

**SECTION 6:00**  
**PROCEDURES FOR THE SUBMISSION OF DEFINITIVE PLANS**

**6:01 General.**

A Definitive Plan of a subdivision must be submitted to the Planning Board. Said plan shall be governed by the Subdivision Regulations in effect at the time of submission of such plan, or in effect at the time of submission of a Preliminary Plan, provided that a Definitive Plan evolved therefrom shall have been submitted to the Planning Board within seven (7) months from the date of submission of the Preliminary Plan.

A Definitive Plan shall also be governed by the zoning in effect at the time of submission of such plan or at the time of submission of a Preliminary Plan from which a Definitive Plan is evolved, in accordance with the appropriate provisions of Chapter 40A of the General Laws, as amended.

**6:02 Submission General.**

A complete Definitive Plan submission shall include, with the exception of the applicable fee, the following: (a) the subdivision plan, (b) a completed copy of Form C (see Appendix B) and (c) all other information, documentation, studies, statements, reports and correspondence required by these Rules and Regulations.

The applicant shall submit either by hand delivery or by registered mail on the same date (a) one complete submission to the Town Clerk (for date stamping) together with the applicable fee, (b) eight (8) complete submissions to the Planning Board and (c) one complete submission to the Board of Health. The Planning Board shall file one complete submission with (a) the Board of Sewer and Water Commissioner, (b) the Conservation Commission, (c) the Board of Selectmen and (d) other Town agencies and/or departments for their review.

**6:03 Requirement 1 - Filing Fee.**

Each Definitive Plan submitted to the Planning Board shall be accompanied by a non-refundable filing fee in accordance with Section 11:00. Checks for filing fees shall be made

out to the Town of Williamsburg. A Definitive Plan submission not accompanied by the correct filing fee is incomplete, and will not be accepted for consideration by the Planning Board until the correct fee is paid. Filing fees cover the Town's expenses for publication of hearing notices, mailing of other notices connected with subdivision plans, and professional review of plans when needed.

#### **6:04 Requirement 2 - List of abutters.**

List of abutters (see Appendix B, Form D). Name and mailing address of all abutters as they appear in the most recent tax list, including owners of land separated from the subdivision only by a street. The applicant shall obtain a certificate of the Board of Assessors that all abutters are listed.

#### **6:05 Requirement 3 - Abutting Land.**

A sketch plan showing a possible prospective street layout for any adjacent unsubdivided land owned or controlled by the owner or applicant of the subdivision and also showing topography, unless such a plan has already been submitted to the Planning Board during a preliminary submission.

#### **6:06 Requirement 4 - Contents of Plan.**

The Definitive Plan shall bear the seal of a Massachusetts Registered Land Surveyor and a Registered Professional Engineer. The plan shall be at a scale of one (1) inch equals forty (40) feet, unless otherwise specified by the Planning Board, and of a sheet size 24 inches by 36 inches outside dimensions. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision, and all plans, layouts, profiles, cross sections and application shall be deemed to constitute the Definitive Plan. The Definitive Plan shall contain the following information:

1. The subdivision name, boundaries, the magnetic north arrow, date, scale, legend and title, "Definitive Plan".
2. The names of owners of record, the applicant and the Registered Land Surveyor and Registered Professional

Engineer, and official seals. Certification by the Surveyor and all surveying conforms to the technical standards for property surveyors of the American Congress on Surveying and Mapping shall appear on the plan.

3. Names and plan location of all abutters indicating limits of contiguous boundaries (within 200 feet of the boundary of the subdivision) and those owners of land separated from the subdivision only by a street. (Also shown on Form D, Appendix B).
4. Existing and proposed lines of streets, lots, rights-of-way, easements, and any public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board). Purpose of easements shall be indicated.
5. Location, names and present widths of all streets abutting or within 500' of the subdivision. (These need not be shown on maps of the subdivision at any scale larger than 1"=100', but shall in every case be shown on the index map).
6. Location of natural waterways and water bodies within and adjacent to the subdivision.
7. Major site features, such as existing stone walls, fences, buildings, large trees (having diameter of 24" or greater at 4' above the ground and located within 40' of any road right-of-way line in the subdivision), rock ridges and ledges, swamps, flood plains, historic features, and wooded areas. The plan shall identify which of the above shall remain undisturbed.
8. Sufficient data, including lengths, bearings, radii, tangent distances, and central angles to determine the exact location, direction and length of every street and way line, lot line, and boundary line, and to establish these lines on the ground.
9. Location of all permanent monuments and bench marks identified as to whether existing or proposed. Bounds are required at all intersections of street lines, angle points and changes of curvature of street lines.

