

1.0 Development Requirements Prior to Construction

1.1 Pre-Application and Complete Application Requirements

The Town of Essex Official Plan (found [here](#)) sets out the objectives and policies to guide the short-term and long-term physical development of all lands within the Town of Essex (Essex). The Town of Essex Zoning By-law specifically establishes and regulates the use of land by implementing the policies of the Official Plan. The Official Plan contains policies requiring application meetings and complete applications.

A pre consultation meeting is required for any contemplated development needing:

- an amendment to the Official Plan
- an amendment to the Zoning By-law (including a Temporary Use by-law)
- approval of a Site Plan
- approval of a Draft Plan of Subdivision or Plan of Condominium
- a Consent to sever
- a Minor Variance
- any other application under the Planning Act

For an application to be considered complete within the meaning of the Planning Act, all applications must be accompanied by submit the following:

- The prescribed application fee
- A completed and signed application form
- All information required by the Planning Act or the associated regulations
- Information required by the Planning Act or the associated regulations
- Information or material required by other sections of this Plan

All required information, support studies and material will be identified in the pre-consultation process, and may include information, studies or material to address the following matters:

- Planning Justification
- Infrastructure and servicing
- Stormwater management
- Transportation, traffic and parking
- Cultural heritage
- Archaeological resources

- Natural environment
- Contaminated or potentially contaminated sites
- Soil test and groundwater quality
- Nuisance, noise hazard or safety issues
- Urban design
- Market impact
- Financial impact
- Greenhouse water capacity
- Accessible design for the built environment
- Impact on Climate and Source Water
- Other studies or reports identified through the pre- consultation process

The list of supporting information, above, does not preclude the Town of Essex or its delegated approval authorities from requiring other supporting information in order for an application to be deemed complete. The Town of Essex may require further information after the pre-consultation has occurred in response to new circumstances that may impact the decision-making process. The terms of reference for supporting information, including any scoping of studies, will be as directed by the Town of Essex.

All supporting information must be prepared by a qualified professional retained by and at the expense of the applicant. The Town of Essex may refuse to accept the supporting information if the quality of the submission is unsatisfactory or it fails to adequately address the established terms of reference.

The Town of Essex may require a peer review of any supporting information by an appropriate agency or qualified professional at the expense of the applicant.

The Town of Essex may require electronic and hard copy versions of supporting information to be submitted in an acceptable format.

The Town of Essex may require applicants who amend development applications to participate in one or more additional pre-application consultation meetings, and may require the submission of revised or additional information before the Town of Essex will consider the amended application complete under the Planning Act.

The Town of Essex will issue a notice of a complete application in accordance with the Planning Act.

1.2 Development Agreements

All developments must be designed and constructed in accordance with the requirements of this Development Standards Manual and the corresponding Development Agreement.

The Development Agreement will set out specific requirements for each development. Where in conflict, the Development Agreement will supersede the requirements of this manual.

The Development Agreement will be prepared by the Town of Essex at the cost of the Developer. The Developer will be required to submit the following documents for approval and to assist with the preparation of the Development Agreement:

- Deed confirming registered owner
- Contract drawings
- Contract specifications
- Copy of tender (or a certified cost estimate for services as provided by the Developer's Engineer and approved by the Manager of Capital Works and Asset Management)

No work can proceed in the development until the agreement is executed by both parties and all financial securities and insurances are provided.

The agreement will be registered against the lands by the Developer's Solicitor who will then send a confirmation of the registration to the Town clerk and Director of Development Services.

Flow charts illustrating the steps in the development process for consent/minor variance, zoning bylaw amendments, official plan amendments, site plan control, and plan of subdivision are included in **Appendix A**.

A typical Development Agreement is included in **Appendix C**. This typical Development Agreement should be used for format only. Specific details of the Development Agreement will be set out as part of the process that is outlined in this manual.

1.3 Approvals

Owners are required to obtain all necessary approvals. Generally, multi-lot creation (five or more lots) will proceed under the Plan of Subdivision process. In limited cases, multi-lot creation may proceed by severance in areas where the premature extension of any major municipal service is not required, and if approved by Council by execution of a development agreement.

Developers should contact the various approving authorities to ascertain permit fee, approval fees and required time periods to obtain these approvals.

The development cannot proceed until these approvals are received and copies of the approvals have been filed with the Town of Essex. General list, not limited to the agencies provided, can be seen in **Section 8 – Agencies, Approvals, and Notifications**.

