

## SECTION VI

### DEFINITIVE SUBDIVISION PLANS

#### A. APPLICATION REQUIREMENTS

The Definitive Plan shall be governed by the Subdivision Regulations in effect at the time of submission of the Preliminary Plan, provided that the Definitive Plan is submitted within seven months of the approval of the Preliminary Plan. The Definitive Plan shall be governed by the zoning in effect at the time of the submission of the plan if no valid Preliminary Plan exists. The Definitive Plan must be recorded with the Registry of Deeds, once the Definitive Plan is approved, therefore, the mylar drawing must meet Registry of Deeds standards. (Upon approval, the original will be signed and returned to the applicant for filing at the Registry of Deeds, upon disapproval, the unsigned mylar will be returned to the applicant.)

The applicant will provide the following items when submitting a Definitive Plan Application:

1. the record of legal ownership of the land and the name of the authorized agent if applicable;
2. an original mylar drawing of the Definitive Plan and Plan Profiles (Please note "contents" section for plan/profile specifics);
3. one (1) mylar copy and fifteen (15) blueprints of the Definitive Plan and profiles (BLUEPRINTS WILL NOT BE RETURNED);
4. a properly executed application Form C;
5. the fee as outlined in Appendix C;
6. the names of all the direct abutters (i.e., the abutters list) as they appear on the most recent tax list, the abutters list shall be certified by the Westfield Assessor's Office;
7. development impact statement;
8. a list of requested waivers from the Subdivision Rules and Regulations.
9. for the mailing of Public Hearing Notices, 1 complete set of legal sized envelopes with Planning Board's return address, one addressed for each applicant, owner, engineer and abutters, and all with sufficient postage to assure delivery via the U.S. Postal Service. (09-16-03)
10. for the mailing of decision, 1 legal sized envelope with the Planning Board's return address, addressed to the applicant, and with sufficient postage for delivery by registered mail via the U.S. Postal Service. (09-16-03)
11. In order to make application information available on the city's web site, and for presentation purposes at public meetings/hearings, all applications (Form C, Development Impact Statement, Waiver Requests, Definitive Engineering Plan) shall also be submitted in a digital format on a single floppy or compact disk.
  - ◆ test information shall be submitted in a format suitable for reading as an MSWord Document or PDF (portable document format) Adobe Acrobat file.
  - ◆ engineering plans shall be submitted in a PDF format.
  - ◆ other plans, drawings and photographs must be submitted in a JPEG, TIFF or PDF format (09-16-03)

AN APPLICATION IS NOT COMPLETE UNLESS ALL THE ABOVE ITEMS ARE PROVIDED.

**B. CONTENTS**

The Definitive Plan map shall be clearly and legibly drawn in black india ink upon mylar. The plan shall be at a scale of one (1) inch equals forty (40) feet (1" = 40'), or such other scale as the Board may accept to show details clearly and adequately. Sheet sizes may not exceed 36" x 42" for construction plans and shall be not larger than 24" x 36" for those sheets for the Definitive Plan that are to be recorded in the Hampden County Registry of Deeds. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. Suitable space shall be provided on the plan to record the action of the Board and the signatures of the members of the Board. The Definitive Plan shall contain the following information:

1. The title "Definitive Plan" and the Subdivision name including the way or ways on which it is situated, boundaries, the true or magnetic north point, date scale, bench mark and datum. All elevations to refer to U.S.G.S. bench marks if within five hundred (500) feet of the Subdivision.
2. Legend denoting any signs and symbols used on the plan and not otherwise explained.
3. Name and address of record owner, subdivider an surveyor or engineer (When the applicant is listed as a legal corporation, any stockholder with more than five percent (5%) interest and/or holding a key operation position, must be identified. The seal and certificate number of the surveyor shall appear on the Definitive Plan).
4. Names of all abutters as they appear on the most recent tax list.
5. Locus plan, showing location of the subdivision at a scale of one (1) inch equals one thousand (1,000) feet (1" = 1,000') and an accurate index plan at a scale of one (1) inch equals two hundred (200) feet (1" = 200') or one (1) inch equals one hundred (100) feet (1" = 100'); (The index plan shall show the layout of streets and the division of lots).
6. All information required on the Preliminary Plan.
7. Existing and proposed topography at a two (2) foot contour interval for gentle slopes and at a five (5) foot contour interval for steep slopes.
8. All (each) lots on the plan shall show its lots size, dimensions (metes and bounds), and the statement that "The Planning Board has made no determination as to the conformance of this lot with Zoning." (04-16-2002)
9. Lot size, frontage, and a system of lot numbers.
10. Watercourses, ponds, marshes, rock outcrops, stone walls, trees of over twelve-(12) caliper and other significant natural features.

