

**ORDINANCE
AMENDMENT
OA-2026-06**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DALLAS, GEORGIA TO AMEND THE UNIFIED DEVELOPMENT CODE AND CHAPTER 34 OF THE CODE OF ORDINANCES TO CLARIFY ACCEPTABLE FORMS OF PERFORMANCE GUARANTEES, MAINTENANCE GUARANTEES, WARRANTY SECURITY, AND RELATED DEVELOPMENT SECURITY; TO AUTHORIZE SURETY BONDS, IRREVOCABLE LETTERS OF CREDIT, CASH, ESCROW, GOVERNMENT SECURITIES, AND OTHER EQUIVALENT SECURITY ACCEPTABLE TO THE CITY; TO RESOLVE CONFLICTING CASH-ONLY SECURITY LANGUAGE; TO PROVIDE FOR REVIEW, ACCEPTANCE, ENFORCEMENT, AND RELEASE OF SECURITY; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Dallas, Georgia requires adequate security to ensure completion, acceptance, maintenance, correction, repair, replacement, and restoration of public improvements and other required development improvements;

WHEREAS, the City's current development regulations contain provisions addressing performance guarantees, maintenance guarantees, warranty security, and subdivision improvement security;

WHEREAS, the Mayor and Council desire to clarify that acceptable security may include surety bonds, irrevocable letters of credit, cash, escrow agreements, government securities, and other equivalent security acceptable to the City;

WHEREAS, the Mayor and Council further desire to harmonize the Unified Development Code and Chapter 34 of the Code of Ordinances so that performance, completion, maintenance, and warranty security may be administered consistently and without cash-only conflicts;

WHEREAS, the Mayor and Council find that this Ordinance promotes the public health, safety, welfare, fiscal protection, infrastructure integrity, and orderly development of property within the City;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Dallas, Georgia, and it is hereby ordained by authority of the same, as follows:

Section 1. Amendment to UDC Chapter XIII, Definitions.

Chapter XIII, Section 13.01, of the Unified Development Code is amended by deleting the existing definition of MAINTENANCE GUARANTEE and replacing it with the following:

MAINTENANCE GUARANTEE: Security required by the City and accepted by the City to assure that accepted, dedicated, or required improvements will function as required and will be maintained, repaired, corrected, replaced, or restored during the required maintenance or warranty period. A maintenance guarantee may include, without limitation, cash, cashier's check, certified check, escrow agreement, government security, irrevocable letter of credit, surety bond, or other equivalent security approved as to form by the City Attorney and accepted by the City.

Chapter XIII, Section 13.01, of the Unified Development Code is further amended by deleting the existing definition of PERFORMANCE GUARANTEE and replacing it with the following:

PERFORMANCE GUARANTEE: Security required by the City and accepted by the City to guarantee construction, installation, completion, correction, closeout, and acceptance of required physical improvements according to approved plans, specifications, permits, development approvals, conditions of approval, and any applicable development or public improvements agreement. A performance guarantee may include, without limitation, cash, cashier's check, certified check, escrow agreement, government security, irrevocable letter of credit, surety bond, or other equivalent security approved as to form by the City Attorney and accepted by the City.

Chapter XIII, Section 13.01, of the Unified Development Code is further amended by adding the following new definition:

DEVELOPMENT SECURITY: Any performance guarantee, maintenance guarantee, warranty security, completion security, or other financial assurance required by the City in connection with a development, subdivision, permit, plat, plan, approval, dedication, acceptance, or agreement.

Section 2. Amendment to UDC Section 11.03, Performance and Maintenance Guarantees.

UDC Section 11.03 is amended by deleting subsection 4(h) and replacing it with the following:

h) Any performance guarantee submitted under this section shall be for a period not to exceed two (2) years unless a shorter period is required by the City or a longer period is authorized by written agreement approved by the City Council. The Council may grant an extension of up to one (1) year for completion of the improvements, based upon a request by the developer and evidence justifying the request. The Council may secure a new estimate of the cost of the improvements from the City Engineer or other qualified professional. If the estimate has increased, the Council shall require an increase in the amount of the performance guarantee or require replacement or supplemental security acceptable to the City.

