



COUNCIL POLICY C-458

# Development Agreement Security Policy

PREPARED BY:	Planning and Development Services	COUNCIL APPROVAL DATE:	
EFFECTIVE DATE:	Council approval date or later date as directed by Council	RESCINDS POLICY:	Council Policy C-PD01 Development Agreement Security Requirements
REFERENCES:	<i>Municipal Government Act</i> Off-Site Levies Bylaw Off-Site Levies Assessment, Collection and Disbursement Procedure		
FUNCTION:	Planning and Development Services	LLS REVIEW DATE:	June 3, 2026

## PURPOSE

This Policy provides for the establishment of Security requirements for Development Agreements executed between Developers and Parkland County.

## POLICY STATEMENT

Parkland County shall require Developers to provide Security for all Development Agreements that include:

- the requirement for construction or installation of Municipal Improvements; and/or
- staged payment of off-site levies.

## DEFINITIONS

1. For the purpose of this Policy:

- (1) **"CAO"** means the designated Chief Administrative Officer as defined in the MGA, or their delegate.
- (2) **"Council"** means the municipal Council of Parkland County.
- (3) **"Construction Completion Certificate"** means a certificate issued by the County confirming that a Municipal Improvement has been constructed and installed by the Developer and is operational to the satisfaction of the County.
- (4) **"County"** means the municipal corporation of Parkland County.
- (5) **"Developer"** means an individual, corporation, or other legal entity that enters into a Development Agreement with the County.

- (6) **"Development"** means "Development" as defined in the MGA.
- (7) **"Development Agreement"** means an agreement entered into between the Developer and the County pursuant to Section 650 or Section 655 of the MGA, respecting payment, construction, installation, and/or upgrading of Municipal Improvements and any other obligations of the Developer related thereto.
- (8) **"Development Permit"** means a permit issued under Parkland County's Land Use Bylaw authorizing Development.
- (9) **"Director"** means the County's Director of Planning and Development Services, or designate.
- (10) **"Final Acceptance Certificate"** means a certificate issued by the County in respect of a Municipal Improvement, confirming that the Municipal Improvement is complete and has been maintained in accordance with the Development Agreement, and that all outstanding deficiencies have been corrected to the satisfaction of the County.
- (11) **"Municipal Government Act" or "MGA"** means the *Municipal Government Act*, R.S.A. 2000 c M-26, as amended from time to time.
- (12) **"Municipal Improvements"** means all works, infrastructure, or facilities required by the County to be constructed, installed, or upgraded under a Development Agreement, including all appurtenances thereto.
- (13) **"Plan of Subdivision"** means the plan showing the division of the Development Lands, or a portion thereof, into separate lots or parcels for registration and Development purposes.
- (14) **"Security"** means financial assurance provided by the Developer to ensure the completion, performance, and fulfillment of all obligations of the Developer under a Development Agreement.
- (15) **"Subdivision"** means "Subdivision" as defined in the MGA.

#### SCOPE

This policy applies to all Development Agreements entered into between Developers and Parkland County that require the construction of Municipal Improvements and/or staged payments of off-site levies pursuant to the Off-Site Levies Bylaw and Off-Site Levies Assessment, Collection and Disbursement Procedure.

#### RESPONSIBILITIES

The Director of Planning and Development Services is responsible for implementing, monitoring and evaluating this policy in a transparent manner.

#### STANDARDS

1. The County will require Security to ensure the Developer's full performance of all commitments, obligations, and covenants under a Development Agreement, including, without limitation, the construction and installation of Municipal Improvements.

2. Security serves to:
  - (1) ensure the timely and satisfactory construction and installation of all required Municipal Improvements;
  - (2) ensure the Developer performs all of its obligations in accordance with the Development Agreement;
  - (3) compensate the County or any other party entitled to compensation for amounts payable under the Development Agreement that are unpaid; and
  - (4) enable the County to complete, correct, repair, or remedy any incomplete or deficient Municipal Improvements, or any other unfulfilled obligations of the Developer under the Development Agreement, as may be required.
3. Security amounts shall be determined using a consistent and transparent methodology that considers the Developer's categorization status with the County.
4. Security must be provided to, and accepted by, the County prior to the commencement of any construction required under the Development Agreement and prior to endorsement of the Plan of Subdivision, where applicable.
5. General Security Requirements
  - (1) The County will require Security to ensure the Developer's full performance of all commitments, obligations, and covenants under a Development Agreement.
  - (2) Acceptable forms of Security include:
    - a. irrevocable letter of credit from a Canadian Chartered Bank, Treasury Branch, or Credit Union ("Letter of Credit") that complies with the Letter of Credit Procedure;
    - b. cash, certified cheque or bank draft ("Cash Security"); or
    - c. Development Bond issued by a surety approved by the County ("Development Bond").
  - (3) The County will not accept Security in the following forms:
    - a. personal cheques (unless certified);
    - b. term deposits;
    - c. guaranteed investment certificates;
    - d. land/lots in lieu;
    - e. payment by credit card; or
    - f. performance or construction bonds.
  - (4) All Cash Security will be held in an interest-bearing account. Interest shall be accrued at the prescribed rate defined in the Development Agreement.