All bench marks shall be tied to and employ U.S.G.S. (United States Geological Survey) datum system or the Town control datum.

10. Boundary lines, areas in square feet, and dimensions of all proposed lots, with all lots designated numerically and in sequence.
11. Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board on each sheet of the Definitive Plan.
12. Existing and proposed topography (sufficiently differentiated) with two (2) foot contour intervals for the entire parcel, unless the Planning Board agrees that the natural surface of the ground may be adequately represented by contours with larger intervals or by figures of elevation. (The existing and proposed topographical information presented shall be sufficient to define the grading of each proposed lot and street).

Datum to be U.S.G.S. Mean Sea Level.

13. Where a storm drainage line discharges into a brook, stream, or drainage area, a profile will be shown of the brook, stream, or drainage area to determine condition, and proposed method of stabilization.
14. A street construction plan on a separate 24" x 36" sheet, horizontal scale 1" = 40', for each street in the subdivision showing exterior lines, roadway lines, partial lot lines, curb lines, intersection angles, points of tangency, and radii of curves. Also included on the street construction plan shall be location, size, type, elevations and invert, whenever applicable, of all pipes and conduits of the:
  - a. **Water Supply System**, including valves, stubs, gates, hydrants, and similar equipment;
  - b. **Storm Drainage System**, including manholes, pipes, culverts, catch basins, detention ponds, and appurtenant structures;

- c. **Sanitary Sewerage System**, including piping, manholes, stubs and appurtenant structures.
15. A Profile Plan on the same sheet located directly below and coordinated with the street layout plan, indicating existing profiles on the exterior and center lines (using light weight lines) and proposed profile on the center line (using heavy weight lines) of each proposed street, at a horizontal scale of 1" = 40' and a vertical scale of 1" = 4'. All elevations shall refer to U.S.G.S. Mean Sea Level datum. Profiles shall show existing and proposed street grades, rates of gradient on percentages, ground and proposed elevations at center line of each fifty (50) foot station, and grades of intersection streets and ways shall be clearly indicated.
16. The Profile Plan shall show, whenever applicable, location of existing and proposed water, drainage and sanitary sewer lines, slopes and types (material and class) of all storm and sanitary sewer lines, invert, rim elevations and station of each manhole or catch basin.
17. A typical cross section for the full width of the proposed right-of-way shall be shown in accordance with the "Street Cross Section", illustrated in Appendix A, showing foundation material, wearing surface, crown and width of traveled way, curbing, grass strips, sidewalks, utility locations, etc.

In certain cases, the typical cross section may impact the surrounding ground through extensive cut and fill areas. In these cases, plans showing cross sections every 50' along the proposed centerline of construction shall be submitted. Said cross sections shall be:

- a. submitted on 24" x 36" sheets,
- b. have minimum scale of 1" = 6' (both horizontal and vertical) and
- c. extend outside the limits of the right-of-way to the point where proposed and existing ground meet.

18. Construction details for catch basins, manholes, end-walls, head-walls, rip-rap, energy dissipaters, etc.
19. Whenever applicable, proposed layout and design of any and all parks, pools, or similar community improvements, including all water, drainage and electrical layouts, if any, designed to service such community improvements.
20. Locations of borings shall be shown on the plan with a numbering system corresponding to boring logs which will be submitted as part of the application (see Section 6:07.1).

#### **6:07 Requirement 5 - Additional Submittals.**

In addition to the above plans, submission of Definitive Plans must include the following:

