

ARTICLE 5

ACCEPTANCE, INSPECTION AND MAINTENANCE OF IMPROVEMENTS

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A. GENERAL REQUIREMENTS

In order to ensure that the work will be completed in accordance with approved plans and specifications, all improvements proposed in conjunction with any subdivision must be covered by adequate surety unless such work is to be totally completed prior to the filing of any Final Plat for any portion of the development site. When the work is to be completed prior to filing of the Final Plat, a surety instrument sufficient to ensure that the building site may be stabilized in the event of the failure of the applicant to complete the work shall be provided.

B. COMPLETION OF IMPROVEMENTS

Before a Final Plat is signed by the secretary of the Planning Commission or a surety instrument is reduced or released, as specified in these regulations, all applicants shall complete, in accordance with these regulations and the adopted standards and specifications, the grading and improvement of all roads and streets, the installation of all survey monuments, utilities including installation of sanitary sewer and water mains and fire hydrants, stormwater management systems including basins, and any other improvements, including lot improvements on the individual lots. All improvements that are to be dedicated and/or maintained by the town shall be dedicated free and clear of all liens and encumbrances to the Town of Cornersville.

C. SURETY INSTRUMENT IN LIEU OF COMPLETED IMPROVEMENTS

1. The Planning Commission at its discretion may waive the requirement that the applicant/developer complete and dedicate all public improvements prior to the signing of the Final Plat by providing that, as an alternative, the applicant post a surety instrument at

the time of submission for final subdivision approval in an amount estimated by the Town as sufficient to guarantee to the governing body the satisfactory construction, installation, and dedication of the incomplete portion of the required improvements.

2. The surety instrument shall be provided in the amount of one hundred twenty-five percent (125%) of the cost of the following required improvements: roads and streets including final asphalt pavement, curbs and gutters, sidewalks and walking trails, traffic control devices, street lighting, utilities, stormwater management system including detention and retention facilities, and amenities and open space (if required).
3. The surety instrument may be in a form as follows and shall express the value in a total amount equaling the amount required by these regulations. The beneficiary of the surety instrument shall be the Town of Cornersville, Tennessee.
 - a. Irrevocable Letter of Credit. Issued by or confirmed by a financial institution located within a seventy-five (75) mile radius of the Town of Cornersville, Tennessee. Any such credit shall bear an expiration date that exceeds the completion date stipulated by the Planning Commission as a condition of approval of the Final Plat and shall contain an automatic renewal to as an evergreen clause.
 - b. Cashiers or Certified Check. Issued by a financial institution located within a seventy-five (75) mile radius of the Town of Cornersville, Tennessee.
 - c. The Irrevocable Letter of Credit option shall not be available to an applicant/developer whose past performance has resulted in breached or expired letter of credit. A financial institution whose past performance has resulted in non-payment of an irrevocable letter of credit may be excluded from providing a surety instrument for a period of one year from the date of breach. The financial institution shall not issue a surety for more than ten percent (10%) of its total capital to an applicant.
4. The surety instrument shall comply with all statutory requirements and shall be satisfactory to legal counsel as to form, sufficiency, and manner of execution, as set forth in these regulations. The period within which the required improvements must be completed shall be specified by the Planning Commission when approval of the Final Plat is granted and shall be incorporated into the surety instrument and shall not exceed two (2) years from date of final approval.
5. Such surety instrument shall be approved by the Planning Commission as to amount and conditions. The Planning Commission may, upon proof of difficulty, extend the completion date set forth in such surety instrument for a maximum period of one (1) additional year. The Planning Commission may accept at any time during the period of such surety instrument a substitution of principal.

D. TEMPORARY IMPROVEMENTS

The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission, and shall maintain them to a reasonable satisfaction for the period specified by the Planning Commission. Prior to construction of any temporary facility or improvement, the applicant/developer shall file with the Planning Commission a separate suitable surety instrument for temporary facilities, which shall ensure that the temporary facilities are properly constructed, maintained, and removed.

E. COST OF IMPROVEMENTS

All required improvements shall be made by the applicant at his expense. Any provision for reimbursement by the governing body or any utility agency shall be stipulated clearly in the provisions of any surety instruments, and shall be supported by resolution or ordinance of such governing body or agency.

F. EXTENSION AND ENFORCEMENT OF SURETY INSTRUMENT

1. Extension of Surety Instrument.

The Planning Commission may, upon proof of difficulty, extend the completion date set forth in such surety instrument for a maximum period of one (1) additional year. The Planning Commission may accept at any time during the period of such surety instrument a substitution of principal.