1.4 Plans

All draft plans shall be neatly drawn to scale. The boundaries of the development shall be staked and certified by an Ontario Land Surveyor. A reproducible copy of the plan shall be submitted, along with an electronic copy. The draft plan shall also show sufficient ground elevations, referenced to geodetic elevations, to identify the drainage patterns. Physical features of the site and abutting lots should be shown. These physical features include drainage ditches, swales, municipal drains, trees, poles, roads, shorelines, buildings, etc.

A flow chart illustrating the Municipality's policy in approving draft plans can be found in **Appendix A**.

The requirements for design and servicing drawings are described in **Section 6 – Design Drawings**.

1.5 Lot Creation

A plan of subdivision shall generally be required where:

- A new road or extension to an existing road is required; or
- Five or more lots are to be created and/or the owner is retaining sufficient lands for the development of additional lots; or
- The Town of Essex deems it necessary for the proper development of the lands.

All new developments under a Plan of Subdivision must be in HARMONY with existing developments, in regards to elevation, grading, and appearance.

A consent will only be considered where a plan of subdivision is deemed by the Town of Essex to be unnecessary, and where the application conforms to the policies of the Official Plan.

Developers will be required to pay park impost fees when new residential and non-residential lots are created through consent.

Developers shall contact the Town of Essex for information regarding the current policy and payment of fees.

1.6 Parkland Dedication, Acquisition Fees and Development

Where a contribution of land is deemed unnecessary by the Town of Essex, Developers will be required to pay parkland acquisition fees in accordance with the regulations of the Planning Act, R.S.O. 1990.

Where the Town of Essex has required parkland to be included as part of a development, it shall be the responsibility of the Developer to service the park to the satisfaction of the Development Agreement and in consultation with the Parks and Facilities Department.

Developers should contact the Town of Essex if any clarification is needed regarding the current policy and fees.

Please refer to the Official Plan (OP found [here](#)) for further information on parkland policies. Policies in the OP are subject to change and will supersede any information indicated in this development manual.

1.7 Allocation and Phasing of Services

To ensure that the proper allocation and phasing of municipal services proceeds in a fiscally sustainable and cost-effective manner, it is the policy of the Town of Essex that development proposals will be accompanied by a servicing review conducted by the proponent in consultation with the Town of Essex.

When sewage treatment servicing capacity does not exist for a proposed development, the Town of Essex will defer the processing and granting of conditional draft approval of the planning application until sufficient uncommitted reserve treatment capacity is available, or until a construction contract is awarded for the creation of the needed treatment capacity, and a servicing agreement and securities are in place to ensure that such treatment capacity will be available to service the development within one year of the granting of conditional draft plan approval. These conditions also apply to water treatment capacity – within Town of Essex jurisdiction. Development within Union Water service area must be done in consultation with Union Water. Draft-approved plans of subdivision may only proceed to final approval and registration if sufficient uncommitted reserve treatment capacity continues to exist.

The Town of Essex acknowledges that developments may proceed in phases. Prior to the commencement of construction, the Developer shall submit, for municipal approval, a phasing plan. The following factors in establishing the phasing of development proposals in Primary and Secondary Urban Centres shall be considered:

- The logical extension of municipal services that avoids, where possible, large undeveloped tracts of land between the existing developed area and the proposed development.

- Proposed temporary drainage infrastructure to maintain existing drainage patterns (where applicable).
- Impacts to residents in previously developed phases.
- The maintenance of a compact form and pattern of development is maintained.
- The cost effectiveness and fiscal sustainability of all municipal service extensions.
- Reserving servicing capacity for redevelopment, infilling and intensification as a first priority.
- Firefighting protection: All dead-end streets shall have turn-arounds and shall meet the requirements of the Ontario Building Code. Temporary dead-ends shall not exceed 250m in length measured to the end of the cul-de-sac. Any dead-end portion of the access route longer than 90 m must have a turn-around.

If a draft plan approval lapses because the conditions were not fulfilled within a prescribed timeframe as outlined in the conditions of approval, the Town of Essex may assign the servicing allocation to other developments or areas of the Town of Essex, or hold the capacity in reserve.

When considering lot creation in areas on partial and/or private sewage systems, it must be confirmed that there is sufficient reserve sewage system capacity and reserve water system capacity within a municipal sewage treatment facility and/or a municipal water service treatment facility or private communal sewage service system and/or a private communal water service system. The determination of sufficient reserve sewage system capacity would include treatment capacity for hauled sewage from private communal sewage services and individual on-site sewage services. Where Municipal services become available, the Town of Essex requires connection to Municipal sewers and watermain.

