

## **SECTION 7.0            GUARANTEE OF PERFORMANCE**

### **7.1      GENERAL REQUIREMENTS**

In lieu of requiring the completion of all improvements previous to the final approval of a subdivision plan, the Commission may accept a bond in an amount and with surety and other security and conditions satisfactory to it securing to the Town the actual construction, maintenance, and installation of such improvements and utilities required by these Regulations and as shown on the approved plan.

### **7.2      CONDITIONAL APPROVAL**

In lieu of either the completion of the work or the furnishing of a bond as provided in this Section, the Commission may authorize the filing of a plan in the Town Clerk's Office with a Conditional Approval endorsed thereon. Such approval shall be conditioned on (1) the actual construction, maintenance and installation of any improvements or utilities prescribed by the Commission, or (2) the provision of a bond.

Upon the occurrence of either of such events, the Commission shall cause a notification of a Final Approval to be endorsed thereon.

Prior to a Final Approval being endorsed on any map, no building permits may be issued and no lots may be sold within the subdivision.

Prior to a Final Approval being endorsed on any map, the applicant shall submit a bond equal in amount to the incomplete improvements plus 10% but in no instance shall a bond be accepted in an amount less than 10% of the estimated costs for all improvements and utilities required by these Regulations and as shown on the approved plan as determined pursuant to Section 7.4.

Any such Conditional Approval shall lapse two years from the date it is granted, provided the applicant may apply for and the Commission may in its discretion, grant renewals of such Conditional Approval for additional periods of two years at the end of any two-year period. Any person, firm or corporation who, prior to such Final Approval, sells or offers for sale any lot subdivided pursuant to a Conditional

Approval shall be fined not more than five hundred dollars for each lot sold or offered for sale.

### **7.3 BOND FORM**

Bonds shall be duly executed on forms provided by the Town and available from the Town Planning Department, with proper reference to all maps and plans showing the streets, drainage, and other improvements covered by the bond. They shall be approved as to form by the Town Attorney.

As used in these Regulations, the term “construction bond” or “bonded” or “bond” or similar terms shall refer to one of the following methods of assuring completion of all subdivision Public Improvements.

#### **7.4 ACCEPTABLE FORMS OF GUARANTEES:**

The following forms of guarantees are acceptable:

##### **A. Surety Bonds**

Surety bonds shall be accepted only from those companies licensed to do business in the State of Connecticut. They shall be accompanied by evidence of due authority of the person executing the bond for the company satisfactory to the Town. No such bond shall contain an automatic expiration date.

##### **B. Savings Account**

Bonds secured by a statement savings account or a passbook savings account shall be accompanied by:

- 1) A bond in form without surety;
- 2) A passbook in the requisite amount in the name of the Town as Trustee;  
and
- 3) A letter side agreement with the developer acknowledging the right of the Town to draw down on the account at any time it deemed the developer to be in default of his obligations under the bond and specifying the obligation of the Town to return the deposit to the developer after the project is completed and accepted.

##### **C. Certificate of Deposit**

Bond secured by a Certificate of Deposit shall be accompanied by:

- 1) A bond in form without surety;

- 2) Original Certificate of Deposit; and
- 3) Pledge agreement which will include a bank acknowledgement that the Certificate is being held as a performance guarantee and that the Town has the right to draw down on the account at any time it deems the developer to be in default of his obligation of the Town to the developer after the project is completed and accepted.

#### **D. Letter of Credit**

Bonds secured by irrevocable letters of credit shall be provided by a bank, or by another similar reputable institution subject to the approval of the Commission. The letter of credit shall be in such form and accompanied by such documents as may be required by the Commission. Each letter of credit shall contain a requirement that the Town shall be notified by certified mail no less than 90 days prior to any automatic expiration date as to whether the bank will renew the Letters of Credit. Said bond accompanying the letter of credit shall include as one of the principal's obligation the maintaining in force of a letter of credit in the amount of the bond until released by the Commission. Said bond shall contain language permitting the Town to call the bond in the event the bank gives notice of its intent not to renew the letter of credit prior to release by the Commission.

### **7.5 BOND AMOUNT**

A detailed estimate of the cost of all improvements and utilities required by these Regulations and shown on the approved plans shall be submitted by the applicant's engineer. Said estimate shall be reviewed and approved by the Town Engineer. The bond amount shall not be less than 110% of the estimated cost of construction of all improvements and utilities. In the case of water mains, electric lines or other utilities to be installed by a public utility, corporation or municipal department, a written statement from the utility(ies) that the work will be done within a reasonable time and at no expense to the Town of Hebron will be accepted in lieu of the requirements of a

performance bond for the installation of said utilities. The State of CT, DOT “Weighted Unit Costs for Roadway Construction”, latest edition, shall be used to compile the cost estimate in the absence of other applicable, verifiable data. The subdivision mylars shall contain a notation regarding this total bond amount.

