

PART 5

IMPROVEMENT CONSTRUCTION ASSURANCES

SECTION 501 GENERAL

- A. No Final Plan shall be signed by the Township Supervisors for recording in the Office of the Lancaster County Recorder of Deeds unless (1) all improvements required by this Ordinance and shown on the Plans have been installed in accordance with the Final Plan and accepted for dedication, or (2) Financial Security in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, as it may be amended, and as further described in this Part is accepted by the Township Supervisors of the Municipality or Municipal Authority accepting the improvements.
- B. The administration of the Financial Security shall comply with the provisions of this Part and all other provisions.

SECTION 502 COMPLETION OF IMPROVEMENTS OR GUARANTEE THEREOF PREREQUISITE TO FINAL PLAN APPROVAL

- A. Completion of improvements or guarantee thereof is a prerequisite to Final Plan approval and shall be documented and accomplished in conformance with the applicable provisions of the Pennsylvania Municipalities Planning Code then in effect.
- B. Any improvement guarantee shall include water and sewer tapping and similar fees and charges.
- C. Financial security shall also secure the projected expenses to be incurred by the township and its representatives as it relates to amendment of municipal ordinances to reflect traffic related issues such as speed, stop intersection, no parking, and the like and any other ordinance that would be applicable to the particular plan (such as dedication of public street or other facilities), and all expenses associated with the same.
- D. If at the time the surface course is completed, ninety (90%) percent of the lots are not improved as set forth above, the developer shall:
 - 1. Post financial security with the Township in an amount equal to fifteen (15%) percent of the reasonable cost of the surface course as security to guarantee that damages to the road or street would not occur during the completion of the improvements on the unimproved lots in such developer's subdivision or land development. The Township shall hold

the financial security and may use it to pay for the repair of any damage occurring to the road during the period between the commencement of improvements on any particular unimproved lot and the completion of such improvements irrespective of whether or not it can be established that the damage to the road was caused by contractors or other persons working in and about the construction of such improvements; or

2. Present to the Township agreements signed by the owners of all of such unimproved lots pursuant to which they will agree to pay to the Township the cost of repairing any damage occurring to roads in such subdivision during the period between the commencement of work on the improvements to their lot and the completion of such improvements irrespective of whether or not it can be established that such damage was caused by contractors or other persons involved in the improvement of their respective lot.
- E. If an improvement has been dedicated to the Township, such improvement shall not be considered complete until the developer has presented a deed of dedication in a form acceptable to the Township Solicitor, has presented a title insurance policy or certificate of title demonstrating good and marketable title, and has paid any fees required to process the acceptance of the dedication.

SECTION 503 INSTALLATION OF IMPROVEMENTS IN LIEU OF PROVIDING FINANCIAL SECURITY

- A. If the applicant elects to install the improvements in-lieu-of providing Financial Security, he shall prepare and submit an Improvements Construction Plan in accordance with the requirements of this Ordinance, and submit to the Township an affidavit stating his intentions to install those improvements setting forth a time schedule for installation. The Final Plan shall not be recorded until all improvements have been completed and inspected.

B. Temporary Approved Plans.

When requested by the developer, in order to facilitate financing, the Board of Supervisors shall furnish the developer with a signed copy of a resolution indicating approval of the Final Plan contingent upon the developer obtaining a satisfactory financial security. The Final Plan or record plan shall not be signed or recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within ninety (90) days unless a written extension is granted by the Board of Supervisors; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the Developer.

SECTION 504 FINANCIAL SECURITY

- A. When financial security is provided, it shall be provided in compliance with the applicable provisions of the Pennsylvania Municipalities Planning Code then in effect.
- B. All letters of credit shall be in a form reasonably acceptable to the Solicitor for the Township, shall be automatically renewing (with at least ninety (90) days advance written notice to the Township of intent to cancel) and shall be accompanied by an Improvement Guarantee Agreement in a form reasonably acceptable to the Solicitor for the Township.
- C. All other forms of security shall be properly presented with sufficient information and documentation to reasonably satisfy the requirements of the Solicitor that such documentation is in compliance with the provisions of the Pennsylvania Municipalities Planning Code and Other Provisions.

