
State of Rhode Island and Providence Plantations
Rhode Island Contractors' Registration and Licensing Board

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Title 5 Chapter 65 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Rhode Island Contractors' Registration and Licensing Board hereby gives notice of its intent to repeal the old regulations and adopt new rules and regulations for the Rhode Island Contractors Registration and Licensing Board.

The purpose of this adoption is to replace current rules, regulations and standards with this version to clarify, streamline, update and create a more coherent and user friendly format and modify to reflect changes made in the general laws.

The proposed rules, regulations and standards will be user friendly and will make modifications to reflect changes made to the statute and are available for public inspection at www.crb.ri.gov, in person at, one Capitol Hill, Providence, Rhode Island 02908, or requested by email ricrb@doa.ri.gov or by calling the Rhode Island Contractors' Registration and Licensing Board at 222-1268.

In the development of the proposed adoption consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **April 2, 2015** to the Rhode Island Contractors' Registration and Licensing Board, One Capitol Hill, Providence, Rhode Island 02908, ricrb@doa.ri.gov.

A public hearing to consider the proposed adoption shall be held on **April 2, 2015 at 3:00 PM at Conference Room A, One Capitol Hill, Providence, Rhode Island, 02908** at which time and place all persons interested therein will be heard. The place of the public hearing is accessible to the handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 222-1268 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Date Notice was Posted: 02/25/2015

Summary of the Contractors' Registration and Licensing Board Administrative Rules and Regulations and Construction Standards for RIGL Title 5, Chapter 65

The current rules and regulations will be replaced with this version to clarify, streamline, update, the existing regulations and to create a more coherent and user friendly format. The following are highlights as to the changes being proposed to the rules and regulations, as well as to the construction standards.

DIVISION 1

Modifications to this section included adding sections to the Board's monthly meeting agenda; adding election and term limits as to the Board chair and vice-chair, and the election to those positions; adding reference to record retention and destruction schedule location; and updating fees.

DIVISION 2

A few definitions were added and altered to reflect changes in the statute and in building codes and construction standards or to clarify the term.

DIVISION 3

Modifications in this section included: addition of expungement criteria; addition of education requirements, which will be required before registration and for purposes of renewal/maintenance of registration (and exemptions for such) and the addition of how to become an educational course provider; added mention that requirements for other licenses under Board's authority will be provided in separate Rules and Regulations; condensed information about the application and renewal processes to make it clearer.

DIVISION 4

Modifications in this section primarily included clarifying the Board's dispute resolution process and administrative hearings for claims and separated out the process for violations/penalties into Division 5. The subject matter remains largely unchanged, just makes process clearer. Also included more information regarding bankruptcy/receiverships and the reference to the possibility of criminal prosecution for failure to comply with orders of Board.

DIVISION 5

This section was revised to reflect all the changes made in the general laws increasing the fines for not being registered, advertising, hiring non-registered contractors, etc. The section also sets out a general schedule of fines and factors the Board can take into consideration in assessing fines. This section also sets forth the process by which violations/penalties are processed and imposed, as well as the administrative hearing process provided.

DIVISION 6

The construction standards contained in this section were modified to reflect industry standards and recent changes to the state building code.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF ADMINISTRATION
BUILDING CODE COMMISSION
CONTRACTORS' REGISTRATION and LICENSING BOARD



ADMINISTRATIVE REGULATIONS AND CONSTRUCTION STANDARDS OF THE CONTRACTORS' REGISTRATION AND LICENSING BOARD

Notice Given: 02/25/2015 Public Hearing: 04/02/2015
Filing Date: XX/XX/XX Effective Date: XX/XX/XX
ERLID#: XXXXXXXX

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Rhode Island Contractors' Registration and Licensing Board Administrative Regulations and Construction Standards

DIVISION 1 ADMINISTRATION

1.1 PURPOSE, AUTHORITY AND SCOPE

The purpose of these rules and regulations is to implement the Contractors' Registration Law, R.I.G.L. § 5-65. The Contractors' Registration Law requires every contractor, remodeler and most subcontractors who are in the business of building or repairing residential or commercial structures and their appurtenances in the State of Rhode Island to register with the Contractors' Registration and Licensing Board so that claims filed against them can be heard and settled. Any person who fails to register as a contractor, as stipulated, is subject to penalties for operating without a registration.

These rules and regulations are promulgated pursuant to Title 5, Chapter(s) 5-65 and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

1.2 NOTICE OF PROPOSED REGULATION

Before adopting, amending, or repealing any rule, the Board shall give notice of the proposed adoption, amendment, or repeal as required by the Administrative Procedures Act, Rhode Island General Laws Chapter 42-35.

1.3 TEMPORARY REGULATION

The Executive Director may adopt, amend, or suspend a regulation as provided in Administrative Procedures Act, R.I.G.L. Chapter 42-35.

In the event of a catastrophic event or imminent peril, the Board may waive certain requirements of these Rules and Regulations, or delay certain aspects.

1.4 GENERAL PROCEDURES

The Board adopts the Administrative Procedures Act, R.I.G.L. Chapter 42-35 as the procedures to be utilized for administrative hearings of the Board or administrative hearing officers.

1.4.1 Delivery of Notices

Time for response to all notices delivered by the Board shall run from the date of mailing from the Board, utilizing calendar days.

Pursuant to R.I.G.L. § 5-65-6, the contractor is responsible for notifying the Board of any change of address while registered and for one year following the date of the registration expires or otherwise becomes inactive. The registrant must notify the Board of the change of address in writing and within ten (10) days of the date upon which the change of address occurs. Proposed orders, final orders, notices of hearings mailed by the Board to the last known address of record are considered delivered when deposited in the mail.

1.4.2 Information Requests

A claim filed with the Board will initially be classified under investigation and any information in regard to this claim will not be provided by telephone inquiries or written request until such

time as an investigator has had the opportunity to review the matter filed. Upon investigation and a determination that the claim is valid, information provided will be deemed public record. Once the claim is sent to an administrative hearing, the information of the claim's status will be posted electronically and will remain on the contractor's record, unless expunged by the Board. Matters expunged by the Board will not be available for information request. A claim adjudicated in favor of the contractor shall be removed from the contractor's record as soon as practicable or as consistent with Rhode Island General Law and at such point will no longer be available for information request.

1. The Board will provide the following information in response to written, telephone, or e-mail requests for registration information relating to a specific person:
 - a) Whether or not the person is or has ever been registered;
 - b) The registration number(s);
 - c) The business names used by the entity of record with the Board;
 - d) Type of business organization (i.e. individual proprietorship, partnership, LLC, corporation or joint venture);
 - e) Personal names of owners, partners, or corporate officers;
 - f) Last known address of person;
 - g) Expiration date or date upon which the registration became inactive and the reason it became inactive;
 - h) The date the person first became registered;
 - i) Status of the registration, validity of insurance, an insurance company name (as provided to the Board by the insured) and
 - j) Number, status, type, date filed, and alleged amount of fines or awards of proposed orders, final orders, claims, violations, or notices of hearings on record.
2. The Board shall provide certification of registration or non-registration relating to a specific entity upon written request and payment of required fee. This certification will include the following information:
 - a) Registration number(s);
 - b) Name of registered person and any business name(s) on file with the Board;
 - c) Type of business (i.e., individual proprietorship, partnership, LLC, corporation or joint venture);
 - d) Names of owner(s), partner(s), or corporate officer(s) provided to the Board; and
 - e) The important dates and actions in the registration history.
3. If more information is required than that listed in Section (1) or (2) of this provision, the request for information should be made in writing or by e-mail to the Board.
4. Access to Public Records requests to the Board will be processed in accordance with the Access to Public Records Act, R.I.G.L. § 38-2-1 *et seq.*
5. If no claims have been recorded or if it appears to the Board that the person about whom the inquiry is being made is non-registered, the caller will be given this information by telephone.

1.4.3 Filing Fees and Record Changes

1. The Board may impose the following charges for records and filing fees:
 - a) A \$10.00 fee for each certification that an entity has or has not been registered and/or licensed with the Board.

- b) A \$10.00 fee for certified copies of documents.
- c) A \$5.00 fee for every 35 copies made, or 15 cents (\$0.15) per copied page of written documents copyable on common business or legal size paper (or costs as otherwise provided under R.I.G.L. § 38-2-4).
- d) A \$35.00 fee per recording of hearing officer and Board administrative hearings.
- e) A \$100.00 fee for a paper copy or electronically provided list of registrants. Requesting parties shall bear the cost of mailing. (Lists will be provided free of charge to city and state building departments).
- f) The Board shall not refund fees or civil penalties, unless an administrative error occurred.
- g) A \$200.00 fee for each initial application and renewal application. The registration or renewal fee shall be retained when an applicant fails to complete the registration or renewal process within ninety (90) days of the date the application was received by the Board.
- h) A \$10.00 fee for a digitized photograph taken by the Board for the registration card.
- i) A \$25.00 filing fee shall be imposed for any claim filed with the Board.
- j) A \$20.00 fee for any filing of exceptions to the Board (“Administrative Board Appeal”).
- k) A \$25.00 fee for each replacement registration card and lost card affidavit.
- l) A \$20.00 fee for any additional registration card for employees, officers or partners.
- m) A \$25.00 fee to change the responsible person on a registration.
- n) A \$25.00 fee to change the ownership of a registration.
- o) A \$25.00 fee to change the name of the registrant or company.
- p) No fee will be charged for Board action on a registration number or on an appeal in this regard.
- q) A \$20.00 fee will be assessed for each expungement request regarding a single claim and/or violation. A \$5.00 fee will be assessed for each additional claim and/or violation sought to be expunged under the same request.
- r) No fee shall be charged for address changes on the record. Pursuant to R.I.G.L. § 5-65-6, the contractor is responsible for notifying the Board of any change of address while registered and for one year following the date of the registration expires or otherwise becomes inactive. The registrant must notify the Board of the change of address in writing and within ten (10) days of the date upon which the change of address occurs. Proposed orders, final orders, notices of hearings mailed by the Board to the last known address of record are considered delivered when deposited in the mail.

1.5 RULES OF PROCEDURE FOR BOARD MEETINGS

The Board adopts the following rules of procedure for its meetings:

1.5.1 Quorum and Chair Appointment / Election

A quorum must be present for the Board to be called to order and to make decisions. A quorum shall be a majority of the Board members required pursuant to R.I.G.L. §§ 5-65-14 and 5-65-15(b). A majority of affirmative votes among the members present are required for any official

action or decision of the Board. Except in cases where a member's vote would result in a prejudiced, biased, or unfair decision or action, no member shall abstain from voting.

The Board shall elect or reaffirm the chair and vice-chair every two years in the odd years at the first meeting of the year, or as necessary upon vacancy and they shall serve no more than two (2) consecutive two-year terms in that post.

The chair shall exercise all the rights and duties of other members, including the right to introduce motions and proposals and to speak and vote on them while presiding. In the absence of the chair or vice-chair, the Executive Director shall appoint a Board member designee to chair the meeting.

1.5.2 Action Under Board Authority

No member of the Board shall speak or act on behalf of the Board without specific authorization by law or by the Board. The Board shall not delegate its statutory rule making authority, except to an officer or employee within the Board who shall be authorized by the Board to adopt temporary regulations pursuant to the A.P.A., R.I.G.L. § 42-35-3(5)(b).

1.5.3 Notice of Board Meetings

In accordance with applicable governing statutes, including R.I.G.L. § 42-46-1 *et seq.*, the chair or Executive Director shall establish the time, date, and place for the Board to convene. Notice of all meetings, appeals, hearings, and matters requiring notice shall be given to the members of the Board and all interested parties.

1.5.4 Board Meeting Agenda

The chair shall work with the Board's Executive Director to determine the substance of the agenda for each meeting. The order of business shall be:

1. Pledge of Allegiance
2. Call to order;
3. Approval of agenda and order of business;
4. Approval of minutes of previous meetings;
5. Review of pending issues with Code Officials from the Rhode Island Building Officials Association;
6. Legal Report;
7. Consideration of motions;
8. Consideration of cases on appeal and oral argument;
9. Consideration of requests for expungement;
10. Education;
11. Report of Executive Director and staff;
12. Old Business;
13. New Business;
14. Public comment;
15. Announcements;
16. Adjournment.

1.5.5 Public Comment

Members of the public wishing to testify before the Board at public meetings on issues relevant to its business may be asked to sign in to address the Board.

1.5.6 Conduct During Meetings

If any person engages in disruptive conduct at a meeting, such conduct shall be grounds for the chair to expel the person from the meeting.

1.6 ETHICS POLICY

The Board is subject to the ethics policy as established by Title 36, Chapter 14 of the Rhode Island General Laws.

1.7 RECORD RETENTION SCHEDULE AND DESTRUCTION OF RECORDS

The Board maintains a record retention/destruction of records schedule with the Office of Secretary of State/State Archives Division and in accordance with Rhode Island General Laws.

DIVISION 2 DEFINITIONS

2.1 DEFINITIONS AS USED IN THESE REGULATIONS:

Agent of Service (or registered agent): a business or individual designated by the contractor/registrant upon whom any process, notice, or demand required or permitted by law to be served upon the corporation or individual registrant may be served. An attorney licensed and located in Rhode Island or a company listed by the Rhode Island Secretary of State may serve as an agent of service.

Applicant: any person seeking to obtain a contractor's registration under R.I.G.L. Chapter 5-65.

Appurtenance: any accessory improvement to real estate associated with a primary structure. An appurtenance includes, but is not limited to any of the following, located on land owned by the owner of the structure to enhance the residential or commercial use of the structure:

- a) Garage or carport;
- b) Porch, patio, decks and deck steps, docks, sheds, tents and other fabric structures (temporary or permanent), gazebos, walkways, or fencing;
- c) Driveways, roads or bridges;
- d) A retaining wall when necessary to protect a structure or its appurtenances or to comply with building code slope requirements or when done in conjunction with landscaping work;
- e) Swimming pools;
- f) Sidewalks;
- g) Stone/masonry walls;
- h) Towers;
- i) Roadways and parking areas;
- j) Other structures.

Board: the members appointed to the Contractors' Registration and Licensing Board ("CRLB" or "Board") as established by statute and the staff supporting the Board.

Building Officials: the officials charged with administration and enforcement of the Rhode Island State Building Code.

Casual, Minor or Inconsequential: as used in R.I.G.L. § 5-65-2(4) means work not of a structural nature that cannot affect the health or safety of the owner or occupant of the structure; the value for the contract, labor, materials, and all other items is less than \$500.00.

Claim: a matter for which a statement of claim form has been filed to be investigated by the Board.

Commission: the Building Code Commission supportive of the Contractors' Registration and Licensing Board and the CRLB staff.

Contractor: a person who has a contract, either oral or written, with the owner of a structure to perform work subject to Chapter 5-65 or who is building a structure speculatively; who may engage one or more subcontractors to perform all or part of the work; and who may have responsibility for the entire project which is the subject of the contract.

Any person or business entity licensed by the state employing trades persons as defined by R.I.G.L. chapters 6 (Electricians), 20 (Plumbers / Irrigation Installers, and 56 (O.W.T.S. Installers) of Title 5, and chapters 26 (Hoisting Engineers) and 27 (Mechanical Trades) of Title 28 and working within the purview of the license issued by the governing agency shall be exempt from all of the provisions of R.I.G.L. § 5-65 except § 5-65-7, requiring insurance. A valid certificate of insurance shall be required to be maintained by the licensing agency during the terms of the issuance date of the license as a condition for a valid license. Failure of the licensee to maintain this insurance shall result in loss of license pursuant to requirements of statutes governing the licensing agency.

A "contractor" includes, but is not limited to, any person, whom, in the pursuit of an independent business, undertakes or offers to undertake or submits a bid to perform or arranges for the performance of any construction activity involving improvements to property and any of the following, unless specifically excluded under the provisions of the law:

1. Construction, alteration, repair, improvement, moving, or demolition of any property residential or commercial or any building or structure inclusive of all appurtenances, as hereinafter defined, whether done speculatively or under contract.
2. Alteration, repair, improvement, set up or demolition of mobile/manufactured homes, including all appurtenances, as herein after defined, whether done speculatively or under contract.
3. Installation or repair in any residential or commercial building or structure including, but not limited to: Air Conditioning (self-contained through wall); Appliances (built-in); Asphalt driveways or walks; Awnings; Barbecues (built-in); Basements; Bathtub enclosures; Cabinets; Carpeting or other floor coverings; Chimneys or flues; Closet systems (built-in); Countertops; Doors; Dryvit; Drywall or plaster; Elevators (residential); Fans or ventilating equipment; Fence installations; Fireplaces or wood-burning, gas-burning, or pellet stoves or other similar fuel burning equipment; Foundations; Framing; Garage doors or garage door opening equipment; Glass or glazing; Gutters and downspouts; Hardwood flooring; Insulation, storm windows, or other weatherization; Iron or other metal work; Laminates; Lath; Locks; Masonry; Millwork and trim; Painting exterior and interior; Paneling; Pools; Roof structures; Roofing or flashing; Saunas, hot tubs, spas (built-in); Sheet metal; Shotcrete; Shower doors or shower enclosures; Siding; Skylights; Solar energy systems or equipment (i.e. racking systems, in ground mounting or anchoring); Stairways; Stucco or gunite; Tents and other fabric structures either temporary or permanent, Tile or grouting; Underlayment; Vacuum systems (built-in); Wall-covering installations; Waterproofing; Weatherstripping; Windows; Window treatments.
4. Residential and Commercial work including, but not limited to:
 - a) Excavation for the structure or its appurtenances;
 - b) Backfill or grading when rough grading the site to accomplish proper drainage and not for landscaping;
 - c) Trenching when done for the structure and/or its appurtenances;
 - d) Concrete flatwork, including installation, cutting or breaking, when related to the structure or its appurtenances;

- e) Curbing or paving when related to the structure or its appurtenances;
 - f) Installation or repair of an "appurtenance" as defined in these regulations;
 - g) Pest control, if in the course of that work any structural repairs are performed;
 - h) Sandblasting;
 - i) Pressure washing;
 - j) Chemical treatment to a structure or its appurtenances, excluding landscaping treatments;
 - k) Chimney or flue repair;
 - l) Docks, decks, ponds, retaining walls;
5. Erection and/or Installation of modular systems constructed off site;
 6. Labor only, regardless of whether compensated by the hour or by the job;
 7. Development of lots as a developer with the intent of selling residence(s), or commercial buildings contracting with a builder/contractor to construct, alter or improve residence(s) or other buildings or structures on land owned by the developer.
 8. Contractors acting "for compensation and with the intent to sell" as used in R.I.G.L. § 5-65-1(3) is not intended to include licensed real estate agents engaged in professional real estate activities as defined in Chapter 5-20.5 of the General Laws, unless arranging to have work performed or a house constructed.
 9. Boats, ships, motorhomes and other types of recreational vehicles are exempt from these regulations.

Developer: a person who owns property and contracts with a general contractor to construct, improve, or alter one or more buildings or structures on the land for the purpose of selling or leasing those buildings or structures. A developer must be registered pursuant to R.I.G.L. § 5-65-1(3)(i).

Dishonest or fraudulent conduct injurious to the welfare of the public: as used in R.I.G.L. § 5-65-10(3) includes, but is not limited to, the following:

1. Acting in a manner that, because of a wrongful or fraudulent act by the applicant, registrant, or licensee has resulted in injury or damage to another person; or
2. Failing to pay monies when due for materials or services rendered in connection with the applicant's, registrant's, or licensee's operations when the applicant, registrant, or licensee has received sufficient funds as payment for the particular construction work project or operation for which the services or materials were rendered or purchased; or
3. Accepting payment in advance on a contract or agreement and failing to perform work or provide services required by the contract or agreement and failing to return the payment; or
4. Giving false, misleading or deceptive advertising whereby a reasonable person could be misled or injured; or

5. Using a revoked, invalid, or suspended registration or license; or
6. Working using another person's registration or license.

Employee: any person permitted to work by an employer, who receives wages, except that independent contractors or subcontractors shall not be considered employees. Anyone who performs services for an employer is an employee if the employer can control what will be done and how it will be done. An employee is generally subject to the business's/employer's instructions about when, where and how to work (i.e., instructions about how to do work, such as; when and where to do the work; what tools or equipment to use; what workers to hire or to assist with the work; where to purchase supplies and services; what work must be performed by a specific individual; and what order or sequence to follow when performing work. Documents such as W-2's, payroll taxes, and IRS forms may be requested by the Board to substantiate an employee's status.

Employer: any individual, firm, partnership, corporation, limited liability corporation, association, joint venture, trust, receiver, or other like officer appointed by a court of this state, and any agent or officer of any of the above mentioned, employing any person in this state. An employer with one or more employees is required to have proper workers' compensation coverage or waiver thereof.

Executive Director: means the Executive Director of the Contractors' Registration and Licensing Board.

Expungement: the removal, deletion or erasing of information from a contractor's record that is accessible to the public.

"Flipping": when a person performs, employs others to perform, or for compensation with the intent to sell the structure, arranges to have performed any work described in § 5-65-1(3) if within a twelve month period offers for sale that structure on which that work was performed.

Licensee: any person who has obtained a license for the trades governed by the Board's authority as defined in R.I.G.L. Chapters §§ 5-65.1 (Home Inspectors), 5-65.2 (Well Drilling Contractors), 5-65.3 (Underground Utility Contractors) or 5-73 (Commercial Roofers). Individuals working outside of the scope of the aforementioned licenses are required to be registered with the Board.

Monetary Damages: the dollar amount required in excess of the contract amount to provide the claimant what was agreed to be provided under the terms of the contract minus any amount due and unpaid to the registrant.

Nature and complexity: includes, but is not limited to the following meanings:

1. Involves issues requiring legal interpretation of statutes in addition to R.I.G.L. Chapters 5-65, 5-65.1, 5-65.2, 5-65.3, 5-73 (i.e. contract law, corporate law, etc.); or
2. In the interest of fairness and equity, requires rulings on persons or entities outside the jurisdiction of the Board; or
3. Is outside the expertise of the Board.

Occupancy: may occur at, but not be limited to, the time of issuance of a certificate of occupancy or the time of receipt of a letter of completion of the construction by the Building Official.

Owner of a Structure: a person not required to be registered pursuant to R.I.G.L. § 5-65-2 and:

1. Who has a structure built by a registered contractor or developer; or
2. Who purchases a structure from a registered contractor or developer; or
3. Who owns a structure to which alterations or repairs are being or have been made; and
4. Who must own that building or structure as a personal residence, for a minimum of one year.

Person: a self-employed individual, a partnership, limited liability company, corporation or joint venture.

Pursuit of an independent business (Independent Contractor): as used in R.I.G.L. § 5-65-1(3)(i) means that the person operates as an independent contractor. Evidence of operating as an independent contractor and not as an employee may include, but not be limited to the following criteria:

1. The person is free from close supervision by the homeowner or contractor over the details of the work being performed, including hours of work;
2. The person enters into a contract, either oral or written, which calls for the completion of certain work on a specific project or job site for which payment is made on a per-hour, time-and materials, barter, or entire job basis;
3. The person may have one or more effective contracts at any one time;
4. The person hires and supervises other subcontractors and/or employees and may be responsible for business insurance and payroll taxes if help is hired;
5. The person enters into a contract, either oral or written, which does not require the employer to consider remuneration paid to be wages for the purposes of unemployment compensation benefits, workers' compensation payments, or federal or state withholding;
6. The person uses as normal business practice telephone services, business cards, or any form of advertising;
7. The person furnishes substantially all of the equipment, tools, and supplies necessary to carry out contractual obligations.
8. The person is not an independent contractor if he/she performs services that can be controlled by an employer (what will be done and how it will be done).
9. Documents such as 1099's, taxes and IRS forms may be requested by the Board to substantiate an independent contractor's status, and the Board may also consider IRS definitions and criteria in determining the independent contractor's status.

Registrant: any person who has obtained a contractors' registration pursuant to R.I.G.L. Chapter 5-65.

Residence: a structure that consists of one or more dwelling units and its appurtenances.

Speculative: in anticipation of or with the intent of selling to another person or entity during or after construction.

Structure: (1) any residential or commercial building; or (2) any building containing one or more residences and their appurtenances. Structure may also include modular and mobile homes, which come within the jurisdiction of the Board as structures at the time they are placed on support blocking or permanent foundations in the place they will be used. The Board's dispute resolution process shall apply only to residential structures containing dwelling units as defined in the Rhode Island State Building Code or residential portions of other types of buildings.

Subcontractor: a person or entity who has a contract, either oral or written, with a contractor but not with the owner of the structure to perform work subject to R.I.G.L. Chapter 5-65, and who is responsible for a specific portion of the project. Although a contract may state the worker is a subcontractor, this is not necessarily sufficient to determine the worker's status. The Board may consider how the parties work together to determine whether the worker is a subcontractor or otherwise.