1. **Boring Logs.** The purpose of borings is to assist the developer and the project's engineer in designing an appropriate roadway and related utilities based on existing water table and subsurface soil conditions (i.e., a clay subsurface might necessitate extra excavation and extra depth for gravel base; a water table near ground surface might necessitate the installation of sub-drains along the edge of the road, etc.). Borings shall (a) fall within the proposed street right-of-way, (b) be a maximum of 150' apart and (c) be at least 1' deeper than the deepest utility but in no case less than 5' deep. In case of a development located within the limits of any aquifer recharging the Town's wells, borings should provide enough information to facilitate the Town to determine the development's impact on subsurface water quality. The actual location at which each boring is made shall be shown on the plans. The borings shall be certified by a Massachusetts Professional Engineer.
2. **Hydrology Study and Drainage Calculation.** The applicant shall submit drainage calculations, including rational method and TR-55 or TR-20, showing (a) that any proposed drainage system has been designed according to the standards set forth in Section 8:17; and (b) any impact said drainage system would have on existing drainage systems downstream

from the proposed point of discharge. In addition, the applicant shall demonstrate that the drainage system of the proposed subdivision has been designed so that there will be no increased runoff into streams, ponds, wetlands and abutting properties.

3. **Sanitary Sewer Study.** The applicant shall submit calculations showing (a) that any proposed sanitary sewer system has been designed according to the standards set forth in Sections 7:12 & 8:18; and (b) any impact said sanitary system would have on existing sanitary systems downstream from the proposed point of discharge.
4. **Water Study.** The applicant shall submit a study certified by a professional engineer with demonstrated qualifications as a water consultant, showing that the chosen water system to be used within the subdivision will provide the latter with (a) adequate domestic water and (b) adequate fire flows. The standards for a water system will be determined by Sections 7:11 & 8:19 of these Regulations. The study will also show how to mitigate the impacts of the development on the water pressures in the surrounding area.
5. **Environmental Impact Analysis.** In order to insure the protection of the general public against any possible undesirable impact of the development on natural resources, the developer shall submit an analysis of any such matters of environmental concern, such as preservation of wetlands, surface and ground water quality and air quality. Said analysis shall be conducted by a professional who has demonstrated expertise in the environmental field.
6. **Development Impact Statement.** The developer shall submit an analysis of the impact of the proposed development by a qualified professional on (a) schools; (b) traffic; (c) water; (d) sewer; (e) municipal services such as public works, police, fire, libraries, recreation, etc. The standards used in calculating impacts should be carefully documented and fully referenced (see Appendix C). Each of the sections of said analysis (traffic, water, sewer, etc.) shall be forwarded by the Planning Board to the

appropriate Town departments for review. The purpose of said analysis is to assist the Town in assessing the cumulative impact of development to the Town. Regardless of the above, the Planning Board's decision shall be based on criteria set in Section 1:02.

7. **Easements.** All easements shall be shown on the subdivision plans with bearings and distances, and their purpose shall be clearly stated. The easements may be submitted by the Planning Board to the Town Solicitor, and his response shall be given in writing within thirty (30) days of the date of submittal.
8. **Homeowner's Association.** The applicant shall create a homeowner's association which will be responsible for the following:
  1. Ownership of all common land including but not limited to:
    - a. public roadways
    - b. public utilities (water, sewer, drainage, etc.)
    - c. detention ponds
    - d. easements
    - e. common spaces
  2. Maintenance of the above including but not limited to:
    - a. snow plowing, sanding and sweeping all roadways within the subdivision
    - b. repairing and reconstructing, whenever necessary, all roadways and utilities within the subdivision.
  3. Maintaining a bank account with sufficient funds to accomplish the above. The intent of this requirement is to insure that the association sets appropriate fees to its members so that the public infrastructure within the subdivision



continues to function properly. The fee schedule must be submitted to the Board for approval.

4. Appropriate documents, suitable for recording, establishing the association and its rules as stated above must be submitted to the Board for approval. Said documents may be forwarded by the Board to the Town Solicitor, who will respond in writing within thirty (30) days of the date for transmittal from the Board.

9. **On-Lot Sewage Disposal System.** Where sewage disposal is to be by individual on-lot sewage disposal system, the Definitive Plan shall be accompanied by a report, prepared by a Registered Civil Engineer, which includes the following:

- a. The results of percolation and deep hole soil tests performed on each lot, in accordance with Title 5 of the State Environmental Code and the Williamsburg Health Regulations.
- b. A map which locates the soil test sites on each lot.
- c. Other data, including topographic conditions, natural drainage patterns, soil characteristics, maximum ground water elevations.
- d. When on-site water supplies are to be used, the location of those supplies must be shown on a map along with proposed on-site sewage disposal systems, and any other sewage disposal systems, within 100 feet of the property line.
- e. A statement by a Registered Professional Engineer or Registered Sanitarian as to the suitability of the area for the installation of subsurface sewage disposal systems of the general type and size as indicated in the Massachusetts Environmental Code 314 CMR Title 5 - Department of Environmental Protection.

