



## Installation and Maintenance of Improvements

### **1.8.01 Overview**

The installation and maintenance requirements ensure that public services and facilities will be provided in such a manner as to protect the public health and safety and to sustain the existing quality of life.

### **1.8.02 Purpose**

The requirements are intended to provide standards and procedures for the installation and maintenance of improvements where required by these regulations. These requirements are intended to ensure that all improvements will be installed in a timely and efficient manner that protects the public health, safety and welfare, and that, where improvements will be retained in private ownership, they will be maintained permanently in accordance with the requirements of these regulations.

### **1.8.03 When These Regulations Apply**

The improvement requirements shall apply to all development proposals requiring an approval under the provisions of this Chapter. No **RECORD PLAT**, **MINOR PLAT**, or **SITE PLAN** shall be approved unless assurance is provided that required improvements will be installed in accordance with this Part.

- A. General Requirements - All improvements shall be built to the standards and specifications of these regulations, and in accordance with any additional requirements and policies of the applicable City or County Engineer. Required improvements should be installed by and at the expense of the **SUBDIVIDER**, developer/builder, except as specifically provided herein.

- B. **COMPREHENSIVE PLAN** - All required improvements should be consistent with the adopted Comprehensive Plan for Versailles, Midway and Woodford County.
- C. **Professional Engineer Required** - A Kentucky registered professional engineer shall be employed to design and certify the installation of all required improvements to be dedicated to a public body. The engineer shall prepare all plans for such improvements. The applicable City or County Engineer shall approve all plans for such improvements prior to construction.

These requirements shall apply to all street and right-of-way improvements, and wherever improvements required by these regulations will be dedicated to the public.

**1.8.04  
Improvements  
Dedicated to  
the Public**

Except as otherwise provided, no **RECORD PLAT** shall be approved unless a performance guarantee shall be filed in accordance with this Part for the installation of required improvements. The developer shall be responsible to ensure that the improvements have been guaranteed; however, the developer or the contractor may post the guarantee. The performance guarantee shall comply with all statutory requirements and shall be approved by the **PLANNING COMMISSION'S** Legal Counsel as to form and manner of execution. In lieu of such performance guarantee, the applicable City or County Engineer may authorize the developer/builder to install, at their own expense, all required improvements.

**1.8.05  
Performance  
Guarantee is  
Required**

**Acceptable Types of Guarantees** - The performance guarantee shall consist of an equivalent cash deposit, certificate of deposit or irrevocable letter of credit by a Kentucky bank, or a cashier's check or a certified check upon a Kentucky bank.

**1.8.06  
Acceptable  
Guarantees**

- A. **Amount of Guarantee Required** - The amount of the performance guarantee shall be equal to the maximum estimated cost for the installation of the uncompleted portion of the required improvements adjusted for inflation during the maximum effective period of the guarantee based upon a bid or an estimate by the engineer of record and subject to approval by the applicable **ENGINEERING OFFICIAL**; but in no case shall the amount be less than one hundred ten (110%) percent of the current construction costs of such improvements.

**1.8.07  
Effective  
Period of  
Guarantee**

The effective period of the performance guarantee shall not exceed one (1) year from the date of approval of the **RECORD PLAT** or **SITE PLAN**. However, the performance guarantee shall provide that it is automatically renewed for an additional one (1) year period if it has not been released within the first one (1) year period.

**1.8.08  
Extensions and  
Substitutions**

The applicable City or County Engineer may grant one (1) extension for an additional one (1) year effective period of the performance guarantee for good cause shown. However, the applicable City or County Engineer shall review the performance guarantee, and may require renegotiation of the amount of guarantee for the extension period. The **PLANNING COMMISSION** may at any time during the effective period accept a substitution of principal, sureties or other parties, upon recommendation by the Planning Commission's Legal Counsel.

**1.8.09  
Default**

Default - Wherever the required improvements have not been installed according to the terms of the performance guarantee and no extension or substitution has been granted, the Planning Commission may, upon recommendation of the applicable City or County Engineer and thirty (30) days written notice to the parties to the instrument, declare the performance guarantee to be in default and exercise the right's thereunder. Upon default, no building permits or other approvals shall be granted for the development until the **PLANNING COMMISSION** determines that adequate progress has been made toward completion of the remaining improvements.

**1.8.10  
Construction  
and Inspection  
of  
Improvements**

The applicable City or County Engineer shall carry out inspections and tests of all required improvements during construction and following the completion of each stage of construction, in accordance with established policies, to ensure compliance with the approved plat or plan and advise the **PLANNING COMMISSION** whether or not the improvements being constructed appear to qualify for acceptance. If deemed necessary, sidewalk and other paved surfaces shall be cut through or cored to determine compliance with specifications. All required improvements should be installed, inspected and approved prior to acceptance.

