

ARTICLE VII — IMPROVEMENTS GUARANTEES

SECTION 7:00 GUARANTEE OF IMPROVEMENTS INSTALLATION REQUIRED

- 7:001 Before releasing any subdivision or land development plan for recording, the Board of Supervisors shall require that the Township be assured (by means of a proper Development Agreement and Performance Guarantee) that the improvements required by this Ordinance and the improvements appearing on the plan will be installed in strict accordance with the standards and specifications of this Ordinance.
- 7:002 Purpose of Bond. The bond and other surety agreements shall stand as security for compliance with all Township ordinances, other laws, covenants, stipulations, conditions and rules applicable to the subdivision for which it is filed.
- 7:003 No construction of buildings or paving or sale of any individual lot or condominium unit within a subdivision shall take place in any subdivision unless there is on file, with the Township, a current duly executed performance bond (and Security escrow agreement if necessary), or unless all rough grading is complete and all required public improvements, utilities, streets, drainage facilities, sewer and streetlights have been completed and accepted by the Township Board of Supervisors.
- 7:004 If a developer chooses to install all required improvements prior to construction of any building in place of using performance guarantees, the Township shall, as deemed necessary, require the developer to have adequate insurance, hold harmless agreements and an escrow account to cover the costs of inspections.
- 7:005 The developer shall provide a deed of dedication together with an 8-1/2" x 11" plan of the improvements.
- 7:006 In the event the performance guarantee has lapsed or the provider of the security is unable or unwilling to honor said guarantee or the amount of the guarantee is insufficient to complete the agreed improvements, then no new building permits shall be issued for the subdivision until the required improvements have been made or a new security is posted for the required improvements.

SECTION 7:10 IMPROVEMENTS TO BE PROVIDED BY THE APPLICANT

7:101 In all cases, the applicant shall be responsible for the installation of all improvements required by this Ordinance.

- A. The Township Engineer or the Township's designee shall make such inspections of the required improvements at such intervals as may be reasonably necessary to assure compliance with this Ordinance.
- B. The reasonable costs of such inspection shall be borne by the applicant.

SECTION 7:20 DEVELOPMENT AGREEMENT

7:201 Improvements Agreement Required

- A. All applicants proposing any subdivision or land development, which provides for the installation of improvements required by this Ordinance or any improvements or amenities which appear on the plan, shall be required to enter into a legally binding Improvements Agreement complete with Performance Guarantee with the Township prior to Final Plan release.
- B. The Improvements Agreement shall guarantee the installation of said improvements in strict accordance with all Township requirements.

7:202 Terms of Improvements Agreement

The Improvements Agreement shall be in the manner and form approved by the Township Solicitor and it shall consist of the following terms, where applicable:

- A. Required Improvements
  - 1. The construction depicted upon the approved plans in itemized format.
  - 2. Construction of streets with related curbs, street signs, drainage facilities and related improvements.
  - 3. Installation of utility lines.

- B. A work schedule setting forth the beginning and ending dates and such other details as the Township deems fit and appropriate for the improvements covered by the Improvements Agreement.
- C. Performance Guarantee
1. The provision of a Performance Guarantee for completion of required improvements which complies with Section 7:30.
  2. The estimated cost of the improvements, including a detailed breakdown in a form acceptable to the Board of Supervisors, and the amount of the Performance Guarantee.
  3. All improvements subject to the Improvements Agreement shall be approved by the Township Engineer and in accordance with Section 7:30.
- D. Developer's Responsibilities
- The developer shall comply with the following prior to and/or during the construction process as applicable:
1. Eliminate or abate any damage to adjacent property during construction.
  2. Secure and/or maintain public liability insurance for the duration of improvements construction. A copy (or other evidence of coverage) shall be submitted to the Township.
  3. Complete a save harmless clause to protect the Township from liability.
  4. Prevent erosion, sedimentation and water damage to the subject and adjacent properties, as required by law.
- E. Developer's responsibility to tender a deed or deeds of dedication to the Township for such streets and for such easements for sanitary and storm sewers, sidewalks, manholes, inlets, pumping stations, and other appurtenances as shall be constructed as public improvements, provided that the Township shall not accept dedication of such improvements until their completion is certified as satisfactory by the Township Engineer.
- F. The developer shall provide the Township with a set of reproducible as-built plans showing the actual dimensions and

conditions of all required improvements including public and private streets, public and private stormwater facilities, parking areas (excluding single-family residential parking), other utilities, and all other publicly dedicated improvements. The as-builts shall be submitted upon completion of all required improvements and shall reflect, to the Township Engineer's satisfaction, compliance with the approved plans. As-builts shall be submitted to and approved by the Township before the acceptance of said improvements. The as-built plans shall be consistent with the standards as indicated in Section 3:908.B and shall include all revisions to proposed items. The as-built plans shall contain the following information:

1. Roadway as-builts shall consist of a plan view and profile view with spot elevations taken at 50' intervals along the centerline and at any high/low points. The final cartway dimensions of streets and cul-de-sac bulbs shall be shown.
2. Stormwater as-builts must include profiles and plan views of all storm sewer piping including location, rim/grate elevations, size, material, slopes, and inverts, as well as, sufficient stormwater facility data including volumes, spillway length and elevation, berm elevation, and other data necessary to verify the as-built calculations. Stormwater as-built calculations must be provided for each stormwater facility to ensure the Ordinance and design requirements have been met.
3. Sanitary sewer lines and manholes, including lateral locations and invert at main, lateral length, lateral invert at trap, building sewer connections from home to lateral (if applicable), valves, grinder pumps, pipe sizes, pipe materials, and grades in both plan and profile views.
4. Water mains with hydrants, valves and laterals, pipe sizes and pipe materials in both plan and profile views.
5. All other utilities shall be shown on the plans in terms of their location and any crossings shall be shown on the profiles.
6. Confirmation of any existing impervious required to be removed as part of the land development approval.
7. Signature and seal of the responsible professional land surveyor.

- G. The developer shall be responsible for all reasonable engineering and legal costs and expenses for review, inspection, consultations and preparation of agreement.
- H. Provisions for violation of the Improvements Agreement.
- I. Any other lawful terms which the Board of Supervisors may require to carry out the provisions of this Ordinance.
- J. Signatures. The development agreement shall be signed by all landowners and/or applicants.

7:203 Ownership of Land and Guarantee

- A. A certificate of ownership in the form as provided in the Appendix B shall be executed in the exact name in which title is held. If the applicant(s) of a subdivision and/or land development is someone other than the landowner(s) of the subdivision and/or land development, the applicant shall also execute the affidavit mentioned above, along with a performance bond and security agreements.

SECTION 7:30 PERFORMANCE GUARANTEE

The applicant shall deposit with the Township financial security in an amount sufficient to cover the cost of all improvements (including both public and private improvements) and common amenities, including but not limited to streets, walkways, curbs, gutters, street lights, landscaping, stormwater management facilities, pipes and other related drainage facilities, recreational facilities, open space improvements, buffer or screen plantings and other utilities, unless secured financially with a public utility, authority or other entity (i.e., PennDOT, etc.).

7:301 Security

- A. The Performance Guarantee shall be secured by one of the following methods:
  1. An irrevocable and unconditional evergreen letter of credit issued by Federal or State chartered lending institution,
  2. A restrictive or escrow account established with the Township in a Federal or State chartered lending institution or

3. Such other financial security approved by the Board of Supervisors (which approval shall not be unreasonably withheld).
- B. Such bond, letter of credit, or other security shall provide for, and secure to the public, the completion of any improvements which may be required within one year of the date fixed in the Development Schedule for the completion of such improvements.
  - C. Such financial security shall be posted with a bonding company or federally insured or State chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the State.
    1. The Board of Supervisors may require that evidence be provided that such institution or company has sufficiently adequate and secure assets to cover the security.
    2. The Township shall be an authorized signatory on any account in which the escrow funds are held and all escrow funds from sales of lots shall be paid directly to such fund, and a monthly statement shall be furnished to the Township.

7:302 Amount

- A. The amount of financial security shall be equal to 110 percent of the cost of completion of the required improvements for which financial security is to be posted, in accordance with the terms of §509(f) of the Municipalities Planning Code.
- B. The cost of the improvements shall be established by an estimate prepared by a PA Registered Professional Engineer, (pursuant to the applicable revisions of the Pennsylvania Municipalities Planning Code).
- C. If the party posting the financial security requires more than one year from the date of posting to complete the required improvements, the amount of financial security shall be increased by an additional 10 percent for each one year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110 percent of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one year period by using the above procedure for estimating cost.

7:303 Multi-Year or Multi-Stage Development

Where development is projected over a period of years, the Board of Supervisors may authorize submission of final plans by section or stage of development, subject to such requirements or guarantees as to improvements in the future sections or stages of development as it finds essential for the protection of any finally approved section of the development, and consistent with the terms of §508(4) of the Municipalities Planning Code.

SECTION 7:40 APPROVAL OF IMPROVEMENTS

7:401 In General. As the work of installing the required improvements proceeds, the party posting the financial security may request the Board of Supervisors to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor(s) performing the work.

7:402 Notice of Completion. When the developer has completed an improvement, the developer shall notify the Board of Supervisors in writing by certified or registered mail of such completion and request for release and shall send a copy thereof to the Township Engineer.

