

## ARTICLE 3

### ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

#### 3-1 Improvements and Performance Bond

##### 3-1.1 Installation of Improvements

All of the underground works and all service connections shall be installed completely, and approved by the appropriate agency throughout the length of the road and across the right-of-way section. All utilities shall be developed in accordance with appropriate state, local, and utility agency requirements, and meet the design standards contained in these regulations.

##### 3-1.2 Completion of Improvements

Before the final subdivision plat is signed by the Secretary of the Planning Commission, all applicants shall complete, in accordance with the Planning Commission's decision and to the satisfaction of the appropriate governmental representative, all public way, sanitary, and other improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations and approved by the Planning Commission, and shall dedicate such improvements to the governing body free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

##### 3-1.3 Surety Instrument

The Planning Commission at its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the final subdivision plat by providing that, as an alternative, the applicant post a bond at the time of submission for final subdivision approval in an amount approved by the Planning Commission as sufficient to guarantee to the governing body the satisfactory construction, installation, and dedication of the incomplete portion of required improvements. (See Section 2-3.5 G)

Such performance bond 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 required improvements must be completed shall be specified by the Planning Commission in the resolution approving the final subdivision plat and shall not exceed two (2) years from the date of final approval.

Such bond shall be approved by the governing body as to amount and conditions and

shall not exceed a period of two (2) years. The Planning Commission may, upon proof of difficulty, recommend to the governing body extension of the completion date set forth in such bond for a maximum period of one additional year. The governing body may accept at any time during the period of such bond a substitution of principal.

#### 3-1.4 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 shall file with the governing body a separate suitable bond for temporary facilities, which shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

#### 3-1.5 Costs of Improvements

All required improvements shall be made by the applicant at his/her expense. Any provisions for reimbursement by the governing body or any utility agency shall be stipulated clearly in the provisions of any bonds.

#### 3-1.6 Governmental Units

Governmental units to which these bonds and contract provisions apply may file, in lieu of said contract or bond, a certified resolution or ordinance from officers or agencies authorized to act in their behalf agreeing to comply with the provisions of this Article.

#### 3-1.7 Failure to Complete Improvements

In subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Planning Commission in the resolution approving the plat, the approval shall be deemed to have expired. In those cases in which a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the governing body thereupon may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

#### 3-1.8 Acceptance of Dedication Offers

Acceptance of formal offers of dedication of public ways, easements, and parks shall be by formal action of the governing body. 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 local government of any public way, easement, or other ground

shown on the plat. The Planning Commission may require the plat to be endorsed with appropriate notes to this effect.

### 3-1.9 Responsibility for Compliance

In all matters involving enforcement of, or compliance with, the provisions contained herein, the subdivider (as defined in the Definitions, Section 5-2) is considered as the party legally responsible for performance; and the use of engineers, contractors, or other agents shall in no way diminish or absolve the subdivider of this basic responsibility.

## 3-2 Inspection of Improvements

### 3-2.1 General Procedure

All subdivisions shall be inspected by the City of Springfield or Robertson County as appropriate. Sufficient inspections shall be made to ensure compliance with the specifications set forth in these regulations. The subdivider shall notify the appropriate agency of his intention to begin work five (5) days prior to commencing. If the appropriate governmental representative finds upon inspection that any of the required improvements have not been constructed in accordance with the governing body's construction standards and specifications, the applicant shall be responsible for completing the improvements to the required standards. Whenever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be liable severally and jointly for completing said improvements according to approved specifications.

### 3-2.2 Performance Surety

The acceptable methods of surety for subdivision improvements are the following:

A Performance Bond issued by a Surety Company approved by the City Attorney.

The amount of this surety shall be established by the owner's/developer's consultant and approved by City staff. The amount will cover the estimated costs of improvements in a subdivision plus an appropriate amount to cover the cost of inflation. Staff is authorized to add up to 20 percent to the project surety estimate to cover any cost incurred by the City in administering the surety for the purpose of completing the subdivision to the requirement of the Plat and Subdivision Regulations in case of default. The amount of this surety shall be approved by the Planning Commission, who in turn may recommend acceptance to the Board of Mayor and Aldermen.

Irrevocable letters of credit, Cashier's Checks, Certified Checks, may be used for maintenance bonds or other short-term bonds of less than \$50,000.00.

Irrevocable Letters of Credit shall be issued by a Bank or Financial Institution located in

Robertson, Davidson, Cheatham, Montgomery or Sumner County and approved by the City Attorney.

A Cashier's Check or Certified Check backed by a Bank approved by the City Attorney.

The City Attorney, acting under authority of the Board of Mayor and Aldermen, shall be empowered to demand forfeiture of any Performance Bond, Letter of Credit, Cashier's Check, or Certified Check deemed necessary by the Board of Mayor and Aldermen to complete the needed improvements and/or maintenance in the approved subdivision. (Amended February 2, 2023)

### 3-2.3 Release or Reduction of Performance Bond

#### 3-2.3 A Certificate of Satisfactory Completion

The governing body shall not accept dedication of required public improvements nor release nor reduce a performance bond until the appropriate governmental representative submits a certificate stating that all required improvements have been satisfactorily completed, and until the applicant's engineer or surveyor has certified to the appropriate governmental representative (through submission of a detailed "as built" survey of the subdivision 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 improvement(s) in accordance with the procedures set forth in Sections 3-1.2 and 3-1.8 of these regulations.

