

# RECODE YORK COUNTY

*Zoning & Subdivision Codes Rewrite*



## CHAPTER 154: LAND DEVELOPMENT CODE

### ***SUBCHAPTER E: GUARANTEE AND ACCEPTANCE OF IMPROVEMENTS***

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## ***SUBCHAPTER E: GUARANTEE AND ACCEPTANCE OF IMPROVEMENTS***

### ***PART 1: GENERAL PROVISIONS***

#### **§ 154.121 PURPOSE.**

The purpose of this Subchapter is to ensure that all improvements required by this Chapter are installed and constructed in a manner that ensures the health, safety, and welfare of the public, and limits the exposure of York County and private property owners for unanticipated expenses related to the installation and proper function of public and private infrastructure.

#### **§ 154.122 APPLICABILITY.**

The standards and regulations of this Subchapter shall apply to all land development activity that occurs within the jurisdiction of this Chapter where public or private infrastructure subject to regulation herein is installed or constructed as part of such development.

#### **§ 154.123 RESERVED.**

## ***PART 2: IMPROVEMENT GUARANTEES***

### **§ 154.124 PURPOSE.**

The Purpose of this Part is to ensure that public infrastructure required to be installed under this Chapter is constructed according to the standards and specifications of York County, and is free from defects in materials and workmanship during a warranty period following acceptance.

### **§ 154.125 APPLICABILITY.**

The requirements of this Part shall apply to all development projects involving the construction of new roads or the improvement of existing roads, as well as the installation of water and sewer infrastructure intended for dedication to the York County water and sewer system.

### **§ 154.126 ROAD IMPROVEMENT GUARANTEES AND WARRANTY.<sup>1</sup>**

(A) **Posting of Road Improvement Guarantee Funds.** Improvement guarantees shall be posted for all development projects that include a road construction or improvement component.

(1) Road improvement guarantee funds are intended to cover the maintenance and repair of public improvement items within the right-of-way, such as the asphalt intermediate course, surface course, curb and gutter, drainage structures and pipe, stormwater management/sediment control features, sidewalks and reseeding, if necessary. The posting of these funds is strictly for the improvement of constructed facilities, and shall not relieve the developer of the requirement to construct the specified improvements as set forth in **Subchapter C: Infrastructure Standards** prior to the posting of the road improvement guarantee.

(2) Road improvement guarantee funds are also intended to ensure that final paving is completed in accordance with the established schedule and the applicable standards and specifications.

(B) **Standards for Road Improvement Guarantees.** All road improvement guarantees shall conform to the following standards:

(1) Road improvement guarantee funds shall be filed with the York County Planning and Development Services Department following the inspection and approval of the initial construction by the York County Engineering Department.

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<sup>1</sup> This Section carries forward § 154.125(A)(1)(a) and (b): *Improvement Guarantee Funds* with revisions to remove references to specific standards (e.g., "These funds are also intended to guarantee that the final tack coat and one and one-half inch asphalt final surface course will be placed in accordance with the schedule, standards, and specification of this subchapter.") and clarify that road improvement guarantees apply to all aspects of road construction.

(2) The amount of the posted guarantee shall be determined by the Director in accordance with its adopted policies and procedures.

(3) Improvement guarantee funds shall be posted with a bank/cashier's check made payable to York County, or an irrevocable letter of credit naming York County as the beneficiary. The initial term of a letter of credit shall be two years, and each successive extension of a letter for credit shall be for two additional years.

(C) **Warranty for Road Improvements.**

(1) **Public Road Improvement Warranties.** The following standards shall govern the manner in which developers shall warrant and repair public road improvements prior to the release of the improvement guarantee and acceptance by the County Council.

(a) All roads intended for acceptance into the York County Road Maintenance System shall be subject to a two-year warranty period which shall begin on the date of the approval of final plat.

(b) The County Engineering Department will conduct a series of inspections during this two-year warranty period to identify any deterioration, defects, or defaults of the roadway construction needing to be repaired prior to the end of the warranty period. It shall be the responsibility of the developer to repair any deterioration, defects, or defaults within the two-year warranty period for roads accepted into the County roadway system.<sup>2</sup>

(c) The method and schedule of all repairs to the roads/streets shall be approved and inspected by the County Engineering Department. Failure to complete any required repairs within the warranty period will be treated as a forfeiture of the improvement guarantee, as provided for in § 154.126(D), below.

