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**To:** Mayor and Council

**From:** Patti Kennedy, Manager of Engineering

**Meeting Date:** August 12, 2024

**Subject:** Report # PW-022-2024 – Development Engineering Review Fee Policy

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## Recommendation

Be It Resolved that Council of the Township of Clearview hereby receive report PW-022-2024 (Development Engineering Review Fee Policy) dated August 12, 2024; and,

- 1) That Council endorse the Development Engineering Review Fee Policy; and,
- 2) That an amendment to the Fees and Charges By-Law 24-16 be presented to Council at the September 9, 2024, meeting, encompassing the new fee recovery for Development Engineering Reviews.

## Background

The Township has historically and continues to rely on Consulting Engineers for development review. In recent years, the development process has shifted to a heavier “front end” or “up front” review and commenting requirement to achieve planning approvals, an acceptable engineered design and ultimately move forward to the construction stage.

Our Consulting Engineers have historically invoiced the Township for their time and costs, which the Township in turn charges back to the Developer. This current process puts the onus on the Township to recoup our Engineers costs. Further, it does not address Public Works Staff’s time spent on any development, as a cost recovery mechanism is not currently in place for the recovery of Public Works Staff’s time.

## Comments and Analysis

Development Engineering should be funded solely from the development community through application and review fees. Currently the only review costs being recovered are those of the Township’s Consulting Engineer.

Staff reached out through the Municipal Engineers Association Development Engineering Committee (MEA-DEC) and asked the group to share their municipality’s engineering review fees. A number of municipalities responded, and Staff have compiled data received on the methodology of cost recovery and fees charged for both subdivision and

site plan review. Staff also obtained historical information from our Consulting Engineer of fees billed over the past years.

The data collected shows that the common method of cost recovery for development review that municipalities are using, is based on a percentage of overall construction costs as the fee. (See Attachment B).

The percentage based method involves the Developer paying the Township at the beginning of the engineering review process and then again at the execution of a Development Agreement, a percentage of the overall construction estimate for the development to cover all development related costs for both Township Staff and external consultants.

While the percentage based method is relatively simple in terms of calculation of the fee, it does come with a few areas of concern. One area is the underestimated construction estimate, however there are checks and balances that can be implemented, including that a final construction estimate is provided and used to have the Developer top up the fee at the time of execution of the Development Agreement.

Substandard or incomplete submissions can consume a considerable amount of time and effort to review. A number of municipalities have included in their Review Fee Policy a mechanism to charge the Developers additional fees once the number of detailed design submissions have exceeded three (3). Staff have included the same mechanism in this Policy.

Most view the percentage based fee method as a “win some loose some” scenario. Some developments will provide the Township with a surplus, while others will require additional funds to bring the development to completion. It is expected that the two scenarios will provide a financial balance.

There are two types of percentage based methods that municipalities are using, a fixed rate and a sliding scale. Of the thirteen (13) municipalities that provided data, the results were almost a 50% split between the two types, with the fixed rate method being slightly higher. Staff are of the opinion that that a fixed rate is the best method for the Township.

Developments can span a number of years, from initial engineering submission to final assumption and the fees received through this process must be sufficient to cover the costs over the life of the development. These fees need to be designated and set aside for use over a number of years. The type of expenses these fees will cover include, but are not limited to Public Work Staff time, our Consultant’s time, mileage, other professional services (i.e. peer reviewers), etc.

In establishing a fee that is sufficient Staff looked at the data of all those municipalities that responded. There was a wide range of fees from a low of 3.25% to a high of 9%, which included both the fixed and sliding scale methods (see Attachment B). Staff have reviewed and discussed the information obtained from the other municipalities and are of the opinion that a fixed rate of 5% is a reasonable rate to be implemented to ensure that the costs to cover both our Consultant's and Township Staff's time for development review is achieved.

Staff will monitor the fees received to confirm the accuracy of the fixed rate and adjust if warranted.

There are a number of active developments with executed development agreements with the Township, where efforts by Township Staff and our Consulting Engineers will still require invoicing until the development is assumed or accepted.

Staff proposes that this Policy be implemented following Council's endorsement and that all current development applications that have not executed development agreements with the Township to date, be subject to it.

### **Financial Implications**

As discussed above, these fees will need to be designated and set aside. Accordingly, an account will need to be created by the Finance Department for these fees and for payment of related invoices.

