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## Article X — Construction of Improvements; Financial Security

### § 22-1001 Construction of Improvements.

Physical improvements to the proposed subdivision or land development tract shall be provided, constructed, and installed as shown on the record plan, in accordance with the requirements of Council.

[Ord. 415 10-29-2003]

### § 22-1002 Subdivision Agreement.

Before Council shall cause its approval to be endorsed upon the final plans of any subdivision or land development (except in the case of a minor subdivision where Council imposes no condition or conditions for the approval of the plan), and as a requirement for the approval thereof, the owner shall enter into a written agreement with the Borough, in the manner and form set forth by the Borough Solicitor, wherein he shall agree:

(a) To construct or cause to be constructed at his own expense all improvements shown on said final plan.

(b) To maintain in good repair, at his own cost, the said improvements until the same are accepted by the Borough for public use, and for a period of one (1) year thereafter.

(c) To pay the inspection fees required by the Borough as specified in § 22-1106 (relating to Fees).

(d) To obtain all easements and releases required.

(e) To promptly reimburse to the Borough reasonable attorneys' and engineers' fees as specified in § 22-1106 (relating to Fees).

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### § 22-1003 Financial Security.

(a) **Prerequisite for Final Plan Approval.** Before Council approves any final plans, and as a prerequisite for approval, the developer shall deliver to the Borough a performance guaranty, maintenance guaranty, and assurances of escrowed amounts for inspection in accordance with this Section.

(b) **Security Required.** In order to assure the Borough that the streets, drainage facilities, curbs, sidewalks, street signs, fire hydrants, streetlighting facilities, monuments, parks, and capped sewers shown on said final plans, and other improvements shown on said final plans which Council shall require the owner to install, at his own expense, will be constructed and installed in strict accordance with the plans as finally approved and with the standards, regulations,

and specifications of the Borough, and will be maintained until accepted by the Borough, the owner shall furnish to the Borough:

(1) A performance guaranty for all required public improvements, as estimated by the Borough Engineer, in a form and with surety approved by the Borough Solicitor, guaranteeing the construction and installation of all such improvements within a stated period, which shall not be longer than two (2) years from the date of final subdivision approval. Where the final plan is submitted in stages or sections, the amount of the guaranty may also be provided in stages if acceptable to Council. After Council shall have accepted the streets, facilities, and other improvements as public streets, public facilities, and public improvements in the manner provided in § 22-1004 (relating to Approval of Improvements), the ten percent (10%) remaining in the fund shall serve to guarantee the maintenance, repair, or reconstruction of the said improvements by the owner for a period of one (1) year thereafter required under the provisions of § 22-1002 (relating to Subdivision Agreement) and of this section.

(2) A maintenance guaranty, in an amount not less than ten percent (10%) of the Borough Engineer's estimate of the cost of all required improvements, guaranteeing that the developer shall maintain all such improvements in good condition for a period of one (1) year after completion of construction and acceptance of all such improvements by Council.

(3) Sufficient funds shall be escrowed to pay the cost of required inspections as estimated by the Borough Engineer.

(c) **Form of Security.** The performance guaranty and maintenance guaranty shall be in the form of a bond, with such surety as Council shall approve, or in lieu thereof, when deemed adequate by Council, shall deposit with the Borough securities, in either case in an amount sufficient to cover cost, as estimated by Council, of the construction and installation of the aforesaid improvements and of lighting the streets, until the same shall be accepted by the borough. In lieu of posting bond or depositing securities as above provided, the Borough may require the owner to deposit with the Borough funds in an equivalent amount to be held in escrow in accordance with the terms of a written escrow agreement prepared by the Borough Solicitor.

(d) **Extension of Security; Reductions for Partial Completion.** Upon written application signed by both the obligor and surety of performance guaranty in a form approved by the Borough Solicitor, Council may, in its discretion, extend the period for installation of guaranteed improvements by not more than three (3) additional years, or, when the improvements have been partially completed, may reduce proportionally the amount of the performance guaranty, by formal resolution.

(e) **Default Under Performance Guaranty.** In the event of the default under a performance guaranty, the proceeds of the performance guaranty received by the Borough shall be used to construct and install the improvements.

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## § 22-1004 Approval of Improvements.

When the developer has installed or constructed all required improvements, the developer shall notify Council, in writing, by certified or registered mail, of the completion of the aforesaid

improvements and shall send a copy thereof to the Borough Engineer. Council shall, within ten (10) days after receipt of such notice, direct and authorize the Borough Engineer to inspect all of the aforesaid improvements. The Borough Engineer shall thereupon file a report, in writing, with Council, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the Borough Engineer of the aforesaid authorization from Council; said report shall be detailed and shall recommend approval or rejection of said improvements, either in whole or in part, and if said improvements or any portion thereof shall not be recommended for approval by the Borough Engineer, said report shall contain a statement of reasons for such nonapproval or rejection. Council shall notify the developer, in writing, by certified or registered mail, of the action of Council with relation thereto.

[Ord. 415 10-29-2003]