

## **SECTION 05-09 REQUIRED IMPROVEMENTS AND FINANCIAL ARRANGEMENT**

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### **Section 05-09-01. Improvements Required.**

- A. Prior to the approval of a final plat by the City Council, the applicant shall have agreed, in the manner set forth below, to install the following improvements on the site, in conformity with approved construction plans and in conformity with all applicable standards and ordinances:
1. Monuments: Monuments are to be placed in the subdivision in accordance with Section 05-08-01 of this Ordinance.
  2. Grading: The full width of the right-of-way of each street dedicated in the plat shall be cleared and graded as outlined in Section 05-08-02 (A) of this Ordinance.
  3. Pavement: All streets shall be improved with concrete or bituminous surface, except as may be approved by action of the City Council as part of a development contract. Pavement standards are outlined in Section 05-08-02 (B) of this Ordinance.
  4. Public Water: Public water facilities shall be installed in accordance with the standards and specifications as outlined in Section 05-08-04 (A) of this Ordinance and subject to the approval of the City Engineer, at the expense of the applicant.
  5. Public Sanitary Sewer: Public sanitary waste disposal systems shall be installed in accordance with the standards and specifications as outlined in Section 05-08-04 (C) of this Ordinance and subject to the approval of the City Engineer, at the expense of the applicant.
  6. Curb and Gutter: Concrete or bituminous curb and gutter, as recommended by the City Engineer and approved by the City Council, shall be installed along both sides of all streets to the standards listed in Section 05-08-02 (D) of this Ordinance.
  7. Drainage Facilities: Such facilities and easements shall be installed at the expense of the applicant under City approval as will adequately provide for the drainage of surface waters, and storm

sewer system may be required. Drainageway easements or land dedication may be required when such easements or land is needed in the public interest for purposes of flood plain management, proper drainage, wetland protection, prevention of erosion, pedestrian access to water bodies, or other public purpose.

8. Utilities: All utilities, including but not limited to telephone, cable television, electric and/or gas lines, shall be placed as outline in Section 05-08-09 of this Ordinance.
9. Larger Facilities: Where a larger size water main, sanitary sewer, storm sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility shall be constructed at the applicant's expense unless provided for as outlined in Section 05-09-03 (A) of this Ordinance,
10. Miscellaneous Facilities: Tree plantings, street name signs, traffic control signs, pavement marking and other improvements may be required and be installed at the expense of the applicant.

#### **Section 05-09-02. Construction Plans, Inspection and Warranty.**

- A. Construction plans for the required improvements conforming in all respects with the standards and ordinances of the City shall be prepared at the applicant's expense by a professional engineer who is registered in the State of Minnesota, and said plans shall contain professional certification. Such plans together with the quantities of construction items shall be submitted to the City Engineer for an estimate of the total costs of the required improvements and recommendation to the City Council. Upon City Council approval, such plans shall become a part of the required written agreement. The tracings of the plans approved by the Engineer, plus two (2) prints, shall be furnished to the City to be filed as a public record.
- B. All required improvements on the site that are to be installed under the provisions of these regulations shall be inspected during the course of construction by the City Engineer at the applicant's expense, and acceptance by the City shall be subject to the City Engineer's certificate of compliance with the contract.
- C. The applicant and/or developer shall provide to the City a written warranty that all required improvements on the site meet or exceed all City standards and that such improvements have been inspected and tested in regards to the City standards. The applicant and/or developer shall be responsible for having all such inspections and testing completed at their expense.

### **Section 05-09-03. Installation of Improvements.**

- A. Payment: The required improvements as listed are to be furnished and installed at the sole expense of the applicant. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be allocated in accordance with City policies.
- B. City Installation Right: The City reserves the right to elect to install all or any portion of the improvements required under this section pursuant to Minnesota Statutes, as may be amended. The City may require the applicant to post a financial guarantee as outlined in Section 05-09-05 of this Ordinance to ensure payment of assessments for the costs of installing the required improvements.