Further, the Township's Fees and Charges By-Law will require updating to include this new fee.

This Policy is the basis for striving to achieve full cost recovery for development related engineering works.

### **Clearview's Strategic Plan**

The above initiative supports the following strategic pillars:

- Communication
- Infrastructure

### **Report Appendices**

Appendix A – Development Engineering Review Fee Policy

Appendix B – Survey Results

**Approvals**

**Submitted by:** Patti Kennedy, C.E.T., Manager of Engineering

**Reviewed by:** Dan Perreault, C.E.T., Director of Public Works

**Financial Implications Reviewed by:** Kelly McDonald, Director of Finance/Treasurer

**Approved by:** CAO



# Development Engineering Review Fee Policy

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<b>Origin Department:</b>	Public Works	<b>Policy Code:</b>	A09-PW
<b>Approval Date:</b>	August 12, 2024	<b>Approved by:</b>	Senior Management
<b>Next Review:</b>	Annual Basis	<b>Revision Date:</b>	Not applicable

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## Purpose

The purpose of this policy is to establish a consistent and standardized process with respect to the establishment of development engineering review fees for the services of the Engineering Division of the Public Works Department within the Township of Clearview.

## Policy Statement/Scope

The Township of Clearview deems it necessary to maintain a rate fee for Developers and implement a cost recovery mechanism for the required engineering review of all new developments within the Township. Developers shall pay the Township's costs and expenses for staff and consultant services for development review as set out in this Policy.

## Definitions

**“Council”** means the Council for The Corporation of the Township of Clearview.

**“Developer”** means a person or company developing lands within the Township of Clearview.

**“Engineering Review Fee Summary”** means a Schedule to the Site Plan / Subdivision / Development Agreement between a Developer and the Township of Clearview, setting out the costs to be paid to the Township for Staff Time allocated towards the review of a specific development.

**“Estimated Construction Cost”** means the total anticipated cost of construction for all Site Works required for a development including internal and external works based on detailed quantities and itemized costs as prepared by the Developer's Engineer.

**“Modified Estimated Construction Cost”** means the finalized construction cost estimate prepared by the Developer's Engineer based on the development design that is accepted for construction by the Township, which outlines the cost of Site Works associated with engineering review efforts, as agreed by the Township.

**“Site Works”** means the construction and installation of all municipal and private infrastructure and public services.

**“Staff Time”** means the amount of time spent by internal and external staff retained by the Township of Clearview including consultants as required to complete engineering review of development applications.

**“Stage 1”** means the pre-submission consultation review of a preliminary version of a proposed development. This Stage may be optional pursuant to the Township’s Planning Pre-submission & Completeness Requirements By-Law.

**“Stage 2”** means the formal Planning Approvals processes for development applications including Official Plan and Zoning By-law Amendments, provisional Site Plan Approval and Draft Plan of Subdivision or Condominium Approval.

**“Stage 3”** means detailed engineering design review for draft or provisionally approved development applications including technical reports and design drawings that are to be accepted for construction by the Township as required for final development approval.

**“Stage 4”** means the construction review of development including site inspections and review of municipal infrastructure testing up to and including final municipal acceptance / assumption.

**“Township”** means The Corporation of the Township of Clearview.

## **Policy**

### **1) Engineering Review Fees**

Cost recovery for Township Staff Time associated with engineering review for development applications including but not limited to Official Plan Amendments, Zoning By-law Amendments, Subdivision, Condominium and/or Site Plan applications as well as construction review shall be funded by the Developer as outlined in this Policy.

The total Engineering Review Fee to be paid by the Developer for all Stages of development review shall be based on 5% percent of the Estimated Construction Cost (including HST).

The fee is based on a development application being reviewed and “Accepted for Construction” by the Township within three (3) detailed design submissions. Should the application require more than three (3) design submissions, the Developer will be required to pay an additional lump sum fee of \$1,500 for each subsequent submission, to be paid at the time of each additional submission to the Township.

Engineering and construction review of developments are conducted in the following four stages, Stage 1 being an option for the Developer, if they so choose:

- a) **Stage 1** (may be optional) – Pre-Consultation - Review and comment regarding a preliminary version of a proposed development, which may include supporting reports and drawings.
- b) **Stage 2** – Planning Approvals – Review and comment regarding Official Plan and Zoning Approval and Draft Plan Approval.
- c) **Stage 3** – Detailed Engineering Design Review – Review, comment and acceptance of detailed design drawings, associated reports and the Site Plan / Subdivision Agreement and associated agreements.
- d) **Stage 4** - Construction Review – Periodic site reviews and review of infrastructure testing to ensure conformance with Municipal and Provincial Standards, accepted for construction drawings and Site Plan / Subdivision Agreement as well as provide recommendations for construction security reductions, maintenance holdbacks and municipal acceptance / assumption.