10. **Review by Board of Health as to the Suitability of the Land.** Prior to the public hearing on a Definitive Plan, the Board of Health shall report to the Planning Board and to the applicant its written approval or

disapproval of said plan. If the Board of Health disapproves the plan, it shall make specific findings as to which, if any, of the lots shown on the plan cannot be used for building lots without injury to the public health, and include such specific findings and the reasons therefore in its report and, where possible, shall make recommendations for the adjustment thereof. Failure of the Board of Health to report shall be construed as approval, and in such case the Planning Board shall note on the plan that approval of the Board of Health was by failure to report upon the plan. No plan which has been disapproved by the Board of Health shall be approved in the same form by the Planning Board.

11. **Wetlands Protection.** In accordance with Massachusetts General Laws Chapter 131, Section 40 and the Williamsburg Wetlands Protection By-Law, no person shall remove, fill, dredge, or alter any bank, beach, dune, flat marsh or swamp bordering on any existing creek, river, stream, pond, lake or any land under said waters or subject to flooding, without receiving a negative determination of applicability or an order of conditions from the local Conservation Commission and/or the Department of Environmental Protection (DEP).

Failure of the Conservation Commission to report to the Planning Board within forty five (45) days after receipt of a Definitive Plan, shall not exempt the Proposed plan from wetland regulations established pursuant to the M.G.L. Chapter 131, Section 40 and local ordinances.

12. **Construction Quantities.** The applicant shall submit a detailed estimate for all construction within the proposed roadway layout and/or public utility easements, certified by the project's engineer. Said estimate shall be based on the "Standard Specifications for Highway and Bridges", 1988 Edition, as amended, of the Commonwealth of Massachusetts and shall include:

- a. quantity, unit price and total amount for each construction item; and

- b. total amount for the cost of completing the project. This amount must include the estimated cost for the installation of all private utilities.

#### **6:08 Submission of Revised Plans, Additional Materials, etc.**

The applicant shall submit Form I (see Appendix B) each time additional material necessitating review by the Board is submitted, between the time of the original submission of the Definitive Plan and the Board's decision. The fee which will normally accompany said Form I shall be waived when the material requested by the Board, is in the form of additional information not included in Sections 6:02 through 6:07. All additional submissions shall be accompanied by a completed application Form I, which will automatically extend the Board's review by an additional sixty (60) days.

#### **6:09 Review by Others.**

Within ten (10) days after submission of a Definitive Plan, the Planning Board shall transmit one copy of the plan to the Board of Selectmen for review. The Board of Selectmen shall within forty five (45) days after receipt of the plan report in what respects, if any, the proposed streets and improvements would fail to comply with the standards for design, layout, construction and acceptance by the Town. The Board of Selectmen may also make such recommendations and suggestions to the Planning Board as, in the Selectmen's opinion, would improve the subdivision and its future development as an integral part of the entire town.

Within ten (10) days after submission of a Definitive Plan, the Planning Board shall transmit copies of the plan to other town boards and officials whose responsibilities may be affected by various aspects of the subdivision, for their review and comment. The Planning Board will give due regard to the views of these officials. Failure of said Boards and receipt of the plan shall be deemed as their respective approval of the subdivision. Failure of the Conservation Commission to respond within the prescribed time does not exempt the subdivision from wetland regulations (see Section 6:07.11).

If after receiving a subdivision application the Planning Board determines that it requires technical advice unavailable from municipal employees and departments to review the application, it may employ outside consultants. The Planning Board may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the Planning Board alone.

1. A review fee may be imposed only if:
  - a. the work of the consultant consists of review of studies prepared on behalf of the applicant, and not of independent studies on behalf of the Planning Board,
  - b. the board finds that an adequate review can not be performed by Town board members or employees,
  - c. the work is in connection with the applicant's specific project, and
  - d. all written results and reports are made part of the record before the Planning Board.
2. Before a fee is imposed:
  - a. the applicant shall be given five business days notice and opportunity to submit written comments relative to the invitation for bids or request for proposals,
  - b. the applicant shall be given five business days notice and opportunity to comment on all bids or proposals prior to the selection of the consultant and the award of a contract,
  - c. the applicant shall be given five business days notice and the opportunity to file an appeal of the selection of the outside consultant with the Selectboard. Grounds for said appeal are limited to written claims, with written documentation, that the consultant selected has a conflict of interest or does not possess the minimum required qualification in accordance with MGL Ch. 44, Section 53G.

