

Proposed Draft Text Amendment on the following sections of the Woodstock Subdivision Regulations shown below. Proposed Text Amendment: **Bold red** text is proposed new language, ~~strikeouts~~ are proposed deletions.
Public Hearing to be held on: April 20, 2017

CHAPTER IX – INSURANCE AND BONDS

A formal application for subdivision or resubdivision shall meet the Bonding requirements of the Zoning Regulations, Article VI, Town-wide Regulations.

1. INSURANCE

~~The Developer shall file with the Commission a certificate providing evidence of the existence of an insurance policy with general liability limits as required below. This policy shall be in effect for the length of the Performance Bond and shall be extended in conformance with any extension of the Performance and Maintenance Bond.~~

~~The policy shall insure the Town and the Developer against all claims for damage or injury to persons or property that may arise from the construction, installation, or maintenance, or lack thereof, of any subdivision improvements, or from any operations in the development or completion of the subdivision, including but not limited to clearing, removal of vegetation, grading, excavating, filling, inspection, testing, well installation, sediment and erosion control measures, and road construction and improvement. The policy shall have the following limits:~~

~~Property Damage (including automobile)
Each Accident: Not less than \$2 million~~

~~Bodily Injury (including automobile)
Each Person: Not less than \$2 million
Each Accident: Not less than \$2 million~~

2. BONDING

- ~~a. Completion: The Commission may, with the advice of the Town Engineer and Town Planner, prescribe the extent to which and manner in which the required improvements, including but not limited to streets, utilities, drainage, erosion control measures, landscaping, markers and services, be provided in connection with any subdivision plan prior to final approval of the plan. The Commission may require that all or a specified portion of such work and installations be completed prior to the filing of the subdivision on the Land Records.~~
- ~~b. Performance Bond: In lieu of completion of all or part of the required improvements, the Commission may require the Developer to file with the Town a Performance Bond of sufficient amount, as prepared by the Developer and approved by the Town Engineer, to secure to the Town the actual cost of construction and installation of such improvements. The period within which required improvements shall cover the full construction and installation period for the final improvements, and shall be subject to the approval of the Commission. The Performance Bond shall be submitted and approved prior to the filing of the subdivision on the land records.~~
- ~~c. Bond Amount: The amount of a Performance Bond as established by the Commission shall reflect:~~
- ~~1. The construction cost of all required improvements, including storm drainage system, roads and pavements, sidewalks and curbs, trees, grading, setting of monuments, and any other requirements made as a condition for subdivision approval or depicted on the endorsed Final Approved Plan, Plan and Profile, and Erosion and Sedimentation Control Plan.~~
 - ~~2. Costs for the Town to advertise and award a contract for construction of the~~

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~~improvements or site restoration.~~

- ~~3. Costs shall be projected to a point at the end of the improvements construction period. Any extension of the term of the Performance Bond may result in an adjustment as to the Bond total.~~
- ~~4. The total estimated cost of the Performance Bond shall also include a 20% addition to cover contingencies and engineering and 10% per year inflation factor.~~
- ~~5. Where a subdivision is to be developed in phases, the developer may petition the Commission in writing for permission to post a Performance Bond covering the costs itemized in paragraphs (c) 1 through 4 above, related to those improvements and utilities located within or required to serve one or more phases rather than for the entire development. Similar permission shall be obtained by the developer prior to commencing development of any or all additional phases. Where the developer bonds in phases as authorized in this paragraph, no improvement, as that term is defined in these Regulations, shall be commenced in any phase for which no Bond has been posted.~~

- ~~d. Form of Bond: All Bonds required under this section shall be in the form of a certified check payable to the town; a savings passbook; an irrevocable sight draft letter of credit from a bank chartered to do business in Connecticut; or a certificate of deposit in the name of the Town to be held in escrow by the Town, together with a letter from the Developer stating that the Bond is being provided in accordance with the approved site plan and may be drawn against by the Town, if necessary, all in form and substance acceptable to the Commission and its Legal Counsel.~~