1.8

Endangered Species Act, 2007

The Endangered Species Act (ESA) 2007 is a law of General Application that is binding on everyone, including landowners, corporations, municipal and provincial governments. The ESA applies all the time, regardless of approvals under other legislation and the Ontario Ministry of Environment, Conservation & Parks (MECP) is the only approval authority under the ESA 2007.

If the following applies to a proposed application, the Applicant must consult MECP.

- Natural features as defined in PPS (woodlands, wetlands, valleylands, etc.) on or within approximately 30 m of the proposed construction/activity footprint.
- Watercourses, natural vegetation, overgrown grass, hedgerows, drainage features, hay fields, debris/rock piles, old foundations, and barn/structures located on-site and proposed to be disturbed as part of the application.

Applicants should engage MECP as early as possible when it is anticipated that a project may have impacts to SAR species and/or their habitat or if you are unsure if your project will impact SAR species and/or their habitat. The SAR Technical Memo attached as **Appendix D**, outlines the process for engaging MECP. The proponent should contact MECP for the latest version of the SAR Technical Memo. All inquiries should be made to SAROntario@ontario.ca.

1.9 Integrated Accessibility Standards

All development within the Town of Essex shall adhere to provincial guidelines and mandates for accessibility in accordance with O. Reg. 191/11: Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, as the same may be amended from time to time, and such other succeeding statutes.

Public spaces must be designed with consideration for all abilities and occupations. Publicly available documentation put forth for review and comment to the public and the posting of information signage shall adhere to A.O.D.A display standards for the inclusion of all parties receiving information.

1.10 Consulting Engineer and Professional Services

All Developers shall retain a Professional Engineer (Engineer) who shall design all services. Full-time, on-site inspection during the installation of the services must be provided under the guidance of a Professional Engineer. The Consulting Engineer shall be so designated by and in good standing with the Association of Professional Engineers of Ontario and should have previous land development experience.

All reports, drawings and specifications shall be signed, sealed and dated by a Professional Engineer licensed in the Province of Ontario and employed by a consulting engineering firm or personally designated as a Consulting Engineer. Professional services used on a development are not limited to a single Professional Engineer. Multiple professional engineers may undertake design and sealing of their respective portions of the project related to their specialty.

The Consulting Engineer must carry Errors and Omissions Insurance in the minimum amount of \$2,000,000. The Consulting Engineer must indicate, in writing, to the Town of Essex, that they intend to renew their insurance policy on an annual basis.

The Engineer shall be responsible to carry out the design of all services including:

- The preparation of design drawings
- The preparation of specifications and contract documents
- The preparation of studies and reports

- Assistance in obtaining approvals
- Full-time, on-site inspection during service installations
- Preparation of field records
- Chairing and preparing minutes of pre-construction meetings and regular job meetings
- Co-ordination of the installation of other utilities (hydro, gas, bell, cable tv)
- Preparation of as-built drawings
- The preparation of lot grading sheets (elevations and drainage information from abutting properties must be included with any design)
- Subgrade elevation verification
- Attendance at the final inspection meeting

Professional Services firm also applies to any report taking on professional responsibility. This may apply to biology, environmental, geotechnical, archeology reports etc.

1.11 Specifications, Special Provisions and Contract Documents

All development documents shall include specifications and contract documents prepared in accordance with **Appendix E** – “Guidelines, Professional Engineer Providing Land Development/Redevelopment Engineering Services, 1994” (complying with any amendments to this document in the future). Specifications and contract documents shall be prepared on 8½ x 11 paper, single or double sided printing, neatly bound with a cover clearly describing the particulars of the development. The first sheet shall include the date, name and telephone number of the Engineer who prepared the documents.

The specifications and contract documents shall include the following:

- Information to Tenderers
- Form of Tender
- Form of Agreement
- Special Provisions
- Technical Specifications
- General Conditions

The specifications and contract documents shall refer to the Ontario Provincial Standard Specifications and Ontario Provincial Standard Drawings wherever applicable, except as amended or extended by the Town of Essex requirements.

1.12

Studies and Reports

Specific developments may require the completion of special studies and reports prior to the Town of Essex granting approval for the development. Special studies and reports may also be a requirement of the approving authorities such as the County of Essex or Essex Region Conservation Authority (ERCA).

