

Chapter 17.38

BONDS FOR COMPLETION OF IMPROVEMENTS TO REAL PROPERTY

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Section 17.38.010 Improvement completion bonds generally

Any person or entity subdividing, improving, building upon or otherwise developing real property (hereinafter "developer") shall post for the benefit of Lindon City an improvement completion bond in such amount and of adequate security, as set forth hereinafter, insuring the timely and proper completion of all improvements required by the Lindon City Code, the Lindon City Development Review Committee ("DRC"), and all applicable building codes, standards and specifications.(Ord. 2000-2, Amended, 10/04/2000)

Section 17.38.020 Bond for off-site improvements

1. Prior to, and as a condition for obtaining approval of a subdivision plat, building permit, or conditional use permit, any developer making "Off-Site Improvements," as defined below, to real property shall post an improvement completion bond for the proper and timely installation and completion of all such Off-Site Improvements.

2. For the purposes of this ordinance, Off-Site improvements shall include:
 - a. Utility installations, including piping of culinary and irrigation water, sewer connections, storm drainage, and other required utilities as established by Lindon City;
 - b. Roads, grading, curb, gutter, sidewalks, grading, and erosion control;
 - c. Any other improvement that may or may not appertain to an individual lot being developed but which benefits the property or that the DRC reasonably deems necessary to the development of the property and any improvements required by or promised to the City; required by ordinance or statute; shown on preliminary plats, final plats and construction drawings approved by the City; or required by the city engineer or the DRC as part of the plat approval process.
3. The Improvement Completion Bond shall guarantee that all required improvements will:
 - a. Be constructed in accordance with the City's construction standards and specifications and as represented in the construction drawing approved by the city engineer.
 - b. Be completed and pass city inspection within one (1) year of the date that the final plat is recorded or building permit is issued, except that required improvements for plats or building permits recorded between October 1 and March 31 must be completed by the next October 1. For example, the

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required improvements for a plat recorded on February 6, 1990 must be completed by October 1, 1990. The purpose of this requirement is to give the City an opportunity to collect on the bond and complete required asphalt and concrete improvements before the asphalt batch plants close for the winter and before the weather prohibits the completion of the improvements. The City may retain and use the Improvement Completion Bond for work not timely completed where no extension was granted to the developer. The developer may request extensions from the DRC and such extensions shall be granted for good cause shown.

- c. Remain free from defects for a period of two (2) years following the date that all improvements pass City inspection, or until April 15th of the following year, whichever time period is longer. The purpose of this warranty is to assure that the improvements will last through at least two (2) full winters. The developer shall repair or replace any improvements which are or become defective during this time period. Subdivision public improvements shall remain free from defects for a period of two (2) years following the date that all improvements pass City inspection.
4. Further, the Improvement Completion Bond will guarantee that all repairs to, or replacements of, the required improvements will be made to the satisfaction of the DRC and the city engineer. The DRC may require the developer to guarantee and warrant that any repairs will remain free of defects for

a period of six (6) months following the date that the repairs pass City inspection, or until April 15th of the following year, whichever time period is longer. The City may retain the Improvement Completion Bond until the repairs have lasted through the warranty period, and may take action against the bond if necessary to properly complete the repairs. The Improvement Completion Bond shall not be released until the DRC has certified in writing that the promised performance is completed and the warranty period has expired. Site plans shall be released at the end of the warranty period.

5. The Improvement Completion Bond guaranteeing the timely and proper installation of required improvements shall be equal in value to at least one hundred and ten percent (110%) of the cost of the required improvements, as estimated by the City Engineer. The purpose of the bond is to enable the City to make or complete the required improvements in a timely manner in the event of the developer's inability or failure to do so. The City need not complete the required improvements before collecting on the bond. The City may, in its sole discretion, delay taking action on the bond and allow the developer to complete the improvements if it receives adequate assurances that the improvements will be completed in a timely and proper manner. The additional ten percent (10%) will be used to make up any deficiencies in the bond amount and will reimburse the City for administrative costs and collection costs, including court costs and attorney's fees.
6. The bond shall be an irrevocable letter of credit, escrow bond, cash bond or

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combination bond in favor of the City. The requirements relating to each of these types of bonds are detailed below. The City must approve any bond submitted pursuant to this section. The City reserves the right to reject any of the bond types if it has a rational basis for doing so. Letters of credit shall be from a federally insured bank or financial institution and shall be submitted on one of the forms set forth in this section. Escrow bonds shall be held by a federally insured bank, credit union, or similar financial institution or a title insurance underwriter authorized to do business in the State of Utah.

