




## POLICY C-PD01

## Development Agreement Security Requirements

Prepared By:	Planning and Development Services	Council Approval Date:	
Effective Date:		Council Resolution No.:	
References:	Letters of Credit Procedures PD01-P1 <i>Municipal Government Act Section 655(1)(b)(vi)</i>	Previous Revision Date:	March 13, 2007 (Policy PD 001)
Function:	Planning and Development Services	LAS Endorsement:	

### PURPOSE

The purpose of this policy is to outline the criteria and method used to determine the minimum amount of security to be submitted by a developer as part of executing and fulfilling a Development Agreement with the County.

### POLICY STATEMENT

Parkland County requires that a developer provide securities, by its authority under the *Municipal Government Act*, prior to the County ratifying a Development Agreement. The security is meant to serve as a performance incentive, enable the County to secure the construction site if needed, and in some cases, secure funds to complete the construction of certain municipal improvements should a Developer not fulfill its obligations.

### DEFINITIONS

1. "Act" means the *Municipal Government Act*, R.S.A., 2000, Chapter M-26.1, and amendments thereto.
2. "Council" refers to the Council for Parkland County.
3. "Development" means development as defined in the Act.
4. "Development Agreement" means an agreement between a developer and the County entered into pursuant to Section 655 of the Act.
5. "Development Permit" means a permit issued under Parkland County's Land Use Bylaw and authorizes a development.
6. "May" means discretionary compliance or a choice in applying policy.
7. "Shall" means mandatory compliance.
8. "Subdivision" means subdivision as defined in the Act.

### SCOPE

This policy applies to all Development Agreements signed between a developer and Parkland County as permitted for under the Act.

## RESPONSIBILITIES

The Manager of Planning and Development Services and the Manager of Engineering Services are responsible for the development, implementation, monitoring and evaluation of this policy.

## STANDARDS

### 1. General Security Requirements

- a) Securities shall be collected as part of the Development Agreement for approved subdivisions or development permits. No construction activity shall commence or subdivision endorsement issued until the appropriate security has been submitted to the County as required under the executed Development Agreement.
- b) Acceptable forms of security are irrevocable letters of credit, cash, certified cheque, or bank draft. Personal cheques, term deposits, land/lots in lieu or guaranteed investment certificates are not representative replacements for securities, and shall not be accepted.
  - (i) Irrevocable letters of credit shall have an automatic renewal clause. All renewals shall be for a minimum of twelve (12) months;
  - (ii) All irrevocable letters of credit requiring renewal should be received by the County thirty (30) days in advance of the expiration. The County reserves the right to call any Letter of Credit not renewed seventy-two (72) hours in advance of expiration without notice to the developer. It is the obligation of the developer to ensure they have continual security; and
  - (iii) Irrevocable Letters of Credit shall take the form of and be processed in accordance with Administrative Procedure PD01-P1.
- c) Securities will be based on certified engineering estimates prepared by the developer's engineer. The estimates shall include 10% for engineering and administration costs and GST.
- d) Upon written request by the developer to the Manager of Engineering Services, or designate, security may be reduced based on actual construction tender prices submitted by the developer's engineer.
- e) For multi-phased development, securities will be required for each phase of development. Securities shall not be transferred to the next phase(s) of development until the previous phase has received final acceptance by the County.
- f) At the discretion of the Manager of Engineering Services, the certified construction estimates may be subject to third party review to ensure sound engineering judgements are followed and that industry prices and standards are utilized.
- g) Release of securities held by the County to the developer shall be completed in accordance with Section 5 of this Policy or as otherwise outlined in detail within the executed Development Agreement.
- i) Where a developer is not fulfilling its obligations identified under the Development Agreement and does not act on requests from the County to remedy maintenance or safety concerns, the County will draw on the securities collected against the development to complete the maintenance or safety concerns to the satisfaction of the County.
- j) The developer shall forfeit all remaining securities to the County five (5) years from the date a Development Agreement has been executed, if in the sole opinion of the County, the developer has not acted in a reasonable manner to complete remaining work related to its subdivision or development. This will include the completion of any incomplete work or correction of deficiencies listed by the County on Security and Maintenance Agreements and Construction Completion or Final Acceptance Certificates.

### 2. Security Amounts for Subdivision

- a) Subdivisions requiring a Development Agreement as a condition of approval shall submit security prior to the County signing the agreement. Parkland County shall be at liberty, but not obligated, to use the security to cover any costs associated with bringing the development into compliance with the Development Agreement. The amount of security shall be at the discretion of the

Manager of Planning and Development Services and Manager of Engineering Services, and shall be in accordance with the following:

- (i) \$25,000.00 to be held until issuance of a Final Acceptance Certificate (FAC); and
- (ii) Twenty-five percent (25%) of the estimated value of all external local improvements, if applicable.