Substantial Completion: may occur at the time of, but not be limited to, the following events: final inspection is approved; certificate of occupancy is issued; the building or structure or portion of building or structure is in a habitable or usable condition; most or all of the payment has been provided; when an owner would reasonably conclude that the contractor had fulfilled his/her obligations under the contract and that final payment was due.

Wages: all amounts at which the labor or service rendered is paid, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculation.

Work Period: the time period from the date a contract is entered into until the date the contracted work is substantially completed by the original builder/contractor, or if not substantially completed, the date work by the original builder/contractor ceased.

DIVISION 3 REGISTRATION

3.1 REGISTRATION GENERALLY

The following registration requirements pertain to the registration of Contractors subject to R.I.G.L. § 5-65-1 *et seq.* Licensing requirements for Home Inspectors, Well Drilling Contractors, Underground Utility Contractors, and Commercial Roofers are provided under R.I.G.L. §§ 5-65.1, 5-65.2, 5-65.3, 5-73, and the respective Rules and Regulations for each discipline.

3.1.1 Registration Required:

Registration with the Rhode Island Contractors' Registration and Licensing Board shall be required for commercial and residential work as established by law, and may be issued by a Board approved third party or online. A registration will be issued to one individual only. Other persons shall not be included in that registration, but each shall be separately registered and shall separately meet the requirements of registration. No entity may perform work subject to R.I.G.L. Chapter 5-65 through the use of another person's registration.

3.1.2 Change of Entity Type

If a person registered as an individual, partnership, limited liability company, joint venture, or corporation seeks to change to another type of entity, the former registration will be terminated and the new entity must register anew. If a person requests to maintain the same registration number for the new entity, a form established by the Board must be completed and the responsibility for all work performed by the previous entity over the last year will be assumed by the new entity. Both parties may be held jointly or severally liable for the period of at least one year or for the filing period of a claim as defined in R.I.G.L. § 5-65-12(f).

3.1.3 Partners Must Be on Record with Board

All partners within a partnership shall be on record with the Board. Partnerships consisting of spouses shall be treated as are partnerships consisting of unrelated persons. Notification must be made to the Board for any change in the composition of that partnership; except for the reallocation of interest among the existing partners.

3.1.4 Cannot advertise or work without valid Registration

No person shall advertise or otherwise hold out to the public that person's services as a contractor unless that person holds a current, valid registration, nor shall any person claim by advertising or by any other means to be registered unless that person holds a current, valid registration with the Board.

3.1.5 Advertising, Written Contracts, Proposals, Invoices (Must Use Registration Number)

1. All forms of advertising, inclusive of newsprint classified advertising, newsprint display advertising, pamphlets, telephone directory space ads, and display ads for work subject to R.I.G.L. Chapter 5-65, prepared by a contractor or at the contractor's request or direction, shall clearly show/display the contractor's registration number.

2. All written contracts subject to R.I.G.L. Chapter 5-65 shall show the contractor's registration number. All contracts exceeding \$1,000.00 must be in writing and failure to adhere to this will result in the assessment of fines.
3. It is necessary to list the contractor's registration number in accordance with R.I.G.L. § 5-65-3(1) and R.I.G.L. § 5-65-22. Wearing apparel is exempt from this requirement. Failure to include registration number shall result in fines. *See* Section 5.3.4.
4. Use of the word "license" instead of "registration" or "bonded" when not bonded shall result in the assessment of fines. *See* Section 5.3.4.
5. All registrants must provide a summary of Chapter 5-65 and a notice of possible mechanic's lien, as provided by the Board, to the owner when the registrant begins work on a structure.

3.1.6 Change of Registrant Information

Registrant must provide the Board with any changes to the information contained in the application and registration, such as change of address, change of responsible party, agent of service change, etc. and failure to do so will result in fines and possible suspension of registration. Forms for making such changes are available on the Board's website: www.crb.ri.gov.

3.2 APPLICATIONS FOR REGISTRATION

Each applicant for a registration must submit an application to the Board pursuant to R.I.G.L. § 5-65-5.

A completed application for registration must include;

1. A completed application on the proper form;
2. Proper registration fee of \$200.00 for a two year period;
3. A certificate of insurance coverage;
 - a) An applicant for registration shall certify that the applicant has procured insurance as required by R.I.G.L. §§ 5-65-7 and 5-65-7.1 and will continue to meet those insurance requirements for as long as the applicant is registered. Applicants must provide verification of a minimum of six month's insurance coverage from the date of the application.
 - b) A certificate of insurance constitutes satisfactory evidence of insurance coverage so long as it lists the Board as the holder and the policy number.
 - c) It is the responsibility of the registrant to assure that insurance certificates are maintained and are on file with the Contractors' Registration and Licensing Board. Failure to provide the Board with up to date insurance coverage may result in the assessment of fines.
 - d) The registrant shall maintain the insurance required by R.I.G.L. §§ 5-65-7 and 5-65-7.1 continuously until the certificate of registration is terminated, revoked, or expired. If the registrant, in performance of work subject to Chapter 5-65, through failure to comply with this subsection, causes damage to another entity or to the property of another person for which that entity could have been compensated by an insurance company had the required insurance been in effect, the Board may assess a civil penalty against the registrant in an amount up to \$5,000.00 in

addition to such other action as may be taken under R.I.G.L. § 5-65-10.

4. A notarized affidavit on form prescribed by the Board attesting to the registrant's knowledge of the governing laws;
5. Applicant's e-mail address, if applicable;
6. Any applicant or other card holder must provide the Board with a true and accurate digitized photograph of him/herself electronically or otherwise. Any applicant or cardholder that cannot provide the Board with such a photograph is required to have a digitized photograph taken by the Board for an additional fee of \$10;
7. Proof of Rhode Island residency for in-state applicants (i.e. utility bill, tax form, other official document that has the applicant's address);
8. Out-of-state applicants must provide the name, address, contact information and signature of a Rhode Island agent of service as required by R.I.G.L. § 5-65-2(b). Acceptable registered agents of service include attorneys whose office is located within the boundaries of the State of Rhode Island or registered agents listed with the Rhode Island Secretary of State;
9. Proof that the applicant has completed the five (5) credit hours of required Pre-registration Education (*see* Section 3.8 – Education Requirements);
10. Each person shall list on the application for registration or renewal all business names under which business as a contractor is to be conducted, inclusive of fictitious names. Each business entity must be registered and active with the Secretary of State's office;
11. Proof of workers' compensation insurance is required when a company has one or more employees; unless a waiver form has been filed with the Department of Labor and Training and a copy has been provided to the Board;
12. Online registration application or renewal may require additional affidavits or information (*see* Section 3.5 – Renewal and Reissuance of Registration).
13. Military service member applicants for registration who possess a registration/license from another state may include in their application evidence of education, training, or service completed as a member of the Armed Forces or Reserves of the United States, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state and evidence of their out-of-state registration/license. *See* R.I.G.L. § 5-87-1. The Board or its Executive Director will consider such evidence toward the qualifications for Board governed registration/licensure and will expedite the issuance of the registration/license once the out-of-state registration/license has been deemed to be substantially equivalent to Rhode Island requirements. If obtaining the Rhode Island registration/license has additional requirements that are not the same as the out-of-state registration/license, the Board or its Executive Director may issue the service member a temporary registration/license while the service member completes the additional requirements so long as the service member has the proper insurance and bonding (if required) in place.
14. The Board or its Executive Director will expedite the issuance of a Board governed registration/license to a military service member's spouse who holds a current registration/certification/license in another state to perform professional services; whose spouse is a member of the armed forces of the United States; whose spouse is the subject of a military transfer to Rhode Island; and who left employment to accompany the spouse

to Rhode Island. *See* R.I.G.L. § 5-88-1. The Board or its Executive Director will determine whether the out-of-state registration/certification/license is substantially the same to the registration/license in Rhode Island. If obtaining the Rhode Island registration/license has additional requirements that are not the same as the out-of-state registration/license, the Board or its Executive Director may issue the service member's spouse a temporary registration/license while he/she completes the additional requirements so long as the service member's spouse has the proper insurance and bonding (if required) in place

The Board may return an incomplete application for registration to the applicant with an explanation of the deficiencies. Returned forms may be subject to late filing fees.

Falsified documents, inclusive of affidavit, may be punishable with fines up to \$5,000.

3.3 REGISTRATION CARDS

1. Each registrant will be issued a registration card that contains his/her registration number and a photograph of the registrant.
2. Registrant must have registration card in his/her possession while performing or offering to perform work, and the card must be available and presented to Board investigators upon request.
3. Additional registration cards for other partners, corporate officers/members, or employees may be issued upon receipt of a \$20.00 fee for each additional card. These cards may be used for permit applications and registrant identification.
4. If a registration card is lost, misplaced, or destroyed, the registrant shall file an affidavit to that effect and pay a fee of \$25.00, and the registration card shall be reissued.

3.4 REGISTRATION EFFECTIVE DATE, TERM, and LAPSE

3.4.1 Effective Date

The effective date of a registration is when all documents and/or fees required by law and these regulations have been processed by the Board.

3.4.2 Valid Term

A registration is valid for the two year term for which it is issued and expires on the first day of the month, two years from the issuance date. The registration is valid only if the following conditions are met throughout the registration period:

1. The insurance required by R.I.G.L. §§ 5-65-7 and 5-65-7.1 remains in continuous effect; if the Board receives notice of lapse, cancellation or non-renewal of insurance from the insurance carrier, insurance is considered non-continuous and subject to a fine (*see* Section 5.3.8); and
2. If the registrant is an individual, survival of that individual; or
3. If the registrant is a partnership, no change in the composition of that partnership, by death or otherwise; or
4. If the registrant is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporation; and
5. The registrant maintains good standing with the Board and has paid all applicable fees.

3.4.3 Lapsed Registration/Surrendered Registration Card

A person whose registration has lapsed is considered non-registered from the date the lapse occurred until the date the registration is renewed, reissued, or reinstated. During a period of lapse, the person shall not perform or offer to perform the work of a contractor. If a registration becomes invalid or lapses, the registration card(s) must be returned to the Board; at that time, the card will be deemed surrendered. A registration surrendered will not be responsible for any late fees unless an outstanding violation exists and in that case would be subject to fines as well as other fees. Surrendering of registration must be accompanied by a statement of such and the registration card must be returned to the Board.

3.5 RENEWAL AND REISSUANCE OF REGISTRATION

1. A registration issued by the Board shall expire at the end of the two year period on the first day of the month of issuance and may be renewed on or after that date for a period of two years upon payment of the appropriate \$200.00 renewal fee, as set forth in R.I.G.L. § 5-65-9. All renewal fees received by the Board are non-refundable.
2. Registration renewals shall also be accompanied by the renewal form as supplied by the Board, as well as all other documentation as required by Section 3.2(3), (5), (7), (8), (10), (11). Registrants shall review their information for accuracy and currency and make any necessary corrections or modifications prior to submitting the form.
3. Registrants and other card holders renewing registration that do not already have a digitized photograph of him/herself on file with the Board pursuant to Section 3.2(6) will be required to have the Board take a digitalized photograph taken for an additional \$10.00 fee.
4. A late fee of \$35.00 shall be charged for any registration renewal, reissuance, or reinstatement received by the Board after the registration expiration date.
5. A registrant renewing his/her registration must provide proof of completed Continuing Education courses (5 credit hours). *See* Section 3.8 and 3.8.3 – Education and Continuing Education Requirements).
6. The registrant may be required to sign a new affidavit attesting to his/her understanding of the governing laws in order to renew his/her registration.
7. The effective date of a renewed or reissued registration is when all documents and/or fees required by law and these regulations have been processed by the Board.
8. If a registration card has been surrendered and registrant wishes to reinstate, no additional charge will be administered if reinstatement is sought within the registration period. If one surrenders his/her registration card it will not be reissued without penalty if the registrant has any outstanding claims and/or violations.
9. Registration numbers previously issued may be reissued by the Executive Director one year from the date a person dies or business is dissolved, or as in other circumstances as the Executive Director deems fit.

3.6 REVOCATION OR SUSPENSION OF REGISTRATION/ CONDITIONAL REINSTATEMENT

1. If a registrant fails to pay and/or comply with an order of the Board, the Board may revoke, suspend, or refuse to issue or reissue a certificate of registration. The Board may take into consideration proof submitted by the registrant to the Board that the amounts

adjudged were discharged in bankruptcy or receivership or otherwise provided for by an approved plan of bankruptcy or receivership reorganization

2. Revocations will be conducted in accordance with the Administrative Procedures Act, R.I.G.L. Chapter 42-35 and as set forth in Section 4.5 or Section 5.4 of these Rules and Regulations.
3. A registration revoked may only be reissued, within the Board's discretion, upon written request and presentation to the Board of sufficient evidence or proof of settlement or full payment.
4. The Executive Director may reissue or reinstate suspended registrations upon proof of compliance with or arrangements to comply with all outstanding orders issued by the Board and settlements.
5. Upon written request to the Board, conditional reinstatement of registration may be granted by the Board or the Executive Director. The Board or the Executive Director may, within their discretion, attach conditions to the reinstated registration, including but not limited to: contract amount limitations; bonding requirements (up to \$30,000); time limitations; contract reviews or Board monitoring.
6. Disciplinary action taken on a registration held by a corporation, LLC, partnership, or joint venture may affect other registrations held by the members of the same corporation, LLC, partnership, trust, or sole proprietorship and may preclude future registration by the principal of that business entity.

3.7 EXPUNGEMENTS

1. In order for the Board to consider expungement of claims or violations on a registrant's record, the registrant must petition the Board in writing on the prescribed form and pay a \$20 filing fee for each request to expunge a claim or violation and a \$5.00 fee for each additional claim/violation sought to be expunged in the same request.
2. Registrants seeking expungement may submit letters of support from any pertinent party involved in the claim or violation to be considered for expungement. The Board may consider such letters in making a determination.
3. Other parties involved in the claim or violation will receive notice from the Board that the registrant is seeking expungement of the claim or violation from his/her record, as well as the date, time, and location that the matter will be considered before the Board. The parties may provide a letter to the Board or may attend the proceedings in support or opposition of the expungement request, but are not required to do so.
4. In making a determination of whether to expunge, the Board may consider any lapse or delay in registration or renewal. The Board may also consider in its determination such factors including, but not limited to: frequency of claims or violations; severity of offenses; code violations cited; present record; time since last incident; and other court cases filed.
5. Any matter that was criminally prosecuted and the respondent was convicted to pled nolo contendere will not be considered for expungement.
6. The Board will not consider expunging a registrant's record if the registrant has pending actions on the registration.
7. An administrative hearing resulting in a judgment in favor of the respondent may be

expunged by the Executive Director.

8. Upon a determination by the Board that an expungement is granted, the Executive Director may expunge this from public record.
9. Partial expungement of the registrant's record may be granted at the Board's discretion.
10. Upon investigation by the Board's investigative staff, an invalid claim, a claim that is deemed frivolous in nature or a claim in which the claimant failed to notify the registrant of deficiencies in a timely manner, may be expunged by the Executive Director.

3.8 EDUCATION

3.8.1 Authority and Scope

The Board adopts by rule the following standards and requirements for education. The Board may also seek to have third-party vendors or providers assist in the management of educational programs. Educational requirements for other licenses governed by the Board are set forth under the corresponding rules and regulations for each license.

3.8.2 Pre-registration Education

As a condition of registration, each applicant must provide the Board with proof of completion of five (5) credit hours (1 credit hour = 50 minutes) of education prior to obtaining a registration. The 5 hours of Pre-registration credits must have been completed within twenty four (24) months prior to applying for a registration and must have been completed in person. Applicants are responsible for payment of any fees or materials associated with the courses taken. Documentation of all 5 credit hours must be submitted to the Board together with the applicant's application and fee, either electronically from Board approved third-party vendors or in person.

1. To fulfill the 5 credit hours prior to initial registration, the applicant must complete in person:
 - a) One (1) credit hour of Board or other third-party vendor approved courses covering Construction Codes and Standards;
 - b) One (1) credit hour of Board or other third-party vendor approved courses covering Contracts;
 - c) One (1) credit hour of Board or other third-party vendor approved courses covering Workplace Safety;
 - d) One (1) credit hour of Board or other third-party vendor approved courses covering Business Principles and Practices; and
 - e) One (1) credit hour of Board or other third-party vendor approved course related to the practice of construction or other topics related to the applicant's business, including but not limited to: land use, development, planning and zoning, resource conservation or estimating.
2. A listing of Board or other third-party approved courses are available on the Board's website; www.crb.ri.gov.
3. An applicant who has graduated from an accredited Technical or Vocational High School or College within the prior 24 months may submit evidence to the Board that courses completed are sufficient to satisfy the Pre-registration Education requirements. The applicant must submit a transcript listing related construction courses completed, details regarding the school's accreditation information, and contact information for the

registrar. It is within the Board's discretion whether to allow the prior schooling to qualify as Preregistration Education credit.

3.8.3 Continuing Education

After the initial Pre-registration Education requirements are completed, the registrant must complete five (5) credit hours of Continuing Education courses during the two year registration period, and prior to renewal, in order to maintain his/her registration pursuant to R.I.G.L. § 5-65-5(e). To fulfill the Continuing Education requirements;

1. **Registrants:** Registrants must complete five (5) credit hours of Board or other third-party vendor approved courses related to the practices of construction or other topics related to the nature of the registrant's business, including but not limited to: land use, development, planning and zoning, resource conservation and estimating.
2. **Board Members:** Service on the Rhode Island Contractors' Registration and Licensing Board will satisfy the 5 hour Continuing Education requirement for only one registration period, so long as the Board member remains in good standing with the Board and maintains the proper registration requirements.
3. **Course Instructors:** Board or other third-party vendor approved Pre-registration and Continuing Education course instructors may use their course instruction to satisfy the Continuing Education requirement. Instructors must provide the Board or other third-party vendor with evidence of what Board or other third-party vendor approved courses he/she taught, when course(s) were taught, and how many credit hours were taught, and will receive credit for each particular course only once.
4. **Registrant Holding Other Board Governed Licenses:** If a registrant is also licensed by the Board as a Home Inspector, Well Drilling Contractor, Underground Utility Contractor, Pump Installer, Commercial Roofer or other license governed by the Board, education credits obtained for that license may satisfy the Continuing Education requirements for contractor registration. Registrant must provide proof of completion of the licensure education credits upon renewal, and courses must be approved by the Board.
5. **Deferral for Continuing Education:** Upon request and upon payment of a \$100.00 fee to the Board, a registrant may be granted one time, within a two year renewal cycle, a six (6) month deferral to complete his/her Continuing Education requirements.

3.8.4 Non-Qualifying Education

Subject matter not acceptable for Pre-registration or Continuing Education credit includes, but is not limited to: mechanical office and business skills such as typing, speed reading or memory improvement; physical well-being or personal development such as motivation, stress management, time management, dress for success and meetings held in conjunction with the general business of the registrant. Registrants are encouraged to complete such trainings, but any such courses will not count towards the educational requirements for registration.

3.8.5 Proof of Educational Course Completion/Compliance

Each registrant must obtain his/her Pre-registration and Continuing Education credits through a Board or third-party vendor approved provider. The applicant/registrant is responsible for demonstrating compliance with and completion of the Pre-registration and Continuing Education requirements. Irrespective of any transcript that may be issued directly to the Board by a vendor,

provider or instructor, an original certificate issued by the vendor, provider or instructor to the registrant shall serve as conclusive evidence of course completion. The applicant/registrant is required to provide a photocopy of the original course completion documents/certificates to the Board or other third-party vendor for both initial registration and renewal of registration purposes. The applicant/registrant must retain the original documents/certificates for his/her current registration period, and for three (3) years following the completion of the course(s), as proof of course completion if audited. Course certificates shall include the date of the course, number of credit hours completed, contact information of the provider and the instructor, any accreditation information and signature of the instructor.

If the applicant is submitting transcripts from a Vocational or Technical High School or College as proof of compliance, the applicant must also submit the school's accreditation information, contact information for the registrar, and must submit original transcripts.

Providers, vendors and instructors must keep copies of all certificates issued to applicants and registrants for three (3) years following the completion of the course(s).

Providing false or fraudulent information or documentation to the Board or other third-party vendor will result in fines of up to \$10,000 pursuant to R.I.G.L. § 5-65-5(c).

3.8.6 Violations for Failing to Complete Education Requirements

1. Pursuant to R.I.G.L. § 5-65-10(a)(17) and § 5-65-10(k)(2), the Board may revoke, suspend, or refuse to issue, reinstate, or reissue a contractor's registration if the applicant/registrant has failed to complete or maintain the required Preregistration or Continuing Education credits required by the Board.
2. At an administrative hearing, the hearing officer may require the registrant to complete/attend continuing education courses in lieu of or in addition to a fine pursuant to R.I.G.L. § 5-65-10(d).
3. Operating as a contractor or offering to conduct work as a contractor without having completed the requisite Preregistration or Continuing Education requirements will result in fines for operating as a non-registered contractor in violation of R.I.G.L. § 5-65-3.

3.8.7 Course Materials and Fees

Each applicant/registrant shall be responsible for paying for course-related fees and acquiring course materials used in any Pre-registration or Continuing Education course. This requirement includes the acquisition of a current publication of codes and/or standards or rules that may be applicable to the registrant's trade or specialty.

3.8.8 Educational Course Providers / Vendors

1. **Education Subcommittee:** The Board may form an Education Subcommittee which will review, assess, approve, or deny applications for educational course providers and instructors according to the general standards set forth in these standards and within the Board's and Subcommittee's discretion. The Subcommittee shall consist of at least three (3) Board members and will meet one hour prior to the regularly scheduled Board meeting or as necessary. The decision of the Subcommittee will be presented to the full Board at regularly scheduled Board meetings for final approval/denial of a provider, instructor, or related education issues. A current list of approved providers and courses will be maintained on the Contractors' Registration and Licensing Board's website; www.crb.ri.gov.

2. **Organizational Provider Application:** In order to become a Board or other third-party vendor approved course provider, the prospective provider must first submit an application to the Board, which may be reviewed by the Education Subcommittee and approved or denied by the Board. The application must include:
- a) Name of training provider;
 - b) Business identifying number (FEIN#);
 - c) Number of days / years in business;
 - d) Physical address;
 - e) Phone number;
 - f) E-mail address;
 - g) Type of instruction (on-line, instructor led or both);
 - h) Reference letter including referring organization's name and contact information;
 - i) Business resume (basic description of business, credentials qualifying the company or organization as a trainer);
 - j) Name of business principals;
 - k) Insurance coverage and policy number (must have at least \$1 million or more in liability coverage);
 - l) Signed affidavit that:
 - i. All instructors are qualified to teach the courses to be offered;
 - ii. Any facility where courses will be taught will be ADA compliant;
 - iii. Any facility where courses will be taught will be adequately lighted, heated/cooled, void of distractions as much as possible, be equipped with the teaching/learning equipment necessary to enhance learning (such as media projectors, TV/VCR, marker board and/or other safety equipment needed for instruction), have sufficient seating for attendees, and have easily accessible restrooms available for men and women;
 - iv. Each credit hour will be equivalent to 50 minutes;
 - v. Each instructor will be properly registered and/or licensed within his/her trade or otherwise properly qualified;
 - vi. The provider and/or instructor will provide each applicant/registrant/licensee with certificates of completion for each course and that each certificate will include the date of the course, number of credit hours completed, contact information of the provider and the instruction, any accreditation information, and signature of the instructor;
 - vii. The provider will retain copies of certificates issued to students for three years following completion of the course;
 - viii. All information collected from or provided by any applicant/registrant/licensee will be kept private and that the provider will not provide that information to any third party without the express approval and consent of the applicant/registrant/licensee;
 - ix. Provider will provide a list of successful applicants/registrants/licensees that have passed the course to the Board electronically;

- m) List and description of courses intended to offer, including relevance to the construction industry, how the course will evaluate/test the student and minimum/maximum class size;
 - n) List and amounts of any fees or costs that will be charged for the courses exclusive of books and materials;
 - o) Application fee of \$250.00 and an additional fee of \$100.00 for each credit hour submitted for approval. Approved courses shall be valid for five (5) years and must be resubmitted for approval upon their expiration.
3. **Individual Provider Application:** An individual instructor seeking to become a provider may also submit the same application as above as related to an individual. An individual provider must maintain at least \$1,000,000 in liability insurance coverage.
 4. **Approved Course Providers:** Upon approval by the Board, successful course provider applicants shall be assigned a unique identification number. In order to maintain status as an approved course provider, providers:
 - a) May be required to advertise courses as approved including course titles, total credit hours, cost of course(s);
 - b) May be required to enter information into a third party system for uniformity within a timeframe to be specified following students' completion of the course(s).
 5. Failure to comply with the terms and conditions prescribed within the application and affidavit may result in the revocation of provider's approved status.
 6. **Instructor Evaluations:** Instructors shall distribute course/instructor evaluation forms to each student at the completion of each course. Instructors shall follow up on legitimate complaints or suggestions for improvement. Such evaluation forms shall include a contact name and phone number at the Contractors' Registration and Licensing Board where complaints can be filed and shall be maintained by the Provider and made available to the Board on request for a period of three (3) years following the course completion date.

