

PUBLIC HEARING



To: Town Council

From: Travis Morgan

Date: 1/13/2026

Re: Text Amendment for Development Bonds in regard to North Carolina General Statutes
(Action Item)

REQUEST:

Text amendment to the Pineville Subdivision Ordinance and Pineville Land Development Standards in accordance to North Carolina General Statutes related to development bond process and terminology. This text amendment seeks to remove maintenance guarantee language in favor of just performance bond language prior to final inspections and Town Acceptance. This relates to NCGS § 160D-804.1(4) which specifically states:

Coverage. - The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion. **No performance guarantee may be required for maintenance of any improvement once the improvement is completed to the specification of a local government or upon receipt of a certification under seal from a professional engineer that the required improvements have been completed to the specification of the local government.**

The proposal below is recommended by our legal counsel, Public Works, and Planning and Zoning.

Subdivision Ordinance:

8.400. Bond Requirements

1. All minimum improvements required by Section 8.000 shall be completed prior to the submission of the final subdivision plat for approval. Where the improvements required by Section 8.00 have not been completed, the Town of Pineville, in its discretion, may enter into a written agreement with the developer or its authorized designee wherein the developer shall agree to complete all required minimum improvements. Once this agreement is executed by both parties and the financial security required herein is provided, the final plat, provided it meets all other applicable ordinance requirements, may be approved by the Planning Director.
2. Performance Guarantee. Upon execution of the aforementioned agreement for satisfactory completion of the minimum improvements, plat approval will be subject to the filing of a surety bond, an irrevocable letter of credit, or other form of equivalent security (the method of surety shall be determined by the developer) with LUESA, in an amount to be determined

by the LUESA in consultation with other affected agencies and the Town of Pineville, said security guaranteeing the satisfactory installation of the required minimum improvements, allowing credit for improvements completed prior to the submission of the final plat.

3. Credit for Completed Improvements. Developer requesting credit for any completed improvements for surety purposes shall do so by written notice to LUESA and the Town of Pineville and shall allow for inspections and provide inspection results at its sole cost and expense as required by LUESA or the Town of Pineville to demonstrate that the completed improvements have been completed in accordance with the standards required for acceptance and maintenance by the Town of Pineville or State as applicable. Notwithstanding anything herein to the contrary, for purposes of calculating performance guarantee amounts, **no street infrastructure shall be deemed complete until one year after the Town deems 100% of the subdivision plat build out by the developer is completed and the final 1.5” overlay of asphalt has been installed over the entire subdivision road network.**
4. Upon completion of all required **minimum improvements, including the final 1.5” overlay of asphalt on the streets**, developer shall submit written notice of satisfaction and "as built" drawings of completed required minimum improvements to LUESA and the Town of Pineville. LUESA and the Town of Pineville will arrange for an inspection of the required minimum improvements and may require such further inspections at the developer's sole cost and expense to demonstrate that all minimum improvements, including those improvements previously completed, are satisfactory for acceptance and maintenance by the Town of Pineville or State. Should all minimum improvements be found satisfactory, LUESA, with approval from the Town of Pineville, shall authorize in writing the release or reduction of the performance guarantee given, subject to the guaranteed requirements below.
5. Guarantees of certain improvements to protect the public interest. In the event that all required minimum improvements have been inspected and found satisfactory, but the subdivision has not achieved 100% build out, **the performance guarantee shall be reduced to 125% of the cost of constructing the final 1.5” overlay of asphalt, plus estimated costs to inspect storm drainage improvements prior to acceptance for maintenance by the Town of Pineville or the State. The Town will not accept roads until one year after the Town deems 100% of the subdivision plat build out by the developer is completed.**
6. Before the applicable minimum improvements will be accepted for maintenance by the Town of Pineville, the following conditions must be met:
7. Upon written notice of 100% subdivision plat build out by the developer, LUESA will arrange for an inspection of the required minimum improvements and may require such further inspections at the developer's sole costs and expense to demonstrate that all improvements, including those improvements previously completed, are satisfactory for acceptance and maintenance by the Town of Pineville or State. Should all required minimum improvements be found satisfactory, developer shall install the final 1.5” overlay of asphalt and LUESA, with approval from the Town of Pineville, shall authorize in writing the release or reduction of the remaining performance guarantee to 25% of the cost of all required minimum improvements, plus estimated costs to inspect storm drainage improvements for a period of one (1) year until the Town acceptance maintenance of the roads. All guarantees shall be in a form satisfactory to LUESA and the Town of Pineville.