11. Sub-surface conditions on the tract, location, and results of tests made to a certain sub surface soil, rock and ground water conditions, depth to ground water and location and results of soil percolation tests. If individual sewage disposal systems are proposed, perc test results must be made by and at the expense of the developer and will be in accordance with the Board of Health rules and State Sanitary Code..
12. Size and location of existing and proposed water supply facilities (functioning or dry-capped). Projects may only connect to the municipal water system if serving the site falls under the Water Department's Master Plan and has received the prior approval of the Water Commissioners. (04-16-2002)
13. Gravity flow sanitary sewer system, showing appropriate invert elevations of manholes, rim elevations of manholes and pipe, rim locations, manhole number or letter designation and existing sanitary sewerage locations. If city services are not available for immediate hook-up, a dry capped system will be shown. Projects may only connect to the municipal sanitary sewage system if serving the site falls under the Engineering Department's Master Plan and has received the prior approval of the City Engineer. For projects which are not shown in the Master Plan as being eligible for connecting to the city sewer system, the installation of dry-capped systems will not be required. (04-16-2002)
15. Location of all the following improvements, unless specifically waived in writing by the Board: street paving, sidewalks, street lighting standards, all utilities below ground (i.e. telephone, electric, cable TV, gas, fiber optics, sanitary sewer, storm water sewers, water, etc.), curbs, gutters, fences, storm water drainage, and all easements. [delete requirement for fire alarm boxes] (04-16-2002)
16. A storm drainage system including invert and rim elevations of all catch basins, manholes and drainage structures, together with surface elevations of all waterways within the subdivision at 100 foot intervals and approximate depth of water at these points. Surface elevation and approximate depth of water at the annual high water line shown at each point where the drainage pipe discharges, any swale, wetland or waterway that it will be discharging into. Storm drainage systems shall be based on drainage calculations for a 100-year storm frequency, prepared by the applicant's engineer, including design criteria used, drainage areas and other information sufficient for the Board to verify the size and capacities of any proposed and existing drains, drainage structures, culverts or bridges. Wherever possible the proposed drainage system shall be designed to utilize, and be compatible with, the existing drainage patterns and existing natural features of the site. Detention ponds shall be utilized wherever possible, although other methods will be entertained where detention ponds are determined, by the Board, not to be feasible. The systems shall also be designed such that the volumes and velocities of storm water leaving the site after construction shall not exceed that of the pre-construction state of the site. (04-16-2002)

Detention ponds, retention ponds and other storm water drainage structures, not located within the proposed or existing street right-of-way, must be located on their own individual parcel, and may not be included as a part of any intended building lot. Such individual parcel shall be placed under the ownership, control and responsibility of a homeowner's association, or other approved equal by the Planning Board, created for such purpose. An easement shall be granted to the entity owning the street (including its

successors and assigns) authorizing the discharge of storm water into said drainage structure. Said association shall be responsible for:

- ◆ the maintenance, repair, and improvement of the storm water drainage structure ensuring its continued functioning capability as designed and constructed
- ◆ maintaining a bank account at all times, with a balance of no less than an amount determined by the City Engineer as being sufficient, for the purpose of paying for said maintenance and improvement
- ◆ maintaining an insurance policy in the amount of at least one million dollars (\$1,000,000.00)
- ◆ having said structure inspected, and maintained, repaired and improved as needed, at least once a year by a qualified person/firm (i.e. engineer, landscaper as appropriate)
- ◆ having said qualified person firm forward a written report, at least once each calendar year, certifying said inspection and any maintenance, repairs, and improvements that were required and undertaken to the Planning Board, City Engineer and Department of Public Works

Should said association fail in any of its aforementioned responsibilities as listed above, the city has the right to intercede and conduct any of the maintenance, repairs and improvements that it feels are necessary to ensure the proper functioning of the structure, and assess the association the cost of said maintenance, repairs and improvements, plus a 20% administrative fee. (09-16-03)