~~If at any time, the Bond required by this Section shall not be in effect for incomplete or unaccepted public improvements, the Commission may file a caveat on the Land Records warning potential purchasers of such fact.~~

- ~~e. Term: The term of any Performance Bond proposed by the developer should be approximately 150% of the proposed period of development. The developer shall be entitled to complete all required subdivision improvements within the time allowed by state law, provided the developer continuously maintains the Performance Bond, or a substitute Performance Bond acceptable to and approved by the Commission in accordance with these Regulations, for the full duration of such time. If, at any time, the Performance Bond lapses, is terminated or withdrawn, or ceases to be effective or in force, regardless of whether the developer is responsible for such circumstances, the subdivision approval shall lapse and become null and void except as provided hereafter. Within 60 days prior to the date of any such lapse, termination, withdrawal, or cessation of the effectiveness of any such Performance Bond, the developer may submit to the Commission a written request for approval of a substitute Performance Bond. The Commission may deny such request if it determines that such proposed substitute Performance Bond does not provide adequate security for the timely completion of all required subdivision improvements and utilities or if it determines that the developer has failed to comply with any terms or conditions of the subdivision approval or any of these Regulations. The Commission may also approve the provision of a substitute Performance Bond different in form and amount than that requested by the developer. In the event the Commission approves the provision of a substitute Performance Bond, the developer shall be allowed 30 days following the date of such approval to submit the substitute Performance Bond. The Commission may, upon the developer's written request, extend the time within such substitute Performance Bond may be provided by no more than an additional 30 days. If the developer fails to provide the substitute Bond within such period of 30-60 days, or if the developer fails to submit a written request for approval of a substitute Bond within the time set for above,~~

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~~the subdivision approval shall become immediately and irrevocably null and void. Nothing in this section will prevent or prohibit subsequent subdivision of the property.~~

- ~~f. **Separate Sediment and Erosion Control Bond:** Measures and facilities specified on the approved Soil Erosion and Sediment Control Plan shall be guaranteed by a separate performance Bond (the "Erosion and Sediment Control Bond"). In the event the Developer fails to maintain proper sedimentation and erosion controls on the subdivision site, the Bond required under this section may be used by the Town to stabilize eroding areas, remove sediment, and otherwise correct sedimentation and erosion problems on site at the sole discretion of the Commission or its designated agent.~~
- ~~g. **Default:** In the event the subdivision approval terminates or lapses before all required subdivision improvements and utilities have been completed, the Commission may, in its discretion, and subject to any contrary provisions of state law, use the funds available in the Performance Bond and/or Sedimentation and Erosion Control Bond at its option to complete improvements or restore all or any portion of the site to a natural condition. The Commission shall not make any decision to use a Bond for restoration without obtaining an estimate for the costs of both restoration and completion of all required improvements and utilities from the Town Engineer or a similarly qualified consultant.~~

~~3. APPLICATION OF BONDS~~

~~The Commission may call any Bond and apply the proceeds of such Bond to the construction and installation of required subdivision improvements and utilities or the restoration of the site in any of the following circumstances:~~

- ~~a. If the Commission has called the Bond under this section, and the expiration or termination date of the Bond is subsequently extended for a period of no less than one (1) additional year, or a replacement Bond of equivalent or greater amount is subsequently provided with terms and conditions, and in a form satisfactory to the Commission, the Commission shall have the option of proceeding to complete any portion of the required subdivision improvements and utilities under the original Bond or accepting the extended or replacement Bond in lieu of completing such improvements.~~
- ~~b. The Commission may call the Bond at any time within sixty (60) days before the date, as it may have been extended, on which the approval of the subdivision is scheduled to expire under any applicable provision of state or local law if any portion of the required subdivision improvements or utilities has not been completed.~~
- ~~c. The Commission may call the Bond at any time to complete any portion of the required improvements or utilities the Commission deems reasonably necessary to serve any lots within the subdivision that have been sold or otherwise conveyed.~~

