

## 7.5 REQUIRED IMPROVEMENTS

### 7.5.1 Generally and Exemptions

- A) **Generally**  
The developer of any subdivision within the Town or the Town's extraterritorial jurisdiction shall be responsible for the proper installation of improvements as set forth in the following sections and as set forth in the *Town of Apex Standard Specifications and Standard Details*. No final plat for subdivision shall be approved until required improvements have been installed or their installation guaranteed as provided herein in those areas shown on the plat.
- B) **Exemptions**  
A site plan or subdivision plan that does not propose a subdivision of an existing parcel into more than four (4) lots, has an anticipated number of vehicular trips less than 150 per day, and a total of less than 10,000 square feet of proposed non-residential buildings is exempt from public road frontage improvements and new location public road construction that would otherwise be required based on the *Advance Apex: The 2045 Transportation Plan* and typical road sections

specified in the *Town of Apex Standard Specifications and Construction Details*. This exemption does not exempt installation of a paved driveway apron as required for the safe ingress and egress of vehicles and emergency services accessing the site. Buildings shall not be permitted in areas that are planned for future roadway construction and expansion. Right-of-way dedication is recommended for planned public roadways where practical to promote future connectivity to adjacent properties and future improvement projects.

#### **7.5.2 Permanent Reference Points**

The following permanent survey reference markers shall be installed:

- A) ***Monuments and Control Corners***  
Permanent monuments shall be placed at not less than two (2) corners of the subdivision; provided, that additional monuments shall be placed where necessary to ensure that no point within the subdivision shall lie more than 500 feet from a monument. Two or more of the monuments shall be designated as control corners. Such monuments may be of concrete or iron pipe. Where concrete monuments are employed, they shall have an indented cross metal pin or plate at the top to properly identify the point. All monuments and control corners shall be shown on the final plat for subdivision; further, all monuments and control corners shall be made of such materials and installed in such manner as is established in the "Manual of Practice for Land Surveying" of the North Carolina Board of Registration for Professional Engineers and Land Surveyors.
- B) ***Markers***  
All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision and all angle points and points of curve in each street, shall be marked with iron pipe not less than three-fourths of an inch in diameter and 30 inches long driven so as to be within one inch of finished grade.
- C) ***Property Corner Tie***  
At least one corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or state grid system coordinated monument, then this corner shall be marked with a monument so designated and shall be accurately tied to the station or monument by computed X and Y coordinates which shall appear on the map with a statement identifying the station or monument and to an accuracy of one per fifteen thousand (1:15,000). When such a monument or station is not available, the tie shall be made to some permanent and readily recognizable landmark or identifiable point, physical object or structure.
- D) ***Subdivision Survey Accuracy***
- 1) Angular error of closure shall not exceed 20 seconds times the square root of the number of angles turned.
  - 2) Linear error of closure shall not exceed one foot per ten thousand feet (1:10,000) of perimeter of the lot of land, except for commercial and industrial subdivisions, where linear error of closure shall not exceed one foot per fifteen thousand feet (1:15,000) of perimeter.

#### **7.5.3 Water Lines and Sanitary Sewers**

- A) ***Subdivisions Within 500 Feet of Town Systems***  
If a subdivision lies within 500 feet of the municipal water or sanitary sewer system, the subdivider shall, at such subdivider's expense, connect every lot of the subdivision to the municipal water or sewer system, or both if available.

Sufficient taps shall be extended to lot lines to prevent subsequent cutting of pavement. All materials, design, and installation shall be made in accordance with the *Town of Apex Standard Specifications and Standard Details*. As to lines outside of Town, see subsection B. below. If a drinking water well permit has been issued by the Wake County Department of Environmental Services, the subdivider is not required to connect to municipal water so long as the permitted well remains in use and compliant with the permit issued.

**B) Subdivisions Beyond 500 Feet of Town Systems**

Where a subdivision lies more than 500 feet distant from the municipal water or sewer system, the subdivider may, at the subdivider's expense, connect the subdivision lots to such systems. If the developer provides individual wells or septic tanks, the materials, design and installation shall be made in accordance with and subject to approval by the Wake County Department of Environmental Services.