*Note: The Manager of Planning and Development Services has the discretion to reduce (i) for minor projects outside of industrial or multi-lot residential subdivisions, or increase (i) for significant projects where the gross estimated construction costs are in excess of two million dollars.*

- b) To obtain endorsement, the developer shall have been issued all necessary Interim Completion Certificates (ICC) and/or a Construction Completion Certificate (CCC) from the Manager of Engineering Services, and shall have entered into a Security and Maintenance Agreement. The Security and Maintenance Agreement shall outline any permissible incomplete work or deficiencies and any maintenance responsibilities by the developer after endorsement and registration of the subdivision plan. The amount of security shall be at the discretion of the Manager of Engineering Services in accordance with the following:
  - (i) One hundred and fifty percent (150%) of the estimated value of all permissible incomplete local improvements and deficiencies.
  - (ii) The total amount of securities held by the County under a Development Agreement will be reviewed annually to ensure that the County is accurately maintaining one hundred and fifty percent (150%) of the estimated value of all the incomplete local improvements and deficiencies. If the estimated value of the incomplete local improvements and deficiencies has increased, the County shall require additional security from the developer.
- c) Upon completion of all work with no deficiencies and issuance of the Construction Completion Certificate (CCC) by the Manager of Engineering Services, the County shall require security in the amount of five percent (5%) of the Local Improvements to cover any deficiencies that may arise during the warranty period until issuance of the Final Acceptance Certificate (FAC).

### 3. Security Amounts for Bareland Condominiums

- a) Security for Bareland Condominiums will be based on one hundred percent (100%) of the gross construction costs as approved by the County at its sole discretion prior to the County endorsing the condominium plan(s). Gross construction costs shall include, but are not limited to:
  - (i) clearing, stripping and grading;
  - (ii) approach construction, culverts and fill;
  - (iii) subgrade, ditches and drainage;
  - (iv) base and paving of roads and approaches;
  - (v) placement of all dirt and seeding;
  - (vi) all utilities, shallow and deep, including water wells, cisterns or private sewage systems where applicable;
  - (vii) cost of engineering including design drawings, construction inspection, quality control testing and as-builts;
  - (viii) signage;
  - (ix) contingency fund for snow removal, weed control, grass cutting and culvert clean out; and
  - (x) quality assurance testing by the County at its sole discretion.



#### 4. Security Amounts for Development Permits

- a) Security for Development Permits that require a Development Agreement as a condition of approval shall be submitted prior to the County signing the Development Agreement. The amount of security required will be calculated in accordance with paragraph 2(a), above.
- b) In the instance where a developer intends to begin the operations that are the subject of the Development Permit prior to the internal and external improvements having received a Final Acceptance Certificate (FAC), the developer must have received an Interim/Construction Completion Certificate (ICC or CCC) and, have entered into a Security and Maintenance Agreement with the County and provide securities in accordance with paragraph 2(b), above.
- c) In the instance where a Development Agreement is not required, but the County still requires securities in order to ensure that all permit conditions are carried out. The Development Authority shall require security be collected in accordance with the County's Land Use Bylaw or the amount established under the Fees and Charges Schedule approved by Council each year as part of the Capital and Operating Budget, as applicable. *(Examples may include but are not limited to developments involving Soil Remediation, Stripping, Filling, Excavation and Grading, Demolition, Landscaping, Moved-on Buildings, Approach Construction, etc).* The security meet the following criteria:
  - (i) A sufficient amount of security to cover any potential cost to the County to bring the development into compliance;
  - (ii) A sufficient amount of security to ensure that the applicant/developer is motivated to carry out all of the development permits conditions within the prescribed time period; and
  - (iii) The amount of security shall be outlined as a condition of approval within the issued development permit.

#### 5. Release of Security

- a) A partial release or reduction of security held by the County shall only be approved by the Manager of Engineering Services upon the execution of a revised Security and Maintenance Agreement in connection with the final placement of asphalt, the issuance of the Construction Completion Certificate (CCC), or upon the issuance of the Final Completion Certificate. No partial security releases will be permitted by the County at any other times.
- b) A release of security for a **Bareland Condominium** (refer to Item 3 above) shall be at the sole discretion of the Manager of Engineering Services. In general, the County will only consider this option upon request from the developer's engineer if all improvements have been completed, the site is deficiency free, roadways have been completed to full design standard, all applicable testing information where required has been reviewed by the County and the condominium corporation is viable and prepared to take over the maintenance of any completed infrastructure.

#### 6. Request to Vary the Policy

- a) Any request by a developer to vary a standard within this policy will require the approval of Council. Any such request shall be initiated through written contact with Parkland County's Chief Administrative Officer (CAO). The developer shall acquire approval from the County's Engineering Services Department for any cost estimates required to be submitted prior to making application to the Chief Administrative Officer. The Chief Administrative Officer (CAO), through Council, will advise the Developer, the Manager of Engineering Services and the Manager of Planning and Development Services in writing regarding any decision to vary the amount of security required under a development agreement that is not consistent with this policy.
- b) The Manager of Engineering Services, or designate, shall remain the sole authority on approving certified construction cost estimates on behalf of Parkland County.