



MARYLAND

ORDINANCE NO. 2100

AN ORDINANCE OF THE MAYOR AND THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND PURSUANT TO CHAPTER 16.60 OF TITLE 16, SUBDIVISION OF LAND, OF THE SALISBURY MUNICIPAL CODE, AND SECTION 4.04 OF ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND, FOR THE PURPOSE OF AMENDING CHAPTER 16.48.030, GUARANTEES IN LIEU OF COMPLETED IMPROVEMENTS.

WHEREAS, the ongoing application, administration, and enforcement of Title 16, Subdivision of Land, of the Salisbury Municipal Code, demonstrates a need for its periodic review, evaluation, and amendment that will keep Title 16 current; and,

WHEREAS, the Mayor and City Council may amend Title 16, Subdivision of Land, of the Salisbury Municipal Code pursuant to the authority granted by Article 66B of the Maryland Annotated Code and in accordance with specific provisions of Chapter 16.60, Amendments of Title 16, Subdivision of Land; and,

WHEREAS, the Mayor and City Council have requested that the Salisbury Planning and Zoning Commission periodically review Title 16 in light of existing development trends and practices and current City development policies as well as to review all individual amendment requests from private citizens;

WHEREAS, a Public Hearing on said text amendment to Gurantees in Lieu of Completed Improvements, Section 16.48.030, Title 16, Subdivision of Land, of the Salisbury Municipal Code was held by the Planning Commission in accordance with the provisions of Chapter 16.60, of Title 16, Subdivision of Land, of the Salisbury Municipal Code on February 18, 2010, and,

WHEREAS, the Planning Commission did recommend approval of the proposed text changes at a Public Hearing on February 18, 2010,

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Title 16, Subdivision of Land, of the Salisbury Municipal Code are hereby amended by removing the working with strike-throughs and adding the wording in all capital letters and bold print as follows:

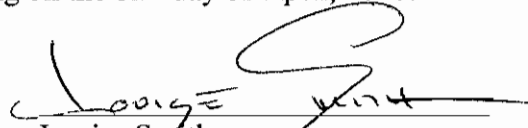
AMEND SECTION 16.48.030 GURANTEES IN LIEU OF COMPLETED IMPROVEMENTS AS FOLLOWS:

No ~~Improvements Construction Plan~~ **SUBDIVISION** shall be approved **RECORDED** or building permit issued for ~~construction~~ **NON-PUBLIC IMPROVEMENTS** therein until ~~the public improvements required under the provision of this title have been installed, and approved by the Director of Public Works;~~ the Director **OF PUBLIC WORKS ACCEPTS** ~~may accept cash, A CASH BOND,~~ a security bond, or an irrevocable letter of credit in an amount equal to one hundred (100) percent of the estimated cost of installation of the required **PUBLIC** improvements, whereby **PUBLIC** improvements may be made and utilities installed without cost to the City in the event of a default by the subdivider. However, even with such guarantee, no occupancy permit shall be issued until all **PUBLIC** improvements have been completed satisfactorily and approved by the City Director of Public Works. (Ord. 1661 (part), 1997)

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall

take effect from and after the date of its final passage but in no event until ten (10) days after the date of the Council's Public Hearing, and,

THE ABOVE ORDINANCE was introduced at a meeting of the Council on the 8th day of March, 2010, and having been published as required by law, in the meantime, was finally passed at its meeting on the 12th day of April, 2010.



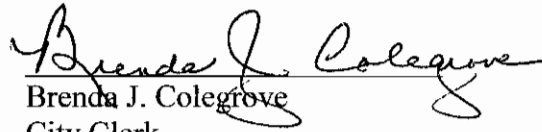
Louise Smith
President of the City Council of
the City of Salisbury

Approved by me this 13th
day of April, 2010.