The fixed fee for engineering review shall typically include the following efforts from Engineering Staff:

“Stage 1: Pre-Consultation” shall include review and comment on:

- a) A detailed Site Plan prepared by a qualified Planner, Engineer, Architect or other professional.
- b) Any other reports or drawings.

Engineering review and provision of comments for Stage 1 will include attendance at one (1) meeting with Planning Staff.

“Stage 2: Planning Approvals” shall include review and acceptance of:

- a) Preliminary Functional Servicing Report (FSR) – max. 2 submissions.
- b) Preliminary Stormwater Management (SWM) Report including appended design drawings for proposed drainage and SWM facilities – max. 2 submissions.
- c) Traffic Impact Study (TIS) – max. 2 submissions.
- d) Planning Needs/ Justification Report – 1 submission.
- e) Preliminary Geotechnical Report – 1 submission.
- f) Preliminary Site Plan or Draft Plan of Subdivision (as applicable) – max. 2 submissions.
- g) Any other reports and drawings required to satisfy the conditions of Draft Plan / Site Plan approval.

Engineering review and provision of comments for Stage 2 will include attendance at one (1) design review meeting with Planning staff.

“Stage 3: Detailed Engineering Design Review” typically may include, but is not limited to review and acceptance of the following:

- a) Final FSR – 1 submission.
- b) Final SWM Report – 1 submission.
- c) Final Traffic Impact Report – 1 submission.
- d) Final Geotechnical Report – max. 2 submissions.
- e) Arborist Report – 1 submission.
- f) Final Site Plan / Plan of Subdivision – max. 2 submissions.
- g) Detailed design drawings – max. 3 submissions for all drawings.
- h) Storm and sanitary sewer design sheets/excel spreadsheet – max. 2 submissions.
- i) Overall Comprehensive Plan of Easements – Maximum 2 Submissions.
- j) Operations and Maintenance Manual – max. 2 submissions.
- k) Estimated Construction Cost – max. 2 submissions.
- l) Review of Site Plan / Subdivision Agreement (as applicable) – max. 2 revisions.
- m) Any other reports and drawings required to satisfy the conditions of Draft Plan / Site Plan approval.

Engineering review and provision of comments for Stage 3 will also include attendance at the following meetings:

- i. One (1) Design Review Meeting with Township Planning Staff (each submission).
- ii. One (1) Design Review Meeting with Developer’s Engineer (each submission).
- iii. One (1) Meeting with Planning Staff to Review First Draft of the Subdivision / Site Plan Agreement.
- iv. Two (2) additional meetings (any purpose)
- v. Discussions and Meetings with Regulatory Agencies such as NCVA, MECP and MTO.

“Stage 4: Construction Review” typically may include, but is not limited to the following efforts from the Public Works Engineering Division office:

- a) Coordination and attendance at a Pre-Construction Meeting to be held with the Developer, the Developer’s engineer/ site inspector, the contractor, and Public Works Operation staff.
- b) Review of the Pre-Construction Meeting Minutes and attached documentation, all of which is to be prepared by the Developer’s engineer.
- c) Review and acceptance of a Traffic Control Plan prior to works within Municipal rights-of-way.
- d) Periodic site reviews of internal construction work, and regular site reviews of external construction works.

- e) Coordination and attendance on site to review all testing of Municipal infrastructure/ servicing including watermains, sanitary and storm sewer servicing in accordance with OPSS and the Township of Clearview Engineering Standards. Each test must be pre-qualified by the contractor and the Developer's engineer prior to Public Works staff attending to review the final test. Where possible, the Developer's engineer and the contractor shall try to schedule multiple tests during one site visit to reduce the number of reviews required by the Township.
- f) Preparation and issuance of the certificates of completion and/or review of the certificates issued by the Developer's engineer in accordance with the Site Plan / Subdivision Agreement.
- g) Review of Developer's request for reduction of construction securities to 10% upon completion of all works in accordance with the Site Plan / Subdivision Agreement including attendance at a final inspection of site works and provision of recommendation to reduce construction securities.
- h) Review of the Developer's request for release of remaining construction securities upon completion of the maintenance period in accordance with the Site Plan / Subdivision Agreement including attendance at site review at the end of the maintenance period and provision of recommendation to release securities and assumption of the subdivision.
- i) Review and acceptance of "Record Drawings" to be prepared by the Developer's engineer in accordance with Township Engineering Standards – max. 2 submissions.

