

ARTICLE V PERFORMANCE GUARANTEES

500 GUARANTEE REQUIRED

Before endorsement of its Approval of a Plan, the Board shall required, in accordance with Section 81-LL of the Subdivision control law, that the construction of ways and the installation of

Municipal Services be secured by one, or in part by the other, of the methods described in Sections 501 or 502 below, which method may be varied by the applicant.

501 FINAL APPROVAL WITH BOND OR SURETY

The applicant shall file with the city a surety bond in a Form satisfactory to the Board, or deposit negotiable securities of a kind acceptable to the Board, in a renal sum or amount sufficient, in the opinion of the Board, to secure the performance of the construction of ways and installation of utilities for all lots not covered by a covenant, as described in Section 502 below. The Board shall request an estimate of work to be completed from the applicant, and shall have this estimate reviewed and approved by the City Engineer. Any bond, surety agreement, or securities filed or deposited in accordance herewith shall be executed so as to secure the completion of all required work within two years of such filing of deposit, or within such other time as the Board may specify. Upon failure of the developer to complete such work to the satisfaction of the Board, and in accordance with all applicable plans, regulations and specifications, the City shall be entitled to enforce such bond or to realize upon such securities to the extend necessary to complete all such work without delay. Planning Board shall be notified of any change in ownership or change in party responsible for completion of subdivision before any subsequent Planning Board action is requested.

502 FINAL APPROVAL WITH COVENANT

The applicant shall execute a covenant (See Appendix B, Form "E"), which shall be approved by the Board as to contents and recorded with the approved Definitive Plan at the expense of the applicant. The applicant shall covenant and agree therein that no lot within the subdivision or the portion thereof described in the covenant shall be built upon or conveyed, except by mortgage deed, until such lot or lots shall be released from the conditions of said covenant by a majority vote of the Planning Board, upon satisfactory completion of ways and the installation of municipal services in accordance with the approved Definitive Plan, and with all applicable plans, regulations and specifications. The covenant shall run with the land, and shall be binding upon the applicant and the applicant's successors in title to the land to which the covenant refers, or any portions thereof. Any covenant and any conditions required by the Board of Health shall be inscribed on the Definitive Plan to which they refer, or shall be recorded as a separate document and referred to on such Definitive Plan.

503 REVERSION OF BOND TO COVENANT

If the developer desires to secure by means of a covenant the construction of ways and the installation of municipal services in a portion of a subdivision for which no building permits have been granted, and to have the Board release the bond or negotiable securities previously furnished to secure such construction and installation, the developer shall submit to the Board a cloth tracing and three copies of a new plan, limited only to that part of the Definitive Plan which is to be subject to such covenant. Upon approval of the covenant by the Board, reference thereto shall be inscribed on such new plan, and the plan endorsed by the Planning Board and recorded with the covenant at the expense of the developer.

504 CERTIFICATE OF PERFORMANCE

Before the Bond, or surety, or covenant required in Sections 501, 502 is released by the Board, the applicant shall submit to the Board an Engineer's Certificate of performance. Certifying that the ways within the subdivision have been completed in accordance with these rules and regulations, and the Definitive Plan and Profile.

505 AS-BUILT PLAN

The final design, location, materials and the methods of installation in the required public improvements including all changes from the approved Definitive Plan shall be recorded on a new plan, accurately describing the actual conditions of the improved site. Such plan shall be drawn, signed, stamped and presented to the Board with the Engineer's Certificate of Performance."

506 RELEASE OF SURETY

1. Releases of surety other than final release of surety

Upon the receipt of such request for the release of lots or sureties with the exception of a request for the release of the final lots or sureties, the board shall request from the City Engineer verification of the satisfactory completion of all work in the subdivision, and shall either approve the work and release the surety or the lots, or state wherein the work fails to comply with the definitive plan and with these rules and regulations and refuse the request. Either action shall be by a majority vote of the Board, and a certificate of the Board's action shall be transmitted, within forty-five (45) days of the developer's request, to the City Clerk and to the developer by certified mail, in a form suitable for recording, and to the surety company concerned, if any. The filing fee for a surety release shall be \$35.00 for a surety request. Lot release requests shall be \$25.00 per lot requested which shall be tendered by certified check payable to the city of Taunton at the time of submission.

2. Final Release of Surety

Upon the receipt of such request for the final release of lots or sureties, the board shall request certificates of satisfactory completion of all work in each departments area of expertise and jurisdiction. The departments that shall be requested to review the status of the subdivision shall include;

- City Engineer
- Water Division
- City Planner
- Fire Department
- Sewer Department
- Board of Health
- Conservation Commission
- Street Department
- Taunton Municipal Light Plant
- Park and Recreation

Each department shall either approve the work and recommend the release of the surety or the lots requested, or state the reasons why the work fails to comply with the definitive plan and with the rules and regulations and recommend denial of the request. Departments shall have fifteen (15) days to respond to the request from the date on the referral form. Failure to respond within the fifteen (15) days shall constitute a recommendation of approval by the department that fails to respond to the request.

An approval or denial of the request by the Planning Board shall be by a majority of the Board, and a certificate of the Board's action shall be transmitted, within forty-five (45) days of the developer's request, to the City Clerk and to the developer by certified mail, in a form suitable for recording, and to the surety company concerned, if any. The filing fee for a final surety or lot release request shall be \$100.00 plus \$25.00 per lot requested which shall be tendered by certified check payable to the city of Taunton at the time of submission.

507 CONVEYANCE OF UTILITIES

Before the Board will release a surety bond or deposit, or, in the case of a covenant, issue a certificate of performance, the developers shall execute an instrument (See Appendix B, Form "F"), transferring to the City valid, unencumbered title to all sanitary sewers, fire alarm conduits, water mains, and all appurtenances thereto constructed and installed in the subdivision, and conveying to the city, 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, storm water drains, fire alarm conduits, water mains and all appurtenances thereof and to do all acts incidental thereto, in, through, and under the whole of all streets in the subdivision, and if such sewers, storm drains, fire alarm conduits and water mains have been constructed and installed inland not within such streets, then in, through, and under the easements, as shown on the Definitive Plan, and where no easements are shown, in, through, and under a strip of and extending ten (10) feet in width on each side of the centerline of all such sewers, drains, fire alarms conduits, water mains, and the acceptance of streets in accordance with the applicable state statutes and City Ordinances. The above shall not be construed to relieve the developer and his successors in title to a portion of land or street in the subdivision of responsibility to complete all construction, as required by developer's covenants and agreements with the city, and to thereafter maintain all streets and utilities in a satisfactory condition until they are accepted by the city.

508 ACCEPTANCE

Once all work is completed within the subdivision and the surety, responsible for the completion of the subdivision work, has been requested by the developer to be released, the DEVELOPER shall be responsible in petitioning the Municipal Council for the acceptance of the streets and the surety will only be released when action is completed on the petition for acceptance and the street is accepted. In the event that the City is not accepting the street, a Homeowners Association shall be established for maintenance of the private road and the surety shall not be released until all necessary documents conveying the maintenance and ownership of said roadway to the Association are approved by the City and recorded. The petition shall be accompanied by a typed recordable legal description for each roadway as well as the appropriate plans.