Witness:



James Betton, Jr.
Mayor of Salisbury



Brenda J. Colegrove
City Clerk



**CITY OF SALISBURY - WICOMICO COUNTY
DEPARTMENT OF PLANNING, ZONING
AND COMMUNITY DEVELOPMENT**



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Planning & Zoning Commission
Historic District Commission
Metropolitan Planning Organization

Wicomico County Board of Appeals
Salisbury Board of Zoning Appeals
Agricultural Land Preservation Advisory Board

February 25, 2010

TO: John Pick, City Administrator
FROM: John F. Lenox, Director, Planning & Zoning
SUBJECT: Proposed Text Amendment – To Section 16.48.030 – Guarantees in Lieu of Completed Improvements with regard to bonding and plat recordation

At the February 18, 2010 meeting of the Salisbury Planning Commission, following an advertised Public Hearing, the Commission forwarded a **FAVORABLE** recommendation to the Mayor and City Council for adoption of the following Text Amendment to Section 16.48.030 – Guarantees in Lieu of Completed Improvements with regard to bonding and plat recordation:

16.48.030 Guarantees in lieu of completed improvements.

No Improvements Construction Plan ~~SUBDIVISION~~ shall be approved **RECORDED** or building permit issued for ~~construction~~ **NON-PUBLIC IMPROVEMENTS** therein until the public improvements required under the provision of this title have been installed, and approved by the Director of Public Works, the Director **OF PUBLIC WORKS ACCEPTS** may accept cash, **A CASH BOND**, a security bond, or an irrevocable letter of credit in an amount equal to one hundred (100) percent of the estimated cost of installation of the required **PUBLIC** improvements, whereby **PUBLIC** improvements may be made and utilities installed without cost to the City in the event of a default by the subdivider. However, even with such guarantee, no occupancy permit shall be issued until all **PUBLIC** improvements have been completed satisfactorily and approved by the City Director of Public Works. (Ord. 1661 (part), 1997)

This matter was the subject of a recent work session with the City Council Members. The Mayor and Council must now hold a public hearing before approving or denying the Code amendment.

The Ordinance is attached for the Council's consideration.



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STAFF REPORT

MEETING OF FEBRUARY 18, 2010

CASE NO.: #SP-1005

APPLICANT: Salisbury Public Works Department

REQUEST: **PUBLIC HEARING – Text
Amendment to Section 16.48.030 –
Guarantees in Lieu of Completed
Improvements** with regard to bonding
and plat recordation.

I. REQUEST:

The Salisbury Public Works Department has submitted a request to amend the text of the Subdivision Regulations, Title 16, of the Salisbury Municipal Code. Specifically, amendments are proposed in the wording with respect to bonding of improvements and recordation of final plats. (See Attachment #1.)

II. DISCUSSION:

The Salisbury Public Works Department has been reviewing the language of certain sections of the Subdivision Regulations for some time.

On May 4, 2010, revisions to the Stormwater Management Regulations, as mandated by the State of Maryland, will take effect. As a result, there is a need to make some amendments to the Salisbury Subdivision Regulations effective at about the same time.

The proposed amendments to Section 16.48.030 – Guarantees in Lieu of Completed Improvements allow bonding and plat recordation requirements to be delayed until after the Improvements Construction Plan is approved. The proposed amendments make the Salisbury Subdivision Regulations consistent with the Wicomico County Subdivision Regulations and practices. The proposed amendments are shown with strike-throughs and all caps and bold letters.

16.48.030 Guarantees in lieu of completed improvements.

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The Public Works staff further explained that this change will allow development plans to be approved and held by the Public Works Department until the performance bond is accepted and the plat recorded at a later date. Issuance of the building permits and grading permits will also be delayed until the bond is accepted and the plat recorded.

III. PLANNING STAFF COMMENTS/CONCERNS.

Other, more extensive amendments to the Subdivision Regulations will be presented to the Commission at a later date.

In the review and preparation of this amendment request, it was found that amendments to Section 16.08.050 were not necessary.

IV. RECOMMENDATION.

Staff recommends that the Commission forward a Favorable recommendation to the Mayor and City Council for amendment of Section 16.48.030 as shown above.