The costs of these studies shall be borne by the Developer. A partial list of studies that have been required in the past include:

- Traffic Impact Studies
- Storm Water Management Studies (in accordance with the Windsor/Essex Region Stormwater Management Standards Manual) (found [here](#))
- Functional Servicing Studies, including transportation servicing, stormwater servicing, sanitary servicing, watermain servicing, utilities and materials
- Noise and Vibration Studies
- Market Feasibility and Impact Studies
- Archaeological Studies
- Fill and Floodline Studies
- Groundwater Impact Studies, including highly vulnerable aquifers and significant recharge areas
- Environmental Site Assessments
- Fish Habitat Mitigation Studies
- Geotechnical Reports
- Environmental Impact Studies
- Low Impact Development Studies

During pre-consultation discussions, the proponent shall present grey and green solutions where applicable for the Town of Essex review. If green LID solutions are not feasible, the proponent shall display reasoning and research to determine this. Developers are also advised that certain proposed works to be undertaken by Developers may be subject to the requirements of the Environmental Assessment Act and Environmental Protection Act. Contact the Ministry of the Environment, Conservation and Parks (MECP) for further details.

1.13 Insurance and Indemnification

Developers shall provide liability insurance to protect the Town of Essex. Developers shall ensure that their consultant, sub-consultants, and general contractors also carry liability insurance.

The liability insurance shall:

- be provided in a form satisfactory to the Town of Essex
- be for a minimum amount of \$2,000,000
- name the Town of Essex as an additional insured
- name the Town of Essex consultants as additional insured
- be maintained in full force and effect until the development and/or the work(s) have been accepted or assumed (as the case may be) by the Town of Essex
- have an automatic notification to the Town of Essex by the Insurer, advising the Town of Essex that the insurance will end in 90 days

Notwithstanding the limits of the insurance, the Developer shall indemnify the Town of Essex against all or any claims or losses arising out of the development.

The Town of Essex may consider accepting the general contractor's insurance in fulfillment of this requirement provided the Developer is named as an additional insured and the conditions noted in this section are met.

1.14 Sureties

1.14.1 Performance

To ensure due and proper performance of the work, Developers are required to provide cash or an irrevocable letter of credit in an amount equal to 50% of the value of the development. Upon acceptance, that amount is reduced to 25% of the development cost. The remaining 25% is returned to the Developer after assumption from the Town of Essex.

For higher risk developments, Developers may be required to increase letter of credit amount to 100% of the development cost, at the discretion of the Town of Essex.

The value of the securities to be provided shall be based upon the full amount of construction costs including all taxes. If there is no tender, the Consulting Engineer shall provide an estimate of the value of the work. The Town of Essex reserves the right to verify the value of the work and amend the Consulting Engineer's estimate accordingly. The Consulting Engineer's estimate as amended by the Town of Essex shall be used for establishing the amount of the securities.

1.14.2 Delayed Work

Developers shall note that if the Town of Essex agrees and/or requests that some of the work be delayed (i.e., surface asphalt), performance securities for 100% of the outstanding works will be required in addition to the maintenance security. The value of the existing maintenance security can be reduced to cover 100% of the outstanding value of the delayed work once the maintenance period for the work that was not delayed has expired. The Town of Essex will not accept any other forms of security.

1.14.3 Maintenance

Unless otherwise noted in the Development Agreement, Developers are required to provide cash or an irrevocable Letter of Credit in an amount equal to 25% of the value of the development. Securities will be released at the end of the maintenance period, which will be one year (minimum) following the date of the Town of Essex letter accepting the services (based on rectification of construction deficiencies and confirmation from the Developer's consultant).

1.14.4 Site Plan Agreements

To ensure due and proper performance of the work agreed to as part of a site plan control agreement, a security deposit will be required in an amount that is proportional to the size and significance of the development (at discretion of the Town of Essex) and required works as determined by the Town of Essex. The percent value of this item will be determined at the time of Site Plan Agreement. The security deposit shall be in the form of either an irrevocable letter of credit or as cash to be kept in an interest bearing account by the Town of Essex. The security deposit (including interest) will be returned to the Developer within 30 days of being notified by the Town's Director of Infrastructure and Chief Building Official that all required works as set out in this agreement have been substantially completed, with any deficiencies corrected, all to the satisfaction of the Municipality and are in compliance with any applicable federal, provincial or municipal statute, by-law or regulation.

1.14.5 Subdivision Agreement

Specific details of each Subdivision Agreement will be set out as part of the process as outlined in this manual. All Developments must be designed and constructed in accordance with the requirements of this Development Manual and the corresponding Subdivision Agreement.

The Subdivision Agreement will set out specific requirements for each Development. In case of conflict the Subdivision Agreement will supersede the requirements of this manual.

The Subdivision Agreement will be prepared by the Town of Essex at the cost of the Developer.

