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London
CANADA

Chapter 19

Development Compliance Procedure

Design Specifications & Requirements Manual

October 2003

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City of London

Design Specifications and Requirements Manual

The design information contained in this manual is intended to provide guidance beyond legislative and standard design practices for use in the City of London (the City). There will be site specific situations where the design will depart from these practices as it is not possible nor is it the intention of the City to anticipate every situation. The City intends to review and revise the Manual from time to time. The City also acknowledges that other references such as the 'Standard Contract Documents for Municipal Construction Projects' are to be used in conjunction with this manual. The 2012 update of this manual incorporates design information from the City's former 'Subdivision & Development Guide Manual' to provide consistent and current design information for development projects.

The City of London maintains its right to accept or refuse any design submissions and requires an acceptable design for any given circumstance.

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19 Development Compliance Procedure

19.1 Introduction

The requirements and procedures for development related agreement compliance have been documented herein to assist industry, staff, consultants and associated stakeholders through inspection, compliance and assumption of new subdivisions, site plans, consents and external works within the Municipal right-of-way.

19.1.1 Overall Compliance Goals and Objectives

The goals of Development Agreement Compliance in the City of London are as follows:

- a) Ensure all site works are constructed in general conformity to the approved Site Plan / Plan of Subdivision and consistent with the clauses of the applicable Development Agreement.
- b) Ensure all infrastructure constructed within the municipal right of way, both assumed and un-assumed, is constructed in accordance with approved plans, consistent with City of London standards and specifications, and in general compliance with all applicable regulations.
- c) Ensure that materials, workmanship and all construction techniques and technologies used are inspected and certified by the Owner's Professional Engineering Consultant to be in accordance with City's standards.
- d) Ensure all private works constructed under Site Plan are completed in accordance with approved plans and to the satisfaction of the City prior to the release of securities.
- e) Ensure downstream infrastructure is not adversely impacted by the construction activity associated with the development application.
- f) Ensure works within existing municipal right-of-way which are necessary to accommodate private development have no adverse impacts to existing public infrastructure or unduly impede reliable services to the public.
- g) Protect the interest of property owners and/or residents, both within and surrounding development application by responding to compliance matters identified prior to the assumption/final security release.

19.1.2 Applicable Development Agreements

The Planning Act delegates the authority for municipalities to require Owners to enter into one or more agreements in order to ensure developments proceed in accordance with approved plans. The following types of development agreements are enforced through the development compliance procedures and requirements outlined in this document.

19.1.2.1 Subdivision Agreements

In accordance with the Planning Act, the City of London has delegated authority for the approval of Plan of Subdivision in accordance with the Provincial Policy Statement and the City's Official Plan to an officer of the municipality. Through the delegated authority the City may apply conditions of draft approval to plans of subdivision requiring owners to enter into a Subdivision Agreement with the City. This authority is provided under Section 51(25) (d) and 51(26) of the Planning Act.

The Subdivision Agreement is a legally binding contract between the land Owner and the City that spells out the Owner's obligations to the municipality for construction of roads, sewers, watermains, parks, open spaces and other services within subdivision limits, and any external works as required. In addition to all physical works requirements, the agreement specifies the additional requirements related to applicable fees, charges and securities, and indicates any dedication requirements for municipal right-of-ways, parks, easements and trail systems, and identifies triggers and administration for all of the above. When the plan of subdivision is registered at the registry office, the executed Subdivision Agreement is registered on title for each individual parcel of the divided land.

19.1.2.2 Site Plan Development Agreement

Pursuant to Section 41 of the Municipal Act, and in accordance with Section 19.9.2 of the Official Plan, the City of London designates all lands within City limits as a Site Plan Control Area.

The City of London utilizes [Site Plan Control By-law](#) (C.P.-1455-541) to ensure a high quality site design, engineering efficiency, building architecture and landscape design. Site plan control is also intended to improve efficiency of land use and servicing as well as to encourage attractive and compatible forms of development. In accordance with the Planning Act the City of London has delegated authority for the approval of Site Plan in accordance with the Provincial Policy Statement and the City's Official Plan to an officer of the municipality. As a condition of Site Plan approval, the City may require the Owner to enter into a development agreement.

The Site Plan Development Agreement is a legally binding contract between the land Owner and the City outlining the terms and conditions for development including all

approved plans and servicing drawings as schedules. This authority is provided under Section 41(7)(c) of the Planning Act RSO- 1990.

Upon approval of the Site Plan, a development agreement is executed by all parties and registered on the title with the lands. This agreement, as executed, would include schedules of approved (stamped & signed) plans. The Development Agreement remains on that property unless amended or released otherwise.

19.1.2.3 Consent Agreements

The consent approval process, described in Section 53 of the Planning Act, provides an alternative form of land division for proposals that are relatively less complex where a plan of subdivision is not required (e.g. the creation of one or two lots or easements). The City's Official Plan establishes criteria to be considered by the Consent Authority when reviewing application for land severance relating to the land use, infrastructure and servicing, transportation, the natural environment, community improvement, and urban design. In accordance with the Act, City Council may delegate the authority to grant consent to an officer of the municipality representing the Consent Authority.

Section 53(12) of the Planning Act empowers the Consent Authority to impose reasonable conditions through the provisional approval of consent applications. Final Consent (issuance of certificate) is granted when the Consent Authority is satisfied that all conditions imposed through the provisional decision of the consent have been fulfilled. All conditions of approval must be fulfilled within one (1) year of the decision.

In cases where it is not feasible to satisfy all conditions within the one year timeframe, the Owner may enter into a Consent Agreement with the City to cover outstanding conditions of consent. The consent agreement represents a legal contract between the Owner and the City. In addition to any required physical works required, the consent agreement may specify any additional requirements relating to applicable fees, charges, securities, municipal right of way or easements, and identify associated triggers and administration.

19.1.2.4 Site Alteration Agreement

Pursuant to Section 223.1 of the Planning Act, and in accordance with Section 19.9.2 of the Official Plan, the City of London utilizes the [Site Alteration By-law](#) (C.P.-1363-381) to regulate the placing or dumping of fill, and the alteration of the grade on lands within the municipality.

Unless otherwise exempted by the subject By-law, no person shall alter the grade of land or place or dump fill within any Environmental Protection Area or on any land that is subject to a draft plan of subdivision without having first entered into a Site Alteration Agreement and provide securities in order to carry out grading works. The City and pertinent agencies will require Erosion and Sediment Control plans, and other relevant information deemed necessary, prior to the execution of Site Alteration Agreement.

19.1.3 Authority to Inspect

19.1.3.1 Site Plan Compliance Inspection

Schedule 2 of the Site Plan Control Bylaw (C.P.-1455-541) provides the standard template for development agreements and Section 10 of the agreement includes language that authorizes the City to enter into the private lands to inspect the constructed works.

19.1.3.2 Subdivision Inspection

For lands under active application for Draft Plan of Subdivision, the Owner's Consent Declaration on the plan of subdivision application form authorizes City staff to access the subject lands subject for purposes of evaluating the application.

Clause No.11 of the Council Approved standard subdivision agreement template, Right Of Inspection And Direction, requires the Owner to provide access to the City Engineer and other persons authorized by them to enter upon any part of the lands to complete any inspections or tests deemed necessary and to call for and obtain any document, contract, plan, specification, record or other writing required, and to give direction to the Owner in any matter relating to the due performance of the works and services required under the subdivision agreement.

19.1.3.3 Site Alteration Permit Inspection

The City of London Site Alteration By-law C.P.-1363-381 states that all lands subject to a draft approved plan of subdivision without an executed subdivision agreement shall require a Site Alteration Permit and enter into a site alteration agreement in order to carry out grading works. This by-law applies to all lands designated OS (Open Space) or ER (Environmental Review) Section 7.3 of the subject Bylaw (Inspectors – powers – enter and inspect) empowers the City staff to enter any land to which the by-law applies for inspection purposes.

19.2 Subdivision Compliance

19.2.1 Introduction to Subdivision Compliance

Compliance for subdivision applications involves several stages of approval, from initial Conditional Approval, through to construction and final completion of all required works and services. The City uses inspections, certifications and ongoing communication with the Owner and their agents to ensure all aspects of the development complies with the conditions of approval and any relevant development agreement clauses.

The goal of Subdivision Compliance is to ensure the interests of the municipality and the public are protected throughout the development and ultimately reach the successful assumption of quality, sustainable municipal assets.

19.2.1.1 Definition of Stages

Agreement Compliance for Subdivisions can be described in several stages:

Conditional Approval

By issuing a Certificate of Conditional Approval, compliance staff in Planning and Development are confirming that full building permits for new house construction may be issued in a subdivision or a portion thereof. Conditional Approval may be issued once the City is satisfied the development complies with applicable legislation, the requirements of the subdivision agreement have been met, and the necessary works and services have been deemed complete and operational for use. The above is confirmed through the inspection of physical works, certification from the Owner's Professional Engineer, CCTV videos and confirmation that all relevant documentation has been provided. **Section 19.2.2** provides more detail on the Conditional Approval stage.

Compliance During Subdivision Buildout

Following the issuance of a Certificate of Conditional Approval, the subdivision begins ongoing house construction and buildout of the subdivision. During this stage of subdivision agreement compliance, the Owner is fully responsible to maintain the subdivision in a proper state of repair and operation for all of works within the plan or external works required through the agreement. The Owner is also responsible for maintaining all sediment and erosion control measures.

Compliance issues during the buildout stage are typically flagged to the City on a complaint basis, at which point staff coordinate with the Owner to ensure that issues are resolved promptly to the satisfaction of and at no cost to the City. **Section 19.2.3** provides more detail on the Owner's compliance responsibilities during the buildout stage.

Post Registration Timed Requirements

Certain requirements of subdivision agreement can have timing triggers tied to the date of registration such that the works are to be completed after Conditional Approval but prior to Assumption. Examples of timed requirements could include the installation of street lights, walkways, fencing, preparation and delivery of educational packages, grading and sodding of park blocks, and any other item as indicated in the agreement. The agreement clauses will clearly identify the specific timing for each requirement. **Section 19.2.3.2** provides more details on how compliance for these timed requirements is managed given the timing falls between standard inspection points.

Assumption

Assumption occurs when City Council passes a by-law to assume responsibility for the maintenance, repair and liability of works and services installed as part of plan of a subdivision. Assumption will only be considered for a subdivision, or a portion thereof, once a minimum of 70% of fronting lots have been built out or seven (7) years have lapsed from the date of registration. All works and services must be constructed per the approved plans, appropriate certification provided, and the Owner must demonstrate how all requirements of the subdivision agreement have been satisfied. **Section 19.2.4** provides specifics on the process to request and reach assumption.