**C) Water System and Sewer System Defined**

For the purpose of this Section, the terms "water system" and "sewer system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blowoffs, manholes and pumping apparatus, but shall not include individual service meters, which shall be installed by the Town. Such appurtenances and fixtures shall comply with the *Town of Apex Standard Specifications and Standard Details*.

**D) Size**

- 1) All sanitary sewers and water distribution lines shall conform with the *Town of Apex Standard Specifications and Standard Details*.
- 2) Oversized improvements may be required as provided in Sec. 7.5.10.

**E) North Carolina Certified Site**

For sites designated as a North Carolina Certified Site, the Master Subdivision Plan shall show the general location of proposed water and sewer infrastructure. The final design of such infrastructure shall not be required until the submission of each Minor Site Plan.

**7.5.4 Streets**

**A) Grading**

The subdivider shall bear the costs of grading all streets within the subdivision, whether they are new streets or existing streets, to the full right-of-way width set forth in Sec. 7.2.1.

**B) Base Material, Paving, Curbs and Gutters, and Sidewalks**

The subdivider shall bear the costs of the installation of the base material, paving, curbs and gutters, and sidewalks if required (See subsection C. of this Section) for all new or existing streets within or adjacent to the subdivision in accordance with the *Town of Apex Standard Specifications and Standard Details* and the requirements of Sec. 7.2.1, not inconsistent with the aforementioned standard specifications.

1) *Adjacent to Paved Streets*

- a) When a subdivision lies along only one side of an existing paved street, the subdivider shall be required to extend the base material and paving and install curbs and gutters and sidewalks if required (See subsection C. of this Section) for said street only on the side of the street upon which the subdivision lies.

- b) When a subdivision lies along both sides of an existing paved street and the unpaved section is contiguous to an existing paved street section, the subdivider shall extend the base material and paving to the full appropriate width and install curbs and gutters and sidewalks if required (See subsection (C) of this section) for said unpaved section along which the subdivision lies.
- 2) *Adjacent to Unpaved Streets*
- a) When a subdivision lies along both sides of an existing unpaved street and the unpaved section is not contiguous to an existing paved street section of street, then in-lieu of paving the street the Town may require the subdivider to pay to the Town sums equal to the costs that otherwise would have been paid by the subdivider to pave and provide sidewalks and curbs and gutters.
  - b) When a subdivision lies along only one side of an existing unpaved street, the subdivider shall, in-lieu of making the improvements required in the foregoing subsection (B)(1)(a), pay to the Town a sum equal to the costs that otherwise would have been paid by the subdivider in constructing such improvements. Such fee shall be determined as set forth in the foregoing subsection (B)(2)(a).
- 3) When a subdivision lies along either side of any new or existing street designated as controlled-access such that the subdivider would have no access to that street, then no extension of base material, paving or installation of curbs and gutters shall be required.
- 4) *Exemptions*
- a) When a subdivision of property zoned for residential use is designed such that the minimum lot size is 1 acre or more, then curbs and gutters shall not be required. The street shall comply with the Town of Apex Standard Specifications and Standard Details.
  - b) When a subdivision of property zoned for residential use is designed such that the following conditions are met, then curbs and gutters shall not be required:
    - (i) Average gross density shall be 1 lot per acre or less;
    - (ii) Minimum lot size shall be 0.5 acre (21,780 sq. ft.);
    - (iii) Minimum lot width shall be 100' at the front setback line;
    - (iv) Mass grading shall not be allowed;
    - (v) Maximum State-mandated impervious caps shall be allowed; and
    - (vi) The allowed street design standard shall be ribbon-pavement with swale section design in compliance with the Town of Apex Standard Specifications and Standard Details (as may necessarily be modified).
  - c) Projects submitted prior to November 20, 2007 shall be governed by the lot size and density stated in this Subsection (4) as it existed at the time of submittal.

