

These guidelines provide information about the subdivision deposit agreement and subdivision bond procedures, found in Chapter 1005 of the ST. Louis County Subdivision Ordinance (March 1997).

DEPOSIT AGREEMENT PROCEDURES

St. Louis County requires developers to provide a guarantee for the installation of subdivision improvements (1005.080). Before a subdivision plat can be approved, the developer is required to guarantee the completion of proposed improvements and create a maintenance account for new public streets and related storm sewers. This is achieved by execution of a deposit agreement for up to three (3) years to allow the developer to complete public improvements. The developer may choose to use cash, an irrevocable letter of credit or a land subdivision bond. (Escrows held by third parties are no longer acceptable.)

The Department of Planning uses current unit costs to determine required subdivision improvements, based on plans approved by the Department of Highways and Traffic. Sanitary sewers and those storm sewers that are not within public street right-of-way are not included in the County's estimate. The Metropolitan St. Louis Sewer District (MSD) administers a separate process to guarantee the installation of these improvements within its jurisdiction. However, the Department of Planning requires written confirmation from MSD that the developer has complied with MSD's guidelines. Developers may submit a Union Electric contract and layout plan that complies with the St. Louis County Subdivision Ordinance instead of providing a deposit for street lights. Provisions for water mains are also included in the County's estimate, based on submitted bids confirmed by the Missouri American Water Company or a licensed plumbing contractor.

Submission of a Deposit Agreement

The Department of Planning produces a customized deposit agreement form for each subdivision plat. Four (4) copies of the deposit agreement with original signatures, corporate seals and notarized acknowledgments must be returned to the Department of Planning. Please contact the Subdivision Section, St. Louis County Department of Planning at (314) 615-2520 for more specific information.

a. Requirements for Deposit Agreements with Cash

Once the Department of Planning has determined that the subdivision plat is ready for submission to the County Council, the developer must submit a deposit agreement. Documents must be received by the Department of Planning no later than 5:00 p.m. on the Wednesday preceding the next Tuesday's County Council meeting. The agreement must be approved by the Director of Planning and the County Counselor.

The Treasurer of St. Louis County is the depository. In order to be placed on the Council agenda, the cash transaction must occur prior to 10:00 a.m. on the Thursday preceding the next Tuesday's Council meeting. The developer must deliver a cashier's check, payable to Treasurer, St. Louis County, to the Department of Planning - 5th Floor, 41 South Central Avenue, Clayton prior to 10:00 a.m.; or for a wire transfer transaction contact the Department of Planning at (314) 616-2520 for more information.

b. Requirements for Deposit Agreements with a Letter of Credit

In addition to the customized deposit agreement, the developer must obtain an irrevocable letter of credit from a local financial institution approved by the County Counselor. The letter of credit must be in favor of Treasurer, St. Louis County, and be valid for six months beyond the period of the agreement (i.e., 42 months for a 3 year agreement). The letter of credit must contain specific clauses approved by the County Counselor (a sample letter of credit is available on the Department of Planning web site). The letter of credit must be a clearly typed original copy.

The deposit agreement and letter of credit from the developer must be submitted to the Department of Planning no later than 5:00 P.M. on Thursday preceding the next Tuesday's County Council meeting. The agreement and letter of credit must then be approved by the Director of Planning and the County Counselor prior to placement on the County Council's agenda.

Processing the Deposit Agreement

The Department of Planning staff reviews the deposit agreement or land subdivision bond for completeness and forwards same to the Director of Planning, Treasurer and County Counselor for signatures. The executed agreement is submitted to the County Council for approval in conjunction with the subdivision record plat.

Replacement Agreements

From time to time, existing Deposit Agreements, old escrows, or land subdivision bonds are replaced by new Deposit Agreements. In cases where the entire subdivision or plat is replaced by one developer, the procedure requires a recalculation of uninstalled improvements using current unit cost. The Department of Planning then generates a Replacement Deposit Agreement and the developer follows the above procedures.

In a case where there is more than one developer involved in a single plat or subdivision, the Department of Planning will make an effort to accommodate this arrangement. However, the proposed Deposit Agreement must cover improvements which can be defined independently from other improvements and can be released pursuant with our release procedures (see the Department of Planning web site). This will require improvements to be tied to specific lots, or specific types of improvements (90% street release, sidewalks, trees, etc.). In all cases the Department of Planning will determine the breakdown of cost within these replacement escrows and revised unit cost will be used.

Release authorization procedure

Release letters are prepared and signed by the Department of Planning within five (5) working days of receipt of the inspection approval. Release letters are co-authorized by the Director of Administration/Treasurer within three (3) working days of the Department of Planning authorization.

a. Cash Deposits

The release letter is used to request issuance of a check by the St. Louis County Accounts Payable Department. Within five (5) working days of the request, the check is issued. The original release letter along with the check is mailed to the developer.

b. Deposits with a Letter of Credit

The Treasurer, upon receipt of the Department of Planning's authorization, sends a release letter to the Issuing Bank authorizing a reduction in the obligation secured by the letter of credit. A copy of this letter authorizing the reduction is mailed to the developer.

Developers, banks, escrow holders and sureties are responsible for informing the Department of Planning of changes in address.

Maintenance Deposit for Streets and Related Storm Water Improvements

Street improvement releases may not exceed ninety (90) percent of the monies deposited for street and storm water construction. If a developer chooses to have streets and sewers accepted for public maintenance prior to completing homes in the subdivision; then a sum equal to the remaining ten (10) percent shall be placed in a special transit account for repair and maintenance of public streets and related storm water facilities in the subdivision. Contact the Department of Highways and Traffic for early street acceptance procedures.

SANCTIONS FOR NON-PERFORMANCE AND DEFAULT

If a Developer defaults or fails to request an extension of the completion period or replacement of the deposit agreement or land subdivision bond, St. Louis County will take action under the terms of the agreement. The Director of Planning will notify the developer and bank or surety to show cause within ten (10) days why the developer should not be declared in default. If no cause is shown, the Director will declare the developer in default. Where the deposit agreement is secured by cash, the Treasurer will transfer the cash into a special account. In the case of a letter of credit, the Treasurer will draw on the letter of credit. Where a land subdivision bond has been used, the County Counselor will proceed with legal action to obtain funds from the Surety. All funds will be placed into a special account which will be used to complete outstanding improvements in the subdivision. In addition, the Director of Planning may order suspension of construction in the subdivision and/or deny the developer the right to new subdivision plat and deposit agreement approvals.