



## ORDINANCE 748

**AN ORDINANCE AMENDING CHAPTER 25, SECTIONS 25-27 AND 25-28 OF THE CODE OF ORDINANCES OF THE CITY OF THE VILLAGE; PERTAINING TO ASSURANCE FOR COMPLETIONS OF IMPROVEMENTS BY SUBDIVIDERS; PERTAINING TO MAINTENANCE BOND FOR PUBLIC IMPROVEMENTS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE VILLAGE:**

**Section 1** That Chapter 25, Section 25-27 and Section 25-29 be amended to read as follows:

**"Sec. 25-27. Assurance for Completion of Improvements.**

- a) Prior to acceptance of the dedications within the final plat by the City Council and recording the final plat pursuant to Section 25-10(g), the Subdivider shall complete, in accordance with the approved construction plans, all improvements required by this Chapter, as specified on the final plat approved by the City Council
- b) In lieu of completion of the improvements herein required, the City Council may, at its discretion, accept a subdivision improvement guarantee from the Subdivider, whereby the Subdivider agrees to complete construction of all improvements according to the plans and specifications approved by the Planning Commission and City Council within a period of time not to exceed two (2) years from the date of approval of the final plat. The form of such guarantees shall consist of one of the following:
  - 1) The Subdivider shall file a surety bond, issued by an institution licensed by the State of Oklahoma as a surety company, with the City of The Village in the amount of one hundred percent (100%) of the estimated costs to complete all required improvements, as estimated by the City Engineer. The bond shall be subject to approval by the City Attorney and acceptance by City Council.
  - 2) The Subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the City The Village, or in escrow with a bank or savings and loan institution, in the amount of one hundred percent (100%) of the estimated costs to complete all required improvements, as estimated by the City Engineer. The use of any instrument other than cash shall be subject to the approval by the City Attorney and acceptance by the City Council. In the case of any escrow account, the Subdivider shall file with the City Council an agreement between the financial institution and Subdivider guaranteeing the following:
    - a) That the funds of said escrow account shall be held in trust until released by the City Council and may not be used or pledged by the Subdivider as security in any other matter during that period; and



## ORDINANCE 748

- b) That, in the case of a failure on the part of the Subdivider to complete the specified improvements within the required time period, the financial institution shall immediately make the funds in said account available to the City to finance the completion of those improvements.
- 3) The Subdivider shall provide a letter of credit from a bank, trust company, or savings and loan institution to the City of The Village. This letter shall be submitted to the City Council and shall certify the following:
- a) That the creditor does guarantee funds equivalent to one hundred percent (100%) of the estimated costs to complete all required improvements, as estimated by the City Engineer.
  - b) That, in the case of a failure on the part of the Subdivider to complete the specified improvements within the required time period, the creditor shall immediately pay to the City such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
  - c) That this letter of credit may not be withdrawn, or reduced in amount, unless approved by the City Council according to the provisions of paragraph (c) below.
- c) Upon completion of the improvements required, the Subdivider shall notify the City Engineer of such completion, requesting that the City Engineer so inspect the completed improvements, determining whether the improvements have been constructed and installed in compliance with those pertinent provisions of this Code. The City Engineer shall prepare a report regarding his inspection and file the same.

### **Sec. 25-28. Maintenance bond.**

Before the acceptance of any public improvement for maintenance by the City Council, a maintenance bond for the full amount of the contract, effective for a period of two (2) years following the date of the City's acceptance of the public improvement, will be filed with the City Clerk to insure the correction of any defect in materials or workmanship that may be found in the improvement.

**Section 2. Repealer Clause.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**Section 3. Severability Clause.** If any section, subsection, sentence, clause, or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.



## ORDINANCE 748

**Section 4. Emergency Clause.** WHEREAS, it being necessary for the preservation of the public health, peace, and safety of the City of The Village, Oklahoma, an emergency is declared to exist and by reason thereof this Ordinance shall take full force from and after its adoption.

**PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF THE VILLAGE, OKLAHOMA**, this 16<sup>th</sup> day of September, 2019, after compliance with the notice requirements of the Open Meeting Law (25 O.S. § 301, *et seq.*).

\_\_\_\_\_  
**CATHY CUMMINGS, MAYOR**

ATTEST:

\_\_\_\_\_  
**Bruce K. Stone,**  
City Clerk

**APPROVED AS TO FORM AND LEGALITY** this 16<sup>th</sup> day of September, 2019.

\_\_\_\_\_  
**City Attorney**