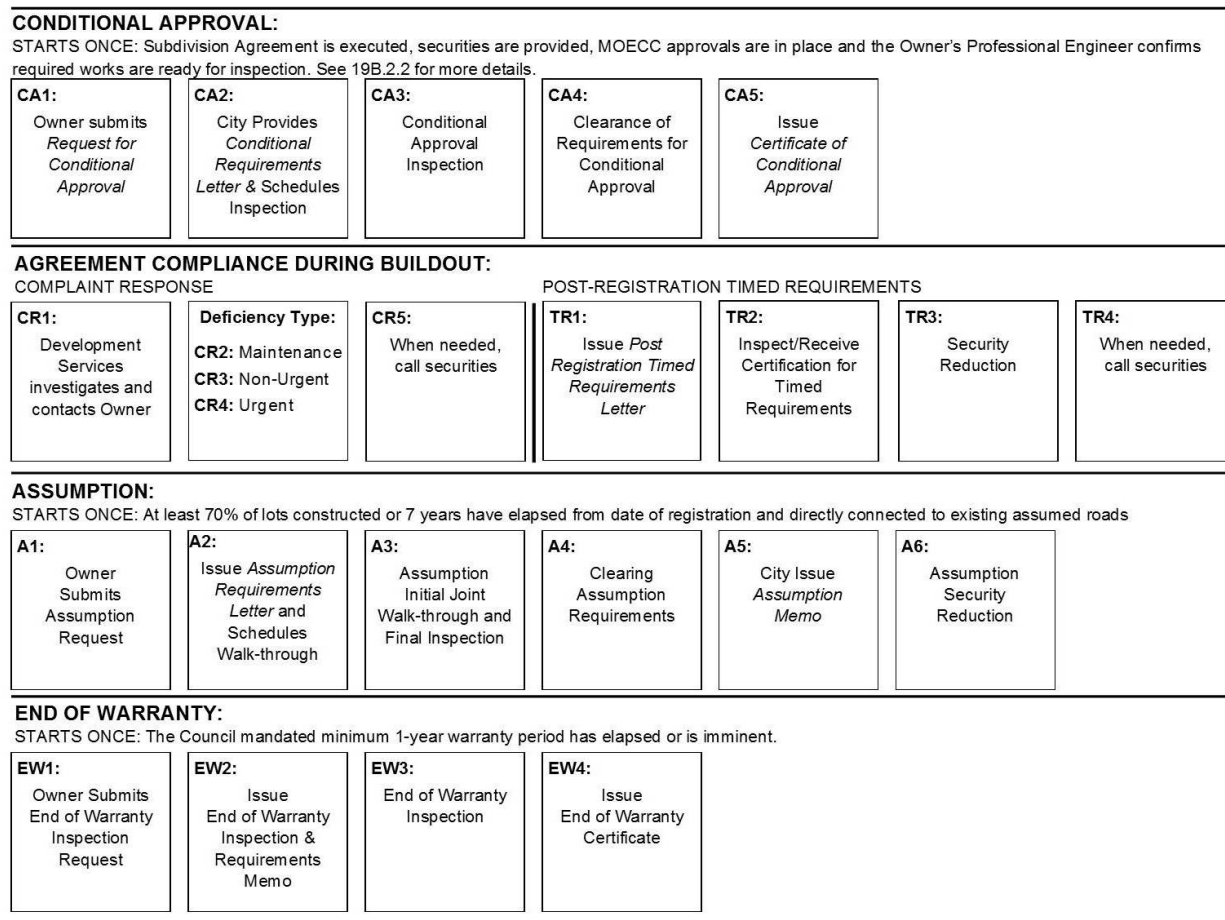
Warranty Period

In accordance with Council standard Subdivision Agreement Template clauses, the Owner shall guarantee all works and services from defects in workmanship or material for a minimum period of one (1) year post-assumption. The Warranty Period starts from the date as described in the Assumption By-law. At the end of the Warranty Period, any deficiencies subject to the warranty are to have been corrected to the satisfaction of the City. **Section 19.2.5** provides more details on warranty responsibilities and the process to reach End of Warranty.

19.2.1.2 Key Process Steps of Subdivision Compliance

Figure 19.1 provides an overview of the key process steps for each stage of subdivision compliance.

Figure 19.1 Overview of subdivision compliance process



19.2.2 Conditional Approval

A Certificate of Conditional Approval is issued when Planning and Development has confirmed that all requirements associated with conditional approval under the Subdivision Agreement have been satisfied and the minimum required physical works to support house construction have been inspected and deemed operational for use. Release of the certificate provides confirmation to the Building Division that full building permits may be issued and occupancy is permitted.

19.2.2.1 Requirements for Conditional Approval

What is required for the Conditional Approval?

All requirements for issuance of Certificate of Conditional Approval are outlined in the subdivision agreement. Upon receiving a request for Conditional Approval, City staff will provide the Owner a Conditional Requirements letter that summarizes all requirements to be fulfilled prior to the issuance of Certificate of Conditional Approval with clear references to the associated clauses of the subdivision agreement.

The following list outlines the minimum requirements to be satisfied prior to Condition Approval. Full building permits will not be issued until the following items have been cleared.

- a) The subdivision agreement must be registered;
- b) All necessary securities must be provided;
- c) All roads must be complete up to and including granular “B” to provide access for emergency vehicles;
- d) Sewers must be certified as constructed, flushed, tested and the video inspection cleared by the City staff;
- e) Watermains must be inspected, tested, commissioned and deemed operational;
- f) Submission of digital files of the accepted construction drawings;
- g) All required certifications must be submitted by the Owner’s Professional Engineer (i.e. hydrogeological, engineered fill, methane gas, contamination and erosion and sediment control measures);
- h) Any stormwater management facility must be cleared as constructed as per design and protected from sediment during build-out. This includes both SWM ponds, LID systems and any other SWM control;
- i) All downstream services being connected must be conditionally approved or assumed. If not assumed, an interim permission to connect must be obtained from the downstream owner; and
- j) Additional requirements identified in the subdivision agreement on a site by site basis, at the City’s discretion.

Note: Specific Conditional Approval requirements will be clearly flagged in the Conditional Requirements letter, and at the City’s discretion such requirements may be deferred to a late time in the process.

At what point would a request for Conditional Approval be considered?

Upon receiving a request for Conditional Approval, staff will not issue the Conditional Requirements letter or schedule the initial Conditional Clearance inspection until:

- The final subdivision agreement has been executed;
- Necessary securities have been provided; and
- The Owners Professional Engineer has confirmed through the request form that, in their opinion, all required works have been completed.

Staging Conditional Approval

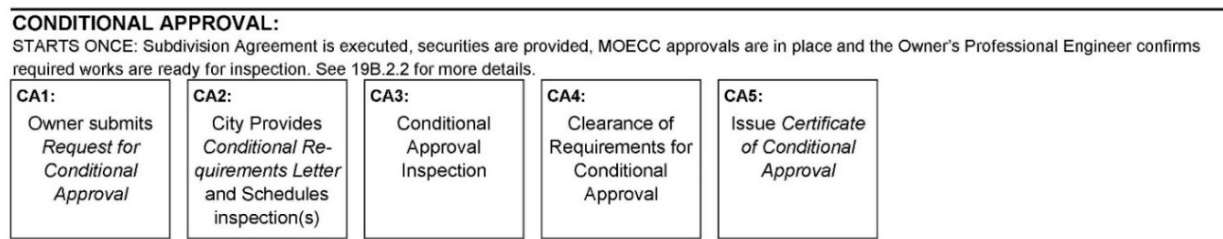
Owners may request Conditional Approval for the entire limits of the registered plan or stage Conditional Approval for a portion of the plan. If a registered plan is staged, each stage of Conditional Approval must:

- be continuous with downstream development that is either conditional approved or assumed; and
- address any temporary measures associated with staged construction, as required, and as identified in the Conditional Requirements letter (i.e. minimum two access roads, water quality requirements, temporary traffic measures, etc.)

19.2.2.2 Process for Conditional Approval

The process for Conditional Approval is illustrated in **Figure 19.2** below, followed by a description for each key process step.

Figure 19.2 Key process steps for conditional approval



CA1: Owners Submits Request for Conditional Approval

Request for Conditional Approval can be made by completing the standard request form **DS-IRF-01** (see **Section 19.6**) and submitting it to Planning and Development. The required form is illustrated in Appendix 1.

CCTV videos of the underground services shall be provided in conjunction with the Conditional Approval request form. This provides the opportunity to review the videos prior to the physical inspection. Sewers are to be benched at the time of the video recording. The video submission shall include commentary and sign off from the Owner's Professional Engineer.

CA2: City Provides Conditional Requirements Letter and Schedules Inspection

The Conditional Requirements letter provides the Owner with an itemized summary of all physical works and documentation requirements to be cleared prior to Conditional Approval. Each item clearly references the associated subdivision agreement clause.

Planning and Development coordinates with the Owner's Professional Engineer to schedule the Conditional Approval Inspection. At the same time, Planning and Development sends an inspection notice to any other City division that will assist in the inspection of physical works (i.e. Water Operations, Environmental & Parks Planning, Stormwater Engineering, etc.)

CA3: Conditional Approval Inspection

The Conditional Approval Inspection is completed by the Development Inspection Technologist with the Owner's Professional Engineer in attendance. The hope is that with a well prepared site, the physical work requirements can be cleared with the initial inspection. Alternatively, staff will provide the Owner's Professional Engineer with a summary of deficiencies. Deficiencies may also be provided by other divisions such as Water Operations. The Owner's Professional Engineer shall address all deficiencies prior to requesting a follow-up inspection.

CA4: Clearance of Requirements for Conditional Approval

The Owner's Professional Engineer shall submit a complete Conditional Approval package containing all required documentation and certifications together with a cover letter clearly referencing and responding to each item in the Conditional Requirements Letter. Planning and Development will review the package and coordinate with the Owner's Professional Engineer to confirm as requirements are cleared and identify those requirements that remain outstanding. The Certificate of Conditional Approval can be issued once all items have been cleared.

CA5: Issue Certificate of Conditional Approval

Planning and Development prepares and issues the Certificate of Conditional Approval for the specified limits of the registered phase (or stage) of the Plan of Subdivision. This certificate is provided to the Owner as well as Building Services to give notice that full building permits for new home construction may be issued.