C) **Sidewalks**

- 1) This section replaces the Town's Sidewalk Policy adopted April 7, 1992 and subsequent Amendment to Sidewalk Policy adopted September 7, 1993.
- 2) The subdivider shall construct sidewalks along both sides of all major and minor thoroughfares, all collectors, and on one side of all other streets within and bordering the subdivision property boundaries. Such sidewalks shall provide direct pedestrian connections to adjacent properties outside the subdivision.
  - a) Consideration will be given to a greenway in lieu of some or all sidewalks within a development if an equal or better pedestrian system will be provided.
  - b) Where street interconnectivity is not provided (such as but not limited to cul-de-sacs) within the development plan, pedestrian connections shall be constructed. The pedestrian connection requirement does not apply when a connection between two (2) cul-de-sacs would not improve connectivity with the subdivision or to surrounding areas as determined by the Director of Planning and Community Development. The pedestrian connection shall be constructed according to the following:
    - (i) The developer shall construct the required pedestrian connections within open space or Resource Conservation Area owned by a homeowner's association, using a minimum five-(5) foot width instead of the 10-foot wide standard section for concrete greenways;
    - (ii) The developer shall provide a 10-foot wide public access and maintenance easement along these paths, with the paths in the center of the easements;
    - (iii) The open space shall be provided between lots (not within lots) to maintain pedestrian connectivity and shall include destination and directional signs;
    - (iv) Where necessary to cross a stream or creek, the developer shall construct a bridge with a minimum path width of six (6) feet across the bridge; and
    - (v) In low-lying areas, the Director of Planning and Community Development may require that the developer construct a boardwalk.
- 3) The Director of Planning and Community Development may recommend exceptions to this general requirement for areas within a subdivision that are not reasonably expected to draw a significant amount of pedestrian traffic, such as but not limited to:
  - a) The bulb portion of a cul-de-sac, provided that the sidewalk connects to other cul-de-sacs, roads, amenities and greenways and a sidewalk is still provided up the "neck" portion of the cul-de-sac where 10 or more dwelling units border the cul-de-sac.
  - b) If a topographic or natural feature makes construction of a sidewalk impractical (as determined by the Director of Planning and Community Development).

- c) If a subdivision is of rural nature such that the density is equal to or less than one (1) dwelling unit per acre and have streets without curb and gutter.
  - 4) Where a sidewalk is required on one side of the street, the following criteria will be considered in determining which side of the street the sidewalk will be located:
    - a) The side that would link with an existing sidewalk(s).
    - b) The side what would link a greenway, park, shopping area, or school.
    - c) Where there are no existing sidewalks for linkage, Planning staff will evaluate the length of the street for slope, existing conditions, and any other special conditions that may affect sidewalk installation. Planning staff will recommend to the TRC as to which side of the street would be most appropriate for the sidewalk.
  - 5) All installation of sidewalks shall conform to the *Town of Apex Standard Specifications and Standard Details*.
  - 6) For existing sites that are proposed for re-development items 1-5 will apply at the discretion of the Director of Planning and Community Development.
- D) ***Apex Peakway Construction Requirements***
- 1) This section replaces the Town's Apex Peakway Development Policy last revised and adopted on June 7, 1994.
  - 2) ***Cross-Section Design/Construction Standards***  
The typical section includes 100' right-of-way containing a four (4-lane) divided 71 foot back-to-back curb and gutter roadway including an 18 foot landscaped median, a five (5) foot sidewalk on the outside of the corridor and a 10 foot multi-use asphalt path on the inside of the corridor. The Peakway shall be constructed and right-of-way dedicated in accordance with current standards of the Town of Apex.
  - 3) ***Posted Speed/Design Speed***  
Refer to the *Town of Apex Standard Specifications and Standard Details* for width and pavement structure requirements.
  - 4) ***Order of Construction***  
Because of expected low traffic counts early in the life of the facility, two travel lanes with curb and gutter and sidewalk are to be constructed initially with grading for the remaining roadway width when adequate public right-of-way is available. First priority of construction shall be the outer two travel lanes. In constructing only the outer two lanes, the inside curb shall be constructed as median curb.
    - a) **Development on Outside of Road Corridor**  
One-half of the right-of-way shall be dedicated and the outside two lanes and sidewalk shall be built as specified above.
    - b) **Development on Inside of Road Corridor**  
When property develops on the inside of the corridor and the outer lanes have already been constructed, the remaining one-