8. If the required minimum improvements do not meet the applicable standards, the developer must perform repairs which bring them up to required standards **prior to reduction or release of the performance guarantee.**
9. After the one-year waiting period has expired, and upon written notice by the developer to LUESA, the Public Works Director for the Town of Pineville and a Mecklenburg County inspector will inspect the required minimum improvements. If standards are met, the Town of Pineville or the State (as applicable) will accept the required minimum improvements for maintenance purposes **and release the remaining performance guarantee.** If sub-standard conditions exist, repairs must be performed.
10. The intent of these provisions is for the developer to provide such guarantee or guarantees that, in the event of default, will pay for the installation, inspection and repair/maintenance of the required minimum improvements to the standards required by the Town of Pineville and the State for acceptance for maintenance. After final acceptance of the aforementioned improvements, the Town of Pineville shall authorize LUESA to release securities given.

8.500. Inspection

1. LUESA and the Town of Pineville must be notified two days in advance of the work to be started, so that an authorized representative of LUESA or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
2. The inspector must be allowed access to all parts of the work and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in accordance with the specifications.
3. No material may be placed, nor any work performed, except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
4. In case of any disputes arising as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.
5. Town of Pineville is requiring videoing of the storm drainage system,
 - a. The storm drainage system owner (developer, builder, property owner, etc.) will provide at their cost the following prior to final inspection and City/County acceptance:
 - i. Plat, map or drawing identifying each pipe segment being presented for acceptance with all inlet nodes labeled and corresponding to the accompanying video such that it is clear as to the pipe/culvert being accepted. For example, start of video is at inlet CB1 to JB2 as shown on accompany drawing. (video map segments should match the approved drawings.)

- ii. A CCTV video performed by a NASSCO-PACP certified contractor for each pipe/culvert segment being considered for acceptance.
- iii. A digital copy of the report for each pipe/culvert segment that certifies the condition of pipe as installed is in compliance with the most recent version of NASSCO-PACP methodology and standards. All defects are to be coded and reported per NASSCO-PACP certification guidelines to the Town of Pineville /County for review. Any repair or treatment to defects (prior to submittal of video or as observed by the Town of Pineville/County agency) will be corrected in compliance with Town of Pineville/County approved methods. Example, by following the American Concrete Pipe Association acceptable methods and applicable material treatments associated with concrete pipe deficiency (broken concrete pipe will be repaired structurally by a concrete collar to cover the failed area.)
- iv. Deficiencies found/observed by the Town of Pineville/County staff may require an additional CCTV video to document they have been corrected appropriately and repair or treatment followed the Town of Pineville/County approved methods.
- v. The Town of Pineville/County reserves the right to randomly or at its discretion monitor, evaluate, and review videos and reports submitted by the owner or certified consultants as a quality assurance/quality control (QA/QC) practice. Any discrepancies between the report and the Town of Pineville//County's review may constitute non-acceptance of the approval.
- vi. The name of the contractor who installed the drainage system, and their contact information.

9.000. ENFORCEMENT

1. After the effective date of this ordinance, any plat or deed of a subdivision filed or recorded in the office of the Register of Deeds of Mecklenburg County, shall meet the requirements of this ordinance.
2. Any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this Ordinance, subdivides land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds of Mecklenburg County, shall be punishable by a fine of \$500.00 per day, per violation until rectified. The Town of Pineville and/or Mecklenburg, through their attorneys, may enjoin such transfer or sale by action for injunction. All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. This Ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this Ordinance.
3. In order to properly enforce the provisions of the subdivision regulations as stated in this Ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permits must be obtained from all applicable agencies and departments. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this Ordinance.

10.0. APPLICATION AND PROCESSING FEES

All fees shall be in accordance with a fee schedule adopted by the Pineville Town Council and shall be collected at the time of application.

Public Works Land Development Manual:

Change 1” overlay to 1.5” overlay where stated throughout the manual.

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I. Streets and Alleyways

A. General Notes

Paragraph 3. Public state streets will need to be accepted for maintenance by NCDOT. Public streets within the Town limits will require approval from County/Town and be dedicated to and accepted by the Town for maintenance prior to release of the performance guarantee/bonds.

Paragraph 4. Change “and/or release of performance guarantee/bond” to “and any reduction or release of the performance guarantee/bond.”

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B. Bond/Security Policy-Subdivision Improvements

1. Delete “Maintenance/Warranty Bonds/Securities”
2. Change “to obtain Maintenance/Warranty bonds/securities” to “seek a reduction or release of the performance guarantee/bond.”

7. Change “before any security will be released” to “before any reduction or release of the performance guarantee/bond can be sought.”

STAFF COMMENT:

Please review and consider the above text amendment proposal. It is recommended for approval by legal counsel, Public Works, and the Planning and Zoning Department.

ACTION:

This is a Public Hearing to hear and discuss the text amendment. Staff finds the proposal consistent with the comprehensive plan and similar policies to keep ordinances updated and recommends approval of the text amendment and determination of consistency as proposed.