

6.5 PD 20-01: Recordation of Public Utility Easements - Temporary Occupancy Permit

Policy Document 20-01: Utilities Requirements for Issuance of a Temporary Occupancy Permit Prior to the Recordation of Public Utility Easements

This policy outlines the criteria of the Spotsylvania County Utilities/Public Works Department for the issuance of a temporary occupancy permit.

This Policy Document does not reduce, eliminate, or otherwise change in any manner, the requirements for obtaining an occupancy permit as set forth in Chapter 5 and Chapter 23, Article IV, Division 13 of the Spotsylvania County Code.

The issuance of a temporary occupancy permit may be approved by the Director of Spotsylvania County Utilities/Public Works based on the following criteria:

- A. The Owner, Authorized Official, or other Applicant shall follow all guidelines and procedures for obtaining a temporary occupancy permit as set forth in Chapter 5 and Chapter 23, Article IV, Division 13 of the Spotsylvania County Code.
- B. The Owner, Authorized Official, or other Applicant shall post a bond via the Cash Bond Escrow Agreement or the Performance Surety Bond and/or Agreement, whichever is applicable to the Applicant, from the Zoning Department (Appendix A - B). This bond shall be for 10% of the entire water and sewer improvement cost outlined in the First Acceptance Request Letter of the project for which the temporary occupancy permit is being issued.
- C. All public utility easements and plats have been submitted to the Planning Department and have been approved.
- D. All off-site easements related to the project have been recorded.
- E. All public utility easements shall be recorded within the maximum duration of the temporary occupancy permit, 120 days, or the bond will be pulled by the Utilities Department.
- F. As-built plans of all installed public utility infrastructure have been approved, less easement recordation information.
- G. All remaining First Acceptance items as outlined in the *2018 Spotsylvania County Utilities Water and Sewer Design and Construction Manual – Appendix D – Utilities Project Tracking - Construction* must be submitted and approved for the consideration of a temporary occupancy permit.

At the time of issuance of the temporary occupancy permit the construction account shall be created in the name of the principal or entity, representing whomever posted the bond via the applicable Agreement from the Zoning Department. Information must be provided on the Construction Account Application.

The Spotsylvania County Utilities Department will not mark or maintain any water or sewer infrastructure until First Acceptance has been issued and all applicable easements are recorded and accepted by the County.

The cost of any repairs or maintenance to water and sewer infrastructure shall be covered by the Owner during the period of the temporary occupancy permit.

This Policy Document only applies to the following uses:

- A. Single owner, single use commercial projects connected to public water infrastructure by one water meter.
- B. Multi-family residential projects connected to public water infrastructure by one water meter.

The Director of Spotsylvania County Utilities/Public Works may approve the issuance of a temporary occupancy permit based on the Criteria in this Policy Document and may review individual requests on a case-by-case basis.

X

Benjamin L Loveday, P.E.
Director UT/PW

03/02/2020

Date

6.5.1 Appendix B: Cash Bond Escrow Agreement



TITLE OF PROJECT: _____

PROJECT NO: _____

CASH BOND ESCROW AGREEMENT

WHEREAS, Principal desires the issuance of a Temporary Occupancy Permit (the "Permit") pursuant to Section 23-4.13.5 of the County Code (the "Ordinance") which Permit is attached hereto and incorporated herein by reference; and

WHEREAS, Principal has elected to post a bond, in cash, to secure performance of the terms and conditions of said Permit and Ordinance,

NOW, THEREFORE, _____ as Principal of said Permit and this bond and Kimberly Pomatto, (the "Zoning Administrator") on behalf of the Board of Supervisors of Spotsylvania County, Virginia (the "County"), as Obligee, hereby agree as follows:

1. The County acknowledges receipt of the bond amount, (\$____), to be held, invested and applied in accordance with the terms of this escrow agreement.
2. The condition of this bond is that Principal (his, its, their) heirs, executors, administrators, successors and assigns (is, are) held and firmly bound to the County in the sum written above in lawful money of the United States of America, as security for Principal's performance pursuant to the Permit, the Ordinance and this Agreement.
3. The County shall deposit said sum in an interest-bearing account in an institution insured by FDIC or FSLIC for the term of the required performance and any approved extension thereof.
4. If the Principal defaults in the performance of all or any part of the obligations of the Permit and Ordinance or abandons the work, the Zoning Administrator, shall give written notice of same to Principal, specifying the items of breach. Notice expressly given under this paragraph 4 shall terminate whatever rights Principal may have to perform further work under the Permit.
5. In the event of default as provided in paragraph 4 above, the County shall apply the cash bond and any accrued interest to completion of work required by the Permit and Ordinance. Any funds remaining after completion shall be returned to the Principal. If the cash bond is not sufficient to complete the work, the Principal agrees to reimburse the County for any deficiency.
6. Computation of damages attributable to Principal's breach and chargeable against the bond shall include not only the direct cost of completion, but also procurement costs, litigation costs, to include reasonable attorney's fees, administrative costs, expenses due to delay caused by Principal, maintenance and repair costs, and inspection fees.
7. Any and all amounts, except interest, remaining upon completion of all performance required by the Permit, Ordinance, or this Agreement shall be returned to the Principal, upon a signed statement from the Zoning Administrator certifying such completion.

8. Any notice required hereunder shall be deemed effective if given by registered mail, return receipt requested, to Principal in the name and at the address given below; provided that change of address shall be effective if given in accordance with this paragraph. Any notice to the County shall be so given to the Spotsylvania County Zoning Division of Code Compliance at 9019 Old Battlefield Blvd, Suite 300, Spotsylvania, VA 22553, Attention: Zoning Administrator and with copy to Spotsylvania County Attorney, P.O. Box 308, Spotsylvania, VA 22553

WITNESS the following signatures and seal:

PRINCIPAL

Legal Name and Address:

Signature (s)

ACKNOWLEDGEMENT OF PRINCIPAL

COMMONWEALTH OF VIRGINIA;
CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____,

20____, by _____
Name of Person Title

My commission expires: _____ Notary Public
Registration #: _____

OBLIGEE

Spotsylvania County, Virginia

By: _____

Kimberly Pomatto
Zoning Administrator