half (½) right-of-way shall be dedicated and an approved connection shall be made to the outer lanes. A fee in lieu shall be paid for construction of the inside lanes and multi-use path.

If the outer lanes have not been constructed and the developer has access to the property through an existing road, then the Town may consider accepting the dedication of one half (½) of the right-of-way and a fee-in-lieu of construction. If the outer lanes have not been constructed but the only access to the property being developed is the Peakway, then the developer shall make the necessary arrangements to have the right-of-way dedicated and the outside lanes constructed and may be required to dedicate the right-of-way and pay a fee in lieu of construction of the inside lanes. In a situation where it may be possible to build the inside lanes and transition from the outside lanes to the inside lanes meeting 40 mph roadway design guidelines, then the Town may consider allowing the developer to dedicate the right-of-way and build the inside lanes instead of the outside lanes.

- c) **Development of Both Sides of the Road Corridor**  
If the owner develops property on both sides of the corridor, the full right-of-way shall be dedicated with construction of the outer two lanes, curb and gutter and sidewalk as specified above. The property owner shall also provide grading for the remaining half of the roadway.

- 5) ***Median Cross-Over Spacing/Access***  
Future median cross-overs are to be a minimum of 500 feet apart. The distance as provided in this subsection also applies to allowable offsets from existing State-maintained or other municipal roadways. Right-in/right-out access may be considered between median cross-overs, but no less than 200 feet from a cross-over or other adjacent right-in/right-out access.

- 6) ***Residential Lot Access***  
No residential lot access shall be allowed other than a lot of record prior to the adoption of this policy.

- 7) ***Buffers***  
Properties that are adjacent to the Peakway shall provide a buffer in accordance with Sec 8.2.6 *Buffering*. The buffer planting plan shall be submitted as a part of the master subdivision or site plan approval process. Protection of existing vegetation is encouraged where this vegetation is significant. The reservation of the buffer must be noted on the final plat. The maintenance of the buffer shall be the responsibility of the property owner.

- 8) ***Streetscape Landscaping***  
Streetscape landscaping requirements would be as prescribed by the Landscape Ordinance for all developments required to file a site plan.

- E) ***Public Access Requirements***  
A residential development or any portion thereof shall (either by itself or in combination with another existing development through which it accesses the public street system) propose no more than 50 single-family units, 100 multi-family units, or 50 units of single-family and multi-family combined unless it is served by at least two (2) points of access to the public street system. When

more than one (1) point is required, one (1) of those two (2) points must be a full-movement intersection and both points of access must be constructed to Town of Apex standards. A stub street allowing for future connectivity but not being extended to the public street system in conjunction with the proposed development cannot be considered a point of access. The points of access serving the development shall be separated by a minimum distance of 500 feet. The spacing between points of access is subject to approval by the North Carolina Department of Transportation if the access is proposed along a state-maintained roadway. Any residential development exceeding 300 residential units shall provide at least three (3) points of access to the public street system. Construction of a Major Collector or Thoroughfare on the *Advance Apex: The 2045 Transportation Plan* can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities. See also Sec. 7.2.1.A.2 *Points of ingress/egress*.

**F) *Stub Street Fee-In-Lieu***

When a public street stub is included in an approved site plan and cannot be constructed within 10 feet of the property line due to environmental constraints, a fee-in-lieu shall be paid for future completion of the street stub and utilities to the property line.

