

CHAPTER 25 GENERAL AND ADMINISTRATIVE PROCESSES

SECTION 25.10 INTENT

The intent of this chapter is to establish a uniform set of submittal, processing, and review requirements for land development proposals and new uses, buildings, structures, and other zoning requests (and the change, expansion, or alteration of the same) to determine compliance with the requirements and standards of this ordinance.

SECTION 25.20 APPLICABILITY

A. APPLICATION

1. **Application.** Requests for review and approval of uses, activities, construction, and development required by this Zoning Ordinance shall be provided on official Township application forms. An application shall be submitted to the Township Hall during normal office hours.
2. **Authority to File Applications.** Applications shall only be submitted by an owner of the property subject to the request, a purchaser under a sale or option to purchase the subject property, or an agent authorized in writing by the owner.
3. **Deadline.** For all requests that require Planning Commission or Zoning Board of Appeals review, complete applications shall be submitted by the deadlines established by the Planning Commission and Zoning Board of Appeals for the meeting in which the applicant desires the request to be considered.
4. **Contact Person and Meeting Representation.** The application shall indicate one (1) person as the primary contact. The Zoning Administrator will communicate with the contact person concerning the application and review procedures. The applicant shall notify the Township in writing if there is a change in the contact person. The contact person shall be present at all scheduled review meetings, or consideration of the application may be postponed due to lack of representation.

B. FEES, ESCROW CHARGES, AND EXPENSES

1. **Administrative Fee.** Except as may be provided for otherwise in this Ordinance, the Township Board shall determine and set fees to be collected for all applications for zoning matters, permits, and approvals. These fees shall be collected prior to the issuance of any permit or certificate, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the Township. Furthermore, Township employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the Township in full. The fee schedule shall be that adopted by resolution of the Township Board as amended from time to time.
2. **Professional Review Fees.** In addition to regularly established fees, the Township Board at its discretion may also require an applicant to submit to the Township, at any time during the zoning review process, an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. Such costs and expenses to be charged or assessed to the applicant for reimbursement of the Township's reasonable costs and expenses may include but shall not be limited to Township attorney fees, Township

engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs, and fees for studies and reports pertaining to the matters in questions, significant Township employee time, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant, which are not used or spent by the Township pursuant to an escrow fee, shall be refunded. If, for some reason, the applicant does not pay, or the Township does not collect, zoning escrow fees during the zoning review process, the Township can still bill such costs and expenses to the applicant after the zoning review process has been completed, and the applicant or landowner shall promptly pay/reimburse the Township for the same.

C. **CONTENT**

1. **Submittal Checklists.** Applicants shall refer to the submittal checklists and shall provide the items required that are specific to the request.
2. **Waiver Requests.** The applicant may request waivers for items required on submittal checklists.

D. **COMPLETENESS REVIEW**

1. **Requirement.** An application submitted for review in accordance with this chapter shall be submitted in complete form, including the application, required checklist items, and applicable fees.
2. **Waivers.** On a case-by-case basis, the Zoning Administrator may waive checklist items if determined to be unnecessary or not applicable to the review process based on the scope of the development proposal. However, the final decision-making authority may subsequently require the submittal of waived items if determined to be necessary to act on an application.
3. **Completeness Determination.** If deemed to be complete by the Zoning Administrator, an application will be formally processed and reviewed. If the Zoning Administrator waives required checklist items, the application may be deemed complete if all other items are received.
4. **Incomplete Application.** If deemed incomplete by the Zoning Administrator, the applicant will be informed, and the application will not be formally processed and reviewed until it is determined to be in complete form.

SECTION 25.30 GENERAL REQUIREMENTS

A. PROCESSES AND PROCEDURES

The following Table 25.30 A summarizes the required steps of the review processes outlined in Chapters 25-31:

TABLE 25.30 A: APPLICATION PROCESS STEPS										
Application Type	Neighborhood Meeting	Pre-Application Conference	Application Submittal and Staff Review	Public Hearing Scheduling and Notification	Planning Commission Review	Zoning Board of Appeals Review	Township Board Review-First Reading	Public Hearing Scheduling and Notification	Township Board Review-Second Reading	Appeal to Zoning Board of Appeals (if not PUD or special land use)
Zoning Permit-Section 25.40			1							2
Site Plan-Chapter 26			1		2					
Special Land Use-Chapter 27			1	2	3					
Minor Condominium-Chapter 28			1							
Preliminary Major Condominium-Chapter 28			1		2		3			
Final Major Condominium-Chapter 28			1		2					
PUD Concept Plan and Rezoning-Chapter 29	1	2	3	4	5		6	7	8	
Variance-Chapter 30			1	2		3				
Zoning Map and Text Amendment-Chapter 31			1	2	3		4	5	6	

B. PROOF OF OWNERSHIP

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a Zoning Permit or a Building Permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a Building Permit, variances, special use requests, site plan review, zoning permits, and any other zoning or building code action.

