

# **CHAPTER 9: INFRASTRUCTURE AND PUBLIC IMPROVEMENTS**

## **9.1 GENERAL PROVISIONS**

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### **9.1.1 Applicability**

This chapter applies to all development subject to the provisions of the Zoning Ordinance that require Site Plan approval, pursuant to Chapter 10, Section 10.6.

### **9.1.2 Improvements**

Engineering plans and specifications shall be in accordance with applicable standards pertaining to construction of sanitary sewer, paving, drainage, sidewalks, driveways, streets, alleys, culverts, bridge facilities, and any other similar facilities governed by the Town of Arlington.

**9.1.3** No improvements shall be made until all plans, profiles and specifications have been reviewed and approved by the Town of Arlington or other government agency whose authority is required to approve the improvements. All improvements shall meet the requirements of the Local Government Public Works Standards and Specifications, as amended by the Town of Arlington.

### **9.1.4 Easements**

Appropriate easements shall be provided for public infrastructure and utilities.

## **9.2 STREETS AND SIDEWALKS**

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**9.2.1** No non-residential, multi-family or two-family development shall be erected or enlarged and no building permit shall be issued therefore on any parcel of land which abuts any existing or proposed street or alley unless the one-half of any such abutting right-of-way which is located on the same side of the centerline of the street or alley as such parcel of land has been dedicated to the Town of Arlington and improved for the full width of the parcel where it abuts so as to meet the standards for each right-of-way as provided in the applicable standards and associated plans, and the requirements for dedication and improvements have been assured to the satisfaction of the Town.

**9.2.2** The dedication shall be noted on the site plan, which shall be recorded in the office of the Shelby County Register of Deeds.

**9.2.3** The standards for construction of pavement of all streets shall be in accordance with the specifications set forth in Local Government Public

Works Standards and Specifications, as amended by the Town of Arlington.

- 9.2.4 Where not already provided on the site or required by the developer of a subdivision, the developer of a site is responsible for the installation of sidewalks and curb ramps. All sidewalks and curb ramps shall be installed prior to the issuance of a use and occupancy.

### **9.3 UTILITIES**

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- 9.3.1 All developments shall be connected to water and sewer services. Any development approved for use of a septic system shall meet all requirements of the Shelby County Health Department.
- 9.3.2 New electric utility services and other utilities shall be placed underground where functionally feasible.
- 9.3.3 The developer shall make the necessary arrangements including any construction or installation charges with each of the serving utilities for the installation of such facilities and shall be subject to all applicable laws and regulations for their construction. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities may be placed above the ground in a location approved by the Town. Electric transmission and distribution feeder lines and communication long distance trunk and feeder lines and necessary appurtenances may be placed above the ground. Such facilities shall be placed within public easements or public rights-of-way.
- 9.3.4 The developer shall pay all fees, as established by the Board of Mayor and Aldermen, prior to the issuance of a building permit. All costs associated for connection and extension to public utilities shall be paid by the developer.

### **9.4 OTHER IMPROVEMENTS**

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Other improvements may be required, depending on site specifics, including but not limited to street lighting, bikeways, greenbelts and medians. Where required, the appropriate dedication to the Town of Arlington and all required payments shall be made in advance of the issuance of building permits and/or release of any security posted for development of the project.

## **9.5 DEVELOPMENT AGREEMENT REQUIRED PRIOR TO CONSTRUCTION**

Following site plan approval, including approval of all associated plans of construction, a completed development agreement shall be prepared and executed prior to construction of any infrastructure within any development to which this regulation is applicable. A draft development agreement shall be prepared by the Mayor's designee. It shall reference the design incorporated within the approved construction plans and shall be sufficient in form to assure that proposed construction methods and materials meet or exceed minimum standards established by the Town. The draft development agreement shall be sent to the applicant for approval. Upon acceptance of the agreement by the developer, the proposed development agreement shall be forwarded to the Board of Mayor and Aldermen to authorize the Mayor to enter into an agreement with the developer. Infrastructure construction may begin upon execution of the agreement, payment of all fees, receipt of security, following a pre-construction conference and issuance of a building permit from the authorized issuing agency, as well as receipt of any additional documents that may otherwise be required specific to the site.