The certificate lists pertinent information related to building lots within the approved limits such as identifying lots with engineered fill and agreement clauses related to specific lots. The certificate also lists post registration requirements that are to be completed within a specific time period.

19.2.2.3 Security Requirements at Conditional Approval

The CASH portion of the subdivision security is required prior to the execution of the subdivision agreement. Prior to issuing the Certificate of Conditional Approval, the BALANCE portion of the subdivision securities are required. These amounts can be

found in Schedule 'E' of the executed Subdivision Agreement. Please refer to the current Subdivision & Development Agreement Security Policy for further information by searching at www.london.ca

Post Conditional Approval, security reductions may be requested throughout construction of the subdivision in accordance with the current City's Subdivision & Development Agreement Security Policy.

19.2.3 Compliance During Subdivision Buildout (Conditional Approval to Assumption)

Following Conditional Approval, individual home construction begins and soon after, new homeowners may begin moving into the neighbourhood. While the essential infrastructure has been deemed operational for use, the subdivision remains an ongoing construction and building area. It is the Owner's responsibility to maintain the site and reasonably protect the interests of new homeowners, existing surrounding residents and the general public from potential impacts of construction.

The following sections clarify subdivision agreement compliance requirements enforced during the period from Conditional Approval to Assumption, including Complaint Response, Post Registration Timed Requirements and By-Law Enforcement.

19.2.3.1 Process for Complaint Response During Buildout

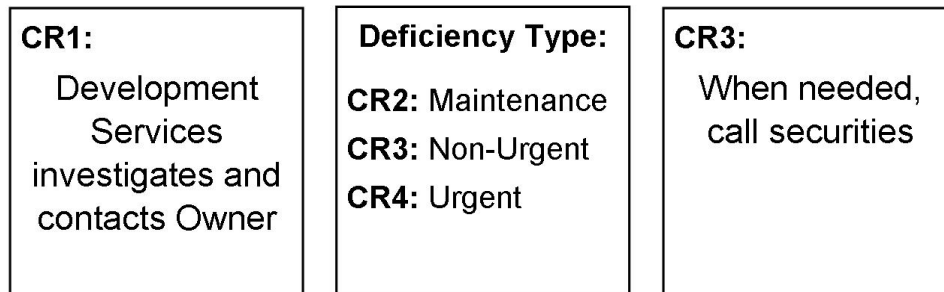
During construction and buildout of the subdivision, the Owner is required to maintain a general tidy appearance to the subdivision and repair any deficiencies considered an operational or safety risk by the City.

Planning and development staff responds to maintenance and deficiency issues during Buildout on a complaint driven basis. Complaints can come from a number of sources including direct residents' calls, the Councillors' office, City Dispatch or other divisions. Typical issues include lot grading or drainage, streetlight outages, road condition, roadway maintenance (snow plowing or sweeping), weeds, waste building materials, construction traffic and more. These issues are brought to the attention of the Owner are to be resolved in a timely manner at the Owner's cost and to the satisfaction of the City.

The complaint may be a maintenance issue, non-urgent deficiency or urgent deficiency and staff will coordinate with the owner to respond accordingly. The process of complaint resolution in un-assumed subdivisions is illustrated in **Figure 19.3** below followed by description for each key process step.

Figure 19.3 Key process steps for compliant response

COMPLAINT RESPONSE



CR1: Planning and Development Investigates and Contacts Owner

Upon receiving a complaint, Planning and Development first confirms the registered plan (33M#) and assumption status of the subdivision. If needed, staff visit the site to observe and investigate the complaint first hand. The Owner is then informed of the complaint and remedies are discussed according to whether the concern is maintenance, non-urgent or urgent deficiency.

CR2: Maintenance Deficiency

Throughout the buildout period, the Owner and any purchasers of lots/blocks are required to maintain the site in accordance with the terms of the subdivision agreement, including but not limited to:

- keeping vacant lands free of debris and building waste;
- no dumping on lands dedicated to the City;
- carrying out weed cutting maintenance;
- controlling construction traffic;
- maintaining, monitoring and adapting erosion and sediment controls measures;
- managing construction noise within acceptable limits;
- repairing streetlight outages;
- snow removal maintenance; and
- controlling dust and mud on City Streets (Council Policy section 19(37))

Owners are required to remedy complaints quickly and confirm with Planning and Development once the matter has been addressed.

CR3: Non-Urgent Deficiencies

A non-urgent deficiency is any defect in materials or workmanship (underground, surface or miscellaneous works) which is not considered an immediate safety or operational risk by the City. A non-urgent deficiency might also be a failure by the

Owner to comply with any covenant, term, condition or requirement of the relevant Agreement. As there is minimal risk associated with these deficiencies, Planning and Development may consider whether the deficiency can be addressed as a requirement prior to assumption or as an immediate maintenance deficiency.

CR4: Urgent Deficiencies

Occasionally, more critical issues can arise on the construction site. An urgent deficiency is any defect related to materials or workmanship considered an immediate safety, environmental or operational risk by the City. Examples include failure or imminent failure of erosion and sediment control measures, water service breaks, leaning or tilted streetlight poles.

When an urgent deficiency occurs, City staff provides immediate notification to the Owner. The Owner is required to provide a response within 24 hours of notification and confirm with Planning and Development once the work has been completed. If a response has not been received by the City within 24 hours, the City will immediately schedule the necessary remedial work and invoice the Owner for the total cost incurred.

CR5: When needed, Call Securities

Should the Owner fail to address identified maintenance deficiencies in a timely manner, the City may issue a Notice of Default for the outstanding deficiencies and draw down from held securities as necessary to complete works. The City's Subdivision and Development Agreement Security Policy can be found at by searching www.london.ca

19.2.3.2 Process for Post Registration Timed Requirements

Subdivisions Agreements often include specific requirements that must be completed within a specified timeframe, usually one (1) year from the Plan of Subdivision registration date. These items may include installation of street lights, grading/servicing/seeding of Park and Open Space Blocks, construction of fencing, retaining walls and/or walkways as required.

Post Registration Timed Requirements will be defined within the subdivision agreement clauses. In many cases, installation of these items prior to the Conditional Approval could risk damage to infrastructure while deferring the works to assumption is not appropriate either. Planning and Development coordinates with Owners to ensure these works are completed at an appropriate time in accordance with the Subdivision Agreement.

The process for Compliance of Post Registration Timed Requirements is illustrated in **Figure 19.4** below followed by a description of each process step.

Figure 19.4 Key process steps for post-registration timed requirements

POST-REGISTRATION TIMED REQUIREMENTS

<p>TR1: Issue <i>Post Registration Timed Requirements Letter</i></p>	<p>TR2: Inspect/Receive <i>Certification for Timed Requirements</i></p>	<p>TR3: Security Reduction</p>	<p>TR4: When needed, call securities</p>
---------------------------------------------------------------------------------	------------------------------------------------------------------------------------	-------------------------------------------	-----------------------------------------------------

TR1: Issue Post Registration Timed Requirements Letter

Once the identified triggers for timed requirements have passed, Planning and Development will automatically issue a formal Post Registration Timed Requirements letter. Alternatively, the Owner may contact the City to request the requirements letter prior to the identified trigger if they feel they have satisfied the timed requirements.

TR2: Inspect / Receive Certification for Timed Requirements

Following receipt of the requirements letter, the Owner shall inform the City once the timed requirement(s) have been completed in order to schedule an inspection. Some timed requirements may be satisfied by providing certification from the Owner’s Professional Engineer.

TR3: Security Reduction

Where appropriate, security reductions may be considered to reflect the completion of timed requirements.

TR4: When Needed, Call Securities

Should the Owner fail to satisfy the timed requirements in a timely manner, the City may issue a Notice of Default for the outstanding requirements and draw down from held securities as necessary to complete the works. The City’s Subdivision & Development Agreement Security Policy can be found at www.london.ca

19.2.3.3 By-Law Enforcement in Un-assumed Subdivisions

All by-laws remain in force and effect regardless of the stage a development has reached. The responsibility for responding to certain by-law infractions resides with the Owner prior to assumption while other infractions are managed by municipal by-law enforcement. In general, by-law compliance during build out is dealt with on a complaint driven basis.

By-Law Enforcement prior to Assumption

Municipal by-law enforcement prior to assumption typically pertains to prohibited activities, such as:

- Noise Complaint;

- Parking infraction; and
- Property Standards

By-law infractions that pertain to construction activity are managed by Planning and Development similar to maintenance deficiencies. Owners and, by extension, builders, trades, contractors and subcontractors, are to follow applicable By-Laws and Council Policies as they pertain to:

- Street Cleaning;
- Construction/working outside of allowable hours; or
- Construction Traffic

Should lack of compliance persist, Planning and Development can engage the By-law Enforcement group to further pursue the matter with the Owner.

Per section 5, Standard of Work, of the standard Subdivision Agreement Template, the Owner is responsible to maintain all right-of-ways in compliance with applicable City By-Laws prior to the time of assumption. These items typically apply to physical works within the municipal right-of-way, for example:

- Driveway Widths;
- Boulevard landscaping;
- Boulevard obstructions;
- Drainage By-law Infractions; or
- LID stormwater management features

The onus is on the Owner to educate the builders and homeowners of applicable by-laws and work with them to correct physical by-law infractions. At the time of assumption, all municipal right-of ways are to be in compliance with the City By-Laws.

Recognizing there are multiple parties involved in correcting these physical deficiencies, if at the time of assumption the Owner can demonstrate that all reasonable efforts have been exhausted to work with builders and homeowners to bring the road into compliance; the City may consider a small allowance for limited minor deficiencies to pass assumptions to be further pursued by City By-Law enforcement following assumption.

19.2.4 Assumption

Assumption occurs when City Council passes a by-law to assume responsibility for the maintenance, repair and liability of works and services installed as part of a plan of subdivision. In order for Assumption to proceed, all works and services must be constructed in accordance with accepted plans, appropriate certification provided and

the Owner must demonstrate how all requirements of the subdivision agreement have been satisfied.

19.2.4.1 Requirements for Assumption

What is required for Assumption?

