

**VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE 2019-12**

**REPEALING SECTION 1226.09 “BOND FOR IMPROVEMENTS AND
MAINTENANCE” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF
YELLOW SPRINGS, OHIO AND ENACTING NEW SECTION 1226.09 “BOND FOR
IMPROVEMENTS AND MAINTENANCE”**

Whereas, the Codified Ordinances of the Village of Yellow Springs regarding bonds for the construction and maintenance of public improvements currently do not address the electric supply system as a public improvement, nor do they contemplate the inspection of electric improvements to ensure that specifications are met; and

Whereas, because the Village of Yellow Springs owns and operates an electric utility, these items should be considered as part of the whole when discussing necessary infrastructure improvements;

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO
HEREBY ORDAINS THAT:**

Section 1. Chapter 1226.09 entitled “Bond for Improvements and Maintenance” of the Codified Ordinances of the Village of Yellow Springs, Ohio be repealed.

Section 2. A new Chapter 1226.09 entitled “Bond for Improvements and Maintenance” of the Codified Ordinances of the Village of Yellow Springs, Ohio be enacted to read as set forth on Exhibit A with new language underlined and deleted language in ~~strikethrough~~, which is attached hereto and incorporated herein.

Section 3. This ordinance shall take effect and be in full force at the earliest date permitted by law.

Brian Housh, President of Council

Passed: 4-15-2019

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL

Brian Housh __Y__ Marianne MacQueen _Y___ Kevin Stokes __Y__

Lisa Kreeger __Y__ Kineta Sanford __Y__

1226.09 BOND FOR IMPROVEMENTS AND MAINTENANCE.

(a) In order for the Village to be assured that the construction and installation of improvements, such as street surfacing, curbs, gutters, sidewalks, sanitary sewers, storm sewers, water supply, electric supply, street signs, street trees and interior landscaping, will be installed according to the required standards, the subdivider shall agree:

(1) To construct all improvements directly affecting the subdivision, as required by the Village pursuant to the construction plan, approvals and the posting of inspection fees, prior to final approval of the plat; or

(2) In lieu of completion of the improvements, to furnish a bond executed by a reputable surety company or a certified check or irrevocable letter of credit, equal to the cost of construction of such improvements as shown on plans and based on an itemized estimate of the construction costs prepared by the engineer for the developer, submitted in triplicate, and subject to the final approval of the Village Manager or his or her designee.

Before a subdivision plan is given final approval by the Village Council, the developer shall either have installed public improvements or have executed a performance bond, certified check or irrevocable letter of credit with the Village of Yellow Springs covering the estimated cost of required improvements. Bonds shall be kept in the office of the Village Manager. A performance bond or cash deposit shall run to Yellow Springs and shall provide that the subdivider, his or her heirs, successors and assigns, or agent or servant, will comply with all applicable terms, conditions, provisions and requirements of this chapter and other pertinent regulations, and will faithfully perform and complete the work of constructing such facilities or improvements in accordance with such laws and regulations.

(b) If the construction or installation of any improvement or facility, for which a guarantee has been made by bond, is not completed within two years from the date of final approval of the record plan, the developer may request that the Village Council grant an extension of six months, provided that such developer can show reasonable cause for inability to complete said improvements within the required two years. The extension shall not exceed six months. The request for an extension of time shall be accompanied by revised cost estimates of construction to be completed. The Village Council, at such time, may require the posting of a revised bond to cover increased costs. At the expiration of the six month-extension, the Village will use as much of the bond or cash deposit as is necessary to complete the construction of the improvements.

(c) As required improvements are completed, approved and accepted, the Village Manager may, with concurrence of the appropriate inspection officials(s), reduce the amount of the performance bond or cash deposit. Twenty-five percent of the cash deposit or performance bond shall not be released until all construction, installation and improvements required by the subdivider's contract have been completed and accepted by the Village Council. The developer must provide "as-built" construction drawings to the Village prior to the release of any remaining bond and/or cash deposit. Performance bonds or cash deposits for roads and storm drainage, electric improvements and water and sanitary sewer improvements shall not be released independently.

(d) Periodic inspections during the installation of improvements shall be made by the Village Manager or his or her designee to insure conformity with the approved plans and specifications

as required by this chapter and other regulations. The subdivider shall notify proper administrative officials at least forty-eight hours before each phase of the improvements is ready for inspection. Normally these inspections for street and storm drainage shall be as follows:

- (1) Street coring operations;
- (2) Storm sewer and culvert installation;
- (3) Construction of manholes and catch basins;
- (4) Inspection of curb and gutter forms prior to placing of concrete and sidewalks;
- (5) Placing of concrete for curb and gutter and sidewalks;
- (6) Sub-base for street construction;
- (7) Placing of each lift of base;
- (8) During each phase of road surfacing operation; and
- (9) Erecting road name signs.

Inspections for sanitary sewers and/or water, and electric shall be as prescribed by specifications approved by the Village Manager.

The absence of an inspector from a plat during construction shall not relieve the subdivider from full responsibility under this section.

(e) When the required improvements have been completed, the developer shall notify the Village Manager, in writing, of his or her desire for final inspection. Upon certification of acceptable completion of the installation of the required improvements by the Village Manager, the Village Manager shall issue a letter to the subdivider, or to his or her agent, and such letter shall be sufficient evidence for the release by the Village of Yellow Springs of the performance bond.

(f) When the Village Manager, following inspection of a subdivision, certifies to the Village Council that all improvements have been constructed in accordance with Village specifications, the Village Council may proceed to accept the public improvements. Improvements will be accepted only after a bond or other sufficient surety has been posted guaranteeing maintenance of the required subdivision improvements, for one year, according to installation specifications. Such maintenance bond shall be in an amount equal to ten percent of estimated construction cost and shall run from the date of acceptance of improvements by Village Council to one year thereafter. Maintenance bonds may be released by Council after receiving certification from the Village Manager that improvements continue to meet specifications after one year beyond their acceptance.

(g) Whenever public improvements have not been constructed in accordance with specifications as established, the Village Council may exercise its right of foreclosure under the bond. If, in the opinion of the Village's authorized inspector, installations are improper or inadequate, a stop order shall be issued. The developer may appeal the inspector's findings to the Village Manager within forty-eight hours. Failure to comply will be deemed a violation of these Subdivision Regulations.