7:403 Engineer's Report

- A. Within 30 days of the receipt of such request, the Township Engineer shall submit a written report certifying which improvements have been completed in accordance with the approved plan to the Board of Supervisors.
- B. This report shall be based on the inspections conducted to ensure proper construction and installation practices of the improvements noted on the plan. The report shall also recommend approval or rejection of the improvements installed, either in whole or in part.
- C. If the Engineer finds any or all of the improvements to be not as required, he shall include a statement of the reasons for recommending their rejection in the report.

7:404 Release of Funds. See Section 510 of the Pennsylvania Municipalities Planning Code, as amended.

7:405 Completion of Unapproved Improvements. The developer shall proceed to complete any improvements not approved by the Board of Supervisors

and, upon completion, request approval in conformance with the procedures specified in this section.

7:406 Final Release

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall request Final Release in conformance with the procedures specified in this Section. See time limitations and procedures in Section 510 of the Municipalities Planning Code.
- B. A maintenance agreement must be in place before final release.

SECTION 7:50 REMEDIES TO EFFECT COMPLETION OF IMPROVEMENTS

7:501 Enforcement of Security

- A. In the event that any improvements, which may be required, have not been installed as provided in this Ordinance or in accordance with the approved Final Plan, or in the event of the bankruptcy of the owner or developer, the Board of Supervisors is hereby granted the power to elect to enforce any corporate bond (or other security) by appropriate legal and equitable remedies.
- B. This may include taking all actions necessary to obtain monies under said bond, including but not limited to seizure of undeveloped lots, confession of judgment, suit on the bond, seizure of escrow funds, revocation of building permits and prosecution under this Ordinance.
- C. Rate of Construction. Failure of a developer to construct streets and other public improvements reasonably at the same time or prior to the construction of the buildings served by those streets or public improvements, and at the same rate in time, at which buildings are completed, shall be a violation of this Ordinance and a cause for default.

7:502 Completion by Township. If the proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Board of Supervisors may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to, recover the monies necessary to complete the remainder of the improvements.



7:503 Proceeds for Installation of Improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other Township purpose.

SECTION 7:60 MAINTENANCE AGREEMENT

7:601 Maintenance Agreement Required

- A. All applicants proposing any subdivision or land development, which provides for the dedication of improvements required by this Ordinance or any improvements or amenities which appear on the Plan, shall be required to enter into a legally binding Maintenance Agreement with the Township prior to acceptance of dedication by the Township.
- B. The dedication of any improvement shall not be accepted by the Township prior to the execution of a Maintenance Agreement and the delivery of the Maintenance Guarantee.

7:602 Terms of Maintenance Agreement

- A. The Maintenance Agreement shall be in the manner and form approved by the Township Solicitor.
- B. The Maintenance Agreement shall require the Applicant to make any repair or reconstruction of any improvement stipulated in the Maintenance Agreement, which is specified by the Board of Supervisors, as necessary by reason due to faulty construction, workmanship, or materials prior to acceptance of such improvement by the Township.
- C. The Maintenance Agreement shall require the Applicant to maintain at his/her own cost all improvements stipulated in the Maintenance Agreement. This period shall not exceed 18 months from the date of acceptance or dedication by the Township, except for any special purpose escrow or maintenance agreements required by the Township.
- D. The Maintenance Agreement shall require the posting of financial security to secure structural integrity of said improvements, as well as, the functioning of said improvements in accordance with the design and specifications as depicted on the final plan for a term not exceeding 18 months from the date of acceptance of dedication.

- E. Snow plowing. It shall be the responsibility of the developer to plow snow and maintain all streets until such time as the Township may accept such streets.

7:603 Public Utilities and Authorities. If water mains or sanitary sewer lines or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this Section.

SECTION 7:70 MAINTENANCE GUARANTEE

7:701 Security. The Maintenance Guarantee shall be secured by one of the following methods:

- A. An irrevocable and unconditional letter of credit issued by a Federal or State chartered lending institution;
- B. A restrictive or escrow account to be deposited with the Township in a Federal or State chartered lending institution, or
- C. Such other financial security approved by the Board of Supervisors (which approval shall not be unreasonably withheld).

7:702 Terms. Such Maintenance Guarantee shall be in the form approved by the Township Solicitor and Board of Supervisors, payable to the Township, to guarantee the maintenance and repair of the streets and other public improvements in the subdivision for 18 months from the date of acceptance thereof by the Township. The applicant shall prove to the satisfaction of the Board of Supervisors that there will be an acceptable system for the long-term maintenance of any stormwater facilities.

7:703 Amount. The amount of the Maintenance Guarantee shall be determined by the Township, but shall not exceed 15 percent of the actual cost of installation of such improvements.

7:704 Release. After the expiration of 18 months from the date of acceptance of said improvements, the Township shall release said Maintenance Guarantee to the developer (or party posting said Maintenance Guarantee) if all improvements are in satisfactory condition. The Township Engineer and/or Roadmaster shall conduct a final inspection of the improvements to ensure they are satisfactory prior to release of the maintenance guarantee.