~~ANY PERSON WHO SUBMITS AN APPLICATION FOR FINAL APPROVAL OF A SUBDIVISION BASED UPON THE PROVISION OF A BOND IN LIEU OF THE COMPLETION OF ALL REQUIRED IMPROVEMENTS AND UTILITIES SHALL BE DEEMED TO HAVE READ, UNDERSTOOD AND ACCEPTED ALL OF THE FOREGOING TERMS. THE COMMISSION SHALL NOT ISSUE ANY FINAL APPROVAL OF A SUBDIVISION APPLICATION BASED UPON THE PROVISION OF A BOND UNLESS THE APPLICANT AGREES TO ABIDE BY THE~~

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~~FOREGOING PROVISIONS.~~

~~**4. BOND RELEASE**~~

- ~~a. Application for the release of any Bond upon completion of all required improvements shall include the submission of properly scaled as-built drawings, which shall include all changes in the plans as authorized by the Commission during the course of construction. The as-built drawings shall be signed and sealed by a Connecticut Registered Land Surveyor licensed in the State of Connecticut.~~
- ~~b. Prior to the release of the Performance Bond the developer shall present a Maintenance Bond equal to ten (10%) percent of the full amount (i.e., the highest amount set by the Commission before any subsequent reductions) of the Performance Bond. The Maintenance Bond shall be for a period of fourteen (14) months and shall guarantee the improvements installed against defects in materials or workmanship, or damage caused to the improvements by any construction activity in the subdivision. The fourteen-month period shall commence upon the effective date of the acceptance of any road or other public improvements by the Town. The Developer shall repair all defects in construction or operation of required improvements occurring during the period covered by the Maintenance Bond. The Developer's failure to perform needed repairs within thirty (30) days when so requested by the Commission or their designate may result in the Town's undertaking the repairs and billing the Developer for the cost of repair and/or applying funds from the Maintenance Bond to correct the condition.~~
- ~~c. Upon submission of a written report from the Town Engineer, which shall be reviewed by the Town Planner, that all or a certain specified stage in the construction of improvements has been satisfactorily completed, the Developer may request that the Commission reduce any outstanding Bond to reflect the cost of construction of the remaining improvements. The Commission shall grant no more than three (3) such reductions per phase prior to the final release of Bonds, and the Commission shall refuse such reductions if it finds the construction of any improvements in violation of any provision of these Regulations or the plans, terms, or conditions for any subdivision approved hereunder.~~

~~**5. AGREEMENT FOR INSTALLATION OF IMPROVEMENTS**~~

~~An Application for approval of a subdivision plan that involves the construction or installation of public improvements shall constitute an agreement by the Applicant to be personally responsible for the completion of any portions of the improvements the Commission may deem necessary to serve any lots that may be conveyed following approval of the plan. The Commission's ability to call a Bond or other surety pursuant to CT General Statute Section 8-26c (c) shall not prevent the Commission from enforcing the personal responsibility of the Applicant to complete the necessary improvements.~~

~~**6. CERTIFICATE OF ZONING COMPLIANCE**~~

~~Before any Certificate of Occupancy may be issued for any building in such subdivision on a lot that fronts on a subdivision road that has not been accepted by the Town as a public road, the developer must complete such road, in accordance with all applicable specifications, up to the farther side line of such lot plus an additional distance that shall be provided for emergency vehicles to turn around, to a stage in construction at which only final surfacing of the road remains to be done before completion of the road. The foregoing condition shall not apply to street trees, sidewalks, or other types of road-related improvements not required for vehicular travel, but shall apply to the installation of street name signs to facilitate the provision of emergency services. The balance of the work on such road, and all other public improvements, must also be bonded in accordance with the provisions of these Regulations.~~

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~~In addition, water supplies and effluent disposal systems shall be operational and accepted by the appropriate Town or State agencies prior to the issuance of a Certificate of Zoning Compliance allowing the occupancy of a dwelling on any lot.~~