If the Selectboard does not act within thirty days the Planning Board's decision shall stand.

- d. All time limits for action shall be extended during administrative appeals and processes detailed in paragraphs a, b, and c above.
- 3. Any invitation for bids or request for proposals shall indicate that award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within ten days of receiving written notification of the execution of a contract with a consultant, the board may deny the subdivision approval.
- 4. Each review fee shall be deposited in a special account established by the Town Treasurer pursuant to MGL Ch. 44, Section 53G.
  - a. Funds from the special account may be expended only for the purposes described above, and in compliance with municipal procurement requirements.
  - b. Within sixty days of the completion of the project or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest (if any).

#### **6:10 Approval of Definitive Plan.**

- 1. **Public Hearing.** Before approval, modification and approval or disapproval of a Definitive Plan is given, a Public Hearing shall be held by the Planning Board. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper or general circulation in the Town of Williamsburg once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing.

A copy of said notice shall be mailed by registered mail to the applicant and to all owners of land abutting upon the subdivision including those owners separated from such land only by a street as appearing in the most recent tax list submitted by the applicant (see Appendix B, Form D). The applicant or his representative should be present at the hearing.

2. **Approval, Modification or Disapproval.** After the required hearing, but within the period specified in the Subdivision Control Law for the submission of the Definitive Plan, the Planning Board shall take action thereon. It may approve, modify and approve, or disapprove said plan, as provided by statute. Any approval of said plan by the Planning Board shall only be given on condition that the designated lots or land shall not be built upon or served with any utilities, such as septic tanks or cesspools, and drainage without prior consent of the Board of Health. The Planning Board shall endorse on the plan such conditions as set forth by the Board of Health and the lots and land affected by such conditions. The action of the Planning Board in respect to such plan shall be certified and filed with the Town Clerk and sent by registered mail, postage prepaid, to the applicant at his address as stated on the application (see Appendix B, Form C).

In the event of disapproval, the Planning Board shall state in writing its detailed reasons for disapproval. The Planning Board shall revoke its disapproval and approve of a plan which, as amended, conforms to these Rules and Regulations or recommendations. Any amended plans which are resubmitted for approval shall follow the same procedures as the original submission (Filing Fee, Public Hearing, etc.). Any amended plans submitted later than nine (9) months following the date of expiration of the appeal period or appeal(s) on the disapproval of the originally submitted plan must conform to the Subdivision Rules and Regulations and procedures (Filing Fee, Public Hearing, etc.) that are in effect at the time of the amended plan's filing.

Final approval, if granted, shall be endorsed on the reproducible drawings of the Definitive Plan by the signatures of the majority of the Planning Board, but not until (a) the statutory 20-day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed, or if appeal has been taken, not until the entry of a final decree of the court sustaining the approval of such plan and (b) all the conditions of Section 6:09.3 are met.

If approval of a Definitive Plan is by reason of the Planning Board's failure to act within the review period prescribed above, the twenty-day appeal period will begin on the first day after the expiration of the review period. If no appeal is filed during the appeal period, the Town Clerk shall issue a certificate stating that approval has become final. The said certificate shall be delivered by the Town Clerk to the applicant, and may be recorded.

Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision. Such laying out or acceptance shall be by action of the Town Meeting upon recommendation of the Planning Board.

3. **Endorsement.** An approved, or approved with modifications, plan shall not be endorsed until after the mandatory twenty (20) day appeal period has elapsed and not until the applicant has:
  - a. Posted the necessary performance guarantee. The monetary value of said guarantee, using any method other than a covenant, shall be based on a revised construction quantity estimate (see Section 6:07.12) if conditional approval of the subdivision was given and if said approval changed the original quantities.

In addition, the monetary value of the performance guarantee shall be adequate to cover all costs the Town would incur to complete the project at the end of the expiration of said guarantee, including but not limited to construction costs at "prevailing" wages, record plans, street acceptance plans and legal costs.

