

Chapter 16.36

IMPROVEMENTS AND SURETY

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16.36.010 **Deposit of sureties.**

Before any land use permit is issued, the developer shall deposit with the Town all sureties required in Section 16.36.040 for improvements (“Improvements”) in the Site Plan Improvement agreement (SPIA) or if there is not a SPIA, per Chapter 17.40, 17.43 or 17.44, in the Subdivision Improvement Agreement (SIA). The surety shall be submitted to the Development Services Department. an escrow account.

16.36.020 **Improvements to be completed.**

Prior to the issuance of any land use permit, the Town will require, at a minimum, that the following enumerated improvements have been completed. Also see requirements for Site Plans in Chapters 17.40 and 17.44. The

Director of Development Services may, in his or her discretion issue land use permits for model homes or sales offices only, but which shall not be occupied for residential purposes, and to permit the construction of foundations, but not structures in all other instances (other than model homes), prior to the following being installed, based upon a determination that adequate vehicular and emergency access can be provided - A. Survey Monuments. Survey monuments as required by the Town.

B. Sanitary Sewers. The subdivider shall provide adequate service lines to each lot in such a manner that street and sidewalk cuts will not be required in order to connect .

C. Water Mains. The subdivider shall provide adequate mains, valves and service lines to each lot in such a manner that street and sidewalk cuts will not be required in order to connect .

D. Fire Hydrants. Fire hydrants shall be located in conformance with the adopted Fire Code for the Fire District where the property is located. E. Storm Drainage. The subdivider shall provide storm sewers, culverts, bridges, and other flood and runoff control structures to applicable Town specifications.

F. Streets. Streets shall be graded and base construction completed to Town specifications. ~~and~~

G. Street Signs. As required according to applicable specifications. (Ord. 14-98; Ord. 12-97 (part): prior code § 12.11.030)

16.36.030 **Subdivision Improvements Agreement—Public Improvements.**

As a condition to final subdivision plat approval, and prior to recordation of a plat, the subdivider and Town shall enter into a Subdivision Improvements Agreement (the “SIA”). If a site plan has been approved for the subdi-

vision, a Site Plan Improvement Agreement (SPIA) may be executed in lieu of the SIA, at the sole discretion of the Director of Development Services. The SPIA or SIA shall identify the Public Improvements, including necessary regional facilities, required to be constructed to support the provision of municipal and/or district public utilities and services to the subdivision, and shall provide assurances that the necessary Public Improvements will be constructed to established standards in a timely manner. The Director of Development Services may waive the SIA or SPIA and Public Improvements Security required by Section 16.36.040 if he or she determines that only minimal Public Improvements are required. (Ord. 12-97 (part): prior code § 12.12.010)

16.36.040 Public Improvements Security.

The SIA or SPIA shall require that the subdivider's obligation to construct the Public Improvements is secured in accordance with the following provisions:

A. The subdivider shall obtain an irrevocable letter of credit, or other financial guarantee affording security (the "Security") approved by the Town Attorney and the Director of Development Services in the amount of one hundred twenty-five (125 percent of the estimated construction costs of the Public Improvements, as certified to and accepted by the Director of Development Services. In the event the SPIA or SIA authorizes the construction of Public Improvements in phases, the Security will be based upon the construction cost of the Improvements required for each respective phase. (Ord. 12-97 (part): prior code § 12.12.020)

B. No lot shall be conveyed until such time as the Public Improvements have received Initial Acceptance (approval of the improve-

ments following a satisfactory inspection) by the Town and/or special district for maintenance for the phase in which the lot is located, in accordance with the approved phasing plan for the subdivision, if applicable. Upon the Town's Initial Acceptance of the Improvements, the Security shall be reduced to 25% of the actual construction cost of the Improvements to secure developer's warranty of the improvements during the warranty period(s). A separate Security in the form of a letter of credit, or other form of Security approved by the Director of Development Services and the Town Attorney, will be required to be submitted. Upon expiration of the warranty period(s) and as soon thereafter as the Town has granted Final Acceptance of the Improvements (the final acceptance of the improvements by the Town following a satisfactory final inspection at which time the Warranty Period ends), the balance of the Security, without compounded interest, for the Improvement(s) (or phased Improvements, if applicable) shall be refunded or released to Developer.

The Security for the improvements must be provided to the Town prior to and as a condition of the issuance of any grading or construction permits, land use permits for the subdivision, or recordation of the plat, whichever comes first, .

C. The Town shall have the right to draw on the Security for the purpose of restoring and remediating any site disturbance and/or constructing or completing construction of any Public Improvements if the Town determines that the Developer has not timely completed the Improvements and/or has not satisfactorily completed the Improvements, and/or properly restored the site in accordance with the civil construction plans (CD's) for the subdivision

plat or site plan. However, the Town shall not be obligated to undertake such action if it has determined, for good cause, it is inadvisable to do so. (Ord. 12-97(part); prior code §12.12.020)

16.36.050 Restriction on development approvals—Public Improvements.

Until the Public Improvements are accepted by the Town, or other entity approved by the Town, the Town shall not be obligated to recommend issuance of any certificates of occupancy for private improvements within the subdivision. (Ord. 12-97 (part): prior code § 12.12.030)

16.36.060 Agreement to maintain.

In the event the subdivision is to contain any property or facilities that are not for public use, but which are for the private use of the owners or occupants of two or more lots or dwelling units, and where the private improvements are granted credit under the provisions of Section 16.32.040, in lieu of Public Improvements, then the maintenance and operation of such privately owned common facilities shall be covered by the SPIA. Examples of such property or facilities might be tennis courts, swimming pools, parkways, roadways, gates, greenbelts, swales, etc. (Ord. 12-97 (part): prior code § 12.12.040)

16.36.070 Assurances.

The agreement between the subdivider and the Town will provide to the Town whatever it deems necessary to assure that: (a) the proposed facilities will be constructed as proposed; and (b) the future operation and maintenance of the facilities are properly provided for both as to management and funding. Such agreement may require approval of covenants,

Security, or any other method of assurance required by the Town and approved by the Director of Development Services and the Town Attorney prior to recordation of the subdivision plat and/or release of any permit. (Ord. 12-97 (part): prior code § 12.12.050)

16.36.080 Warranty periods.

The warranty period for the following Improvements, including streets, curbs, gutters, sidewalks, trails, potable water distribution systems, sanitary sewer distribution systems, drainage, and associated grading, and erosion control systems and all of their appurtenances, shall be two years from the date the Town issues the preliminary approval of the installed Improvements. The warranty period for all other Improvements, including, but not limited to, landscaping and irrigation, shall be one year from the date of preliminary approval. Public Improvements will not be deemed to have final acceptance until all necessary remedial work has been completed to the satisfaction of the Director of Development Services. No warranty period will expire until such final acceptance, notwithstanding the fact that such period would have otherwise expired by the passage of time. (Ord. 12-98: prior code § 12.12.060)