17. Existing and proposed lines of streets, ways, easements and public Board to verify the size of any proposed drain, culvert or bridge. Existing storm sewerage systems or common areas within the subdivision. (The proposed names of the proposed streets shall be shown in pencil until they have been approved by the Board.)
18. Information concerning the length, radius and central angles of all the horizontal curves, the bearing and length of every street and way a line, and all lot and boundary lines sufficient to permit reproduction of the same on the ground. All bearings to be referred to a magnetic meridian, an established deed, or some appropriate meridian.
19. Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest town, country or state monument on an accepted way, and monuments at all points of curvature and changes in direction of street side lines, or where designated by the City Engineer.
20. Location, names and present widths of streets bounding or within reasonable proximity of the subdivision and street lines of the access road leading from the subdivision to the nearest public road.
21. A sketch plan, acceptable to the Board, showing a possible or prospective street layout for any adjacent land owned or controlled by the owner or the applicant of the subdivision.

22. Profiles of proposed streets and sewers shall be drawn with:
- a. A horizontal scale of one inch to forty feet (1" = 40') and a vertical scale of one inch to four feet (1" = 4').
  - b. Existing grade of road center line in fine black solid line.
  - c. Existing grade of right side of the right of way in fine black dash line.
  - d. Existing grade of left side of the right of way in fine black dotted line.
  - e. All elevations based on the U.S. Coast and Geodetic Survey bench marks.
  - f. Proposed center line grades with precise elevations at PVC, PVT, high point and low point with precise stationing.
  - g. Rate of gradient shown in percentages.
  - h. All existing intersection walks and driveways as shown on both sides.
  - i. All center lines, street lines and curb lines of streets for 200 feet either side of each intersection on the connecting street.
  - j. Profiles showing vertical location of existing and proposed sewer lines, drainage lines and other utility crossings as well as required new waterways. Sizes of all pipes, slopes of all storm and sanitary lines, and invert and rim elevation of each manhole or catch basin shall be shown. Profiles shall include proposed lines even if the new work is outside the subdivision. Water mains will show in profile to demonstrate sufficient cover and clearance of other structures. Location of all existing septic systems within one hundred (100) feet of the proposed subdivision.
23. Cross sections and construction details shall include:
- a. Roadway section showing paving, crown, berm, shoulder, tie to right of way line, width, walk, etc.
  - b. Details for catch basins, manholes, endwalls, etc. or specific reference to the appropriate section of the City construction Standards.
  - c. Drainage trench or waterway relocation section.
24. The location and names of adjacent subdivisions and the names of all abutting subdivision owners as shown on the most recent tax list.
25. The names, in pencil, widths, exterior line of proposed ways, all property lines within one hundred (100) feet of any proposed street or streets and the boundaries of other public places or areas within the subdivision shown on the Assessor's Maps of the City of Westfield.

26. Suitable space to record the action of the Board and the signatures of the members of the Planning Board on each sheet of the Definitive Plan. Where the improvements by covenant, (rather than bonds or surety), there shall be a notation above such space as follows: Approved \_\_\_\_\_ subject to covenant conditions set forth in a covenant executed by \_\_\_\_\_, dated \_\_\_\_\_, and to be recorded here within the Hampden county Registry of Deeds. This approval is hereby invalidated if not recorded herewith at the Hampden county Registry of Deeds within six (6) months of the above date.
27. The following Statements shall appear on all plans:
- a. Planning Board approval of any subdivision shall be deemed revoked three (3) years following the date of endorsement in all cases where the construction of ways and installation of municipal services has not been completed or where the applicant (his agents or assigns) has failed to meet any conditions of said approval, unless such time is extended in writing between the applicant (his agents or assigns) and the Planning Board in accordance with the provisions of Section VI subsection D, 7 Completion time Schedule, of the Westfield Rules and Regulations Governing the Subdivisions of land.
  - b. The Westfield *Subdivision Rules and Regulations* are part of this plan.
  - c. This plan shall be deemed revoked if recorded more than six (6) months following the date of endorsement.
28. Suitable space to record the signature of the City Clerk certifying that no appeal has been filed.
29. The plan shall not be altered after the filing of the definitive application form except under the direction of the Board and so indicated on the mylar.
30. Any other conditions or pertinent information required by the Planning Board.