- 1) The fee-in-lieu shall be based on an engineer's estimate of actual quantities of clearing and grubbing, grading, drainage structures, water and sewer lines, concrete curb and gutter, sidewalk, and paving required to complete the remainder of the street section to the property line. The fee-in-lieu shall also include the appropriate share of the engineer's estimate of permitting fees.
- 2) In the event of a stream crossing and/or if a bridge is anticipated, the fee-in-lieu shall include the appropriate share of the crossing which may not be exactly half of the estimated total monetary cost of the crossing due to differences in elevation between the two sides of the creek and location of the property line with respect to the centerline of the creek.
- 3) The fee-in-lieu shall be due prior to platting of the portion of the site plan that includes the street stub.
- 4) If and when the adjacent property is proposed for development, the adjacent site plan will include completion of the street and the developer of the adjacent site shall receive the full balance of the fee-in-lieu upon completion of the street.
- 5) If for any reason the first developer has not paid a fee-in-lieu and platted their portion of the street at the time the adjacent (second) developer is prepared to plat their portion of the street to the property line, the Town may make the fee-in-lieu option available to the adjacent developer provided the first developer is given notice.
- 6) In the event the adjacent developer pays a fee-in-lieu for their portion prior to platting, the first developer would then be responsible for connection of the street prior to platting.

**7.5.5 Required Landscaped Median**

At the main entrance to any Low Density (LD), Medium Density (MD), or Planned Unit Development (PUD) District subdivisions containing 50 or more lots, there shall be a landscaped median containing trees. There shall be a 15' wide back of curb to back of curb landscaped median for large trees or an 8' wide back of curb to back of curb



landscaped median for small trees. Large trees shall have at least 350 square feet of non-paved area around the trunk, and small trees shall have at least 250 square feet of non-paved area around the trunk. Trees shall be selected from the *Town of Apex Design and Development Manual's* recommended tree list.

**7.5.6 Reserved**

**7.5.7 Storm Drainage**

All storm drainage improvements shall be installed in accordance with the *Town of Apex Standard Specifications and Standard Details*. In addition, all storm drainage improvements shall comply with the following provisions:

- A) **Generally**  
The subdivider shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Water Resources Director.
- B) **Connection to Town System**  
Where feasible, the subdivider shall connect to the municipal storm drainage system.
- C) **Design of System Not Connected to Town System**  
Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems on surrounding properties.
- D) **Cross Pipes**  
Cross pipes under streets and driveways shall be reinforced concrete or corrugated metal. Where corrugated metal is used, the gauge shall be in accordance with the specifications of the North Carolina Highway Commission.
- E) **Side Slopes of Surface Courses**  
Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each one foot of vertical distance.
- F) **Grade of Surface Course, Direction into Sanitary Sewer**  
The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance. No surface water shall be channeled or directed into a sanitary sewer.

**7.5.8 Underground Utilities**

The subdivider may install new underground utilities to serve the subdivision, at the subdivider's own expense and without expense to the Town, including but not limited to, electrical distribution lines, natural gas lines, fiber optic lines, telephone lines, and cable television lines.

The subdivider shall provide each residential driveway and each building lot with at least one utility access conduit. The placement, sizing, and materials to be used shall be in accordance with the *Town of Apex Standard Specifications and Standard Details*.