All requirements for Assumption are outlined in the Subdivision Agreement. Upon receiving a request for assumption, City staff will provide the Owner with an assumption requirements letter that summarizes the conditions that must be fulfilled prior to the issuance of the Assumption Certificate with clear links to the associated clauses of the Subdivision Agreement. The following list outlines the minimum requirements to be satisfied prior to assumption:

- a) All works, services, sewers, LID stormwater management features, and roads (physical works) have been constructed, inspected and accepted to be in general conformity with the accepted plans and specifications;
- b) All external works, if required, have been constructed to City's satisfaction and accepted;
- c) Water Operations has inspected and accepted the water system;
- d) Roads & Transportation has inspected and accepted the streetlighting;
- e) Stormwater Engineering has reviewed and accepted documentation of all verification, monitoring and testing program results of all stormwater management controls, as signed by the Owners Consulting Professional Engineer;
- f) Urban Forestry Division has reviewed and accepted the Street Tree Planting Plan;
- g) Environmental and Parks Planning has inspected and accepted any parkland and open spaces areas, if applicable;
- h) Schedule 'G' prepared by the Owner's Professional Engineer certifying that all subdivision works have been constructed in general conformity to the accepted plans and specifications;
- i) Soils Certificate as per Schedule 'H' prepared by the Owner's Professional Engineer;
- j) "As-Constructed" drawings and digital files;
- k) Schedule 'K' prepared by the Owner's Professional Engineer certifying that all grading within the subdivision has been completed in accordance with the accepted drawings;
- l) Ontario Land Surveyor's Certificate;
- m) Final Lot Grading Certificates;

- n) Confirmation from the Owner's Professional Engineer that physical works within the right-of-way complies with applicable by-laws (i.e. driveway widths, boulevard landscaping, drainage discharge points etc.);
- o) Confirmation from the Owner that payment of all accounts pertaining to construction of and operation and maintenance of the subdivision has been made;
- p) Confirmation that the Owner's Solicitor has submitted all records of the transference of easements, reserves and municipal lands; and,
- q) Completion of any other specific requirements under the Subdivision Agreement and all other requirements that may have been deferred at Conditional Approval.

Staging Assumption

Owners may request assumption for the entire limits of the registered plan or stage assumption for a portion of the plan. Each stage of assumption must be continuous with downstream assumed infrastructure.

Subdivision Agreements can include specific "prior to Assumption" requirements, for example intersection lighting or other external road improvements that may not be directly linked to the stage for which Assumption has been requested. However, the City may require the completion of any requirement in conjunction with any given stage of assumption within a registered plan as warranted. The Assumption Requirements Letter will identify the conditions required for a given stage.

19.2.4.2 At what point will a request for Assumption be considered?

Upon receiving a request for Assumption, staff will not issue an Assumption Requirements Letter or schedule an inspection until:

- Buildout or stabilization of all lots tributary to a LID stormwater management control feature is required prior to assumption.
- at least 70% of lots within the phase or stage to be assumed have been constructed or seven (7) years have elapsed from the date of registration;
- the phase or stage to be assumed is continuous and directly connected to existing assumed roads;
- the Owner's Professional Engineer has confirmed through the Assumption request form that, in their opinion, all required works have been completed;

For large block subdivisions and street town blocks the requirement for 70% buildout may not apply shall be at City's discretion to determine on case to case basis.

Note: A partially constructed street within a stage will not be considered for assumption.

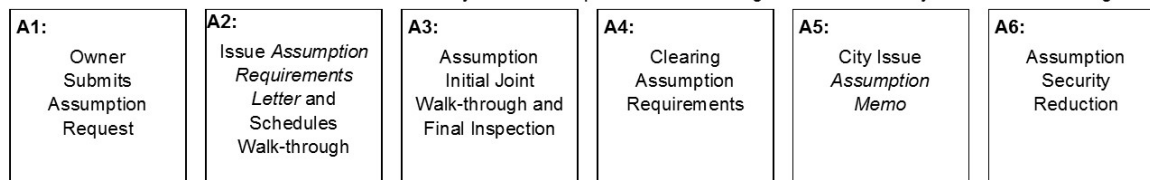
19.2.4.3 Process for Assumption

The process for achieving Assumption is illustrated in **Figure 19.5** below, followed by a description for each key process step.

Figure 19.5 Key process steps for assumption

ASSUMPTION:

STARTS ONCE: At least 70% of lots constructed or 7 years have elapsed from date of registration and directly connected to existing assumed roads



A1: Request Assumption

Requests for Assumption can be made by completing the standard request form **DS-IRF-01** (see **Section 19.6**) and submitting to Planning and Development. The required form is illustrated in Appendix 1. By submitting an Assumption Request Form, the Owner's Professional Engineer is confirming the site is ready for assumption.

A2: Issue Assumption Requirements Letter and Schedules Joint Walk-through

The Assumption Requirements Letter provides Owner with an itemized summary of the requirements to be met prior to Assumption clearly referencing the associated Subdivision Agreement clauses.

Planning and Development notifies the applicable City divisions of the request for inspection and coordinates with the Owner's Professional Engineer to schedule a Joint Walk-through. At Assumption the divisions engaged for inspections could include Planning and Development, Water Operations, Transportation & Mobility, Parks & Forestry, or Stormwater Engineering.

A3: Assumption Initial Joint Walk-through and Final Inspection

The initial Assumption Joint Walk-through inspection provides an opportunity for Planning and Development and the Owner's Professional Engineer to complete a joint review of all physical works for assumption. At the time of the joint walk-through, all works and services are to be completed and the road constructed to base course asphalt. In the event Planning and Development arrives on site and discovers the subdivision is unprepared, they have the authority to terminate the walk-through and reschedule.

The joint walk-through will identify all deficiencies to be repaired prior to Assumption. If required, divisional inspections shall be completed prior to the joint walk-through so that deficiencies identified by other City divisions can also be discussed while both parties are on site. Planning and Development will compile an Assumption Deficiency List to forward to the Owner and their Professional Engineer. Should the Owner disagree with

any noted deficiency items, they shall raise those concerns prior to the list being finalized as the list will form an agreed upon summary of repairs to be completed.

The Owner's Professional Engineer may request the Final Assumption Inspection once all agreed upon deficiencies, identified in the consolidated deficiency letter, have been rectified and top coat asphalt is in place. Failure to complete all items identified on the deficiency list will result in further follow up inspections. Consideration may be given for minor outstanding deficiencies to be addressed prior to End of Warranty period on a case by case basis. If the Final Assumption Inspection is not requested within twelve (12) months of the finalized deficiency list, the City may require the Owner to schedule another joint walk-through to confirm the deficiency list prior to scheduling the Final Assumption Inspection.

A4: Clearing Assumption Requirements

The Owner's Professional Engineer shall submit a complete Assumption Requirements package containing all required documentation together with a cover letter clearly referencing and responding to each item identified in the Assumption Requirements Letter. Planning and Development will review the information and coordinate with the Owner's Professional Engineer to confirm as requirements are cleared and identify those requirements that remain outstanding.

A5: Issue Assumption Memo

Once all Assumption Requirements have been met, Planning and Development prepares the Council Assumption By-law Memo to be executed by an authorised Manger and the City Engineer and submits the memo to the Clerks Department to be placed on the next available agenda for Council approval. Upon passing of the Assumption By-Law, the Clerks Department assigns a By-Law Number and specifies the one year warranty period. Planning and Development then issues a formal Assumption Certificate and copies the Owner, their Professional Engineer and all pertinent City departments.

In accordance with standard subdivision agreement clauses, the City shall not be deemed to have legally assumed any work or service until such assumption is evidenced by an Assumption Certificate and the enactment of a specific by-law assuming said works.

A6: Assumption Security Reduction

Security reduction will be processed in accordance with the current Subdivision & Development Agreement Security Policy to retain at a minimum, the warranty holdback of 2.5%. For further information on security reduction policy please search www.london.ca.

19.2.4.4 Assumption of Works Outside Right-of-way

In addition to the Assumption of works and services within the City right of way, plans of subdivision can include miscellaneous Blocks such as Walkways, Parkland/Open Spaces, SWM Facilities, etc., that must also complete an assumption process. The City reserves the right to require assumption of the following elements in conjunction with any stage of a registered plan.

The process for assumption of these Blocks varies and is described below;

1. Walkway Blocks

Walkway Blocks are dedicated to the City when the Plan of Subdivision is registered. The physical works for walkway Blocks undergo an assumption inspection and clearance process similar to the works and services within the right-of-way. The timings for assumption of walkway blocks correlates with the assumption of adjacent street/block. Walkways undergo one (1) year Warranty period that corresponds with the Council designated timespan for the adjacent assumed street/block.

2. Requirements for Parkland and Open Space Blocks

These blocks are inspected in conjunction with Environmental and Parks Planning Division. The timing for assumption of Parkland and Open Space blocks shall be at the time of assumption of adjacent street or earlier if the park is ready for assumption to the satisfaction of the Environmental and Parks Planning Division. Typical assumption requirements for Parkland and Open Space blocks include grading, seeding, servicing, and fencing etc. Once satisfied, Planning and Development will issue an Assumption Certificate identifying the applicable Parkland and Open Space blocks. Environmental and Parks Planning Division will then take over operation and maintenance of the blocks. A Council by-law is not required and the one (1) year Warranty period does not apply unless the Block is serviced with municipal water, sanitary or storm sewers.

3. Stormwater Management Facility (SWM) Blocks

All relevant subdivision clauses must be met as they relate to stormwater management facilities and their associated blocks. Assumption of these stormwater management facilities shall follow the assumption guidelines set out by Stormwater Engineering Division (SWED). This process is managed by SWED in conjunction with Planning and Development as needed.

19.2.4.5 Assumption Over Winter Months

In general, the City will not issue Assumption Certificates between October 15th and April 30th of that year once the winter maintenance protocols have been established for the upcoming winter season. It is not possible for the City to assume winter operations

of roadways part way through the season. Some accommodation post October 15th may be considered if weather permits.

19.2.5 Warranty Period

Following Assumption by the City, assumed infrastructure must complete the Council mandated one (1) year post-assumption Warranty Period. During this period, the Owner remains responsible and liable for warranty defects related to poor materials or workmanship. The requirements for End of Warranty are described in Section 10 of the Subdivision Agreement – COMPLETION, MAINTENANCE, ASSUMPTION and GUARANTEE.

19.2.5.1 Warranty Defects

Warranty defects shall be considered deficiencies that reasonably should not have occurred given the age of the infrastructure and are not related to damage.

Examples of warranty defects may include but are not limited to the following:

- Heaved/sunken sidewalks and major cracks;
- Heaved/sunken curbs and major cracks;
- Catastrophic failure or settlement of underground sewers;
- Displacement or grade differential in manhole and catch basin lids;
- Failure of private sanitary, storm and water services;
- Major road surface defects;
- Failure of stormwater controls to drain; or
- Other defects as determined through inspection.