- (5) Letters of credit and Development Bonds shall be irrevocable, automatically renewed, redeemable if not renewed, and payable upon demand.
  - (6) All Security paid to the County shall be assigned and pledged to the County.
6. Categorization of Developer
- (1) The CAO will categorize Developers based on their past performance or non-performance of obligations under Development Agreements within the County and/or other municipalities, using the criteria set out in "Schedule 1".
  - (2) Where a Developer enters into multiple Development Agreements under different corporate entities, or where the Developer has ownership interests in multiple companies, the CAO may evaluate the Developer's categorization on a case-by-case basis.
  - (3) The CAO may re-categorize a Developer at any time based on updated performance information within the County or another municipality, taking into consideration the criteria in "Schedule 1" and any breaches as set out in "Schedule 3".
  - (4) The CAO shall report the categorization of all active Developers to Council annually.
  - (5) If a Developer's categorization status has been reduced to a lower category, in order to regain the higher status, they must again meet the criteria set out in "Schedule 1" for the relevant category.
7. Amount of Security
- (1) The amount of Security will be based on a percentage of total construction costs as estimated by the Developer's consultant. This estimate must include 15% for engineering and testing, 10% contingency, and 5% Goods and Services Tax ("GST"). Construction cost estimates must be signed by the Developer's consultant and approved by the CAO. Construction cost estimates may be:
    - a. subject to third party review at the discretion of the CAO to ensure sound engineering judgements are followed and that industry prices and standards are utilized.
  - (2) Security requirements will correspond to the Developer Category assigned by the CAO in the amounts prescribed in "Schedule 2".
  - (3) The amount of Security required under a Development Agreement may be increased or decreased, at the discretion of the CAO:
    - a. if the Developer is re-categorized;
    - b. based on updated construction cost estimates or tendered costs for the Municipal Improvements;
    - c. upon issuance of Construction Completion Certificate(s);
    - d. in accordance with the terms of the Development Agreement; and

- e. to reflect values rounded to a reasonable whole number.
- (4) Security will not be reduced below \$25,000, or such other minimum amount as determined by the CAO, until the Developer qualifies for the full release of the Security in accordance with the Development Agreement.
8. Any Security still being held by the County after five (5) years from the date of the Development Agreement shall be forfeited to the County if, in the opinion of the CAO, the Developer has not acted in a reasonable manner to complete the obligations of the Development Agreement, including without restriction, any outstanding Municipal Improvements and/or deficiencies, or if the Developer has become defunct, dissolved, or otherwise ceases to exist.
9. If a Developer does not fulfill the obligations of their Development Agreement or does not act on requests from the County to remedy maintenance or safety concerns related to the construction of Municipal Improvements, the County may draw on and use the Security collected from the Developer to complete any outstanding obligations or maintenance, or address safety concerns related to the work covered by the Development Agreement to the satisfaction of the CAO.

#### **ENACTMENT**

This Policy shall supersede and rescind policy C-PD01 Development Agreement Security Requirements.

#### **ATTACHMENTS**

"Schedule 1" Developer Categorization Criteria

"Schedule 2" Minimum Security Amounts

"Schedule 3" Major and Minor Breaches

## "SCHEDULE 1"

## DEVELOPER CATEGORIZATION CRITERIA

Categorization of Developers will be according to the following criteria:

Category*	Determining Criteria**
A	<ul style="list-style-type: none"> <li>• At least 2 Development Agreements completed or substantially completed within the last 5 years; and</li> <li>• No major breaches of any Development Agreements within the past 5 years.</li> </ul>
B	<ul style="list-style-type: none"> <li>• One Development Agreement completed or substantially completed within the last 5 years; and</li> <li>• No major breaches of any Development Agreement within the past 5 years.</li> </ul>
C	<ul style="list-style-type: none"> <li>• No Development Agreements entered into within the past 5 years.</li> </ul>
D	<ul style="list-style-type: none"> <li>• One or more major breaches in the past 2 years or two or more minor breaches in the past 2 years of any Development Agreement.</li> </ul>

\*Any exceptions or variations to these criteria are subject to the approval of Council.