UDC Section 11.03 is further amended by deleting subsection 5 in its entirety and replacing it with the following:

5) PERFORMANCE GUARANTEES AND MAINTENANCE GUARANTEES.

- a) **Acceptable Forms of Security.** Any performance guarantee, maintenance guarantee, warranty security, or other development security required under this section shall be in a form acceptable to the City and approved as to form by the City Attorney. Acceptable forms of security may include, without limitation, cash, cashier's check, certified check, escrow agreement, government security, irrevocable letter of credit, surety bond, or other equivalent security determined by the City Manager, Community Development Director, Public Works Director, City Engineer, or their designees to provide adequate protection to the City, consistent with this section and any standard forms approved by the City Attorney.
- b) **Administrative Acceptance.** Unless approval by the Mayor and Council is expressly required by this Code, a development agreement, an approved condition of zoning or development approval, or other applicable law, development security may be accepted administratively by the City Manager, Community Development Director, Public Works Director, City Engineer, or their designees, after approval as to form by the City Attorney.
 - (1) Administrative acceptance may occur when the City determines that the security complies with this section, the approved plans, permits, plats, conditions of approval, applicable City standard forms, and any applicable development or public improvements agreement.
 - (2) Administrative acceptance of development security shall be sufficient for purposes of final plat approval, final plat recording, permit issuance, inspections,

certificates of occupancy, replacement of prior security, or other administrative development authorization, as applicable.

- (3) Administrative acceptance shall not constitute acceptance of public improvements, acceptance of dedication, release of security, waiver of City standards, or approval of any deviation requiring Council action.
- c) Performance Guarantee to Remain Effective. A performance guarantee shall remain in full force and effect until released by written notice of the City. It shall be the responsibility of the developer to keep the performance guarantee current and not allow it to expire until all improvements secured by the performance guarantee have been completed, inspected, and accepted or approved for release by the City, and until any required maintenance guarantee or warranty security has been provided and accepted by the City.
 - d) Failure to Maintain Security. If a required performance guarantee, maintenance guarantee, warranty security, or other development security expires, is cancelled, is reduced without City approval, or otherwise ceases to provide security acceptable to the City, the City may withhold permits, inspections, certificates of occupancy, final plat approval or recordation, acceptance of improvements, release of other security, or other development authorization for the subdivision, project, phase, or section secured by the guarantee until acceptable replacement security is provided. Failure to provide replacement security may also be treated as a default under the applicable security instrument.
 - e) Release of Performance Guarantee. Upon completion of improvements secured by a performance guarantee, the developer shall request release from the Dallas Community Development Department. The Community Development Department, Public Works Director, City Engineer, or other authorized City official shall inspect or cause inspection of the completed improvements. If the improvements have been completed to the satisfaction of the City and a suitable maintenance guarantee or warranty security has been provided and accepted, the City Manager, Community Development Director, Public Works Director, City Engineer, or their designee may release the performance guarantee by written notice of the City. Release of the performance guarantee shall not constitute acceptance of public improvements, acceptance of dedication, waiver of City standards, or release of any maintenance or warranty obligation unless expressly stated in writing.
 - (1) Appeals of Development Security Determinations:
 - i. Before filing an appeal under Section 11.11, an applicant may request written administrative review by the City Manager of a staff determination regarding the amount, form, sufficiency, acceptance, replacement, default, or release of development security. The City Manager may affirm, modify, or reverse the staff determination. The City Manager's written determination shall constitute the final administrative decision for purposes of appeal under Section 11.11.
 - ii. Any person aggrieved by a final administrative decision of the Community Development Director, Public Works Director, City Engineer, City Manager, or their designee under this subsection may appeal such decision in accordance with Section 11.11, Administrative Appeals Procedure. The Zoning Board of Appeals shall hear and decide such appeal in its quasi-judicial capacity unless another appeal authority is expressly required by this Code or applicable law. Any further appeal shall be to the Superior Court of Paulding County as provided by Georgia law.
 - f) Maintenance Guarantee Required. As a condition of acceptance of improvements and release of the performance guarantee, the City shall require the developer to post a maintenance guarantee in an amount equal to fifteen percent (15%) of the cost of the improvements, or such greater amount as may be required by the City based on the nature

of the improvements and the risk of correction, repair, replacement, restoration, or maintenance.