### 7.5.9 Schedule of Installation

- A) Subdivision improvements shall be installed on the site in the following sequence:
- 1) Street grading and installation of water distribution lines, sanitary sewers and storm sewers. Connections for each system shall be extended beyond the curb line to preclude subsequent cutting of pavement.
  - 2) Curbing and gutter.
  - 3) Street base material.
  - 4) Street paving.
  - 5) Sidewalks.
  - 6) Installation of electric, gas, telephone and cablevision service lines. Connections for each system shall be extended beyond the curb line to preclude subsequent cutting of pavement.
- B) All public recreational facility requirements shall be completed and accepted by the Town as indicated in Sec. 14.1.5 *Procedure for Determination of Choice Between Land Dedication, Payment of Fee-in-Lieu, Construction of Public Recreation Facilities with Fee-in-Lieu Monies, or Combination Thereof; Performance Guarantees.*
- C) All road improvements within a public right-of-way (including but not limited to road widening, road extension, lane striping/re-striping, curb and gutter installation, sidewalk installation, crosswalk striping, signal installation and signal upgrades) shall be completed as noted in Sections 7.5.9.C.1 and 2 below. No bonding is allowed to extend these completion requirements except as noted.
- 1) *Non-residential development*
    - a) All road improvements required per the *Advance Apex: The 2045 Transportation Plan*, all proposed roadways to be constructed within existing or proposed public right-of-way as part of the approved development plan and all additional offsite road improvements required to mitigate development traffic impacts to existing facilities must be completed prior to issuance of the first Certificate of Occupancy (CO) in the development. For phased developments, all the improvements applicable to a phase must be completed before the first CO is issued for the phase.
    - b) All other road improvements (including but not limited to drives, private roads, and alleys) must be completed prior to the last CO in the development or per the approved phase plan for the project, whichever is first.
    - c) Signal installations or upgrades which are required improvements in the TIA shall be installed based on NCDOT and Town of Apex approvals. Bonding for signals shall be in accordance with Sec 7.5.13.
  - 2) *Residential development*
    - a) All road improvements required per the *Advance Apex: The 2045 Transportation Plan*, all proposed roadways to be constructed

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within existing or proposed public right-of-way as part of the approved development plan and all additional offsite road improvements required to mitigate development traffic impacts to existing facilities must be completed prior to the first plat approval for single family residential and townhomes and prior to the first CO for multi-family, apartments and/or condominiums. For phased multi-family, apartment and/or condominium developments, all the improvements applicable to a phase must be completed before the first CO is issued for the phase.

- b) All other road improvements (including but not limited to drives, private roads, and alleys) must be completed prior to completion of 95% of the COs within the development or per the approved phase plan for the project, whichever is first.
- c) Sidewalk installation is preferred prior to the first plat being signed. Sidewalks may be bonded in accordance with Sec. 7.5.13 but must be installed lot line to lot line prior to any single family or townhome CO. However, all sidewalks required per the approved development plan shall be installed by the time that 95% of CO's for the subdivision phase have been issued.
- d) Signal installations or upgrades which are required improvements in the TIA shall be installed based on NCDOT and Town of Apex approvals. Bonding for signals shall be in accordance with Sec. 7.5.13.

**7.5.10 Installation of and Reimbursement for Oversized and/or On-Site/Off-Site Improvements**

Where the Town Council deems it necessary in the interest of the health, safety, and general welfare of the residents of the Town, the subdivider shall make certain improvements at sizes in excess of those which would normally be required. Where such oversized improvements are required, the Town shall reimburse the subdivider for the cost of materials incurred over and above those required to serve such subdivider's subdivision. Such reimbursement shall be made in accordance with the policies regarding Town participation in oversized and/or on-site/off-site utility projects as may be amended from time to time. The timing of the installation of the oversized and/or on-site/off-site road improvements shall follow the requirements of Sec. 7.5.9.C.

**7.5.11 Ownership of Completed Improvements**

All water, sanitary sewerage and storm drainage facilities, hydrants, pumps, valves, blowoffs, manholes, service meters, and all other appurtenances and fixtures associated with such systems which are installed in public rights-of-way and utility or drainage easements under the requirements of this Ordinance shall become the sole property of the Town upon acceptance. All electric service facilities installed in public rights-of-way and utility easements located within the municipal electric service area shall become the sole property of the Town upon acceptance.

**7.5.12 Installation Prerequisite to Approval of Final Plat and Extension of Town Services or Utilities**

- A) Prior to approval of a Final Plat, the subdivider shall have installed improvements specified in this Ordinance or guaranteed their installation as provided in this Ordinance.

- B) No municipal services or utilities shall be extended or furnished to any subdivision either within or outside the Town until the subdivider shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided in this Ordinance.

