



# Staff Report to Council

**Report From:** Mike Rolph, Building and Planning Services Director/Chief Building Official

**Meeting Date:** December 16 2024

**Report:** BPS- 13-2024  
"Building Services – 08-2023 Security Payment Options for Developments" where staff indicated to

## Recommendation

That South Huron Council receives Staff Report BPS-013-2024 Security Payment Options for Developers, for information.

## Report Overview

<b>Purpose of Report</b>	For Information
<b>Council Priority Alignment</b>	Planning For and Managing Sustainable Growth
<b>Consultations</b>	<b>Erin Moore, Acting Financial Services Director/Treasurer</b> <b>Rebekah Msuya-Collison, Chief Administrative Officer/Deputy Clerk</b>
<b>Attachment(s) to Report</b>	None.

## Report Highlights

- Enabling the Use of Pay-on-Demand Surety Bonds to Secure Land-Use Planning Obligations under Section 70.3.1 of the *Planning Act* is a proposed regulation by the Provincial Government

- Multiple options for security payment may help free up developers' funds for more housing projects while still providing assurances that the required security funds are available if needed.
- Staff are proposing three methods for payment of securities – Irrevocable Letter of Credit, Cash in the form of a Bank Draft or Certified Cheque or Pay-on-Demand Surety Bond.
- Staff will be updating our policies and agreement conditions to align with the proposed regulation. In doing so, staff will be prepared if/when the regulation is approved.

## Context and Background

This report is following up from Report “Building Services – 08 - 2023 “Security Payment Options for Developments” where staff advised Council that a report would be brought back regarding options for securities.

Bill 109, *More Homes for Everyone Act, 2022* amended the *Planning Act*, specifically section 70.3.1 providing the Minister with authority to make certain regulations respecting surety bonds and other instruments in connection with approvals with respect to land use planning.

Further, Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024*, the government announced that it would consult on a potential regulation to prescribe instruments, such as pay-on-demand surety bonds, to secure municipal obligations that are conditions of land-use planning approvals.

The government is now proposing a regulation under section 70.3.1 of the *Planning Act*. The proposed regulation would authorize homebuilders to use a pay-on-demand surety bond with prescribed features to secure municipal obligations that are conditions of land-use planning approvals.

The commenting period for the proposed regulation closed on October 16<sup>th</sup>, 2024; there has not been any update on the regulation when writing this report. A link to the proposed regulation is attached to this report.

The Municipality of South Huron provides through our development guidelines and historical practices that an Irrevocable Letter of Credit is the only method for providing securities. However, a developer could request to Council to accept an alternative method of providing securities. In recent past, two developers have been granted approval via Council resolution to provide securities in the form of Bank Draft or Certified Cheque.

There are three methods of providing securities, these are Irrevocable Letter of Credit, Cash (Bank Draft or Certified Cheque) and Pay-on-Demand Surety Bond.

The differences between the three methods are as follows:

### Irrevocable Letter of Credit:

A bank-issued guarantee ensuring payment to the beneficiary upon fulfillment of specific conditions, irrespective of disputes between buyer and seller. Once issued, it cannot be canceled or amended without the consent of all parties involved.

### Cash (Bank Draft or Certified Cheque):

Cash is the most straightforward form of payment or security. It involves immediate funds that are liquid and do not depend on external conditions or a third party.

### Pay-on-Demand Surety Bond:

A Pay-on-Demand Surety Bond is a three-party agreement where a surety company guarantees that a developer will fulfill certain obligations to the Municipality. If the developer fails to meet these obligations, the surety bond can be utilized to complete the work. Similarly to the LOC, the Pay-on-Demand Surety Bond will not be able to be canceled or amended without the consent of all parties involved.

## **Discussion and Staff Recommendation(s)**

It is anticipated the regulation for Pay-on-Demand Surety bonds will be ratified in the coming months. In preparation staff will prepare a draft update to our current policies, guidelines and agreements to recognize the three aforementioned methods of security payments.

During the updates, staff will consult with our insurance company and legal counsel to ensure the information and provisions within the policies, guidelines and agreements are sound to ensure municipal protection.

Further, the applicable updates will be clear to indicate when “cash” is utilized as the preferred method of security payment, no interest will be earned or payable to the developer upon the release of the security.

## **Impact Analysis**

### **Financial Impact**

The preparation of this report and updated policy and guidelines to recognize three methods of security payments will not have a financial impact. The Planning Departments budget does have monies in the Legal budget line item for review of potential updated provisions within our current development agreements to reflect the security payment chosen.

### **Legal Impact**

Staff will have an obligation to implement the appropriate procedures, once the regulation approved by the Legislature.

With the appropriate verbiage in the development agreements there should not be any more risk utilizing the preferred security option.

### **Operational Impact**

Other than some minor process changes, there are no foreseeable operational impacts.

### **Community Impacts**

Permitting the security options will assist developers with their financial efficiencies, hopefully creating a development friendly environment and ultimately promoting development within South Huron.

### **Linkages**

- [Enabling the Use of Pay-on-Demand Surety Bonds to Secure Land-Use Planning Obligations under Section 70.3.1 of the Planning Act](#)
  - [More Homes for Everyone Act, 2022](#)
  - [Cutting Red Tape to Build More Homes Act, 2024](#)
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**Respectfully submitted,**

**Mike Rolph, Building and Planning Services Director/Chief Building Official**

## Report Approval Details

Document Title:	BPS-13-2024 - Security Payment Options for Developments.docx
Attachments:	
Final Approval Date:	Dec 9, 2024

This report and all of its attachments were approved and signed as outlined below:

**Alex Wolfe - Dec 9, 2024 - 1:57 PM**

**Erin Moore - Dec 9, 2024 - 2:00 PM**

**Rebekah Msuya-Collison - Dec 9, 2024 - 5:17 PM**