

**ARTICLE**

**6**

**ACCEPTANCE,  
INSPECTION &  
MAINTENANCE  
OF  
IMPROVEMENTS**

**A. COMPLETION OF IMPROVEMENTS**

Before a Final Plat is signed by the secretary of the Planning Commission or a surety instrument is released, as specified in these regulations, all applicants will complete, in accordance with these regulations and the adopted standards, the grading and improvement of all roads and streets, the installation of all survey monuments, utilities, water mains and surface and ground water drainage channels and any other improvements, including lot improvements on the individual lots. All improvements that are to be dedicated and or maintained by the City will be dedicated free and clear of all liens and encumbrances to the City of Fayetteville.

1. Temporary Improvements - The applicant will build and pay for all costs of temporary improvements required by the Planning Commission, and will maintain them to a reasonable satisfaction for the period specified by the Planning Commission. Prior to construction of any temporary facility or improvement, the applicant will file with the Planning Commission a separate suitable surety instrument for temporary facilities, which will ensure that the temporary facilities will be properly constructed, maintained, and removed.
2. Costs of Improvements - All required improvements will be made by the applicant at his expense. Any provisions for reimbursement by the governing body or any utility agency will be stipulated clearly in the provisions of any surety instruments, and will be supported by certified resolution or ordinance of such governing body or agency.
3. Failure to Complete Improvements - In all subdivisions in required improvements have not been installed within the period specified by the Planning Commission in the resolution approving the plat, the Planning Commission thereupon may declare the surety instrument to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the surety instrument is declared to be in default.

**B. EXTENSION AND ENFORCEMENT OF SURETY INSTRUMENT**

Extension of Surety Instrument - The Planning Commission may, upon proof of difficulty, extend the completion date set forth in such surety instrument for a maximum period of 1 additional year. The Planning Commission may accept at any time during the period of such surety instrument a substitution of principal.

Enforcement of Surety Instruments - Failure of the subdivider/developer to comply with any or all parts of these regulations are grounds to issue a stop work order by the Mayor or proper authority and enforcement of the surety instrument by the Fayetteville Regional Planning Commission.

**C. REDUCTION OF SURETY INSTRUMENT**

Upon completion of the major improvements, and upon final inspection and acceptance by the public works supervisor, the subdivider/developer may reduce the amount of the surety instrument or he may substitute a new surety instrument to secure the obligation with respect to incomplete or unacceptable improvements. The residual improvements will normally be

limited to such items as erosion control, revegetation, landscaping, and planting, and to those improvements such as driveway aprons, which are deferred pending completion of building construction in those instances where the subdivider/developer is also the builder.

1. The Planning Commission will not recommend dedication of required public improvements nor will the Planning Commission release nor reduce a surety instrument until the appropriate governmental representative submits a certificate stating that all required improvements have been satisfactorily completed, and until the applicant's engineer or surveyor has certified to the Planning Commission and the appropriate governmental representative (through submission of a detailed "as built" survey of the subdivision indicating location, dimensions, construction materials, and any other information required by the Planning Commission) that the layout and the line and grade of all public improvements are in accordance with the approved construction plans for the subdivision. Upon such approval and recommendation, the governing body, thereafter, may accept the dedicated improvements in accordance with the procedures set forth in other sections of these regulations.
2. A surety instrument may be reduced upon actual dedication and acceptance of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event will a surety instrument be reduced below 15 percent of the principal amount prior to final acceptance of all items covered under the surety instrument.

#### **D. ACCEPTANCE OF IMPROVEMENTS**

Acceptance of formal offers of dedication of roads or streets, easements, and parks will be by formal action by the FAYETTEVILLE Mayor and Board of Alderman. Such action will be in the form of a resolution recommended by the Planning Commission to the governing body. The approval by the Planning Commission of a subdivision plat will not be deemed to constitute or imply an acceptance by the City of any public way, easement, water line or other ground shown on the plat. The Planning Commission may require the plat to be endorsed with appropriate notes to this effect. The initiation of the maintenance of an improvement by a public entity will constitute the acceptance of that improvement.

#### **E. DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS**

1. The Planning Commission may defer or waive, at the time of final plat approval, subject to appropriate conditions, the provision of any or all such improvements that, in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
2. Whenever it is deemed necessary by the Planning Commission to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or other reasons, the subdivider/developer will either pay his share of the costs of the future improvements to the Planning Commission prior to the signing of the Final Plat by the appropriate governmental representative(s) or post a performance bond or other surety instrument ensuring completion of said improvements upon demand by the Planning Commission.

**F. INSPECTION OF IMPROVEMENTS**

The Planning Commission may provide for inspection of required improvements during construction and prior to final plat approval or release of the surety instrument to ensure the satisfactory completion of the subdivision. If the appropriate governmental representative finds, upon inspection, that any of the required improvements have not been constructed in accordance with these regulations and the governing body's construction standards and specifications, the applicant will be responsible for rectifying the problem and completing the improvements to the required standards. Whenever the cost of improvements is covered by a surety instrument, the applicant and the bonding company will be liable severally and jointly for completing said improvements according to specifications.

**G. MAINTENANCE OF IMPROVEMENTS**

The applicant will be required to maintain all improvements, including all lot improvements, until acceptance of the public improvements by the governmental body. Also, the applicant may be required to file a maintenance surety instrument with the Planning Commission prior to dedication, in an amount considered adequate by the appropriate governmental representative and in a form satisfactory to legal counsel in order to assure the satisfactory condition of the required improvements, including all lot improvements, for a period of one year after the date of acceptance of the public improvements by the Planning Commission.

**H. ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

- a. Where a surety instrument has been required for a subdivision, or any section of a subdivision, no certificate of occupancy for any building in the subdivision or section thereof will be issued prior to the approval of construction plans and completion and dedication of the improvements to the appropriate governmental unit, as required in the Planning Commission's resolution of final approval of the subdivision plat. The extent of public way improvements will be adequate for vehicular access by the prospective occupant and by police and fire equipment prior to the issuance of an occupancy certificate. The subdivider/developer will at the time of the dedication submit moneys in escrow to the Planning Commission in a sum to be determined by the appropriate governmental representative.
- b. All driveway culverts will be installed by the builder according to the design criteria and approved by the Department of Public Works before the building inspector issues a certificate of occupancy.