

**ARTICLE VII
OBLIGATIONS OF DEVELOPER AND CITY**

Section 7.01 Required Improvements

The Owner/Developer who desires to develop any land subject to this Ordinance shall provide and pay the entire cost of improvements to such land as follows:

- A. Streets and parking areas, graded full width and paved, including drainage structures, bridges, sidewalks, curbing and other improvements as shown on the City Standard Plans and Specifications;
- B. Sanitary sewers, including manholes, services and all appurtenances;
- C. Water distribution system including mains, services, valves, fire hydrants and all appurtenances;
- D. Storm sewers, including manholes, inlets and all the appurtenances;
- E. Monuments, stakes and property pins, as capped by a Professional Engineer;
- F. Street signs designating the name of each street at each intersection within the development and all related traffic control signs and devices. Such signs and devices shall conform to the standards of the Ohio Manual of Uniform of Traffic Control Devices (OMUTCD) and as established by the City;
- G. Street lighting including poles, underground conduits and appurtenances;
- H. Utilities, including electric, telephone and cable television services;
- I. All other improvements shown on the plans as approved by the City.

Section 7.02 Obligations of Owner/Developer

The Owner/Developer of the land being developed shall be subject to the following obligations:

- A. The Owner/Developer shall execute a development agreement with the City, specifying the terms and conditions required under this Section of this Ordinance. Such development agreement shall be subject to approval by the City Engineer and Law Director.
- B. All construction work and materials used in connection with improvements shall conform to the requirements of the City and be installed under the general supervision of the City Engineer. The Owner/Developer shall be responsible for the payment of all fees incurred by the City pertaining to inspection of the improvements
- C. The Owner/Developer, or his agent, shall give three (3) working days notice to the City Engineer for any inspection to be conducted. The Owner/Developer shall also insure that no work shall be covered or obscured prior to inspection by the City Engineer or his/her agent.
- D. The Owner/Developer shall hold the City free and harmless from any and all claims for damage of every nature arising or growing out of the construction of improvements or resulting from improvements and shall defend, at his own cost and expense, any suit or action brought against the City by reason thereof, except such liability of the City resulting from its sole negligence;
- E. All improvements and utilities will be satisfactorily installed within twenty-four (24) months from the date of approval of the final plat, or within such

time schedule as presented and approved by the Planning and Zoning Commission. The Planning and Zoning Commission shall have the authority to require the delayed construction of specific improvements as deemed appropriate. A separate time frame for sidewalk construction on undeveloped lots may be permitted by the Planning and zoning Commission, pursuant to Section 8.06G of these regulations.

- F. The Owner/Developer shall provide an acceptable performance assurance equal to one-hundred percent (100%) of the estimated cost of all required improvements, as approved by the City Engineer, and shall deposit same with the City. Except as otherwise provided herein, such performance assurances shall remain in effect for the entire period of time required for completion of the improvements. In addition, such performance assurances shall be subject to review and approval by the City Auditor and Law Director, and shall consist of one of the following:
1. A performance or construction bond equal to the estimated construction cost as approved by the City Engineer for the public improvements, or
 2. A certified check equal to one hundred percent (100%) of the estimated construction cost as approved by the City Engineer for the public improvement; or
 3. A certification to the City by the institution, person or corporation financing the construction of the public improvements. Such certification shall consist of a subdivision bond, irrevocable letter of credit, or escrow account in favor of the City, stipulating that the funds in the amount of the estimated construction cost are available and set aside from all other funds;
 - a) That these funds will not be released to the owner, developer, or their agent until all public improvements are accepted and said release of funds is signed by the City;
 - b) That such release by the City only certifies that as best as the City can determine, the construction was completed to the City's satisfaction and does not relieve the Owner/Developer and/or owner of the City's maintenance guarantee requirement;
- G. All permits and approvals shall be obtained, development agreement(s) signed, all fees and deposits paid, and plat recorded prior to beginning any final grading or construction/installation of any improvements;
- H. Prior to acceptance of any public improvement, the Owner/Developer shall remove or cause to be removed such dirt and debris and foreign matter from all public rights of way, improvements and/or easements as were deposited, left or resulted from the construction of improvements of any nature within the development. Such removal shall take place within twenty-four (24) hours after being notified by the City that such work is required, and shall be completed to the satisfaction of the City Engineer.
- I. All public improvements shall be guaranteed by the Owner/ Developer for a period of one year from the effective date of the legislative acceptance of such improvement by City Council. Such guarantee shall consist of a maintenance bond, certified check or other acceptable instrument, for ten percent (10%) of the total cost of the improvements. Such guarantee shall include any and all defects and deficiencies in workmanship and materials. The cost of all labor, materials, equipment and other incidentals required to maintain, repair and replace any or all of such improvements and to maintain them in good and