Construction Plan Review and Inspection Fees - The developer/builder shall reimburse the applicable City or County Engineering Official for all of the direct and indirect costs associated with the conduct of inspections and tests in connection with the installation and maintenance of public improvements. The amount of reimbursement shall be documented by the applicable Engineering Official and provided to the developer/builder. The total amount shall be due

and payable prior to the issuance of any Certificate of Completion, release of bond or recording of a plat.”

Completion and Acceptance of Improvements To Be Maintained By The Public - Before the applicable City or County Engineer can accept improvements by issuing a Certificate of Completion, the developer/builder must meet certain requirements, as detailed in this Part. At the applicable City or County Engineer’s option, improvements in a development may be accepted in self-supporting stages. The provisions of this Part are intended to place requirements on developer/builders and their Registered Professional Engineers. This Part shall not be construed to place any limitations on the actions of the **PLANNING COMMISSION**. Whenever used herein, “Engineer” shall be read to include the staff of the appropriate Public Works Department, or any other designee of the applicable City or County Engineer.

**1.8.11  
Completion  
and  
Acceptance of  
Improvements**

The applicable City or County Engineer accepts improvements by issuing a Certificate of Completion. This official shall be required to issue a Certificate of Completion only if:

**1.8.12  
Requirements  
for Acceptance  
of  
Improvements  
and Certificate  
of Completion**

A. The developer/builder has:

1. Complied with all requirements listed in the paragraph entitled “As-Built Drawings” in this Part herein below; and
2. Posted a defect security in accordance with the paragraph entitled “Posting of Defect Security” in this Part herein below;
3. Submitted the results of any tests that the applicable City or County Engineer may require; and
4. Submitted a Surveyor’s Letter of Certification to the applicable City or County Engineer; and
5. Submitted itemized cost sheets to the applicable City or County Engineer for all facilities dedicated to the public; and

B. The applicable City or County Engineer has conducted satisfactory final inspections of the improvements to be accepted.

In every instance in which a developer/builder is required to submit plans of development improvements for approval, the developer/builder is also required to arrange for a Kentucky Registered Professional Engineer to do all of the following:

**1.8.13  
As-Built  
Drawings**

- A. Monitor the construction of said improvements; and
- B. Create and maintain a set of on-going, continuously updated as-built drawings of said improvements. The Drawings shall show monuments and/or Certified Corners, described with name, number and State Plane Coordinate Values, and their bearing structure must be based on the State Plane Coordinate System from the information provided by these monuments. Furthermore, all as-built drawings must be created and maintained in accordance with the standards and requirements adopted by the Board of Direction, American Congress on Surveying and Mapping and as may be amended thereafter; and
- C. Ensure that said continuously updated as-built drawings accurately reflect the actual status of constructed improvements; and
- D. Make said continuously updated as-built drawings available for inspection by the applicable City or County Engineer and the **PLANNING DIRECTOR** at all times; and
- E. At the completion of the improvements, submit four (4) completed sets of white print (or better quality) as-built drawings to the applicable City or County Engineer and the **PLANNING DIRECTOR**. All adjustments must be made to the original drawings prior to printing. Each completed set of as-built drawings must include, on its face, a certified statement by the developer/builder's Professional Engineer that the set of as-built drawings accurately depicts the actual improvements as constructed. In addition, a digital copy of the as-built plans shall be submitted to the **PLANNING DIRECTOR**.

**1.8.14  
Sanctions**

If the developer/builder or the developer/builder's Professional Engineer fails to comply with any one or more of the requirements described in this Section, then the applicable City or County Engineer may, but is not required to, choose any one or more of the following as sanctions:

- A. Refuse to allow building permits to be issued for any or all of the development; or
- B. Refuse to issue Certificates of Occupancy for any or all of the development; or
- C. Refuse to issue a Certificate of Completion for the improvements, thereby refusing to accept the improvements.

Prior to acceptance of the required improvements by the applicable City or County Engineer through the issuance of a Certificate of Completion, the developer/builder shall post a Defect Security for the repair or correction of material defects or failures of the improvements for a "Maintenance Period" of two (2) years following their acceptance. The Defect Security shall be in an amount equal to fifteen (15%) percent of the actual construction cost of all the improvements, and shall consist of a maintenance bond, equivalent cash deposit with the applicable City or County Engineer, certificate of deposit, irrevocable letter of credit by a Kentucky bank, a cashier's check or a certified check drawn upon a Kentucky bank. The applicable City or County Engineer shall create, maintain, and provide approved forms for each type of Defect Security described immediately above. The developer/builder must use said approved Defect Security forms, and may not modify said approved forms in any way. Any change or modification to such forms shall be disregarded and shall be unlawful. Upon default, the applicable City or County Engineer, **PLANNING COMMISSION** or other applicable public body may exercise its rights under the Defect Security upon ten (10) days written notice by certified mail, return receipt requested, to the parties to the instrument.