(d) During this warranty period, the County Council will be requested to accept the roads/streets into the York County Road Maintenance System. No road shall be presented to Council for acceptance until all outstanding issues have been resolved relating to road construction, utility construction, payment of fees, and final plat approval. The County Council reserves the right to refuse to accept a roadway or series of roads into its road maintenance system for any reason it deems necessary.

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<sup>2</sup> The proposed revision to this sentence from § 154.126(A)(1) removes the examples of defects ("It shall be the responsibility of the developer to repair any deterioration, defects or defaults, including, but not limited to, the subgrade, aggregate base course, asphalt intermediate course, asphalt surface course, curb and gutter, drainage structures and culverts, ditches and tie-back slopes and right-of-way seeding within the two-year warranty period for roads accepted into the county roadway system. The method and schedule of all repairs to the roads/streets shall be approved and inspected by the County Engineering Department.").

(2) **Private Road Improvement Warranties.** The following standards shall govern the manner in which developers shall warrant and repair private road improvements prior to the release of the improvement guarantee by the Engineering Department.

(a) All private roads shall be subject to a two-year warranty period which shall begin on the date of the approval of final plat.

(b) The County Engineering Department will conduct a series of inspections during this two-year warranty period to identify any deterioration, defects, or defaults of the roadway construction needing to be repaired prior to the end of the warranty period. It shall be the responsibility of the developer to repair any deterioration, defects, or defaults within the two-year warranty period.

(c) The method and schedule of all repairs to the roads/streets shall be approved and inspected by the County Engineering Department. Failure to complete any required repairs within the warranty period will be treated as a forfeiture of the improvement guarantee, as provided for in § 154.126(D), below.

(D) **Release of Improvement Guarantee.** The following standards shall apply to the release of posted road improvement guarantees.

(1) Road improvement guarantee funds will be held for the duration of the warranty period established in § 154.126(C), above.

(2) Prior to the expiration of the warranty period, the York County Engineering Department shall conduct a final inspection of the guaranteed improvements. If no defects are identified, then the entire amount of the improvement guarantee shall be released to the developer. If defects are identified, then the developer shall be given written notice of the required repairs and a deadline will be established for making such repairs.

(3) If the developer fails to make such required repairs, the funds shall be forfeited and the County shall affect such repairs as necessary. If the forfeited funds are insufficient to complete the required repairs, the developer shall be responsible for providing such additional funds as necessary. Any remaining balance of the funds shall be returned to the developer after all necessary repairs are completed and approved by the County.

### **§ 154.127 WARRANTIES FOR WATER AND SEWER INFRASTRUCTURE.<sup>3</sup>**

(A) **Warranty Period.** All water and sewer infrastructure intended for acceptance into the York County water and sewer system shall be subject to a one-year warranty period. The warranty

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<sup>3</sup> This Section carries forward portions of § 154.045(D)(3) and uses the more inclusive term "infrastructure" vs. current term "lines."

period shall begin upon the issuance of the DHEC permit to operate and shall terminate after exactly one calendar year.

(B) **Repairs During Warranty Period.** If a defect is discovered in the design, workmanship, or materials of any warranted water or sewer infrastructure, the developer shall be notified in writing of such defect and shall remedy the item within 60 calendar days from notification.

**§ 154.128 RESERVED.**

### ***PART 3: CONSTRUCTION INSPECTIONS***

#### **§ 154.129 PURPOSE.**

The purpose of this Part is to establish standards for the inspection of road, water, and sewer utility improvements during their construction and installation.

#### **§ 154.130 APPLICABILITY.**

The standards contained herein shall apply to the construction and improvements of all public and private roads undertaken as a requirement of this Chapter, as well as to the construction and improvement of all water and sewer utilities in conjunction with development activity subject to this Chapter.

#### **§ 154.131 ROAD INSPECTIONS.**

(A) **Generally.** Any roadway construction projects subject to this Part shall be inspected by a representative of York County during all phases of construction.