**7.5.13 Performance Guarantee in Lieu of Construction Prior to Acceptance of Final Plat**

In lieu of prior construction of the improvements required by this Ordinance, the Town may, for the purpose of approving a Final Plat, accept a guarantee from the subdivider that such improvements will be carried out according to the Town's specifications at subdivider's expense as provided below:

- A) Such guarantee may be in the form of a surety bond enforceable at the sole discretion of the Town, a letter of credit that meets the specifications of Sec. 7.5.17 *Irrevocable Letter of Credit in Lieu of Surety Bond or Other Guarantee of Performance*, certified check drawn in favor of the Town, or cash deposited with the Town.
- B) The subdivider shall install sufficient improvements to provide functional fire protection (with adequate street access and water supplies for the fire-fighting equipment).
- C) Such guarantee shall be in an amount of not less than 125% of the estimated cost of the construction of the required improvements. The developer shall submit an estimate of this amount subject to review, modification, and approval, which shall be by the Water Resources Director or Public Works and Transportation Director, as appropriate.
- D) Performance guarantees shall run for a period of one (1) year unless otherwise determined by the Water Resources Director or Public Works and Transportation Director, as appropriate.
- E) All required construction of improvements, less the final lift of asphalts and adjustments, shall be completed within one (1) year from approval of the Final Plat unless otherwise determined by the Water Resources Director or Public Works and Transportation Director, as appropriate.
- F) The obligation to maintain Performance Guarantees for the final lift of asphalt and utility adjustments is independent of the additional obligation to provide the Defects Guarantee.

**7.5.14 Defects Guarantee**

- A) The Town shall require a guarantee (enforceable at the sole discretion of the Town) for utility taps, curbs, gutters, street pavement, sidewalks, greenways, drainage facilities, water and sewer lines, and other improvements against defects for one (1) year. For residential subdivisions, a guarantee must remain in force in the Town's favor for a period of no less than the longer of 1) one year from the satisfactory completion of the performance inspection, or 2) until 75% of the residential lots in the bonded phase have been issued a Certificate of Occupancy. For non-residential subdivisions, the guarantees must remain in force in the Town's favor for a period of no less than the longer of 1) one year from the satisfactory completion of the performance inspection, or 2) until 50% of the lots in the bonded phase have been issued a Certificate of Occupancy. If during the defects period substantial corrections to the required improvements are made, then such corrections must be guaranteed for an additional one (1)

year after acceptance by the Town. Substantial corrections are defined as follows:

- 1) *Roadway*. Total repair area exceeds 15% of the original construction.
- 2) *Curb and gutter*. Total linear feet of repairs exceeds 15% of the original construction.
- 3) *Water system*. The system experiences two (2) or more failures with the piping or any associated components.
- 4) *Sewer system*. The system experiences two (2) or more failures with the piping or any associated components.
- 5) *Storm water collection system*. The system experiences two (2) or more failures with the piping or any associated components.

- B) This guarantee shall be in the amount determined by the Water Resources Director or Public Works and Transportation Director, as appropriate.

#### **7.5.15 Maintenance Guarantee**

The Town shall secure from all subdividers a guarantee in which each subdivider shall agree to maintain the backfill and any improvements located thereon and therein and any ditch, which has been dug in connection with the installation of such improvements. Such guarantee shall be binding on the subdivider for a period of one (1) year after the acceptance of such improvements by the Town.

#### **7.5.16 Final Plat Approval Contingent on Execution of Guarantees**

No Final Plat will be approved by the Director of Planning and Community Development, Water Resources Director, or Public Works and Transportation Director unless such plat is in compliance with Sec. 14.1.5.C and Secs. 7.5.12 through 7.5.15.

#### **7.5.17 Irrevocable Letter of Credit in Lieu of Surety Bond or Other Guarantee of Performance**

Whenever by this Article a surety bond, certified check, or cash bond is required to guarantee performance by any person or to guarantee against defects, the security for said guarantee may be in the form of an irrevocable letter of credit from any commercial bank doing business in the state and addressed to the Town in the sum and the terms required by such bond, guarantee, or deposit.