**C. ADDITIONAL SUBDIVISION REQUIREMENTS**

**1. Review by the Board of Health as to Suitability of the Land**

Where sewage disposal is to be by individual on-site sewage disposal systems, no person shall install such an individual sanitary sewage system except in adherence to the requirements and regulations of: a) the Massachusetts Environmental Code, Title V of the Department of Environmental Protection; and b) the City of Westfield Board of Health.

The applicant for Definitive Subdivision approval shall submit preliminary soil logs and percolation data performed by a professional engineer or registered sanitaria for review if the area is proposed for individual on-site sewage disposal.

Approval of the Definitive Subdivision Plan shall not be treated as, not deemed to be an application for an individual permit to construct a sewage disposal system. Failure of the Board of Health to report to the Planning Board within forty-five (45)

days after receipt of a Definitive Plan shall not exempt the proposed plan from the regulations established pursuant to the Massachusetts Sanitary Code, Title V of the Department of Public Health, or the Westfield Board of Health.

If the report of the Board of Health is negative, the Definitive Plan shall show the areas disapproved Board of Health. In the event that approval by the Board of Health is by failure to make a report, the Planning Board shall note on the plan that health approval is by failure to report.

**2. Aquifer Protection District**

Any subdivision in the Aquifer Protection District shall be reviewed to assure that:

- a. the proposal is designed consistent with the need to protect the City Water supply, in that it contains and separates out contaminants and spills and recharges clean water to the groundwater. (04-16-2002)
- b. the applicable requirement of the Westfield Zoning Ordinance-Aquifer Protection District are satisfied.

**3. Stormwater Runoff Control**

The Subdivider shall furnish projections of the increase of stormwater runoff created by the proposed development from the 2-year, 10-year, 50-year, and 100-year frequency 24-hour duration type III distribution storms; as computed in accordance with Technical Release #55, Urban Hydrology, Engineering Division, Soil Conservation Service, USDA, January 1975, as amended, or by use of other methods conforming to sound engineering practice. The Rational Method shall not be used in computing drainage flows in drainage practice. The Rational Method shall not be used in computing drainage flows in drainage basin areas in excess of one hundred (100) acres. All storm drainage calculations must be signed and certified by a civil engineer licensed in Massachusetts. The following data shall be submitted for review by the City Engineer.

Topographic contour maps showing pre- and post developed drainage area tributary to all portions of the site.

- a. Written description and computation including at least the following:
  - 1.) Method used to calculate storm water runoff;
  - 2.) Runoff characteristics of the property before and after development;
  - 3.) Maximum velocity and quantity at point (s) of discharge from the system;
  - 4.) Design calculations for all drainage piping and structures with reference to the requirements for the Design Standards section of these Rules and Regulations.

- b. When stormwater detention structures are proposed, the subdivider shall be responsible for maintenance of the structure (s) until roadway is accepted by the City Council. The structure (s) shall be designed and constructed in accordance with good engineering practices and shall be designed for easy access for maintenance purposes. The following information is to be provided for detention structures:
- 1.) inflow and outflow hydrographs for the detention area;
  - 2.) maximum storage volume
  - 3.) design of spillway or other measures for release of excess flows beyond that of the design capacity of the structures;
  - 4.) flood routing of all runoff greater than the design capacity of the detention facility;
  - 5.) time which is required for the facility to drain completely;
  - 6.) materials used in the construction of the facility;
  - 7.) method employed to avoid clogging the discharge mechanism;
  - 8.) safety measures;
  - 9.) proposed landscaping and vegetative measures used to stabilize slopes and bottom surfaces.

**A. APPROVAL OF DEFINITIVE PLAN**

**1. Review by the Board of Health**

At the time of filing of Definitive Plan the applicant shall also file with the Board of Health, two (2) prints of the Definitive Plan, together with other necessary documents and reports. The Board of Health shall report to the Planning Board, in writing its approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons thereof in such report, and where possible, shall make recommendation for the adjustment thereof. Any approval of the plan by the Planning Board shall only be given on condition that the designated lots or land shall not be built upon without prior consent of the Board of Health. When the report of the Board of Health is negative, the Definitive Plan shall show the areas disapproved by the Board of Health. In the event that approval by the Board of Health is by failure to make a report, the Planning Board shall note on the plan that health is by failure to report.

**2. 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 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 of general circulation in the City of Westfield once in each of two (2) successive weeks, the first publication not being less than fourteen (14) days before the date of such hearing. A copy of said notice shall be mailed to the applicant and to all abutting property owners on the most recent tax list.