3.8.9 Exceptions to Education Requirements

The Board or its Executive Director may defer or waive some or all of the Preregistration or Continuing Education requirements in the event of a state of emergency declared by the Governor or for good cause shown by the applicant/registrant.

3.8.10 Violation for Operating as Non-Certified Provider

Any individual or organization who acts as a provider or instructor without being properly certified or who provides the Board with any falsified information or documentation may be prevented from obtaining future certification as a provider or instructor.

3.8.11 Penalties for Noncompliance

Any provider or instructor who violates these requirements or falsifies documentation may be subject to having their provider or instructor status revoked. A provider or instructor with a revoked status may petition the Board for reinstatement; such petition must be accompanied by a filing fee as determined by the Board.

DIVISION 4 CLAIMS

4.1 FILING OF CLAIMS

4.1.1 Prerequisites for Claims

Claims received by the Board regarding registered or unregistered contractor work performed on residential or residential portions of commercial structures and their appurtenances will be accepted by the Board. The Board will only accept claims where the claimant and respondent have a direct contractual relationship, employment relationship, or an assigned relationship. Claims will be accepted only for work performed within the boundaries of the State of Rhode Island or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Rhode Island. (For claims involving other licenses governed by the Board, refer to the corresponding rules and regulations for those licenses).

4.1.2 Claim Form and Filing Fee

Claims shall be submitted to the Board on a Statement of Claim form prescribed by the Board. The Statement of Claim must be accompanied by a \$25.00 filing/processing fee. The filing fee may not be refundable.

4.1.3 Claim Submission

When submitting a claim, claimants shall provide copies of supporting documentation, inclusive of, but not limited to:

- a) Written contract and agreements;
- b) Invoices;
- c) Billings;
- d) Estimates;
- e) Receipts;
- f) Cancelled checks;
- g) Court adjudication or binding arbitration information/judgments;
- h) Notices of counter claims by respondents.

4.1.4 Claim Filing Dates

A claim must be submitted within the timeframes set forth in R.I.G.L. § 5-65-12(c) (generally one year after work completed/ceased, contract date, failure to complete date, etc.). The time period may be extended to two years pursuant to R.I.G.L. § 5-65-12(f). Claims submitted to the Board shall be deemed to have been filed when a completed statement of claim form and applicable fee have been received by the Board, inclusive of electronic filings.

4.1.5 Review of Claim by Board

Upon timely receipt of the claim form and fee, the Board's staff will review the matter and determine if the claim is valid and falls within the criteria established by statute and these rules and regulations.

4.2 CLAIM TYPES AND BOARD REQUIREMENTS FOR ACCEPTABLE CLAIMS, PURSUANT TO R.I.G.L. § 5-65-11.

4.2.1 Homeowner for Negligent and Improper Work

A claim pertaining to a residential building or structure filed by an owner of a building or structure for negligent or improper work.

Requirements:

1. Prior to filing a claim with the Board, a claimant/owner should advise the registrant (or person required to be registered) in writing of the items of concern to the claimant/owner. The claimant/owner should submit to the Board written evidence sent to registrant identifying claimant's concerns and/or items to be corrected, which was provided to the registrant within the one year filing period. Failure to do so may result in the Board not processing the claim.
2. The Board will accept claims only against persons registered or required to be registered during the "work period." That is, the time that a contract, written or oral, was entered into until the time the work ceased or was substantially completed.

4.2.2 Homeowner for Breach of Contract:

A claim pertaining to a residential building or structure filed by an owner of a building or structure for breach of contract.

Requirements: Prior to filing a claim with the Board, a claimant/owner should advise the registrant (or person required to be registered) in writing of the items of concern to the claimant/owner. The claimant/owner should submit to the Board written evidence sent to registrant identifying claimant's concerns regarding breach of contract, which was provided to the registrant within the one year filing period. Failure to do so may result in the Board not processing the claim.

4.2.3 Homeowner When Mechanics Lien is Filed:

A claim filed by an owner against a registrant, when the owner is acting as a contractor, to discharge or to recoup funds expended in discharging a mechanics lien. A mechanics lien claim may not include excess interest paid as the result of the owner's inability to refinance at a lower interest rate due to the existence of the lien. *See* Section 4.4.3 - Processing of Mechanics Lien Claims.

Requirements: The claim form shall be accompanied by evidence that the claimant has paid the registrant, a copy of the notice of right to lien, a copy of the lien bearing the city or town recorder's stamp and signature, any foreclosure information, and all invoices, billings and other accountings used as a basis for the lien.

4.2.4 Contractor Against a Subcontractor:

A claim by a registered/licensed contractor against a registered/licensed subcontractor (or subcontractor required to be registered or licensed).

Requirements:

1. Contractors filing a claim must be registered pursuant to R.I.G.L. Chapter 5-65. The claimant must have been registered at the time the bid was made or the contract was entered into and continuously throughout the work period before the claim will be accepted.

2. The subcontractor against whom the claim is filed will be considered registered or licensed under the Board's authority if that person was registered or licensed during all or part of the work period.
3. The registration requirement for claimants does not apply to persons who are exempt from registration under R.I.G.L. § 5-65-2(7).

4.2.5 Subcontractor Against a Contractor:

A claim filed by a subcontractor registered/licensed under the Board's authority arising out of a contract between the subcontractor and a general contractor or other subcontractor for unpaid labor and/or materials furnished under the contract.

Requirements:

1. Subcontractors filing a claim must be registered pursuant to R.I.G.L. Chapter 5-65 or licensed under the Board's authority. The claimant must have been registered or licensed under the Board's authority at the time the bid was made or the contract was entered into and continuously throughout the work period before the claim will be accepted.
2. The contractor against whom the claim is filed will be considered registered if that person was registered during all or part of the work period.
3. The registration requirement for claimants does not apply to persons who are exempt from registration under R.I.G.L. § 5-65-2(7).
4. Subcontractor claims must be accompanied by copies of each original invoice relating to the claim and a recapitulation showing the date, number, amount, and description for each invoice submitted.

4.2.6 Employee for Unpaid Wages:

A claim for unpaid wages, filed by an employee employed by a registrant to perform work.

Requirements:

1. The person against whom the claim is filed will be considered registered if that person was registered during all or part of the work period.
2. The employee must file with the claim evidence to support allegations of non-payment, including payroll records, time cards or other evidence of time worked from a registered contractor.
3. An employee claim against a non-registered contractor will not be accepted.
4. The "employee" claimant is exempt from the registration requirement in accordance with R.I.G.L. § 5-65-2(7).

4.2.7 Soil, Asphalt, or Concrete Testing

A claim for unpaid labor or materials supplied in conjunction with a particular structure, for soil, asphalt, or concrete testing filed by a registered contractor or subcontractor.

Requirements:

1. Claimants filing a claim must be registered pursuant to R.I.G.L. Chapter 5-65. The claimant must have been registered at the time the bid was made or the contract was entered into and continuously throughout the work period before the claim will be accepted. That is, the time that a contract, written or oral, was entered into until the work ceased or was substantially completed.

2. The contractor against whom the claim is filed will be considered registered if that person was registered during all or part of the work period or if any invoices or payroll records involve material deliveries or equipment rentals while that person was registered.
3. The registration requirement for claimants does not apply to persons who are exempt from registration under R.I.G.L. § 5-65-2(7).
4. Damages assessed will be considered only for those items delivered or rented during the period of registration.

4.2.8 Material and/or Equipment Supplier:

Filed by a registered supplier who has not been paid for materials sold to a registrant to be used and installed in a specific structure located within the boundaries of the State of Rhode Island, or for the rental of equipment to a registrant to be used in the performance of the work of a registrant in connection with such a structure. A claim may not be made for nonpayment for tools sold to a registrant, for equipment sold to a registrant and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

The “date the registrant incurred the indebtedness” under R.I.G.L. § 5-65-12(c)(6) means the date of delivery of materials or the date the purchaser takes possession of the materials. If the delivery date is unknown, the date of the invoice applies, except that in the case of special or custom ordered materials the date of order constitutes the date of indebtedness.

Requirements:

1. Registrant filing a claim must be registered pursuant to R.I.G.L. Chapter 5-65. The claimant must have been registered at the time the bid was made or the contract was entered into and continuously throughout the work period before the claim will be accepted.
2. The contractor against whom the claim is filed will be considered registered if that person was registered during all or part of the work period or if any invoices or payroll records involve material deliveries or equipment rentals while that person was registered.
3. The registration requirement for claimants does not apply to persons who are exempt from registration under R.I.G.L. § 5-65-2(7).
4. Material claims must be accompanied by recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, and each invoice amount.
5. Damages assessed will be considered only for those items delivered or rented during the period of registration.

4.2.9 Contract Disputes:

The Board may accept other claims regarding contract disputes.

4.3 THE BOARD’S RIGHT TO REFUSE AND/OR DISMISS CLAIMS

1. The Board may refuse to accept a claim if the facts and issues of the claim are substantially the same as those in a claim previously filed by the same claimant that was disposed, unless it regards a repair ordered by the Board, in which case the claimant has one year from the time of the repair is completed in which to file a statement of claim. The Board may also refuse to accept a claim for reasons set forth in R.I.G.L. § 5-65-12.
2. The Board may refuse to process a claim that involves a contract that is administered, reviewed, and inspected by a local, state, or federal agency when disbursement or

administration of the contract sum is contingent upon the approval of that agency.

3. The Board may refuse to process a claim or may close the claim file if the claimant fails to respond to the Board's written requests for information and documentation within the time period specified by the Board or if the claimant does not allow the Board staff access to the property for investigation purposes.
4. The Board may, under the authority of R.I.G.L. § 5-65-12(b)(1) and (4), discontinue processing a claim whenever it determines that the issues involved are more suited to adjudication by a court or that the same issues involved in the claim have been submitted by either party to court, arbitration, or other entity authorized by law to effect a resolution.
5. The Board may resume processing the claim if the claimant provides the Board a copy of the final judgment rendered by a court or other entity authorized by law to effect a resolution within 90 ninety days of entry of judgment. The Board may then act on the contractor's registration after providing notice and opportunity for a hearing, as long as the judgment rendered is for issues governed by the Board.
6. If at any time prior to the commencement of an administrative hearing the Board receives written documentation pursuant to R.I.G.L. § 5-65-12(a)(1) that either party has filed a civil action in a state court for determination (excepting a petition to enforce a lien pursuant to R.I.G.L. § 34-28-10), it may discontinue processing the claim. The Board may, however, take action on the registration and assess fines.
7. Whenever the Board determines that the value of the damages due to the claimant is less than that owed to the registrant under the terms of the contract, the Board may dismiss the claim; however, action may still be taken on registration and fines assessed.
8. If at any time during the processing of the claim the claimant accepts a valid promissory note from the registrant as settlement of the claim, the Board may dismiss the claim. The Board may consider that the claimant, by accepting a valid promissory note, has chosen another forum for resolution of the claim. Dismissal of the claim will be final and the claim will not be reopened.
9. If the parties refuse to sign a jury trial waiver at the administrative hearing, the hearing officer may proceed with disciplinary action on the registration or against a person required to be registered.
10. The Board may refuse to accept a claim if the facts and issues of the claim are the same as those in a claim previously filed and subsequently disposed.

4.4 PROCEDURES FOR PROCESSING CLAIMS

4.4.1 Processing Claims Generally

1. In determining the acceptability for a claim, the Board staff shall determine whether it falls within the parameters outlined in Rhode Island General Laws 5-65 as to scope, Board jurisdiction, and damages.
2. The Board staff will provide a copy of all claims filed to the person(s) against whom the claim is filed, and to legal counsel if an entry of appearance or representation has been provided to the Board.
3. The Board staff reserves the right to inspect the property subject to the claim. If the claimant refuses access, the Board may dismiss the claim.

4. The Board staff may request from the contractor information and documentation of testing, contracts, subcontractors, education courses, insurance, or other. The Board staff may request that the claimant provide information and documentation of third-party testing. If after third-party testing, the respondent is found at fault for the issue inspected/tested, the respondent must bear the costs of the third-party testing and repairs.
5. When an owner claim is received by the Board staff while the Board staff is processing a subcontractor claim involving the same property, both claims will be processed together, if feasible.
6. During the investigation, if the Board staff determines that a registrant, against whom a claim has been filed, has breached a contract or performed negligent work, the Board staff may recommend a resolution consistent with the terms of the contract or with generally accepted building and industry standards.
7. The Board staff may propose a settlement to resolve any claim during the investigative process. If the parties involved sign a settlement agreement put forth by the Board staff, the agreement shall be binding unless breached by either party. The Board may close the claim whenever:
 - a) The claimant notifies the Board that the terms of the settlement agreement have been fulfilled; or
 - b) The claimant fails to notify the Board in writing, and within thirty (30) days of the agreed upon completion date shown in the settlement, that the terms have not been fulfilled.
8. The Board reserves the right to escrow funds for either party and hold such funds until it is determined, to the Board's satisfaction, that there is a resolution to the claim in dispute. The Board may close the claim if the party(ies) refuse(s) to allow the Board to hold the money in escrow.
9. The claimant may proceed to the administrative hearing process and may seek monetary damages whenever:
 - a) The claim has not been disposed and/or dismissed during the investigative process;
 - b) The claimant or the person against whom the claim is filed does not agree with the settlement proposed by the Board staff;
 - c) The person against whom the claim is filed does not fulfill the terms of the settlement agreement through no fault of the claimant and the claimant notifies the Board in writing within thirty (30) days of the agreed upon completion date.
10. In the event that the claim is not resolved in the investigative stage, the claim may proceed to an administrative hearing pursuant to R.I.G.L. § 42-35-1 *et seq.* and Section 4.5.

4.4.2 Processing Contracts with Arbitration Agreements

If a claim is received which is based upon a contract that contains an agreement by the parties to arbitrate disputes arising out of the contract, the specific terms of the arbitration agreement supersede the Board's regulations. The Board will take the following action:

1. Inform the claimant that the Board will accept the claim for processing only if both parties agree to waive arbitration. The necessary waiver must be written, signed, and

received by the Board within 30 days (or within the time period specified in the contract for the commencement of arbitration, whichever is later) of the date the Board notifies the parties that a waiver is required. Such notice shall be made by mail.

2. If the Board receives no waiver from the claimant, the claim will be closed and will not be reopened.
3. If the contractor does not waive arbitration as set forth in the contract, the Board will allow the contractor the remaining time to commence arbitration. If the contractor fails to submit evidence to the Board that arbitration has been commenced within the 30 days or the time period specified by the contract (whichever is later), the Board will resume processing the claim.
4. If arbitration is commenced, the Board will discontinue processing the claim until the arbitration is completed. Once the arbitrator renders a decision, that decision shall be binding upon the participants. The parties may petition the Board, within 90 days after the arbitrator's decision is rendered, to take action on the contractor's registration and impose fines if warranted. Neither party can file a claim for damages with the Board after going through arbitration

4.4.3 Processing Mechanics Lien Claims

1. Upon acceptance of a mechanics lien claim, the Board shall send a copy of the claim to the contractor and shall initiate an investigation to determine the validity of the claim.
2. An investigation by the Board will include:
 - a) A determination of whether the claimant paid the contractor for work performed or materials supplied or equipment rented subject to Chapter 5-65 and whether the contractor failed to pay the subcontractor, or material or equipment supplier, thereby causing a lien to be filed against the claimant's property; and
 - b) A determination of whether the lienor filed the lien with the recording officer of the city or town; and
 - c) A determination that the party was properly notified and noticed pursuant to the mechanics lien law.
3. If the contractor contends that payment has been made to the lienor, either directly or by the return of goods constituting a credit to the registrant's account, the contractor may subpoena the lienor and pertinent records to any hearing held by the Board.
4. If at any time prior to the issuance of a final order the Board determines that the lien is unenforceable or invalid, the Board may proceed with the determination of the mechanic's lien claim.
5. Claims may include attorney fees, court costs, interest and/or service charges if these items are included as part of the mechanic's lien or incurred as costs in discharging the lien. Awards to owners for costs in discharging the lien shall not exceed the amount of the lien.

The Board may reduce the amount awarded to the claimant by:

- a) Any amount the claimant owes the contractor; or
 - b) Any amount included for tools or equipment not fabricated into the structure.
6. If a claimant files two or more claims against a contractor relating to work performed

under the same contract(s) and if the claimant has not paid the contractor the full amount of the contract, the amount awarded on each claim will be reduced on a prorated basis. No proposed or final order shall be issued on any claim until all claims involving the two parties filed within the same 90 day period are ready for such order.

7. If the Board learns that an action to enforce a lien that is the subject of a claim has been filed, the Board may send notice to the claimant that:
 - a) The claimant has the right to request a stay of the proceedings until the Board processing of the claim is complete;
 - b) The Board will hold the claim open for 60 days from the date of the notice to allow the claimant to obtain a stay;
 - c) The Board will close the claim if evidence is not received within 60 days from the date of the notice that a stay has been obtained; and
 - d) Upon timely receipt of evidence that a stay has been obtained, the Board will resume processing the claim.
8. If a mechanics lien claim involves the same facts and issues as any other open claim, the Board shall process the claims together, if feasible.
9. If the Board awards monetary damages to the owner to discharge a lien, the Board may reduce the amount awarded related claims by the amount of the award in the mechanic lien claim.

4.5 ADMINISTRATIVE HEARINGS

Administrative hearings may be held before a hearing officer of the Board or a hearing officer appointed by the Executive Director. Such hearings are to be conducted according to R.I.G.L. § 42-35-1 *et seq.* and as delineated herein.

4.5.1 Notice of Hearing

1. Unless otherwise agreed to by the Board and the parties, the Board shall schedule hearings before an administrative hearing officer no sooner than 20 calendar days from the date the parties are notified of the hearing unless a postponement is requested by the parties pursuant to Section 4.5.2.
2. For the administrative hearing process, the Board will issue a notice of hearing, inclusive of the time, date, and location of the scheduled hearing and potential claims, disciplinary actions, and/or fines to be assessed against the respondent. At the hearing or on appeal, the hearing officer and/or Board may address and impose fines for additional violations or matters based on the evidence presented. If parties refute such additional violations, or wish to provide additional evidence to refute such violations, a continuance may be requested.
3. Notice of hearing will be sent to the last known address of the respondent, pursuant to R.I.G.L. § 5-65-6. For out-of-state contractors/respondents, notice may also be sent to contractor's agent of service.

4.5.2 Hearing Postponements

A postponement of a hearing may be granted at the request of a party if:

1. The request is promptly made after the party receives the notice of hearing; and

2. The party has just cause as stated in the request, for not attending the hearing at the time and date set. For the purposes of this section, just cause exists when:
 - a) The circumstances causing the request are beyond the reasonable control of the requesting party; and
 - b) Failure to grant the postponement would result in undue hardship to the requesting party.
3. The Executive Director or designee, upon receipt of documentation, within 24 hours, may postpone a hearing for just cause.
4. Hearings that are continued for just cause may be rescheduled by the Board within the 20 day hearing notice period and written notice may be waived in this instance.

4.5.3 Failure to Appear at Hearing

1. **Claimant Fails to Appear:** If the claimant, after being properly served notice of the hearing in accordance with these rules, fails to appear at a hearing, the Board will dismiss the claim, unless it finds that failure to appear was caused by circumstances outside the control of the claimant.
2. **Respondent/Registrant/Licensee Fails to Appear:** If the respondent, after being properly served notice of a hearing in accordance with these rules, fails to appear at a hearing, the Board will issue a proposed default order based upon the claimant's representation of a prima facie case, unless it finds that failure to appear was caused by circumstances outside the control of the respondent. At the discretion of the Executive Director, if cause is beyond the control of the respondent, a new administrative hearing may be scheduled, or the matter may be appealed to the Board within 20 days of issuance date of the proposed default order.

4.5.4 Board Representation by Officer or Employee

1. Board staff, investigators, and employees may appear on behalf of the Board in compliance hearings involving the possible imposition of civil penalties, and in other compliance and claim hearings on an individual case basis.
2. When Board officers or employees are representing the Board in a hearing, the presiding hearing officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver of the duty to make timely objections.
3. Where such objections may involve legal argument, the presiding hearing officer shall provide reasonable opportunity for Board officers or employees to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

4.5.5 Hearing Procedures

1. If both parties are present at the hearing, they will be asked to sign a jury trial waiver. If both parties sign the waiver, the hearing officer may award monetary damages if appropriate. If only the claimant is present and signs a jury trial waiver but the respondent fails to appear at the hearing, monetary damages may be awarded if appropriate. However, if claimant fails to sign the waiver at the hearing, no monetary damages may be awarded, with the exception that if a deposit is paid and no work performed, the hearing officer may order the deposit returned.

2. At the administrative hearing, the claimant:
 - a) Shall submit substantiating evidence to support the allegations of the claim;
 - b) Shall seek remedies for only those items shown on the statement of claim form;
 - c) May be required to submit an estimate for the cost of correction for the items shown on the statement of claim form. Estimates must be obtained from a licensed or registered contractor if work to be conducted requires a license or registration; multiple estimates are preferred;
 - d) Must prove that damages have occurred, that those damages have been caused by the licensee or a person required to be licensed, and the monetary value of those damages or breach of contract. If the claimant fails to carry this burden of proof, the Board may dismiss the claim.
3. At the administrative hearing, the respondent shall provide evidence refuting the allegations in the claim form.
4. Claimant or registrant may challenge and offer evidence to disprove or refute the Board's investigative report at an administrative hearing and provide experts to testify on their behalf.
5. Based upon evidence received at the hearing, the hearing officer will prepare findings of fact and conclusions of law and will issue a proposed order. The proposed order may order the registrant to pay monetary damages to the claimant, order the claimant to pay the contractor, send the contractor back to repair, or order a combination of monetary damages and repair work, or dismiss the claim, and/or impose fines for violations of Chapter 5-65 and the Rules and Regulations. The hearing officer may consider any amounts due and unpaid to the registrant from the claimant under the terms of the contract and may reduce any proposed award by that amount.
6. The hearing officer or the Board shall not issue an order for damages in an amount greater than the amount claimed due at the hearing, but may fine or award damages up to the value of the contract pursuant to R.I.G.L. § 5-65-10(c)(1). A monetary award may be determined by the contract balance or by repair work costs at the hearing officer's discretion. A monetary amount, where appropriate, may be awarded for attorney fees, interest, or other administrative costs pursuant to R.I.G.L. § 5-65-12(e).
7. The record of administrative hearings will include a tape or digital recording of the proceeding. Such recordings will be discarded once the claim has been disposed.
8. If the proposed order is not fulfilled, and no appeal or exceptions to the proposed order have been received by the Board within 20 days of the mailing of the proposed order (*see* Section 4.8 – Exceptions to Board Orders), a final order will issue and may reflect a monetary award, fines, or other remedies imposed by the hearing officer. The respondent has thirty (30) days to appeal a final order to Superior Court under Section 4.9 and in accord with R.I.G.L. § 42-35-1 *et seq.*

4.6 COURT JUDGMENTS

Pursuant to R.I.G.L. § 5-65-12(a)(2), court judgments may constitute the basis for regulatory action against the contractor's registration, which may result in the imposition of fines and penalties.

Upon receipt of a timely filed court judgment, the Board may issue a notice of hearing and schedule an administrative hearing (in accord with Section 4.5 or 5.4) in order to take action on the registration, utilizing the judgment as a the basis for such action.

A judgment is timely filed if a copy of the judgment is provided to the Board within 90 days of the entry of judgment.

4.7 BANKRUPTCY/RECEIVERSHIP

Pursuant to R.I.G.L. § 5-65-8(e), if a registrant files in bankruptcy court, the board must be notified in writing by the registrant and kept informed of the status of the case until dismissed, discharged, or resolved in court. The same notice must be provided if registrant enters into receivership. Notice of bankruptcy may stay agency proceedings until the bankruptcy case has been discharged, closed, or otherwise resolved or dismissed.

Fines Non-dischargeable: If a contractor files bankruptcy, civil fines imposed by the Board are non-dischargeable. The Board, at its discretion, may alter or reduce the amount of fines in efforts to resolve claims.