2. Enforcement of Surety Instruments.

Failure of the developer/applicant to comply with any or all parts of these regulations shall be grounds for issuance of a stop work order by Town Administrator or his designated representative and enforcement of the surety instrument by the Town of Cornersville.

G. REDUCTION OF SURETY INSTRUMENT

A surety instrument may be reduced upon demonstration of satisfactory completion of public improvements, that includes installation of asphalt surface binder course, and then only to the ratio that the installed improvement bears to the total public improvements for the subdivision. In no event shall a surety instrument be reduced below twenty-five percent (25%) or five thousand dollars (\$5,000), whichever is greater of the original principal amount of the infrastructure within the right-of-way excluding utility services. No more than two reductions for any one agency shall be considered. The initial surety instrument reduction shall be considered only after the asphalt surface or binder is applied to the entire subdivision phase as platted.

H. FAILURE TO COMPLETE IMPROVEMENTS

1. In all subdivisions if required improvements have not been installed within the period specified by the Planning Commission in the resolution approving the plat, the Planning Commission thereupon may declare the surety instrument to be in default and require that all improvements be installed regardless of the extent of the building development at the time the surety instrument is declared to be in default.
2. Should the surety instrument not be renewed or extended as approved by the Town within fourteen (14) days of the expiration date, or if the new documentation is not in accordance

with the requirements set forth herein, then the surety instrument will be assumed to be in default and will be “called” in its full amount by the Town. Further, building permits may be suspended for remaining lots in the subject subdivision or section of subdivision until all required public infrastructure has been completed and accepted by the Town.

I. ACCEPTANCE OF IMPROVEMENTS

Acceptance of formal offers of dedication for roads or streets, rights-of-way, and easements, and parks shall be by formal action by the Town of Cornersville Board of Mayor and Aldermen. Such action shall be in the form of a resolution recommended by the Planning Commission to the governing body. The approval by the Planning Commission of a subdivision plat shall not be deemed to constitute or imply an acceptance by the Town of any public way, easement, utility, stormwater management system, or other public improvement shown on the plat. The Planning Commission may require the plat to be endorsed with appropriate notes to this effect. The initiation of the maintenance of an improvement by a public entity shall constitute the acceptance of that improvement.

J. DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS

The Planning Commission may defer or waive required improvements at the time of Final Plat approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate, because of inadequacy or lack of connecting facilities. Whenever it is deemed necessary by the Planning Commission to defer construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or other reasons, the applicant/developer shall pay their share of the costs of the future improvements to the governing body prior to signing of the Final Plat.

K. INSPECTION OF IMPROVEMENTS

The Planning Commission may provide for the inspection of required improvements during construction and prior to final plat approval or release or reduction of the surety instrument to ensure the satisfactory completion of the subdivision. If the appropriate governmental representative finds, upon inspection, that any of the required improvements have not been constructed in accordance with these regulations and the govern body’s construction standards and specifications, the applicant shall be responsible for rectifying the deficiency and completing the improvements to the required standards. Whenever the cost of improvements is covered by a surety instrument, the applicant and the provider of the financial surety instrument shall be liable severally and jointly for completing said improvements according to the standards and specifications.

L. RELEASE OF SURETY INSTRUMENT

The Planning Commission shall not recommend acceptance of required public improvements nor shall the Planning Commission reduce or release a surety instrument until the appropriate governmental representative submits a Certificate of Satisfactory Completion stating that all required improvements have been satisfactorily completed (or sufficiently completed in part for a consideration of a reduction), and until the applicant’s engineer or surveyor has certified to the Planning Commission and the appropriate governmental representative (through submission of Project Record Documents for all improvements indicating location, dimensions, construction

materials, and any other information required by the Planning Commission) that the layout and the line and grade of all public improvements are in accordance with the approved construction plans for the subdivision. Upon such approval and recommendation, the governing body, thereafter, may accept the dedicated improvements in accordance with the procedures and requirements set forth in other sections of these regulations.