C. SURVEYS

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

D. TIME LIMITS

If a zoning approval, permit, or any other approval issued under this Ordinance has been granted, and the use has not commenced, or substantial construction has not begun within one (1) year of the approval, the approval or permit shall automatically expire (and be void). For the purpose of this subsection, construction of a building shall be deemed to have commenced at the time a structural foundation is installed. No extension to that time limit shall be granted except by the Township body, commission, or official that granted the initial zoning approval or permit. Up to two (2) one-year (1) extensions may be approved if it is determined that the applicant has provided reasonable evidence that the development has encountered unforeseen difficulties beyond the applicant's control, and the project will proceed within the extension period.

E. REVOCATION OR TERMINATION OF ZONING APPROVALS

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or Zoning Permit, then the Township body, board, or official that granted the zoning approval or permit may terminate the zoning approval or zoning permit. No such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation by the Township body, board, or official that granted the zoning approval. However, an administrative approval shall not be revoked by the Zoning Administrator until after a hearing is scheduled at a Planning Commission meeting.

F. REAPPLICATION

No application for a zoning permit, Site Plan Review, Special Land Use, Planned Unit Development, or Variance that has been denied, in whole or in part, by either the Planning Commission or the Zoning Board of Appeals, may be resubmitted for a period of 12 months from the date of the denial, except on the grounds of newly discovered evidence or unless the site plan is substantially changed in the opinion of the Zoning Administrator.

SECTION 25.40 ADMINISTRATIVE REVIEWS

A. ZONING ADMINISTRATOR REVIEWS

Administrative reviews of zoning permits are processed in accordance with Figure 25-1.

