

ARTICLE 6 BONDING, INSPECTION, ACCEPTANCE

SECTION 6.01 INSTALLATION OF REQUIRED IMPROVEMENTS

The subdivider/developer shall be responsible for the provision of all required improvements to the subdivision/development. This may be accomplished by either the full installation of all required improvements by the developer at the time the Final Plat is to be submitted to the Planning Commission, or by the provision of a financial guarantee of performance.

6.01.01 Provisional final approval can be given by the Planning Commission under extenuating circumstances, provided that a financial guarantee in the form of a surety bond shall be given in the amount equal to one hundred fifty percent (150%) of the cost as estimated by an independent source of installing all improvements, including grading, paving of the streets, and installation of all required utilities, and fees encountered during execution of improvements. The cost estimate for all remaining civil improvements shall be certified and submitted by the design engineer with the application for final plat approval; a cost estimate of any remaining landscaping improvements must be certified and submitted by the professional landscape architect with the application for final plat approval and the financial guarantee.

6.01.02 One (1) or more of the following may be accepted as a financial guarantee with surety payable to the City of Bay Minette:

1. a letter of credit approved by the City Administrator and City Attorney, or
2. a cash deposit to be held by the City, or
3. a certified check from an Alabama lending institution in an amount not to exceed one hundred fifty percent (150%) of the cost of the required improvements remaining.

6.01.03 The surety bond will be made payable to the City of Bay Minette and will be held until all improvements are met per the specifications of the City. Once the development is satisfactorily constructed, the developer on said action will request the release of said bond through the Planning Commission, and the Planning Commission will then notify the City for said release.

6.01.04 Failure to Complete Work. If within twelve (12) months after filing said surety, the subdivider/developer has not completed all necessary improvements or if in the opinion of the City Planning Commission said improvements have not been satisfactorily installed, the bond shall be used by the City to complete the improvements in satisfactory fashion, or the City may take such steps as may be necessary to require performance under the bond.

SECTION 6.02 INSPECTION AND CERTIFICATION

The City Planner or their designee shall regularly supervise inspection for defects in the construction of the required improvements or assigns such work. The applicant shall pay to the City an inspection fee of \$20.00 per lot for the initial inspection. If additional inspections are required, additional fees shall be required in the amount of \$10.00 per lot and the Chairman of the Planning Commission shall not sign the subdivision plat until the applicant has paid all fees. These fees shall be due and payable

upon demand by the City. If the City Planner finds upon inspection that any of the required improvements have not been constructed in accordance with the City's adopted construction standards and specifications, the applicant shall be responsible for completing the improvements.

6.02.01 Wherever a surety covers the cost of improvements, the applicant and the surety company shall be severally and jointly liable for completing the improvements according to specifications.

6.02.02 Upon completion of the improvements, the applicant shall file with the Planning Commission a statement stipulating the following:

1. That all required improvements are complete.
2. That these improvements are in compliance with the minimum standards specified by the Planning Commission and the City for their construction.
3. That the applicant knows of no defects from any cause in these improvements; and,
4. That these improvements are free and clear of any encumbrance or lien.

6.02.03 The applicant shall also file with the City an agreement dedicating all said improvements of the development.

6.02.04 Upon completion of these improvements, the City Planner shall file with the Commission a statement either certifying that the improvements have been completed in the specified manner or listing the defects in these improvements.

SECTION 6.03 STREETS MAINTENANCE BOND

6.03.01 The developer/owner shall submit a Street Maintenance Bond payable to the City which shall be valid for a period of two (2) years. The bond shall be in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision. Said bond shall be required as a condition to dedication and acceptance of any new streets within the corporate limits. The City Administrator shall determine the adequacy of said bond and security thereon.

6.03.02 The Street Maintenance Bond period shall begin upon the acceptance of the street and drainage improvements by resolution of the City Council. No less than thirty (30) calendar days prior to the expiration of said maintenance bond, an inspection shall be conducted by an Engineer designated by the City to ensure that the improvements are in satisfactory condition prior to acceptance.

6.03.03 Based on the recommendations of the Engineer and other applicable City Staff, the City Planner may release or extend a street maintenance obligation for a period of time no greater than one (1) year. Upon approval of an extension of the original Street Maintenance Bond period, the developer shall submit to the Planning Department sufficient proof of the extended bond, and the City Administrator shall determine the adequacy of said extended bond and security thereon.

SECTION 6.04 ACCEPTANCE OF IMPROVEMENTS

Acceptance of formal offers of dedication of streets, public areas, easements and parks are by express Resolution of the Council. Upon completion of the required improvements, the City Planner will file

with the Commission a statement either certifying that the improvements have been completed in the specific manner or listing the defects in those improvements.

