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Purpose:

To establish standard requirements in the Municipality's Development Agreement document with regards to security, servicing requirements and insurance against subdivision and development projects. This provides clarity and consistency for potential developers.

Policy Guidelines:

1. The Municipality 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.
2. This policy strives to be fair, reasonable, and flexible with developers while providing adequate protection to the Municipality. Administration will draft and execute these agreements in accordance with this policy.
3. Schedule "A" roads constructed to the G-01 profile single residential or farm access only will be exempt from this policy.

Policy Procedure:

4. The Municipality may require an applicant/developer to enter into a development agreement as a condition of development or subdivision in order to outline the servicing standards required and to collect securities in accordance with section 650 and 655 of the *Municipal Government Act*.
5. The Municipality collects securities as part of a development agreement when an applicant/developer is required to:
 - a) Construct or pay for the construction of a road required to give access to the subdivision/development.
 - b) Construct or pay for the construction of a pedestrian walkway to serve the subdivision/development.
 - c) Install or pay for the installation of a public utility as described in section 616(v)(i) to (ix) of the *Municipal Government Act* that is necessary to serve the subdivision/development.
6. Securities collected must be provided as stated in the conditions of the development or subdivision approval and in keeping with this policy.
7. The developer for a development permit that is the subject of a development agreement must not commence any construction activity until after the Municipality receives the appropriate security.



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8. The Municipality may register a caveat under the *Land Titles Act* in respect of an agreement as per the *Municipal Government Act* against the certificate of title for the parcel of land that is the subject of the agreement.
9. Development Agreements are subject to FOIP.

Acceptable forms of security include:

10. An irrevocable letter of credit issued by a chartered bank that automatically renews for a minimum of 12 months;
11. For multi-phased developments, securities are required for each phase of the development.
12. Securities must not be transferred to the subsequent phases of the development until the Municipality has deemed the previous phases complete with all final acceptance certificates issued by the Municipality.
13. A Developer may request a portion of the security be refunded prior to the Construction Completion Certificate being issued if the project has progressed through critical stages. The Municipality must be satisfied that the completed portion of the project reduces the level of risk the Municipality would incur if required to complete the project.

Amount of Security Required:

14. The following range will be used to determine the percentage of security required when there is a future transfer of the infrastructure to the County. These percentages will be adhered to unless otherwise approved by Council.
 - a. For construction costs between \$1 to \$125,000 the required security will be 25%.
 - b. For construction costs between \$125,001 to \$500,000 the required security will be 50%.
 - c. For construction costs between \$500,001 to \$1,000,000 the required security will be 75%.
 - d. For construction costs over \$1,000,000 the required security will be 100%.
15. When there is no transfer of infrastructure, security will not be required.
16. The Municipality will work with the developer to determine the amount of security required.
17. The actual amount of security will be based on the estimated construction costs prepared by a professional engineer. Upon request by the developer, security may be reduced based on the actual construction tender prices submitted by the developer's engineer.
18. At the Municipality's discretion, construction estimates may be subject to a third-party review to ensure sound engineering judgements are followed and that industry prices and standards are utilized.



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19. Interest accrued on deposited securities is retained by the Municipality and is not payable to the developer.

Drawing on 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 Municipality to remedy maintenance or safety concerns, then the Municipality may use the securities collected against the development to complete the outstanding obligations, maintenance, or address safety concerns to the satisfaction of the Municipality.

Servicing Standards:

21. Construction of any infrastructure that will be transferred to the Municipality must meet the standards outlined in applicable Municipal policies and referenced in the development agreement. These standards and specifications are intended to serve as the “minimum” allowable levels to which the improvements discussed are to be built, and to enable standardization within the Municipality.
22. Once construction is complete, engineering plans, density tests and “As Built” drawings will be required to be submitted to the Municipality for any infrastructure that is being transferred to the Municipality.
23. The applicant may request 75% of any remaining securities to be refunded once the Construction Completion Certificate has been signed.
24. Once the Final Acceptance Certificate has been signed the remaining unused security will be refunded.

Insurance Standards:

25. The Municipality requires proof that they have been added as an additional insured party to a vendor’s general liability policy.
26. The Developer shall indemnify the Municipality from all claims, demands, actions, causes of actions, suits, and costs (including legal fees and disbursements on a solicitor and own client full indemnity basis), which may be brought against or incurred by the Municipality by any person, for injury, loss, or damage whether to person or to property which may occur within the Development Site or otherwise and is caused by the Developer, its servants or agents. The Developer agrees that the Development Site or areas wherein the Developer are within the Developer’s care, custody and control, and the Developer shall indemnify and save harmless the Municipality from any injury, loss or damage occurring to any person or property which may result from any works or construction of the Developer from the date of this Agreement and is caused by the Developer, or its servants or agents.

Timelines

27. The Construction Work shall be completed by the date specified in the agreement, subject to any of the following:
 - (a.) weather related delays accepted by the Municipal Engineer;



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- (b.) mutual written agreement by the parties to this Agreement; or
 - (c.) in the event of an appeal or a legal challenge to any approvals issued by the Municipality, the abeyance of the above dates pending final determination.
28. An extension may be granted based on Section 21. An extension for other reasons may be considered based on evidence provided by the Developer.
29. Construction timelines will be specified based on the size of the project and the amount of infrastructure required. Large projects should not exceed a three (3)-year construction completion timeframe. Smaller projects will be expected to be completed in two (2) years or less unless Section 21 is applicable.

Approved: June 22, 2021 273/21
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