(B) **Pre-Inspection Requirements.** Before any inspection of road construction may be scheduled, the York County Engineering Department shall have in their possession the following documentation:

- (1) Preliminary plat approval from the York County Planning and Development Services Director;
- (2) Subdivision construction plan approval from County staff;
- (3) Proof that grading permit has been obtained;
- (4) Written verification on file that the developer has received, read, and understands the York County Land Development Manual; and
- (5) A subgrade certification letter indicating the roads were installed in accordance with the approved final plat.
- (6) Letter or report from an independent county-approved Geotechnical Engineer/Testing Laboratory (ITL) documenting the following:
  - (a) The location of any existing wet, marginal, or unsuitable soils within the road right-of-way that were either undercut and replaced, scarified to dry and re-compacted, properly bridged with a stabilization fabric, or stabilized with lime and/or cement or some other acceptable process; and



(b) In areas requiring fill material, suitable roadway fill material has been used and placed in accordance with York County and SCDOT procedures and compaction specifications. SCDOT standards for subgrade construction requirements are specified in § 208 of the [SCDOT Standard Specifications for Highway Construction](#) (latest edition). Independent county-approved Geotechnical Engineer/Testing Laboratory (ITL) is to be hired by the developer/contractor at no expense to York County.

(C) **Required Inspections.**<sup>4</sup> The following inspections shall be required during the road construction process:

- (1) Subgrade compaction proof roll;
- (2) Curb and sidewalk subgrade inspection;
- (3) Aggregate base course stone depth check;
- (4) Aggregate base course compaction proof roll;
- (5) Asphalt intermediate course core depth inspection;
- (6) Asphalt intermediate course final inspection;

(D) **Random Inspections.**

(1) York County reserves the right to conduct random on-site inspections during any phase of construction. At a minimum, construction procedures and materials will be observed for their compliance with the approved construction plan and York County's standards and specifications. In addition, issues such as traffic control, stormwater management, and overall public safety and property protection will be reviewed.

(2) York County reserves the right to conduct random asphalt plant inspections in accordance with the [SCDOT Standard Specifications for Highway Construction](#) (latest edition). These inspections will be conducted to verify job mix and to inspect overall plant operations and materials storage.

(3) York County reserves the right to request an independent Geotechnical Engineer/Testing Laboratory (ITL) to perform tests and inspections. If requested, the ITL shall be hired by the developer at no cost to York County.

(E) **Re-inspections.**

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<sup>4</sup> This Paragraph proposes to relocate the detailed, technical provisions for each inspection type to the Land Development Manual.

(1) York County requires 48 hours notification for all re-inspections.

(2) Re-inspections required as a result of failed inspections will constitute a re-inspection fee for each occurrence. This fee accumulates and shall be paid to the Planning and Development Services Department, prior to receiving final plat approval.

(3) Should re-inspections be a direct result of unexpected weather-related conditions, re-inspection fees may be waived at the discretion of the County Engineer.

(4) A contractor who does not comply with the findings of an inspection and proceeds to the next phase of construction without making the necessary repairs and calling for a re-inspection, will be required, at a minimum, to remove the new work in the area of the previous inspection failure, so that proper repairs can be made.

(a) If this action requires the cutting of the final asphalt surface course to make repairs, York County reserves the right to require the contractor to resurface the entire length of the roadway, or a portion of the road sufficient in length to avoid the appearance of patchwork.

(b) York County will suspend all future inspections on the project until such time as the project is brought back into compliance.

(c) These penalties will also apply when a contractor proceeds to the next phase of construction without calling for re-inspection of the subgrade or aggregate base course compaction whenever substantial rainfall occurs after an approved inspection.

(F) **Canceling an Inspection.** Inspections may be canceled one day before the scheduled inspection and may be re-scheduled with the required notice. Re-inspection fees do not apply to inspections canceled in this manner.

(G) **Weather Restrictions.** Plant mix base/binder courses may be placed throughout the year, as long as the roadway is properly prepared and the temperature is at least 40 degrees and rising for three consecutive days or the developer provides proof the subgrade is not frozen.

(H) **Additional Weather Issues.** York County reserves the right to deny inspection requests should approaching weather threaten to damage the integrity of work to be inspected. York County reserves the right to perform a re-inspection of the subgrade or stone compaction whenever substantial rainfall occurs after an approved inspection.

