

**TOWN OF WEST WARWICK PLANNING BOARD
WEST WARWICK LAND DEVELOPMENT AND SUBDIVISION
REVIEW REGULATION
AMENDING APPENDIX D OF THE CODE OF ORDINANCES
OF THE TOWN OF WEST WARWICK**

WHEREAS: Pursuant to the provision of Sections 17-25 and 17-26 of the West Warwick Land Development and Subdivision Review Regulation, the Planning Board of the Town of West Warwick is empowered to adopt, modify and amend the Regulations; and

WHEREAS: The Planning Board for the Town of West Warwick has determined that the provisions of Section(s) 20. – General provisions – Construction and/or improvement guarantees said Regulations should be amended to ensure that said Regulations are updated to provide for accurate rules and regulations for the governing of land development and subdivision projects and to control land development and subdivision projects.

NOW, THEREFORE, THE PLANNING BOARD OF THE TOWN OF WESTWARWICK HEREBY AMENDS THE WEST WARWICK LAND DEVELOPMENT AND SUBDDIVISION REVIEW REGULATIONS APPENDIX D OR THE CODE OF ORDINANCES OF THE TOWN OF WEST WARWICK as follows:

Sec. 20. - General provisions—Construction and/or improvement guarantees.

(B) *General procedures.* Before any land development or subdivision plan is endorsed by the planning board, and before the recording of any subdivision plat, the planning board shall be required to approve improvement guarantees to ensure the proper agreements for the completion of all required improvements. ~~Such agreements may as determined by the planning board, take the form of (1) completion of actual construction of all improvements; (2) improvement guarantees, or (3) a combination thereof.~~

At the preliminary plan review stage, the subdivider shall submit ~~either of the following: (1) a letter to the planning board indicating his/her intent to complete the required improvements prior to the planning board's endorsement of the final plat; or (2) a letter requesting that security sufficient to cover the cost of required improvements be established by the board.~~

~~(1) If improvements are to be constructed without a financial guarantee, all work shall be completed prior to endorsement and recording of Final Plan. Inspections shall be made by the Town Engineer, Building Official/Public Works Director and/or other designee of the Planning Board or the Planning Director as may be appropriate at all required stages of construction as specified in section 19. All construction shall be inspected and approved by the Town Engineer, Building Official and/or other designee of the Planning Board or Town Planner as may be appropriate and according to the procedures in section 19. Upon completion of all required improvements, inspecting town official(s) shall certify in writing to the Town Planner of such completion, and a copy shall be provided to the subdivider upon request. The final plat shall be endorsed by the appropriate planning board member or~~

~~town official and the plat shall be recorded as provided in section 38, at which time the lots within the subdivision may be transferred or sold.~~

~~(2) If improvements are to be guaranteed, the provisions of subsection (C) below shall apply.~~

(C) Procedures for financial guarantees.

(1) *Amount.* Improvement guarantees shall be in an amount and with all necessary conditions to secure for the town the actual construction and complete installation of all of the required improvements, and the satisfactory completion of all conditions of final approval within the time periods required for completion provided in said approval. The amount shall be based upon actual cost estimates which would be required for the town to complete all improvements required as a condition of final approval. These estimates shall be initially prepared by the Town Engineer and submitted to the Administrative Officer, who shall review the estimates, if requested, with the subdivider. If the subdivider disagrees with the estimated amount, he/she shall have the opportunity to submit a revised estimate along with supporting justification for the revision. The Town Engineer's recommendation shall be forwarded to the Planning Board along with any revisions requested by the subdivider and/or other Town Departments who shall review and approve the final amount. The board may set the guarantee in a reasonable amount in excess of the estimated costs in order to anticipate increases in economic or construction costs. However, the amount of such an increase shall not exceed one hundred twenty (120) percent of the estimated cost of improvements recommended by the Town Engineer.

At the expiration of the final plan approval period, if all required improvements are not complete, the planning board shall review the status of improvements and may (1) require the subdivider to extend the duration of the entire improvement guarantee; (2) reduce the amount of the improvement guarantee to cover the estimated costs of remaining improvements; or (3) authorize the administrative officer to take the steps necessary to ensure completion of the remaining work by using improvement guarantee funds. If at any time during the guarantee period the procedures, implementation measures, methods, materials, and/or schedules of construction are determined by the planning board not to be in compliance with the approved plans, the board may, after proper notification to the subdivider, authorize the use of improvement guarantee funds to ~~insure~~ ensure proper compliance.

(3) *Releases.* At the expiration of the final plan approval period, if all required improvements are complete, any improvement guarantee shall be returned to the subdivider. Partial releases or reductions in the improvement guarantee amount may also be authorized at any time prior to the expiration of final approval. A written request for release or reduction of any improvement guarantees shall be made to the administrative officer who shall refer the request to the town engineer. After inspection of all required improvements by the town official(s) to whom such responsibility lies, the town engineer shall report to the planning board regarding his/her findings regarding the required improvements. Based on the report of the town engineer, the planning board shall recommend that the town council:

- (a) Authorize the finance director to return all improvement guarantees to the subdivider;
or
- (b) That the amount of the guarantee being held by the town be reduced to cover the estimated cost of remaining improvements; or
- (c) That no releases or reductions be made.

The town council shall act on all such releases or reductions of improvement guarantees.

(6) *Maintenance guarantees.* The planning board shall require that a maintenance guarantee be provided by the subdivider for all improvements which are being dedicated to the town for public acceptance and maintenance. The amount of the maintenance guarantee shall be five percent of the original ~~performance bond or other original~~ improvement guarantee amount. In the absence of such a guarantee, five percent of the total estimated cost of all required improvements shall be required. The initial period for such maintenance guarantee shall be one year. At the end of the one-year maintenance period, the director of public works shall inspect all improvements subject to the guarantee and shall certify in writing to the administrative officer as to their condition. If found to be unacceptable, the administrative officer shall recommend an extension of the guarantee period to the finance director, and the original funds shall not be returned to the subdivider. If public improvements are in good condition and have not been damaged due to the fault of the subdivider, or through faulty workmanship or design, the maintenance guarantee shall be returned to the subdivider.