## **9.6 SECURITY REQUIRED**

Prior to issuance of a building permit, the developer shall furnish to the Town of Arlington security in order to ensure that the work will be completed in accordance with approved construction drawings and applicable specifications, all public improvements proposed in conjunction with any site plan development of non-residential, multi-family and two-family developments must be covered by adequate security. The developer shall post approved security with the Town of Arlington. The approved security shall include the types of security specified in Section 9.7.2. Approved security shall be accompanied by a development agreement whereby the applicant agrees to make and install the improvements in accordance with the approved construction drawings and applicable specifications and to ensure completion of the work.

## **9.7 SECURITY STANDARDS AND REQUIREMENTS**

### **9.7.1 Amount of Security**

The developer shall post good and sufficient security with the Town in the amount of one hundred ten percent (110%) of the Town Engineer's estimate of cost to assure completion of the public improvements, plus one (1) year's inflation, plus engineering costs.

### **9.7.2 Types of Security**

Subject to the standards and requirements of Section 9.6, and acceptance by the Town of Arlington, the following types of security may be accepted

for purposes of guaranteeing completion of public improvements required by all applicable ordinances, regulations and standards, and any and all plans as approved by the appropriate body:

- 1) Performance bond
- 2) Irrevocable standby letter of credit
- 3) Certified check

### 9.7.3 Standards

- 1) The Town reserves the right in its sole discretion to refuse to accept any bond or letter of credit from any institution, surety or bank. The Town reserves the right in its sole discretion to limit the amount any single institution, surety or bank may guarantee to the Town, whether under a single development agreement or as a total amount guaranteeing several development agreements from multiple developers.
- 2) The Town, in its sole discretion, may accept an irrevocable letter of credit exclusively in the favor of the Town, from an institution approved by the Town. The letter of credit shall be upon terms acceptable to the Town, and the Town shall have the right to demand payment of the letter of credit, or so much thereof as may be necessary in the event that the construction and installation are not completed or approved by the Town.
- 3) Any bond or letter of credit shall have an expiration date of one (1) year from issuance, but shall automatically renew for successive one (1) year periods.
- 4) The Town requires that, regardless of any other requirement or language to the contrary, that a provision be added in every bond or letter of credit that prior to the final expiration date of the bond or letter of credit, the institution, surety or bank shall provide the Town of Arlington a written statement no earlier than one hundred fifty (150) days and no later than one hundred twenty (120) days prior to the final expiration date, that the bond or letter of credit shall expire and will not be renewed as of that final expiration date.
- 5) The bond or letter of credit, regardless of any language to the contrary, shall specifically state in plain language that should any litigation arise in relation to the bond or letter of credit, the proper jurisdiction and venue of such litigation shall be in the appropriate court in Shelby County Tennessee.
- 6) No bond or letter of credit will be accepted by the Town unless the institution, surety or bank issuing same is authorized and registered to do business within the State of Tennessee and has a local branch

(meaning within one hundred (100) miles of Arlington TN) for which presentment of a draw is required.

- 7) The Town, in its sole discretion, may accept a certified check made payable to the Town. If the developer submits a certified check, he must execute an "Escrow Agreement" with the Town in form and substance acceptable to the Town and its attorneys, which shall become part of the development agreement. In the event that the required improvements are built and installed in accordance with the standards and requirements as approved by the Town Engineer, the deposit made in accordance with the Escrow Agreement will be returned to the developer one (1) year after the date of final acceptance. In the event that the construction and installation are not completed by the developer or approved by the Town, the deposit, or so much thereof as may be necessary, shall be expended as provided in the Escrow Agreement.