## § 154.132 WATER AND SEWER INSPECTIONS

(A) **Generally.** Any water and sewer construction projects subject to this Part shall be inspected by a representative of York County during all phases of construction.

(B) **Pre-Inspection Requirements.** Before any inspection of water and sewer utilities may be scheduled, the York County Engineering Department shall have in their possession the following documentation:

- (1) Preliminary plat approval from the Planning and Development Services Director;
- (2) Subdivision construction plan approval from County staff;
- (3) Proof that grading permit has been obtained;
- (4) SCDHEC permit to construct water and sewer facilities;
- (5) A materials list that is compliant with the list of approved materials in the **York County Land Development Manual**.
- (6) Any applicable encroachment permits.

(C) **Required Inspections.**<sup>5</sup> The following inspections, inclusive of all distinct categories of inspection of the system and its components, shall be required during the utility installation process:

- (1) Preliminary inspection; and
- (2) Final inspection.

(D) **Re-inspections.**

(1) York County requires 48 hours notification for all re-inspections. Re-inspections required of failed inspections will constitute a re-inspection fee for each occurrence. This fee accumulates and shall be paid to the Planning and Development Services Department, prior to receiving final plat approval.

(2) Should re-inspections be a direct result of unexpected weather-related conditions, re-inspection fees may be waived at the discretion of the County Engineer.

(E) **Canceling an Inspection.** Inspections may be canceled one day before the scheduled inspection and may be re-scheduled with the required notice. Re-inspection fees do not apply to inspections canceled in this manner.

**§ 154.133 RESERVED.**

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<sup>5</sup> This Paragraph proposes to relocate the detailed provisions for each inspection type to the Land Development Manual.

## **PART 4: DEDICATION OF IMPROVEMENTS**

### **§ 154.134 PURPOSE.**

The purpose of this Part is to ensure that public roads, their appurtenant storm drainage facilities, water, and sewer utilities are properly dedicated as part of the land development process.

### **§ 154.135 APPLICABILITY.**

These standards shall apply to all public road, water, and sewer utility improvements intended for acceptance by York County.

### **§ 154.136 DEDICATION OF ROADS.**

(A) **Right-of-Way Required.** All roads to be accepted into the York County road maintenance system shall have an irrevocably dedicated right-of-way to York County which covers the length of the roadway to be maintained by York County.

(B) **Dedication of Additional Right-of-Way.** Any development encompassing existing County roads that do not have a minimum right-of-way as required in [Subchapter C: Infrastructure Standards](#) shall dedicate the required width to York County in order to proceed.

(C) **Roadway Storm Drainage Easements.** York County shall be presented with a written storm drainage easement (being shown on a plat is not sufficient), accepted by the York County Council, before York County has the right or responsibility to maintain the easement(s). York County reserves the right to accept only those easements which are a direct result of the collection and distribution of stormwater related to roadway construction and maintenance.

(D) **Acceptance.** The acceptance of road rights-of-way and storm drainage easements shall not be construed as the acceptance of property ownership; however, York County reserves the right to maintain, repair, or improve the land and infrastructure within the dedicated right-of-way and easements.

(E) **Recordation.** Right-of-way forms shall be obtained from the York County Planning and Development Services Department. The grant of right-of-way form includes a legal description of the roadway in question and shall be signed, witnessed, and properly probated. The completed form will be recorded in the office of the Clerk of Court by the York County Engineering Department.

### **§ 154.137 DEDICATION OF WATER AND SEWER UTILITIES.**

(A) **Utility Easements Required.** For all water and sewer utilities to be accepted into the York County water and sewer system, the developer shall provide an irrevocable utility easement to

York County that covers the length of the utility lines and appurtenant infrastructure to be maintained by York County.

(B) **Acceptance.** Before York County will accept water or sewer infrastructure into the County system, an affidavit from the developer and developer’s contractor will be required stating that all construction costs have been paid and the water and sewer infrastructure is free from all encumbrances.

(C) **Recordation.** Easement forms shall be obtained from the York County Planning and Development Services Department. The grant of easement form includes a description of the utility easements in question and shall be signed, witnessed, and properly probated. The completed form will be recorded in the office of the Clerk of Court by the York County Planning and Development Services Department.

**§ 154.138 RESERVED.**