

AN ORDINANCE OF THE COMMISSIONER OF BARTOW COUNTY FOR THE PURPOSE OF AMENDING THE CODE OF BARTOW COUNTY, THE DEVELOPMENT REGULATIONS, AND OTHER PROVISIONS, RELATING TO REQUIRED SURETY FOR DEVELOPMENTS; AMENDING REQUIREMENTS FOR LANDSCAPE BONDS; AMENDING STORMWATER MANAGEMENT REGULATIONS RELATING TO MAINTENANCE BONDS; AMENDING PROVISIONS ON DRIVEWAYS AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 7<sup>TH</sup> DAY OF NOVEMBER, 2018.

---

**WHEREAS**, the County has adopted the Code of Bartow County to govern, among other things, development of property, and has specifically adopted Chapter 34 regulating stormwater management; and also has adopted Appendix B, the Development Regulations to govern development of residential and non-residential property, and to create standards for erosion, street design and other matters; and

**WHEREAS**, the Community Development Department recommends adoption of the amendments set forth below to update the Code including Chapter 34, the Stormwater Management Ordinance, Chapter 55 governing roads and driveways, and Appendix B, the Development Regulations; and

**WHEREAS**, the Commissioner has determined it is in the best interests of the public health, safety and welfare to adopt the amendments set forth below; and

**NOW THEREFORE BE IT ORDAINED**, AND IT IS HEREBY ORDAINED, by virtue of the authority vested in the Commissioner by law, that the Code of Bartow County is amended as follows:

**I. Subsection 34-590(a) of the Code is deleted and replaced with the following (new provisions underlined):**

(a) For facilities to be dedicated and accepted by the county, prior to or concurrent with the recording of a final plat for a subdivision, or issuance of a certificate of occupancy for a non-subdivision project, the developer shall provide as acceptable surety a bond providing for the maintenance of the development's stormwater management system for a period of not less than two years.

**II. Subsection 5.28(e) of Appendix B of the Code is deleted and replaced with the following (new provisions underlined):**

(e) Surety to county. Prior to issuance of a land disturbance permit the developer shall cause to be executed in favor of Bartow County surety in the form of a performance and

maintenance bond or an irrevocable standby letter of credit issued by an approved bank. The surety must be accepted and approved by the county engineer before the LDP can issue.

(1) *Purpose.* The purpose of the surety shall be any or all of the following, depending on the particular development: 1) to secure performance of the erosion and sedimentation control work in compliance with county regulations; 2) to ensure proper construction of roads in new developments; 3) to ensure proper construction of any work performed in existing Bartow County rights-of-way; 4) to provide a guaranty for the warranty and maintenance period applicable to any new road or work in any existing county right-of-way; 5) to provide funds for repair of damage to any existing County roads, including roads contained in earlier phases of the same development, caused by construction traffic in the new development.

(2) *Approval.* The surety shall only be issued in a form approved by Bartow County. The language of the surety and the term of the surety must be approved by Bartow County prior to issuance. Bartow County has forms it prefers that surety companies use, and those can be provided upon request; otherwise, the form of the surety shall be approved by the county engineer prior to acceptance of the surety. Any irrevocable standby letter of credit or surety bond shall be issued by a company or financial institution authorized to do business in the State of Georgia. Irrevocable standby letters of credit shall be issued in accordance with International Chamber of Commerce (ICC) Publication 590, International Standby Practices "ISP98", and must be issued by a bank having a physical branch in Bartow County, which shall be the place of tender of the draft on said letter of credit. Bartow County reserves the right to demand a specific form of surety from a developer that has tendered unsatisfactory surety in the past. Bartow County reserves the right to reject a surety from a financial institution or insurance company that has provided an unsatisfactory surety in the past. Cash is not an acceptable form of surety.

(3) *Scope.* In each case, the surety guarantees that all applicable provisions of any Bartow County Ordinances are complied with, including but not limited to, the Erosion and Sedimentation Control Ordinance, these Development Regulations, the Utility Accommodation Ordinance, Bartow County Standard Road Details, and the regulations promulgated under each of the foregoing.

(4) *Amount and term.* The amount of the surety depends on the project, and shall be set by the county engineer relying on experience with similar projects and the developer, knowledge of material and labor costs, and investigation of additional costs. The amount shall be sufficient to secure performance of the work and compliance with the county ordinances and regulations. Depending on the elements of the project, the amount can include one or more of the following: 1) For security of erosion and sedimentation control work, the amount shall be sufficient to permanently stabilize the entire project, at a minimum of \$3,000.00 per acre of the property to be disturbed. 2) For road work on new roads, the amount shall be sufficient to grade, base and pave all new roads called for on the plans, at a rate to be determined by Bartow County and such rate may be revised from time to time as

