

Franklin County Planning and Zoning Department

Escrow Form

Section A: Requirements

Plat Approval Not Acceptance of Dedication Offers

Approval of a plat does not constitute acceptance by Franklin County (known herein as “the County”) of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on the plat. However, the County may accept any such offer of dedication by resolution of the County Commission or by actually exercising control over and maintaining facilities.

Protection against Defects

Whenever occupancy, use, or sale of property is allowed before the completion of all public facilities or improvements intended for dedication, then the performance bond or surety that is posted shall guarantee that any defects in such improvements or facilities that appear within two years after the dedication of such facilities or improvements is accepted shall be corrected by the developer.

Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within two years after the offer of dedication of such facilities or improvements is accepted.

An architect or engineer retained by the developer shall certify to the County that all facilities and improvements to be dedicated to the County have been constructed in accordance with the requirements of these regulations and any other County, State, or Federal agency involved. This certification shall be a condition precedent to acceptance by the County of the offer of dedication of such facilities or improvements.

For purposes of this section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the County to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of these regulations.

Improvements and Subdivision Improvement Agreement

Completion of Improvements. Before the final subdivision plat is signed by the Planning Director, all applicants shall be required to complete, in accordance with the Planning and Zoning Commission’s conditional use permit and to the satisfaction of the Franklin County

Highway Administrator, all the street, sanitary, and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the conditional use permit or subdivision plat as approved by the Planning and Zoning Commission, and to dedicate those public improvements to the local government, free and clear of all liens and encumbrances on the dedicated property and public improvements.

Agreement. The Planning and Zoning Commission in its sole discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final subdivision plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public improvements no later than one (1) year following the date on which the Chairman of Planning and Zoning Commission signs the Conditional Use Permit. The applicant shall covenant to maintain improvements for each required public improvement.

Security. Whenever the Planning and Zoning Commission permits an applicant to enter into a subdivision improvement agreement, it shall require the applicant to provide a letter of credit, performance bond or cash escrow as security for the promises contained in the subdivision improvement agreement. Either security shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of completion of the required public improvements, including lot improvements. The issuer of the letter of credit or the escrow agent, as applicable, shall be acceptable to the Planning and Zoning Commission.

1. **Letter of Credit.** If the applicant posts a letter of credit as security for its promises contained in the subdivision improvement agreement, the credit shall (1) be irrevocable; (2) be for a term sufficient to cover the completion, maintenance and warranty periods; and (3) require only that the government present the credit with a sight draft and an affidavit signed by the Franklin County Counselor attesting to the County's right to draw funds under the credit.
2. **Cash Escrow.** If the applicant posts a cash escrow as security for its promises contained in the subdivision improvement agreement, the escrow instructions shall provide: (1) that the subdivider will have no right to a return of any of the funds except as provided by the Land Use Regulations of Franklin County, Missouri; and (2) that the escrow agent shall have a legal duty to deliver the funds to the County whenever the Franklin County Counselor presents an affidavit to the agent attesting to the County's right to receive funds whether or not the subdivider protests that right. If and when the County accepts the offer of dedication for the last completed required public improvement, the County shall execute a waiver of its right to receive all but twenty-five per cent (25%) of the funds represented by the letter of credit or cash escrow if the subdivider is not in breach of the subdivision improvement agreement. The residual funds shall be security for the subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.

Failure to Complete Improvement. In those cases where a subdivision improvement agreement has been executed and security has been posted and required public improvements have not

been installed within the terms of the agreement, the local government may then: (1) declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default; (2) suspend final subdivision plat approval until the improvements are completed and record a document to that effect for the purpose of public notice; (3) obtain funds under the security and complete improvements itself or by a third party; (4) assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; (5) exercise any other rights available under the law.

Acceptance of Dedication Offers. Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the governing body. The approval of a preliminary subdivision plat by the Planning and Zoning Commission shall not be deemed to constitute or imply the acceptance by the County of any street, easement, or park shown on plat. The Planning and Zoning Commission or these regulations may require the plat to be endorsed with appropriate notes to this effect.

Inspection of Improvements

Certificate of Satisfactory Completion. The governing body will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the subdivider until the Franklin County Highway Administrator has submitted a certificate stating that all required improvements have been satisfactorily completed and until (1) the applicant's engineer or surveyor has certified to the Franklin County Highway Administrator, through submission of a detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the Planning and Zoning Commission or Franklin County Highway Administrator, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision, and (2) a title insurance policy has been furnished to and approved by the Franklin County Counselor indicating that the improvements have been completed, are ready for dedication to the local government, and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation by the Planning and Zoning Commission, Franklin County Highway Administrator, and Franklin County Counselor, the governing body may thereafter accept the improvement for dedication in accordance with the established procedure.

Reduction of Escrowed Funds and Security. If the security posted by the subdivider was a cash escrow, the amount of that escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow amount be reduced below twenty-five per cent (25%) of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the Franklin County Counselor. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider. If the security provided by the subdivider was a letter of

credit, the Franklin County Counselor shall execute waivers of the County's right to draw funds under the credit upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall waivers be executed that would reduce the security below twenty-five per cent (25%) of its original amount.

Escrow Deposits for Lot Improvements

Acceptance of Escrow Funds. Whenever, by reason of the season of the year, any lot improvements required by these regulations, cannot be performed, the Land Use Administrator may issue a certificate of occupancy, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount to be determined by the Franklin County Highway Administrator for the cost of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.