7. The City shall have the sole right to enforce the Improvement Completion Bond. Private parties shall not be third-party beneficiaries of the Improvement Completion Bond.

(Ord. 2000-2, Amended, 10/04/2000)

Section 17.38.030 Bond for on-site improvements

1. Any developer making on-site improvements to real property that are not completed at the time of application for an occupancy permit shall post an Improvement Completion Bond or the proper and timely installation of all such on-site improvements. The term "on-site improvements" means and includes:
 - a. Parking, storm-drain, landscaping, fencing.
 - b. Any other improvement on the property or that was promised to the City, required by City ordinances, shown on preliminary plats, final plats and construction, site plans, drawings approved by the City, or that was required by the DRC or city engineer as part of the plat approval process.

2. The Improvement Completion Bond shall guarantee that all required improvements will:

- a. Be constructed in accordance with the city's construction standards and specifications and the construction drawings approved by the City Engineer.
- b. Be completed and pass City inspection within one (1) year of the date that the occupancy permit is issued. Improvements required between November 1 and March 31 must be completed by the next October 1. For example, the required improvements for an occupancy permit issued on February 6, 1990 must be completed by October 1, 1990. The purpose of this requirement is to give the City an opportunity to collect on the Bond and complete any required asphalt and concrete improvements before the asphalt batch plants close for the winter and before the weather prohibits the completion of the improvements. The City may retain and use the Improvement Completion Bond for work not timely completed where no extension was granted to the developer. The developer may request extensions from the DRC and such extensions shall be granted for good cause shown.
- c. Remain free from defects for a period of one (1) year following the date that all improvements pass City inspection, or until April 15th of the following year, whichever time period is longer. The purpose of this warranty is to assure that the improvements will last through at least one (1) full winter. The developer shall repair or replace

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any improvements that are or become defective during this time period. Public improvements in subdivisions shall remain free from defects for a period of two (2) years following the date that all improvements pass City inspection.

- d. All repairs or replacements shall be made to the satisfaction of the DRC. The DRC may require the developer to guarantee and warrant that any repairs remain free from defects for a period of six (6) months following the date that the repairs pass City inspection, or until April 15th of the following year, whichever time period is longer. The DRC may retain the Improvement Completion Bond until the repairs have lasted through the warranty period, and may take action on the bond if necessary to properly complete the repairs. The Improvement Completion Bond shall not be released until the DRC has certified in writing that the promised performance is completed and the warranty period has expired.
3. The Improvement Completion Bond guaranteeing the timely and proper installation of required improvements shall be equal in value to at least one hundred percent (100%) of the cost of the required improvements, as estimated by the City Engineer. The purpose of the bond is to enable the City to make or complete the required improvements in a timely manner in the event of the developer's inability or failure to do so. The City need not complete the required improvements before collecting from or foreclosing on the bond. The City may, in its sole discretion, delay taking action on

the bond and allow the developer to complete the improvements if it received adequate assurances that the improvements will be completed in a timely and proper manner.

4. The bond shall be an irrevocable letter of credit, escrow bond, cash bond or combination bond in favor of the City. The requirements relating to each of these types of bonds are detailed in the approved bond form as maintained by Development Review Committee. The City must approve any bond submitted pursuant to this section. The City reserves the right to reject any of the bond types if it has a rational basis for doing so. Letters of credit shall be from a federally insured bank or financial institution and shall be submitted on one (1) of the forms set forth in this section. Escrow bonds shall be held by a federally insured bank, credit union, or similar financial institution or a title insurance underwriter authorized to do business in the State of Utah.
5. The City shall have the sole right to enforce the Improvement Completion Bond. Private parties shall not be third-party beneficiaries of the Improvement Completion Bond.

(Ord. 2000-2, Add, 10/04/2000)

Section 17.38.040 Required Forms

1. Any person posting an Improvement Completion Bond shall use the original stamped forms listed below and maintained by the DRC. No copies or facsimile reproduction as acceptable:
 - a. DRC Form #1 - Improvement Completion Bond Agreement Form.
 - b. DRC Form #2 - Irrevocable Letter of Credit Form.
2. The DRC shall have power to create,

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maintain, and amend such forms as
necessary to fulfill the purposes of this
ordinance.

(Ord. 2000-2, Add, 10/04/2000)