

ARTICLE 4 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

SECTION 400 - COMPLETION OF IMPROVEMENTS

Before the Staff can consider the Secondary Plat application, the Subdivider shall be required to:

1. Complete the required improvements in the manner prescribed by this Ordinance, the approved Primary Plat, Improvement Plan, and by the Subdividers Contract;
2. Follow the requirements as outlined within Section 430 and Article 5; and
3. Provide the County with a maintenance bond that complies with Section 435.

SECTION 405 – PERFORMANCE GUARANTEE ALTERNATIVE TO COMPLETION

An alternative to the Subdivider's completion of the required improvements and installations prior to seeking Secondary Plat approval is to provide a financial Performance Guarantee. Required improvements and installations to be constructed shall include, but may not necessarily be limited to: streets, curbs and gutters, sidewalks, stormwater drain and sewer systems, sanitary sewer systems, water supply systems, street signs, monuments and markers and the various appurtenances related thereto.

Prior to or at the time of the Secondary Plat approval, the Subdivider shall be required to provide a financial Performance Guarantee to ensure that all improvements and installations set forth in this Section are completed within two (2) years of the approval date of the Secondary Plat—or as set forth in an amended Subdivider's Contract.* The Subdivider's engineer or surveyor shall provide a detailed written estimate of the cost for construction to assist the Town Transportation Engineer or his designee in the process of fixing the amount of the guarantee. The initial estimate approved by the Town Transportation Engineer or his designee must equal one hundred percent (100%) of the total estimated completion cost of the required improvements and installations. The Town Transportation Engineer or his designee shall use this estimate as a guide to establish the dollar amount needed for the Performance Guarantee. The final amount established by the Town Transportation Engineer or his designee shall include a twenty percent (20%) contingency for any unforeseen expense(s).

The time period for financial Performance Guarantees shall correspond to the entire time that is necessary to complete all construction and inspections. The Town Transportation Engineer or his designee can reduce the Performance Guarantee amount proportionally for partial completion of the required improvements. The Town Transportation Engineer or his designee shall establish the Performance Guarantee amount within fourteen (14) days of receipt of the information listed above and notify the Subdivider in writing. If the Town Transportation Engineer or his designee has not responded within fourteen (14) days, the submitted amount shall become the amount for the guarantee.

All financial guarantees shall be deposited and placed under the control of the Planning Director, or his designee. The Planning Director will present monthly reports to the Plan Commission and Town Transportation Engineer that detail the status of all financial Performance Guarantees. The purpose of these reports is to ensure that these entities remain informed of the subdivision review process associated with each development and to make certain that both Subdividers and financial institutions are notified in the following prescribed manner:

The Planning Director, or his designee, will notify the Subdivider and the affected financial institutions approximately ninety (90) days prior to the expiration of the Subdivider's Contract and its corresponding financial Performance Guarantee to determine if the required improvements have not been—or will not be—completed.

If the Subdivider has not completed the necessary improvements and installations within **thirty (30) days** prior to the expiration of the approved two (2) year period—or within a time extension approved in accordance with the terms set forth in this Section—the Planning Director and Town Transportation Engineer shall take the necessary steps to proceed with the construction of these improvements and installations, making use of the financial Performance Guarantee to the extent required.

Renewal Process, Detailed

*The completion period for the required improvements can be extended once for an additional two (2) years by submitting an amended Subdivider's Contract (proposal) and a corresponding financial Performance Guarantee to the Plan Commission. All requests pertaining to an extension must be submitted in writing at least sixty (60) days prior to the expiration of the effective Subdivider's Contract and corresponding financial Performance Guarantee; extensions shall only be issued if the Subdivider has been unable to complete the required improvements despite due diligence. All requests for renewals must be received, and completed, **thirty (30) days** before the expiration of the Subdivider's Contract and its corresponding financial Performance Guarantee to avoid a withdrawal as noted earlier in this Section.

Section 410 - TYPES OF FINANCIAL GUARANTEES

A Performance Guarantee or Maintenance Guarantee authorized or required by these regulations shall be secured by either one (1) insurance performance bond, or one (1) irrevocable, unconditional letter of credit, either one of which must be obtained from a single financial institution licensed in the State of Indiana in the amount required to complete improvements as described in Section 405 and Section 435. The beneficiary of such financial guarantee shall be the Town Board of St. Leon or appropriate legislative unit.

Section 415 – GOVERNMENTAL UNITS

Governmental units to which these security provisions apply may file, in lieu of said Security, a certified resolution or ordinance from officers or agencies authorized to act on their behalf, agreeing to comply with provisions of this Section.

Section 420 – TEMPORARY PUBLIC IMPROVEMENTS

The applicant shall build and pay for all costs of temporary public improvements required by the Commission and shall maintain the same for the period specified by the Commission. Prior to construction of any temporary public facility or improvement, the subdivider shall file with the Commission a separate suitable security for temporary facilities, which shall ensure that the temporary facilities will be properly constructed, maintained, and removed (except for turnaround at ends of peripheral stub streets intended for connection into adjacent future subdivisions).

Section 425 – COST OF PUBLIC IMPROVEMENTS

All required public improvements shall be installed by the applicant at his expense, without reimbursement, unless sharing of expenses is agreed upon by the Board.

Section 435 – MAINTENANCE OF PUBLIC IMPROVEMENTS

1. The subdivider shall be required to maintain all public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of said public improvements by the Town Board.
2. The subdivider shall be required to file proof of financial responsibility with the Town Board prior to acceptance, in an amount of twenty-five percent (25%) of the cost of all public improvements, and in a form satisfactory to the Board attorney, in order to assure the satisfactory condition of the required public improvements, for a period of three (3) years after the date of their acceptance by the Board.

Section 437 – WAIVER OF REQUIRED PUBLIC IMPROVEMENTS

The Commission may defer or waive at the time of Primary approval, subject to the appropriate conditions, the provision of any or all such public improvements as, in its judgement, are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities.

Section 440 – ISSUANCE OF BUILDING PERMITS

No building permit shall be issued for the last twenty-five percent (25%) of lots in a final subdivision plat or section thereof, or if twenty-five percent be less than two, for the last two (2) lots of a subdivision or section thereof, until all required public improvements with the exception of sidewalks have been fully completed and accepted for maintenance by the Town Board.