4.8 EXCEPTIONS TO BOARD ORDERS (“BOARD APPEALS”)

1. **Right to File Written Exceptions to Proposed Order:** Claimant or respondent may file written exceptions to a proposed order if he/she believes that the Hearing Officer has made a procedural error, that the proposed order is not supported by evidence received at the administrative hearing, or for other legal or procedural reason. The Board may also hear matters related to commercial contractors and those required to be licensed by the Board.
2. **Time Frame and Requirements for Filing Appeal Exceptions:** To be considered, exceptions to a proposed order must be written on the appropriate form provided by the Board, and must be received by the Board within 20 days of the date of mailing of the proposed order, accompanied by a non-refundable twenty dollar (\$20.00) processing fee.
 - a) If written exceptions are not timely received, or payment is not provided, the Board may issue a final order. Final orders may be appealed to Superior Court. *See* Section 4.9.
 - b) If exceptions are timely received, the matter will be set for consideration by the members of the full Board at the next regular meeting for which agenda space is available.
3. **Notice of Hearing:** Notice of the time, date, and place of hearing will be mailed to the parties along with copies of the exceptions that were filed. Response to and any written argument for or against the proposed order will be accepted up to the Board meeting date if the original exceptions were timely received.
4. **Attorney Entry of Appearance:** Claimant and respondent, and/or their attorney(s) may appear before the members of the full Board to argue for or against the proposed order. Attorney(s) must file entries of appearance with the Board prior to appearing before the Board. Oral argument will be permitted only if the original exceptions were timely received.
5. **Board Consideration of Exceptions:** At the meeting of the full Board, the Board will consider evidence received at the underlying hearing, the written exceptions, and written or oral argument for or against the proposed order, but the Board will not consider new or

additional evidence. Time allowed for oral argument before the members of the full Board may be limited to fifteen minutes for each side. The Board may also hear motions to vacate or other motions as long as relevant to Chapter 5-65.

6. **Decision of the Board:** The members of the Board may affirm the proposed order and findings of fact, modify either or both, remand the case for a new hearing or a hearing/clarification on specific matter, or dismiss the case. The Board will issue a final order after the meeting unless the matter is continued or the case is remanded for a new hearing or for clarification of an issue. The Board may also revoke/suspend or take action on the registration and impose fines.
7. **Final Order of the Board:** After the Board has rendered its decision and a final order is issued, the Board will mail the final order to the parties at last known addresses and will serve a copy of the final order in hand on the respondent (and/or agent of service). The monetary award and/or civil penalty/fines assessed against the respondent in a final order is due and payable on the issuance date of the final order or as agreed to by the parties and the Board. The Board may initiate its own collection proceedings and actions as allowed by law. Interest may be assessed on the amount due in the final order according to state law.
8. **Administrative Appeal:** A party may appeal the final order of the Board to the Superior Court pursuant to the Administrative Procedures Act, R.I.G.L. § 42-35-1 et seq. and Section 4.9.

4.9 ADMINISTRATIVE APPEALS

Once a final order is issued by the Board, a party may appeal that final order pursuant to the Administrative Procedures Act, Chapter 42-35 of the General Laws. The complaint/appeal must be filed within thirty days after mailing notice of the final decision of the agency, or if a rehearing is requested, within thirty days after the decision thereof. *See* R.I.G.L. § 42-35-15(b).

The appealing party must request from the Board and pay for the underlying agency record within thirty days after the service of the complaint on the agency. *See* R.I.G.L. § 42-35-15(d). It is also the responsibility of the appellant to pay for and obtain any transcripts of hearings that may need to be included in the record.

4.10 CRIMINAL PENALTIES/PROSECUTION

If a respondent/registrant (or person required to be registered) fails to comply with a final order of the Board, and has not made efforts to appeal such final order, the Board may refer the case to the Office of the Attorney General to be criminally prosecuted pursuant to R.I.G.L. § 5-65-19.

DIVISION 5

CIVIL PENALTIES/VIOLATIONS

5.1 AUTHORITY AND SCOPE

The Board has the authority to assess and impose civil penalties for violations of R.I.G.L. §§ 5-65 and the corresponding Rules and Regulations. The Board has discretion to impose fines and civil penalties for violations of the General Laws and Sections of the Rules and Regulations as follows:

First Offense:	up to \$5,000
Second Offense:	up to \$10,000

The Board also has discretion to adjust fines in order to resolve violations and claims, and pursuant to R.I.G.L. § 5-65-10(k) (1) may put a lien on property held by a contractor. Fines for other registrations or licenses governed by the Board are set forth in the relevant Rules and Regulations for each discipline.

5.2 CONSIDERATIONS FOR ASSESSING FINES

In determining the amount of any penalty or fine to be assessed, the Board may consider factors including, but not limited to, the following:

- a) The circumstances leading to or causing the violation;
- b) The severity of the violation and the risk of harm to the claimant and/or public;
- c) The Board's record of the respondent/registrant, or person required to be registered (including prior claims and violations);
- d) Whether the amount imposed will be a substantial economic deterrent to the violator;
- e) The economic benefits gained by the violator as a result of non-compliance;
- f) The interest of the public;
- g) Willfulness of the violation; and
- h) The extent to which the respondent/registrant has sought to compensate the victim(s) of the violation(s) and/or ameliorate the issue.

5.3 SCHEDULE OF FINES

The Board may assess fines according to the following schedule:

5.3.1 Non-Registered Contractor

A person unregistered or working with a revoked, suspended, invalid, or not valid registration, in violation of R.I.G.L. § 5-65-3:

Residential:	First Offense:	\$250 to \$5,000
	Second Offense:	\$500 to \$10,000
	Any Subsequent Offenses:	Maximum fines may be imposed
Commercial:	First Offense:	\$1,000 to \$5,000
	Second Offense:	\$2,500 to \$10,000
	Any Subsequent Offenses:	Maximum fines may be imposed

The Board may take previous violations of this section into consideration in determining the amount of the fine. If the work performed by a non-registered contractor results in the filing of a

claim by a claimant for damages, and the non-registered contractor makes reasonable attempts to resolve the claim, the Board may also take this into consideration when assessing the fines.

5.3.2 Hiring Non-Registered Subcontractor

Hiring a non-registered subcontractor in violation of R.I.G.L. § 5-65-3(j) (the Board may take into consideration the number of unregistered subcontractors hired):

Residential:	First Offense:	\$500 - \$5,000
	Second Offense:	\$1,000 - \$10,000
	Any Subsequent Offenses:	Maximum fines may be imposed
Commercial:	First Offense:	\$1,000 – \$5,000
	Second Offense:	\$2,500 - \$10,000
	Any Subsequent Offenses:	Maximum fines may be imposed

5.3.3 Failure to Provide List of Registration or License Numbers

Failure to provide list of registration or license numbers of contractors or subcontractors in violation of R.I.G.L. § 5-65-3(h):

Per Offense: \$25

5.3.4 Advertising Violations

1. The fines for advertising or submitting a bid to do work as a contractor/subcontractor (residential or commercial) when not licensed in violation of R.I.G.L. § 5-65.2-3 will result in the same fines as a non-registered contractor as above (Section 5.3.1). The Board may consider in assessing such a fine whether the respondent subsequently registers with the Board, withdraws the bid or advertisement, or does not perform work.
2. Failure of a registered contractor to include registration number in any form of advertising (electronic, print, business cards, vehicles, radio, television, contracts, invoices, proposals, etc.) in violation of R.I.G.L. §§ 5-65-3(1) and 5-65-22:

First Offense:	\$100 - \$500
Second Offense:	\$250 - \$1,000
Any Subsequent Offenses:	Maximum fines up to \$5,000 may be imposed.
3. Any use of the word “license” instead of “registration” by a registered contractor (or a person required to be registered) in any form of advertising:

Per offense: \$100

5.3.5 Failure to List Business Names/ Fictitious Names

A certificate of registration is necessary for each “business entity” regardless of the fact that each entity may be owned by the same individual. Failure to list with the Board any and all business names or fictitious names under which business as a contractor or subcontractor is conducted (if the entity is not registered, fines for non-registered contractor above in Section 5.3.1 will be imposed):

First Offense:	\$500
Second Offense:	\$1,000
Subsequent Offenses:	\$2,000

5.3.6 Lapse or Revocation of Corporate Status

Any lapse in or revocation of a corporation, limited liability company, limited partnership, joint venture, or trust with the Rhode Island Secretary of State's Office:

Per Offense: \$5,000 per day.

The Board may also immediately invalidate the registration without an administrative hearing.

If the registrant expeditiously corrects the matter and provides proof to the Board of the certificate's reinstatement by the Secretary of State, and provides proof that no claims or issues occurred during the period of lapse or revocation, the fines may be reduced

First Offense: \$250

Second Offense: \$500

5.3.7 Fraudulent Use of Registration

1. Any person or contractor, registered or not, who uses another person's registration/license or registration identification card, who alters a registration card, or allows another person to use his/her contractor's registration fraudulently in any way, in violation of R.I.G.L. § 5-65-10(h):

Per Offense: \$2,500 - \$10,000

2. No person shall register as a contractor with the Board for the purpose of deceiving or circumventing the registration process by enabling a person whose registration has been suspended or revoked to conduct business in violation of R.I.G.L. § 5-65-10(l):

Per Offense: \$2,500 - \$10,000 (may also result in revocation of registration)

5.3.8 Failure to Maintain Insurance

1. If the registrant fails to maintain the insurance required by R.I.G.L. § 5-65-7 and § 5-65-7.1 continuously until the certificate of registration is terminated, revoked, or expired, and during that period causes damage to another entity or to the property of another person for which that entity could have been compensated by an insurance company had the required insurance been in effect, the Board may assess a civil penalty against the registrant in an amount up to \$5,000.00 in addition to such other action as may be taken under Chapter 5-65.

2. Fines will be imposed if the Board receives notice from the registrant's insurance company of the insurance policy's cancellation, lapse, or non-renewal:

First Offense: \$100

Second Offense: \$200

Third Offense: \$500

Subsequent Offenses: Maximum fines up to \$5,000 may be imposed.

3. Registrants with lapsed or no insurance coverage will be considered non-registered contractors and may be subject to the penalties set forth above for non-registered contractors (Section 5.3.1). Registrant may not be fined if sufficient evidence is provided to the Board that timely payment to the insurance carrier was received, that a new policy was obtained, that no lapse occurred, or that the registrant intends to surrender the registration permanently. If a surrendered registration is reinstated, any insurance penalties that were previously issued will remain outstanding. If no such proof of coverage or change of policy is received by the Board within thirty (30) days of the

notice from the insurance carrier to the Board of the policy's cancellation, lapse, or non-renewal, fines will be imposed.

5.3.9 Falsified Documents

Falsifying any documents, inclusive of affidavit, may be punishable with fines up to \$5,000.

5.3.10 Failure to Complete Education Courses

Failing to complete education courses as required by Section 3.8 of these Rules and Regulations, while continuing to perform work as a contractor, may result in suspension of registration with an opportunity for a hearing and a fine:

First Offense:	\$500 - \$5,000
Second Offense:	\$1,000 - \$10,000

5.3.11 Claims/Fine up to Value of Contract

In addition to monetary awards and other remedies, the Board has the discretion to impose fines in the amount up to the value of the contract or the value of the actual damages, pursuant to R.I.G.L. § 5-65-10(c)(2). Such fines may be reduced at the Board's discretion upon completion of work or other fulfillment of the Board's order.

5.4 BOARD PROCEDURE FOR ISSUING/PROCESSING VIOLATIONS

1. **Basis for Issuing Violations/Fines:** The Board may issue violations and impose fines against registered and non-registered contractors based on, but not limited to, the following:
 - a) Court judgment;
 - b) Claims;
 - c) Disciplinary action;
 - d) Insurance liability / no workers' compensation;
 - e) Improper advertising;
 - f) Hiring non-registered contractor(s) or subcontractor(s);
 - g) No registration number on contract;
 - h) No registration number in advertisement;
 - i) No mechanics' lien release form/notice provided or in contract;
 - j) No right of rescission clause;
 - k) Action filed by other entity such as building official, other agency, city, town, etc.;
 - l) No employee(s) listed;
 - m) Violation of State Building Code;
 - n) Violation of Rule, Regulation or Order of the Board;
 - o) Working under an Invalid, Revoked, or Suspended Registration;
 - p) Registrant engaged in conduct dishonest or fraudulent conduct;
 - q) Working under another person's registration number;
 - r) Lien filed whereby registrant or applicant wrongfully failed to perform a contractual duty to pay person claiming lien;
 - s) Registrant made false statements on application or to investigative staff;
 - t) Engaged in any act, conduct, or practice which violates this chapter;

- u) Failure to provide list of sub-contractors or employees;
 - v) Failure to comply with the affidavit requirements;
 - w) Failure to comply with the educational requirements.
2. **Tickets/Violations:** Investigative and Board staff members may also issue tickets in the field to registrants, or persons required to be registered, for violations of Chapter 5-65 and these Rules and Regulations. A respondent may request a hearing for tickets and violations. Tickets and violations will be heard in the same manner as set forth below in Section 5.4(3)-(.).
 3. **Notice of Intent to Assess Civil Penalty:** If the Board proposes to assess a civil penalty for a ticket/violation, it shall issue to the respondent a “Notice of Intent to Assess a Civil Penalty and Opportunity for Hearing – Proposed Order.”
 4. **Time Frame for Requesting Hearing:** The respondent must request a hearing in writing to the Board within 20 days of the date of mailing or issuance of Notice of Intent to Assess Civil Penalty.
 - a) If the Board does not receive a written request for an administrative hearing within 20 days of the date of mailing the Notice of Intent to Assess a Civil Penalty and Opportunity for Hearing – Proposed Order, the Board will issue a final order. Final orders may be appealed to the Board in the same manner as set forth in Section 4.8.
 - b) If the Board timely receives a written request for a hearing, the Board will set an administrative hearing to determine whether the respondent has violated any provision of Chapters 5-65 or these Rules and Regulations, and if so, an estimated or potential amount of the civil penalties to be assessed.
 5. **Notice of Hearing:** A notice of administrative hearing shall contain the date, time, and location of the hearing, the violations to be heard, and the amount or potential amount of the civil penalties/violations proposed by the Board. At the hearing or on appeal, the hearing officer and/or Board may address and impose fines for additional violations or matters based on the evidence presented. If parties refute such additional violations, a continuance may be requested.
 6. **Administrative Hearing:** Administrative hearings may be held before a hearing officer of the Board or one assigned by the Executive Director.
 - a) If an attorney is representing a party, he/she must file an entry of appearance with the Board prior to hearing.
 - b) Supporting evidence of a violation may be entered into the record by the hearing officer, or by another representative of the Board.
 - c) If respondent fails to appear at the hearing, the Board must nevertheless present a prima facie case of the violation.
 - d) The respondent may present evidence to refute the allegations.
 7. **Proposed Order:** Based on evidence received at the hearing, the hearing officer will prepare findings of fact and conclusions of law. After the hearing, the hearing officer will issue a proposed order assessing civil penalties/fines, requiring other disciplinary measures, or dismissing the matter. Proposed orders are mailed to the respondent’s last known address on file with the Board pursuant to R.I.G.L. § 5-65-6.
 8. **Exceptions to Proposed Order/ Time Frame to File:** If the respondent does not believe

the proposed order is supported by the evidence received at the hearing, the respondent may file written exceptions with the Board on the proper form and accompanied by a twenty dollar (\$20.00) fee within 20 days of the date of mailing of the proposed order.

- a) If written exceptions are not timely received, the Board may issue a final order as proposed. Final orders may be appealed to Superior Court under Section 4.9 and in accord with R.I.G.L. § 42-35-1 *et seq.*
 - b) If exceptions are timely received, the matter will be set for consideration by the members of the full Board at the next regularly scheduled meeting for which agenda space is available.
 - c) Attorney representing the respondent must submit an entry of appearance with the Board prior to the hearing before the Board.
 - d) Written argument in opposition to the proposed order will be accepted before the Board meeting date if the original exceptions were timely filed and proper fee was paid.
9. **Board Consideration of Exceptions:** At the Board meeting, members of the full Board will consider evidence received at the underlying hearing, timely filed exceptions, and written and/or oral argument relative to the proposed order. Time allowed for oral argument may be limited to fifteen minutes. The Board will not consider new or additional evidence. The Board may allow the Board staff investigator to report on his/her investigative findings. After consideration of evidence and argument, the Board may affirm the proposed order and findings of fact, modify either or both, dismiss the case, or remand the case for a new hearing or hearing on a particular item. The Board will issue a final order after the Board meeting unless the case is remanded for a new hearing. If a registered contractor has outstanding violations with the Board, the Board may take action on the registration, including the suspension, invalidation, or revocation of the registration.
10. **Final Order of the Board:** After the Board has rendered its decision and a final order is issued, the Board will mail the final order to the parties at last known addresses and will serve a copy of the final order in hand on the respondent and/or the respondent's agent of service. The civil penalty/fine assessed against the respondent in a final order is due and payable on the issuance date of the final order or as agreed to by the parties and the Board. The Board may initiate its own collection proceedings and actions as allowed by law. Interest may be assessed on the amount due in the final order according to state law.
11. **Action on Registration/ Criminal Prosecution:** The Board may revoke or suspend the license of any respondent/contractor that fails to pay on demand a civil penalty/fine which has become due and payable. The Board may also refer a respondent to the Office of the Attorney General for criminal prosecution if the respondent has failed to comply with a final order of the Board, pursuant to R.I.G.L. § 5-65-19.
12. **Administrative Appeal:** A party has the right to appeal the final order of the Board to Superior Court under the Administrative Procedures Act, R.I.G.L. § 42-35-1 *et seq.* and Section 4.9.

DIVISION 6

CONSTRUCTION STANDARDS

APPLICABLE TIME LIMITS

The Rhode Island Contractors' Registration and Licensing Board and the Board staff, under normal conditions, will inspect for Performance Standards and code violations during the time limits set forth by R.I.G.L. § 5-65-12. Contractor responsibility does not extend to items which have been subject to owner neglect, modifications, or abnormal use.

Defects in appliances, fixtures and heating/air conditioning equipment, properly installed by the contractor, shall be limited to the manufacturers' warranties. Nothing in this section creates a warranty or limits a warranty.

APPLICABLE BUILDING CODES

Building codes change from time to time, so for the purpose of these Performance Standards, the building codes governing the life safety, structural, mechanical, plumbing, electrical, fuel, gas, and energy requirements for new construction or alterations that were adopted and in effect at the time of the completed work, must be used to determine compliance. Inspection of specific components or systems by registered/licensed inspectors of the governmental authority having jurisdiction will provide evidence of presumed compliance.

PERFORMANCE STANDARDS

The Performance Standards are intended to specify the minimum performance standards for construction or alterations of residential structures. Common defects and problems are addressed in this section however it is impossible to list every potential issue. Other defects or problems which are not specifically mentioned in this section may still be considered by the Board. In such cases, the Board shall rely on generally accepted practices or industry standards to determine if a deficiency exists and what remedies shall be implemented to correct any identified defects or problems.

SECTION 1 Grading, Ground Removal, Gravel & Fill

Background:

It is the intention of this standard to assist in obtaining a uniform acceptable understanding of grading and related problems. The standard is not meant to supersede or substitute for other restrictions placed by agencies or communities. It is for this reason no mention is made as to FHA requirements or disputes that may arise as a result of similar agencies. Such agencies have written manuals or means of arbitrating such disputes.

Because this phase of construction dealing with the movement of earth is so broad and ambiguous, and since each site is unique unto itself and subject to the most diverse contractual relationships, it is thus necessary to establish certain “ground rules” or definitions for phases of work.

If finished grading or landscaping is not included in the building contract, it is of absolute necessity the owner promptly follow through with his/her grading and landscaping responsibilities and maintain a positive slope away from the foundation, including refilling any settled backfilled and trenched areas. The lack of proper maintenance in this area may cause foundation failure that will not be covered by the builder.

Definitions:

Backfilling: To fill the exterior around a foundation or in a trench using a bulldozer or other necessary mechanical equipment utilizing only the ground which was available from such excavation or trench. The purpose of backfilling is to improve working conditions for further construction; attempt to protect the foundation from the elements such as frost, water etc., reduce the hazards inherent to open basements or foundations and get the process of ground settlement started which could take three or more years depending upon the type of soil. Builder is not responsible for settling after one year from project completion.

Excavation: To remove soil to the level and outline of the proposed footings in such a way as to permit material delivery for the mason or concrete formers to commence work. Excavated soil is normally cast (dropped on the property) around the foundation except where lot size, site conditions and/or elevation requires its removal. Trucking costs are the responsibility of the owner.

Finish Grading: Using mechanical equipment and the dirt on the site, the grader establishes the yard grade within two inches of final landscaped grade with respect to the building, walks, drive and adjoining properties. Depending on the terms of the contract this would ordinarily include the entire lot. This is normally contracted for by the owner and is the step just prior to landscaping.

Hauling (Trucking): Hauling away excess ground or supplying and hauling in required fill, unless otherwise specified in the contract, is the responsibility of the owners.

Landscaping: Using light machinery or hand labor the grader finishes establishment of final grade, sodding or seeding, and provides ornamental shrubbery, trees and other planting. This is normally contracted for by the owner.

Rough Grading: Using mechanical equipment, the grader provides drainage away from the foundation in such a way to indicate approximate grades at the building, walks, patios, and driveways. This is normally done on an allowance specified in the contract. Builder is not responsible for settling.

Site, Drainage and Erosion: Site drainage must comply with all applicable building codes and local jurisdiction. All sites must be prepared initially to prevent or reduce erosion from

excessive water runoff. All contractual agreements made between parties will take precedents over guidelines. Homeowner maintenance is required after the possession of site.

Common Defects or Problems:

- 1.1 **Settling of ground** around foundation, sewer or septic trenches, utility trenches and gravel-fill-in garage area after backfill operations

Performance Standard

Backfilled ground will settle. In fact, it is the intent to permit settling before further grading is done.

Builder Repair Responsibility

To the extent provided in the building contract, the builder is to perform the initial backfilling. Where the builder is not responsible by contract for finish grade or landscaping, the builder shall not be responsible for normal settling of backfilled or trenched areas. Settling of ground around foundations, walls, utility trenches, or other filled areas which exceeds a maximum of six inches from the finished grade established by the contractor, shall be repaired by the builder during the first year of occupancy or completion of construction.

Owner's Responsibility

Unless otherwise specified by contract, fill in such depression as they occur or as soon as possible to avoid other related problems.

- 1.2 **Wet Basement Walls** after backfilling due to insufficient slope away from the foundation when builder is responsible for backfill and/or rough grading only. "Wet" shall be defined as actual water running or trickling from, through or under the basement wall and onto the floor thus puddling or eventually finding the floor drain (should one exist). Dampness of the walls particularly at the upper two (2) and lower (1) foot are common to new construction and should not be construed as "wet."

Performance Standard

Wet walls are usually a result of sunken areas around the foundation if final grading has not been completed. The subsequent proper grading and landscaping should eliminate damp or wet basements.

Builder Repair Responsibility

Backfill in accordance to item 1.1.

- 1.3 **Wet Basement Walls** Due to Insufficient Slope and Drainage Away from Foundation when builder has contracted for finish grading.

a) **Performance Standard**

While some dampness is normal, walls should not be wet as defined in item 1.2 above.

b) **Builder Repair Responsibility**

If landscaping is owner's contractual responsibility and not completed within 30 days of finished grading, there is no builder responsibility. Otherwise, builder should correct slope as needed. Other costs incidental to such correction are borne by the builder.

c) **Owner Responsibility**

Fill in depressions, as they occur, due to settling. Direct downspouts and sump pump discharge from foundation and use extensions as needed. The owner's proper landscaping should eliminate a wet basement.

1.4 Improper drainage of the site

Performance Standard

The builder, to insure proper drainage away from the home, shall have established the necessary preliminary grades and swales. Standing or ponding water shall not remain for periods in excess of 48 hours in the immediate area after a rain, except that in swales which drain other areas, or in areas where sump pumps discharge, a longer period can be anticipated. Consideration must be given to the type of soil present and to the relationship to surrounding terrain. The possibility of standing water after an unusually heavy rainfall should be anticipated. No grading determination shall be made while there is frost or snow on the ground, or while the ground is saturated.

Builder Repair Responsibility

The builder will try to establish the proper grades and swales based on soil conditions, site, and weather conditions. The homeowner is responsible for maintaining such grades and swales once they have been established.

1.5 Soil Erosion Heavy rains will cause erosion where grass and sod has not had time to be permanently established. Additional landscaping by homeowner or his agent can change the topography of the site.

Performance Standard

The defects or problems can be determined by visual inspection or by additional information gathered during the site inspection.

Builder Repair Responsibility

Restore grade to its original finish as closely as possible. Repairs, if required by inspection, will be made no more than one time during first year.

SECTION 2 SITE DRAINAGE AND EROSION

Background

Site drainage must comply with all applicable building codes and local jurisdiction. All sites must be prepared initially to prevent or reduce erosion from excessive water runoff. Homeowner maintenance is required after possession of the site.

Common Defects or Problems:

- 2.1 Soil Erosion** during heavy rains will cause erosion where grass and sod has not had time to be permanently established. Additional landscaping by the homeowner or his agent can change the topography of site.

Performance Standard

The defects or problems can be determined by visual inspection or by additional information gathered at the site inspection.

Builder Repair Responsibility

None, the owner is responsible for maintaining such grades and swales once properly established by the contractor to prevent runoffs and erosion of the soil.

