ARTICLE III

ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

Amended by Resolution No. 2025-08

3-101 Improvements and Performance Surety

3-101.1 Completion of Improvements

Before the Planning Commission officer signs the final subdivision plat specified in Subsection 2-105.1 of these regulations, all applicants must complete, to the satisfaction of the Planning Commission and the appropriate governmental representative, all public way, sanitary, and other improvements, including lot improvements on the individual lots of the subdivision. These improvements must comply with these regulations and be approved by the Planning Commission. Additionally, applicants shall dedicate such improvements to the appropriate governing body free and clear of all liens and encumbrances, along with the public improvements thus dedicated.

3-101.2 Surety Instrument

The Planning Commission may, at its discretion, waive the requirement for the applicant to complete and dedicate all public improvements before signing the final subdivision plat. Instead, the applicant may submit a surety instrument (Surety Instrument) at the time of final subdivision approval. This surety amount, estimated by the Planning Commission, must be sufficient to guarantee to Robertson County that the incomplete improvements will be satisfactorily constructed, installed, and dedicated. (See Subsection 2-103.5).

Such surety instrument (Irrevocable Bank Letter of Credit) shall comply with all statutory requirements and be satisfactory to legal counsel regarding its form, sufficiency, and manner of execution, as outlined in these regulations. The Planning Commission shall specify the timeframe for completing required improvements in the resolution approving the final subdivision plat and shall be included in the surety instrument, with a maximum duration of two (2) years from the date of final approval.

Such surety instrument (Irrevocable Bank Letter of Credit) shall be approved by the Planning Commission for the amount plus ten (10) percent per year to cover inflation and any conditions imposed by the Planning Commission. The Planning Commission may, upon proof of difficulty, extend the completion date specified in such surety instrument for a maximum period of one (1) additional year. All requests for extensions of surety instruments shall be submitted to the Planning Commission in writing sixty (60) days before the date the surety instrument expires. The Planning Commission may, at any time during the term of such surety instrument, accept a substitution of principal.

3-101.3 Temporary Improvements

The applicant shall construct and cover all expenses for temporary improvements required by the Planning Commission and shall maintain them

satisfactorily for the period specified by the Planning Commission. Before constructing any temporary facility or improvement, the applicant shall submit a separate, appropriate surety instrument to the Planning Commission for temporary facilities, which will ensure that the temporary facilities are properly built, maintained, and removed.

3-101.4 Costs of Improvements

The applicant must complete all necessary improvements at their expense. Any arrangements for reimbursement by the governing body or utility agency shall be specified in the surety instrument's provisions.

3-101.5 Governmental Units

Governmental units subject to these provisions may submit, instead of the contract or surety, a certified resolution or ordinance from officials or agencies authorized to act on their behalf, consenting to comply with this article's provisions.

3-101.6 Failure to Complete Improvements

In subdivisions where no surety instrument has been posted, if the improvements are not completed within six (6) months of the Planning Commission's resolution approving the plat, the approval shall be considered expired. In cases where a surety instrument has been posted and the required improvements are not installed within the terms of that surety instrument, the Planning Commission may declare the surety instrument 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 in default.

3-101.7 Acceptance of Dedication Offers

Acceptance of formal offers of dedication of public ways, easements, and parks shall be by formal action of the governing body. Such action must be taken in the form of a resolution recommended by the Planning Commission to the governing body. The Planning Commission's approval of a subdivision plat does not constitute or imply acceptance by the local government of any public way, easement, or other ground shown on the plat. The Planning Commission may require the plat to be endorsed with appropriate notes to this effect.

3-101.8 Surety Instrument Renewal Procedure

A developer submitting a surety instrument for infrastructure improvements will be required to read and sign a Surety Instrument Policy Form, which certifies that the developer has read and understands the requirements in the form, including the deadlines for renewal specified therein.

3-102 Inspection of Improvements

3-102.1 General Procedure

The Planning Commission may oversee inspections of required improvements during construction to ensure they are satisfactorily completed. The developer

and his contractor will be notified of the necessary inspections at the preconstruction conference. If a designated government representative finds, upon inspection, that any required improvement does not meet the governing body's standards and specifications, the applicant is responsible for completing the improvements to meet those standards. When a surety instrument covers the cost of improvements, both the applicant and the issuing institution are jointly and severally liable for completing the improvements in accordance with the specifications.