#### **9.7.4 Reduction of Security**

Upon completion of the major improvements, specifically including but not limited to, all temporary surface courses, utility service, water service, sewer service, street lighting, and drainage systems, and upon final inspection and acceptance by the Town Engineer, the developer may request, and the Town shall approve upon submission of appropriate documentation as to the cost of completion of the remaining public improvements, a reduction in the amount of the bond, letter of credit or cashier's check, to an amount equal to one hundred fifty (150%) percent of the cost of completion of the remaining public improvements. Provided, however, in no event shall the amount of the bond, letter of credit or cashier's check be reduced to an amount which would be less than the amount recommended by the Town Engineer and approved by the Planning Commission to secure the developer's obligations and with respect to developer's warranty period. The bond, letter of credit or cashier's check, and the amount required by the preceding sentence, shall remain in full force and effect until the expiration of said warranty period.

#### **9.7.5 Completion of Improvements**

All required improvements shall be completed in accordance with these regulations, the development agreement and the approved construction plans.

Wearing Surfaces shall not be completed earlier than one (1) calendar year after initial acceptance of the subdivision, except as allowed under Paragraph 9.7.9 below. Wearing surfaces shall not be installed until the later of: (a) two (2) calendar years after the recording of the final plat, or (b) fifty (50%) percent of the homes in the subdivision are complete and occupied. This provision can only be altered by formal written request to the Board of Mayor and Aldermen for the Town.

The developer may request administrative approval to install the wearing surface earlier than one (1) calendar year after initial acceptance, if seventy-five (75%) percent of the homes in the subdivision are complete and occupied. Each such request must be specifically approved in writing by all of the following: Town Engineer, Town Planner, Town Recorder and Town Inspector.

#### **9.7.6 Failure to Complete Improvements**

In those cases where required improvements have not been installed within the terms of the development agreement, the Town Engineer thereupon may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default. If the improvements are not completed within the time period specified, (including any extension thereof approved), no additional building permits shall be issued for any lot or portion of such property until such facilities are completed.

#### **9.7.7 Deferral or Waiver of Required Improvements**

The Board of Mayor and Aldermen may defer or waive, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate, because of inadequacy or lack of connecting facilities.

Whenever it is deemed necessary by the Board of Mayor and Aldermen to defer construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or other reasons, the developer shall either pay his share of the costs of the future improvements to the governing body prior to issuance of a building permit or post a bond ensuring completion of said improvements, as determined by the Town.

#### **9.7.8 Inspection of Improvements**

The Town may provide for inspection of required improvements during construction. If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the approved construction plans, construction standards and specifications, the developer shall be responsible for completing such improvements to the required standards. The fact that the Town inspects the facilities in no way relieves the developer from designing or installing such facilities in accordance with the provisions of these regulations, Local Government Public Works Standards and Specifications, as amended by the Town of Arlington, and the established development agreement.

#### **9.7.9 Acceptance and Maintenance of Streets and Other Improvements**

The Town, upon initial acceptance, shall take full and complete title to the public improvements, provided however, the developer shall be responsible

for maintenance, construction failures and defects in all public improvements of the development through the warranty period. The developer shall, at his sole expense, correct and cure such defects and failures in the manner prescribed by and to the satisfaction of the Town or the Town Engineer.

A warranty period for each development shall run for one (1) year from the final acceptance of the public improvements by the Town. During this warranty period, the developer is responsible for the maintenance and repair of any and all defects and failures of those public improvements constructed by the developer or his agent. Prior to the expiration of the warranty period and before the security will be released by the Town, a punch list of items to be repaired or replaced will be given to the developer by the Town and those items shall be completed to the satisfaction of the Town Engineer, Town Planner, Town Recorder, and the Town Inspector.

#### **9.7.10 Release of Bond**

Upon completion of the one (1) year warranty period and upon correction of any and all defects in the required improvements, the remaining bond shall be released by the Town.