deemed necessary by the county engineer to reflect current construction costs; the amount shall also be sufficient to pay for associated utility relocations/installations and stormwater controls. 3) For work in existing county rights-of-way, the amount shall be sufficient to ensure repair the roads after any planned work, including associated utility relocations/installations and stormwater controls, that are part of the project being approved; the minimum amount shall be \$25,000.00. 4) For multi-phased developments where construction traffic is traveling through subdivision roads already accepted by the County, the minimum amount shall be \$10,000 per 0.1 miles (i.e., 1/10<sup>th</sup> of a mile) of county-owned subdivision road being crossed by the construction traffic. The foregoing amounts are minimums and can be increased based on a more complex or expensive project, difficult terrain or other factors that would make the remedial work more expensive. No additional separate amount of surety shall be required for maintenance purposes. The term of any surety shall extend for the period from the issuance of the LDP until the project or development is completed, and additionally beyond that for the duration of any applicable warranty and maintenance period.

(5) *Partial release.* Once erosion and sedimentation control BMPs are complete, and the site is finally stabilized, the county may, at the discretion of the county engineer, authorize a release of the portion of the surety relating to E & S work. Once a new roadway or roadways have had final "as-built certificates" issued and they have been dedicated and accepted, the county may, at the discretion of the county engineer, release a portion of the surety amount relating to the new roads; the remainder shall be kept as surety for the maintenance period. Once a project within an existing county right-of-way has been completed and inspected, the county may, at the discretion of the county engineer, release a portion of the surety amount relating to the work in the existing right-of-way; the remainder shall be kept as surety for the maintenance period. Once the applicable maintenance period has passed, the remaining surety amount shall be released. In the event there are no new roads nor any work in the county right-of-way that require a warranty period, the surety shall be released upon the issuance of a certificate of occupancy.

(6) *Prerequisite; calling surety.* No land disturbance permit shall be issued by the county until the surety has been furnished to the county, in a form acceptable to the county. If the developer does not comply with these regulations, other applicable Bartow County Ordinances and regulations, or with the conditions of the permit after issuance, the county may call the surety, or any part thereof, to be forfeited and may use the proceeds to perform the work or hire a contractor to remedy the defects, whether that means installing soil erosion and sedimentation prevention measures, completing paving and road work, or completing other work.

(7) *Waiver.* The county engineer shall be authorized, but not required, to reduce or waive the surety requirement for projects undertaken by a municipal government in the county.

**III. Subsection 5.32(15) of Appendix B of the Code is deleted and replaced with the following (new provisions underlined, deletions indicated by strikethrough):**

(15) *Maintenance surety.* In accordance with the Bartow County Stormwater Management Ordinance, prior to approval of final plat or issuance of certificate of occupancy, the developer shall cause to be executed in favor of Bartow County surety in the form of a maintenance bond, or an irrevocable standby letter of credit, ~~or an escrow deposit.~~ In lieu of providing a new letter of credit, the developer shall have the option of utilizing funds that would otherwise be released for satisfaction of the E & S requirements in the existing surety, providing the amount meets the requirements of the Stormwater Management Ordinance, and provided the form of the existing surety encompasses the warranty and maintenance obligations contained therein. If the existing surety is not adequate in amount or form for these purposes, the surety must be reissued or a new surety provided. The purpose of the surety shall be for the guarantee of the stormwater management facilities ~~for the duration of the warranty and maintenance period regardless of whether or not the~~ if the developer intends to deed the facilities to the county and the county is agreeable to accept ownership or they are to remain private. See subsection 9.4.5 of the Stormwater Management Ordinance.

**IV. New subsection 5.63(o) of Appendix B of the Code is added as follows:**

(o) *Landscape Bond.* Upon final installation of new trees, shrubs or other landscape material planted to meet the requirements of this Ordinance, and before approval of final plat or certificate of occupancy, the owner shall either post a Maintenance Bond or Letter of Credit in an amount equal to seventy five (75) percent of the value of the new trees or landscape material and their installation, warranting the new trees, shrubs or landscape material for a period of no less than fifteen (15) months from approval of Final Plat or Certificate of Occupancy. The County Engineer shall be authorized to reduce or eliminate the bonding requirement as an incentive to install better landscaping materials (for example, sodding rather than seeding disturbed areas).

**V. Subsection 55-25(a) of the Code is deleted and replaced with the following (new provisions underlined):**

(a) *Driveways.* Driveways (including paved, masonry, asphalt, etc) are permitted to encroach on the right-of-way. A driveway permit shall be required and the lot owner shall secure permission for any new driveway from the Community Development Department. Driveways must meet sight distance requirements of Community Development Department, and must be constructed in compliance with county requirements for stormwater drainage/piping and include a hard, permanent surface (concrete or asphalt).

All other Ordinances and Resolutions, or parts of said Ordinances or resolutions, in conflict herewith are hereby repealed, except to the extent said Ordinances are more restrictive than this Ordinance.

**SO ADOPTED** this 7th day of November, 2018, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

---

Kathy Gill, County Clerk

---

Steve Taylor, Sole Commissioner