Procedures on Escrow Fund. All required improvements for which escrow monies have been accepted by the Land Use Administrator at the time of issuance of a certificate of occupancy shall be installed by the subdivider within a period of one (1) year from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Land Use Administrator shall give two (2) weeks written notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Land Use Administrator may request the governing body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the Land Use Administrator prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Land Use Administrator to install the improvements at the end of the one (1) year period if the improvements have not been duly installed by the subdivider.

Maintenance of Improvements

The developer, successors, heirs, and assignees shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the Planning and Zoning Commission, until acceptance of the improvements by the governing body. Following the acceptance of the dedication of any public improvement by the local government, the government may, in its sole discretion require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance.

Issuance of Building Permits and Certificates of Occupancy

When a subdivision improvement agreement and security have been required for a subdivision, no certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and, if applicable, the acceptance of the dedication of those improvements by the local government, as required in the Planning and Zoning Commission's approval of the subdivision improvements as authorized by the conditional use permit.

No building permit shall be issued for the final ten per cent (10%) of lots in a subdivision, or if ten per cent (10%) be less than two (2), for the final two (2) lots of a subdivision, until all public improvements required by the Planning and Zoning Commission for the subdivision have been fully completed and, if applicable, the local government has accepted the developer's offer(s) to dedicate the improvements.

Consumer Protection Legislation and Conflicts of Interest Statutes

No building permit or certificate of occupancy shall be granted or issued if a developer or its authorized agent has violated any federal, state, or local law pertaining to (1) consumer protection; or (2) real estate land sales, promotion, or practices; or (3) any applicable conflicts-of-interest legislation with respect to the lot or parcel of land which is subject of the permit or certificate until a court of competent jurisdiction so orders. If a building permit or certificate of occupancy has been granted or issued, it may be revoked by the county until a court of competent jurisdiction orders otherwise, provided that in no event shall the rights of the intervening innocent third parties in possession of a certificate of occupancy be prejudiced by any such revocation.

Section B: Engineer’s Estimate for Cost Improvements

The improvements will be installed under the supervision of, and shall be inspected and approved by:

ENGINEER’S INFORMATION		
Engineer’s Name		
Mailing Address		
City, State, Zip + 4		
Telephone	Fax	E-mail

I have read the applicable parts of the Franklin County Planning and Zoning Unified Land Use Regulations and understand my duties as the developer’s engineer.
My estimates for the cost of improvements are as follows:

Improvement Item in Appendix C or other Articles of the Unified Land Use Regulations	Total Cost of Improvements	Estimate of Improvements Completed to Date	Cost of Improvements Not Completed and Escrowed
Monuments			
Street Grading			
Street Fill			
Street Pavement			
Sidewalks			
Curbs & Gutter			
Driveway Openings			
Gravel Road			
MoDOT Entrance			
Shared Driveways			
Utilities in Right-of-Way			
Drainage Systems			
Street Signs & Posts			

Improvement Item in Appendix C or other Articles of the Unified Land Use Regulations	Total Cost of Improvements	Estimate of Improvements Completed to Date	Cost of Improvements Not Completed and Escrowed
Trees			
Fire Hydrants			
Private Central Water Supply & Distribution			
Public Central Sewer Treatment & Collection			
Interim Sewage System			
Private Central Sewage Treatment & Collection			
Street Lighting			
Parking			
Screening			
Surveying Services			
Engineering Services			
Conditional Use Permit Requirements			
Other			
Other			
Other			

The above figured are my cost estimates on the project to be used for calculating and releasing escrow. Upon completion of the project and, assuming that I am still retained as the engineer by the developer, I will issue a certificate to the Commission stating that I have inspected all of the improvements as installed and that the materials and installation of same is in accordance with the plans and specification as approved by the Commission, Planning Director, Department of Health, the Clean Water Commission, and the Franklin County Building Commissioner, as well as any other County, State, or Federal agency involved.

Signature _____ Date _____
 (Engineer)

Seal of Engineer

Section C: Notice of Escrow Agent

To be completed by the escrow agent:

ESCROW AGENT INFORMATION		
Escrow Agent's Name		
Mailing Address		
City, State, Zip + 4		
Telephone	Fax	E-mail

Subdivision Name _____

Escrow Amount \$ _____

The above indicated amount has been escrowed with my institution. The monies will be released only upon authorization by the Franklin County Planning Director for payment after certification has been made by a registered professional engineer to the Director on the "Request for Release of Escrow."

It is understood that the developer has two years to complete the improvements and must guarantee the improvements two additional years if the lots are sold prior to the completion of the improvements.

Signature _____ Date _____
(Escrow Agent)

Section D: Franklin County Planning & Zoning Commission

After approval of the preliminary plat and preliminary improvement plans:

Plans and specifications submitted by the applicant to serve the subdivision named above have been reviewed and approved by the Franklin County Planning and Zoning Commission as evidenced by the signature of the Planning Director on behalf of the Franklin County Planning and Zoning Commission and as required by Section 64.820 RSMo. Improvements approved by the Planning and Zoning Commission on _____.

This permit authorizes the construction of improvements shown on the approved plans and specifications before submission of the final plat and final improvements plans and is issued in accordance with and subject to provisions of the Unified Land Use Regulations for Franklin County, Missouri. The permit will expire one year from the date of issue.

Signature _____ Date _____
(Franklin County Planning Director)