

Planning Commission

Staff Report
February 7, 2019



Case No:	19AMEND1001
Project Name:	Subdivision Bond LDC Amendment
Applicant:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	All Council Districts
Case Manager:	Chris French, AICP, Planning and Design Supervisor

REQUEST

Amend Section 7.2.45, of the Land Development Code (LDC) regarding subdivision bonds.

SUMMARY/BACKGROUND

The Metro Council adopted Resolution No. 048, Series 2018 on April 12, 2018 (**Attachment 1**). This resolution requested that the Louisville Metro Planning Commission review bonding procedures and fee in lieu payments within the LDC. Specifically, whether the subdivision bond section of the subdivision regulations needed to be revised to ensure that bond amounts were sufficient to complete required improvements.

PLANNING COMMITTEE MEETING

The Planning Committee conducted three reviews of the subdivision bond section of code; November 20, 2018, December 6, 2018, and January 14, 2019. The Committee on January 14, 2019, voted by consensus to forward the final draft of proposed amendments to LDC Section 7.2.45 to the Planning Commission for a public hearing.

STAFF ANALYSIS

Subsection A was reorganized to create three subparagraphs A.1 through A.3. Language was added to paragraph A.1 to allow an increase in the amount of the bond prior to granting an extension.

APPLICABLE PLANS AND POLICIES

This amendment to the LDC text is consistent with the following policy of Plan 2040.

Community Form Goal 3, Policy 6 “Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.”

The proposed LDC text amendment clarifies language in the subdivision regulations regarding the application of subdivision bonds and the evaluation of bond amounts for projects that exceed the standard five-year construction period.

NOTIFICATION

Notification of the Planning Commission public hearing was conducted in accordance with KRS 100 requirements. In addition, staff provided notice to those groups registered neighborhood groups and individuals on the list for electronic notification for development proposals.

STAFF CONCLUSIONS

The proposed amendments, as set forth in **Attachment 2**, would clarify Section 7.2.45 regarding the reorganization of subsection A and to add language to allow for an adjustment of the bond amount for developments that exceed the standard five-year construction period. Since this is an amendment to the subdivision regulations, the Planning Commission has final approval authority over chapter 7 of the LDC in accordance with KRS 100.273 (1).

Staff makes these LDC text amendment recommendations related to subdivision bonds considering the following:

WHEREAS, the Planning Commission finds that the proposed amendments to the provisions of the LDC comply with the applicable policies of Plan 2040.

WHEREAS, the Planning Commission further finds that the proposed amendments to the provisions of the LDC comply with Community Form Goal 3, Policy 6 by clarifying the existing language within subsection A and through the addition of language that provides the ability to increase a bond amount to ensure that all improvements are completed for developments that exceed the standard five-year construction period.

ATTACHMENTS

1. Resolution No. 048, Series 2018
2. Proposed LDC text amendment to Section 7.2.45

RESOLUTION NO. 048, SERIES 2018

A RESOLUTION REQUESTING THE LOUISVILLE METRO PLANNING COMMISSION TO REVIEW BONDING PROCEDURES AND FEE-IN-LIEU PAYMENTS IN THE LAND DEVELOPMENT CODE.

SPONSORED BY: COUNCILMAN JAMES PEDEN

WHEREAS, pursuant to the Land Development Code ("LDC") 7.2.45 et seq., developers are required to post bonds as security to ensure completion of sidewalks, sewers, and other improvements;

WHEREAS, the financial amount of such security is determined in the discretion of the Metro Department of Public Works and the Metropolitan Sewer District;

WHEREAS, there have been numerous instances where such bond amounts have been insufficient to complete improvements causing Louisville Metro Government to expend taxpayer dollars to complete improvements in private developments which creates an undue financial burden on Louisville Metro Government and an unfair claim on citizens' tax dollars;

WHEREAS, the LDC permits fee-in-lieu payments for certain required development improvements, such as sidewalks (LDC 6.2.6(B)(1)), landscaping (LDC 10.1.3(A)(4)), and amenity areas (LDC 5.12.2(A)(4)); and

WHEREAS, fee-in-lieu payments often do not reflect the actual cost of the required improvements which reduces the effectiveness of the application of the funds received for the alternative projects.

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("METRO COUNCIL") AS FOLLOWS:

SECTION I: The Metro Council requests that the Louisville Metro Planning Commission review the bond/security requirements of the LDC to ensure that security for improvements in private developments is sufficient to cover all costs associated with the completion of required improvements in the event of the developers' default.

SECTION II: The Metro Council requests that the Louisville Metro Planning Commission review the fee-in-lieu procedures of LDC Sections 6.2.6, 10.1.3, and 5.12.2 to ensure that the fee accurately reflects the actual cost of the improvements that were required.

SECTION III: This Resolution shall take effect upon passage and approval.



H. Stephen Ott
Metro Council Clerk



David James
President of the Council



Greg Fischer
Mayor

4-23-18
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: 



R-053-18 Resolution Regarding Review of Bonding Procedures in LDC(3-14-18).docx

2. Proposed LDC Text Amendment for Section 7.2.45

LOUISVILLE METRO LAND DEVELOPMENT CODE

7.2.45 Subdivider's Commitment and Bond Requirement

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A. Subdivider's Commitment - The subdivider shall be responsible for the installation, good repair and proper functioning of all improvements, including private roads, required by the approved construction plan and the installation of all reference monuments required by the record plat. Installation shall begin within a year after approval of the record plat, or within any one year extension granted by the Director of Works, and shall proceed in a manner which, in the judgment of the Director of Works, does not cause unreasonable harm, inconvenience or annoyance to any other property owner in or outside of the subdivision. The judgment of the Director of Works with respect to the manner of proceeding may not be questioned in any judicial proceeding by anyone except the subdivider, but said judgment when exercised in favor of the subdivider shall not constitute a defense to the subdivider in a judicial action against the subdivider by a complaining property owner. This obligation of the subdivider shall continue until the Director of Works, acting on behalf of the Planning Commission, has granted a release pursuant to Section 7.2.60.

1. The required installations shall be completed and properly functioning within five (5) years from the date of which construction plans are approved, unless an extension is requested by the subdivider and approved by the Director of Works in writing. If an extension is granted, the Director of Works may increase the amount of the bond, if necessary, to ensure fulfillment of the subdivider's commitment.

2. If eighty percent (80%) of the lots do not have a completed structure on them, the subdivider may request that the Director of Works, also acting on behalf of MSD, waive the eighty percent (80%) requirement and notify the Planning Commission of such waiver. If the waiver is granted, the subdivider or design engineer, acting on behalf of the subdivider, shall initiate the bond release process by sending a written request for bond release inspection to Public Works, MSD, the Health Department, and the local fire protection district.

3. At any time after the date of approval of the record plat, the subdivider shall abide by any time limits which the Director of Works may specify in writing. This obligation shall be evidenced in writing signed by the subdivider on forms provided by the Director of Works.

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