SECTION 3 MASONRY & CONCRETE STANDARDS

Background

Masonry and concrete work in residential construction provides the base structure upon which the house is built and a permanent fire-proof construction and weatherproof exterior. The work is performed with quarried natural materials or with products manufactured by relatively simple processes which have been selected for their wearing qualities. As such, they are subject to the same weathering phenomena as in their natural state, such as erosion, freezing and thawing, chipping, natural color variations and non-uniformity of size.

Masonry work can be performed with an almost infinite variety of materials, methods of application and techniques of installation. This permits the owner an almost infinite range of personal choice but at the same time, creating, once that choice has been made a situation that can never be exactly duplicated. Masonry, more than any other trade, is dependent upon the variation of the product and the techniques of the individual workman.

Masonry and concrete work consists of four primary divisions:

1. The construction of a basement which may be either cast-in-place (poured) concrete or concrete block masonry installed on footings.
2. The placing (pouring) of flat slab areas consisting of footings, basement and garage floors, stoops, patios, in-ground pool aprons, walks or drives.
3. The veneering of the exterior of some structures with brick, stone or other masonry products.
4. The construction of fireplaces and chimneys.

Concrete is subject to several natural changes. The first is shrinkage in the hardening process, which creates shrinkage cracks, the type most common in concrete work, especially in flat slabs. Shrinkage cracks themselves do not affect the integrity of the surface. Concrete is subject to the elements and is affected by certain chemicals. Pitting, scaling or spalling can develop under unusual conditions or when certain salt or chemicals are placed on a slab in winter for ice removal or drop from a car onto a garage slab and/or drive. A certain amount of surface dusting is normal. Proper owner maintenance can alleviate most of these situations. A sealer can be applied by the homeowner to the concrete to minimize dusting and spalling and effects from chemicals.

Cracking is characteristic of concrete and Cracks in concrete walls or mortar joints of block foundations generally do not affect the structural strength of the home. Cracks are caused by settling of the house, shrinkage of concrete, and expansion and contraction and may occur continually throughout the life of the house.

Settling is a natural phenomenon in the construction of a new home and concrete slabs are subject to the settling process. For this reason it is recommended that wherever possible, the construction of floating slabs, such as patios, walks and drives, be postponed until at least the end of the first year of occupancy or even longer so that a more stabilized soil condition will be available prior to actually doing the work.

Masonry and concrete work is also subject to color and texture variations due to the nature of the materials. Repairs, when made, seldom match in color and some variation is to be expected by the owner.

When selecting a veneer material, predominantly a matter of owner preference, many factors enter in, such as: the bond or pattern to be used for the brick or stone, the selection of the type of mortar joint (whether struck, raked or weeping pattern), the color of the mortar and the shading

variation from batch to batch, the shades of the material involved and their relative contrast with the mortar chosen, the choice of material size, standard or king size brick or the type of stone chosen, and, finally, the individual workmanship of the mason. All of these variables set up a distinctive situation within the masonry field.

Common Defects or Problems:

3.1 Leaks in Basement or Wet Basement

Performance Standard

No leaks or flow of water are acceptable, except when caused by an improper ground pitch away from the foundation (a proper pitch is 6" down for every 10' out from the foundation and must be maintained by the owner), or improper landscaping or subterranean problems where the responsibility is defined as the owner's by the building contract. Leaking conditions should not be confused with dampness or moisture, which can be expected by the owner during the first year of the settling process, or with condensation during the summer months. If the basement had an engineered waterproofing system on it, then the owner should refer to the manufacturer's warranty.

Builder Repair Responsibility

Builder should correct as required. After correction, any openings made in order to correct should be repaired. Color variations in repairs are to be expected.

3.2 Cracked Basement Walls

Performance Standard

Hairline cracks in mortar joints or cast-in-place concrete not exceeding 1/8" width or hairline cracks in a single isolated block not extending to any adjacent blocks, providing these cracks do not cause a leaking problem are acceptable. If the cracks are caused by an improper pitch away from the foundation or owner landscaping, it is the responsibility of the owner to repair.

Builder Repair Responsibility

Builder to repair any cracks in mortar joints or poured walls exceeding 1/8" width. Unless structural danger exists, repairs should be made approximately a year after occupancy to permit normal settling through the stabilization period. Broken blocks should be removed from the inside and refaced with a 4" block. Grout colors should be matched as closely as possible, but color variations should be expected by the owner. Exterior repairs will not be made except in the case of major structural damage.

3.3 Cracking of Basement Floors

Performance Standard

Shrinkage cracking is to be expected and requires no repair unless one or both of the following conditions exist:

- a. If vertical displacement is more than 1/4"
- b. If horizontal crack is more than 1/4"

Builder Repair Responsibility

Builder shall correct using latex filler, surface patching or other methods as required, grinding surfaces smooth in case of mismatch. Owner is cautioned repair may not match in color and a hairline crack may reappear.

3.4 Cracking of Garage Slab

Performance Standard

Cracks in garage slabs in excess of 1/8" in width or 1/8" in vertical displacement shall be repaired.

Builder Repair Responsibility

Builder will repair cracks exceeding maximum tolerances by surface patching or other methods as required. See repair method for #3.

3.5 Cracks in Patios, Pool Aprons, Walks and Driveways

Performance Standard

Except as may be otherwise covered by contract, no warranty against settling can be extended for floating slabs installed on soil. Patio slabs which are poured separately, and adjoin the house are excluded. Cracks in excess of 1/8" in width or 1/8" vertical displacement shall be repaired.

Builder Repair Responsibility

Builder is to repair to meet Performance Standard. If replacement of a section is required, the minimum section should be removed from the walk or driveway at the blind or open joint.

3.6 Pitting, Scaling or, Spalling and Chert pops of Concrete Work

Performance Standard

The aggregate in concrete work should not be exposed unless it is caused by a concentration of water, freezing and thawing, use of salt or other chemicals and mechanical implements, and other factors beyond the builder's control. Owner should consider applying concrete sealing compound.

Builder Repair Responsibility

Correct using a latex filler or grind to remove defect to meet acceptable tolerance. Owner is cautioned latex repair will not match in color.

3.7 Powdering or Chalking of Concrete Work

Performance Standard

Powdering or chalking may occur. Builder should advise owner to seal the surface with a concrete sealing compound.

Builder Repair Responsibility

None, however only if the surface is soft, other repairs may be required- these are rare and severe instances in which builder would then be required to correct.

3.8 Low Spots in Concrete Slabs, (except for stoops with foundations)

Performance Standard

No water pockets exceeding 1/4" depth shall exist in any slab within a 32" length which is pitched. Where a level slab has been requested by the owner or in basements, water pockets may appear.

Builder Repair Responsibility

Correct to meet performance standards by filling with a latex or equivalent filler or grind as necessary. Finished repair should be feathered and smoothed. Minor color variations are to be expected.

3.9 Cracking of Stoops with Foundations

Performance Standard

The effects of cracks or settling with inadequate drainage on stoops make acceptable tolerances much lower than for other slab forms. All cracks, except hairline cracks with no settling, require repair. Minor chips and cracks just beyond the acceptable tolerance should be corrected with latex filler and beyond that point when complicated by settling.

Builder Repair Responsibility

Correct to meet performance standard.

3.10 Water Standing on Stoops with Foundations

Performance Standard

No measurable water depth exceeding ¼” is permissible on stoops.

Builder Repair Responsibility

Correct to meet performance standards by filling with latex filler or grinding. If the defect becomes qualified under item #9 on stoops, it shall be replaced as stated in that item.

3.11 Settling, Heaving, or Separating of Stoops, Steps or Garage Floors

Performance Standard

Stoops, steps or garage floors shall not settle, heave or separate in excess of 1 inch (1”) from the structure.

Builder Repair Responsibility

Builder shall take whatever corrective action is required to meet the Performance Standard or the building code.

3.12 Basement Floor Does Not Pitch to Floor Drain

Performance Standard

Basement floors are only pitched in the immediate area of the floor drain, when drains are allowed by code. When there is to be a finished floor area around the drain, floors will not be pitched.

Builder Repair Responsibility

None, if the floor meets the Performance Standard or the building code.

3.13 Cracks in Mortar Joints of Brick or Other Masonry Veneer Walls

Performance Standard

Small hairline cracks due to shrinkage are common in mortar joints in masonry veneer construction as long as they do not exceed 1/8” in width.

Builder Repair Responsibility

Builder will repair cracks in excess of Performance Standards by pointing or patching. These repairs shall be made within the first year of the warranty period. Owner should note that there may be a color variation between old and new mortar.

3.14 Brick is Different Color than what was Selected or Colors Vary

Performance Standard

Due to the natural materials used to make brick, there will be color lot variations. Even within a lot, bricks may vary in color.

Builder Repair Responsibility

None

SECTION 4 CARPENTRY STANDARDS - ROUGH

(Rough Carpentry, Lumber & Trusses)

Background

Framing or rough carpentry provides the skeletal structure which includes fabrication of wood portions of the floor systems, exterior walls, interior partitions and roof which are built on and supported by the foundation.

The exterior wall framing is designed to support the vertical load from the floors and roof and to resist lateral loads resulting from winds. Interior partitions may or may not be load bearing. The roof is designed to support its own weight plus that of anticipated loads from snow, ice and wind. The framing is quality controlled by the building code and subject to building inspection when the entire framed structure can be viewed. Wood framing can be fabricated on or off a job site, or a combination of both. Even when most of the framing is done on site, there has been a trend to use pre-manufactured components, such as roof or floor trusses, in lieu of the more conventional joist and rafter construction.

As a natural product, wood will respond to humidity and temperature conditions and can cause shrinking, twisting or warping of the framing material. Some of these conditions can be controlled or minimized; others are due to the nature of wood itself. In single family construction, lumber type and grade, span, spacing and load bearing capacities are tightly controlled by code.

Common Defects or Problems:

4.1 Floors that Squeak

Performance Standard

Floor squeaks are common to new construction and a squeak-proof floor cannot be guaranteed. Isolated floor squeaks are not a deficiency. A large area of floor squeak which is noticeably loud is a deficiency.

Builder Repair Responsibility

Builder should try to minimize the floor squeaks and must correct if caused by a construction defect. It should be noted that a second floor repair would be surface nailing in carpeted areas and impossible in vinyl or ceramic areas.

4.2 Uneven or Unlevel Floors

Performance Standard

Floors shall not be more than ¼” out of plane or level in finish flooring areas or ½” out of plane in carpeted areas within any 32” measurement.

Builder Repair Responsibility

Builder’s repair must meet performance standard

4.3 Crowned Floor Joists

Performance Standard

Floors shall not be more than ¼” out of plane or level in finish flooring areas or ½” out of plane in carpeted areas within any 32” measurement when measured parallel to the joists.

Builder Repair Responsibility

Builder’s repair must meet performance standard.

4.4 Seams or Ridges Appear in the Resilient Flooring due to Subfloor Irregularities

Performance Standard

In the natural settling and shrinkage process, some mismatch of the subfloor may exhibit and mirror itself as ridges or depressions showing on the surface goods. This can be minimized by the customer in his selection of an embossed pattern in a darker color. In particular, lighter solid colors and/or smooth vinyl surfaces mirror any minor variations of the sub-surfaces to which they are applied and emphasize this ridging. If the ridge or depression effect exceeds 1/8" and cannot be corrected from below, the resilient floor must be corrected.

The ridge measurements should be made by centering a two foot (2') level at the top of the ridge and measuring the height of the ridge at one end of the level. The gap measurement should be made by centering a six inch (6") straight edge tightly on each side of the defective area and measuring the depth of the gap.

Builder Repair Responsibility

If ridges or gaps exceed the standard, builder to shall remove the sheet goods in the minimum area where the joint will not be readily visible when repaired, re-nail the subflooring, sand smooth and/or fill ridges or gaps and replace the sheet goods. Should the defect(s) affect more than 25% of the total area, the entire floor covering shall be removed, the sub-floor properly prepared and new material installed (at the discretion of the Board). Owner should note that there may be a mismatch in materials due to time or dye lot variations. If the material is unavailable due to discontinuation, unless the owner will accept a repair with as closely matching materials as is currently available or correction by some other means, builder should credit the owner 1 1/2" times the cost to repair if the material were available. This would be 1 1/2 times the minimum service charge, plus the additional hourly labor charge and the material cost needed to make the repair.

4.5 Bowed Walls

Performance Standard

All interior and exterior walls may have slight variances on their finished surfaces. Walls should not bow more than 1/4" out of line within any 48" horizontal or vertical measurement.

Builder Repair Responsibility

Builder's repair must meet performance standard.

4.6 Out of Plumb Walls

Performance Standard

Walls should not be more than 1/2" out of plumb for any 7' vertical measurement.

Builder Repair Responsibility

Builder's repair must meet performance standard.

4.7 Out of Plumb Windows or Windows do not operate

Performance Standard

Windows must operate with reasonable ease as designed.

Builder Repair Responsibility

Builder to repair to be operable.

4.8 Cracked or Broken Trusses

Performance Standard

Builder to contact truss manufacturer to make sure truss conforms to its engineering.

Builder Repair Responsibility

Builder to repair as per recommendation of truss manufacturer.

4.9 Bowed Ceilings

Performance Standard

All interior and exterior frame ceilings have slight variations on the finished surfaces. Bowing should not be visible so as to detract from the finished surface. Ceilings, which are bowed more than ½ inch within a 48” measurement running parallel with ceiling joist or truss, shall be excessive.

Builder Repair Responsibility

Builder’s repair must meet performance standard.

SECTION 5 ROOFING STANDARDS

Background

The purpose of roofing material is to form a weatherproof surface, which prevents water or snow from entering the structure. The materials used must be both waterproof and wind-resistant to afford effective protection of the dwelling. Both low-slope and steep-slope roofing materials shall be installed as per State of Rhode Island Building Code, manufacturers' specifications and industry standards for geographical area. The National Roofing Contractors Association (NRCA) roofing manuals should also be used as a guideline for industry standard on all low-slope and steep-slope roofing system installations.

Roofing materials have various life expectancies. Life expectancy is dependent upon building orientation to the sun and roof slope. The manufacturer provides a written warranty for each particular product, which delineates what is and is not covered. Although the sun is the major damaging force, wind and moisture also causes deterioration.

There are several types of steep-slope roofing materials used including asphalt shingles, fiberglass, wood, slate, metal and tile. The normal measurement of shingling material is the "square" which represents enough material to cover 100 square feet of roof area. Asphalt shingles, wood shakes, synthetic and natural slate, metal, tile roofs and other specialized roofing materials each have a specific method of installation recommended by the manufacturer and/or industry standards.

Shingle underlayment and ice barriers must be applied directly to roof boards, as per the building code. Exception: Where the existing roof assembly includes an ice barrier membrane that is adhered to the roof deck, the existing ice barrier membrane shall be permitted to remain in place and covered with an additional layer of ice barrier membrane in accordance with the applicable codes.

Roofs or flashing should not leak under normally anticipated conditions. However, occasionally leakage may result from severe weather conditions, such as ice buildup, high winds, or driving rain. Wind driven rain may also result in leaks unrelated to the roofing installation.

During extreme weather conditions, water may overflow the gutters. Homeowners should check gutters and downspouts regularly to prevent leaf, branch and debris build-up in fall and snow and ice dams in the winter, which can cause water to backup under the shingles and cause leaks. Storm damage to properly installed roofing is the owner's responsibility.

It must be noted that in the case of a repair to a roof, every effort must be made by the builder to match material and color as closely as possible. The homeowner however should expect color variations.

Common Defects or Problems:

5.1 Roof Leaks

Performance Standard

Roofs should not leak. See homeowner's maintenance responsibility below. The integrity of the roof is dependent upon the performance of many trades. Roof application, sheet metal work, siding application, masonry, carpentry and plumbing can all have an effect on the ultimate performance of the roof system.

Builder Repair Responsibility

When a leak appears, the builder should make an inspection to assure that the proper trade makes the repair, except when the leakage is a homeowner's maintenance responsibility.

Homeowner Maintenance Responsibility

Excessive ice or snow buildup with alternate freezing and thawing can create a condition causing leakage, which is a homeowner maintenance responsibility. Owner can correct this by preventing leaf and debris buildup in gutters and removal of excess snow and ice. In severe cases, a gutter heating cable may be considered. On some occasions, a driving rain with high wind velocity can produce a temporary leak. Owner can also contact the builder as to alternative suggestions on how to correct.

5.2 Chimney and other Roof Penetrations or Flashing Leaks

Performance Standard

Chimneys and other roof penetration flashings should not leak.

Builder Repair Responsibility

The builder is to check and repair chimney flashings. On particularly persistent and severe leaks, the builder may find it necessary to modify, or install a cricket or saddle between the roof and the chimney to divert roof water run-off from the chimney. A cricket or saddle shall be installed on the ridge side of any chimney or penetration more than 30 inches wide as measured perpendicular to the slope. Exception: Unit skylights installed as per building code. If the flashing is not the cause of the leak, owner is responsible to seal masonry or other cladding.

5.3 Shingles that Blow Off

Performance Standard

Shingles should not blow off during the contractor's warranty period except under severe storm conditions (winds greater than 55 mph) unless specified in the contract. It should be noted that asphalt shingles require a minimum surface temperature over a period of time as per manufacturer's specifications to affect the full seal. Manufacturer warranties may include enhanced wind speed protection and may also provide homeowner remedies provided contractor has installed shingles according to the manufacturer's instructions.

Shingles shall be installed over solidly sheathed decking and nails shall be of a length to penetrate through the roofing materials and deck per building code and manufacturer's installation instructions. Where the roof slope exceeds 21 units vertical in 12 units horizontal (21:12), shingles shall be installed as required by the manufacturer.

Builder Repair Responsibility

The builder is to repair shingles that have blown off if not due to winds in excess of storm conditions. In a repair situation, the owner is cautioned that a color mismatch in shingles may occur.

5.4 Damaged Shingles

Performance Standard

Damaged shingles must be replaced if reported to builder in writing prior to occupancy or during contractor's warranty period unless caused by misuse, abuse, severe storm damage or other acts of God.

Builder Repair Responsibility

Builder to repair and match shingles as closely as possible.

5.5 Standing Water on Low-slope Roofs

Performance Standard

Low slope roofs must be installed according to manufacturer's specifications and the building codes.

Builder Repair Responsibility

Builder to repair to manufacturer's specifications and building codes

5.6 Moss and Fungus Growth on Roof Coverings

Performance Standard

Under some conditions, moss and fungus tends to grow on roof coverings

Builder Repair Responsibility

None. Homeowners may wish to pursue remedies on the market that can be applied to roof coverings to prevent or retard these conditions.

5.7 Skylights that Leak

Performance Standard

Skylights should not leak.

Builder Repair Responsibility

Builder to repair accordingly to stop leaks. Care should be taken not to confuse condensation for leakage. Refer to Moisture Standards in Section 20.

5.8 Roof Vents that Leak.

Performance Standard

Under certain extreme conditions, vents may leak. Vents are a necessary and integral part of a building. Anything that lets air out can, under certain circumstance, could let snow or rain back in.

Builder Repair Responsibility

This may be a normal, temporary condition, which should require no repair. However, builder is required to install all roof vents as per building codes and manufacturer's specifications.

5.9 Ridges of Roof Decking Shows Through Roof

Performance Standard

If the ridge or depression effect on a steep-slope roof exceeds 3/8" and cannot be corrected from below, the ridge must be corrected. The ridge measurements should be made by measuring the gap created when a 6" straight edge is placed tightly 3" on one side of the defect and the gap measured between the roof and the straight edge of the other end. It should be noted that fiberglass reinforced shingles may magnify and mirror any unevenness of the roof decking below that may have not been evident with previous roof coverings.

Plywood or OSB sheathing panels should be installed with 1/8" minimum gaps at panel edges or as specified by manufacturer to allow for expansion of the panels and fastened

as per the building code. Ridging gaps less than 3/8” may also be deemed deficient if the sheathing was improperly installed.

Exception: Non-ventilated and ventilated nail-base insulation boards may experience ridging issues even when installed according to manufacturer’s specifications. In some instances, additional ventilation and other moisture control modifications may be necessary and is the responsibility of the designer.

Builder Repair Responsibility

Builder to meet Performance Standard

5.10 Existing Plank Decking is Unsuitable for Installation of New Roof Covering when Re-roofing

Performance Standard

Wood plank decks wider than 6” should be overlaid with a minimum 15/32” thick plywood or oriented strand board (OSB) unless shingle manufacturer recommends greater. End joints of each adjacent piece of overlaid decking should be staggered and centered over the supporting structural members and fastened with minimum 8d ring shank nails spaced in a sufficient manner. In some instances, plank decks wider than 6” may be modified to create an acceptable deck, but only if manufacturer’s specifications are followed and existing plank deck provides a suitable and continuous nailing surface.

Builder Repair Responsibility

Builder to meet Performance Standard

5.11 Any Other Flashings, Valleys or Roofing Leaks

Performance Standard

Flashings, valleys and roofing should not leak

Builder Repair Responsibility

Builder to repair to meet Performance Standard

5.12 Low-slope Roofs, Flashing or Perimeter Edge Leaks

Performance Standard

Low slope roofs, flashings and perimeter edges should not leak

Builder Repair Responsibility

Builder to repair to meet Performance Standards. Low-slope roofs shall be installed as per building code, manufacturer’s specifications and industry standards.

5.13 Gutters and Downspouts Leak or Water Drains Behind Gutter

Performance Standard

Gutters and downspouts should not leak. It shall be the owner’s responsibility to keep gutters and downspouts free of leaves and debris which could cause excessive overflow. Gutter aprons shall be installed where necessary to prevent rainwater from running behind gutter.

Builder Repair Responsibility

Builder to repair so gutters and downspouts do not leak and water runs into gutter, not behind gutter.

5.14 Water Stands in Gutters or Water Overflows Gutters

Performance Standard

Whenever possible, gutters should be installed to accommodate proper drainage. In general, gutters should be sloped about 1 vertical inch for every 15 to 20 horizontal feet (1/16" per foot) so they drain properly. In some instances however, standing water may exist but should not be in excess of 1" depth in any gutter section after the rain ceases when unobstructed by debris. Gutters and downspouts shall be installed to industry standards including, but not limited to; roof slope, gutter size, downspout locations, size and quantity. Note: The current addition of the Sheet Metal and Air Conditioning Contractors National Association (SMACNA) Architectural Sheet Metal Manual should be consulted for gutter and downspout sizing and design.

Builder Repair Responsibility

Builder shall correct when water level is in excess of one inch (1") in depth, or when gutters and/or downspouts were improperly sized, installed and/or sloped.

5.15 Improper Installation of Copper, Aluminum and Similar Materials Used for Roofing Systems and Flashings

Performance Standard

When applicable, manufacturer's standards and installation requirements shall be followed. Installation of copper and similar products shall also follow standards and details as outlined in the Copper Development Association's (CDA) Copper in Architecture Manual and Copper & Copper Sense by Revere Copper Products.

Builder Repair Responsibility

Metal roofing systems shall be installed as per building code, manufacturer's instructions and industry standards.

SECTION 6 SIDING & TRIM STANDARDS

Background

There are numerous types of siding and trim products available. Wood products, composites, aluminum and vinyl are the most prevalent types being used. Each product is different and has its own inherent characteristics.

Common Defects or Problems:

6.1 Aluminum Siding / Trim Buckles or Ripples

Performance Standard

This problem may be inherent due to the shrinkage of the wood underneath. Siding should not be ¼” out of plane in an 8’ length. This can be measured by laying an 8’ straight edge at the highest point of the buckle. Highly visible buckles or ripples considered to be excessive by the Board are considered to be a defect.

Builder Repair Responsibility

Builder to repair to meet Performance Standard

6.2 Dents, Chips, or Scratches on the Aluminum / Vinyl Siding / Trim

Performance Standard

Dents, chips or scratches shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Builder to repair within one year of initial occupancy or day of completion. It should be noted that the repaired area may not match in color and/or textures.

6.3 Siding Comes Loose

Performance Standard

Siding should not come loose

Builder Repair Responsibility

Builder to refasten

6.4 Caulking Cracks

Performance Standard

All types of caulk can dry out. Builder is to remove old caulk and replace with new caulk at cracked areas one time during first year where cracks exceed ¼”. After the one repair, caulking becomes an owner maintenance responsibility. Caulking is an owner’s maintenance responsibility after one repair.

Builder Repair Responsibility

Builder to repair to Performance Standard one time during the first year

6.5 Fading of Aluminum or Vinyl Siding

Performance Standard

Aluminum and vinyl siding will fade.

Builder Repair Responsibility

None, other than those included in the manufacturers' warranty

6.6 Wood Shrinks, Cracks, Twists, Bows and Knots Fall Out

Performance Standard

Due to the inherent characteristics of wood, all of the above may happen. Obvious defects shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Builder will address knotholes one time and any gaps in excess of 1/4" shall be caulked. After this period it is the homeowner's maintenance responsibility.

6.7 Wood Siding Splits where Nail Penetrates Siding

Performance Standard

If noted in writing to builder within thirty days after completion of construction if a pre-occupancy inspection was not conducted. Builder to replace piece and stain/paint if staining/painting was builder's responsibility.