19.2.5.2 Requirements for End of Warranty

End of Warranty is reached following the Council mandated one (1) year post-assumption warranty period. An End of Warranty Certificate will be issued upon successful completion of the warranty inspection and confirmation that any outstanding obligations of the Subdivision Agreement have been satisfied.

What is required for End of Warranty?

The following requirements must be met to clear the End of Warranty period;

- Obligatory one year warranty period has expired;
- Warranty inspection completed and all warranty defects cleared;

- If applicable, Water Operations has cleared any outstanding items not available for inspection at the time of Assumption;
- Street tree planting completed by the City and invoice paid by Owner;
- All outstanding Final Lot Grading Certificates provided; and
- Confirmation that all remaining obligations of the Subdivision Agreement have been satisfied.

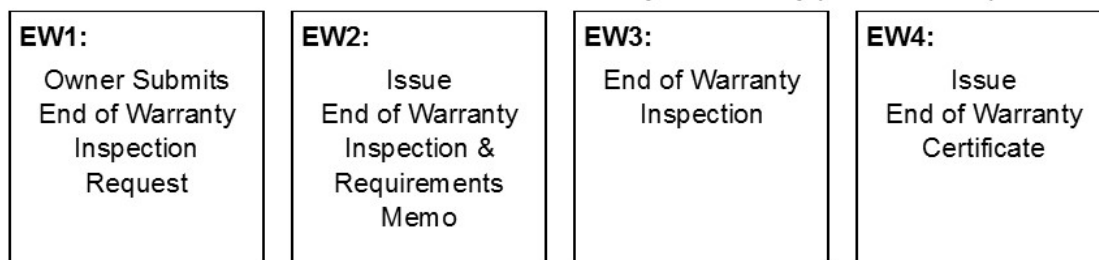
19.2.5.3 Process for End of Warranty

The process for reaching End of Warranty is illustrated in **Figure 19.6** below, followed by a description of each key process step.

Figure 19.6 Key process steps for end of warranty

END OF WARRANTY:

STARTS ONCE: The Council mandated minimum 1-year warranty period has elapsed or is imminent.



EW1: Owner Submits End of Warranty Inspection Request

The Owner's Professional Engineer submits End of Warranty inspection request form **DS-IRF-01** (see **Section 19.6**) to Planning and Development in anticipation of the warranty period expiry identified in the Council By-law. The required form is illustrated in Appendix 1. The request for End of Warranty Inspection can be submitted up to 3 months prior to the warranty period expiry so the inspection can occur on or before the actual End of Warranty date.

The City will provide a reminder to Owner's approximately 2 months prior to the End of Warranty date. However, if no request is received, the City may notify the Owner and proceed with the warranty inspection regardless. The goal is to complete the warranty inspection as close to the expiry date as to accurately document any warranty defects present as of the one-year mark.

EW2: Issue End of Warranty Inspection & Requirements Memo

City staff prepares an End of Warranty Inspection and Requirements memo confirming the inspection and identifying any outstanding agreement requirements or deficiencies carried over from assumption. The memo is sent to the Owner and any other divisions that need to review post-assumption items or deficiencies.

EW3: End of Warranty Inspection

City staff complete the inspection together with the Owner's Professional Engineer and either provides clearance or advises the Owner of remaining deficiencies. Follow up inspections are coordinated as needed.

EW4: Issue End of Warranty Certificate

Once all Subdivision Agreement requirements have been met, Planning and Development will issue the End of Warranty Certificate. At this time, the remaining 2.5% warranty security holdback can be released and the file is considered closed. Any outstanding invoices for the repair of urgent warranty defects during the warranty period will be reimbursed from the 2.5% holdback prior to its release.

19.2.5.4 Addressing Deficiencies during the Warranty Period

During one year warranty period, City assumes full responsibility for operation and maintenance (such as snow plowing on roads, sidewalks, boulevard maintenance, etc.) of all works and services within City right-of-way. Any defects/damage caused through regular maintenance by the municipality shall be City's responsibility. However, warranty defects will be identified through warranty inspection and summarized in a deficiency letter to be remediated prior to the release of security holdback.

On occasion, critical deficiencies can arise during the Warranty Period. An urgent deficiency is defined as any defect related to materials or workmanship that is considered an immediate safety, environmental or operational risk. Examples include water service breaks, sewer failures at manhole connections, and failures in road structure failure.

When an urgent deficiency occurs, City staff will provide immediate notification to the Owner. The Owner is required to provide a response within 24 hours of notification and confirm with Planning and Development once the work has been completed. If a response has not been received by the City within 24 hours, the City may immediately schedule necessary repairs and invoice the Owner for the total cost incurred.

Addressing these types of deficiencies may require involvement from pertinent City Divisions. Non-urgent warranty defects observed during the warranty period may be deferred to End of Warranty.

19.2.5.5 Street Tree Planting

The City will install all street trees in accordance with the Street Tree Planting Plan accepted prior to assumption. Installation will occur within the first 2 planting seasons after assumption. The City will invoice the Owner for this work and payment must be received as a condition for End of Warranty.

19.3 Site Plan Development Agreement Compliance

19.3.1 Introduction to Site Plan Compliance

The City of London utilizes [Site Plan Control By-law](#) to ensure functional and high quality developments are constructed throughout the City. At the time of site plan approval, a development agreement is registered on title with schedules including site plan and servicing drawings.

Compliance for site plans begin as soon as the development agreement is registered, at which point the City responds on a complaint driven basis to construction related concerns. Formal compliance procedures start with the Initial Reduction Inspection upon the substantial completion of the site works (as determined through the building permit process).

In accordance with the Planning Act, the City of London is authorized to enter onto the development lands for the purpose of carrying out inspections to confirm the site works comply with the registered development agreement, approved site plan drawings and applicable by-laws.

Section 19.4 provides more information on agreement compliance for external works within the right-of-way.

19.3.1.1 Definition of SP Compliance Stages

Agreement Compliance for Site Plans can be described in the following stages:

Construction Compliance and Site Management

Throughout the course of Site Plan construction, the Owner is responsible to maintain site construction activities in a manner that is acceptable to the City and ensure that all works are in conformity with the approved plans, policies, by-laws and development agreement provisions.

Compliance issues during construction are typically flagged to the City on a complaint driven basis, at which point staff coordinate with the Owner to ensure issues are resolved promptly. **Section 19.3.2** provides more detail on the Owner's compliance responsibilities during the buildout stage.

Site Plan Compliance Reduction Inspections

In accordance with the City's Subdivision & Development Agreement Security Policy, Owners can request an "initial" and a "midpoint" security reduction inspection to assess the value of outstanding works and provide a summary of observed site deficiencies. Reductions will be considered when the value of outstanding works is less than the value of held securities and greater than the minimum final site plan security holdback

per the security policy. The Owner's Professional Engineer will be responsible to provide engineering estimate of the works completed on the letter head sealed and signed by a Professional Engineer.

Section 19.3.3 provides more detail on the process for security reduction inspections.

Final Site Plan Compliance Inspection and Security Release

Upon confirmation of Substantial Completion through the City's Building Division, the Owner has nine (9) months to complete and satisfy all obligations of the Development Agreement and to complete underground & surface works as identified on the face of the approved site plan as well as required external works, where applicable.

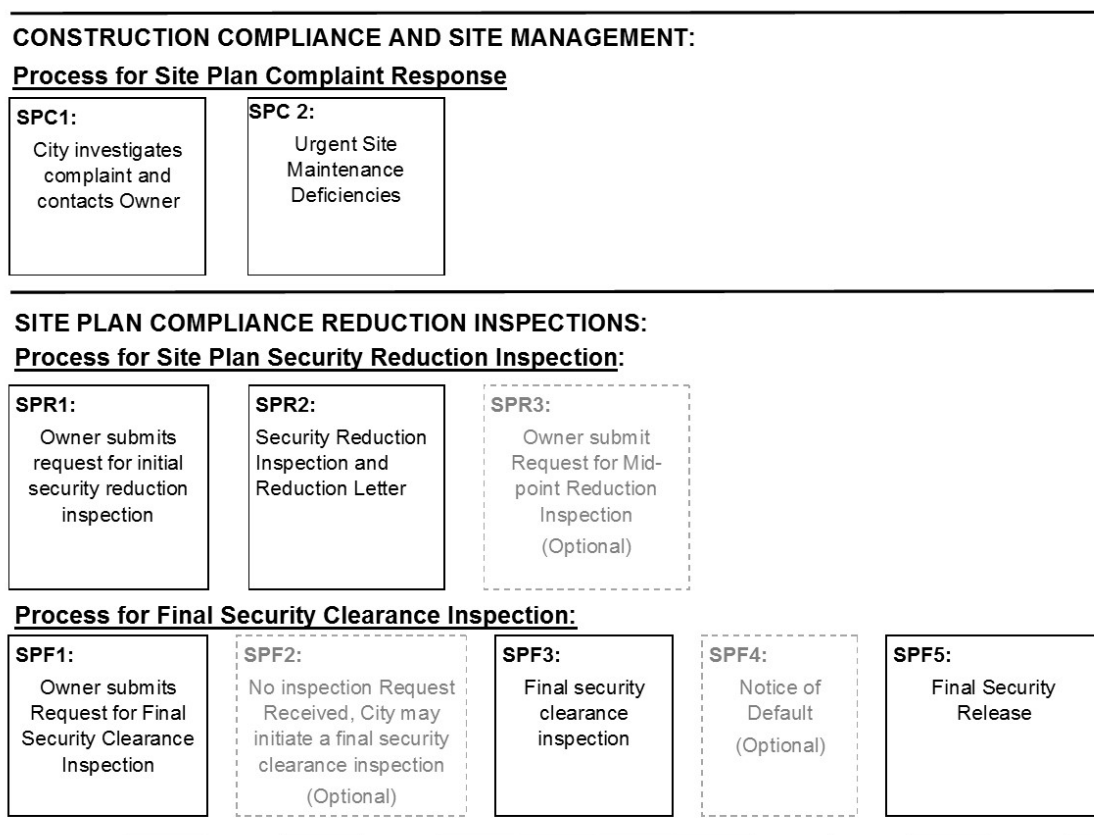
The Owner's Professional Engineer can request a final site plan compliance inspection once, in their opinion, all required site works have been completed. Alternatively, if no inspection request is received within nine (9) months of substantial completion, the City inspector may initiate a compliance inspection and, where applicable, issue a notice of deficiency or a Notice of Default identifying works that remain outstanding or deficient by establishing a deadline for completion of outstanding works.