- 6.04.01** Reduction of Guarantee. In those cases where an improvement guarantee has been made under subsection 3.16 of these Regulations, the amount of the surety may be reduced upon acceptance, in compliance with these Regulations, of the dedication of a portion of the required improvements. A surety shall be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a surety be reduced below twenty percent (20%) of the principal amount.
- 6.04.02** Upon completion of the improvements, the applicant shall file with the Planning Commission a statement stipulating the following:
1. That all required improvements are complete.
 2. That these improvements are in compliance with the minimum standards specified by the Planning Commission and the City for their construction.
 3. That the applicant knows of no defects from any cause in these improvements; and,
 4. That these improvements are free and clear of any encumbrance or lien.
- 6.04.02.01** The applicant must also file with the Council an agreement dedicating the improvements. This agreement must include record drawings of the improvement and specify that all improvements, including all interest in real property except for water and sanitary sewer infrastructure are dedicated to the City and that all water and sanitary sewer infrastructure is dedicated to the Utility Authority. The Subdivider must submit a PDF or other electronic version of the subdivision plat As-Builts as part of the filing.
- 6.04.02.02** If the Subdivider's Engineer has certified that the contracted improvements are complete and free from defect, and said improvements have passed inspection by the City Engineer, then upon receipt of the other statements and agreements detailed above, the Council may accept the dedication of the completed improvements. Improvements to be dedicated to the Utility Authority are accepted according to that Authority's rules. However, the Council may not accept infrastructure within any subdivision or part thereof until after the associated water and sanitary sewer improvements have been accepted by the applicable Utility Authority.
- 6.04.03** Guarantee Against Faulty Material and Workmanship. The City only in accordance with one of the following requirements shall grant final approval of all improvements on said development:
- 6.04.03.01** Said improvements shall have been completed and in place for a period of one (1) year and shall, upon inspection following such period of time, be found to be free from defective workmanship or material and free from sinkholes or other settling.
- 6.04.03.02** Following satisfactory completion of such work, the subdivider shall post with the City a guaranty bond in an amount equal to ten (10) percent of the improvement cost on said project for which acceptance is sought. Said bond will guarantee the City that the installation and workmanship is in acceptable condition for a period of one (1) year. Said guaranty bond shall be effective for a period of one (1) year. If at the end of the one (1)-year period the improvements is found to be defective or to be otherwise unacceptable because of faulty workmanship or material, said defects shall be repaired at

the cost of the developer up to the amount of the guaranty bond, and upon the developer's failure or refusal to do so within ninety (90) days after demand is made upon them by the City. Then the City shall make such repairs as are reasonably necessary and recover the cost thereof.

- 6.04.04** At the end of the maintenance period, and after inspection of the improvements and infrastructure by the City Engineer, the developer may request through the City Planner that the City Council accept the improvements and the responsibility of the maintenance. It is the developer's or subdivider's responsibility to make this request.
- 6.04.05** Failure to be Accepted. If any portion of the required improvements fails to be accepted for dedication in compliance with these Regulations within the allocated time period, either for reason of incompleteness or for reason of substandard construction, then the Commission shall declare whatever security has been pledged as a guarantee to be forfeit. If Commission is not already in possession of said guarantee, it will immediately take the actions necessary to obtain it. Upon receipt of these securities, the Commission will use them, or receipts from their sale if applicable, to finance the completion of contracted improvements or the rebuilding of such improvements to the proper specifications. Unused portions of these securities will be returned to the Subdivider, bonding company, or crediting institution, as appropriate.
- 6.04.06** Maintenance. The Subdivider must maintain all improvements until acceptance of the required improvements by the City in accordance with the following:
- 6.04.06.01** The Subdivider must file a Maintenance Bond with the recommendation of the Commission and approval by the Council for the repair and maintenance of the public improvements. The amount of the Maintenance Bond must be equal to fifteen percent (15%) of the total cost of all public improvements. The Sewer Board may require the posting of a maintenance bond to assure the satisfactory condition of the sanitary sewer improvements for a period of one year after their acceptance by the Board. Failure to post a maintenance bond or security may constitute cause for denial of acceptance by the City or Board, as applicable.
- 6.04.06.02** The Maintenance Bond must be secured in the same manner as required for Performance Bonds in this Article, must comply with all statutory requirements and be reviewed by the City Attorney as to form, sufficiency, and manner of execution as set forth in these Regulations.
- 6.04.06.03** The Maintenance Bond must remain in full force for a period of thirteen (13) months after the date of acceptance of the improvements. For subdivisions with multiple phases of construction, any street or alley within the subdivision used by construction traffic must be included under the Maintenance Bond for the duration of construction of any phases requiring the use of such street.
- 6.04.06.04** The Subdivider must provide a letter or statement in which the Subdivider agrees to maintain the backfill and any improvements located thereon or therein of any ditch that has been dug in connection with the installation of the improvements. The letter or statement must be binding on the Subdivider for a period of twelve (12) months from the date of acceptance of such improvements.
- 6.04.07** Improvements to be Dedicated to the Utility Authority, Guarantee

- 6.04.07.01** All sanitary sewer facilities (excluding easement and fee rights to real property), once constructed, accepted, and dedicated to public use, become the property of the Utility Authority. Consequently, a separate dedication procedure is required for these improvements and the Utility Authority prescribes the manner of the dedication. The Authority's approval and acceptance of sanitary sewer facilities for a subdivision satisfies the requirements of this Section with respect to those facilities.
- 6.04.07.02** The Utility Authority may elect to accept improvements guarantees, pursuant to the rules of the Authority. If the Authority does choose to accept an improvement guarantee, the Subdivider must post the form of guarantee as agreed, separate and apart from any guarantee accepted by the City. The Authority may choose to sign the Final Plat of the subdivision based on the posting of a guarantee acceptable to it.
- 6.04.08** If the City Planner has certified that the contracted improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed above, the City may accept the dedication of these improvements for public use by Resolution at a regularly scheduled meeting. The City may, at its discretion, accept the dedication of any portion of the required improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

SECTION 6.05 RELEASE OF GUARANTEE

Upon acceptance, in accordance with these Regulations of the dedication of the final portion of improvements, the City Council shall authorize the release of the remaining portion of the improvement guarantee.