Builder Repair Responsibility

Builder to repair in accordance with Performance Standard

6.8 Lap on Wood Beveled Siding

Performance Standard

Lap shall be no less than 3/4" prior to shrinkage.

Builder Repair Responsibility

Repair to meet Performance Standard.

6.9 Delaminating of Veneer Siding

Performance Standard

All siding should be installed according to manufacturers and industry accepted standards. Delaminating shall be repaired or replaced. If owner is responsible for staining or painting of exterior surfaces and does not do it, builder is not responsible for delaminating.

Builder Repair Responsibility

Builder will repair or replace the siding as needed unless it is caused by the homeowner's neglect to maintain the siding properly. Repaired area may not match in color and/or texture. For surfaces requiring paint, the builder will paint/stain only the new materials if the builder was responsible for exterior painting or staining. The homeowner can expect that the newly painted surfaces may not match the original surface in color.

6.10 Paint Peels or Fades on Wood Siding

Performance Standard

Exterior paints or stains should not fail during the first year warranty. However, fading is normal and the degree is dependent on climatic conditions.

Builder Repair Responsibility

If the paint or stain peels and the builder is responsible for painting/staining, the builder will properly prepare and refinish the affected areas, matching color as close closely as possible. Where finish deterioration affects more than 25% of the area, the whole area will be refinished. The builder shall repaint/re-stain in accordance with standards of good workmanship, but no warranty will be extended on the newly repainted/re-stained surfaces.

6.11 Cracks in Exterior Stucco Wall Surfaces

Performance Standard

Cracks are not unusual in exterior stucco wall surfaces.

Builder Repair Responsibility

Builder will repair cracks exceeding 1/8" in width or where causing water damage and match color as close as possible. Builder is responsible for water intrusion for 12 months.

SECTION 7 WINDOW STANDARDS

Background

Some air infiltration around windows does occur, but should not be excessive. Homeowners are cautioned not to use razor blades when cleaning windows.

Common Defects or Problems:

7.1 Scratches, Cracks, or Breakage of Glass Not Caused by Vandalism

Performance Standard

Any defects with glazing shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Builder is to repair only if noted in writing prior to occupancy.

7.2 Holes in Screens Not Caused by Vandalism

Performance Standard

Any identified damages to screens shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Builder to repair only if noted in writing prior to occupancy.

7.3 Window Check Rails are Not Even or Flush

Performance Standard

Acceptable tolerance is 3/16".

Builder Repair Responsibility

Builder to correct

7.4 Windows are Out of Square or Out of Plumb

Performance Standard

Windows must operate with reasonable ease as designed.

Builder Repair Responsibility

Builder to repair to be easily operable

7.5 Windows Do Not Operate Properly

Performance Standard

Windows shall operate with reasonable ease as designed.

Builder Repair Responsibility

Builder to correct as required.

7.6 Air Infiltration Around Doors and Windows

Performance Standard

Drafts around the doors and windows are cold spot sources. Proper weather-stripping and insulating around these areas can minimize air passage. However, under certain temperature and wind conditions, some infiltration will be observed by the homeowner.

Builder Repair Responsibility

The builder is to adjust poorly fitted doors, windows, and weather-stripping to eliminate drafts as much as reasonable possible.

7.7 Moisture Condensation on Windows

Performance Standard

Moisture condenses on the window since it is the coldest object in any given room with the glass having a much higher rate of heat transmission and, hence, being the colder surface during the normal heating season. Moisture condensation on windows is an indication of either too much moisture in the room, or poor circulation of the moisture that is present. The owner can minimize this condition by merely opening the window to permit the excess moisture to escape or by installing a dehumidifying system if the conditions persist. It should be noted that in homes with humidification equipment, the formation of moisture on the windows is an indication that the humidifying equipment is set too high and producing too much moisture.

Builder Repair Responsibility

None, except to explain to the owner more thoroughly how this condition is caused and to assist the homeowner in correcting the condition

SECTION 8 SKYLIGHT STANDARDS

Common Defects or Problems:

8.1 Condensation on Skylights

Performance Standard

All skylights can develop condensation due to high humidity levels.

Builder Repair Responsibility

The builder is not responsible for humidity levels in the home. Bathroom ventilating fans should always be used or a window opened to reduce humidity levels.

8.2 Leaks Around Skylights

Performance Standard

Skylights should not leak.

Builder Repair Responsibility

Builder to repair so as to eliminate any leaks around skylights

8.3 Scratches, Cracks, or Breakage of Glass to Skylight Not Caused by Vandalism

Performance Standard

Any defects with glazing shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Builder to repair only if noted in writing prior to occupancy or at final inspection

8.4 Discoloration on Plastic Skylight Windows

Performance Standard

This condition is inherent in the product

Builder Repair Responsibility

None

SECTION 9 CAULKING & WEATHER-STRIPPING STANDARDS

Common Defects or Problems:

Background

Weather stripping of doors and windows helps keep the home properly heated or cooled. Metal stripping should be free of dents and loose sections, and plastic or rubber stripping should be glued tightly. The junction between windows, doors and exterior wall material (i.e. siding, brick) will need to be caulked to minimize air infiltration. Caulking will need to be maintained by the homeowner throughout the life of the home. It should be noted that some air infiltration is normal during high winds.

9.1 Caulking Cracks Exceed 1/8"

Performance Standard

All types of caulking material will dry out. Builder to remove old caulk and replace with new caulk at cracked areas one time during the first year. After the one repair, caulking becomes an owner maintenance responsibility.

Builder Repair Responsibility

Builder to repair to Performance Standard one time during the first year

9.2 Caulking is Missing

Performance Standard

Builder is responsible to caulk all wood, wood to masonry, aluminum to wood and aluminum to masonry to acceptable industry standards.

Builder Repair Responsibility

Repair to meet performance standard

9.3 Air Infiltration around Doors and Windows

Performance Standard

Doors and windows are cold spot sources and some infiltration of air must be expected. Proper weather stripping and insulating around these areas can minimize air passage. However, depending on the type of window (i.e. double hung and sliding windows will have more air infiltration than casement or stationary windows) and under certain temperature and wind conditions, some infiltration may be observed by the homeowner.

Builder Repair Responsibility

Builder to inspect and adjust poorly fitted weather stripping. If draft comes around casings, builder to make sure insulation is in place around window wherever possible.

SECTION 10 ELECTRICAL STANDARDS

Background

Electrical system installations shall be performed by licensed electrical contractors and in accordance with state and national electrical codes. The electrical code dictates safety requirements predominantly to prevent fires and minimize the chance of personal injury. The builder cannot be responsible for what an owner plugs into an electrical outlet. Builder is also not responsible for what an owner has added to the electrical system following the completion of the structure.

Common Defects or Problems:

10.1 Outlets and Switches Do Not Work

Performance Standard

All outlets and switches must be operative.

Builder Repair Responsibility

Repair or replace wiring or replace defective outlets and switches to make units work properly.

10.2 Lights and Fans Do Not Work

Performance Standard

Wiring to fixtures must be operative

Builder Repair Responsibility

Builder to repair defective wiring to lights and fans. If it is found that the fixture is inoperative, it would fall under a manufacturer's warranty. If the fixture was builder supplied, the builder would be responsible for the service call. If the fixture was owner supplied, the owner would pay the service call.

10.3 Lights Dim or Flicker in Parts of Building

Performance Standard

Lights may dim or flicker during starting of some motor driven equipment

Builder Repair Responsibility

Check wiring for installation per standards of the State Electrical Code. If flickering/dimming does not occur when motor driven equipment is turned off, the owner should notify the builder to check if there are any potential deficiencies with the wiring. If nothing is found, the owner should contact the electric power company for possible defects in the supply source.

10.4 Lights Dim or Flicker in Entire Building

Performance Standard

Lights should not flicker throughout entire building at one time

Builder Repair Responsibility

Builder should first have a licensed electrical contractor check internal wiring as necessary. If internal wiring is proper, owner should then notify the electric power company for possible defects in the supply source

10.5 Circuit Breakers Trip Out

Performance Standard

Circuit breakers should not disengage under normal usage except in cases where they there may be an overload of portable appliances. (See #6 re: GFI circuits)

Builder Repair Responsibility

If it is determined that there is not an overload of portable appliances, builder is to repair or replace breaker(s)

10.6 Ground Fault Interrupter (GFI) Circuit Trips Frequently

Performance Standard

Ground fault interrupters are sensitive safety devices installed into the electrical system to provide protection against electrical shock. These sensitive devices can be tripped very easily.

Builder Repair Responsibility

Builder shall install ground fault interrupters in accordance with the approved electrical code. Tripping is to be expected and is not covered, unless due to a construction or product defect. If product is found to be defective, it shall be replaced by the builder.

10.7 Fluorescent Lights Hum

Performance Standard

Some fluorescent ballasts will hum

Builder Repair Responsibility

Excessive hum must be checked by an electrician

10.8 Door Bells / Chimes Do Not Work

Performance Standard

Door bells/chimes carry a one-year warranty and should operate

Builder Repair Responsibility

Builder to repair or replace if door bell/chimes supplied by builder. Owner is responsible if owner supplied. If the fixture was builder supplied, the builder would be responsible for the service call. If the fixture was owner supplied, the owner would pay the service call.

10.9 Drafts from Electrical Outlets

Performance Standard

Electrical junction boxes on exterior walls may produce airflow whereby the cold air can be drawn through the outlet into a room

Builder Repair Responsibility

None -Owner can place foam type insulation behind cover plate to cut down reduce the infiltration

10.10 Water Leaks into Basement at Builder Installed Conduits Going Through Walls

Performance Standard

Water leaks into basement should not occur at conduits assuming owner has properly graded around foundation

Builder Repair Responsibility

Builder to repair, providing grading is not at fault

SECTION 11 PLUMBING STANDARDS

Background

Plumbing system installation is performed by licensed contractors in accordance with detailed plumbing code requirements. These code requirements were established primarily for individual and public health reasons.

Common Defects or Problems:

11.1 Leakage of Any Kind from Piping

Performance Standard

No leaks of any kind should exist in any soil, waste, vent or water pipe. Condensation on pipes or sweating of fixtures does not constitute a leak.

Builder Repair Responsibility

Builder shall make necessary repairs to eliminate leakage

11.2 Faucets or Valves Leak

Performance Standard

No valve or faucet should leak

Builder Repair Responsibility

Builder shall repair or replace the leaking faucet or valve. Washer or cartridge replacement is a homeowner's responsibility after the first year.

11.3 Water Pipe Banging / Water Hammer

Performance Standard

There can be some instances when the electric valves on appliances or single control valves are shut off fast, which can cause some banging. All noises due to water flow and pipe expansion cannot be removed, however excessive hammers shall be corrected.

Builder Repair Responsibility

Builder is responsible to have pipes fastened properly and bleed lines where excessive water hammers are present.

11.4 Fixtures Do Not Hold Water

Performance Standard

Stoppers on fixtures should retain water for a sufficient length of time to accomplish the fixture's intended use

Builder Repair Responsibility

Builder to correct until fixture holds water to meet Performance Standard

11.5 Cracking, Scratches or Chipping of Porcelain, Fiberglass Surfaces or Faucets

Performance Standard

Chips, cracks and scratches on surfaces of bathtubs, kitchen sinks and faucets can occur when surfaces are hit with sharp or heavy objects. Any defects identified shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Builder shall repair or replace any fixture or fitting which is outside acceptable standards as defined by the manufacturer. Builder will not be responsible for repairs unless damage has been reported to builder prior to occupancy.

11.6 Stopped-up Sewers, Fixtures, and Drains

Performance Standard

Sewers, fixtures, and drains should operate properly to accomplish their intended function

Builder Repair Responsibility

Builder will not be responsible for sewers, fixtures, and drains, which are clogged through natural causes or the homeowner's negligence. If a problem occurs, the homeowner should consult builder for a proper course of action. Where defective construction is shown to be the cause, builder will assume the cost of the repair where homeowner negligence is shown to be the cause, the homeowner shall assume all repair costs.

11.7 Waste Disposal Unit Does Not Operate Properly

Performance Standard

Disposal unit must accomplish its intended function

Builder Repair Responsibility

Builder will repair any defective fixture or fitting which does not meet acceptable standards as defined by the manufacturer, unless caused by homeowner negligence.

11.8 Sump Pump Does Not Operate

Performance Standard

Sump pumps should reasonably be expected to perform for a one-year period satisfactorily, unless unusual conditions such as underground springs or high water tables are encountered. Owner is responsible for maintaining a proper grade and downspout extensions should be used to keep water from pooling near foundation.

Builder Repair Responsibility

Builder shall repair or replace malfunctioning sump pump, except under unusual conditions.

11.9 Inadequate Flushing of Toilets

Performance Standard

It is not unusual for a toilet to be flushed twice due to energy conservation fixtures

Builder Repair Responsibility

None, unless it is a manufacturer's defect or plumbing clog which is the cause

11.10 Plumbing Pipes Freeze and or Burst

Performance Standard

Drain, waste, vent, and water pipes shall be adequately protected as required by applicable codes, during normally anticipated cold weather, and as defined in accordance with ASHRAE design temperatures, to prevent freezing.

Builder Repair Responsibility

Builder will correct situations not meeting the code. It is the homeowner's responsibility to drain or otherwise protect lines and exterior faucets and hose bibs (even if they have an anti-siphon valve attached) exposed to freezing temperatures.

11.11 Condensation (sweating) of Pipes

Performance Standard

Condensation (sweating) of pipes and fixtures is normal and may occur most often in well water systems due to the extreme cold temperature (45-50 degree of water) of well water and humid basements.

Builder Repair Responsibility

None, unless the pipe or fixture is leaking. A dehumidifier and or pipe and tank insulation can be added by the owner to reduce condensation.

11.12 Defective Appliance or Fixtures Supplied by Owner

Performance Standard

Any appliances or fixtures supplied by the owner will not be warranted for leakage, etc. by the builder. There may be some instances where a plumber will not install an owner's fixtures if the fittings are not proper.

Builder Repair Responsibility

None

11.13 Water System Fails to Deliver Sufficient Volume / Pressure of Water

Performance Standard

The water supply system whether municipal or private is the responsibility of the builder unless contracted differently

Builder Repair Responsibility

Builder will take necessary actions to correct situations not meeting the code

SECTION 12 HEATING & COOLING SHEET METAL STANDARDS

Background

The heating and cooling systems are specified by the building code as well as ASHRAE standards, with the equipment selection (size and capacity) being dependent upon the size of the home, outside design temperatures, and anticipated heat loss due to the home design. It should be noted that temperatures in the home may vary due to wind direction, size and location of windows and doors, etc. Maintenance and cleaning of the heating and cooling systems is the homeowner's responsibility.

Common Defects or Problems:

12.1 Noisy Ductwork

Performance Standard

When metal is heated it expands and when cooled it contracts. The result is "ticking" or "crackling" which is generally to be expected and shall be considered acceptable.

Builder Repair Responsibility

Installation to comply with codes

12.2 Oil Canning of Ductwork

Performance Standard

The stiffening of the ductwork and the gauge of the metal used shall be such that ducts do not "oilcan". The booming noise caused by "oil canning" is not acceptable.

Builder Repair Responsibility

Builder will correct to eliminate this sound

12.3 Furnace Not Placed as Per Plan

Performance Standard

Due to heating system design, venting requirements and applicable codes, the furnace location is to be determined by the heating contractor.

Builder Repair Responsibility

None

12.4 Inadequate Heating

Performance Standard

Heating system shall be capable of producing an inside temperature of 70 degrees, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor winter design conditions of -10 degrees specified in ASHRAE handbook. Federal, state, or local energy codes shall supersede this standard where such codes have been locally adopted.

Builder Repair Responsibility

Builder will correct or modify the heating system to provide the required temperatures. However, the homeowner shall be responsible for balancing dampers, registers and other minor adjustments. Builder shall not be responsible when installation follows guidelines of special rate programs offered by utility companies if utility standards are lower than manufacturers' recommendations.

12.5 Inadequate Cooling

Performance Standard

Where air-conditioning is provided, the cooling system shall be capable of maintaining a temperature of 78 degrees, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor summer design conditions as specified in ASHRAE handbook. In the case of outside temperatures exceeding 95 degrees, a differential of 15 degrees from the outside temperature will be maintained. Where there is excessive glass, this may not be attainable. Owner should be advised on the use of shading in such cases. Federal, state, or local energy codes shall supersede this standard where such codes have been locally adopted.

Builder Repair Responsibility

Builder will correct or modify the system to meet temperature conditions in accordance with specifications. Builder shall not be responsible for changes when installation follows guidelines of special rate programs offered by utility companies if utility standards are lower than manufacturer's recommendations.

12.6 Temperature Within Dwelling is Different than Temperature Set on the Thermostat

Performance Standard

If the thermostat is properly calibrated according to equipment specs, temperature should not differ more than 4 degrees

Builder Repair Responsibility

Builder is to repair/replace thermostat and/or associated equipment if there is a difference of more than 4 degrees

12.7 Kitchen or Hood Fan Lets Cold Air into Home

Performance Standard

All exhaust fans should have dampers, but drafts may develop during extreme cold or windy weather. Because code requires boring through the outside wall, there also may be some condensation.

Builder Repair Responsibility

None if exhaust components have been properly installed. Owner should check to make sure damper operates and notify builder to repair if it does not operate within the first year.

12.8 Moisture Runs Back in at Bath Vent Fan

Performance Standard

Venting of fan shall meet current building codes and should not allow the intrusion of moisture back into the bathroom

Builder Repair Responsibility

Repair/replace to perform as designed

12.9 Furnace is Noisy

Performance Standard

New furnaces are noisier due to design and blower size

Builder Repair Responsibility

Builder to have manufacturer's representative determine if noise is excessive

12.10 Condensation Lines Clog Up

Performance Standard

Condensation lines may clog eventually under normal use and conditions. This is a homeowner maintenance item. Builder shall provide unobstructed condensation lines at time of first occupancy or final walk through inspection.

Builder Repair Responsibility

None if installed properly

12.11 Excessive Humidity Within the Dwelling

Performance Standard

See Moisture Standards.

12.12 Settling of the Air Conditioning Condensing Unit Base / Slab

Performance Standard

Condensing unit base/slab shall be installed on a properly prepared level surface

Builder Repair Responsibility

Builder shall level within the first year. Owner is required to maintain a proper slope and fill in dirt underneath slab following the first year

SECTION 13 INSULATION STANDARDS

Background

Insulating is the process by which a thermal resistant material is installed at the perimeter or outer envelope of the structure to act as a barrier to create a resistance to heat flow. This produces a more controlled interior comfort climate and conserves energy. The primary characteristic that is desired in an insulating material is the ability to trap a gas to increase the resistance to heat flow. Physically, the efficiency of the insulating material increases as either the bulk of the air entrapped is increased or the movement of the gas is decreased within a given volume of insulating material.

The measurement of insulating effectiveness is called “resistance to heat flow” and is expressed as “R Value”. Each manufacturer is required to label [their] materials with its resistance to heat flow at 75 degrees mean temperature (R Value). R Value is a number rating system. As R increases, the overall effectiveness of the insulating material increases. Caution – Insulation may not cover an entire surface. Its R Value must be averaged with other assembly materials to give a true total average R value. Minimum R values are established by the State Energy Code.

The commonly used fibrous insulating materials are mineral wool, fiberglass and cellulose. These materials are selected for their large ratio of surface area to mass of the material in order to better entrap air. The normal form of the insulating material is either the blown loose material, as is most often used in the ceiling, or the batt form. Other forms are rigid materials such as polyurethane or polystyrene, which are usually supplied in panel form or are sprayed in their application.

Air infiltration can be further minimized by the installation of weather-stripping and caulking, both which require owner maintenance throughout the life of the home. Some infiltration will occur under certain temperature and wind conditions. The system of electric boxes and wiring on exterior walls produces an air flow passage whereby the cold or outside air can be drawn through the outlet into the room under most heating conditions, since the outside of the home is at a higher pressure than the inside.

Also, venting for fans will produce some air flowage. With acceptable building practices, this situation is virtually unpreventable, as are certain other situations resulting from many openings that do not exist in the home under normal construction.

Moisture in insulation causes it to lose its insulating value. Therefore, vapor barriers are put on the inside to keep moisture from entering into the walls and ceilings. It is also important to properly vent the attic to create airflow. This can be accomplished with roof vents, gable louvers, ridge vents, soffit vents or combinations of these. A vaulted (cathedral) ceiling area, where there is no attic, also requires proper ventilation per code. You may wish to refer to the Moisture Standard section for additional information.

Common Defects or Problems:

13.1 Pipes Freeze

Performance Standard

Drain, waste and vent, and water pipes shall be adequately protected as required by applicable code during normally anticipated cold weather and as defined in accordance with ASHRAE design temperatures to prevent freezing.

Builder Repair Responsibility

The builder will correct situations not meeting the code. It is the homeowner's responsibility to drain or otherwise protect lines and exterior faucets and hose bibs (even if they have an anti-siphon valve attached) exposed to freezing temperatures.

13.2 Moisture condensates on Windows

Performance Standard

Moisture condenses on the window since it is the coldest object in any given room. with The glass having has a much higher rate of heat transmission and hence, being the colder surface during the normal heating season. Moisture condensation on windows is an indication of either too much moisture in the room, or poor circulation of the moisture that is present. The owner can minimize this condition by merely opening a window to permit the excess moisture to escape or by installing a dehumidifying system if the condition persists. It should be noted that in homes with humidification equipment, the formation of moisture on the windows is an indication that the humidifying equipment is set too high and producing too much moisture. It is also recommended that screens be removed from casement windows during the heating season.

Builder Repair Responsibility

None, except to explain to the owner more thoroughly how this condition is caused.

13.3 Drafts at Baseboards

Performance Standard

The juncture of the floor and wall system is conducive to openings so a certain amount of draft is permissible, although it should be minimized.

Builder Repair Responsibility

Inspect the areas to assure the air leakage is at a minimum. If excessive drafts are discovered, builder to make sure proper insulation and/or caulking is present.

13.4 Drafts from Electric Outlets

Performance Standard

Electrical junction boxes on exterior walls may produce airflow whereby the cold air can be drawn through the outlet into a room, although it should be minimized.

Builder Repair Responsibility

Inspect the areas to assure the air leakage is at a minimum. If excessive drafts are discovered, builder to make sure proper insulation and/or caulking is present.

13.5 Drafts from Recessed Lights, Ceiling Fans, Vent Fans

Performance Standard

Drafts in these areas are normal

Builder Repair Responsibility

None, as long as there is proper insulation around the unit

13.6 Drafts around Doors and Windows

Performance Standard

Doors and windows are cold spot sources and some infiltration of air may be expected. Proper weather-stripping and insulating around these areas can minimize air passage. However, depending on the type of window (i.e. double hung and sliding windows will

have more air infiltration than casement or stationary windows) and under certain temperature and wind conditions, some infiltration may be observed by the homeowner.

Builder Repair Responsibility

Builder to inspect and adjust poorly fitted weather-stripping. If the draft comes around casings, builder is to make sure insulation is in place around window wherever possible.

13.7 Blown-in Insulation in Attic Displaces

Performance Standard

This may occur due to wind and air movement in the attic

Builder Repair Responsibility

During the first year, builder to redistribute insulation to manufacturer's specifications

13.8 Blown-in Insulation in Attic Settles

Performance Standard

During the first year insulation should not settle. However, after time settling may occur.

Builder Repair Responsibility

Builder to correct during first year

13.9 Inadequate Insulation

Performance Standard

The builder must provide the R rating(s) as specified by Code or contract, whichever is more stringent.

Builder Repair Responsibility

Builder to correct to code/contract

13.10 Gaps at the Top or Bottom of Batten Insulation

Performance Standard

There should be no gaps around batten insulation

Builder Repair Responsibility

Builder to insulate or foam to seal any spaces around batten insulation

SECTION 14 FIREPLACE STANDARDS

Background

Fireplaces fall into two categories; the first being “full masonry.” This type of fireplace is constructed with a masonry flue, exterior veneer and interior firebox and is constructed on-site. The second is “prefabricated”, having a metal pipe chimney and a manufactured metal firebox prefabricated off-site and installed into a prepared opening.

Common Defects or Problems:

14.1 Fireplace or Chimney Does Not Draw Properly

Performance Standard

A properly designed and constructed fireplace and chimney shall function properly. It is normal to expect that high winds can cause temporary negative draft situations. Similar negative draft situations can also be caused by obstructions such as large branches of trees too close to the chimney.

Builder Repair Responsibility

Builder will determine the cause of malfunction and correct, if the problem is one of design or construction of the fireplace.

14.2 Firebox Paint Changed by Fire

Performance Standard

Heat from fires can alter finish

Builder Repair Responsibility

None

14.3 Cracked Firebrick and Mortar Joints in Firepot

Performance Standard

Expansion and contraction will cause cracking. Cracks in excess of 1/8” are considered to be a defect.

