



Guidelines for Establishing Security in Development Agreements

FINAL DRAFT (October 31, 2016)

1. SUMMARY

Planning & Development Services establishes the Security amount to be included in a Development Agreement using the guidelines described below. Developers are categorized based on their past performance in the County. Based on their performance category, the Security amount required to be posted will be defined within the Development Agreement.

2. FORMS OF SECURITY

Strathcona County will accept Security as part of the Development Agreement in the form of:

- An Irrevocable Letter of Credit issued by a Chartered Bank or the Treasury Branch, or
- Cheque; or
- Bank Draft

3. CATEGORY

Based on past performance within the County, a Developer will be categorized at the discretion of the Director of Planning & Development Services as follows:

Category A: Describes a developer whose past performance includes ALL of the following Criteria:

- a) Being a party to two (2) or more Development Agreements with Strathcona County in past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements; or
- b) References from another municipality in the Capital Region certifying the completion of two (2) or more Development Agreements in the past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements.

Category B: Describes a developer whose past performance includes ALL of the following Criteria:

- a) No previous Development Agreements with Strathcona County in past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements; or
- b) Being a party to only of one (1) Development Agreement with Strathcona County in past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements.

Category C: Describes a developer who has been involved in a breach of the terms and conditions of previous Development Agreements, or a developer who has frequent minor breaches of the terms and conditions of previous Development Agreements including Development Agreements with other municipalities in the Capital region.

4. SECURITY AMOUNT

Once a developer has been categorized, the amount of security to be posted will be based on a percentage of the construction cost estimates for the particular stage of development. Construction cost estimates must be stamped and signed by a Professional Engineer. The percentage of security will vary depending on the category in which the developer has been placed.

Category	Initial Security (prior to County acceptance of the construction drawings)	Further Security (prior to endorsement)	Security held During Guarantee Period (after CCC)
A	10%	50% of the cost to complete all municipal improvements	10% (or 50% of cost to complete - whichever's greater).
B	10%	115% of the cost to complete all municipal improvements	10% (or 115% of cost to complete - whichever's greater).
C	115%	--	10% (or 115% of cost to complete - whichever's greater).

Initial Security:

In accordance with provisions of the County's standard Development Agreement, the initial security shall be delivered and deposited with the County prior to the acceptance of the construction drawings for all Municipal Improvements proposed to be constructed and installed in connection with the Development Area.

The amount of the initial security is based on the estimated cost of constructing and installing the **Municipal Improvements** listed below:

- All sanitary sewer mains and appurtenances; and
- All drainage systems, including storm sewers, storm sewer connections, provisions for weeping tile flow, storm retention ponds and associated works, all as and where required by the County; and
- All water mains, including all fittings, valves, and hydrants and looping as required by the County, in order to safeguard and ensure the continuous and safe supply of water in the Development Area; and
- All concrete curbs, gutters, sidewalks and sub-grade, base and asphaltic pavement; and
- All traffic signs, street signs, development identification signs, zoning signs, and directional signs, berming and noise attenuation devices all as and where required by the County; and
- all landscaping and land improvements which are to be constructed and installed to the satisfaction of the County, and in accordance with the landscaping plan to be submitted for the acceptance of the County; and
- Such construction or development of streets and lanes as may be required by the County; including, but in no manner limited to, a second or temporary access for vehicular traffic from the Development Area; and
- Major entrance features shall be located either on an added dedication to the required road right-of-way or on private property. The required dedication shall be defined at the time the plan of subdivision for the development is submitted for approval. Any

major entrance feature located on private property shall require the registration of an easement to provide for maintenance access to the feature. The easement shall be to the satisfaction of the County.

- Such uniform fencing, (noise attenuation, or screen) either permanent or temporary, of a standard and of a design satisfactory to the County, all of which is to be constructed and located to the satisfaction of the County; and
- Any additional amount of security specified in Schedule "D" of the Development Agreement.

CATEGORY	INITIAL SECURITY
A	Shall be TEN (10%) percent of the estimated cost of constructing and installing the Municipal Improvements noted above.
B	Shall be TEN (10%) percent of the estimated cost of constructing and installing the Municipal Improvements noted above.
C	Shall be ONE HUNDRED AND FIFTEEN (115%) percent of the estimated cost of the municipal improvements noted above.

Further Security:

In accordance with provisions of the County's standard Development Agreement, further security shall be delivered and deposited with the County at the time the Developer submits to the County for endorsement the Plan of Subdivision for the Development Area.

CATEGORY	FURTHER SECURITY
A	Shall be equal to FIFTY (50%) percent of the estimated cost of completing and installing the Municipal Improvements noted above.
B	Shall be equal to ONE HUNDRED AND FIFTEEN (115%) percent of the total estimated cost to complete all Municipal Improvements noted above.
C	N/A

** In the event that the Municipal Improvements noted above have been completed accepted (CCC issued) at the time that the Plan of Subdivision is submitted to the County for endorsement, the further security shall not be less than **TEN (10%) percent** of all municipal improvements noted above.

5. HOLDBACK AFTER ISSUANCE OF CONSTRUCTION COMPLETION CERTIFICATE

Category A:

The amount of security will be reduced on application by the Developer upon the Developer having received a Construction Completion Certificate. After the issuance of any Construction Completion Certificates and prior to the issuance of Final Acceptance Certificates for all of the Municipal Improvements noted above, the security shall not be less than the greater of **TEN (10%) percent** of the estimated costs of the Municipal Improvements described above OR, FIFTY (50%) percent of the total estimated cost of completing all Municipal Improvements for which a Construction Completion Certificate has not been issued.

Category B and Category C:

The amount of security will be reduced on application by the Developer upon the Developer having received a Construction Completion Certificate. After the issuance of any Construction Completion Certificates and prior to the issuance of Final Acceptance Certificates for all of the Municipal Improvements noted above, the security shall not be less than the greater of TEN (10%) percent of the estimated costs of the Municipal Improvements described above OR, ONE HUNDRED AND FIFTEEN (115%) percent of the total estimated cost of completing all Municipal Improvements noted above for which a Construction Completion Certificate has not been issued.

6. RELEASE OF SECURITY

Security will be released upon the County's issuance of a Final Acceptance Certificate for the municipal improvements (including receipt of all as-built drawings).

7. RE-CATEGORIZATION OF DEVELOPER

The categorization of a developer may be adjusted based on positive performance as follows:

- A developer will be reassigned from a Category B to a Category A once criteria for Category A has been met.
- A developer may be reassigned from a Category C to a Category B once criteria for Category A has been met and at the discretion of the Director of Planning & Development Services.

The categorization of a developer may be adjusted based on negative performance as follows:

- A developer will be re-categorized from Category A or Category B directly to Category C for a breach of the terms of the Development Agreement.

The following items are considered a breach:

- Commencement of construction prior to acceptance of the Engineering Drawings;
- Commencement of construction prior to approval of the Development Agreement;
- Failure to complete construction within the timelines set out in the Development Agreement;
- Failure to apply for Construction Completion Certificates or Final Acceptance Certificates within the timelines set out in the Development Agreement;
- Failure to submit offsite levies in accordance with the timelines set out in the Development Agreement;
- Failure to renew insurance coverage in accordance with the timelines set out in the Development Agreement.
- Commencement of construction prior to receipt of insurance.

8. DATE EFFECTIVE

These guidelines are effective January 1, 2017 and will not be applied retroactively to existing Development Agreements.