\*\*For the purposes of categorization, the CAO may accept references from other municipalities where the Developer has completed obligations of Development Agreement(s) that will be considered on a case-by-case basis. When considering past performance, the scope and magnitude of previous projects will be considered as to whether they qualify as completed or substantially completed projects for the purpose of categorization.

## "SCHEDULE 2"

## MINIMUM SECURITY AMOUNTS

**A. Security for Development Agreements Required as a Condition of Subdivision**

Minimum Security amount requirements in the table below are based on percentage of total construction costs except as otherwise indicated:

Security Requirements Table A:

Category	Initial Security*		Security Reductions and Holdbacks****	
	With Expedited Endorsement of Subdivision Plan and Prior to Start of Construction	Prior to Start of Construction and Endorsement Deferred Until CCCs Issued***	Reduced Security Amount After CCCs Issued***	Landscape Holdback (% of Landscape Costs)
A	25%	10%	10%	50%
B	100%	50%	20%	100%
C**	n/a	100%	25%	200%
D	n/a	125%	50%	200%

\*Minimum initial Security shall not be less than \$25,000 for all categories unless total construction costs are less than \$25,000, then 100% Security is required.

\*\*Notwithstanding the Security amounts indicated in this table, if a Category "C" Developer undertakes an un-serviced residential Subdivision to create four (4) or fewer lots, where the total construction costs do not exceed \$150,000, the minimum initial Security amount shall be 25% of total construction costs, subject to the minimum of \$25,000 or if the total construction costs are less than \$25,000, then 100% Security is required.

\*\*\*All Construction Completion Certificates (CCC) must be issued except for landscaping.

\*\*\*\*Notwithstanding the reduced Security amounts in the table above, additional holdbacks may be established for Municipal Improvements without a CCC issued. Such holdbacks shall be 100% of the construction costs of those outstanding Municipal Improvements.

**B. Security for Development Agreements Required as a Condition of a Development Permit**

Minimum Security amount requirements in the table below are based on percentage of total construction costs except as otherwise indicated:

**Security Requirements Table B:**

Category	Initial Security*	Security Reductions and Holdbacks***	
	Prior to Start of Construction Until CCCs Issued**	Reduced Security Amount After CCCs Issued**	Landscape Holdback (% of Landscape Costs)
A	25%	10%	25%
B	50%	20%	100%
C	100%	25%	200%
D	125%	50%	200%

\*Minimum initial Security shall not be less than \$25,000 for all categories, or 100% of total construction costs, whichever is less.

\*\*All Construction Completion Certificates (CCCs) must be issued except for landscaping.

\*\*\*Notwithstanding the reduced Security amounts in the table above, additional holdbacks may be established for Municipal Improvements without a CCC issued. Such holdbacks shall be 100% of the construction costs of those Municipal Improvements.

“SCHEDULE 3”

MAJOR AND MINOR BREACHES

Major and Minor Breaches

Major Breaches	Minor Breaches
<p>The County considers each instance of the following as a Major Breach</p>	<p>The County considers each of the following as a Minor Breach</p>
<ul style="list-style-type: none"> <li>a. Undertaking construction of Municipal Improvements prior to execution of a Development Agreement.</li> <li>b. Failure to obtain any required approvals, permits, or licenses from the County or any other government or regulatory authority.</li> <li>c. Failure to comply with the County’s Engineering Design Standards without prior written approval from the County. The Subdivision Approval, Development Agreement or Engineering Drawings may constitute prior written approval.</li> <li>d. Failure to maintain the minimum Security or insurance requirements for the duration of the Development Agreement.</li> <li>e. Undertaking work in an unsafe manner or establishing an unsafe work environment.</li> <li>f. Failure to rectify any Minor Breach within the timeframe specified by the County.</li> <li>g. Failure to comply with any order issued by the County within the specified timeframe.</li> </ul>	<ul style="list-style-type: none"> <li>a. Failure to apply for a Construction Completion Certificate (CCC) or Final Acceptance Certificate (FAC) within the timelines specified in the Development Agreement.</li> <li>b. Failure to maintain erosion and sediment control measures, provide adequate dust control, weed control, or control of construction debris.</li> <li>c. Failure to correct deficiencies within the timelines specified by the County, where such deficiencies do not pose an immediate safety issue.</li> <li>d. Failure to respond to County communications within a reasonable or specified timeframe.</li> <li>e. Any other breach of a Development Agreement obligation that does not meet the criteria for a Major Breach as determined by the County.</li> </ul>

Notwithstanding the criteria for Major Breaches and Minor Breaches identified in the above table, the CAO shall have the discretion to reclassify any breach that is identified or classify any breach that is not explicitly identified, in their discretion, acting reasonably.