

CHAPTER 1113

Scheduling and Assurances for Completion and Maintenance of Improvements

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1113.01 APPLICABILITY

The developer of a subdivision, a multi-family development, or a non-residential development shall dedicate all land required for rights-of-way, and shall furnish and install all required improvements serving the subdivision or development. All improvements shall be extended to the boundary of the subdivision or development in order to provide a complete and coordinated system of streets and utilities in accordance with the Comprehensive Plan, water and sewer plans and any other applicable plans or policies of the City of Wooster.

(Ord. 2006-49. Passed 5-21-07.)

1113.02 SCHEDULING OF IMPROVEMENTS.

The improvements that are required in the applicable chapters in Title Five of this Planning and Zoning Code shall be provided and installed by the developer in accordance with the provisions of these regulations, this Planning and Zoning Code, and other codes and ordinances of the City. Agreements to install such improvements shall be approved concurrent with the Planning Commission's approval of the final plat or the approval of a development plan. (Ord. 2006-49. Passed 5-21-07.)

1113.03 REVIEW BY ENGINEER.

The design of the water system, storm and sanitary sewerage systems, and roadways, and the grading of the subdivision or development and each lot shall be in accordance with the standards and requirements of Title Five. Drawings and specifications for the improvements shall be reviewed and approved by the City Engineer and the installation shall be subject to the Engineer's continuous inspection.

At the completion of construction, and before acceptance of the public improvements, the developer shall furnish the City a set of record or "as-built" reproducible drawings as well as a digital copy that is compatible with the City Engineer's CAD software showing the locations of all public improvements including the sizes and elevations of all underground utilities. (Ord. 2006-49. Passed 5-21-07.)

1113.04 IMPROVEMENTS REQUIRED.

The improvements required are determined according to the accessibility of a sewer system and a public water supply, the relationship to existing or planned streets, and the type and size of lots required by the Planning and Zoning Code for the district in which the subdivision or development is located. For improvements within a subdivision, multi-family development, or non-residential development:

- (a) Land for rights-of-way for all local streets within the subdivision or development and for all secondary or major streets within or along the boundary of the subdivision or development shall be dedicated by the developer and all easements shall be provided. See Chapter 1181, Vehicular and Pedestrian Circulation.
- (b) Utilities shall be furnished and installed as hereinafter required and they shall be of such sizes and capacities as are required for the proposed development or subdivision. See Chapter 1183, Utility Regulations. (Ord. 2006-49. Passed 5-21-07.)

1113.05 PERFORMANCE GUARANTEE.

- (a) Guarantees. The developer shall execute financial guarantees and shall file such financial guarantees with the City prior to approval of a development plan or certification of a final plat, if the applicant does not propose to construct the required public improvements or private street prior to receiving certification of the final plat or approval of the development plan. Such guarantees may be in the form of an irrevocable letter of credit or a certified check.
- (b) Terms. The terms of such guarantees shall be determined by the Law Director with confirmation by the City Engineer.
- (c) Amount of Guarantee. The financial guarantees shall be in an amount equal to the estimated total costs of materials and labor required to install or construct the improvements. The City Engineer shall determine such costs. When any portion of the improvements has, upon inspection, been found satisfactorily completed, a reduction in the bonds or partial withdrawal of funds equal to the estimated costs of such completed improvements may be authorized.
- (d) Agreements.
 - (1) Where the subdivider chooses to post a performance guarantee in lieu of completion of those physical improvements shown on the approved engineering plan and/or final plat in order to allow recordation prior to completion and acceptance of all required public improvements, he or she shall enter into a subdivision agreement, approved as to content and form by the City's Law Department, with the City prior to approval of the final plat by the Planning Commission. The City shall provide to the subdivider a sample subdivision agreement during review of the final plat.
 - (2) When an applicant for a development plan is required by Title Five to construct the improvements shown on an approved development plan, the applicant shall enter into an agreement, approved as to

content and form by the City's Law Department, with the City prior to approval of the development plan.
(Ord. 2006-49. Passed 5-21-07.)

1113.06 STREET, UTILITY AND IMPROVEMENTS MAINTENANCE.

The developer shall guarantee the construction and materials of the street and utility improvements for a two-year period after acceptance by the City. In order to secure the guarantee, the developer shall deposit an amount equal to 50% of the total cost of the construction of the street and utility improvements as determined by the City Engineer. The deposit shall be in the form of a bond, with the developer as principal and with a surety company authorized to do business in the State of Ohio; a certified check; or an irrevocable letter of credit. The deposit shall be in a form acceptable to the Law Director. (Ord. 2006-49. Passed 5-21-07.)

1113.07 INSURANCE.

The developer shall agree to indemnify and hold harmless the City against and from any and all loss, cost, damage, liability, and expense on account of damage to property of, or injury to or death of, the parties or a third person caused by or in any way whatsoever attributable to the construction of the improvements and the use of streets delineated on a subdivision plat/plan or a development plan during construction. The developer shall further agree, but without limiting its liability to indemnify the City, to carry liability insurance contracts in an amount determined by the City for injury to or death of persons, and for damage to or destruction of property, which insurance contracts shall include the City as a named insured. The developer shall further agree to maintain on file with the City during the period of such construction, certificates or memoranda of insurance evidencing that such insurance contracts are in force.
(Ord. 2006-49. Passed 5-21-07.)

1113.08 FAILURE TO COMPLETE IMPROVEMENTS.

In the event the developer fails to diligently pursue the work or complete the installation of all land improvements according to the terms and conditions of the agreement, the City, after giving notice which it deems reasonable under the particular circumstances, may complete the same and appropriate such portion of money or bonds posted for the faithful performance of such work. (Ord. 2006-49. Passed 5-21-07.)

1113.09 CONSTRUCTION.

- (a) The utilities and other improvements required and deemed necessary in the public interest to provide essential services and access to a lot shall have been installed, in conformity with the provisions of this Planning and Zoning Code, before the issuance of a building permit for construction upon a lot.
- (b) No owner or agent of the owner of any land shall be entitled to a permit for the installation of wells and septic tanks upon any lots in a subdivision for which a plat has not been approved, certified, and recorded in the manner prescribed in Chapter 1109, Subdivision Procedures.
(Ord. 2006-49. Passed 5-21-07.)

1113.10 TRANSFER OF LAND BEFORE RECORDING.

No owner or agent of the owner of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, exhibition of or by the use of a plan or plat of a subdivision before such plat has been approved, certified, and recorded in the manner prescribed in this Planning and Zoning Code. Any sale or transfer contrary to the provisions of this section is void.

The description of such lot, parcel or tract by metes and bounds in the deed of transfer shall not serve to exempt the seller from the penalty provided in Chapter 1117, Enforcement and Penalties. The City may enjoin such sale or agreement by a civil action in any court of competent jurisdiction. (Ord. 2006-49. Passed 5-21-07.)