## **7.6 APPLICABILITY**

These bond requirements shall apply to improvements shown on the approved plans whether the streets are to be public or private, except that no maintenance bond shall be required for private improvements.

## **7.7 EROSION CONTROL BOND**

A separate erosion control bond shall be estimated separately and shall be submitted to the Town prior to the start of any construction or site disturbance activity. The erosion control bond shall include the costs for sediment barriers, drainage outlet protection and construction entrance pads as applicable and any other structural or non-structural erosion control measure deemed necessary by the Town Engineer. The erosion control bond shall remain intact until project completion. The subdivision mylars shall contain a notation regarding this bond amount.

## **7.8 PRIOR TO BUILDING PERMITS**

There shall be no conveyance of lots and there shall be no building permits issued until the Town is in receipt of a performance bond in the amount equal to 110% of the cost of incomplete improvements, but in no event a bond no less than 10% of the bond amount as determined under Section 7.5 above.

## **7.9 CONDITIONS NECESSARY PROIR TO ISSUANCE OF BUILDING PERMITS IN NEW SUBDIVISIONS**

- A. In new subdivisions containing new streets, no building permits shall be issued for new houses until the following minimum requirements are met:

- 1) Necessary performance bonding as required in Section 7 has been provided;
- 2) For the road(s) necessary to serve the proposed new house, the road shall have been acceptably completed up to and including roadway drainage and the roadway sub-grade;
- 3) Permanent or temporary street signs and address numbers shall have been installed;
- 4) Construction entrance pads meeting the requirements of the “Soil Conservation Service Handbook on Soil Erosion and Sediment Control Techniques” have been installed;
- 5) Any necessary erosion control features such as silt fences and or hay bales have been installed as required by the Town; and,
- 6) Plot Plan having been approved by the Town.

#### **7.10 CONDITIONS NECESSARY PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY**

- A. In new subdivisions containing new streets, no Certificates of Occupancy shall be issued until the following minimum requirements are met:
- 1) For the road(s) necessary to serve the new house, the road(s) shall have been acceptably completed up to and including the roadway binder course;
  - 2) All disturbed ground around the new house shall be regraded to allow positive drainage away from the house and all disturbed ground shall be covered with a thick blanket of mulch or turf established;
  - 3) The driveway apron, if not paved due to weather conditions, shall have an acceptable layer of crushed

stone, (2-inch crushed stone, 6 inches thick, 12 feet wide, and 20 feet in length), to prevent the tracking of dirt and mud onto road surfaces; and

- 4) All property corner pins and street monuments associated with the lot have been installed;

### **7.11 BOND REDUCTION**

During the process of construction, the Commission may authorize performance bond reductions as work is completed in amounts that are recommended by the Town Engineer. However, the bond shall not be reduced to less than 10% of the bond amount as determined under Section 7.5 above.

### **7.12 BOND RELEASE**

Upon completion of the improvements, the developer shall file with the Town a detailed set of “As-Built” record plans signed by a professional engineer, licensed in the State of Connecticut, verifying that the location, size, type, material specification and installation of all public improvements and utilities actually constructed within the subdivision in accordance with the approved plans and these Regulations. In addition, a certification signed by a Land Surveyor, licensed in the State of Connecticut, attesting to the installation of all required monumentation of street lines, lots and easements, shall be submitted. The Town Engineer shall review these plans, may inspect the premises and submit a report to the Commission who shall act on the final release of the performance bond and the Erosion Control Bond.

### **7.13 MAINTENANCE BOND**

Release of the subdivision performance bond shall occur following acceptance of all the public improvements as specified in Section 13.4, and receipt of a maintenance bond in an amount no less than 10% of the estimated cost for all subdivision improvements and utilities required by these Regulations.

### **7.14 RELEASE OF MAINTENANCE BOND**

Prior to the end of the Maintenance Period, the Town Engineer shall make a recommendation to the Commission and the Commission shall act on the release of the bond.

## **7.15 ENFORCEMENT**

Failure of the developer to complete the work as shown on the approved plans and as required by these Regulations within the timeframe prescribed in Section 8-26c of the Connecticut General Statutes shall require the Commission to declare the approved expired and to call the bond as set forth in Section 8-26c of the Connecticut General Statutes.