Builder Repair Responsibility

Builder will tuck-point cracks in excess of 1/8”.

14.4 Rust on the Exterior of the Fireplace or Rust on the Damper

Performance Standard

As rust can form from condensation or moisture within a home, the formation of rust should be expected with ferrous materials. The owner should use a rust-removing product to remove rust.

Builder Repair Responsibility

None

14.5 Cracks in Chimney or Fireplace Caps

Performance Standard

Chimney and fireplace caps should be checked periodically by the owners for hairline cracks in the concrete and brick, and especially next to the flue. These cracks are caused by shrinkage and severe weather conditions and should be caulked with an elastic type

caulking compound or tuck-pointed with mortar or cement. Failure to do this could result in moisture getting into the chimney, freezing and cracking the flue material or the face of the brick or stone.

Builder Repair Responsibility

None, unless crack exceeds 1/8" in width, then builder will tuck-point any cracks.

14.6 Fireplace Fans are Noisy

Performance Standard

Fans will make some noise due to the location of their installation but should not be excessively noisy. Fireplace fans are covered by a one-year manufacturer's warranty. Noise level is not to exceed those as established by manufacturer.

Builder Repair Responsibility

Builder to inspect and repair if fan is touching any party of the fireplace

14.7 Cracks in Mortar Joints of Brick or Other Masonry Walls or Veneers

Performance Standard

Small hairline cracks due to shrinkage are common in mortar joints in masonry construction. Cracks greater than 1/8" in width are considered excessive.

Builder Repair Responsibility

Builder will repair cracks in excess of Performance Standard by tuck-pointing or patching. These repairs shall be made within at the end of the first year of the warranty period. Owner should be aware that some variation between old and new mortar color may occur.

14.8 Chimney Separates from Structure to Which it is Attached

Performance Standard

Newly built fireplaces will often incur slight amounts of separation. Separation shall not exceed 1/2" from the main structure in any 10' vertical measurement.

Builder Repair Responsibility

Builder will determine the cause of separation and correct if standard is not met.

FIREPLACES (PRE-FABRICATED)

14.9 Smoking due to Insufficient Chimney Draft

(1) Intermittent (2) Continuous

Performance Standard

A properly installed fireplace and chimney should functions properly. Wind conditions, atmospheric pressure, and humidity can cause temporary negative draft (situation 1); Environmental obstructions such as large nearby trees, buildings, or hills can cause continuous negative draft (situation 2)

Builder Repair Responsibility

(1) Intermittent smoking: None

(2) Continuous smoking: Contractor will arrange for a determination of a cause of the condition and correct where possible only during the one (1) year period

14.10 Cracked or Broken Refractory (firebrick) Panels

Performance Standard

Refractory bricks and panels should remain intact for the duration of the product's warranty period.

Builder Repair Responsibility

The contractor will replace damaged refractory panels only during the one (1) year warranty period. If refractory panels crack or break after the initial burning, the homeowner should contact the manufacturer for warranty information on the specific model.

SECTION 15 GARAGE DOOR STANDARDS

Background

The surface of hardboard used on garage doors is ideal for field applied coatings, since hardboard does not have any knots, grain raise, or other defects that typically shorten the coating's life. Hardboard used on garage doors is made from wood. As such, it must be properly coated initially and maintained if satisfactory performance is to be achieved from the hardboard door as well as the field applied coating.

If the homeowner does his own painting and staining, for the warranty to be effective, paint must be applied to inside and outside surfaces and on all edges, immediately after installation.

An inherent characteristic of flush doors is the possibility of bowing (either inward or outward). This is not considered a defect. Proper painting of the door, plus the use of paint other than a dark color, will minimize this possibility. (Dark paint does not deflect the heat of the sun as well as lighter paints do).

Common Defects or Problems:

15.1 Bottom of Overhead Doors do not Fit to the Floor

Performance Standard

Door weather-stripping should fit flush to the floor

Builder Repair Responsibility

Builder to scribe the bottom or adjust the door to conform to the level of the concrete so weather-stripping on bottom of door affects a weather tight seal.

15.2 Garage Doors Allow Entrance of Snow or Water

Performance Standard

Garage doors shall be installed as recommended by the manufacturer. Some entrance of the elements can be expected under severe weather conditions, if the door is not weather stripped

Builder Repair Responsibility

Builder will adjust or correct garage doors to meet manufacturers' recommendations. If weather stripped, door must seal out the elements.

15.3 Garage Doors do not Fit Tightly at the Sides and Top

Performance Standard

- A. If it is not a weather-stripped door, there may be some small gaps
- B. If the door is weather-stripped, the door should fit tightly

Builder Repair Responsibility

- A. If the door is not weather-stripped; the builder has no repair responsibility
- B. If the door is weather-stripped; the builder is to repair

15.4 Garage Doors Fail to Operate under Normal Use

Performance Standard

Garage doors shall operate properly

Builder Repair Responsibility

Builder will correct or adjust garage doors as required, except where the cause is determined to result from homeowner abuse or negligence

15.5 Garage Doors Sag

Performance Standard

Due to the excessive weight of a panel door, some sagging may occur

Builder Repair Responsibility

None, as long as it is within manufacturer's tolerance

15.6 Splits in door Panels

Performance Standard

Split(s) in panels shall not allow light to be visible through the door

Builder Repair Responsibility

Builder will, if light is visible, fill split(s) and match paint or stain as closely as possible if they did painting originally. This will be done only one time in the warranty period, preferably at the end of the first year.

SECTION 16 DRYWALL & PLASTER STANDARDS

Background

In reviewing drywall and plaster problems which occur during the first year of warranty, it is necessary to include some explanatory material on the nature of the material and its performance during and after the initial stages of construction.

Drywall is a relatively inflexible gypsum material, which is applied to the interior surfaces. Drywall and plaster are applied in sheets, which are nailed or screwed to the stud or joists for application. The sheets are then taped and the entire surface is sprayed and textured to produce a finished surface. In plaster, the final coats are trowelled on.

Because the drywall or plaster has been placed on lumber surfaces which are subject to shrinking and warping and which are not perfectly level and plumb, problems may occur through stress and strain placed on drywall during the drying of the lumber which is inherent in the construction of a home.

In evaluating the need for drywall and plaster repairs, the general rule to be applied is; if the defect is readily noticed by visual inspection, it should be repaired. However, due to the initial shrinkage problem, which exists with the new home, it is impossible to correct each individual defect as it occurs, and for that matter is essentially useless to do so. The entire house will tend to stabilize itself near the end of the warranty period, and one repair should be made when necessary, preferably within the first year near the end of the 12th month after occupancy or completion of construction upon request by the homeowner. Repairs will be made no more than one time during the warranty period. All repairs should be made to within industry standards. Any reoccurrence beyond the warranty period becomes the homeowner's maintenance item.

Since drywall and plaster are finish materials, repairs will be slightly visible due to a color or texture mismatch after they have been made. The mismatch will be even more visible when a special textured finish has been employed. Repairs do not require repainting when they are applied on unpainted surfaces such as unpainted ceilings or when the builder did not contract for the painting. The builder will attempt to match the repair as closely as possible but the exact color match of the unpainted surface is impossible to achieve. Where the repair has been made on a painted surface, the builder will not be responsible for paint touch-up, provided color samples are left by the painter at the home, otherwise the builder shall be responsible to touch up the repair, but the owner should be cautioned that the color match will not be perfect. Should the defect(s) affect more than 25% of the total area of any one wall, the entire wall will be repaired and repainted (at the discretion of the Board).

Common Defects or Problems:

16.1 Visual Defects caused by Normal Shrinkage or Nail Pops, Cracks, Seam Lines, Ridging or Cracked Corner Beads

Performance Standard

Any of the above defects which can be readily determined by visual inspection (without lighting the defect from one direction) shall be repaired by the builder except where normal repainting will cover the defect as in the case of a hairline crack. Cracks not exceeding 1/8 inch in width are common in gypsum wallboard installations and are considered acceptable. Noticeable cracks exceeding 1/8" are considered to be a deficiency.

Builder Repair Responsibility

Repair to original finish as closely as possible. Repairs will be made no more than one time during the first year. Should the defect(s) affect more than 25% of the total area of any one wall, the entire wall will be repaired and repainted (at the discretion of the Board).

16.2 Defects caused by Workmanship During Installation such as Blisters in the Tape, Excess Compound in Joints, Nail Pops or Trowelling Marks

Performance Standard

Defects, which can be readily observed by visual inspection (without lighting the defect from one direction), are beyond the standard of industry except where normal repainting will cover in the defect. Exclusion: Depressions or slight mounds at nail heads are not considered deficiencies.

Builder Repair Responsibility

Correct such defects as in (1) above

16.3 Photographing of Mudded Areas (tape lines, nails, corners)

Performance Standard

The paint on the wallboard surface has a different texture than on the taped and mudded areas

Builder Repair Responsibility

Photographing is not common, but when it is readily visible (without lighting the defect from one direction), it is the builder's obligation to repair.

16.4 Uneven Texturing

Performance Standard

As textures are composed of natural materials, there will be some variation. Blemishes should not be visually apparent.

Builder Repair Responsibility

Repair finish to be uniform to standard

16.5 Separation at Ceiling due to Trusses Lifting

Performance Standard

Truss lift occurs during the heating season and normally returns back down in the summer months. Builder is not responsible for inadvertent cutting of tape where wallpapering may have been done by the homeowner.

Builder Repair Responsibility

This is to be corrected only during the summer months after the first heating season. If the problem reoccurs in the next heating season and gap exceeds 5/8" then additional methods must be taken to correct the problem (i.e. the use of a molding at the ceiling).

16.6 Uneven Angular Joints or Corners

Performance Standard

Defects, which can be readily determined by visual inspection, are to be repaired by builder only prior to decorating. The use of a rounded corner is acceptable at angles.

Builder Repair Responsibility

Builder to repair to be visually acceptable

16.7 Texturing on Repairs is Uneven

Performance Standard

Since drywall and plaster are finish materials, repairs will be slightly visible due to a color or texture mismatch after they have been made.

Builder Repair Responsibility

Every attempt should be made to uniformly match the texture.

SECTION 17 CARPENTRY STANDARDS - FINISH

(Finished Carpentry, Cabinetry, Millwork and Countertops)

Background

Wood and wood-like products are the basic materials used in finished carpentry. Wood is a natural product with individual grain variations in each species of wood. The matching of grain is not a standard procedure and may possibly be accomplished only as a specific contractual agreement between the owner and builder and with the careful selection of matching panels by the supplier. The variations in wood separate it from man-made products. One of the desirable characteristics of wood is the difference in each piece.

Over the past several years, a marked change has taken place in the area of finished carpentry, paneling and millwork. Considerably less of the labor is being done on the site. Almost all millwork, paneling, cabinetry, countertops and doors are purchased by the builder as a completed product and are warranted by the builder according to manufacturer's standards.

Scratches, chips, gouges or nicks should be noted by the owner at the time of the preoccupancy inspection. To maintain the beauty of the wood and wood products, wood should be cared for by the owner much like furniture. Builder should caution owner to only use products recommended by the manufacturers when cleaning and maintaining wood products and also in caring for countertops.

During the initial building stabilization period (first heating and cooling seasons), it is not unusual for doors to warp slightly or twist and alternately stick or not close. Warping, shrinking and swelling of wood and wood-like products can occur due to temperature and humidity changes.

If painting, varnishing and/or staining are to be done by the owner, it should be finished at the earliest possible opportunity. Their primary purpose is preservation, protecting the surfaces and edges from weather and moisture penetration. Owner should be made aware that all surfaces must be sealed on all six sides. If a door or drawer fails and if it was not sealed on all six sides and the owner did or contracted for his own staining, then the builder is not responsible to make the repair. Filling and sanding of minor imperfections, nail holes and splits are the responsibility of the painter. If the builder is responsible for the painting and/or staining, samples or names of the paint products should be left with the owner for minor touch-ups.

Common Defects or Problems:

17.1 Interior Doors, Closet Doors, Cabinet Doors, or Drawers Warp and Cannot be Closed or will not Stay Closed

Performance Standard

The owner should note that during the initial building stabilization period, it is not unusual for doors to warp or twist and alternately stick or not close as the home goes through a settling and drying period, especially over the first heating season. The builder is obligated only to make replacements after this initial stabilization period, since often the door straightens during this process. Doors MUST be sealed on all six sides by the person contractually responsible for painting/staining.

All interiors doors, closet doors, cabinet doors or drawers whose warping exceeds the National Woodwork Manufacturers Association Standards (1/4" in most cases) and where the warp cannot be corrected by adjustment of either jambs, stops, and/or hinges

and cabinet catches to properly latch after the initial stabilization period of the building, within the first year, shall be replaced by the builder.

Builder Repair Responsibility

Adjust upon request of the owner, one time only, preferably at the end of the warranty period, any doors and drawers that fail to operate properly. Replace any doors or drawers, which cannot be corrected to be within acceptable tolerance after stabilization. Refinish as necessary if staining was part of the builder's contract.

17.2 Garage to House Solid Core Door Warps

Performance Standard

Garage to house doors are more subject to weather conditions and thus these doors may warp, but will tend to come back to their original state. This can be a continual occurrence with seasonal changes.

Builder Repair Responsibility

If the door does not come back in summer to seal, builder to replace (provided door was sealed on all six sides if staining was owner's obligation). Refinish as necessary if staining was part of the builder's contract.

17.3 Warping or Non-closing of Exterior Doors (except storm doors)

Performance Standard

Because of the security provided by these doors, the doors must be adjusted or corrected as required.

Builder Repair Responsibility

Within the first year, if the security of the building is jeopardized, correct as to Performance Standards requested by the owner to maintain the security of the building. Replace any exterior doors whose permanent warping exceeds the standards referred to in item #1 after the stabilization period. Refinish as necessary if painting and staining was part of the builder's contract. If painting/staining is part of owner's contract they are cautioned to finish doors on all six surfaces at the earliest possible opportunity to prevent weather deterioration and warping of the doors and to maintain a warranty on the door.

17.4 Cabinet Doors do not Align Properly or there is a Gap Between Door and Cabinet Frame

Performance Standard

Space between doors where doors butt should not exceed 1/8". Top or bottom alignment should not exceed 1/16". Separation between the door and the frame should not exceed 1/4".

Builder Repair Responsibility

Builder to repair if any of the above conditions exceed acceptable tolerance

17.5 Loosening or Separation of Veneer on Doors and Cabinet Doors

Performance Standard

Veneer should not crack or separate during the first year's warranty provided the doors have been properly finished. If painting is to be done by the owner, they are cautioned to finish all six surfaces of the veneer doors at the earliest possible opportunity to prevent weathering deterioration of the door which can lead to delamination or warping.

Builder Repair Responsibility

Builder should repair or replace any doors where the veneer has separated or delaminated during the first year of occupancy. Door replacement due to delamination is the owner's responsibility if the owner has not promptly followed through on his responsibility to finish the door or has not finished all six sides of the doors. Builder to refinish only if painting or staining was part of the builder's contract.

17.6 Shrinking or Swelling of Paneled Doors, Panels in Cabinet Doors and/or Paneling

Performance Standard

Panels will, due to the nature of wood products, shrink and expand and may expose unpainted or unstained surfaces.

Builder Repair Responsibility

None

17.7 Panels or Door Graining and/or Colors do not Match

Performance Standard

Since wood is a natural product and the grain structure is unique for each piece of wood, the builder is only responsible for supplying the grades and types of lumber and millwork and paneling specified in the contract. Grain and color matching is not the industry standard.

Builder Repair Responsibility

None, unless matched lumber was specifically stated in the contract

17.8 Scratches on Glass in Doors

Performance Standard

Glass doors should be free of readily visible and significant scratches or imperfections.

Builder Repair Responsibility

Builder to repair if the conditions exist and are identified prior to occupancy or at the time of the pre-closing walk-through inspection.

17.9 Millwork Trim Graining or Colors do not Match

Performance Standard

See #7

Builder Repair Responsibility

See#7

17.10 Gaps in Miter Joints

Performance Standard

Gaps in miter joints should not exceed 1/16"

Builder Repair Responsibility

Builder should repair any gaps exceeding 1/16". If the owner is responsible for the staining/painting portion of the contract, the owner is responsible. If staining/painting was part of the builder's contract, builder must re-stain/re-paint, if necessary.

17.11 Gouges, Cracks, Nicks or Other Material or Workmanship Imperfections

Performance Standard

Nail pops, blisters and other such blemishes at the time the owner closes or takes occupancy of the home that are readily visible from a distance of six (6') under normal lighting conditions are unacceptable.

Builder Repair Responsibility

Builder to replace millwork components with the above listed defects where the defect cannot be easily corrected through the use of sanding or filling, so long as these items were noted prior to final walk-through inspection or occupancy. It should be noted that if the owner is responsible for the painting/staining portion of the contract, the finishing work becomes the owner's responsibility.

17.12 Splices of Millwork Material Within the Length of a Wall

Performance Standard

Millwork splicing is permissible, within reasonable tolerances as left to the discretion of the Board.

Builder Repair Responsibility

Builder to replace millwork identified as being deficient

17.13 Cabinets Separate from Wall or Loosen

Performance Standard

Provided the cabinet installation is secure, some shrinkage may occur which may appear to indicate a gap between the cabinets and their mounting surface. This gap shall not be more than a 1/4" and requires no correction. However, if larger and the cabinet is actually loose, the builder shall correct.

Builder Repair Responsibility

Correct any loose cabinetry from the mounting surface, except those due to shrinkage.

17.14 Countertops Separate from Wall

Performance Standard

Joints between countertops and adjacent surfaces are considered deficient and must be corrected

Builder Repair Responsibility

Builder to caulk gaps up to 1/8" in depth. Gaps in excess of 1/8" require additional action such as; removing countertops, re-scribing affected surfaces and re-installation, or other methods considered acceptable to the Board.

17.15 Seams in Laminate Countertops Rise

Performance Standard

Seams in laminates may occur over time. Owner should keep seams sealed to minimize water penetration.

Builder Repair Responsibility

None

17.16 Exposed Plastic Laminate Surfaces, Laminate Cabinetry and Molded Marble Crack, Chip, Delaminate or are Burned or Scratched.

Scratches, chips, gouges or nicks should be noted by the owner at the time of the pre-occupancy inspection.

Performance Standard

There should be no imperfections in exposed plastic laminate surfaces at the time the owner takes occupancy of the home or at the final inspection walk-through. In some rare cases there may be some latent defects in laminates, which would require adjustments by the manufacturer. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

Correct defects noted if found to be deficient at occupancy inspection or at the final inspection walk through. Defects occurring after that time are the owner's responsibility for correction since these surfaces are subject to owner's damage.

SECTION 18 FLOORING FINISH STANDARDS

Background

Finished flooring work is subject to the same phenomena during construction of a home that applies to drywall and plaster, namely shrinking and warping of the surface to which it is applied, settling of the home, expansion and contraction of the subsurface to which it is applied with moisture and temperature variations. Most of the problems which occur affecting flooring are a result of these natural phenomena occurring during the stabilization of the home during the initial warranty period and are mirrored in the floor coverings.

Resilient flooring is manufactured and bought as a finished product, either in the form of squares or sheet goods, which is applied by the appropriate trade, predominantly with mastic directly over the surface prepared to accept it.

The following finished flooring standards are contained separately in this section:

1. Carpeting
2. Ceramic or Quarry Tile
3. Resilient Flooring
4. Wood Flooring
5. Engineered Flooring
6. Laminate Flooring

CARPETING STANDARDS

Background

Carpet installation may often be contracted by the owners or may be done by the builder as an allowance item. A standard carpet installation will use seaming techniques to join the material and these seams will be somewhat visible. Carpeting is subject to normal manufacturing tolerance and most particularly to lot variations affecting color, texture and pattern. From time to time, patterns are discontinued, which makes it impossible to exactly duplicate the material; hence, it is recommended that the owner save any scrap material from the carpet installation for any future repairs that may be required because of burns, spots, etc.

Common Defects or Problems:

18.1 Open Carpet Seams

Performance Standard

Carpet seams will show, however, visible gaps are not acceptable

Builder Repair Responsibility

Builder will correct any open gaps

18.2 Carpeting Becomes Loose, Seams Separate or Stretching Occurs

Performance Standard

Wall to wall carpeting, installed as the primary floor covering, when stretched and secured properly, shall not come up, become loose, or separate from its point of attachment.

Builder Repair Responsibility

Builder will re-stretch or re-secure carpeting as needed if original installation was performed by the builder.

18.3 Spots on Carpet, Minor Fading

Performance Standard

Exposure to light may cause spots on carpet and/or minor fading. Spots, if noted prior to occupancy or completion of construction, would be the builder's responsibility. Defects shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

None, unless noted prior to occupancy or completion of construction. Builder would then clean or repair.

CERAMIC AND QUARRY TILE STANDARDS

Background

Ceramic or quarry tile is also used as a finished flooring surface and in some counter and wall applications. Hard tile is supplied as a finished product and is subject to lot variations. The tiles may be attached to the subfloor, finish floor, or wall surface with mastic (glue) or directly set into a mud base (special concrete mix). After the tile is set, grout is applied to fill the joints. Grouting will be affected by the natural settling and shrinkage of the home. Re-grouting will be required by the homeowner as normal maintenance throughout the life of the home. With colored grout, it is virtually impossible to match colors should a repair of grout be desired.

Ceramic tile installation may be performed as an allowance item. Installation and tile costs may vary with tile size, shapes and patterns selected by the homeowner. In all cases of finished floor covering materials, the owner is advised to follow the manufacturer's suggested recommendations for maintenance and cleaning.

Narrow tipped or stiletto high heels will damage ceramic and quarry tile flooring and would not be the builder's responsibility for repair. Because of this and the wear and tear caused by normal use of the floor, no reasonable repair can be expected to perfectly restore the flooring to a new, unused condition.

Common Defects or Problems:

18.4 Cracks Appear in Grouting of Ceramic Tile Joints or at Junctions With Other Materials such as a Bathtub or Shower

Performance Standard

Cracks at the joints of ceramic tile are commonly due to the settling process, especially between the horizontal and vertical surfaces or the butting of dissimilar materials. As such, they require re-pointing.

Builder Repair Responsibility

Ceramic Tile should be re-pointing/ re-grouted when necessary, only once during the warranty period, preferably near the end of the warranty period. After one re-pointing/ re-grouting, it becomes an item of owner's maintenance.

18.5 Ceramic Tile Cracks or Becomes Un-cemented or Loose.

Performance Standard

Tile should not crack or become loose during the warranty period under normal wear. It should be noted that ceramic tile can crack if something is dropped on the floor and this type of cracking is not warranted.

Builder Repair Responsibility

Replace any cracked tiles and re-cement any loose tiles, unless the defects were caused by owner's negligence. (Owner is cautioned that there may be a color mismatch if no extra tiles are available).

18.6 Ceramic Tile Grout Discolors

Performance Standard

Normal efflorescence is a condition, which can be cleaned with a special solution or will disappear in time. Grout is porous and can be sealed by the homeowner to prevent dirt penetration.

Builder Repair Responsibility

None

18.7 Mildew Forms on Tile or Grout

Performance Standard

This is a homeowner's maintenance responsibility

Builder Repair Responsibility

None

18.8 Color Variations in Tile

Performance Standard

Color variations are inherent in all ceramic glazes fixed clay tile products.

Builder Repair Responsibility

None

18.9 Tile Style or Pattern No Longer Available When Repair Called For

Builder Repair Responsibility

Unless owner will accept a repair with as closely matching materials as is currently available or correction by some other means, builder should credit the owner 1 ½ times the cost to repair if the material were available. This would be 1 ½ times the minimum service charge, plus addition additional hourly charge and material cost estimate.

18.10 Floors Squeak

Performance Standard

Floor squeaks are common to new construction and a squeak-proof floor cannot be guaranteed. Isolated floor squeaks are not a deficiency. A large area of floor squeak which is noticeably loud is a deficiency.

Builder Repair Responsibility

Builder should try to minimize the floor squeaks and must correct if caused by a construction defect. It should be noted that second floor repair would be a surface nailing

in carpeted areas and impossible in vinyl or ceramic areas other repairs or replacement may be required.

RESILIENT FLOORING STANDARDS

Background

Resilient flooring includes inlaid, roto-vinyl, seamless sheet vinyl, and resilient vinyl composition tile. All resilient flooring is subject to normal manufacturing tolerances and most particularly to dye lot variation affecting color, texture, and pattern. From time to time, patterns are taken off the market, which makes it impossible to exactly duplicate a material when none is available. The most common problem occurring when partial replacement is called for in repair is the inability to match closely in color due to variation from dye lot to dye lot. In the replacement or correction of resilient flooring, the owner must be prepared to accept a variation in dye lot, when the pattern is still in existence and is cautioned that a seam may show.