The applicant or his/her representative should be present at the hearing.

### **3. Approval, Modification or Disapproval**

#### **a. Review Time**

- 1.) Non residential subdivision for which the Planning Board has acted on a Preliminary Plan or for which the Preliminary Plan has elapsed without action: ninety (90) days from the date filed in the Westfield City Clerk's Office.
- 2.) Residential subdivision for which the Planning Board has acted on a Preliminary Plan or for which the forty-five (45) day review period for the Preliminary Plan has elapsed without action: ninety (90) days from the date filed in the Westfield City Clerk's Office.
- 3.) Residential subdivision where no Preliminary Plan has been filed and approved by the Planning Board and the forty-five (45) days review period has not elapsed: one hundred thirty five (135) days from the date filed in the Westfield City Clerk's Office.
- 4.) The review period may be extended at the request of the applicant. The applicant must submit a written request for an extension of the review time and the Planning Board must approve this extension. A notice of such extension of time shall be filed forthwith by the Planning Board with the City Clerk.

### **4. Planning Board Vote**

After the required public hearing but within the number of dates from the date of filing with the City Clerk's Office as listed above, the Planning Board shall approve, modify and approve, or disapprove the Definitive Plan. The action of the Planning Board in respect to such plan shall be by vote. The Planning Board Decision shall be filed with the City Clerk, and a certified copy of the Decision shall be sent by registered or certified mail to the applicant.

Failure of the Planning Board either to take a final action or to file notice of final action with the City Clerk within the number of days from the date of filing with the City Clerk's Office as listed above, shall be deemed to be an approval thereof.

### **5. Endorsement**

An approved Definitive Plan shall 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(s);
- b. made the necessary corrections on the plan if conditional approval was given, or modification required, to the satisfaction of the Planning Board;
- c. the plan is accompanied by a municipal line certificate, indicating that all taxes, assessments and charges have been paid in full; and
- d. caused to be executed, in a form accepted to the City Law Department, all deeds of easements, as shown on the plan and/or required by the Planning Board, and submission of such deeds and documents to the Planning Board.

Failure of the applicant to meet any or all of the above requirements shall be full and sufficient reason to withhold endorsement. If the applicant fails to submit the required guarantees, easements and other documentation's and the endorsement of the plan by the Planning Board is delayed by more than six (6) months, the Planning Board, on its own motion, shall exercise its power to modify, amend, or rescind its approval of the subdivision plan or require a change in the plan as a condition of said plan retaining the status of an approved plan.

## **6. Performance Guarantee**

Before Planning Board endorsement of its approval of the Definitive Plan, the Applicant shall agree to complete the required improvements as specified in these Rules and Regulations, for all lots in the subdivision, and such construction and installation shall be secured by one, or in part by one and in part by another, one of the methods described in. The method may be selected and from time to time varied, by the applicant.

### **a. Approval with Lender's Agreement**

By delivery to the Planning Board of an agreement executed after the recording of the first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender, of funds sufficient in the opinion of the Planning Board and otherwise due the applicant to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant on various stages

of work, and shall further provide that in the event that the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion.

### **b. Approval with Money**

By a deposit of money sufficient in the opinion of the Planning Board to secure performance of the construction of ways and installation of municipal services required for lots in the subdivision shown on the plan, and the Planning Board

may require that the applicant specify the time within such construction shall be completed. Deposits of money shall take the form of one or a combination of the following:

- 1.) savings passbook (with three signed withdrawal slips) account made out to the City of Westfield and controlled by the City Treasurer, with agreement from the bank that no withdrawal from the account be made without approval of the Planning Board.
- 2.) certified cashier's check or bank check.

c. Approval with Covenant

By a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgaged deed; provided such lot may be built upon or conveyed, other than by mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any lot, subject to the portion of the covenant which provides that no lot shall be built upon until such ways and services have been provided to service such lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee, prior to the release of the covenant, but not later than three (3) years from the date of such deed.

Such a covenant shall be inscribed on the Definitive Plan or in a separate document referred to on the Plan, and delivered to the Planning Board. The Planning Board shall turn over the covenant to the City Law Office who shall review its contents.

When improvements, ways and services have been completed to the satisfaction of the Planning Board, the Board will then authorize in writing, on the appropriate form (Covenant Release) a Release of conditions for Recording in the registry of Deeds, and conditions relating to such lots shall terminate.

d. Approval with Bond

By a proper bond, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and installations of municipal services required for lots in the subdivision shown on the plan, and the Planning Board may require that the applicant specify the time within such construction shall be completed.

