



## 12.2700 ~~BONDS AND OTHER~~ SUBDIVISION PERFORMANCE GUARANTEES

### 12.2700.2701 COMPLETION ASSURANCE

Subdivider shall guarantee improvements in accordance with the following:

A. Completion of improvements before recordation. If subdivider desires to construct improvements as shown on approved construction drawings prior to recordation:

1. Recordation of the final plat shall not occur until the improvements required in connection with the subdivision have been completed and conditionally accepted. Said final plat shall be submitted to the City and held until the 12-month warranty period commences and then submitted for City Council approval.

2. Subdivider shall provide guarantee of conditionally accepted improvements in a form acceptable to the City as shown in 12.2700.2702 of this code in the following amount:

a. Ten (10) percent of the total cost of all the required improvements shall be retained by the City during the 12-month warranty period.

B. Recordation before completion of improvements. If the subdivider desires to have a plat recorded prior to construction of improvements, subdivider shall guarantee completion of installation and construction of the required improvements in compliance with all City standards within two years from the date of final plat approval by the City Council. The subdivider and/or developer shall deposit security with the City to guarantee proper installation of all required improvements in accordance with the plans, specifications, time limitations, and conditions relating thereto as meets with the approval of the City Council or such personnel as the City Council shall designate. The amount of the completion assurance shall be 125% of the Engineer's estimated costs of the improvements.

#### **Warranty of completed improvements.**

Upon completion of construction and installation of all required improvements, subdivider shall warrant that said improvements shall be and shall remain free from defects in material and workmanship for a period of 12 months after the date of preliminary acceptance by City.

The subdivider shall be responsible to make all repairs to and maintain the improvements and every part thereof in good working condition during the guarantee period without cost to the City.

~~The completion assurance shall be in one or more of the following forms: of cash, an irrevocable letter of credit, or an escrow bond.~~

### 12.2700.2702 TYPES OF COMPLETION ASSURANCE

Completion Assurance shall be executed by financial institutions acceptable to the City, and must be in the form approved by the City. In order to guarantee completion of improvements, subdivider shall provide one of the following types of completion assurances:

1. Escrow. The subdivider shall deposit with any insurance company, bank, or savings and loan institution in an escrow account an amount of money equal to 125 percent of the estimated costs of the improvements not constructed or installed by the subdivider, as determined by an Engineer's Estimate. The escrow agreement shall be subject to approval by the City Attorney and shall be signed by the subdivider, the City,

and the escrow holder.

2.Irrevocable letter of credit. The subdivider shall file with the City an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution, which letter shall contain provisions substantially like that required in the escrow agreement.

3.Other guarantee. Such other financial guarantee that may be acceptable to the City Council.

~~The completion assurance as required by this section must be posted prior to recording. As improvements are completed, inspected, approved and accepted the completion assurance may be reduced proportionately as stated:~~

## 12.2700.2703 RELEASE OF COMPLETION ASSURANCE

As improvements are completed, inspected, approved, and accepted, the completion assurance may be reduced proportionately as stated:

<b>Improvement Completed</b>	<b>Reduction of Assurance</b>
Underground infrastructure	25%
Road base to final grade	25%
Final inspection for release	40%
<u>End of one (1) year warranty</u>	<u>10%</u>

Escrow: As the required improvements are satisfactorily installed and have been inspected by the City, funds which have been placed in escrow for those improvements will be authorized to be released for payment. Escrow holder is authorized to release funds from this account only after receiving a written release from City. The City is not responsible to determine the party to be paid.

## 12.2700.2703 SUBDIVISION WARRANTY

After all required improvements have been installed, the subdivider shall notify the City and request that the subdivision be granted preliminary acceptance and begin the warranty period. The subdivision will then be inspected by City, and if all improvements have been completed in accordance with City ordinances and specifications, as built plans have been delivered to the Public Works Department, and a final grading plan has been submitted, the City will grant preliminary acceptance. The subdivision will then begin the 12-month warranty period. Ten (10) percent of the total cost of all the required improvements, as specified above, shall be retained by the City during this warranty period.

The purpose of retaining the ten (10) percent warranty amount is to guarantee that the improvements have been installed correctly and that they function properly. If any improvements have not been installed correctly or fail to function properly, and the subdivider fails to correct the deficiencies within 30 days of notification thereof, then upon written notice by the City, escrow shall pay over to the City the amount necessary to complete, repair, or replace said improvements.

In the event the costs of completing, repairing, or replacing the unsatisfactory improvements exceed the amount of remaining completion assurance, the subdivider shall, within ten days of notice thereof, pay the excess amount to the City and shall also cause to restore the escrow account or irrevocable letter of credit to the prescribed ten (10)

percent warranty amount. The City shall not issue any building permits for the subdivision until the above referenced excess costs have been paid to the City and the warranty amount (ten percent of the total cost of improvements) has been restored.

Upon completion, inspection, approval, and acceptance of all the required improvements, the completion assurance, less ten percent (10%), shall be released to the subdivider/developer. Ten percent (10%) of the Engineer's costs of improvement shall be held from the completion assurance for a period of one (1) year following final inspection and acceptance to warrant improvements for this time period.

## 12.2700.2704 ENFORCEMENT AND PERMITS

A. In order to enforce compliance with this chapter, the Building Official shall not issue any permit for the proposed erection, construction, reconstruction, alteration of any structure, or use of any land until the provisions of this chapter have been met. No City officer or employee shall issue any permit or license for the construction or installation of any building or structure or use on any subdivision lot until the following conditions have been met:

1. Such subdivision plat shall have been approved and recorded in the office of the county recorder.
2. Infrastructure improvements shown on approved construction plans for the subdivision:
  - a. Have been constructed and installed and preliminarily accepted; or
  - b. The City has received and accepted an improvement completion assurance for the subdivision in accordance with this chapter, and the following improvements have been constructed, installed, tested, and accepted in accordance with the requirements of the building or fire code:
    - (1) A road base of untreated, compacted, and graded gravel;
    - (2) Sewer, storm drains and storm drain facilities;
    - (3) Curb and gutter unless otherwise not required by this Code;
    - (4) Water system, including water lines and hydrants; and
    - (5) Power lines.

B. All required improvements must be complete within 12 months of notice to proceed.

C. The City may call upon the improvement completion assurance filed with the City for all improvements not completed within 12 months of the notice to proceed or when the first building within the subdivision seeks an occupancy permit, whichever is sooner.

D. It shall be prohibited for anyone to start construction on any building within a subdivision until they have fulfilled the requirements of this chapter.

E. Any license or permit issued in conflict with this chapter shall be null and void.

F. Notwithstanding the provisions of subsection A above, a building permit may be issued for:

1. A single model home in a subdivision, provided that a certificate of occupancy shall not be granted and the model home may not be used or occupied for any reason until the subdivision plat has been approved and recorded.
2. A model home complex within a master planned community with a planned development overlay upon approval by the City Council of an amendment to the development agreement stating the terms and conditions for issuance of the building permit.

## 12.2700.2705 PENALTY; VALIDITY

A. Penalty. Any subdivider or other person who shall violate or fail to comply with any of the provisions for this chapter shall be guilty of a class B misdemeanor, and punished as provided by law upon conviction.

B. Validity. If any section, subsection, sentence, clause, or phrase of this chapter is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portion of this chapter.