COORDINATORS: Dale Pusey and Gloria Smith
DATE: February 4, 2010

Chapter 16.48
REQUIRED IMPROVEMENTS

Sections:

- 16.48.010** **Required improvements.**
- 16.48.020** **Improvement standards.**
- 16.48.030** **Guarantees in lieu of completed improvements.**

16.48.010 **Required improvements.**

A developer shall be required to make the following improvements in accordance with the specifications established by the City and by this chapter.

- A. **Grading.** All grading, including roads and streets shall be accomplished in compliance with the City construction standards as prepared by the Department of Public Works.
- B. **Drainage Plan and Maintenance.**
 - 1. The developer, at the time of presenting the Improvements Construction Plan for approval, shall submit an adequate plan for the disposal of all stormwater in the proposed subdivision. An adequate permanent outlet for this stormwater shall be provided or shown to exist. In the preparation of the plan, the engineering staff of the Department of Public Works shall, upon request, assist and advise the developer.
 - 2. Stormwater management shall be provided in conformance with the City's requirements in Chapter 13.28 of Title 13, Stormwater Management, of this Code.
 - 3. The Planning Commission may require that the subdivider or developer form and record among the land records of Wicomico County, Maryland, the Articles of Incorporation of a homeowners association, clearly assigning responsibility for maintenance of the stormwater drainage and stormwater management systems. In the event that the homeowners association fails to adequately maintain the systems, the City of Salisbury may complete the required maintenance work and assess each owner of each lot equally for the cost, which shall be a lien against each lot in the subdivision. A legally sufficient agreement approved by the City solicitor may be substituted for the Articles of Incorporation for a homeowners association.
- C. **Stabilization.** Stabilization of all streets within the subdivision shall be accomplished, by the developer, in accordance with City construction standards as prepared by Department of Public Works. The developer shall pay one hundred (100) percent of the cost of this stabilization.
- D. **Pavements.**
 - 1. The subdivider shall have the streets or roads in the subdivision paved with bituminous concrete pavement, and shall pay one hundred (100) percent of the cost thereof. All bituminous concrete pavements shall consist of aggregates and asphalt mixed and constructed in accordance with the latest Maryland State Highway specifications including all errata and addenda and placed to the depth, grade and cross section

required in City construction standards and the approved profile. The bituminous concrete batch plant shall be as approved by the Maryland State Highway Administration.

2. Due to the diversity of development in the planning area ranging from sparsely populated agricultural areas to the densely populated urban areas, required pavement widths will necessarily vary with the character of building development and the amount of traffic encountered. Minimum pavement widths shall be established for typical sections in the City's construction standards.
- E. **Curb and Gutter.** Curb and gutter in accordance with the City construction standards shall be placed by the developer on both sides of all new streets in all subdivisions. The developer shall pave these streets, in conformance with subsection D of this section, following the placement of curb and gutter and stabilization. When, in the opinion of the Director of Public Works the terrain or the drainage conditions are such as to prohibit the installation of curb and gutter, then side ditches instead of curb and gutter may be allowed with the specific approval of the Director of Public Works. Drainage easements for such side ditches shall be shown in their entirety on the Final Plat.
 - F. **Street Name Signs.** Appropriate street signs also add sales value to land subdivisions and enable emergency personnel, strangers, delivery concerns and even potential lot buyers to find their way around. Street names shall be installed at all intersections. Street names signs shall comply with standards used by the City. Upon request, the Director of Public Works will aid the subdivider with specifications for the construction, placing and setting of such signs.
 - G. **Installation of Utilities.** After grading is completed and approved and before any base is applied, all of the underground work, stormwater drains, sanitary sewers, water mains, gas mains, electrical wire, telephone wire, C.A.T.V. wires, and all service connections shall be installed completely and approved throughout the length and width of all streets. All driveways for houses to be built by the developer shall be cut and drained.
 - H. **Water Supply System.** When any subdivision is located within the service area of a public water system, water mains shall be installed in such a manner as to serve adequately all lots with connection to the public system. Where lots cannot be economically connected with a public water system, a private well location shall be provided and approved by certificate in writing by the County health officer only with specific approval of the Director of Public Works and shown on the final subdivision plat. The number of service connections will be determined by the Director of the City Department of Public Works.
 - I. **Sanitary Sewers.** When any subdivision is located within the service area of a public sewerage system, sanitary sewers shall be installed in such a manner as to serve adequately all lots with connection to a public system. Where lots cannot be economically connected with a public sewerage system, an adequate area shall be provided for the installation of a private sewerage system, certified in writing by the County health officer and the City Director of Public Works, and shown on the final subdivision plat. The number of service connections will be determined by the Director of the City Department of Public Works.

