



<b>Policy Title:</b>	<b>Surety Bond Acceptance</b>
<b>Policy Number:</b>	<b>087</b>
<b>Department:</b>	Corporate Services
<b>Division:</b>	Finance and Business Services
<b>Approval Date:</b>	April 7, 2025
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<b>Review Date:</b>	TBD

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## 1. Policy Statement

The Corporation of the Town of Essex (the Town) is committed to the creation of new housing and strengthening relationships with Developers, in a fiscally responsible manner.

## 2. Purpose

The purpose of this policy is to ensure the equitable and transparent administration of Surety Bonds as a form of accepted security on developments while ensuring risk to the Town by accepting these bonds is minimized.

## 3. Scope

This policy is applicable in all cases in which a Surety Bond is being provided as Security for a Development Agreement or Subdivision Agreement.

Surety Bonds may be provided on the terms set out in this policy for any Development Agreement or Subdivision Agreement which is required to provide Security and may be for the full amount of Security required or for a portion if supplemented with a Letter of Credit or cash.

## 4. Definitions

**Surety Bond:** A bond which guarantees the assumption of responsibility for payment of security in the event of a default of a Development Agreement or Subdivision Agreement.

**Surety Provider:** A company meeting the requirements of section 6 of this Policy and legally capable of acting as a surety in the surety bond agreement, licensed under the Insurance Act as an insurer to write surety insurance.

Security: An amount required to be provided under a Development Agreement or Subdivision Agreement which will ultimately be returned to the developer (potentially partially at milestones) after the terms of the agreement have been executed to the Town's satisfaction.

## 5. Interpretation

Any reference in this policy to any statute or by-law, or any section of a statute or by-law shall, unless expressly stated, be deemed to be reference to the statute or by-law as amended, replaced, re-enacted, or restated from time to time. Any references to a Town policy shall be deemed to be a reference to the most recent passed policy and any replacements thereto.

## 6. General Policy Conditions

- 6.1. The Surety Provider shall provide an undertaking to the Town that the Surety Provider guarantees payment to the Town, if the Town deems the homebuilder has defaulted in performing the obligation guaranteed within the bond in accordance with the terms of this Policy, with no objection, refusal or defence from the Surety Provider.
- 6.2. The surety bond shall be issued by a Canadian Surety Provider having a minimum credit rating of:
  - 6.2.1. "A" or higher as assessed by DBRS Morningstar;
  - 6.2.2. "A-" or higher as assessed by Fitch Ratings;
  - 6.2.3. "A3" or higher as assessed by Moody's Investor Services; or
  - 6.2.4. "A-" or higher as assessed by S&P Global
  - 6.2.5. "A-" or higher by A.M Best Company, Inc.
- 6.3. The issuing company shall be incorporated in Canada for no less than ten (10) years and issue Surety Bonds in Canadian dollars.
- 6.4. The issuing security provider must be an active institution monitored by the Office of the Superintendent of Financial Institutions (OSFI).
- 6.5. The Surety Bond to be provided to the Town issued by a Surety Provider shall be irrevocable and shall be in the form and on the terms of the Surety Bond Standard Format Requirement attached as Appendix "A".
- 6.6. The Surety Provider guarantees payment will be made to the Town within 15 business days from the date of written notice of default.



- 6.7. The Town will reduce the Surety Bond, on a partial basis, in accordance with a Development Agreement or Subdivision Agreement and the Development Standards Manual, once satisfied that the condition or milestone of development has been fulfilled.
- 6.8. Should the Surety Provider wish to cancel the Surety Bond, written notice must be provided to the Town at least 90 days prior to the termination date with the homebuilder providing a replacement security within 60 days of the receipt of notice.
- 6.9. When a Surety Provider that has issued or confirmed a Surety Bond received and held by the Town, subsequently ceases, in the opinion of the Town, to meet all or any of the requirements of this policy, The Town may, at its discretion and subject to section 6.11 of this policy, require a new security to its satisfaction to be provided to the Town within ten (10) business days of demand for same and the original surety bond will be returned or exchanged for the replacement security. In the event the new security is not received as required, the Town may draw upon the original Surety Bond. Each Surety Bond provided to the Town must be evidenced and each Surety Provider must undertake to include the ability to draw upon such Surety Bond in accordance with the terms of this section 6.9 of this Policy.
- 6.10. Where there is doubt as to the credit rating or other qualification of a Surety Provider, the Town's Treasurer shall be satisfied that the institution meets the guidelines of this policy.
- 6.11. Notwithstanding anything in this policy,
  - 6.11.1. The Town, may in its discretion, decline a Surety Bond for any reason;
  - 6.11.2. When a Surety Bond has been received and is being held by the Town and the Town is no longer satisfied that the surety bond provides adequate protection, the Town may require a new security to its satisfaction, to be provided to the Town within ten (10) business days of demand for same and the original surety bond will be returned and/or exchanged for the replacement security. In the event the new security is not received as required, the Town may draw upon the original surety bond.
- 6.12. Notwithstanding anything in this policy, the Town will not accept Letters of Guarantee, Guaranteed Investment Certificates, Term Deposits or any form of non-cash security in place of a Surety Bond.



- 6.13. A Financial Administration fee will be charged for the acceptance or exchange of the Surety Bond. Surety Bonds may be accepted for other types of agreements at the discretion of the Treasurer.

## 7. Responsibilities

- 7.1. Council has the authority and responsibility to:
  - 7.1.1. Approve the policy and amendments there to.
  - 7.1.2. Approve Development Agreements whereby securities may be a condition
  - 7.1.3. Approve reductions to the value of securities held
- 7.2. The Director of Corporate Services/Treasurer has the authority and responsibility to:
  - 7.2.1. Ensure that Surety Bonds submitted meet the requirements within this policy.
- 7.3. The Manager of Finance and Business Services has the responsibility to:
  - 7.3.1. Process all Surety Bond draws, reductions, replacements and returns.
- 7.4. The Manager of Infrastructure Services has the responsibility to:
  - 7.4.1. Ensure appropriate values of security are held on the development

## 8. References and Related Documents

- 8.1. Development Standards Manual
- 8.2. O. Reg 461/24 Surety Bonds
- 8.3. Bill 185, Cutting Red Tape to Build More Homes Act, 2024