Upon confirmation by the Development and Compliance Services that the site has been constructed in accordance with the approved Site Plan and all obligations of the Development Agreement have been satisfied, the City will authorize release of all remaining securities and close the file. **Section 19.3.4** provides more detail on the process for final site plan compliance inspections.

19.3.1.2 Key Process Steps

Following figure provides an overview of the key process steps for each stage of Site Plan agreement compliance.

Figure 19.7 Overview of construction compliance and site management process



19.3.2 Construction Compliance and Site Management

Throughout the course of site development and construction, the Owner will be responsible to undertake and maintain construction activity on the site in a manner acceptable to the City, ensuring that all works are carried out in conformity with the approved plans, by-laws and provisions of the Development Agreement. Any public complaint as a result of the development shall be given due priority and addressed appropriately, to the satisfaction of the City.

19.3.2.1 Site Management

In terms of good site management, the following are items to proactively consider during the construction phase of a development project.

- a) Development Notification Signage indicating Owner/Consultant/Contractor contract information and the City of London SP application file number.
- b) Maintain site in a neat and orderly condition, with regard to:
 - debris and waste management
 - operation and storage of construction equipment and building materials;
 - dust control
 - idling vehicles, generators and other equipment
 - public sidewalk and roadway maintenance (including snow and tracked soil/mud removal and to keep it in obstruction/damage free conditions)
 - Construction fencing to ensure public is not exposed to undue risk
 - Manage surface drainage and grading
- c) Protect public property within the right-of-way in accordance with the policies and by-laws of the City.
- d) Ensure work undertaken does not damage or create a hazard to adjacent private property or unduly impact the surrounding public;
- e) Have regard for all applicable by-laws, for example: Parking and Noise;
- f) Maintain adequate Erosion and Sediment Controls with continued inspection, monitoring and maintenance throughout construction and build-out.

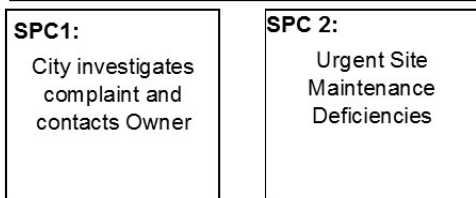
19.3.2.2 Process for Complaint Response During Site Plan Construction

Planning and Development staff respond to maintenance and deficiency issues during construction on a complaint driven basis. Complaints can come from a number of sources including direct resident calls, the Councillor's office, City Dispatch or other divisions. Typical issues include mud tracking onto road allowance, dust, noise, construction waste. The process for site development related complaint resolution is illustrated in **Figure 19.8** below followed by a description for each key process step.

Figure 19.8 Key process steps for site plan complaint response

CONSTRUCTION COMPLIANCE AND SITE MANAGEMENT:

Process for Site Plan Complaint Response



SPC1: City Investigates Complaint and Contacts Owner

If needed, Planning and Development will visit the site to observe and investigate the complaint first hand. Complaints regarding point in time activities such as construction traffic or noise, will be forwarded on without site investigation. Once the Owner has been informed of the complaint, staff will review requirements for site maintenance and, where required, discuss remedies.

SPC2: Urgent Maintenance Deficiency

Occasionally, more critical site deficiency or maintenance issue can arise where the issue can be considered a safety or operational risk to the City or the general public. Should an urgent deficiency occur, the city will provide immediate notification to the Owner identifying a clear deadline by which the matter must be remedied. If the matter is not corrected by the identified deadline the City may proceed to schedule the necessary remedial work and invoice the Owner or drawdown on held securities for the total cost incurred.

19.3.3 Site Plan Compliance Reduction Inspections

The City’s **Subdivision & Development Agreement Security Policy** provides the opportunity for security reductions prior to a final inspection in recognition of site works that are progressing toward completion. Reductions will only be considered when the value of outstanding works is less than the value of held securities and greater than the minimum final site plan security holdback per the security policy.

Initial Reduction: Following adequate completion of at least 50% of the agreed upon works, the Owner may apply for a first security reduction to the value of estimated outstanding works or the minimum holdback, whichever is greater

Midpoint Reduction: Following adequate completion of at least 75% of the agreed upon works, the Owner may apply for a midpoint security reduction to either the estimated value of outstanding work or the minimum holdback, whichever is greater. A mid-point reduction would not be applicable in cases where the initial reduction drops held securities to the minimum holdback.

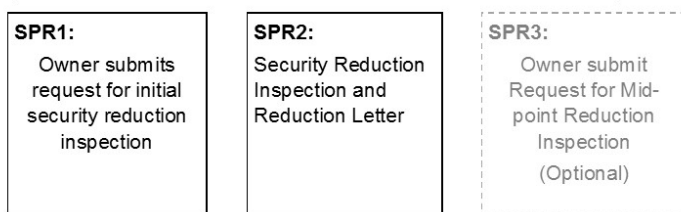
Refer to **Section 19.4** for more information on inspections related to external works within the right-of-way.

19.3.3.1 Process for Reduction Inspections

The process for requesting inspections for the purpose of reducing securities held under a site plan development agreement is illustrated in **Figure 19.9** below, followed by a description of each key process step.

Figure 19.9 Key process steps for site plan security reduction inspection

Process for Site Plan Security Reduction Inspection:



SPR1: Owner Submits Request for Initial Reduction Inspection

Security reduction inspection requests can be submitted via email through the Planning and Development Site Plan Compliance email portal, LondonSPcompliance@london.ca. The request shall include the Security Reduction Tracking Summary Worksheet completed by the Owner’s Professional Engineer.

Upon receiving a site plan security reduction inspection request, the City inspector will schedule an inspection within an anticipated window based on current workload and inform the Owner. Upon completion of the inspection the Owner will be notified of deficiencies, if any.

SPR2: Security Reduction Inspection

The City inspector will review the site to confirm the works completed to date are consistent with the submitted security reduction requested in the Tracking Summary Worksheet. Should deficiencies be observed in work for which a reduction has been requested the City may adjust the reduction request accordingly. However, security reduction will not be considered if any of the critical timed requirements, as identified in the Development Agreement, are not completed to the satisfaction of the City prior to inspection.

Following the inspection, Planning and Development will issue a letter to be sent to the Owner and the City’s Finance Department listing any identified deficiencies and confirming the approved reduction and establish date for follow-up review. City’s Finance Department will process the release of the reduced securities.

SPR3: Owner submits Request for Mid-point Reduction Inspection

Similar to the initial inspection, requests for mid-point inspections can be submitted via email through the Planning and Development Site Plan Compliance email portal, LondonSPcompliance@london.ca. The request shall include the security reduction

Tracking Summary Worksheet completed by the Owner's Professional Engineer. The inspection and subsequent reduction letter follow SPR2 as described above.

19.3.4 Final Security Clearance Inspection

Standard Development Agreement provisions require the Owner to complete all underground and surface works within the development limits (including external works where applicable) within nine (9) months of the established date of Substantial Completion. The City's Building Division determines the substantial completion date through permit process. Alternatively, where no permit is required, the nine (9) month timeline is from the date of the agreement.

The inspection shall include but not be limited to, landscaping works, surfacing details, fencing, visual barriers, site lighting, garbage locations, fire route signs and other site facilities as shown on the approved plans and/or noted in the provisions of the development agreement.

The following list outlines the minimum requirements to be satisfied prior to final release of site plan agreement securities:

- a) The Professional Engineer's certification verifying that the required works have been completed in accordance with approved plans and special provisions as per the development agreement, and other obligations have been fulfilled to the City's satisfaction such as:
 - registration of joint use maintenance agreement, where applicable
 - verification of easements, noise warning clauses etc.
 - certification of completion and submission of as constructed drawings for external works
 - verification of stormwater management features (e.g. LIDs, OGSs, swales, etc.) are functioning as designed.
 - review of claims for external works
 - restoration of City property, as applicable
 - tree preservation warranty
 - By-Law enforcement
- b) City staffs' site inspection to confirm the completion of all works shown on the drawings included in the Site Plan Approval package.

In general, Final Security Clearance Inspections should be completed between April 15th and October 31st (weather dependent). After this site inspection, if City determines that all identified deficiencies have been rectified and works are acceptable, a Security Release Letter is prepared and sent to the applicant for

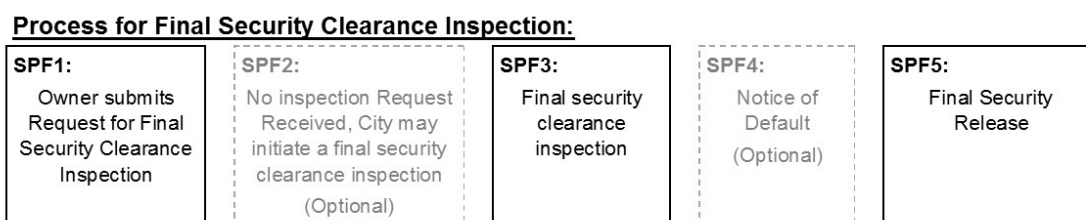
information purposes and to City’s Finance Division for the release of the remaining securities.

The minimum site plan security holdback will not be released until such time as all works have been completed and all agreement requirements fulfilled to the satisfaction of the City of London.

19.3.4.1 Process for Final Security Clearance Inspections

The process for requesting inspections for the purpose of reducing securities held under a site plan development agreement is illustrated in **Figure 19.10** below, followed by a description of each key process step.

Figure 19.10 Key process steps for final security clearance inspection



SPF1: Owner Submits Request for Final Security Clearance Inspection

Upon the Substantial Completion as determined by City’s building division, the applicant has nine (9) months to complete all underground and surface works within the development limits including external works where applicable, and all other applicable provisions under Development Agreement.

Final Security Clearance Inspection requests can be submitted via email through the Planning and Development site plan compliance email portal, LondonSPcompliance@london.ca. The request email shall include certification from the Owner’s Professional Engineer that all internal and external servicing, grading and storm water management works have been constructed in accordance with the approved Engineering drawings and reports, design standards and specifications, and comply with all applicable City By-Laws.

Upon receiving a site plan final inspection request, the City inspector will schedule an inspection within the anticipated window based on current workload and inform the Owner.

SPF2: No Inspection Request Received

Compliance Inspections are typically triggered at the Owner’s request or may be initiated by staff if no request is received within nine (9) months of Substantial Completion date. If no inspection request is received within 9 months of the established substantial completion date, the City Inspector may initiate a Final Security Clearance Inspection. In this case, the Owner will be notified that the site is considered overdue for the final inspection and provided an anticipated inspection window.