proper condition, excluding ordinary wear and tear, but including filling trenches and restoring lawns, sidewalks, yards, streets, sewers, pipe lines, etc., during the one year guarantee period shall be assumed by such Owner/Developer. In the event the Owner fails to make such maintenance, repairs or replacements within a reasonable time after notice in writing by the City, or in the event of an emergency which may endanger life or property, the City may make or cause to be made, such repairs or replacements from the above guarantee.

J. The Owner/Developer shall furnish to the City copies of final plats and as-built drawings, pursuant to Section 4.15 of this Ordinance. Printed copies of such drawings shall be provided, in addition to the same drawings in such AutoCADD format as requested by the City.

K. No person or owner shall violate any of the regulations established in this Section and upon violation the City shall have the right to:

1. Stop all work on the development site forthwith;
2. Hold the parties responsible for issuance of the performance assurances responsible for the completion of the public improvement according to the approved construction drawings and the agreement.

Section 7.03 Costs to be Shared by the City

In consideration for the agreement by the Owner/Developer of the land being developed to install utilities and/or streets to sizes and configurations in excess of the needs of the land being developed, the City shall share in the cost of the excess size and configuration of the utilities and/or streets as stipulated herein:

A. A utility or street shall be considered excessive to needs of the land being developed when:

1. The City specifically requires a greater width, size or configuration of street for the purpose of meeting the future needs of the City as provided for in approved systems studies;
2. There is additional pavement width and depth and/or additional length of storm sewers and other improvements required for all thoroughfares;
3. The City requests that a water line be more than eight (8) inches in diameter, when such size is not required to meet the needs of the land being developed;
4. A sanitary sewer line is more than ten (10) inches in diameter, unless this size is required for the land being developed by reason of grade or trench loading requirements of the land being developed, or because of anticipated sewerage flows from the land being developed;
5. Other conditions warrant cost sharing and such conditions are approved by Council.

B. The City shall share in the cost of improvements by:

1. Paying for all the material costs only for the size difference of the waterline, sanitary sewer pipe and the appurtenances thereto between what is required for the land being developed and what is excessive to the needs of the land being developed;
2. Paying for all materials F.O.B. the plant, factory, supply depot or warehouse

for such other improvements that are excessive to the land being developed;

- C. Nothing in this section shall be interpreted, read or construed to obligate the City for expenses incurred by the owner, developer, contractor, subcontractor or other persons because of:
 - 1. Equipment or labor cost due to the oversizing or increased depth of waterlines or sewers;
 - 2. Equipment, labor or material cost due to improperly and/or unacceptable installed improvements including the removal and replacement thereof; or
 - 3. Any improvements installed prior to the approval of the cost sharing by the City.

- D. Upon approval by Planning and Zoning Commission of the preliminary plat for the land being developed, the following procedure shall be followed:
 - 1. The City Engineer shall identify all improvements eligible for cost sharing, and shall estimate the cost of the City's portion of such improvements;
 - 2. If applicable, an ordinance shall be submitted to Council for approval, appropriating funds to cover the City's portion;
 - 3. Upon completion and acceptance of the work and quantities thereof by the City Engineer, the costs shall be certified to the chief fiscal officer of the City.

- E. Failure of the Owner/Developer of the land to provide the City Engineer with copies of billings, invoices, contracts, agreements or such other evidence of construction costs as the City Engineer deems necessary within six (6) months of completion and acceptance of the improvements by the City, shall constitute just cause to declare the City's agreement to cost share as provided herein null and void and no reimbursement shall be made or monies paid without reapproval by Council.