#### 3-2.3 B Reduction of Performance Bond

A performance bond may be reduced upon actual dedication and acceptance of public improvements and then only to the ratio that the dedicated public improvements bear to the total public improvements for the plat. In no event shall a performance bond be reduced below twenty-five-percent (25%) of the principal amount prior to final acceptance of all items covered under the bond.

#### 3-2.3 C Release of Guarantee

The Planning Commission shall formally recommend the release of the guarantee by the Board of Mayor and Aldermen once all required improvements are installed and approved by the appropriate agency.

### 3-3 Maintenance of Improvements

A maintenance bond, irrevocable letter of credit or other surety approved by the City Attorney shall be established. The amount of this surety shall be established by the Staff to cover the estimated costs of maintenance for the developer (subdivider) installed infrastructure improvements for a minimum of one (1) year. The amount of this surety shall be recommended to the Board of Mayor and Aldermen.

The City Attorney, acting under the authority of the Board of Mayor and Aldermen, shall be empowered to demand forfeiture of any maintenance bond or the payment of any irrevocable letter of credit, deemed necessary by the Board of Mayor and Aldermen in order to complete the needed improvements and/or maintenance in the approved subdivision.

### 3-4 Dedication of Improvements

Upon the expiration date of the maintenance bond and upon certification by all the approving authorities that all improvements meet the minimum standards of design, the Board of Mayor and Aldermen may accept and dedicate the improvements in a subdivision by Resolution.

### 3-5 Escrow Deposits for Lot Improvements

#### 3-5.1 Acceptance of Escrow Funds

Whenever by reason of the season of the year, any lot improvements required by these regulations cannot be performed, the enforcing officer nevertheless may issue 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, there otherwise is no danger to the health, safety, or general welfare. The performance bond covering such lot improvements shall remain in full force and effect.

#### 3-5.2 Procedures on Escrow Fund

All required improvements for which escrow moneys have been accepted by the enforcing officer at the time of issuance of a certificate of occupancy shall be installed by the 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 enforcing officer shall provide written notice of two (2) weeks to the developer requiring him to install the improvements, and in the event they are not installed properly, in the judgment of the enforcing officer, he/she may request the governing body 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.

At the time of the issuance of the certificate of occupancy for which escrow moneys are

being deposited, the applicant shall file with the enforcing officer, prior to obtaining the certificate of occupancy, a notarized statement from the purchaser(s) of the premise authorizing the enforcing officer to install the improvements at the end of the nine (9) month period in the event the improvements have not been installed properly by the developer.

### 3-6 Issuance of Building Permits and Certificates of Occupancy

Where a performance bond or irrevocable letter of credit has been required for a subdivision, or any phase of a subdivision, no applicable building permit or certificate of occupancy for any building in the subdivision or section thereof shall be issued prior to the completion of improvements as set forth below.

#### 3-6.1 Building Permits

Building permits shall not be issued for any lot prior to completion of the required improvements for street base stone and utilities as set forth in these regulations. These improvements include:

- All City-required and developer (subdivider) installed utilities, *id est*.
- All underground utility conduit located on public ROW (if applicable)
- Sanitary sewer facilities
- Storm sewer basins facilities
- Water system facilities
- Property corner markers have been installed by a licensed surveyor and have been approved by the appropriate official.

All streets and designated turn-around areas (temporary cul-de-sacs) are constructed to the minimum standards for base stone as set forth in these regulations, including all required tests established in these regulations, and approved by the Public Works Engineer or the City Engineer.

All drainage and erosion control improvements are installed in accordance with the minimum standards set forth in these regulations and are approved by the Public Works Engineer or City Engineer.

The extent of public way improvements shall be adequate for vehicular access by the prospective occupant and by police and fire equipment prior to the issuance of a building permit. The developer shall at the time of the dedication of public ways submit monies in escrow to the governing body for maintenance in a sum to be determined by the

appropriate governmental representative. This bond shall be for one year.

### 3-6.2 Final Ten Percent or Last Two Lots

It shall be unlawful for the owner of any subdivision to sell the final ten percent (10%) of lots in a subdivision, or if ten percent (10%) be less than two (2) lots, the final two (2) lots of a subdivision, until all public improvements required by the planning commission resolution of final plat approval have been fully completed, dedicated, and accepted by the governing body; or the governing body has accepted a maintenance bond for the purpose of securing final completion by the owner, maintenance of infrastructure (or use improvements) and acceptance by the governing body. Failure of the owner to comply with this section may result in the immediate forfeiture of the bond and completion of the final improvements by the city. (Amended February 1, 2007)

### 3-6.3 Certificates of Occupancy

Certificates of occupancy (CO's) shall not be issued until the hot mix asphalt "binder layer" has been installed, tested and approved by the appropriate authority of the City. This condition may be waived by the City of Springfield Planning Commission if the certificate of occupancy (CO) is requested during the months of January, February, or March and it is determined by the Planning Commission that the hot mix asphalt "binder layer" cannot be installed due to weather. If this waiver is issued, the developer will be required to install the hot mix asphalt "binder layer" within thirty (30) calendar days from the date of the opening of the local hot mix asphalt plant(s). If this condition is not met, the developer may be considered in default of his surety bond.