The applicant shall provide the Planning Board with a cost estimate, in a form prescribed by the Board, of the provision for construction of ways and installation of municipal services in the Definitive Plan as approved by the Board. The city or independent engineer shall review this cost estimate and make recommendations to the Board. The Board shall modify the applicant's estimate and determine the amount to be used as a performance guarantee by the City Treasurer, based upon the city or independent engineer's recommendations. The

Board shall determine the amount to be retained as performance guarantee, upon the subdivider's application for partial release of guarantee.

## **7. Completion Time Schedule**

Planning Board approval of any subdivision plan shall be deemed revoked three (3) years following the date of Planning Board endorsement in all cases where the construction of ways and installation of municipal services has not been completed or where the applicant (his agents or assigns) has failed to meet any condition of said approval; unless such time is extended in writing between the applicant (his agents or assigns) and the Planning Board Chairman and the Director of Community Development, who shall confirm their decision by vote of the full Board. Extension by the Planning Board Chairman and the Community Development Director shall be for one (1) year only. Subsequent extension shall only be granted after a vote of the Planning Board and issuance of a letter of extension for not more than an additional two (2) years. In all cases of extension such agreement shall be executed and affixed to the bond, agreement or covenant.

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

In the case of a covenant, the Board may grant final approval of the Definitive Plan conditional upon the completion of the construction of all ways and installation of utilities within specified time period from date of said covenant. Failure to complete such improvements shall automatically rescind approval of the plan.

The approval of a subdivision plan by the Planning Board is for a two-(2) year period. Failure of the applicant to complete the approved plan within the allotted time may cause the City of Westfield to draw upon the Performance Guarantee to complete the approved subdivision plan within the allotted time.

## **8. Increase of Performance Guarantee**

If the specified subdivision improvements in accordance with the Rules and

Regulations are not completed within two (2) years of the date of the bond, deposit of money, lender's agreement or covenant, the Planning Board may require an estimate

of the costs of the remaining work, increase the amount of the performance guarantee proportionately, and establish a new date for completion of said required improvements. Failure of the developer to complete the improvements within said two (2) year period, or any extension thereof, shall not relieve the developer from his/her obligation to pay for increased costs for completing the improvements in excess of his/her performance guarantee and shall be grounds for rescission of the approval of the plan pursuant to G.1., Ch.41, Sec. 81 W.

**9. Recording the Plan**

Within twenty-one (21) days from the date of the Planning Board's endorsement of the Definitive Plan, the plan should be recorded in the Hampden County Registry of Deeds, or in the Land Court. Failure to record the plan within six (6) months of the date of endorsement constitutes an automatic rescission of the plan.

At the time of such recording all public easements and covenants shall be duly documented and originals thereof transmitted to the Planning Board for filing with the City Clerk and filed in the Hampden county Registry of Deeds by the applicant.

Following receipt of notification of recording, the Planning Board shall file one (1) print with the Building Inspector. In accordance with Subdivision Control Law, the Building Inspector, if approval with covenant is noted on or affixed to the plan, shall not issue any permit for construction of a building on any lot within the subdivision without receipt from the Planning Board that completion and release of municipal interest in the subdivision performance security or certified statement releasing the lot(s) in question.

**10. Release of Performance Guarantee**

a. Partial Release

The subdivider may make formal application to the Planning Board for partial release to his/her performance guarantee, upon partial completion and installation of required improvements in a subdivision as specified in these Rules and Regulations, the security for performance of which was given by bond, deposit of money or by covenant. Upon formal application in the manner set forth herein, the penal sum of any such bond or amount of any deposit held may, from time to time, be reduced by the Planning Board, and the obligations of the parties thereto release by the Board in whole or in part in accordance with the procedure set forth herein.

b. Procedures for Full or Partial Release

The applicant, upon the completion of construction and installation of required improvements in a subdivision, may request a release of conditions or a performance guarantee, the security of which was given by bond, deposit of money or by covenant by sending a written statement that he/she has completed the construction and installation of ways and; utilities covered by said performance guarantee by Registered Mail or delivery to the Planning Board and City Clerk, in accordance with these Rules and Regulations.