D. Improvement Agreement.

Each applicant seeking to post Financial Security, in-lieu-of completion of improvements, shall, first sign with Township an Improvement Agreement in substantially the same form as the one included in the Appendices hereof. Improvement Agreement shall be modified by the Township Solicitor, if requested by the Board of Supervisors, to reflect circumstances particular to each individual project that may, in the opinion of the Township Solicitor, require modification.

E. Types of Security.

In the event of deposit of cash or equivalent, applicant shall provide to Township applicant's Employer Identification Number or Social Security Number, which shall be used at the time of deposit of the funds for reporting interest or other earnings thereon to the Internal Revenue Service. In the event that such applicant is subject to the deposit withholding provisions of the Internal Revenue Service, the amount of the Financial Security shall be increased by the amount of the withholding requirements to be held against applicant.

SECTION 505 RELEASE OF SECURITY

- A. The release of improvement security shall be governed by the applicable provisions of the Pennsylvania Municipalities Planning Code then in effect.
- B. Each request for a partial release of improvement security, pursuant to the provisions hereof, shall be accompanied by an "as-built plan" showing the

improvements completed to date, which “as-built plan” shall be submitted under the seal of a registered engineer.

SECTION 506 REMEDIES TO EFFECT COMPLETION OF IMPROVEMENTS

The remedies to effect the completion of improvements shall be in conformance of the provisions of the Pennsylvania Municipalities Planning Code in effect at that time and the Township Board of Supervisors, through its agents shall have all powers and rights granted to a Township pursuant to the provisions thereof.

SECTION 507 INSPECTION DURING CONSTRUCTION

- A. The Township and/or Authority shall require an inspection of the improvement construction plans for correctness and an inspection of the construction of the improvements. The developer shall pay the cost of all such inspections. All improvements for which financial security have been posted are to be subject to inspection by the Township Engineer or the Authority Engineer, with the cost of those inspections to be borne by the developer in accordance with this Section. The developer shall provide at least twenty-four (24) hours notice prior to the start of construction of any improvements that are subject to inspection. All inspections of completed items shall be requested in writing at least forty eight (48) hours in advance of the date and time of the inspection.

- B. The schedule of inspections shall, at a minimum, require the following separate inspections:
 - 1. Upon completion of erosion and sedimentation controls.
 - 2. Upon completion of road subgrade and prior to placement of stone base course.
 - 3. Upon completion of road stone base course and prior to placement of bituminous binder course.
 - 4. After completion of bituminous binder course, curb, surface utility features (inlets, manholes, water valves etc.) and prior to placement of bituminous wearing course.
 - 5. After placement of bituminous wearing course.
 - 6. Upon completion of footings and other substructure features for culverts and/or bridges.
 - 7. During installation of stormwater management facilities.

8. Upon receipt of any request by developer for reduction of the amount of financial security.
 9. Upon completion of all required improvements.
 10. Upon receipt of any request by developer for the Township to accept dedication of any improvements.
 11. Prior to expiration of the 18th-month after acceptance of dedication.
 12. If any improvement has been rejected or any deficiency noted by the Township Engineer during any of the above-described inspections, upon notification that the deficiency has been corrected.
- C. The schedule of inspections shall be coordinated with the Township's Uniform Construction Code inspection requirements to make sure that there is no duplication or inconsistency.
- D. The Board of Supervisors may, from time to time, by Resolution, make changes to the schedules of inspections to reflect the current conditions and particularities of any Plan.

SECTION 508 DEDICATIONS OF IMPROVEMENTS

No responsibility of any kind with respect to improvements shown on the Final Plan shall be transferred to Township until the improvements have been formally accepted, which the Township need not do.

