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| Policy Number: | C-407 |
| Policy Owner: | Planning and Development Services |
| Adopted By: | Council |
| Adoption Date: | 2005 October 04 |
| Effective Date: | 2005 October 04 |
| Date Last Amended: | 2019 September 10 |
| Date Last Reviewed: | 2019 August 28 |

Purpose

- 1 This policy establishes the requirement that developers place adequate security against subdivision and development projects within Rocky View County (the County) boundaries to ensure that County standards are achieved prior to release of the securities.



Policy Statement

- 2 The County routinely enters into agreements in which the developer is required to provide a sum of money to ensure that financial security is available in the event that the developer is unable to meet their obligations under the agreement.
- 3 This policy is designed to provide adequate protection to the County as well as to be fair, reasonable, and flexible with developers. The County regularly reviews its security requirements to ensure they reflect industry and County initiatives.



Policy

Collecting Securities

- 4 The County collects securities for subdivision and development, in accordance with section 655(1)(b)(vi) of the *Municipal Government Act*, as part of:
 - (1) a development agreement;
 - (2) a special improvements development agreement;

- (3) a development permit;
 - (4) a road right of way construction agreement;
 - (5) a site services improvements agreement;
 - (6) a road approach construction agreement; or
 - (7) any other agreement added from time to time as deemed necessary by the County.
- 5 The County collects securities as part of a development agreement for
- (1) approved subdivisions, including subdivisions that involve the creation of Common Property; or
 - (2) development permits.
- 6 Securities collected for development permits must be provided as stated in the conditions the development permit.
- 7 Construction activity for a development agreement or development permit must not commence until after the County receives the appropriate security.
- 8 Acceptable forms of security include:
- (1) an irrevocable letter of credit that automatically renews for a minimum of 12 months;
 - (2) a certified cheque to a maximum of \$50,000; or
 - (3) a bank draft to a maximum of \$50,000.
- 9 The following forms of security are not acceptable:
- (1) personal cheques;
 - (2) cash;
 - (3) term deposits;
 - (4) lots in lieu; or
 - (5) guaranteed investment certificates.

- 10 Interest accrued on deposited securities is retained by the County and is not payable to the developer.
- 11 For multi-phased developments, securities are required for each phase of the development. Securities must not be transferred to the subsequent phases of the development until the County has deemed the previous phases complete with all final acceptance certificates issued by the County.

Amount of Security Required

- 12 The County may waive the security requirement for developments associated with private infrastructure if it can be demonstrated that:
 - (1) the development is truly private;
 - (2) there is no future transfer of infrastructure to the County; and
 - (3) the ongoing maintenance requirements stay with the developer.
- 13 The County works with the developer to determine the amount of security required.
- 14 Unless otherwise specified in this policy, the amount of security required depends on the tier the developer is placed in and the estimated construction costs.
 - (1) Developers are placed in tiers based on specific criteria at the sole discretion of the County. These tiers are provided in Appendix A attached to and forming part of this policy.
 - (2) Estimated construction costs are based on certified engineering estimates prepared by the developer's engineer.
 - (3) Upon request by the developer, security may be reduced based on actual construction tender prices submitted by the developer's engineer.
 - (4) At the County's discretion, construction estimates may be subject to third party review to ensure sound engineering judgments are followed and that industry prices and standards are utilized.
- 15 The maximum amount of securities required for development agreements relating to industrial, commercial, or institutional development is \$3,000,000. There is no securities maximum for other forms of development.

- 16 The security required for pre-endorsement development agreements is \$5,000 per disturbed acre.
- (1) Pre-endorsement security is not considered a full security for the purposes of subdivision endorsement. Endorsement of subdivision plans cannot occur under pre-endorsement securities. The developer must provide full security as outlined in this policy to receive endorsement of subdivision plans.
 - (2) When a development agreement is required as a condition of an approved subdivision, the pre-endorsement security may be credited towards the full security required or returned upon receipt of the full security as per this policy.
- 17 The security required for development agreements related to stripping and grading is \$5,000 per acre.
- 18 The security required for road approach construction agreements is:
- (1) variable for farm or field approaches;
 - (2) \$5,000 per residential graveled approach;
 - (3) \$7,500 per residential paved approach; and
 - (4) \$10,000 per all other types of approaches.
- 19 The security required for site improvements services agreements is 100% of the estimated costs based on certified engineering estimates prepared by the developer's engineer.

Drawing on and Forfeiting Securities

- 20 If a developer does not fulfill their obligations identified in their development agreement or development permit or does not act on requests from the County to remedy maintenance or safety concerns, then the County may use the securities collected against the development to complete the outstanding obligations, maintenance or address safety concerns to the satisfaction of the County.
- 21 The developer forfeits all remaining securities to the County after four 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 their subdivision or development, including the correction of deficiencies listed by the County on Construction Completion Certificates (CCC) or Final Acceptance Certificates (FAC).