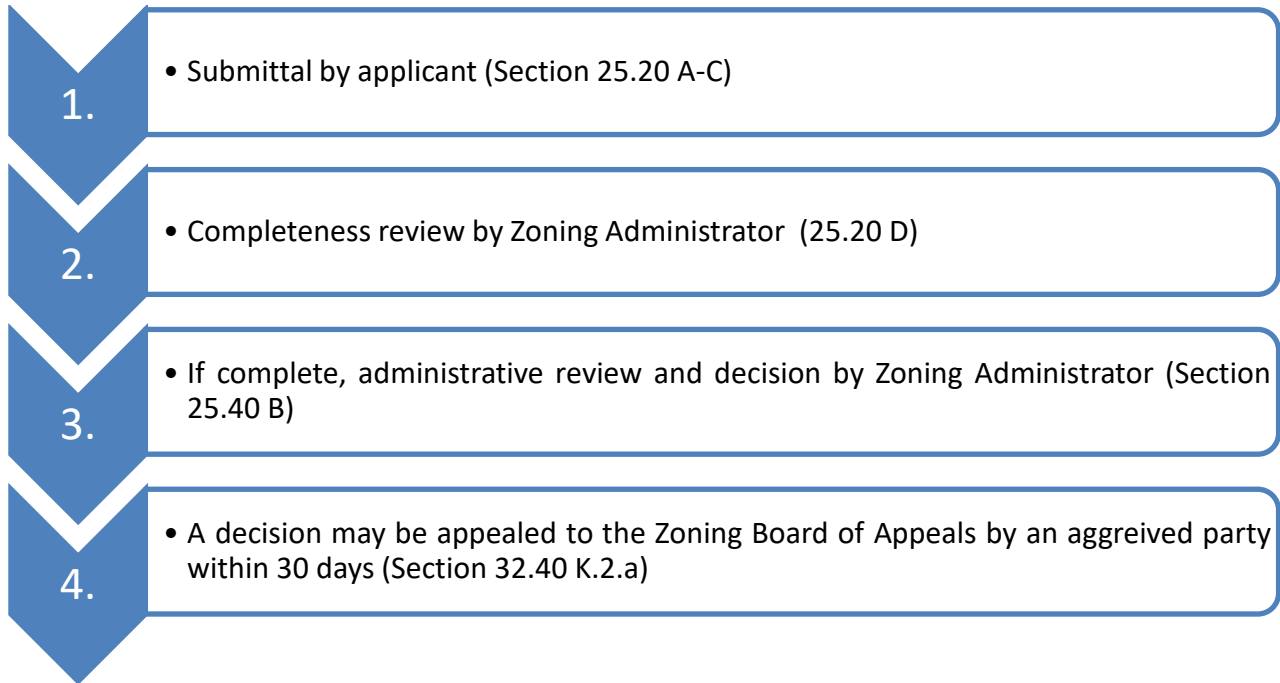


Figure 25-1 Process for Administrative Review of Zoning Permits

B. ZONING PERMITS IN GENERAL

1. **Permitting.** No structure or part thereof shall be constructed, reconstructed, erected, moved, enlarged, or altered, nor shall any use on any property be commenced or changed to another use, until a zoning permit has been issued by the Zoning Administrator. An application for a zoning permit shall be filed by the owner or an agent of the owner, and it shall state the intended use of the structure and of the land. The application shall be accompanied by building plans and specifications, a plot plan, the required fees, a site plan where required, and such other information as may be necessary to provide for the interpretation or enforcement of this Ordinance.
2. **Application Requirements.** The Zoning Administrator may require plans drawn to scale and shall show all dimensions in figures. Plans shall be signed by the person preparing them and by the owner of the property or building involved. A fee or fees, as established by the Township Board from time to time to defray the costs of administration and inspections, shall accompany any plans or applications for a zoning permit or building permit.
3. **Assessor Copy.** A copy of all approved permits shall be sent to the Township Assessor.
4. **Lot Compliance.** A zoning permit shall not be issued until the owner verifies that the lot involved has been created in conformance with this Ordinance.
5. **Posting of Permit.** The zoning permit and building permit shall both be displayed so as to be visible at the site where authorized action is being undertaken.
6. **Compliance.** Every use, building, and structure must comply with its zoning permit.

7. **Conditions.** The Zoning Administrator may attach reasonable conditions to a zoning permit.
8. **No Waivers.**
 - a. Approval of plans or applications shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making an application to excavate, construct, move, alter, or use buildings, structures, or land, except as such authority may be explicitly provided for in this Ordinance.
 - b. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out their duties.
 - c. The issuance of a zoning permit shall not be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land.
9. **Revocation.** The Zoning Administrator shall have the power to revoke or suspend any zoning permit in the event that an applicant fails to comply with this Ordinance or the permit, or in the event of any false statements or misrepresentations in the application for the permit. Notice of such suspension and revocation shall be securely posted at the site of the application, and such posting shall be considered as notice to the permit holder of the suspension or revocation of the permit.

C. ZONING PERMIT TYPES

1. **Zoning Permit- Use Compliance.** If no new parking is required and no site development, new buildings, or additions are proposed, a change from one permitted use to another permitted use, or establishment of a new permitted use, may be approved by the Zoning Administrator.
2. **Zoning Permit- Structure Compliance.** Buildings and structures that do not require site plan review per Chapter 26 are reviewed administratively. Unless otherwise stated in this ordinance, zoning permits are required for single-family detached dwellings, single-family attached dwellings up to (4) units, farm buildings, accessory buildings and structures, signs, temporary uses, and other uses and activities stated in this ordinance.
3. **Zoning Permit- Certification of Conditions.** After a conditional approval of a site plan for a permitted or special land use by the Planning Commission, or after final condominium plan conditional approval by the Board, the Zoning Administrator shall confirm compliance with all conditions of approval prior to the issuance of building permits and prior to authorization to proceed with site improvements. See Section 26.50 for Term, Validity, and Compliance.
4. **Zoning Permit- Certification of Site Compliance.** Once all site work associated with a site plan approval in accordance with Chapter 26 is complete and compliant, the Zoning Administrator shall issue a zoning permit that certifies site compliance.
5. **Zoning Permit- Minor Site Plan Amendment.** For a minor amendment to a site plan or condominium plan in accordance with Section 26.60 A, or a condominium in accordance with Section 28.70 A, which meets zoning requirements, the Zoning Administrator shall issue a zoning permit for minor site plan amendments.