- b. Made the necessary corrections, whenever applicable, on the plan, easements, master deeds, restrictive covenants, etc., if conditional approval was given to the satisfaction of the Planning Board.
- c. Presented to the Planning Board, and the Planning Board has subsequently approved, any additional information requested as part of a conditional approval.
- d. Paid the necessary inspection fee.
- e. Presented to the Planning Board for their approval, two sets of plans showing the complete natural gas, electrical, telephone and cable TV supply systems (including pipes, pumps, valves, gates, hand-holes, transformer padmounts and similar equipment.) Said plans will be accompanied by endorsements from the respective utilities that the plans have received their approval. In addition a street lighting system shall be shown for all street intersections, including the intersections of new subdivision roads with existing roads.
- f. Delivered to the Planning Board two (2) sets of reproducible drawings of the Definitive Plan with the necessary corrections as described in b above. After endorsements by the Board, the applicant shall record one set at the Hampshire County Registry of Deeds. The second set shall become part of the Board's records. In addition the applicant shall deliver to the Board six (6) sets of copies of the endorsed Definitive Plan.



- g. Failure of the applicant to meet the above requirements shall be full and sufficient reason to withhold endorsement.
  - h. If the applicant fails to submit the required Performance Guarantees, easements and other documentation and the endorsement of the Plan by the Planning Board is delayed more than six (6) months after the expiration of the twenty (20) day appeal period, the Planning Board, on its own motion, shall exercise its power to codify, amend, or rescind its approval of the subdivision plan as a condition of said plan retaining the status of an approved plan.
4. **Performance Guarantee.** Before endorsement of the Planning Board's approval of a Definitive Plan of a subdivision, the applicant shall agree to complete the required improvements specified in Section 7:00 and 8:00 for all lots in the subdivision, such construction and installation to be secured in accordance with Section 81U of the Subdivision Control Law by one, or in part by the other, of the following methods which may from time to time be varied by the applicant:
- a. **Approval with Financial Performance Guarantees (Surety Bonds, Money, or Letters of Credit).** The applicant shall either file a surety company performance bond or provide a deposit of money or negotiable securities, including letters of credit, in an amount determined by the Planning Board (see Section 6:07.12 and 6:09.3a), to be sufficient to cover the cost of all or any part of the improvements specified in Sections 7:00 and 8:00 not covered by a covenant under "b" below, and to cover the costs of inspections, record plans, street acceptance plans, and legal work.

If financial performance guarantees are used, at least one lot in a subdivision which can be built on must be covered by a covenant (under paragraph b below) to insure that all work, including legal work, is completed.

Letters of Credit, surety bonds, and other financial performance guarantees must be drafted so that the only requirement that must be met for the Planning Board to draw on the letter is to notify the financial institution (grantor) that:

"We have incurred liability by reason of the failure of the applicant/developer/owner, within ninety days of the expiration of the letter, to complete the construction of their project (insert name of subdivision and plans) in accordance with the definitive subdivision plans and submittal, the subdivision approval and the Rules and Regulations Governing the Subdivision of Land in Williamsburg. The amount drawn, which may be more than required to complete the project, will be held in a segregated bank account until the work can be bid competitively and the bid awarded and paid for or until the contract for the work is otherwise let and the work paid for. Any excess over the cost of completing the work will be returned to the grantor."

Such bond, deposit of money or negotiable securities, shall be approved as to form, the surety or financial institution and manner of execution by the Planning Board.

- b. **Approval with Covenant.** Instead of filing a bond or depositing money, the applicant may fulfill a covenant (see Appendix B, Form G), executed and duly recorded by the owner of record, running with the land, that no lot in the subdivision shall be sold and no building erected thereon until such ways, services and, whenever applicable, temporary turnarounds are constructed and installed, and until record plans, street acceptance plans, and other required work are accepted by the Planning Board in accordance with these Rules and Regulations so as to adequately serve the lots. The developer shall record the covenant, endorsed Definitive Plan, and other appropriate documents at the Hampshire County Registry of Deeds (see Section 6:12).