- A. The offer to dedicate streets, parks, or other areas or portions of them, does not impose any duty upon the Township concerning maintenance or improvement until the proper authorities of the Township have made actual appropriation by ordinance or resolution or by entry or improvement.
- B. Where the Township accepts dedication of all or some of the required improvements, the Township may 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 of eighteen (18) months from the date of acceptance of dedication. Said financial security shall be of the same type as required in Section 503 of this Ordinance with regard to installation of such improvements and the amount of such financial security shall not exceed fifteen (15%) percent of the actual cost of the installation of the said improvements.

- C. Where the Authority accepts dedication of some or all of the required improvements, Authority may require the posting of financial security in accordance with its rules and regulations and applicable law.
- D. No road, or in applicable cases, drainage facility, shall be considered finally accepted by the Township until the resolution of acceptance and the deed have been filed and/or recorded with the applicable offices for filing for Lancaster County, Pennsylvania. The Township will accept streets for dedication only during the period between March 1 and July 1 of each calendar year.
- E. Application of final wearing course for streets in preparation for dedication shall not be permitted by the Township until:
 - 1. All utilities have been installed in the street, including service lines.
 - 2. The base course has been in place for a minimum of 90 days.
 - 3. 90% of the lots within the development have been sold and construction has been completed.
 - 4. The Township Engineer and the Township Roadmaster have completed an inspection and have determined that all necessary repairs have been completed to the Township's satisfaction.
 - 5. All required street monumentation has been installed.
- F. Any personal property or fixtures offered for dedication shall include a bill of sale, under oath, warranting that the facilities are free and clear of all liens, encumbrances and other restrictions.
- G. Additionally, any land, easement or right-of-way offered for dedication or any restriction to be placed upon the record shall be accompanied by:
 - 1. A title insurance policy issued by a title insurance company licensed to do business in the Commonwealth of Pennsylvania, with a minimum value equal to the value of such improvements or land or thirty thousand dollars (\$30,000.00), whichever is the greater, insuring that such improvements, restrictions, deed, lands, or declarations are free and clear of all liens and encumbrances, and shall, when recorded, constitute a valid and enforceable priority in accordance with their terms; or
 - 2. The opinion of legal counsel duly licensed in the Commonwealth of Pennsylvania, that such improvements, restrictions, deeds, declaration, etc. are free and clear of all liens and encumbrances and shall, when recorded, constitute the valid and enforceable priority in accordance with their terms.

3. In the case of documents to be recorded effecting currently existing landowners or associations, the opinion of legal counsel duly licensed in the Commonwealth of Pennsylvania that such documents have been properly adopted and are enforceable in accordance with those terms.

SECTION 509 AS-BUILT PLANS

- A. No improvement shall be considered complete until the applicant has submitted as-built plans for all improvements required by this Ordinance and shown on the Final Plan. During construction, the Township Engineer, at his discretion, may require as-built plans of portions of the completed improvements.
- B. The as-built plans shall be prepared in accordance with Section 403 of this Ordinance and be certified by a registered professional certifying to their completeness and accuracy.
- C. One (1) set of Mylars and two (2) paper prints of the as-built plans shall be submitted to the Township and/or Authority for use by the Township and/or Authority for the future maintenance of the improvements.
- D. If any information relating to potential lot owners shown on the recorded Final Plan shall have been changed, such as lot boundaries easements, and maintenance responsibilities, a revised subdivision and/or land development plan shall be filed with the Township in accordance with Section 305 of this Ordinance.
- E. As-Built plans shall, at a minimum, show the following:
 1. Actual location of all concrete monuments and/or markers which were found or set at all angle breaks, points of curvature and tangents around the perimeter of the total tract. When the outside perimeter of a tract falls within or along an existing road right-of-way, then the right-of-way of that roadway shall be monumented at the above referenced points.
 2. Actual location of all iron pins or drill holes in curbs for all individual lot lines.
 3. Actual cul-de-sac radius.
 4. Actual horizontal location of cartway centerline versus right-of-way centerline should be indicated by dimension.
 5. Actual horizontal location of floodplain by elevation and dimension from property line.