No connections to services or utilities can be constructed until agreements are executed and securities and insurance have been delivered to the Town of Essex. If the Developer chooses to proceed with installations ahead of agreements and securities, there is risk that the services may not be accepted.

The Town of Essex quality management requires subdivision construction observation/inspection and subdivision final inspection. The subdivision inspection will include full-time inspection by the designated consulting firm and the final inspection will include a final walk-through with the consulting firm and the Town of Essex to address any outstanding items.

Acceptance of water and wastewater facilities constructed under the Subdivision Agreement shall be communicated in writing by the Town of Essex Engineering to both the Developer's consultant and the Planning Services Department. The Planning Services and Infrastructure Services will act to administrate the terms of the Subdivision Agreement. Additional applications may be required as part of the subdivision approval process including: consent, minor variance, zoning by-law amendments, official plan amendments, site plan control, and plan of subdivision Flow charts illustrating the steps in the development process are included in **Appendix A**.

1.15 Easements and Right-of-Ways

Developers shall provide all easements to the Town of Essex, as deemed necessary. The Developer shall retain the services of an Ontario Land Surveyor to prepare all reference plans.

Unless otherwise approved by the Town of Essex, no permanent structures including trees, fences and shrubs but excluding driveways, shall be placed on right-of-ways or easements except for fences on side and rear lot lines. The Town of Essex will not be responsible to restore any permanent structure located on easements, except for driveways. Any trees, shrubs or landscaping structures will not be restored unless approval of placement had been obtained by the Developer through permit.

Developers shall submit to the Town of Essex a copy of all signed purchase/sale agreements for the lots which clearly states the conditions being encumbered on the easements on the purchased lot and the Town of Essex unrestricted rights to enter upon the easements to maintain, repair or replace municipal services. Easement language should be approved by the Town prior to registering on title. Proof that plans and easements have been registered on title should also be provided to the Town.

1.16 Oversizing and Off-Site Costs

In order to ensure that development in the Town of Essex proceeds in an orderly and cost effective manner, Developers may be required to oversize municipal services to accommodate future developments. Oversizing includes, but is not limited to, larger pipe diameter and increased depths, increased road widths and sidewalk widths, power distribution and other services.

As well, Developers may be required to complete off-site works in order to facilitate development. Typical off-site works include trunk sewers to a suitable outlet, watermain connections to a suitable feeder, road widening, intersection improvements, traffic signal installation and downstream drainage works.

The Developer's Consulting Engineer will provide an estimate of the oversizing and off-site costs.

The Town of Essex will establish the cost sharing method to be used in attributing oversizing and off-site costs, and will use its best efforts in recovering these costs on behalf of the Developer. However, the Town of Essex does not guarantee that Developers will be repaid the oversizing or off-site costs.

1.17 Development Charges

In order to finance the construction of trunk municipal services and other growth related capital facilities, the Town of Essex will assess development charges to each buildable lot or unit. These development charges are payable at the time building permits are issued. Development charges are amended from time to time and are approved by Council. Developers should contact the Town of Essex for information regarding the current development charge amounts.

1.18 Multi Lot Creation by Consent

In consultation with the County of Essex, the Town of Essex may agree to permit multi-lot creation by the consent process, rather than by the plan of subdivision process, all of the requirements noted in this Development Manual shall apply including the preparation and approval of a Stormwater Management Plan. Refer to the Town of Essex Official Plan (latest version available [here](#)), as well as the County of Essex Official Plan policies for specific requirements about multi lot creation by consent.

1.19

Pre-Construction Meeting (For Subdivision Development)

No later than seven days before construction is to commence, the Developer's Consulting Engineer shall call and chair a pre-construction meeting. The Consulting Engineer, general contractor and municipal representatives must attend.

It is also desirable to have the Developer and the Consulting Engineer's site inspector and representatives from the various utility companies in attendance. The meeting shall include but not be limited to the following items:

- Status of contract documents
- Submission of insurance certificates, irrevocable Letter of Credit, Sureties and Work Place Safety Insurance Board clearance
- Ministry of Labour notification
- Notification to residents, schools, buses and emergency services
- Supervisory staff
- Emergency telephone numbers and home telephone numbers
- Construction access routes (haul routes)
- Schedule
- Noise and dust control
- Municipal inspection notification suppliers and subcontractors
- Specific project items
- Preconstruction survey photos
- Traffic control detouring
- Schedule of site meetings

The Consulting Engineer will provide minutes of meetings within one week from meeting date, or at least one week prior to construction commencement date, whichever comes first.