

Having been duly posted on the 30th day of November, 2004 and the public having the opportunity to comment on the propriety of the following regulation will be duly promulgated and become effective on the 6th day of December 2004.

**RE: ADMINISTRATIVE REGULATION NO. 1-04 Zoning and
Development Code
City of Grand Junction**

ISSUED BY: /s/ Mark Relph 11/30/04
Mark Relph, Public Works and Utilities Director Date

/s/ Robert E. Blanchard 11/30/04
Robert Blanchard, Community Development Director Date

Topic:

This administrative regulation concerns the posting of security necessary to guarantee public improvements constructed with or as a part of new development. Under the City Zoning and Development Code (ZDC) a Developer is required to warrant improvements against defects in workmanship and materials for a period of one (1) year after completion. This Administrative Regulation is intended to clarify the types of security that can be used to guarantee public improvements through the one (1) year warranty period and clarify conditions for the release of the security.

Background:

Section 2.19.D.1 of the ZDC establishes the forms of security that are acceptable for the one (1) year maintenance period. It has been the City's practice to accept cash or a letter of credit in the amount of 20% of the value of the public improvements that were constructed. Section 2.19.D.1 provides that security may be in "a form acceptable to the Director". The use of a Warranty or Maintenance bond has been discussed with a number of developers and their representatives as one alternative to the cash or letter of credit forms of security.

Section 2.19.D.2 of the ZDC provides that the maintenance security may be extended in the event that the required improvements need to be repaired, modified or reconstructed during the interim one (1) year maintenance period. The City has typically extended the entire amount of the security for a period of one (1) year from the date modifications to the date improvements are made.

This Administrative Regulation provides guidance on when/if maintenance security will be released as part of this section of the ZDC.

Administrative Interpretation:

It is the Directors interpretation that "other form acceptable to the Director" under section 2.19.D.1 is a Maintenance bond in the face or principal amount of 100% of the value of the project's public improvements, as described by Schedule B of the project DIA, for a period of one (1) year from the date of final acceptance of all improvements in the project, or as applicable the phase or filing of a project.

It is the Directors interpretation that section 2.19.D.2 shall be interpreted, clarified and construed to provide that if repairs, replacement or modifications to the projects public improvements are made by the Director or required to be made by the City during the one (1) year maintenance period, then the City, at its sole option and discretion, may require an extension of the security in an amount equal to the repair costs plus 20%. If, in the opinion of the Public Works Manager, the type or extent of the repairs does not warrant extension of the maintenance security, the security may be released after the initial one (1) year period.

In making his decision, the Public Works Manager may consider any facts or information he deems relevant, which may include but is not limited to, whether the failed improvements are above or below grade, whether the failed improvements are life, health and safety related, and whether other phase(s) or filing(s) depend on the improvements and the degree of the failure(s).