

## ARTICLE 9

### GUARANTEE OF INSTALLATION OF IMPROVEMENTS

#### Sections:

- 9-1 Guarantee of Installation
- 9-2 Off-Site Improvements

#### SECTION 9-1 GUARANTEE OF INSTALLATION

9-101. In lieu of the actual construction of the physical improvements required and the completion of construction occurring prior to recording the final plat, the Governing Body may either (a) waive any requirement of guarantee of installation or (b) accept one of the following methods of guarantee provided it is in accordance with the policies of the Governing Body.

- a. Fiscal sureties may be offered subject to the following:
  - 1. The subdivider shall enter into a subdivider's agreement with the Governing Body under which the subdivider agrees to install such required improvements. Such agreement shall be conditioned upon the acceptances of the final plat by the Governing Body and its filing with the Linn County Register of Deeds.
  - 2. Simultaneously with the execution of the subdivider's agreement, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon or a cashier's check, escrow account or irrevocable letter of credit in favor of the Governing Body, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such financial guarantee shall be conditioned upon the acceptance of the final plat and further conditioned upon the actual completion and satisfactory installation of such required improvements within two years from the date that the final plat is accepted by the Governing Body.
  - 3. Simultaneously with the execution of the subdivider's agreement, if the subdivider furnishes a corporate completion bond, he or shall also deposit in escrow an amount equal to the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the Governing Body. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit, 15% of the amount of such guarantees shall be held as a deposit in escrow after the final completion of such improvements.

4. The subdivider shall agree that the deposit in escrow may be held by the Governing Body for a period of 18 months after such improvements are completed for the purpose of:
  - (a) Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the Governing Body; and
  - (b) Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.
  - (c) Such escrow agreement shall provide that, as such defects have so developed, that the deposit may be applied by the Governing Body for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 18-month period shall be returned by the Governing Body to the depositor, or paid to the order of the depositor without payment of interest.
  
- b. Petitions to the Governing Body may be submitted as a means of guaranteeing the authority to install improvements at such time as the Governing Body deems appropriate. Petitions may be submitted only when the following conditions exist:
  1. The petitions must be brought in the manner set out under Kansas law.
  2. The petitions must be approved by the Governing Body concurrently with the acceptance of the final plat.
  3. The initiating resolution for such improvement must be adopted by the Governing Body concurrently with the petition approval or as soon thereafter as may be provided by law.
  4. A certificate signed by the petitioner must be recorded with the Linn County Register of Deeds stating that such petitions have been filed and approved by the Governing Body and that certain land within the plat as described will be liable in the future for special assessment for the required improvements authorized.

Such a preconstruction procedure shall be temporarily conditioned on subsequent acceptance of the final plat and a time limit for actual construction mutually agreed upon. Maintenance guarantees may also be required by the Governing Body.

- c. The subdivider shall, prior to the acceptance of the final plat, submit a letter from the utility provider(s) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of their respective services.
- d. Monuments and benchmarks shall be installed in accordance with the requirements of these regulations and their installation certified by a licensed land surveyor on the final plat before such plat is recorded with the Linn County Register of Deeds.

## **SECTION 9-2 OFF-SITE IMPROVEMENTS**

**9-201.** The Governing Body may, upon making a finding of necessity, require the subdivider to install or upgrade off-site improvements located outside the perimeter of a subdivision. Such off-site improvements should be within dedicated rights-of-way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as on-site improvements. The Governing Body may require such subdivision to participate in any or all of the following facilities and improvements, or any other off-site improvements as recommended by the Planning Commission, if the need is created by a proposed subdivision:

- a. Drainage improvements and drainageways;
- b. Pedestrian ways;
- c. Screening and landscaping;
- d. Grading;
- e. Street improvements;
- f. Traffic control devices;
- g. Parks, recreational areas and open space;
- h. Public water supply and delivery system;
- i. Storm water sewerage; and
- j. Sanitary sewerage.