### **Section 05-09-04. Development Contract.**

- A. Private Installation of Improvements:
  - 1. Prior to the installation of any required improvements by the applicant and prior to approval of the plat, the applicant shall enter into an agreement in writing with the City requiring the applicant/developer to furnish and construct said improvements at their sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provision for supervision of details of construction by the City Engineer and shall grant to the City Engineer authority to coordinate the work and improvements to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity. The agreement shall require all public and private utility material standards and installation requirements be met and shall be approved by the City Engineer.
  - 2. The agreement shall require the applicant to make an escrow deposit or furnish an irrevocable letter of credit or a certified check as is determined by the City. The amount of the deposit or penal amount of the security is to be based on the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. The deposit or penal amount shall equal one hundred twenty-five (125) percent of the City Engineer's estimate.
  - 3. On request of the applicant, but at the sole discretion of the City, the contract may provide for completion of part or all of the

improvements covered thereby prior to acceptance of the plat. In such event, and if evidence is presented that the described work and improvements have been paid for, the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat.

4. The time for completion of the work and the several parts thereof shall be determined by the City Council, upon recommendation of the Engineer after consultation with the applicant. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper coordination with construction activities in the plat and subdivision.
5. Improvements shall be constructed only in platted real estate.
6. No applicant/developer shall be permitted to start work on any other subdivision improvements without special written approval of the City Council.

B. City Installation of Improvements:

1. Any person desiring to have utility and street improvements installed may request the City to install them, subject to the following conditions and to the approval and authorization thereof by the City Council and as authorized by State law.
2. If so approved by the City Council, the person requesting the installation of said utility and street improvements shall supply a security approved by the City running to the City guaranteeing payment for the installation of the improvements in an amount based on the City Engineer's estimate of the total cost of the improvements to be installed. The deposit or penal amount shall equal one hundred twenty-five (125) percent of the City Engineer's estimate of the cost of installation of the improvements. The security to be supplied the City shall be payable on such terms and conditions as found by the City Council to be reasonable and necessary to insure that the costs of the improvements are properly secured and paid.
3. Improvements shall be constructed only in platted real estate.
4. The provisions of Section 05-09-04 (B) do not apply to any improvement installed in a platted block upon which at least fifty (50) percent of the lots thereof have a dwelling or other building constructed and occupied.

5. No applicant/developer shall be permitted to start work on any other subdivision improvements without special approval of the City Council.

**Section 05-09-05. Financial Guarantee.**

- A. The contract provided for in Section 05-09-04 shall require the applicant to make an escrow deposit or provide a certified check or irrevocable letter of credit as determined by the City. The escrow deposit, certified check or irrevocable letter of credit shall conform to the requirements of this section.
- B. Escrow Deposit, Certified Check:
  1. If an escrow deposit or certified check is required, the escrow deposit or certified check shall be made with the City Treasurer in a sum equal to one hundred twenty-five (125) percent of the total costs calculated as provided in Section 05-09-04, as estimated by the City for all the improvements to be furnished and installed by the applicant pursuant to the contract, which have not been completed prior to approval of the plat. An additional cash deposit shall be furnished for costs of City inspections. Such deposit shall be equal to a sum determined by the City Engineer.
  2. The City shall be entitled to reimburse itself out of said deposit or check for any cost and expense incurred by the City for completion of the work in case of default of the applicant under said contract, and for any damages sustained on account of any breach thereof.
  3. Upon completion of the work and termination of any liability, the balance remaining in said deposit or check from Section 05-09-05 (B) above shall be refunded to the applicant.
- C. Irrevocable Letter of Credit:
  1. If the applicant is required to furnish an Irrevocable Letter of Credit, the penal sum shall be payable to the order of the City and delivered to the City in an amount calculated as provided in Section 05-09-04, as estimated by the City Engineer of all the improvements to be furnished and installed by the applicant pursuant to the contract, which have not been completed prior to the approval of the plat. An additional cash deposit shall be furnished for costs of City inspections. Such deposit shall be equal to a sum determined by the City Engineer.
  2. The Irrevocable Letter of Credit shall be approved as to form by the City Attorney and filed with the City Treasurer.

3. The City shall be entitled to reimburse itself out of said letter of credit for any cost and expense incurred by the City for completion of the work in case of default of the applicant under said contract, and for any damages sustained on account of any breach thereof.

**Section 05-09-06. Improvements Completed Prior to Approval or the Final Plat.**

Improvements within a subdivision which have been completed prior to application for approval of the final plat, or execution of the contract for installation of the required improvements, shall be accepted as equivalent improvements in compliance with these requirements only if the City Engineer certifies that the existing improvements conform to applicable standards and if evidence of payment for the work that has been completed is presented in such form as the City reasonably requires.