**1.8.15  
Posting of  
Defect Security**

During the two (2) year "Maintenance Period" when the Defect Security is in effect, (after the acceptance of improvements), the developer/builder must provide all required maintenance or repair of the accepted improvements, including, but not limited to, the repair and replacement of any system component, failed section of paving or like item, and the control of erosion, replacement of sod, or removal of soil washed onto pavement or into the drainage system.

**1.8.16  
Maintenance  
Period**

Within sixty (60) to ninety (90) days before the expiration of the Defect Security and corresponding Maintenance Period, the developer/builder is required, in writing, to notify the applicable City or County Engineer of the impending expiration and to request that the official perform a final inspection of the accepted improvements. The official shall then conduct such final inspection within thirty (30) to sixty (60) days before the expiration. If the official determines during the final inspection that the improvements are in satisfactory condition and repair, then the Defect Security shall be permitted to expire, and the developer/builder shall be released from further obligations under this Section, but the developer/builder is not necessarily released from any other liability which may exist at law. If the official determines during the final inspection that the improvements are not in satisfactory condition or repair, then the official may require the developer/builder to correct the design deficiency, maintenance problem, etc. Failure of the developer/builder to correct said deficiency shall automatically result in a default in the Defect Security and in continued civil liability against the developer/builder for any deficiency in the accepted improvements which may have occurred or become apparent

**1.8.17  
Release of  
Defect Security**

during the two (2) year Maintenance Period or during a final inspection by the official, even if such deficiency is not discovered until after the expiration of the Defect Security and corresponding Maintenance Period. Similarly, the developer/builder's failure to notify the official of the Defect Security expiration date and to request a final inspection shall also result in automatic default of the Defect Security and continued civil liability for deficiencies discovered after expiration of the Defect Security and corresponding Maintenance Period.

**1.8.18  
Reduction or  
Release of  
Guarantee**

Upon issuance of the Certificate of Completion for an approved development or construction stage of a development, the Performance Guarantee for the improvements shall be reduced by the amount of the original cost estimate for the improvements covered by the Certificate. Where the Certificate covers all remaining required improvements, the Performance Guarantee shall be fully released.

**1.8.19  
Alternative  
Procedure –  
Installation  
Before  
Recording of  
Final  
Subdivision  
Plat**

In lieu of the filing of a Performance Guarantee in accordance with guidelines above, the applicable City or County Engineer may authorize the developer/builder to proceed with installation of required improvements prior to recording of the **FINAL SUBDIVISION PLAT** in accordance with the following procedure:

- A. Review of the Plat - The subdivision plat application shall be reviewed in accordance with the procedures set forth in this Chapter for Major or Minor Subdivisions, except as follows:
  1. Conditional Final Plat Approval - Wherever the developer/builder is authorized to install improvements prior to recording of **RECORD PLAT**, Planning Commission approval of the Plat shall be conditioned upon the full completion of the improvements within one (1) year and in full conformance with the approved Construction Drawings.
  2. Retention of Plat **BY THE APPLICABLE ENGINEERING OFFICIAL** - The approved **RECORD PLAT** shall not be recorded, but shall instead be retained by the **PLANNING DIRECTOR** until a Certificate of Completion is issued for the improvements in accordance with the requirements specified above.
  3. Compliance With Other Requirements - During installation of the required improvements, the developer/builder shall be subject to all requirements of this Part pertaining to the construction, inspection, completion and acceptance of such improvements.

No building permits shall be issued for any building site within the proposed development until the improvements have been accepted by the applicable City or County Engineer and the Plat has been recorded.

**1.8.20  
Building  
Permits  
Prohibited**

Upon issuance of a Certificate of Completion for all required improvements by the applicable City or County Engineer, the appropriate legislative body shall accept responsibility for the maintenance of the improvements, subject to the provisions of the posted Defect Security.

During construction the developer/builder may, by filing of a performance guarantee for all the remaining improvements not yet accepted by the applicable City or County Engineer in accordance with these regulations, have a prior conditional Record Plat recorded.

These requirements shall apply wherever improvements required by these regulations will be retained in private or common ownership, and will not be dedicated to a public body.

**1.8.21  
Improvements  
Retained in  
Private  
Ownership**

A. Construction and Inspection of Improvements

Prior to the approval of any Certificate of Occupancy for a development or approved construction stage, the developer/builder shall install at their sole expense all improvements required by this Chapter, in accordance with the **CONSTRUCTION DRAWINGS** approved under this Part.

