer to a later date, the construction of required public improvements, or a subsequent part or phase of the development of a subdivision or single lot or parcel, the owner shall furnish and pay for a performance bond furnished by an approved surety acceptable to the Town Attorney in an amount at least equal to one hundred percent (100%) of the estimated construction cost of all required public improvements. The amount of the bond shall be approved by the Town Engineer as in sub paragraph 3.5 above. Such performance bond shall constitute security for the construction of the public improvements which construction has been deferred, within the time specified by the Town Board, in accordance with approved plans and specifications and for the payment of all persons performing labor and/or furnishing materials in connection with such construction.

4.2 The Town Board may accept cash or certified funds placed in escrow with the Town in lieu of a performance bond. These funds must be in a form approved by the Town Attorney. Such funds will be released when a certificate of approval is issued by the Town Board.

#### **5. Maintenance Security:**

5.1 The owner shall furnish and pay for a maintenance bond furnished by an approved surety company and acceptable to the Town Attorney for the maintenance, restoration and replacement of any part or parts of the public improvement where an unsatisfactory condition or damage develops as a result of defects in workmanship or materials, erosion, settlement of backfill or other causes for a period of two years from the date of issuance of the certificate of approval. The maintenance bond shall be in an amount at least equal to fifty percent (50%) of the estimated cost of the public improvements.

5.2 The Town Board may accept cash or certified funds placed in escrow with the Town in lieu of a maintenance bond. These funds must be in a form approved by the Town Attorney. Such funds will be released after the two year maintenance period has expired and all defects have been corrected.

#### **6. Special District Agreements:**

6.1 Where applicable, prior to issuance of a public improvement permit, the owner will be required to submit special district and homeowners association agreements acceptable to the Town Attorney.

6.2 Right-of-way deeds and easements required or utilized by the public improvements acceptable to the Town Attorney must be filed with the Cattaraugus County Clerks Office prior to receipt of the public improvement permit.

#### **7. Requirement of Owner's Statement:**

The application for a public improvement permit shall include notarized statements by the owner as follows:

a. That all work will be performed in accordance with the approved plans and specifications and in compliance with all applicable federal state and local requirements, including, without limitation, permit requirements for work in public right-of-ways or easements.

b. The owner will obtain and pay for all required permits.

c. The owner will commence work not later than sixty (60) days from the date of approval of the public improvement permit and will complete all work within one year of such approval. The Town Board may at its discretion with the recommendation of the Town Engineer, extend the completion date for a period of one (1) year. Such extension may require payment of additional fees by the owner or developer.

d. The owner will notify the Town Engineer forty-eight (48) hours before commencing work covered by the public improvement permit. The on-site inspector shall be notified of any work shutdowns, except normal daily shutdowns, and again notified at least four (4) hours prior to re-start of work.

e. The owner is cognizant of the fact that the public improvement fee is based on work being performed during normal, working hours, 8:00 AM to 5:00 PM, Monday through Friday, except for legal holidays and that work beyond these periods is considered overtime and may require Town Board approval and could require payment of additional fees for inspector overtime.

f. The owner will hold harmless the Town of East Otto, its districts, subdivisions agents or employees from all liabilities of any kind arising out of the performance of the proposed construction of the public improvements and further shall defend the Town against all actions arising therefrom.

g. The owner shall file with the Town of East Otto certificates or proof of insurance for public liability, contractual liability and property damage with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate and workman's compensation insurance containing standard notice of cancellation clause.

#### **8. Number of Application Copies:**

Applications for public improvements shall be submitted in quadruplicate to the Town Clerk, together with four (4) complete sets of approved plans and specifications for the project. For any work to be performed on public right-of-ways or publicly owned easements, a permit must be obtained from the municipality having jurisdiction.

#### **9. Issuance of Certificate of approval:**

Upon completion of all work included in the public improvement permit and the satisfactory performance of all required testing in a manner acceptable to the Town Engineer and the Town Highway Superintendent, the furnishing of any required federal, state or county approvals, the Town Engineer will issue a certificate of completion. This shall then be submitted to the Town Attorney who will certify to the proper filing of all required instruments. The certificate of completion shall then be submitted to the Town Clerk who will certify that all required fees have been paid. The completion certificate will then be submitted to the Town Board which will issue a certificate of approval.