SPF3: Final Security Clearance Inspection

The Compliance Inspections typically involves:

- Observing surface works internal to the Site Plan for consistency with the approved plans, Site Plan Control By-Law and all other applicable By-Laws, standards and specifications.
- Ensuring that all site works and landscape works have been completed in accordance with the approved Site Plans.
- Reviewing the Development Agreement clauses to determine whether all requirements and agreement obligations have been met.

Based on the Inspections, if required, a Deficiency Letter is prepared and sent to the applicant and a brought forward (BF) date is set for a second and subsequent inspection. If necessary, a second Deficiency Letter will be sent at the end of second inspection identifying new BF date. If deficiencies still remain unaddressed at the 3rd Inspection, the Site Plan Inspection Officer will prepare a notice of the City's intention to place the development agreement in default called "Notice of Default".

SPF4: Notice of Default

In cases where deficiencies have not adequately been addressed by the identified default deadline, a Final Notice of Default will be issued and a copy of the memo forwarded to the Owner and City's Finance Division identifying the lack of compliance. In case of ongoing non-compliance, the memo will recommend the cashing of securities. Once the securities are cashed, the City may proceed with addressing outstanding deficiencies as they see fit.

SPF5: Final Security Release

Upon confirmation that all notified deficiencies and works per the approved site plan, landscaping plans, grading plans and servicing plans have been completed to the satisfaction of the City and all clauses/conditions of the Development Agreement have been satisfied, a Security Release Letter will be prepared and sent to the Applicant and the City's Finance Division for release of securities and file will be closed.

The City will hold the securities until the required works and obligations set out in Development Agreement have been successfully completed, inspected and accepted by Site Plan Inspection Officer from City's Planning and Development.

Upon confirmation that all works on the approved site plan, landscape and grading plans, servicing plans and all provisions of the development have been satisfied, a Security Reference Letter is prepared and sent to the Owner and the Finance Division. The City's Finance Division will process the release of remaining securities.

19.4 Consent Application and Compliance

Consent is a term used in provincial planning legislation (Ontario Planning Act) to describe the approval required to subdivide land without the requirement of a plan of subdivision. It is most commonly used to sever an existing lot or parcel into more than one lot. **Section 19.1.2.3** provides additional background on the consent process, described in Section 53(12) of the Planning Act.

Upon approval of application, the Consent Authority may impose conditions of consent as part of the provisional decision. Conditions can include, for example, the requirement for Site Plan Approval or for the Owner to enter into a consent agreement with the City.

Should consent conditions necessitate the construction of external works within City right of way, the Owner will be required to enter into Consent Agreement and provide adequate securities to ensure construction of the applicable works. Any external works required under a consent agreement will be subject to the same compliance requirements as if required through a development or subdivision agreement. **Section 19.5** outlines the compliance procedures for external works.

19.4.1 Consent Agreement Compliance Objectives

The Consent Authority may impose reasonable conditions through the provisional approval of consent applications which may include the requirement to enter into a Consent Agreement to ensure that:

1. All existing works and services for both retained and severed parcels are in general conformity to the current City of London Standards, specifications, all applicable By-Law requirements and fulfill obligations imposed through the provisional decision of Consent;
2. All materials, workmanship and construction techniques and technologies used are inspected and certified by the Owner's Professional Engineer to be in compliance to City's standards;
3. Ensure all works and services (both, surface and ground structures) constructed within the municipal limits, if required, are per approved plans, consistent with City of London standards and specifications;
4. Protect the interest of the public, property owners and occupants of the new development, neighbouring properties and to eliminate or reduce negative impacts to adjacent lands as a result of new creating new lots/parcels.
5. Storm water drainage and erosion control management programs are in place to protect downstream property, infrastructure and natural features;

19.5 External Works

Works external to a site can be triggered by development related to subdivision, site plan or consent and, when required, the terms for external works compliance will be established through the associated agreement. **Section 19.5** outlines the compliance procedures for external works associated with development.

19.5.1 Introduction to External Works

19.5.1.1 Definition of External Works

External works typically represent approved works constructed by the Owner outside the limits of their property such as extension of a sewer or minor road works as a result of proposed development. There are also circumstances where works internal to the site may be considered “external” if the proposed works benefit parties beyond the limits of the site such as a sewer servicing upstream lands that crosses the site through an easement.

External works may include items such as:

- installation of municipal infrastructure (i.e. watermains, sanitary sewers, pump stations, storm sewers, outlet control devices etc.);
- Traffic channelization and turning lanes;
- sidewalks and curbs; and
- traffic control devices (i.e. traffic signals).

19.5.1.2 Role of Professional Engineer in Delivering External Works

The Owner shall appoint a qualified Professional Engineer registered with the Association of Professional Engineers of Ontario, to design, supervise and certify the construction and installation of the external works, with the duties of the Professional Engineer to include, but not be limited to the following:

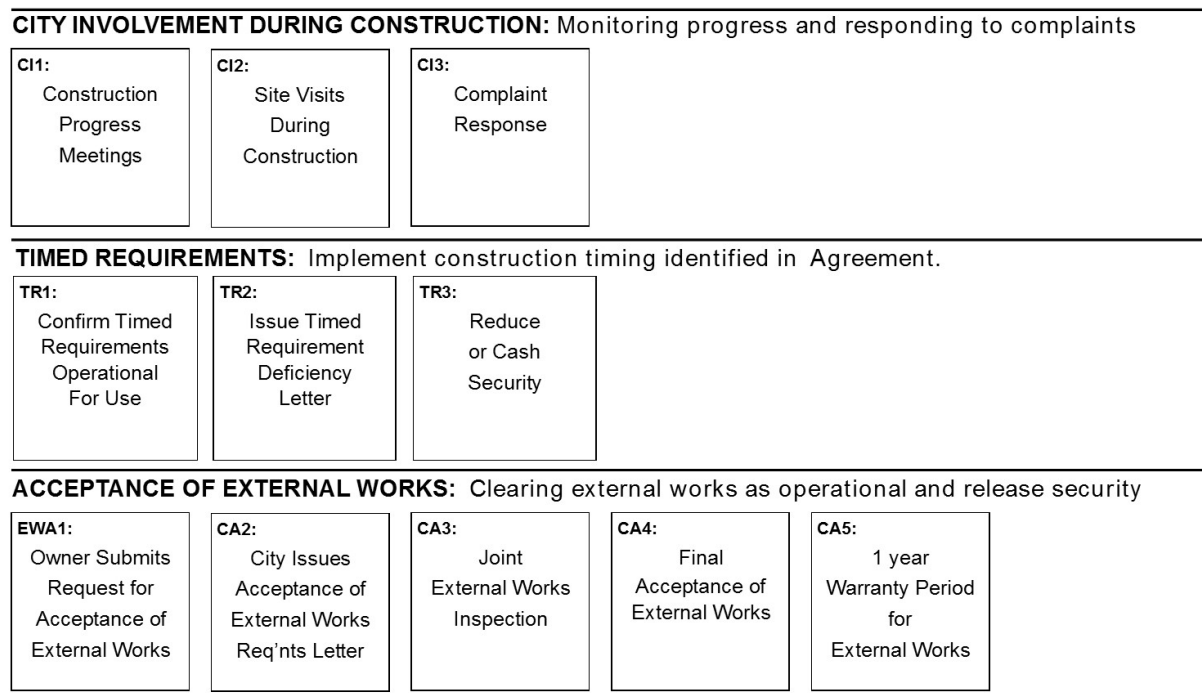
- a) prepare and certify the designs in accordance with the City of London Engineering Standards;
- b) obtain all necessary approvals from the Ministry of the Environment and Climate Change and coordinate with Upper Thames River Conservation Authority, and any other external agencies, as required;
- c) act as the Owner's representative in all matters pertaining to the construction;
- d) assist and coordinate with Owner's Contractor to obtain a Permit for Approved Works (PAW) prior to initiating work within the right-of-way. However, obtaining PAW permit remains the Owner's Contractor responsibility;

- e) provide contract administration and inspections for all external works, including utilities;
- f) undertake any required testing and certify the quality of external works;
- g) maintain all records of construction and upon completion to advise the City of all construction changes;
- h) provide final "as constructed" drawings in a form acceptable to the City prior to acceptance of external works by the City; and
- i) monitor external works for completion and restoration within the timelines specified in on the Permit of Approved Works (PAW) with the intent to minimize traffic disruptions.

19.5.1.3 Key Process Steps for External Works

Figure 19.11 provides an overview of the key process steps for each stage of external work compliance.

Figure 19.11 Overview of external works compliance process



19.5.2 City Involvement During Construction

City Staff will remain engaged throughout construction of external works as Owner led work within the right-of-way has the potential to impact the public and will ultimately be accepted as municipal infrastructure. The City's involvement is outlined in **Figure 19.12**

Figure 19.12 Key process steps for City involvement during construction

CITY INVOLVEMENT DURING CONSTRUCTION: Monitoring progress and responding to complaints

<p>CI1: Construction Progress Meetings</p>	<p>CI2: Site Visits During Construction</p>	<p>CI3: Complaint Response</p>
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CI1: Construction Progress Meetings

Where development projects involve external works, Planning and Development staff will attend pre-construction meetings as well as subsequent site construction meetings. Planning and Development staff will provide a single point of contact for issues that arise relating to unexpected design or scheduling changes, provide clarification and advice on interpretation and application of City policies, standards, methods and procedures and coordinate technical inquiries during construction with other Divisions. The Owner's Professional Engineer remains responsible for all contract administration and inspection during construction.

CI2: Site Visits During Construction

Planning and Development staff will perform general visits to ensure compliance and will coordinate with Owners' Professional Engineer with regards to construction compliance, public complaints and design matters that may arise during construction. However, City will not be involved and responsible for contract administration and inspections during construction. The Owner's Professional Engineer will be responsible for inspections and contract administration.

CI3: Complaint Response

Planning and Development will investigate all complaints received relating to external works and coordinate with the Owner's Professional Engineer to determine any measures necessary to address the concern. Should a critical deficiency or maintenance issue arise which is considered to be a safety or operational risk to the City or general public, the City will provide immediate notification to the Owner identifying a clear deadline by which the matter must be remedied. If not corrected in a timely manner, the City may proceed to schedule the necessary remedial work and invoice the Owner or drawdown on held securities for the total cost incurred.

19.5.3 Timed Requirements

External works associated with development can be occasionally linked to specific timing as set out in the subdivision, development or consent agreement, for example prior to Conditional Approval, prior to occupancy, within one year of registration or the buildout of a specific number of units. Timed external works items may include installation of turn lanes, medians, streetlights, traffic signals, noise attenuation or fencing.