3-102.2 Release or Reduction of Surety Instrument

3-102.201 Certificate of Satisfactory Completion

The Planning Commission shall neither recommend the dedication of required public improvements nor release or reduce a surety instrument until the appropriate government representative submits a certificate confirming that all required improvements have been satisfactorily completed. Additionally, the applicant's engineer or surveyor must certify to the Planning Commission and the appropriate government representative—by submitting a detailed "as built" survey of the subdivision (including all utilities)—that the layout, line, and grade of all public improvements conform to the approved construction plans for the subdivision. Once such approval and recommendation are given, the governing body may then accept the dedicated improvements in accordance with the procedures outlined in Subsections 1-*112.107* and *3-101.7*, of these regulations.

3-102.202 Reduction of Surety Instrument

A surety instrument may be reduced once public improvements are actually dedicated and accepted, and only in proportion to the share of the dedicated improvements relative to the total public improvements for the plat. Under no circumstances shall a surety instrument be reduced below twenty-five (25) percent of the principal amount, plus ten (10) percent annually before final acceptance of all items covered under the surety.

3-103 Maintenance of Improvements

The applicant shall be required to maintain all improvements, including all lot improvements, until the Robertson County Commission accepts all public improvements. The applicant must submit a maintenance surety instrument equal to twenty (20) percent of the improvement costs to the Planning Commission prior to the offer of dedication, as determined by the appropriate governmental representative and in a form satisfactory to the Robertson County Attorney, to ensure the satisfactory condition of the required improvements, including all lot improvements, for a period of one year after the Planning Commission and the County Commission accept the public improvements.

3-104 Deferral or Waiver of Required Improvements

The Planning Commission may defer or waive, at the time of final approval and subject to suitable conditions, the requirement for any or all such improvements as it deems

unnecessary for the public health, safety, and overall welfare, or that are unsuitable due to inadequacy or lack of connecting facilities.

Whenever the Planning Commission determines that it is necessary to delay the construction of any required improvement due to incompatible grades, future planning concerns, insufficient or lacking connecting facilities, or other reasons, the developer shall either pay his share of the costs of the future improvements to the Planning Commission before signing the final subdivision plat by the appropriate government official(s) or provide a surety bond or other guarantee to ensure the completion of the improvements upon demand by the Planning Commission.

3-105 Escrow Deposits for Lot Improvements 3-

105.1 Acceptance of Escrow Funds

Whenever, due to seasonal conditions, any lot improvements required by these regulations cannot be completed, the enforcing officer may still issue a certificate of occupancy by accepting a cash escrow deposit in an amount to be determined by the appropriate government representative to cover the cost of those improvements; provided that there is no danger to health, safety, or welfare. The surety instrument covering these lot improvements shall remain in full force and effect.

3-105.2 Procedures on Escrow Fund

All improvements for which the enforcing officer has accepted escrow money at the time of issuing a certificate of occupancy shall be installed by the developer within nine (9) months from the date of deposit and issuance of the certificate. If the improvements are not properly installed by then, the enforcing officer shall give the developer written notice of two (2) weeks requiring their installation. If the improvements are still not properly installed, the enforcing officer may request the Planning Commission to proceed with the installation or contract for the installation of the necessary improvements, up to the amount of the escrow deposit.

At the time the certificate of occupancy is issued, for which escrow funds are being deposited, the applicant must obtain and submit a notarized statement from the purchaser(s) of the property to the enforcing officer. This statement must authorize the officer to install the improvements at the end of the nine (9) month period if the developer has not properly installed them.

3-106 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, approval of Water and Sewer system plans by the Tennessee Department of Environment and Conservation (TDEC) before any building permits are issued is required. No certificate of occupancy for any building in the subdivision or section shall be issued before the water and sewer systems are completed and dedicated to the appropriate governmental unit, as required in the Planning Commission's final approval resolution of the subdivision plat.

B. The extent of public way improvements must be sufficient for vehicular access by the prospective occupant and emergency vehicles before any building

permits are issued. When a certificate of occupancy is requested for any building in the relevant section of the subdivision, the asphalt binder must be fully installed. The developer shall submit funds in escrow to the Planning Commission at the time of dedication, with the amount to be determined by the appropriate government authority.

C. No building permit shall be issued for the final ten (10) percent of lots in a subdivision, or if ten (10) percent is less than two (2) lots, for the final two (2) lots of a subdivision, until all public improvements required by the Planning Commission's resolution of final plat approval have been fully completed, dedicated, and accepted by the governmental body.