#### **6:11 Completion Time Schedule.**

The Performance Guarantee, whether by bond, deposit of money, letter of credit, or covenant, as previously described herein, shall be contingent upon the completion of such improvements as required in these Rules and Regulations within a maximum period of two (2) years of the date of such bond, deposit of money, or covenant. There shall be at least a three (3) month period between the completion date of all improvements and the expiration date of any bond, deposit of money, or letter of credit. Said three (3) month period shall give the Town the opportunity to collect the financial performance guarantee so that it will be able to complete the necessary improvements in case (a) the developer is unable to do so; and/or (b) the Planning Board denies any request for an extension of time.

Upon written request from the applicant, the Planning Board may, at its discretion, grant an extension of time, and such agreement shall be executed and affixed to the financial performance guarantee or covenant.

In the case of a surety company bond, such an agreement for an extension shall not be effective until the surety delivers to the Planning Board a written statement that the surety agrees to the proposed alteration of the completion schedule and that such alteration shall not relieve or affect the liability of the surety company.

Failure to complete all improvements as required by these Rules and Regulations within the time allotted shall cause the Planning Board (a) to draw upon the performance guarantee (surety bond, deposit of money, letter of credit) in order to complete said improvements; and/or (b) schedule a Public Hearing in order to rescind approval of the subdivision in accordance with appropriate sections of Chapter 41, Section 81, of M.G.L.

#### **6:12 Recording of Plan.**

The Developer, with a representative of the planning Board present, shall, within ten (10) days after the Definitive Plan has been endorsed, record said plan, Form F, and, Conditions, public easements (plans and documents), restrictive covenants, master deeds, etc., at the Hampshire County Registry of Deeds, and in the case of registered land, with the recorder of the Land Court.

The cost of said recording shall be borne by the developer.

The applicant shall forward to the Board copies, certified by the Registry of Deeds, of the above mentioned plans and documents. In addition, the applicant shall obtain proof from the Town, that the latter has received said plans and documents.

#### **6:13 Pre-Construction Conference.**

Prior to construction, the developer, the project's engineer/surveyor and the contractor must meet with the Planning Board's agent and the Highway Superintendent to review the subdivision permit and conditions. The applicant must provide evidence that all required documents have been recorded.

Subsequent to said recording, the Planning Board shall file within seven (7) calendar days one (1) print of the Definitive Plan with the Building Inspector. Unless the Building Inspector has received such print, the Inspector shall issue no permit for the construction of a building on any lot within the subdivision, except upon receipt from the Planning Board of a copy of the Certificate of Performance (see Appendix B, Form H) releasing the lot in question (see also Section 10:06).

#### **6:14 Release of Performance Guarantee.**

1. **Procedures for Partial Release.** The subdivider may, upon partial completion and installation of required improvements in a subdivision, as specified in Sections 7:00 and 8:00 of these Rules and Regulations, the security for the performance of which was given by bond, deposit of money, letter of credit, or covenant, make formal application, in writing, to the Planning Board for partial release of his Performance Guarantee in accordance with the procedures set forth herein;
  - a. **Financial Performance Guarantee.** The amount of such bond, or deposit of money, or letter of credit, held may, from time to time, be reduced by the Planning Board. The applicant shall present to the Planning Board a list of all construction items performed and/or completed, said list to be based on Section 6:07.12, the subdivision approval, and the subdivision regulations in their entirety.

The amount to be reduced by the Planning Board shall be based upon prevailed construction costs at the time the application for reduction is made. The Planning Board shall withhold adequate funds to complete the project, as described in Section 6:09.3a and 6:09.4a, but shall withhold no less than five (5) percent of the original financial performance guarantee or five thousand (5,000) dollars, whichever is greater. The amount withheld shall be released under Section 6:13.

- b. **Covenant.** The subdivider may request a Release of Conditions (see Appendix B, Form H) for lots where the required improvements have been completed for that section of roadway beginning at any intersection with a Town road and abutting lots up through the last lot to be released. Lots may only be released if they abut the completed portion of the road. No partial release from the covenants will be approved if the total length of the roadway, including a temporary turnaround, abutting said designated lots, exceeds the Town's maximum allowable length for dead-end streets, as mentioned in Section 7:01.5, unless the Planning Board has already approved within the limits of the development a dead-end street exceeding said limits.

In the absence of financial performance guarantees, adequate covenants will be held to insure completion of the project, including record plans, street acceptance plans, site inspections, and legal work. In addition, a covenant on one lot which can be built on will be held until all work in the subdivision, including the signing of all necessary legal documents, has been completed.

