

ARTICLE XII

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IMPROVEMENTS

1201. Completion of Improvements*

Before the Subdivision or Land Development is approved, the Applicant shall complete all improvements required by this Ordinance or by the Commission, pursuant to the Design Standards of this Ordinance applicable to said Subdivision, or Land Development, or to such greater standards as may be required by the Municipality in which the Subdivision or Land Development is located.

1202. Guarantee in Lieu of Completion*

The Commission shall require the Applicant to provide a guarantee, said guarantee to be approved by the Commission and its Solicitor and/or by the local Municipal Body and its Solicitor, meeting the requirements of Section 1203 and 1204 as an alternative to the immediate completion of improvements. Such a guarantee shall be provided for improvements such as, but not limited to, the following: streets, curbs, storm water management facilities, sanitary sewers, and water lines. Improvements of a minor nature such as survey markers and pins shall be installed immediately, and shall not be permitted to be included within the terms on any guarantee.

1203. Types of Guarantees*

The acceptable types of guarantees are as follows:

- A. Performance bond with an acceptable surety and, of form satisfactory to the Commission;
- B. Certified check payable to the Municipality in which the Subdivision or Land Development is located;

*See Appendix No. 11 for further clarification of the following: Completion of Improvements or Guarantee thereof Prerequisite to Final Plat Approval; Release from Improvement Bond; and Remedies to Effect Completion of Improvements -- as found in Articles 509, 510, & 511 of the Pennsylvania Municipalities Planning Code, Act 247 of 1968 as amended.

C. Deposit of cash or other acceptable security in a bank account payable only upon order of the Municipality;

D. Escrow agreement, between the Applicant, the Municipality in which the Subdivision or Land Development is located, and a bank; which agreement shall provide for the payment of all or a portion of the proceeds from the sale of lots into an escrow account until sufficient funds are deposited to cover the cost of the improvements remaining to be installed;

E. Any other form of guarantee acceptable to the Commission; e.g., Federal or Commonwealth chartered lending institution irrevocable letters of credit.

1204. Amount of Guarantee

The guarantee shall be for an amount equal to one hundred ten (110) percent of the estimated costs of the improvements remaining to be installed, which cost estimates shall be prepared by the Applicant or his Engineer and which cost estimates shall be determined to be adequate by the Municipal or County Engineer (See Appendix No. 11).

1205. Inspection of Improvements

When the Applicant has completed all of the necessary and appropriate improvements, the Applicant shall notify the Municipality and the Commission, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Municipal Engineer, or if none, the County Engineer. The Municipality shall, within ten (10) days after receipt of such notice, direct and authorize the Municipal Engineer or County Engineer, as appropriate, to inspect all of the aforesaid improvements. The appropriate Engineer shall, thereupon, file a report, in writing, with the Municipality and with the Commission, and shall promptly mail a copy of the same to the Applicant by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the Engineer of the aforesaid authorization from the Municipality; said report shall be detailed and shall indicate approval or rejection of said improvements, either whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be

rejected by the Engineer, said report shall contain a statement of reasons for such non-approval or rejection (See Appendix No. 11).

The Municipality shall notify the Commission and the Applicant, in writing by certified or registered mail of the action of said Municipality with relation thereto.

If the Municipality or the Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the Applicant shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.

If any portion of the said improvements shall not be approved or shall be rejected by the Municipality, the Applicant shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.

Nothing herein, however, shall be construed in limitation of the Applicant's right to contest or question by legal proceedings or otherwise, any determination of the Municipality or the Engineer.

Where herein reference is made to the Engineer, he shall be a duly registered Professional Engineer employed by the Municipality or County or engaged as a consultant thereto.

1206. Cost of Inspection

All reasonable costs of inspection shall be paid by the Applicant, subject to the provisions of this Ordinance.

1207. Remedies to Effect Completion of Improvements

In the event that any improvements which may be required have not been installed as provided in this Ordinance or in accord with the approved Final Plan, the Commission and/or Governing Body of the Municipality is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If 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 Governing Body of the Municipality 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. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the Applicant, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose (See Appendix No. 11).

1208. Maintenance of Improvements

A. The Applicant shall be required to maintain all public improvements and provide for snow removal on streets until acceptance of said improvements by the Municipality or other appropriate agency.

B. The Applicant may be required to file a maintenance bond with the Municipality, prior to the formal acceptance of public improvements, in an amount of not less than ten (10) percent of the cost of said improvements or in an amount considered adequate by the Municipal and/or County Engineer and in a form satisfactory to the Municipal and/or County Solicitor. Said maintenance bond is intended to assure the satisfactory condition of the required public improvements for a period of one (1) year after the date of formal acceptance by the Municipality (See Appendix No. 11).

1209. Dedication of Improvements

All improvements shall be deemed to be private improvements and only for the benefit of the specific project until such time as the same have been offered for dedication and formally accepted by the local municipality or authority by ordinance, resolution, deed, or other formal document. Responsibility with respect to improvements shown on the Final Plan shall be transferred once the improvements have been formally accepted.