Releasing Securities

22 Security releases are completed in accordance with the *County Servicing Standards*.



References

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| Legal Authorities | <ul style="list-style-type: none"> • <i>Condominium Property Act</i>, RSA 2000, c C-22 • <i>Municipal Government Act</i>, RSA 2000, c M-26 |
| Related Plans, Bylaws, Policies, etc. | <ul style="list-style-type: none"> • Rocky View County Bylaw C-4841-97, <i>Land Use Bylaw</i> • Rocky View County's <i>County Servicing Standards</i>, adopted by resolution no. 188-13 |
| Related Procedures | <ul style="list-style-type: none"> • N/A |
| Other | <ul style="list-style-type: none"> • N/A |



Policy History

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| Amendment Date(s) – Amendment Description | <ul style="list-style-type: none"> • 2019 September 10 – Amended by Council to include current industry and County standards |
| Review Date(s) – Review Outcome Description | <ul style="list-style-type: none"> • 2019 August 28 – Updates required to align with current practices and standards |



Definitions

23 In this policy:

- (1) “CAO” means Chief Administrative Officer;
- (2) “CCC” means Construction Completion Certificate;
- (3) “common property” means common property as defined in the *Condominium Property Act*;
- (4) “*Condominium Property Act*” means the Province of Alberta’s *Condominium Property Act*, RSA 2000, c C-22, as amended or replaced from time to time;

- (5) “Council” means the duly elected Council of Rocky View County;
- (6) “County” means Rocky View County;
- (7) “*County Servicing Standards*”, means Rocky View County’s *County Servicing Standards*, adopted by resolution no. 188-13, as amended or replaced from time to time;
- (8) “developer” means the registered and equitable owner of the development lands;
- (9) “development” means development as defined in the *Municipal Government Act*;
- (10) “development permit” means a document that is issued under the *Land Use Bylaw* and authorizes a development;
- (11) “FAC” means Final Acceptance Certificate;
- (12) “*Land Use Bylaw*” means the Rocky View County Bylaw C-4841-97, *Land Use Bylaw*, as amended or replaced from time to time;
- (13) “*Municipal Government Act*” means the Province of Alberta’s *Municipal Government Act*, RSA 2000, c M-26, as amended or replaced from time to time;
- (14) “private infrastructure” means infrastructure that does not transfer to Rocky View County upon issuance of a Construction Completion Certificate or a Final Acceptance Certificate;
- (15) “roads” means roads as defined in the *Municipal Government Act*;
- (16) “Rocky View County” means Rocky View County as a municipal corporation and the geographical area within its jurisdictional boundaries, as the context requires;
- (17) “security” means a sum of money held in trust;
- (18) “stripping and grading” means the removal of organic soils and rough grading of lands;
and
- (19) “subdivision” means subdivision as defined in the *Municipal Government Act*.

APPENDIX A

SECURITY TIER LEVELS

| Criteria | Security Requirement | Security Reduction |
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| Tier 1 | | |
| Developer has successfully completed ¹ five or more development agreements with the County or other municipalities in the Southern Alberta Region | 25% of all estimated construction costs. Minimum security amount of \$150,000 | 10% of actual costs plus 25% of the estimated costs for remaining work, maintenance and deficiencies plus 100% of all cumulative operating losses until the operational breakeven point (treatment plants only) to be retained at time of construction completion Minimum security amount of \$150,000 |
| Tier 2 | | |
| Developer has successfully completed ¹ at least two but less than four development agreements with the County or other municipalities in the Southern Alberta Region | 50% of all estimated construction costs. Minimum security amount of \$150,000 | 20% of actual costs plus 50% of the estimated costs for remaining work, maintenance and deficiencies plus 100% of all cumulative operating losses until the operational breakeven point (applies to treatment plants only) to be retained at time of construction completion Minimum security amount of \$150,000 |
| Tier 3 | | |
| Developer has not completed two development agreements with the County or other municipalities in the Southern Alberta Region | 100% of all estimated construction costs Minimum security amount of \$150,000 | 30% of actual costs plus 75% of the estimated costs for remaining work, maintenance and deficiencies plus 100% of all cumulative operating losses until the operational breakeven point (applies to treatment plants only) to be retained at time of construction completion Minimum security amount of \$150,000 |

SUBDIVISION AND DEVELOPMENT SECURITY REQUIREMENTS

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| Tier 4 | | |
|---|--|---|
| Developer has been involved in a major breach of the terms and conditions of a previous servicing agreements, municipal improvement agreements or development agreements with the County or other municipalities in the Southern Alberta Region | 150% of all estimated construction costs Minimum security amount of \$200,000 | 50% of actual costs plus 100% of the estimated costs for remaining work, maintenance and deficiencies plus 100% of all cumulative operating losses until the operational breakeven point (applies to treatment plants only) to be retained at time of construction completion Minimum security amount of \$200,000 |

¹For the purposes of this policy, a development agreement is successfully completed if a complete set of Final Acceptance Certificates were issued for the project by the County or municipality and the Developer can provide proof of such.