

Policy Statement

1. This policy outlines the conditions under which Surety Bonds may be accepted as a form of security for Development Agreements, including Site Plan Agreements, Servicing Agreements and Subdivision Agreements, and other agreements that require development-related securities. Surety Bonds must meet the requirements of this policy to be deemed an acceptable form of security by the City.

Purpose

2. To ensure consistency, accountability, and risk mitigation in the acceptance and administration of Surety Bonds as an alternative to traditional forms of development securities (namely, Letters of Credit or Cash Securities), in alignment with recent amendments to the *Planning Act*.
3. This policy identifies:
 - a. the City's requirements for the format of Surety Bonds;
 - b. the requirements which must be met by the issuing insurance company;
 - c. the requirements which must be met by the developer;
 - d. acceptable alternatives to a letter of credit or cash securities;
 - e. responsibility for administration of Surety Bonds.

Scope

4. This policy is applicable to all instances where a Surety Bond is being accepted as security for a Development Agreement.

Surety Bonds may be used to satisfy all or part of a security requirement, provided the associated Development Agreement expressly permits their use and the administration of multiple security instruments remains practical and efficient. Surety Bonds must be project-specific and may be used in combination with other acceptable forms of security, including Letters of Credit or Cash Securities.

Definitions

5. For the purposes of this policy,

“City” means the City of Owen Sound, and a reference to the City is a reference to the geographical area or The Corporation of the City of Owen Sound as the context requires;

“Director” means the City Manager, the Director of Community Services, the Director of Corporate Services, the Director of Public Works & Engineering, the Fire Chief, the Chief Curator, or any one of the above, and any designates thereof;

“Employee” means City of Owen Sound full-time employees, part-time employees, students, volunteers, members of Council and Committee;

“Manager” means an employee who is responsible for a City division and includes employees who supervise and manage other employees;

“Development Agreement” means any agreement required under the *Planning Act*, or any other agreement entered into by the City to secure the provision of services, works, or facilities as a condition of development or redevelopment, including but not limited to Site Plan, Subdivision, and Servicing Agreements.

“Surety Bond” means a pay-on-demand, irrevocable bond issued by an approved insurer that guarantees payment of funds to the City in the event of a default by the developer.

“Surety Provider” means a licensed insurer authorized to issue surety bonds in Ontario and monitored by the Financial Services Regulatory Authority of Ontario (FSRA).

“Security” means a financial instrument provided to ensure performance of obligations under a Development Agreement, which will ultimately be returned to the developer after the terms of the Development Agreement have been executed to the City’s satisfaction. These financial instruments include Surety Bonds, Letters of Credit or Cash Securities.

Policy

Related Legislation

6. Development Agreements are typically entered into under the authority of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

As of November 20, 2024, Ontario Regulation 461/24 requires municipalities to accept pay-on-demand surety bonds that meet prescribed conditions as a valid form of security for development approvals under the *Planning Act*.

This policy also applies to other agreements related to development or servicing that may be entered into under alternative legislative authority,

including the *Municipal Act, 2001*, where the City requires financial security to ensure the completion of municipal infrastructure or services.

The form and amount of security required will be established in each applicable agreement, subject to this policy.

Acceptable Use

7. Surety Bonds may be accepted in lieu of, or in combination with, Letters of Credit or cash securities to fulfil security requirements for Development Agreements.
8. Surety Bonds must be issued in the format approved by the City and be project-specific.

Conditions for Acceptance

9. A Surety Bond shall only be accepted by the City as a form of Security where the following terms, conditions and requirements are met, and continue to be met during all times at which the Security requirement remains in place:
 - a. The scope of the Surety Bond shall be limited to one (1) Development Agreement per Surety Bond;
 - b. A Surety Bond may only fulfill one (1) security requirement;
 - c. The Surety Bond is provided for a new security obligation. Transfers from existing Letters of Credit or Cash Securities will not be permitted;
 - d. The Surety Bond shall be issued by a Canadian Surety Provider having a minimum credit rating of:
 - i. "A" or higher as assessed by Dominion Bond Rating Service;
 - ii. "A-" or higher as assessed by Fitch Ratings;
 - iii. "A3" or higher as assessed by Moody's Investors Services Inc.;
 - iv. "A-" or higher as assessed by Standard & Poor's; or,
 - v. "A", or higher as assessed by AM Best Company Inc.;
10. The Surety Bond shall be issued by a Surety Provider that is duly incorporated or constituted in Canada, validly existing and in good standing for no less than ten (10) years;
11. The Surety Bond shall be issued by a Surety Provider that is overseen by the Financial Services Regulatory Authority of Ontario (FSRA);

12. The Developer (Principal) must submit all information required by the City in order to determine the Principal's eligibility to provide a Surety Bond under this policy;
13. The Surety Bond shall be in Canadian dollars; and
14. The Surety Bond shall be irrevocable, unconditional, constitute a primary obligation and shall be in the format attached as Attachment A, Development Agreement Surety Bonds.
15. If, in the opinion of the City's Director of Corporate Services (or Delegate), a Surety Bond received and held by the City no longer provides adequate protection or a Surety Provider subsequently ceases to meet any or all of the requirements of this Policy, the City may, at its sole and absolute discretion, require Alternative Security. The Alternative Security must be provided to the City without negotiation within fifteen (15) days of demand for same, after which the original Pay-On-Demand Surety Bond will be returned and/or exchanged for the Alternative Security. In the event the Alternative Security is not received as required, the City reserves the right to immediately draw upon the original Pay-On-Demand Surety Bond.

Policy Application and Limitations

16. This policy does not apply to securities outside the scope of development-related agreements. Surety Bonds will not be accepted for existing obligations unless expressly permitted by the City on an exceptional basis.

Acceptable Alternatives

17. In cases where the Surety Bond does not meet the requirements outlined herein, the City may require the developer to provide a Letter of Credit or Cash Security to fulfill the security obligation.

Administrative Oversight

18. The Finance Division shall oversee the receipt, review, tracking, and enforcement of all Surety Bonds, in consultation with Legal Services and Development Services as required.
19. The Director of Corporate Services (or Delegate) will develop procedures and tracking tools to support consistent administration of securities under this policy.

Policy review

20. The Manager of Finance will review this policy:

- a. every five (5) years to ensure effectiveness and compliance with current business processes; or
 - b. sooner, if required, based on legislative or regulatory changes.
21. The Manager of Finance is authorized to make such administrative changes to this policy as appropriate to keep the policy current. Any revision to the policy's intent must be presented to Council for consideration.

Related Information and Resources

Internal

- 22. Development Agreement Template
- 23. Standard Surety Bond Format (Attachment A)

External

- 24. *Planning Act*, R.S.O. 1990, c. P.13
- 25. Ontario Regulation 461/24
- 26. *Municipal Act, 2001*
- 27. FSRA Guidelines

Appendices

- 28. Attachment A – Standard Format: Development Agreement Surety Bond

Revision History

Authority	Date	Approval	Description of Amendment
Choose an item.	Click or tap to enter a date.	Choose an item.	
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