Fees are outlined in the Engineering Review Fee Summary per Schedule 'A' of this Policy. The summary will also be included as a Schedule to the Site Plan / Subdivision / Development Agreement.

Regardless of the fees paid by the Developer, Township's staff and consultants solely represent the Township and the Township's interests and do not represent the Developer.

## **2) Procedure for Initial Lump Sum Fee Payments**

Through the development review process, Developers will be required to provide an Estimated Construction Cost prepared by the Developer's Engineer to the satisfaction of the Township. The estimate(s) shall be used for construction security requirements as well as to establish engineering review fees for the development.

Where Pre-Consultation (Stage 1) is undertaken, an initial engineering review fee of \$10,000 will be required at the time of submission/application.

It is recognized that a detailed Estimated Construction Cost will not be available at the time of Planning Approvals (Stage 2). At this initial stage of the development application, the Applicant would not have completed sufficient engineering design to determine a detailed

estimate. Accordingly, the Applicant will be required to provide an engineering review fee of \$25,000 at the Planning Approvals stage.

Following the completion of the Planning Approvals (Stage 2), the Developer's Engineer shall submit an Estimated Construction Cost for review and acceptance by the Township.

In the event that a Site Plan application is submitted for lands that have appropriate Official Plan and Zoning designation for the proposed land use, the Planning Approvals stage of development review and associated fee would not be required. This is not applicable for Subdivision applications.

**Any/all Engineering Review Fees submitted by the Applicant/Developer at each Stage shall not be refunded unless the project does not proceed with the Stage/works for which the fee was provided.**

### **3) Breakdown of Subsequent Engineering Review Fee Payments**

The total engineering review fee will be based on 5 percent (5%) of the Estimated Construction Cost provided by the Developer's Engineer. The total fee will be broken down proportionately to identify lump sum fee requirements for development review as follows:

- 50% of the estimated fee due upon first submission of detailed engineering design.
- 50% of the remainder of the confirmed total engineering review fee due upon execution of the Site Plan / Subdivision / Development Agreement.

The fee amounts provided for the first stages will be identified in the Engineering Review Fee Summary appended as a Schedule to the Development Agreement. The Agreement will identify the approved Modified Estimated Construction Cost and outline the fees previously provided. The fees previously provided will be subtracted from the total required review fee to establish the final lump sum fee required at execution of the Development Agreement for construction review.

The Developer may choose to proceed with individual phases of the development under the original Development Agreement, and subsequent phases may proceed under Amending Agreements. Accordingly, the proportionate engineering fees for each phase of development will be reviewed and adjusted as applicable under each Amending Agreement.

In addition to fees associated with construction phases, review of the total fees may be required from time to time to cover inclusion of additional works identified through the construction process.

All lump sum engineering review fees are based on the total cost to the Developer including administration, contingency and HST.

#### **4) Risk Management Official and Risk Management Inspector Fees for Source Water Protection**

In accordance with the terms of the Clean Water Act (2006), municipalities in Ontario are required to appoint a Risk Management Official (RMO) and Risk Management Inspectors (RMI) to ensure that the municipality's drinking water sources are protected. In the Township of Clearview, the RMO / RMI office resides within the Nottawasaga Valley Conservation Authority.

The Source Water Protection Plan for the South Georgian Bay Lake Simcoe Source Protection Region was approved by the Ministry of the Environment and Climate Change on January 26, 2015, with an effective date of July 1, 2015. As such, the Township is required to fulfill its obligations for source water protection in accordance with the Clean Water Act.

In accordance with Section 57 of the Clean Water Act, any proposed developments that propose a land use activity that would create a significant threat to the Township's drinking water sources (as determined by the RMO) shall be prohibited. Therefore, any Development applications that propose activities that could present a threat to the Township's drinking water source will require review and comment from the Nottawasaga Valley Conservation Authority's RMO office.