D. LOT SPLITS AND LAND DIVISIONS

1. **Permitting and Requirements.** No lot or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other requirements of the Gaines Charter Township Zoning Ordinance, as amended. All land divisions, splits, or boundary reconfigurations of platted lots and

unplatted lots shall meet the requirements of the Gaines Charter Township Zoning Ordinance, as amended, and the requirements of the Michigan Land Division Act (MCL 560.101 et seq.\ MSA 26.430(101) et seq.). No land division, lot split, creation of an access easement, or change or reconfiguration of boundary lines shall occur until and unless a land division permit has been obtained from the Zoning Administrator or such other person as may be designated from time to time by resolution of the Township Board. No permit for land division shall be issued until and unless the Township determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots or access easements, fully complies with the requirements of the Zoning Ordinance, as amended, and all other applicable Township ordinances. Fees for a land division permit shall be set as determined from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application is accompanied by a survey done by a registered land surveyor or engineer showing all resulting lots or easements (if any), and full legal descriptions. The Township can waive the requirement of a survey in a given case for good cause shown by the applicant. No permit for division of a platted lot, or reconfiguration of boundary lines for a platted lot or lots, shall be issued until and unless such land division is also approved by the Township Board.

2. **Compliance.** No lot (platted or unplatted) shall be divided, split, have boundary lines changed, combined, or subdivided unless said action meets all requirements of this Ordinance and all other applicable Township ordinances.
3. **Denial.** The Zoning Administrator may deny a requested land division or boundary line adjustment if it would result in one (1) or more lots that would be irregularly shaped, cause some portions of any resulting lot to be effectively inaccessible, or result in an inefficient or unreasonable use of land. When deciding whether a proposed land division should be denied on such basis, the Zoning Administrator shall consider the following standards:
 - a. Whether one (1) or more resulting lots would be unreasonable or irregularly sloped.
 - b. Whether one (1) or more resulting lots would be inconsistent with the intent and goals of this Ordinance or the Township's Master Plan.
 - c. Whether the shape of one (1) or more resulting lot would make it difficult to site a new building on the lot make it difficult for a new building to meet all setback requirements or otherwise make the proposed uses of the lot more difficult or inefficient.
 - d. Whether an inefficient land configuration will occur.
 - e. Whether some of the land would be practically unusable.
 - f. Whether some of the land would be effectively inaccessible or wasted.
 - g. Whether difficult new legal descriptions would result.

E. BUILDING PERMITS, CERTIFICATES OF OCCUPANCY, AND CONSTRUCTION TIME LIMITS

Building permits and certificates of occupancy are processed in accordance with the building code. However, as the process relates to the Zoning Ordinance, the following applies:

1. **Building Permits.**
 - a. Building permits shall not be issued for building construction until all applicable zoning (Zoning Permit- Structure Compliance) and site plan approvals are secured, as applicable, and after all conditions of approval are satisfied (Zoning Permit- Certification of Conditions). However, at the discretion of the Zoning Administrator and Building Official, building permits may be issued conditionally so long as site plan requirements are satisfied prior to the issuance of a certificate of occupancy.

- b. An approved driveway permit shall be obtained from the Michigan Department of Transportation or the Kent County Road Commission and submitted to the Building Inspector prior to the issuance of a building permit.
2. **Certificates of Occupancy.** Certificates of occupancy shall not be issued until all applicable site improvements are installed and certified as complete by the Zoning Administrator (Zoning Permit-Certification of Site Compliance). However, at the discretion of the Zoning Administrator and Building Official, temporary certificates of occupancy may be issued conditionally so long as required site improvements are completed within a specified timeframe. Performance guarantees may be required per Section 25.80.
3. **Construction Time Limits.** Once construction or installation has begun regarding a building or structure, such building or structure shall be completed and issued an occupancy permit within one (1) year. The Zoning Administrator may issue up to two (2), six (6) month extensions if the work is delayed for unanticipated circumstances or if other reasonable justification is provided.

SECTION 25.50 DECISIONS AND RECORDS

A. RECOMMENDATIONS

A recommending authority shall review an application against applicable zoning requirements and standards and shall provide a recommendation to the decision-making authority.

B. DECISIONS

The decision-making authority provides final decisions on all applications.

C. APPEALS

Except as otherwise prohibited by this Ordinance, final decisions may be appealed to the Zoning Board of Appeals if authorized by this Ordinance.