When a repair is made, the smallest possible area should be repaired. Although the builder will attempt to match colors as closely as possible, the owner should note that the wax or vinyl dressing build-up on the existing areas, light variations, atmospheric conditions and other chemical reactions will produce a color variation, even within the same dye lot. The owner can minimize this variation by removing any build-up and thoroughly cleaning the floor according to the flooring manufacturer's recommendations. Likewise, the color variations will become less noticeable with subsequent dressings and use of the floor.

The nature of resilient flooring makes possible permanent deformation of the surface when subjected to high loads which can be expected by furniture with improper floor protectors or no protectors at all. Manufacturer recommended protectors are a necessity to avoid this problem. The protectors must rest flat on the floor, not at an angle and the maximum surface load per square inch must not exceed 75lbs.

Narrow tipped or stiletto high heels will damage vinyl tile and all sheet vinyl flooring and would not be the builder's responsibility for repair. Because of this and the wear and tear caused by normal use of resilient flooring, no reasonable repair can be expected to restore perfectly the resilient flooring to a new, unused condition.

Resilient flooring is a manufactured product bought as a finished product, either in the form of squares or sheet goods, which is applied by the appropriate trade, predominantly with mastic directly over the surface prepared to accept it.

Common Defects or Problems:

18.11 Nail Pops Appear on the Surface of Resilient Flooring

Performance Standard

All nail pops should be repaired

Builder Repair Responsibility

Correct all nail pops which have not broken the surface of the goods by driving the nails back into place. Replace any areas where the nail pop has broken the surface. Replace sheet goods in the minimum area where the joint will not be readily noticeable where the nail pop broke the surface.

18.12 Seams or Ridges Appear in the Resilient Flooring due to Subfloor Irregularities

Performance Standard

In the natural settling and shrinking process, some mismatch of the subfloor may exist and mirror itself as ridges or depressions showing on the surface goods. This can be minimized by the customer in his selection of an embossed pattern or in a darker color. In particular, lighter solid colors and/or smooth vinyl surfaces mirror any minor variations of the sub-surfaces to which they are applied and emphasize this ridging. If the ridge or depression effect exceeds 1/8" and cannot be corrected from below, the resilient floor must be corrected. The ridge or depression measurements should be made by measuring the gap created when a 6" straight edge is centered on the defect and the gap is measured between the floor and the straight edge.

Builder Repair Responsibility

If ridge exceeds Performance Standard, builder to shall remove the sheet goods in the minimum area where the joint will not be readily visible when repaired, re-nail the subflooring, sand smooth and/or fill gap and replace the sheet goods. Owner should note that there may be a mismatch in materials due to time difference or dye lot variations. If the material is unavailable due to discontinuation, unless the owner will accept a repair with as closely matching materials as is currently available or correction by some other means, builder shall credit the owner 1 ½ times the cost to repair if the material were available. This would be 1 ½ times the minimum service charge, plus the additional hourly labor charge and material cost needed to make the repair.

18.13 Resilient Flooring Lifts, Bubbles, or Becomes Unglued

Performance Standard

Resilient flooring should not loosen during the normal warranty period unless caused by the owner's negligence or excessive use of water.

Builder Repair Responsibility

Providing edges are still intact, re-secure the material. If not, replace the minimum area as per standard #2.

18.14 Shrinkage Gaps Show in Resilient Flooring

Performance Standard

Gaps shall not exceed 1/16" in width in vinyl to vinyl joints. However, where dissimilar materials abut, a gap in excess of 1/8" is a deficiency.

Builder Repair Responsibility

Correct to meet Performance Standard

18.15 Flooring Discoloration

Performance Standard

Certain conditions and substances such as heat, oil, fertilizers, asphalt from driveways and driveway sealers with asphalt or coal tar base, salt or chemicals and some carpet dyes can cause permanent stains especially in traffic areas. The owners are also cautioned that the use of certain latex or rubber backed throw rugs can cause discoloration of the resilient flooring due to a chemical reaction that occurs.

Builder Repair Responsibility

This is not a manufacturing defect, nor the builder's responsibility, but is the owner's responsibility to protect these areas with doormats or proper rugs at each entrance. There are certain instances in which discoloration may be warranted by the manufacturer. Owner should contact the manufacturer for a determination under their warranty.

18.16 Color Fading of Resilient Flooring

Performance Standard

Exposures to excessive direct sunlight through glass sliding doors, for example, can cause fading or discoloration.

Builder Repair Responsibility

This is not a manufacturing defect, nor the builder's responsibility, but is the owner's responsibility to protect these areas by the use of drapes or blinds during times of direct sunlight exposure. Resilient flooring is no different in this instance than any drapes, furniture or carpeting in the home.

18.17 Heel Marks, Burns, Scratches, Scuffs and Indentations on Resilient Flooring

Performance Standard

All of the above items are caused by the owner use and abuse.

Builder Repair Responsibility

None, unless the problems are relayed to the builder in writing prior to occupancy or noted during the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency. If builder is notified prior to occupancy or at final walkthrough inspection, it is builder's responsibility to repair. If it occurs after that time, it is the responsibility of the homeowner.

18.18 Wear on Surface or Loss of Sheen on Resilient Flooring

Performance Standard

Depending on the type of product, owner is to refer to manufacturer's warranty

Builder Repair Responsibility

None

18.19 Floors Squeak

Performance Standard

Floor squeaks are common to new construction and a squeak-proof floor cannot be guaranteed. Isolated floor squeaks are not a deficiency. A large area of floor squeak which is noticeably loud is a deficiency.

Builder Repair Responsibility

Builder should try to minimize the floor squeaks and must correct if caused by a construction defect. It should be noted that second floor repair would be surface nailing in carpeted areas and impossible in vinyl and ceramic areas.

WOOD FLOORING STANDARDS

Background

Wood flooring, as a finished surface, is applied directly over the subfloor. Wood flooring, while predominantly hardwood may occasionally be softwood. Hardwood is generally preferred because of its better wearing qualities and the resistance to abrasions. Wood floorings may be either pre-finished or job site-finished. All wood floors are subject to shrinkage and expansion, as a natural occurrence. Both stains and sealers on job site-finished floors may require maintenance different from that of pre-finished floors. It should be noted that due to climate and humidity changes, wood floors may be subject to gapping.

Common Defects or Problems:

18.20 Gaps in Wood Floor

Performance Standard

It must be understood that gapping is a normal occurrence during the heating season. Repairs should then be made during the summer so a proper correction can be made because warm, humid weather will cause the floor to expand. Gaps in excess of 1/8" in summer are to be corrected.

Builder Repair Responsibility

Builder is to repair gaps in excess of 1/8"

18.21 Wearing of Finish on Wood Floors

Performance Standard

Elements of nature, moisture, and driveway materials may cause the finish on wood floors to wear faster. The homeowner should maintain their flooring to prevent this condition.

Builder Repair Responsibility

None

18.22 Finish is Uneven on Wood Floors

Performance Standard

Slight variations may appear in the finish, but must not be readily highly visible

Builder Repair Responsibility

Builder to repair/replace if visibly uneven

18.23 Cupping of Hardwood Floors

Performance Standard

Cups in strip hardwood floorboards shall not exceed 1/16 inch in height in a 3-inch maximum span measured perpendicular to the long axis of the board.

Builder Repair Responsibility

Builder is to repair or replace any boards that have cupped in excess of the performance standard on hardwood floors. The Builder is not responsible for cupping caused by moisture beyond the control of the Builder. There is no warranty for cupping on a pine or soft wood floor.

18.24 Dents and Chips in Wood Floors

Performance Standard

This is a normal occurrence in wood floors due to high heels, etc.. Any defects with flooring shall be brought to the attention of the builder prior to occupancy or at the time of the pre-closing walk-through inspection. When no pre-closing walk-through takes place, the claimant will immediately notify the builder in writing of the deficiency.

Builder Repair Responsibility

None, unless noted in writing prior to occupancy, then builder is to repair

18.25 Fading of Wood Floors

Performance Standard

Exposures to excessive direct sunlight through glass sliding doors, for example, can cause fading or discoloration

Builder Repair Responsibility

This is neither a manufacturing defect nor the builder's responsibility, but is the owner's responsibility to protect these areas by the use of drapes or blinds during times of direct sunlight exposure. This is no different than other fabrics such as furniture or carpeting in the home.

18.26 Floors Squeak

Performance Standard

Floors squeaks are common to new construction and a squeak-proof floor cannot be guaranteed. Isolated floor squeaks are not a deficiency. A large area of floor squeak which is noticeably loud is a deficiency.

Builder Repair Responsibility

Builder should try to minimize the floor squeaks and must correct if caused by a construction defect. It should be noted second floor repair would be surface nailing in carpeted areas and impossible in vinyl and ceramic areas.

SECTION 19 HARDWARE & LIGHTING FIXTURE STANDARDS

Background

All hardware and lighting fixtures are finished products and care should be taken to protect them, especially during painting and staining. Homeowner maintenance is required. The homeowner should make sure not to use abrasive products (i.e. lacquer thinner, solvents, cleaners and cleaning solutions, etc.) to clean the hardware and light fixtures.

It should be understood that the natural chemicals in your body will cause a breakdown of the finish in time. It should be understood that there will be color variations within finishes. Any hardware or light fixtures with a protective coating will gradually tarnish and eventually take on an antique appearance. Atmospheric conditions, direct sunlight, caustic agents such as cleaners, or scratches from contact with sharp objects may cause the protective coating to crack or peel, exposing the natural material, causing spotting and discoloration. The integrity of the surface under such conditions of exposure is not warranted. Initial care for these products requires only periodic cleaning with mild nonabrasive soap and light buffing with a soft cloth.

Regarding breakage of glass in light fixtures, it should note that such breakage is the responsibility of the manufacturer only until acceptance of delivery. Upon delivery, it is the owner's responsibility.

Common Defects or Problems:

19.1 Finish on Hardware or Lighting Fixture Wears Off

Performance Standard

If the defect is caused by products such as lacquer, stain or varnish that was applied by the builder's subcontractor, the builder would be responsible for correcting.

Builder Repair Responsibility

If the defect was caused by the builder's subcontractor, the builder is to replace or repair. If due to natural causes or negligence on the part of the homeowner, the builder would not be responsible.

19.2 Locks Do Not Work

Performance Standard

All locks must work as designed

Builder Repair Responsibility

Builder to inspect lock to verify it was installed properly. A faulty lock is covered by the manufacturer's one-year warranty. Builder is responsible for replacement if found defective.

19.3 Lights or Fans Do Not Work

Performance Standard

Wiring to fixture must be operative

Builder Repair Responsibility

Builder's electrical contractor is to repair defective wiring to lights and fans. If it is found that the fixture is inoperative, it would fall under a manufacturer's warranty. If the fixture was owner supplied, the owner will be responsible for the cost of the service call.

SECTION 20 PAINTING, STAINING & WALLPAPERING STANDARDS

Background

Preservation is the primary purpose of painting, varnishing and staining as they protect exposed surfaces, both interior and exterior from environmental conditions and moisture penetration. The prime cost in this type of work is labor, and for that reason owners often undertake the responsibility for painting/staining their homes. In such cases, the owners undertake all responsibility for the painting/staining contract unless otherwise specified. In any event, the party who undertakes the painting/staining contract, be it owner or the builder, assumes responsibility for:

Promptly and properly providing protection to exposed surfaces to prevent damage due to deterioration of unfinished surfaces. Warping, checking, cracking, dry rot and blackening of lumber or millwork, which takes place due to improper, untimely or no painting/staining is the responsibility of the party contracting contracted for the painting/staining. Millwork manufacturers do not normally extend warranties on their product against warping or cracking unless the surface has been properly finished. Special care must be exercised to assure that all sides and edges of doors are sealed to prevent warping.

Properly preparing the surface to accept the paint, stain or wallpaper, including filling nail holes and filling or sanding of imperfections.

Properly applying material in accordance with manufacturer's recommendations. The number of coats to be applied as specified in the contract.

Replacing hardware, fixtures and doors if they are removed for painting/staining or other finishing.

Consequential damages are not the responsibility of the builder.

By applying surface material or wall covering, the painting or wall covering contractor implies an acceptance of the work underneath. Grain variations in wood will accept stain differently; therefore, it is not uncommon for two pieces of the same type of wood, stained with the same product to vary in color. An attempt should be made by the painter to leave small quantities of all paints and stains for future touch up, if there is any left. Some breakdown of the finish may occur around heavy concentrations of moisture (i.e. ranges, dishwashers, coffeepots) and is a homeowner maintenance item.

Varnished, painted or stained millwork and floors must be cared for like furniture and cannot be scrubbed. Exterior varnished surfaces require more maintenance than painted surfaces.

Common Defects or Problems:

20.1 Exterior Paint or Stain Peels, Chalks or Fades, Including Gutters, Downspouts or Other Sheet Metal Areas

Performance Standard

The occurrence of peeling, chalking or fading should not occur during the warranty period unless the builder has specifically informed the owner that the particular color chosen may fade or chalk.

Builder Repair Responsibility

Builder shall properly prepare and repaint affected areas, matching color as closely as possible. Owner must understand touch-ups may not match exactly. The builder shall

repaint in accordance with standards of good workmanship. Should the defect(s) affect more than 25% of the total area of any one wall, the entire wall will be repaired and repainted (at the discretion of the Board), but no warranty will be extended on the newly repainted surfaces.

20.2 Repainting of Areas Affected by Drywall Repairs

Performance Standard

Industry standards require that the builder repaint new areas or repaired areas where painting has been affected by drywall repairs only when responsible for the painting contract. Repairs required shall be finished to match surrounding areas as closely as possible. Owner must be aware that there may be a slight color mismatch.

Builder Repair Responsibility

Builder will finish repair areas as indicated above.

20.3 Ceiling Not Painted Originally or After Repair

Performance Standard

Industry standards do not require painting of ceiling unless specified in contract or specifications. Ceiling drywall repairs do not require painting if the painting of ceilings was not specified in the contract.

Builder Repair Responsibility

None, unless ceiling painting was specified in the contract or specifications

20.4 Deterioration of Varnish, Polyurethane or Lacquer Finishes

Performance Standard

Natural finishes on interior woodwork shall not deteriorate during the first year of the warranty period. However, varnish type finishes used on the exterior will deteriorate rapidly and are not covered by the warranty. Millwork and floors must be cared for like furniture and cannot be scrubbed.

Builder Repair Responsibility

Builder will refinish affected areas of interior woodwork, matching the color as closely as possible.

20.5 Insufficient Coats are Applied

Performance Standard

Builder is responsible to apply the number of coats specified in the contract. Pre-priming of millwork or trim does count as one coat.

Builder Repair Responsibility

Builder to provide the proper number of coats as per contract

20.6 Paint and Stain Inside Closet Not of Quality of Other Interior Surfaces

Performance Standard

Quality of workmanship may be lower in confined quarters where space limitations affect ability of workmen workers to work freely.

Builder Repair Responsibility

Paint and stain in a proper workmanlike manner within limitations stated above

20.7 Mildew or Fungus on Painted Surfaces

Performance Standard

Mildew or fungus will form on a painted surface if the structure is subject to abnormal exposures or excessive moisture

Builder Repair Responsibility

Mildew or fungus formation is a condition the builder cannot control and is a homeowner maintenance item

20.8 Colors Vary within Similar Woods

Performance Standard

Since wood is a natural product and its grain structure is unique for each piece of wood, builder cannot guarantee an exact color match.

20.9 Color Variations Between Different Types of Wood

Performance Standard

Dissimilar woods cannot be matched exactly

Builder Repair Responsibility

None

20.10 Doors Warp

Performance Standard

The owner should note that during the initial building stabilization period, it is not unusual for doors to warp or twist and alternately stick or not close as the home goes through its initial settling and drying period, especially over the first heating season. The builder is obligated only to make replacements after this initial stabilization within in the first year period, since often the door straightens in that process.

Doors must be sealed on all six sides by the person contractually responsible for painting/staining. All interior doors, closet doors, cabinet doors or drawers whose warpage exceeds the National Woodwork Manufacturers Association Standards (approximately ¼ “ in most cases), and where the warp cannot be corrected by adjustment of either jambs, stops, and/or hinges and cabinet catches to properly latch after initial stabilization period of the home, approximately the end of the first year, shall be replaced by the builder assuming the builder was responsible for the painting / staining.

Builder Repair Responsibility

Adjust, upon request of the owner, one time only, preferably at the end of the warranty period, any doors that fail to operate properly, assuming that all six sides have been sealed by the responsible party. Replace any doors, which cannot be corrected to be within performance standards after stabilization. Refinishing to be the responsibility of party contractually responsible for painting/staining.

20.11 Wall Coverings Pull Loose

Performance Standard

Wall covering should not pull loose

Builder Repair Responsibility

Provided the wall covering is in the builder's contract, it should be repaired. If a patch must be made, builder shall match as closely as possible. Because of dye lot differences, owner must understand exact match may not be possible. If installed by owner, wall covering repairs are the owner's responsibility.

20.12 Edges Mismatching in Pattern of Wall Covering

Performance Standard

Wall covering should match as closely as possible

Builder Repair Responsibility

Repair to meet performance standard. Because of dye lot differences, owner must understand that an exact match may not be possible.

SECTION 21 MOISTURE STANDARDS

Background

Because of the greater amount of desired and required insulation, vapor barriers, caulking, tighter windows and building practices used to cut down air infiltration, new homes have become more energy efficient. In some homes this can also cause problems with high humidity. The homes are so tight that normal humidity caused by cooking, breathing, showering, etc. builds up inside the home. This can cause steamed-up windows, condensation around outlets or recessed lights, and even drywall damage.

When these conditions are first noticed, it is important to exhaust the humidity from the home. This can be done by running bath fans and vented cooking exhaust fans when necessary, using a dehumidifier, making sure the owner's clothes dryer is vented outside, installing an air to air heat exchanger, or opening the house and letting the inside air exchange with the outside air.

The installation of de-humidification and humidification equipment and air to air exchangers is usually an owner option. Proper levels of humidity must be maintained. Just as too much moisture causes problems as described above, insufficient humidity, or excessive dryness can cause other serious problems.

It should be pointed out that household size, lifestyle and outdoor temperatures will affect effect the humidity level in the home. A home with an enclosed pool can be the source of excessive damaging moisture and requires special care in design, use and maintenance. To a lesser degree, saunas, hot tubs, and whirlpools also require similar care. The owners are responsible for maintaining proper temperatures and humidity in the home as well as for damage caused by failure to do so.

As outside temperatures drop, the indoor relative humidity level of your home should be decreased. For homes equipped with at least insulating glass on their windows, the following levels can be used to keep window condensation to a minimum:

Humidity for:

Outside Air Temperature

-20 degrees F

-10 degrees F

0 degrees F

+1 degrees F

+20 degrees F

Inside Relative:

70 Degrees F Indoor Air Temp.

15 to 20 percent

20 to 25 percent

25 to 30 percent

30 to 35 percent

35 to 40 percent

Common Defects or Problems:

21.1 Moisture Condensation on Windows

Performance Standard

Moisture condensation occurs on the windows since it is the coldest object in any given room with the glass having a much higher rate of heat transmission and, hence, being the colder surface during the normal heating season. Moisture condensation on windows is an indication of either too much moisture in the room, or poor circulation of the moisture that is present. The owner can minimize this condition by merely opening the window to permit the excess moisture to escape or by installing a dehumidifying system if the condition persists. It should be noted that in homes with humidification equipment, the formation of moisture on the windows is an indication that the humidifying equipment is set too high and producing too much moisture.

Builder Repair Responsibility

None, except to explain to the owner more thoroughly how this condition is caused

21.2 Moisture in Attic

Performance Standard

Builder must provide adequate ventilation to all areas of attic

Builder Repair Responsibility

Builder to meet performance standards and building codes so that no moisture forms in the attic during normal weather conditions.

21.3 Dampness and Moisture on Basement Walls, Floors, Pipes, etc.

Performance Standard

Owner should make sure that the clothes dryer has been vented to the outside and no internal heat moisture recovery device is being used. Electronic dampers, if applicable, on furnaces should be checked. Walls and slabs are cold due to ground conditions, so when warm moist air strikes the cold surfaces and it condenses. Direct outside air should not be brought in as it is usually very moist during spring, summer and fall and the problem will be increased if such air is brought into the home.

Builder Repair Responsibility

None, other than explaining the causes to the owner and advising the use of a dehumidifier and increasing air circulation

21.4 Water Appears on Interior Crawl Space Surfaces

Performance Standard

Crawl spaces should be graded and drained properly to prevent water from accumulating deeper than ¾ inch and larger than 36 inches in diameter in crawl spaces area. Standing or ponding water shall not remain for extended periods after a rain (generally, no more than 48 hours) except in surfaces that drain other areas or in areas where sump pumps discharge. In these areas a longer period can be anticipated. The possibility of standing water after an unusually heavy rainfall should be anticipated by the owner.

Builder Repair Responsibility

The Builder will take the necessary corrective measures to create positive flow within the crawl space to discharge to the exterior of the structure.

21.5 Condensation on Skylights

Performance Standard

All skylights can develop condensation due to high humidity levels. If the skylight is in a bathroom, ventilating fans should always be used or the window opened.

Builder Repair Responsibility

Builder not responsible for humidity levels in home, which has been built to minimum building codes

21.6 Condensation on Toilets

Performance Standard

Condensation may occur during high humidity times of the year

Builder Repair Responsibility

Builder is not responsible for humidity levels in the home

21.7 Condensation or Frost on Electrical Outlets

Performance Standard

Electrical junction boxes on exterior walls may produce airflow whereby the cold air can be drawn through the outlet into a room, sometimes creating condensation or frost.

Builder Repair Responsibility

None

21.8 Mildew or Fungus on Painted Surfaces

Performance Standard

Mildew or fungus will form on a painted surface if the structure is subject to abnormal exposures or excessive moisture

Builder Repair Responsibility

Mildew or fungus formation is a condition the builder cannot control and is a homeowner maintenance item

SECTION 22 ASPHALT STANDARDS

Background

Asphalt shall be installed with 3" minimum finished depth, unless agreed to otherwise

Common Defects or Problems:

22.1 Cracks Appear in Asphalt Paving

Performance Standard

Cracks are not unusual in asphalt paving. Cracks in excess of 1/4" are a Deficiency.

Builder Repair Responsibility

Builder to repair or replace within the first after year after competition completion

22.2 Ponding / Puddling of Water

Performance Standard

A limited amount of ponding / puddling is common. Ponding / Puddling in excess of 1/4" measured in an 18" diameter is considered a deficiency in critical areas only, 1/2" in 24" in other areas.

Builder Repair Responsibility

Builder to repair or replace within the first after year after competition completion

22.3 Improper Pitch

Performance Standard

Asphalt paving that pitches toward a house foundation, garage door, or any other critical area is a deficiency.

Builder Repair Responsibility

Builder to repair or replace within the first after year after competition completion

22.4 Roller Marks

Performance Standard

Roller marks in asphalt paving are common and not considered a deficiency.

22.5 Rutting

Performance Standard

Ruts in asphalt pavements are channelized depressions in the wheel tracks. Rutting results from consolidation or lateral movement of any of the pavement layers or the subgrade under traffic. It is caused by insufficient pavement thickness, lack of compaction of the asphalt, stone base or soil, weak asphalt mixes or moisture infiltration. Obvious significant depressions in the asphalt are considered a deficiency.

Builder Repair Responsibility

Builder to repair or replace within the first after year after completion

EXCLUSION TO ABOVE STANDARDS: An asphalt "overlay" may be exempt from the above standards when condition of the base layer cannot be determined.

SECTION 23 FENCING STANDARDS

Background

Fencing shall be installed to industry standards and /or manufactures standard for fencing installation.

Common Defects or Problems:

23.1 Fence Posts Not Properly Installed

Performance Standard

Fence posts are to be installed to manufacturers' or industry standards

Builder Repair Responsibility

Builder to repair or place post to manufacturers' or industry standards within one year of date of competition

23.2 Improper or Malfunctioning Hardware

Performance Standard

Hardware and fasteners that do not perform their intended function is a deficiency

Builder Repair Responsibility

Builder to repair or place post to manufacturers' or industry standards within one year of date of competition

23.3 Fencing Not Installed along Property Lines

Performance Standard

Fencing installed along property lines, unless contractually stated, contractor has no responsibility to establish property lines, (homeowners' responsibility).

Builder Repair Responsibility

None, unless contracted to determine property lines

SECTION 24
MANUFACTURERS' SPECIFICATIONS

All building materials and components utilized in the residential structure construction shall be installed in accordance with the adopted building codes and/or the manufacturers' installation instructions. Some products in or associated with the structure are covered by manufacturers' warranties. If the product was properly installed and fails within the first year, it is the builder's responsibility to repair, replace or coordinate with the supplier / manufacturer such defective product(s). If, after the first year period a product fails and is still covered under the manufacturer's warranty, it shall be determined if the product was properly installed. If it is determined that the product was properly installed, the builder has no responsibility. If it is determined that the product was not properly installed, it will be the builder's responsibility to repair, replace or coordinate with the supplier / manufacturer, such defective product(s).

The Board reserves the right to determine to what extent repairs shall be made, within reason.