M. MAINTENANCE OF IMPROVEMENTS AND WARRANTY

1. The Town of Cornersville, upon final approval and acceptance, will take full title to the improvements and will provide maintenance, thereafter, except that the applicant/developer will be responsible for construction failures and defects in the subdivision for one (1) year after final acceptance of the improvements. During this period, it shall be the responsibility of the applicant/developer to correct and cure these defects and failures. The subdivision surety instrument for maintenance will not be released until the one (1) year warranty period and all required repair work is satisfactorily completed.
2. A surety instrument in the form of an Irrevocable Letter of Credit or Cashiers or Certified Check to guarantee the asphalt binder course, curbs, gutters, stormwater infrastructure systems, and utilities, secured by a surety instrument, is required of each applicant for a minimum period of one (1) year, prior to the final inspection, a signed Certificate of Satisfactory Completion approved by the Town representative and release of surety instrument by the Town.
3. During the final inspection, all needed repairs for the asphalt binder course, curbs, gutters, stormwater infrastructure systems and utilities. The maintenance surety instrument will not be released until such repairs are satisfactorily completed.
4. The surety instrument for maintenance must be equal to thirty percent (30%) of the actual construction cost of all public improvements. At eighty percent (80%) build out (80% of houses within the subdivision or particular section of subdivision to which surety instrument applies) have received their certificate of occupancy, unless otherwise allowed by the Planning Commission, the applicant must install the final asphalt layer.
5. The maintenance period begins when the road or street is constructed to asphalt binder course and all other public improvements have been properly constructed by the applicant/developer, and a Certificate of Satisfactory Completion has been approved and issued by the Town, and also the Planning Commission formally approving a resolution establishing the maintenance financial surety instrument in a form acceptable to Town.
6. If the applicant/developer chooses to install the final asphalt layer/topping prior to eighty percent (80%) build out, then he/she must be required to post a maintenance surety instrument at the time of final asphalt layer installation. The maintenance surety instrument must be continuous until a minimum of one (1) year after the eighty percent (80%) build out has been completed. The release of the maintenance surety instrument must be contingent upon the completion of the above and, in the case of road construction and/or

improvements, acceptance of the dedication by the Board of Mayor and Aldermen of the Town of Cornersville.

N. SUBMISSION OF AS-BUILT INFRASTRUCTURE PLANS

Prior to the release of the surety instrument or recording of the Final Plat, the applicant/developer shall cause to be delivered to the Town a set of original “as-built” drawings which show, at a minimum, the location by station and depth of all sanitary sewer services, water services, stormwater drainage improvements, the actual location of all other utilities and the indication of any deviations from the original plans which were approved or field engineered after construction was approved. Subdivider to provide the appropriate governmental representative designated by Town Administrator or appropriate agency and/or utility with hard copies to scale and digital copies in .dwg file format with a projected coordinate system of North American Datum of 1983 or other format deemed acceptable by the Town Administrator. The Final Plat shall not be released for recording or the financial surety instrument shall not be released until said “as-built” drawings are accepted by the Town.

O. ESCROW DEPOSITS FOR LOT IMPROVEMENTS

1. Acceptance of Escrow Funds.

Whenever, due to season of the year, any lot improvements required by these regulations cannot be performed, the Town Administrator or his/her designee nevertheless may authorize the issuance of a Certificate of Occupancy upon accepting a cash escrow deposit in an amount to be determined by the appropriate governmental representative for the cost of such improvements; provided that there otherwise is no danger to the health, safety, or general welfare. The performance surety covering such lot requirements shall remain in full force and effect. Acceptable escrow funds shall be maintained in accounts that are beyond the reach of the applicant/developer.

2. Procedures for Escrow Funds.

All escrows shall be held by the Town, kept in its bank accounts, and totally under the control of the Town. A detailed “Escrow Agreement” shall be prepared and appropriately endorsed by all parties to such agreement at the time of creation of any escrow account. The applicant’s tax identification shall be used for the escrow and the applicant shall be responsible for paying tax on any interest credited to the escrow account.

All required improvements for which escrow moneys have been accepted by the appropriate government representative for the Town at the time of issuance of the Certificate of Occupancy shall be installed by the applicant/developer within a period of nine (9) months from the date of deposit and issuance of the Certificate of Occupancy. In the event that the improvements have not been installed properly at the end of the time period, the appropriate governmental representative shall provide written notice of two (2) weeks to the applicant/developer requiring installation. In the event they are not installed properly, the applicant/developer may request the City to proceed to install or to contract for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit.

P. ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

1. Where a surety instrument has been required for a subdivision, or any section of a subdivision, no certificate of occupancy for any building in the subdivision or section thereof shall be issued prior to the approval of construction plans and completion and dedication of the improvements to the appropriate governmental unit, as required in the Planning Commission's resolution of final approval of the subdivision plat. The extent of public way improvements shall be adequate for vehicular access by the prospective occupant and by emergency service providers prior to the issuance of an occupancy certificate.
2. All driveway culverts and driveway aprons shall be installed by the builder according to the design criteria and approved by the Town representative responsible for inspections before the building official issues a certificate of occupancy.