- g) Maintenance Period. Unless a longer period is required by approved conditions, written agreement, or other applicable law, the maintenance guarantee shall remain in effect for a period of two (2) years from the date of written acceptance of the improvements by the City.
- h) Minimum Security Requirements. Any non-cash security shall:
 - (1) name the City of Dallas, Georgia as obligee or beneficiary;
 - (2) be payable or drawable by the City without requiring developer consent;
 - (3) remain effective until written release by the City;
 - (4) prohibit cancellation, expiration, reduction, or nonrenewal without at least sixty (60) days' prior written notice to the City and acceptance of replacement security;
 - (5) authorize use of proceeds for completion, correction, maintenance, repair, replacement, restoration, inspection, testing, engineering, legal, administrative, procurement, mobilization, and related costs;
 - (6) provide that the developer remains liable for costs exceeding the amount of the security; and
 - (7) include such other terms as the City Attorney, City Manager, Community Development Director, Public Works Director, or City Engineer may require to protect the City.
- i) Surety Bond Requirements. Any surety bond shall be issued by a surety authorized to transact surety business in the State of Georgia and shall include a valid power of attorney for the executing attorney-in-fact. The City may require evidence that the surety is listed on U.S. Treasury Circular 570, rated A.M. Best A- VII or better, or otherwise financially acceptable to the City.
- j) Irrevocable Letter of Credit Requirements. Any irrevocable letter of credit shall be issued by a financial institution acceptable to the City, shall be payable upon demand by the City, shall not require consent of the developer or any third party, and shall include automatic renewal or replacement-security provisions acceptable to the City Attorney.
- k) No Implied Release. No inspection, approval, certificate of completion, certificate of occupancy, acceptance of dedication, recordation of plat, passage of time, sale of lots, or partial use of improvements shall release any performance guarantee, maintenance guarantee, warranty security, or other development security unless the City issues a written release.

Section 3. Conforming Amendment to Chapter 34-23(a)(4).

Chapter 34, Article II, Section 34-23(a)(4), concerning submission of the final plat after completion of physical development or proper arrangements for same, is amended by adding the following sentence at the end of subsection (a)(4):

For purposes of this subsection, "proper arrangements" may include a performance guarantee, maintenance guarantee, warranty security, or other development security accepted by the City in accordance with the Unified Development Code and approved as to form by the City Attorney.

Section 4. Amendment to Chapter 34-23(g), Security for Completion and Maintenance of Improvements.

Chapter 34, Article II, Section 34-23(g), concerning surety for completion of improvements, is deleted in its entirety and replaced with the following:

(g) Security for completion and maintenance of improvements.

- (1) Authority to require and accept security. In lieu of completion of required improvements in a subdivision before final plat approval, final plat recording, acceptance, or other development approval, the City may require and accept security in an amount and form sufficient to secure the construction, installation, completion, correction, maintenance, repair, replacement, restoration, and acceptance of required improvements and utilities. Development security may be accepted administratively by the City Manager, Community Development Director, Public Works Director, City Engineer, or their designees, after approval as to form by the City Attorney, unless Council approval is expressly required by this chapter, the UDC, a development agreement, approved condition, or other applicable law.
- (2) Acceptable forms of security. Acceptable forms of security may include, without limitation, cash, cashier's check, certified check, escrow agreement, government security, irrevocable letter of credit, surety bond, or other equivalent security acceptable to the City and approved as to form by the City Attorney.
- (3) Amount and conditions. Security shall be in an amount determined by the City to be sufficient to cover the estimated cost of the required improvements, together with such contingency, administrative, engineering, inspection, testing, legal, mobilization, restoration, and related costs as the City may require. Unless otherwise approved by the City Council, preconstruction performance security shall be one hundred thirty-five percent (135%) of the estimated total construction and installation costs for the secured improvements. The security shall include conditions satisfactory to the City and shall require completion of the improvements within the time period approved by the City. The approved time period may be extended for good cause if approved by the City.
- (4) Required improvements. Security may be required for all public or required improvements that are the responsibility of the developer or subdivider, including streets, curb and gutter, sidewalks, drainage facilities, stormwater facilities, water facilities, sanitary sewer facilities, streetlights, signage, striping, landscaping within public areas or rights-of-way, erosion and sediment control, restoration, final asphalt pavement topping, and related improvements.
- (5) Release. No security accepted under this subsection shall be released except by written release of the City. The City may condition release of performance security upon completion of the secured improvements, inspection and acceptance by the City, payment of all required fees and costs, and posting of any required maintenance guarantee or warranty security in accordance with the Unified Development Code and this chapter.
- (6) Maintenance guarantee or warranty security. Following completion and acceptance of improvements, the City may require a separate maintenance guarantee or warranty security in the amount, form, and duration required by the Unified Development Code, this chapter, approved conditions, or written agreement approved by the City.
- (7) Default. If construction, installation, completion, correction, maintenance, repair, replacement, restoration, or acceptance of any secured improvement is not completed within the time required, is not performed in accordance with applicable standards, or is not maintained or repaired during the required maintenance or warranty period, the City may draw upon, demand payment under, enforce, or otherwise use the security to complete, correct, maintain, repair, replace, restore, inspect, test, engineer, administer, or accept the improvements. The City may perform such work with City forces or by contract. If the security is insufficient, the developer or subdivider remains liable to the City for all costs exceeding the amount of the security.
- (8) Non-cash security. Any non-cash security shall name the City of Dallas, Georgia as obligee or beneficiary, shall be payable or drawable by the City without developer consent, shall remain effective until written release by the City, and shall prohibit cancellation, expiration, reduction, or nonrenewal without at least sixty (60) days' prior written notice to the City and acceptance of replacement security.