The applicant shall also submit a written statement from the project's registered civil engineer, with his seal/stamp affixed, certifying that all work has been done in accordance with the Westfield Subdivision regulations and the approved and endorsed plans, and that all systems are functioning as designed. (04-16-2002)

Request for final release of conditions shall be accompanied by an “As Built Plan” as required by these Rules and Regulations.

## **11. Approval of Release**

Before the Planning Board will release the interest of the City in a performance guarantee, the Planning Board shall require the following:

- a. An As-Built Plan, showing center line elevation at fifty (50) foot intervals of roads as built, all inverts of drainage system and sewerage as installed, all utilities as installed shall be furnished to the Board prior to the release of the Performance Bond.
- b. Notice from the Fire Department that provision has been made for a fire alarm system in accordance with the Fire Department’s requirements.
- c. The applicant shall also furnish one set of mylars for the final As-Built plan to be filed with the Engineering Department.

If the Planning Board determines that said construction or installation has been completed satisfactorily, it shall release the interest of the City in such performance guarantee and return the bond or deposit of money to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged, which may be recorded. If the Planning Board determines after inspection, that said construction or installation has not been completed or wherein said construction or installations fails to comply with these Rules and Regulations, the Planning Board shall send by registered mail to the applicant and to the City Clerk the details, wherein said construction or installation fails to comply with its rules.

Failure of the Planning Board to act on such an application for release or conditions within forty-five (45) days after the receipt of the application by the City Clerk, all obligations under the bond shall cease and terminate by operations of law, and any deposit shall be returned and such covenant shall become void.

Any such bond may be enforced and any such deposit may be applied by the Planning Board for the benefit of the City of Westfield as provided in Section 81-Y, ch. 41, G.L. upon failure of the performance for which any bond or deposit was given to the extent of the reasonable cost to the City of Westfield of completing such construction and installation.

## **12. Release of Lots From Covenant**

The subdivider may request a Release of lots from covenant, in exchange for a bond, deposit of money or surety provided that:

- a. Lots will be released in area of the subdivision where all the required improvements have been completed.

- b. The amount of the surety of Bond shall be determined by the Planning Board, consulting as they deem necessary with the City Engineer, based on their estimates for constructing the road within existing approval. The amount of the Surety or Bond shall be determined on a request by request basis, and each request shall be judged on its own merits.
- c. The amount of the Surety or bond on existing lots for which prior Surety or Bond has been given may be increased by the Planning Board should the specified Subdivision improvements in accordance with these Rules and Regulations not be completed within the allotted time period as specified and such increase would take into consideration increased construction costs.
- d. Before releasing lots from Covenant, that section of roadway, beginning at any intersection with a City Road, and abutting lots up through the last lot to be released must be grubbed, graded to subgrade and drainage installed per the provisions of the approved plan. The Board may release all lots from covenant in exchange for a performance guarantee by providing a Bond or Surety for the entire Subdivision.

**13. Deviation From Approval Plan**

After approval of any Definitive Plan, said plan shall not be changed unless the plan is amended in accordance with the provisions set for in G.L., Chapter 41, Section 81-W, and approved by the Planning Board. No change, alteration or deviation shall be permitted unless such change, alteration or deviation has been reviewed by the City Engineer. Minor technical changes may be allowed after review by the City Engineer. No other changes, alterations or deviations shall be permitted unless a new public hearing is conducted.

**14. Street Acceptance**

Final approval of the Definitive Plan does not constitute the lying out or acceptance by the City of any street or public improvements shown on the plan. The developer may petition the City Council for the subdivision acceptance as a City Way.

**15. Responsibility for Way and Easements**

- a. The subdivider shall retain title to the fee of each street, sidewalk and easement for appurtenance to the subdivisions until conveyed and accepted by the Westfield City Council or duly incorporated homeowner's association, or for at least two (2) years after completion of required improvements, whichever is the lesser. Notation of this requirement shall be placed on the Definitive Plan as well as the final decision of the Westfield Planning Board.
- b. In no instance shall bonding or covenants be released for the final road course and sidewalks until said work has withstood one full winter season. Partial or

final release for this work may be requested of the Planning Board no sooner than April 1<sup>st</sup> of the calendar year subsequent to completion of way and walks.

- c. Any such bond may be enforced and any such deposit may be applied to the Planning Board for the benefit of the City upon failure of the performance for which any such bond or deposit was given to the extent of the reasonable cost to the City for completing such construction and installation.