6. Actual horizontal location and cross-section of swales and accompanying easements.
7. Actual horizontal location and vertical location of storm water management facilities including type and size of drainage pipes.
8. Detention basin.
 - a. Actual contours of the detention basin.
 - b. Actual outlet structure details including type, size and inverts of outlet pipes.
 - c. Actual elevation of the embankment and emergency spillway.
 - d. Table showing the stage/storage/discharge curve for the constructed conditions.

F. All As-Built plans shall be recorded after approval by the Township.

SECTION 510 MAINTENANCE OF STREETS

The developer shall maintain all streets in the subdivision or development in travelable condition, including the prompt winter maintenance thereof until such time as the streets are accepted by the Township as part of the Township street system; or, if such streets are not to be dedicated, until a homeowners' association or other entity responsible for the maintenance of the streets has been formed.

SECTION 511 STREET DEDICATION REQUIREMENTS

When the Township desires (at its sole and uncontrolled discretion) to accept dedication of streets, the following procedure shall be used:

- A. The Applicant shall agree in advance, in writing, to pay all costs and expenses (including the reasonable attorneys and engineering fees incurred by the Township) associated with processing and reviewing the request.
- B. The Applicant shall acquire two copies of the legal description and four "as-built" plans.
- C. The Applicant shall forward to the Township's Solicitor one copy of the legal description and three copies of the "as-built" plans. The applicant shall forward the remaining copy of the "as-built" plan and one photocopy of the description to the Township's Engineer.

- D. Upon approval by the Township's Engineer and Solicitor, the Applicant shall prepare a deed, incorporating language set forth in the Appendices. The deed shall then be forwarded to the Township's Solicitor who shall review it and then forward it on to the Township, along with a copy of a resolution and certification prepared by the Solicitor.
- E. Following approval of the resolution and the acknowledgment of the certification, the Township will return the deed to the Applicant (with one copy of the certification) and the Applicant shall, bear all expenses of recording.
- F. At time of recording, the applicant shall acquire three certified copies of the recorded deed (and also the Recorder's receipt) from the Recorder of Deeds.
- G. The applicant shall then forward to the Solicitor all three certified copies of the deed and the Recorder's receipt and a title insurance policy in favor of the Township for the costs of the road, including the value of the land, (with a minimum of \$30,000), which title insurance policy shall incur the road in fee simple title, free and clear of all liens, encumbrances, easements and restrictions, other than customary utility rights-of-way approved in advance by the Township's Solicitor.
- H. The Township's Solicitor will then file the deed, plan, certification and resolution with the Clerk of Criminal Courts and acquire the certified copies for forwarding to Penn DOT and to the Township (which the Solicitor shall then forward to Penn DOT and to the Township).
- I. It is noted that the deadline for Penn Dot's acceptance of deeds in order for the Township to receive liquid fuel tax reimbursements has traditionally been in September/October of each year. As a result streets will not be accepted for dedication after July 1st of any year. In the event (through no fault of the Township or its Solicitor or Engineer) the Township is unable to meet Penn Dot's deadline and receives no liquid fuel tax reimbursement for the year the developer wishes to dedicate the street, the developer shall reimburse the Township for its lost liquid fuel tax money.
- J. Improvement security shall include a good faith estimate of the cost of the Township to complete the work of both the applicant and the Township as described in Section 511 hereof and such improvement security for such purposes shall not be released until the process is completed and the roads are accepted by the Pennsylvania Department of Transportation.

SECTION 512 CONSTRUCTION IN ACCORDANCE WITH PLANS

All roads and drainage facilities shall be constructed in strict accordance with the approved plans and no changes shall be effected unless the same receive the written authorization of the Township. Notwithstanding the provisions of this Section, the Township may require changes during the construction stage where onsite conditions, in the opinion of the Township, or its duly designated representative, indicate that the adverse effect of stormwater runoff and/or the adverse effect to the roadbed and/or road surface may be minimized by such changes.