- (9) Relationship to UDC. Security required under this subsection shall be administered consistently with the performance guarantee and maintenance guarantee provisions of the Unified Development Code. In the event of conflict, the more protective City requirement shall control unless otherwise prohibited by law.

Section 5. Amendment to Chapter 34-26(n), Maintenance Guarantee, Warranty, and Final Inspection.

Chapter 34, Article II, Section 34-26(n), concerning two-year warranty and final inspection, is deleted in its entirety and replaced with the following:

(n) Maintenance guarantee; warranty; final inspection. Developers of nonprivate subdivisions within the city shall provide the City with a maintenance guarantee or other warranty security for infrastructure required to be installed by this article, including streets, curb and gutter, water, sanitary sewer, storm sewers, signage, and related improvements. The amount, form, duration, release, and enforcement of such maintenance guarantee or warranty security shall be governed by the Unified Development Code, unless a written development agreement approved by the City Council requires greater security.

The developer shall compensate the City for the cost of performing a final acceptance and public dedication inspection of the infrastructure improvements set forth in this article. The compensation shall be based on a fee of \$50.00 per lot with a minimum fee of \$2,500.00 and must be paid prior to the final acceptance and dedication inspection. The City shall have the right to use its own employees or to hire a certified engineering firm to perform the final acceptance and dedication inspection.

Section 6. Standard Forms and Administrative Implementation.

The City Manager, Community Development Director, Public Works Director, City Engineer, and City Attorney are authorized to develop, maintain, and require standard forms for performance guarantees, completion bonds, maintenance guarantees, warranty bonds, escrow agreements, irrevocable letters of credit, surety bonds, release letters, demand notices, and related security documents consistent with this Ordinance.

Section 7. No Waiver of Other Requirements.

Acceptance of any development security shall not waive, modify, or reduce any requirement for plan approval, permit issuance, inspection, testing, engineering certification, as-built drawings, record drawings, easements, dedications, maintenance obligations, warranty obligations, fees, or compliance with applicable City standards unless expressly approved in writing by the City.

Section 8. Repealer.

All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 10. Effective Date.

This Ordinance shall become effective immediately upon adoption by the Mayor and Council.

SO SHALL IT BE ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DALLAS, GEORGIA, THIS THE _____ DAY OF _____, 2026.

L. James Kelly, Mayor

James R. Henson, Councilmember

Cooper Cochran, Councilmember

Nancy R. Arnold, Councilmember

Christopher B. Carter, Councilmember

Leah Alls, Councilmember

Candace Callaway, Councilmember

ATTEST:

Tina Clark, City Clerk
City of Dallas, Georgia

Date

APPROVED AS TO FORM:

Darrin Keaton
City Attorney