2. **Procedures for Full Release.** The subdivider may, upon completion and installation of required improvements in a subdivision and the completion of record plans and street acceptance plans, as specified in these Rules and Regulations, make formal application, in writing, to the Planning Board for full release of any outstanding performance guarantee.

Before the Planning Board releases the full interest of the Town in said performance guarantee, the Planning Board shall:

- a. Obtain in writing from the registered professional engineer, responsible for the inspection of all phases of construction within the limits of the subdivision, a certificate of statement that all work required by these Rules and Regulations has been constructed in conformance with the approved construction plans.
- b. The applicant shall present the Planning Board with letters from the electric, telephone, gas and cable TV companies stating that their respective underground systems have been installed to their satisfaction.
- c. Obtain from the applicant a set of record construction plans. Said plans shall include, but not be limited to, all the information requested in Section 12:00, Record Plans.
- d. Receive from the applicant street acceptance plan or plans and necessary documents, as stated in Section 13:00, Acceptance Plans. Said plans and documents, after approval by the Planning Board shall be kept by the Planning Board until such time as the Town might accept the subdivision streets as town streets.
- e. The applicant may be required to execute an instrument, in a form approved by the Planning Board, transferring to the Town or to an approved public utility company, without cost, valid unencumbered title to all sanitary sewers, water mains, and appurtenances thereto, and other utilities constructed and installed in the subdivision of approved portion thereof, and conveying to the Town or to an approved public utility company without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain such sanitary sewers, water mains and other utilities, with any manholes, conduits, and other appurtenances, and to do all acts incidental

thereto, in, through, and under the whole of all streets in the subdivision or approved portion thereof, and if any such sewers or water mains have been constructed and installed in land not within such streets, then in, through, and under a strip of land extending fifteen (15) feet in width on each side of the centerline of all such sewers and water mains. The Planning Board may require greater than fifteen (15) feet in width on each side of the centerline where it deems necessary.

- f. If the Planning Board determines that all improvements as shown on the endorsed Definitive Plan and all required plans and legal documents have been completed satisfactorily, it shall release all the interest of the Town in such performance guarantee and return the bond to the person who furnished the same, or release the covenant, by appropriate instrument, duly acknowledged, which may be recorded.
- g. If the Planning Board determines after inspection that said construction or installation has not been completed, or wherein said construction or installation fails to comply with these Rules and Regulations, the Planning Board shall send by registered mail to the applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules.
- h. The applicant shall have thirty (30) days after receipt of such notice to correct all problems mentioned in the above. Failure of the applicant to finish all the necessary work within said thirty (30) days shall cause the Planning Board to draw upon the bond or deposit of money as mentioned below.
- i. Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the Town of Williamsburg, as provided in Chapter 41, Section 81 of the M.G.L. upon failure of the performance for which any bond or deposit was given to the extent of the

reasonable cost to the Town of completing such construction and installation.

3. **Release of Lots from Covenant in Exchange for Bond or Deposit of Money.** The subdivider may request a Release of Lots from Covenant in exchange for a financial guarantee provided that:
  - a. The lots run consecutively and are released on both sides of the road simultaneously, beginning with the lots nearest any intersection of the subdivision road and a Town road.
  - b. The amount of financial guarantee shall be determined by the Planning Board, as described above.

**6:15 Deviation from Approved Plan.**

1. After approval of any Definitive Plan, the location and width of ways shown thereon, or any street or way subject to the Subdivision Control Law, shall not be changed unless the plan is amended in accordance with the provisions set forth in Section 81-W, Chapter 41, as amended, of the General Laws, and approved by the Planning Board. The Planning Board may require that a public hearing be held prior to its decision.
2. In the event the applicant desires to alter or change any portion of the approved subdivision, he shall:
  - a. Provide the Planning Board with a written statement requesting such alteration or change.
  - b. Provide the Planning Board with three (3) prints of the original Definitive Plan with the proposed changes drawn on said prints in red.
3. No change or alteration shall be permitted unless such change or alteration has been approved by the Planning Board
4. After approval of a change or alteration, the applicant shall cause such approved changes to be shown on the record plans (see Section 12:00).



5. Deviations from material and construction specifications shall not be allowed, except as specifically authorized by the Planning Board.
6. The Planning Board shall have thirty (30) days to respond to the applicant's request for said change or alteration.