- J. Connection Required Where Feasible. No lot within a subdivision in which the Planning Commission deems it feasible to connect with a public or community water supply system or public sewerage system shall be transferred of record and/or a building permit issued for construction thereon until the water and sewer mains have been made available to the particular lot and operational.
- K. Open Space—Shared Facilities Requirements.
1. When any proposed subdivision plat includes any common open spaces, common use areas, or shared facilities, the developer and/or owner shall be required to execute a maintenance and preservation agreement binding on all subsequent owners of land in the proposed subdivision satisfactory to the Planning Commission or the City Council and sufficient to assure the maintenance and preservation of the aforesaid areas for the purpose such areas are intended and approved.
 2. All such maintenance and preservation agreements shall specify ownership of the common open space uses or facilities; the method of and responsibility for maintenance of the areas; payment of taxes and insurance; access to the area at reasonable times for inspection by the City or its authorized representatives; and the provision that if, after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or entity in control of the area within thirty (30) days and it becomes necessary for the City to maintain or cause to be maintained any such area, the cost of such maintenance shall be borne by the property owner(s) or persons or entity in control of said property and if unpaid, shall become a lien against the property and collected the same as taxes by the City. The agreement shall be recorded by the developer and/or owner in the Land Records of Wicomico County.
 3. When any plat provides for or where required by the Planning Commission, for open spaces, common use buildings, landscaped areas, recreation facilities, parking areas, structures or other improvements for the common use and benefit of occupants of the development, the developer may be required, by the Planning commission to guarantee the completion of any such spaces, structures, facilities or other improvements. In order to provide such guarantee, the developer or owner shall deposit surety in the amount of the estimated cost of construction of the improvements. Surety may be in the form of a corporate bond, cash deposit, irrevocable letter of credit, assigned savings account or other security, all or any of which must be acceptable to the City solicitor. Surety shall be returned or released upon satisfactory completion of the project.
- L. Proposed domestic refuse containers and bulk refuse storage facilities/enclosures may be required to be shown indicating size and location. (Ord. 1661 (part), 1997)

16.48.20 Improvement standards.

The planting of street trees and the installation of sidewalks is considered a duty of the subdivider as well as a good business practice and shall be provided as follows.

- A. Street Trees. Street trees are a protection against excessive heat and glare and enhance the attractiveness and value of abutting property. The Planning Commission will assist the subdivider in location of trees and species to use under varying conditions. It is recommended that trees be planted inside the property lines where they are less subject to injury, decreasing the chance of motor accidents and enjoying more favorable conditions for growth. If trees are to be planted within a planting strip in the right-of-way, their proposed locations and species to be used must be submitted for the Planning Commission's approval. If any landscaping, including grass is planted in a planting strip or median of the street, a homeowner's association to maintain this landscaping may be required. In the event that the homeowner's association fails to adequately maintain these areas, the City may complete the required maintenance work and assess each owner of each lot equally for the cost which shall be a lien against each lot in the subdivision. A legally sufficient agreement may be substituted for the homeowner's association.
- B. Sidewalks. For the protection of pedestrians and of children at play, installation of sidewalks by the developer or owners shall be installed if required by the Director of Public Works. If the developer and/or owner desire to construct sidewalks, they shall be located and constructed in accordance with the City construction standards. If the sidewalk is not proposed to be located in accordance with the construction standards, the location shall be approved by the Planning Commission and shown or noted on the Final Plat. (Ord. 1661 (part), 1997)

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