D. ACTIONS

Recommendations and final decisions are limited to the following:

1. Recommendation of approval or approval.
2. Recommendation of approval with conditions or approval with conditions (see Section 25.60).
3. Recommendation of denial or denial.
4. Postpone action (not available for administrative approvals).
5. Table action (not available for administrative approvals).

E. WITHHOLDING OF APPROVAL

The Zoning Administrator, Planning Commission, or Township Board may withhold the granting of any approval required by this Ordinance pending approvals which may be required by county, state, or federal agencies or departments.

F. RECORDS AND FINDINGS

Where applicable, action taken regarding an application, along with the findings in support of that action, shall be recorded in the meeting minutes and by resolution or ordinance. Actions of the Zoning Administrator shall be documented in writing. Copies of all officially approved plans shall be filed at the Township offices.

SECTION 25.60 CONDITIONS OF APPROVAL

A. APPLICABILITY

Reasonable conditions of approval may be applied to any zoning permit and to development approvals by the final approval authority.

B. CRITERIA

Conditions shall be designed to ensure compliance with the intent of the Zoning Ordinance and shall be based on the following criteria. Conditions shall generally:

1. Ensure that there will be no adverse impact on public services and facilities.
2. Ensure that the use is compatible with adjacent land uses and activities.
3. Protect natural resources; the health, safety, welfare, and social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
4. Ensure compatibility between the proposed use or activity and the rights of the Township to perform its governmental functions.
5. Meet the intent and purpose of the Zoning Ordinance, be related to the regulations and standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
6. Ensure compliance with the intent of other Township ordinances that are applicable to the site plan.
7. Ensure compatibility with other uses of land in the vicinity.

C. PERFORMANCE GUARANTEE

A performance guarantee in accordance with Section 25.80 may be incorporated as a condition of approval.

D. COURT ACTION

If any conditions are attached to a discretionary or similar zoning approval by the Township Board, Planning Commission, or Zoning Board of Appeals (or where the zoning administrator issues a discretionary or similar zoning approval with conditions), any such zoning approval shall automatically become null and void should a court strike down, invalidate, or sever any such condition. In almost all such zoning cases, the body or zoning administrator involved likely would not have approved the zoning request but for each and every such condition remaining, or if such conditions were not present.

E. REPRESENTATIONS AND PROMISES OF DEVELOPERS AND PROPERTY OWNERS

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

SECTION 25.70 NOTICES FOR PUBLIC HEARINGS

All applications that require a public hearing shall be noticed, at a minimum, in accordance with Section 103 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. At its discretion, the Township may also adopt and implement noticing procedures above and beyond those required by Section 103 of the Zoning Enabling Act.

SECTION 25.80 PERFORMANCE GUARANTEE

A. GENERAL REQUIREMENT

As a condition of approval of a site plan review, special use, PUD, Zoning Agreement, zoning permit, variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees of sufficient sum to assure compliance with this Ordinance, to assure compliance with a condition of approval or a permit, and to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.

B. GUARANTEED IMPROVEMENTS

The features or components, hereafter referred to as "improvements" for which monetary security may be required, may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.

C. PROCESS

Performance guarantees shall be processed in the following manner:

1. Required Improvement.

- a. Prior to the issuance of a Building Permit, Zoning Permit, or other approval or permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.
- b. The amount of the performance guarantee shall not be more than 130 percent of the cost of purchasing materials and installation of the required improvements, including the cost of necessary engineering and inspection costs, and a reasonable amount for contingencies.
- c. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the Township.
- d. The Zoning Administrator shall not sign off on the issuance of a Zoning Permit until all final plans, development agreements, escrow fees, and any required performance guarantees are provided.
- e. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
- f. When all of the required improvements have been completed, the obligor shall send a written notice

to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.

- g. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- h. The Zoning Administrator shall maintain a record of required performance guarantees.

2. Compliance with Conditions.

- a. As a condition of approval of a site plan, special use, conditional rezoning, PUD, zoning permit, variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees to ensure compliance with the approval and any conditions attached thereto.
- b. A required performance guarantee or guarantees shall be payable to the Township and shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee with the amount, form, financial institution, and language acceptable to (and approved by) the Township.
- c. The Zoning Administrator shall not sign off on the issuance of a Zoning Permit or other permit or approval until all required fees and performance guarantees are provided to the Township.
- d. The Zoning Administrator shall maintain a record of required performance guarantees pursuant to this subsection.

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