

## ARTICLE VII

### INSPECTION AND ACCEPTANCE OF IMPROVEMENTS BY THE MUNICIPALITY

#### 701 APPLICABILITY

This Article shall apply only to those subdivisions and land developments which propose the installation of public improvements, as defined by this Ordinance. The sole authority to enforce this Article shall rest with the local Municipality in which the public improvements are located. Enforcement remedies and preventive remedies available to the local Municipality are described in Sections 1106 and 1107 of this Ordinance.

#### 702 RESPONSIBILITY FOR INSPECTIONS

The authority to inspect public improvements to be dedicated to a local Municipality shall rest with the Municipal Engineer; however, the local municipal governing body may authorize the County to retain a Consulting Engineer on their behalf to review plans and specifications for public improvements proposed in a subdivision or land development regulated by this Ordinance located within the local Municipality and to perform the necessary inspections during and following installation of those improvements.

The cost of providing review and inspection services shall be charged to the developer in accordance with Section 1102.3 of this Ordinance.

### **703 PROGRESS INSPECTIONS**

The developer shall notify the Inspector at least seventy-two (72) hours prior to beginning any installation of public improvements in an approved plan. While work is in progress, the developer shall notify the Inspector at least seventy-two (72) hours prior to the time that the following required progress inspections are desired:

- A. Inspection of sub-grade of streets prior to laying of base;
- B. Inspection of base prior to final paving of streets; and
- C. Inspection on installation of water lines, sanitary sewer lines, storm sewers and drainage facilities before they are covered.

At the Municipal Engineer's discretion, an inspector may be required to be present at the site on a continual basis while work is in progress. The cost of providing a full-time or part-time inspector shall be charged to the developer in accordance with Section 1102.3 of this Ordinance.

The Inspector shall maintain a daily log of all inspections. The log shall be kept in a survey field book and shall be turned over to the Municipal Engineer upon completion of the project and copies of the reports shall be forwarded to the developer upon receipt.

### **704 NOTICE OF COMPLETION**

When the developer has completed the required public improvements in a plan, the developer shall notify the Municipality, in writing, by certified or registered mail. Within ten (10) days of the receipt of such notification, the governing body of the Municipality shall authorize the Municipal Engineer to conduct a final inspection of the public improvements in the plan to determine compliance with the Design Standards specified in Article VI of this Ordinance and the Municipal Construction Standards.

### **705 FINAL INSPECTION AND APPROVAL**

#### **705.1 MUNICIPAL ENGINEER'S REPORT**

Upon authorization by the Municipal governing body, the Municipal Engineer shall perform a final inspection of the public improvements in the plan. Within thirty (30) days of receiving the authorization by the Municipal governing body, the Municipal

Engineer shall file a report, in writing, with the Municipal governing body indicating approval or rejection of the improvements, either in whole or in part, and in the case of rejection, shall provide a statement of the reasons for such rejection. The Municipal Engineer shall promptly mail a copy of said report to the developer by certified or registered mail.

#### **705.2 NOTIFICATION OF DEVELOPER BY THE MUNICIPAL GOVERNING BODY**

The Municipal governing body shall notify the developer, in writing, by certified mail, within fifteen (15) days of receipt of the Municipal Engineer's report, of the action of the Municipal governing body with relation to approval or rejection of the public improvements.

#### **705.3 FAILURE OF MUNICIPALITY TO COMPLY**

If the Municipal governing body or the Municipal Engineer fails to comply with the time limitation provisions contained in this Article, all public improvements will be deemed to have been approved and the developer shall be released from all liability pursuant to the Performance Guarantee posted with the Municipality.

#### **705.4 COMPLETION OF REJECTED PUBLIC IMPROVEMENTS**

If any portion of the public improvements shall not be approved or shall be rejected by the Municipal governing body, the developer shall proceed to make the required corrections or additions and, upon completion, the same procedure of notification, inspection and approval, as outlined in this Article shall be followed.

#### **705.5 DEVELOPER'S RIGHTS**

Nothing in this Article, however, shall be construed to limit the developer's right to contest or question, by legal proceedings or otherwise, any determination of the Municipal governing body or the Municipal Engineer.

#### **705.6 RELEASE OF PERFORMANCE GUARANTEE**

Upon approval of all of the public improvements in the plan, the developer shall be released from any liability pursuant to the Performance Guarantee posted to guarantee the proper installation of those improvements.

From time to time, during the installation of the public improvements, the developer may request partial release of the Performance Guarantee in an amount necessary for payment of contractors performing the work. Any such request shall be in writing and shall be addressed to the Municipal governing body. The Municipal governing body shall have forty-five (45) days from the receipt of such request to allow the

Municipal Engineer to certify, in writing, that such portion of the installation of public improvements has been completed in accordance with the requirements of this Ordinance and the approved Final Plat.

Upon such certification by the Municipal Engineer, the Municipal governing body shall authorize release of an amount as estimated by the Municipal Engineer, which fairly represents the value of the improvements completed. The Municipal governing body shall require retention of ten percent (10%) of the estimated cost of such improvements until such time as all improvements have been installed and the Performance Guarantee is released in its entirety.

#### **706 ACCEPTANCE OF PUBLIC IMPROVEMENTS**

Upon completion of the final inspection and approval of the public improvements, the developer shall submit a request to the Municipal governing body, in writing, to accept the dedication of the public improvements. The request for acceptance shall include deeds of dedication and all other legal descriptive documents necessary to prepare an Ordinance accepting the public improvements and shall be submitted at least ten (10) calendar days prior to the regular meeting of the Municipal governing body. At the regular meeting, the Municipal governing body shall enact an Ordinance accepting the public improvements as part of the Municipalities public facilities, subject to the posting of the Maintenance Bond required by Section 707 of this Ordinance.

No property or public improvements shown on a Final Plat shall be considered to have been finally accepted by the Municipality until the dedication thereof has been officially accepted by adoption of an Ordinance of the Municipality, duly enacted and advertised in accordance with law.

#### **707 POSTING OF MAINTENANCE BOND**

When the Municipal governing body accepts the dedication of all or some of the required public improvements in a plan, following their completion, the Municipal governing body shall require the posting of a Maintenance Bond, as defined by this Ordinance, to insure the structural integrity of the improvements and to guarantee the proper functioning of those improvements in accordance with the Design Standards of Article VI, the Municipal Construction Standards and the specifications of the Final Plat.

The term of the Maintenance Bond shall be for a period of eighteen (18) months from the date of the acceptance of the public improvements by the Municipal governing body. The amount of the Maintenance Bond shall be fifteen percent (15%) of the actual cost of installation of the public improvements.

708 REMEDIES TO EFFECT COMPLETION OF PUBLIC IMPROVEMENTS

In the event that the public improvements required to be installed by the provisions of this Ordinance are not installed in accordance with the requirements of this Ordinance or the approved final plat prior to the expiration of the Performance Guarantee, the Municipal governing body shall have the power to enforce the Performance Guarantee by appropriate legal and equitable remedies provided by the laws of the Commonwealth of Pennsylvania. If proceeds from the Performance Guarantee are insufficient to pay the cost of installing or making repairs or corrections to all the improvements guaranteed by such Performance Guarantee, the Municipal governing body 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 Performance Guarantee or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements guaranteed by such Performance Guarantee and not for any other municipal purpose.