Inspections - The applicable City or County Engineer shall carry out inspections of all improvements during construction in accordance with the Site Inspection requirements of these regulations, and shall carry out tests of all private street improvements.

B. Certificate of Completion

The engineer, architect, or landscape architect of record shall submit a certification that the required improvements have been installed and completed in accordance with the **CONSTRUCTION DRAWINGS** approved for the development.

### C. Performance Guarantee for Certain Improvements

When the applicable **ENGINEERING OFFICIAL** determines that the installation of the following improvements may be delayed without substantial detriment to the public health, safety, or welfare or where necessary to coordinate such improvements with public expenditures or development on adjacent property, the developer/builder may be permitted to provide a performance guarantee and an agreement to install such improvements at a later specified date. Such improvements shall be limited to:

1. Improvements within public rights-of-way
2. Installation of sidewalks and bikeways.
3. Improvements to major drainage ways.

Same Procedure As Dedicated Improvements - The performance guarantee and agreement shall be provided prior to the issuance of any Certificate of Occupancy, and except for the effective period shall be subject to all performance guarantee requirements. During installation, the developer/builder shall be subject to all of the requirements of these regulations pertaining to the construction, inspection and completion of such improvements.

**1.8.22  
Maintenance  
of Common  
Improvements  
and Open  
Space**

These regulations are established to assure that adequate ownership and management measures will be provided in residential and other developments to protect and perpetually maintain common open space and common improvements, in order to ensure their continued availability and utility for the residents or occupants of the development and to prevent such facilities from becoming an unnecessary burden or nuisance to the general public or surrounding property. However, nothing in these regulations shall be construed as creating any obligation or liability upon the public to maintain such facilities or otherwise ensure their availability and condition. These regulations shall apply to all common open space and all common improvements that are required or provided pursuant to these regulations, the adopted **COMPREHENSIVE PLAN**, or other applicable laws and regulations. However, these requirements shall not apply to the following:

- A. Dedicated Lands and Improvements - Any lands or improvements to be dedicated or conveyed to the public, for designated or general public use.
- B. Private Lands and Improvements - Any lands or improvements to be owned and maintained by a landlord for the benefit of lessees residing

on or occupying leaseholds on the lot or parcel where such lands and improvements are situated or on other lots or parcels owned by the landlord, as for typical multi-family or shopping center development.

- C. Condominiums and Cooperatives - Any lands or improvements to be owned and maintained under a condominium or cooperative, which shall be established and regulated in accordance with Kentucky law.

Prior to approval of the **SITE PLAN** or **RECORD PLAT**, the developer/builder shall provide documents to establish a means of common ownership and management of all common open space and common improvements. Such documents shall establish an organization or entity to own and manage the open space and/or improvements, describe its membership and responsibilities, and shall include a maintenance and fiscal program for the improvements. In no event shall a Certificate of Completion be issued for a development involving common open space and/or improvements until the entity of common ownership and management has been incorporated.

**1.8.23  
Establishing a  
Means of  
Common  
Ownership and  
Management**

Prior to approval of any **SITE PLAN** or **RECORD PLAT**, the developer/builder shall provide and record documents to establish a funding mechanism for the maintenance of the common improvements and/or open space. The documents shall provide a method for the organization or entity to assess the property owners having beneficial use of the improvements and open space for the cost of their maintenance. The method of assessment shall provide the legal right for the organization or entity to impose liens against those properties for which payment of any assessment is not made. Collection of assessments and enforcing the payment thereof shall be the responsibility of the organization or entity and shall not be the responsibility of the public. The assessments imposed by the organization or entity shall not relieve property owners from any taxes, fees, charges or assessments imposed by the **PLANNING COMMISSION**, Property Valuation Administrator or any other governmental agency.

**1.8.24  
Funding  
Mechanism  
Required**

Notice to Buyers - The documents shall also provide for notice to purchasers and prospective purchasers or properties that the organization or entity shall have the authority to make assessments and impose liens as provided in these regulations.

**1.8.25  
Failure to  
Maintain  
Common  
Improvements  
and Open  
Space**

Failure to maintain common improvements and/or common open space in accordance with these regulations, established standards and the developers agreements, binding elements and other documents establishing the improvements and/or open space shall be considered a violation subject to enforcement in accordance with provisions of these regulations. In such cases, citations of violation shall be issued both to the organization or entity, and to all property owners, occupants and lessees having beneficial use of or legal interest in the improvements and/or open space. The public shall not be required or obligated in any way to construct or maintain, or participate in any way in the construction or maintenance of the common improvements and/or open space.

VERSAILLES, MIDWAY AND WOODFORD COUNTY  
NEW URBAN SUBDIVISION AND SITE PLAN  
REGULATIONS