

19-5 MINIMUM STANDARDS AND IMPROVEMENTS REQUIRED

19-5-1 All improvements required by this Section shall be installed at the cost of the developer.

19-5-2 Prior to the approval of the final site development plan, there shall be executed by the owner or developer, an agreement to construct all physical improvements required by or pursuant to this Section which are to be dedicated to public use, together with a performance guarantee as provided by Article 19-8.

19-8 Performance guarantees

The purpose of this requirement is to guarantee timely installation and maintenance of improvements required by this ordinance and/or in accordance with the approved site plan; and to ensure that resources are available to the county for installation and maintenance of such improvements should the developer fail to provide them in the manner and within the time period provided for in this chapter. In the case of default, the county shall use the available performance guarantee funds to complete the improvements thereby secured to the extent practicable. In no event, however, shall the county be bound to supplement the performance guarantee funds with other county funds in order to complete the improvements.

19-8-1 Limit on building permits in residential subdivisions pending acceptance of a public street. Building permits shall not be issued for more than 80 percent of the lots in a phase of a residential subdivision with public streets until the streets have been constructed to VDOT standards, inspected, and accepted into the state highway system, unless the developer posts a surety for maintenance of streets until accepted into state system as outlined in Section 8-3-4. The developer must also provide road maintenance contact details to the residents and to the Greene County Planning and Zoning Office

19-8-2 General.

A performance guarantee along with a development agreement in accordance with the standards in this article shall be required in the following circumstances:

19-8-2.1 The performance guarantee shall be received prior to the approval of the site plan to ensure completion and acceptance of public and private infrastructure improvements that are required as part of an approved site plan (e.g., streets, sidewalks, stormwater management facilities, potable water facilities, wastewater facilities, street lights), (12/10/2024);

19-8-2.2 To ensure completion of landscaping improvements that are required in accordance with Article 19 of the zoning ordinance but are not installed before occupancy of the development.

19-8-3 Form of performance guarantee.

As found in Title 15.2 Chapter 22 of the Code of Virginia:

For the acceptance of dedication for public use of any right-of-way located within any subdivision or site plan or section thereof, which has constructed or proposed to be constructed within the subdivision or site plan or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such

facilities or, at the option of the local governing body, presents evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the governing body or its designated administrative agency; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 10 percent of the estimated construction costs. If the owner or developer defaults on construction of such facilities, and such facilities are constructed by the surety or with funding from the aforesaid check, cash escrow, bond or letter of credit, the locality shall be entitled to retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section. (12/10/2024)

19-8-4 Amount of performance guarantee.

19-8-4.1 Performance guarantees for required improvements shall be in an amount equal to at least 110 percent of the estimated full cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.

19-8-4.2 Estimated costs for completing installation of required public or private infrastructure improvements shall be itemized by improvement type and certified by the owner's or developer's licensed professional engineer, surveyor or landscape architect, and are subject to approval by the site plan agent. Estimated costs for completing installation of required landscaping or other private site improvements shall be itemized and certified by the owner's or developer's landscape architect or contractor, and are subject to approval by the site plan agent.

19-8-4.3 The guarantee shall renew annually and shall increase or decrease by an amount equal to the most recent quarterly Construction Cost Index published by Engineering News Record. This ensures that the estimated costs escalate as the Construction Cost Index escalates so that the guarantee amount reflects the most current cost to perform the improvements. In the case of default, the county shall use the available performance guarantee funds to complete the improvements thereby secured to the extent practicable. In no event, however, shall the county be bound to supplement the performance guarantee funds with other county funds in order to complete the improvements.

19-8-4.4 In the absence of a performance bond, or other guarantee, no final site plan shall be approved

19-8-4.5 Before undertaking any improvements required by the approved site plan, the developer shall submit four (4) copies of his proposed plans and specifications to the Zoning Administrator and receive written approval thereof by the return of one copy with such approval endorsed thereon. No such approval shall be given without prior written approval of the Highway Engineer and/or the Health Official, as may be appropriate. Said plans and specifications shall have been prepared by a qualified surveyor or engineer, registered by the Commonwealth of Virginia. Of the copies retained, one shall be forwarded to the Highway Engineer and one to the Health Official, when appropriate, and the remaining copy or copies shall be filed with the Commission's copy of the final plan.