In addition to new development applications, source water protection also applies to existing land use activities. In accordance with Section 58 of the Clean Water Act, any current property owners / persons engaged in activities that present a significant threat to the Township's drinking water source require a Risk Management Plan in order to mitigate the existing threat. This requires review and negotiation with the Township's RMO to approve / establish an acceptable plan for mitigation.

Any Developer and/or current property owner / persons engaged in activities that requires the review and Staff Time from the RMO and RMI will be invoiced for the time spent attending to the source water protection related matters.

The hourly rate for the RMO and RMI shall be in accordance with the Township and the Nottawasaga Valley Conservation Authority's current Agreement for this service. The hourly rates (when applicable) would be in addition to any fees identified in the Engineering Review Fee Summary appended to the Development Agreement.

#### **Authority**

By signing below, the official representative validates that the policy has been approved by the appropriate Approval Authority (Council, Senior Management, Department Director).

<b>Approval Authority Official Representative:</b>	Chief Administrative Officer	<b>Resolution / By-law # / Meeting Date:</b> Endorsed by Council on
<b>Signature:</b>		
<b>Date signed:</b>		

## Schedule A

This is Schedule “A” to the Development Engineering Review Fee Policy and shall form a Schedule to the Site Plan/Subdivision Agreement between The Corporation of the Township of Clearview and *\*Insert Developer’s name*

Schedule “X” to the Agreement details the fee structure and payment information for development engineering review.

<p><b>*Modified Estimated Construction Cost:</b>          (Provided by Developer’s Engineer = Schedule <i>*X</i>)  <b>A</b> = Estimated Construction Cost (including 10% administration/contingencies and HST)</p>	<p>\$ (incl. HST)</p>
<p><b>Total Engineering Design &amp; Construction Review Fee</b>          (Based on <i>*(5%)</i> of the Modified Estimated Construction Cost)  <b>B</b> = <i>*X% x A</i></p>	<p>\$ (incl. HST)</p>
<p><b>Amount “deemed paid” by the Developer</b>  <b>C</b> = (To be credited for Pre-consultation and Planning Stage)</p>	<p>\$</p>
<p><b>First submission lump sum fee previously paid</b>          (Determined by Township Engineer and paid by Developer – estimated 50% of total fee)  <b>D</b> = <i>*(Amount previously paid by Developer)</i></p>	<p>\$ (incl. HST)</p>
<p><b>Detailed design submissions after the third design submission</b>          (Paid by Developer prior to review and comment of each submission following the third)  <b>F</b> = <i>*X x \$1,500</i></p>	<p>\$ (incl. HST)</p>
<p><b>Stage 4 – Construction Review Fee Estimate</b>          (Based on remaining fee outstanding)  <b>G</b> = <b>B – C – D</b></p>	<p>\$ (incl. HST)</p>
<p><b>Phase 1 Construction Review Fee Estimate</b>  <b>G1</b> = <i>*X% x G</i> (based on proportionate construction cost for phase 1)</p>	<p>\$ (incl. HST)</p>
<p><b>Phase 2 Construction Review Fee Estimate</b>  <b>G2</b> = <i>*X% x G</i> (based on proportionate construction cost for phase 2)</p>	<p>\$ (incl. HST)</p>

The fees for each phase of Stage 4 Construction Review are an estimate only and may need to be revised in an Amending Agreement to the satisfaction of the Township prior to commencement of each phase of construction.

**NOTE:** An asterisk “\*” denotes wording or calculations to be amended/inserted according to the specific development project agreement.

**Attachment B**

	Column 1		Column 2		Column 3	
Comparator Municipality	Type of Cost Recovery Method		Style of Percentage Method		Summary of Fixed Percentage Rates	Summary of Sliding Scale Percentage Rates
	Billed	Percentage	Fixed	Sliding		
Ajax		X		X		6.00% 4.00%
Bradford West Gwillimbury		X	X		6.00%	
City of Waterloo		X	X		5.00%	
Collingwood		X	X		5.00%	
County of Brant		X	X		6.00%	
Grimsby		X		X		5.00% 4.00%
Guelph		X	X		6.00%	
Milton		X		X		9.00% 5.00%
New Tecumseth		X	X		3.25%	
Oshawa		X		X		5.00% 4.00%
Wasaga Beach		X		X		5.00% 4.00%
Whitby		X		X		8.00% 4.00%
Woolwich Township		X	X		6.00%	
<b>TOTALS</b>	0/13	13/13	7/13	6/13		