19-8-5 Approval of improvements and release of performance guarantee

19-8-5.1 Request for release. The owner or developer may submit to the site plan agent a written request for a periodic partial release or a final complete release of a performance guarantee. Such a request shall include:

- a) Certification by the owner's or developer's engineer that construction or installation of the public infrastructure improvements for which release of a performance guarantee is sought has been completed in accordance with approved plans and specifications, and that the improvements have been accepted and taken over for maintenance and operations by a state agency, local government department or agency, or other authority responsible for maintenance and operation of such improvements; or
- b) Certification by the owner's or developer's landscape architect or contractor that construction or installation of landscaping or other private site improvements for which release of a performance guarantee is sought has been completed in accordance with approved plans and specifications.

19-8-5.2 Action on request for release. The site plan agent shall grant a requested release of a performance guarantee only after:

- a) County staff has performed any needed inspection of the improvements and has certified in writing that the guaranteed improvements have been approved and accepted by the state agency, local government department or agency, or other authority responsible for maintenance and operation of such improvements;
- b) The owner or developer has reimbursed the county for all costs associated with conducting any inspection that finds the guaranteed public infrastructure improvements have not been installed in accordance with approved plans and specifications;
- c) The owner or developer has provided the site plan agent assurances that liens against guaranteed public infrastructure improvements will not be filed after their acceptance by the county (e.g., through affidavits, releases, or waivers of liens from all contractors and subcontractors); and
- d) The owner or developer has provided the site plan agent any required maintenance guarantee for the same public infrastructure improvements.
- e) An as-built plan will be required.(12/10/2024)

19-8-5.3 The site plan agent shall release a performance guarantee within 30 days after receiving a written request for the release unless the site plan agent notifies the requestor in writing of the nonreceipt of applicable state agency approval or of specified defects or deficiencies and suggested corrective measures before expiration of the 30-day period.

If the site plan agent fails to take action on a request for release of a performance guarantee within the 30-day period, the request shall be deemed approved and a partial release granted to the owner or developer. In such instances, no final release shall be granted after expiration of the 30-day period until the owner or developer has submitted a written request for such release to the site plan agent via certified mail, return receipt requested. If the site plan agent fails to take action on the request within ten days after receiving it, the request shall be deemed approved and a final release granted to the owner or developer.

19-8-5.4 Limit on partial releases. No performance guarantee for improvements shall be partially released until construction or installation of at least 30 percent of the guaranteed improvements has been completed. No performance guarantee shall be reduced to less than ten percent of the full amount of the performance guarantee until construction or

installation of all the guaranteed improvements has been completed.

19-8-5.5 Default and forfeiture of performance guarantee.

a) Notice of failure to complete improvements. If the owner or developer fails to complete installation of the guaranteed improvements (and in the case of public infrastructure improvements, to have the improvements accepted), the site plan agent shall give the owner or developer 30 days' written notice of the default by certified mail.

b) County completion of improvements. After the 30-day notice period expires, the county may draw on the security and use the funds to perform work necessary to complete installation of the guaranteed improvements. After completing such work, the county shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest. In the case of default, the county shall use the available performance guarantee funds to complete the improvements thereby secured to the extent practicable. In no event, however, shall the county be bound to supplement the performance guarantee funds with other county funds in order to complete the improvements.

19-8-5.6 Surety for maintenance of streets until accepted into state system.

If one or more public streets within a site plan are proposed for dedication or have been dedicated for public use and the street or streets, due to factors other than quality of construction, is not acceptable into the secondary system of state highways, the developer shall, prior to approval of the final site plan or prior to the final release of surety as provided, provide surety for the maintenance of the street or streets as provided herein:

a) The developer shall furnish to the site plan agent a certified check, official check, bond with surety satisfactory to the county, or a letter of credit satisfactory to the county, or collaterally assign funds in a manner satisfactory to the county, in an amount sufficient for and conditioned upon the annual maintenance of the street or streets until it is accepted into the secondary system of state highways. The form and the type of the surety shall be to the satisfaction of and be approved by the county attorney.

b) For purposes of this section, the term "maintenance" means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

(c) Failure by the developer or landowner to complete or maintain the required physical improvements or to remove snow in a period of time not to exceed forty-eight hours from the end of the snow event, shall constitute a default and/or a violation of the county ordinances.

(d) Thereafter, the county may avail itself of any and all available remedies of law and in equity.