Refer to **Section 19.2.3.2** for process information related to subdivision Post Registration Timed Requirements.

In the case of agreements related to site plans or consents, compliance for timed external work requirements is tied to the process for security reduction. The goal is to ensure timed external works are substantially complete and operational for use per the agreed timing. Final acceptance of external works comes later as described in **Section 19.5.4**.

19.5.3.1 Process for Timed External Works Requirements

The process for Timed External Works Requirements is illustrated in **Figure 19.13** below, followed by a description for each process step.

Figure 19.13 Key process steps for timed requirements

TIMED REQUIREMENTS: Implement construction timing identified in Agreement.

<p>TR1: Confirm Timed Requirements Operational For Use</p>	<p>TR2: Issue Timed Requirement Deficiency Letter</p>	<p>TR3: Reduce or Cash Security</p>
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TR1: Confirm Timed Requirements Operational for Use

Planning and Development participation in site construction meetings will provide the opportunity to monitor and discuss the scheduling of timed external work requirements. Upon completion of timed works and a request from the Owner's Professional Engineer, the City will inspect to confirm the works are operational for use for the purpose of satisfying the timed requirements. Any deficiencies observed will be noted to provide an opportunity to address deficiencies prior to the acceptance of external works inspection.

TR2: Issue Timed Requirements Deficiency Letter

In the event that timed works are not completed or are deficient to the point they cannot be deemed operational for use, the City will issue a formal Time Requirements Deficiency letter. Security reductions will not be processed until outstanding timed requirements have been satisfied.

TR3: Reduce or Cash Securities

Security reduction requests will be accepted once timed requirements have been confirmed. However, should the Owner fail to satisfy the timed requirement, the City may issue a Notice of Default for the outstanding work and draw down from held securities as necessary to complete the works. The City’s security policy can be found by searching Subdivision and Development Agreement Security policy at www.london.ca

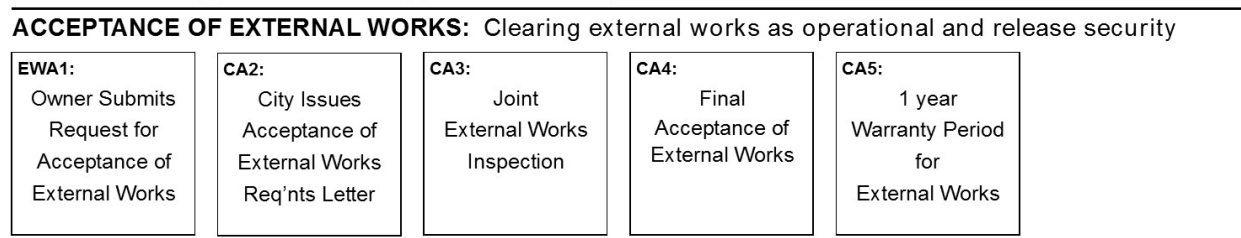
19.5.4 Acceptance of External Works

Infrastructure installed or altered within an existing municipal right-of-way must be accepted by the City as operational for use prior to the City “assuming” maintenance.

External works acceptance occurs when all works and services are constructed in accordance with accepted plans, appropriate certification provided and the Owner demonstrates how all requirements of the Development Agreement have been satisfied.

This process differs from the two-stage Conditional Approval and Assumption process required when a new municipal road is created through development.

Figure 19.14 Key process steps for acceptance of external works



EWA1: Owner Submits Request for Acceptance of External Works

Requests for acceptance of external works can be submitted via email through the Planning and Development Site Plan Compliance email portal, LondonSPCompliance@london.ca. The request shall include the Security Reduction Tracking Summary Worksheet completed by the Owner’s Professional Engineer.

EWA2: City issues Requirements Letter for Acceptance of External Works

All requirements for acceptance of external works shall be outlined in the clauses of the development or consent agreement. Upon receiving a request for acceptance inspection, the City will provide the Owner a requirements letter summarizing the agreement clauses to be satisfied prior to accepting and assuming maintenance of the external works. The following list outlines the minimum requirements to be satisfied prior to assumption:

- a) confirmation from City inspector that all works, services, sewers and roads (physical works) have been constructed, certified and inspected to be in general conformity to the accepted plans and specifications;
- b) as required, confirmation from applicable City Divisions that specialized external works are satisfactory;
- c) submission of all "As-Constructed" drawings and digital files by the Owner's Professional Engineer; and
- d) confirmation or certification on any other specific requirements under the Development Agreement.

The Owner's Professional Engineer shall submit a complete external works acceptance package containing all required documentation and certifications together with a cover letter clearly referencing and responding to each item in the issued Requirements Letter. Planning and Development will review the package and coordinate with the Owner's Professional Engineer to confirm as requirements are cleared and identify those requirements that remain outstanding. An acceptance of external works will be issued once all items identified in the requirements letter have been cleared.

EWA3: Joint External Works Inspection

The External Works Acceptance Inspection shall be completed by the Development Inspection Technologist with the Owner's Professional Engineer in attendance. The hope is that with a well prepared site, the physical work requirements can be cleared with the initial inspection. Alternatively, staff will provide the Owner's Professional Engineer with a summary of deficiencies. The Owner's Professional Engineer shall ensure that all deficiencies are rectified to the City's satisfaction prior to requesting a follow-up inspection.

At the time of the joint inspection, all works and services are to be completed and the road returned to base asphalt. The joint walk-through will identify all deficiencies to be repaired prior to acceptance of external works. If required, divisional inspections should be completed prior to the joint walk-through so that deficiencies identified by other City divisions (Water Operations, Roads & Transportation, Environmental & Parks Planning, Stormwater Engineering, etc.) can also be discussed while both parties are on site. Planning and Development will compile a deficiency list and forward to the Owner and their Professional Engineer. Should the Owner disagree with any noted deficiency items, they shall raise those concerns prior to the list being finalized as the list will form an agreed upon summary of repairs to be completed.

EWA4: Final Acceptance of External Works Inspection

The Owner's Professional Engineer may request the Final Acceptance Inspection once all agreed upon deficiencies, have been rectified and top coat asphalt is in place. Failure to complete all items identified on the deficiency list will result in the requirement for further follow up inspections. If the Final Assumption Inspection is not requested

within twelve (12) months of the finalized joint walk-through, the City may require a follow up walkthrough prior to scheduling the final inspection.

EWA5: Issue Acceptance of External Works

Planning and Development prepares and issues an Acceptance of External Works letter, with a copy provided to the appropriate operations divisions, to signal the point when the City assumes maintenance of new or adjusted municipal infrastructure within an existing municipal right-of-way.

EWA6: 1-year Warranty Period for External Works

Following acceptance of external works for maintenance by the City, the infrastructure will remain under warranty for a one (1) year period or as indicated in the development agreement. During this period, the Owner remains responsible and liable for warranty defects related to poor materials or workmanship. Warranty defects shall be considered deficiencies that reasonably should not have occurred given the age of the infrastructure and are not related to maintenance damage. See **Section 19.2.5.1** for examples of warranty defects.

A 2.5% warranty holdback will be maintained on external works until such time as the works have cleared a warranty inspection. Refer to **Section 19.2.5.3** for information on the process for External Works End of Warranty, which parallels the process for subdivisions.

19.5.5 Permit of Approved Works (PAW)

Pursuant to the City of London's [Streets By-law S-1](#), Schedule 'B' (Public Street - Work Approval Permit), any work within City a right of way approved through Site Plan, Subdivision Approval or Consent Application process requires permit from the City prior to the start of construction. PAW's may be issued at the discretion of the City Engineer for work to be carried out in, over or under a City street, subject to conditions set out in the issued permit as well as the applicable sections of the above referenced By-law.

19.5.5.1 Requirements of PAW for Works on City Property

The following are requirements of a PAW for the purpose of completing construction within the City right of way:

1. Application form for Permit of Approved Works along with applicable fees per the [Streets By-law S-1](#);
2. Submission of a Traffic Management Plan (TMP) for review and acceptance by the City's Transportation Division; and
3. proof of liability insurance on the City of London Standard Certificate of Insurance Form available online at www.london.ca. The form needs to be completed and signed by the insurance company.

19.5.5.2 Requirements of PAW to Occupy City Property:

Development related works that trigger the need to occupy City Property for the purpose of setting up cranes or other lifting devices on roads/sidewalks, diverting traffic, erecting scaffolding, etc., on the City right-of-way must obtain a PAW.

The following are requirements of a PAW for the purpose of occupying the City property:

1. application form for PAW along with applicable fees per [Streets By-law S-1](#).
2. proof of liability insurance on file, naming The City in their policy, submitted on the City of London's Standard Certificate of Insurance form.
3. deposit as set out in the Streets By-law, refundable upon completion of work or restoration of damaged space occupied. Deposits can be in the form of cash, debit, cheque, letter of credit or bond.

Where an applicant anticipates occupying a street or a portion of a street for more than 30 days, the applicant shall enter into a licence agreement with the City prior to issuance of a permit. Under that agreement, the applicant shall pay a fee as set out in Schedule 1 of the City of London's Various Fees and Charges By-Law and provide a Traffic Management Plan for disruption of Rapid Transit Boulevard, Urban Thoroughfare, Civic Boulevard, Urban Thoroughfare/Civic Boulevard in Primary Transit Area, Main Streets and Neighbourhood Connectors are to be approved by the City's Transportation Division for occupancy of roadways.

19.5.5.3 Traffic Management Plan (TMP)

All development driven works within City right of way will require a Permit of Approved Works (PAW) and this permit would be contingent upon the Owner's Professional Engineer to submit a Traffic Management Plan (TMP) for review and approval by City's Transportation division prior to the issuance of a PAW.

The TMP is a tool that effectively harmonizes the construction project's physical requirements with the operational requirements of the City of London and the transportation needs of the road users within the City. For further details and requirements of TMP, see the City's current **Design Specifications & Requirements Manual**.

In general, a TMP sets out the general staging of the work that will ensure safe through traffic movement, utility services, pedestrian traffic and vehicular access to the areas and businesses adjacent to the construction site, while allowing for the construction of the desired works. However, the contractor is required to meet all requirements of the Ministry of Labor and Ontario Traffic Manual Book 7 while undertaking a separate Traffic Control Plan (TCP), affirming that TCP is in general conformity with the approved TMP. This should be added in a form of a note to the TMP drawings.



London
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19.6 Compliance Forms



London
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DS-IRF-01

Subdivision Inspection Request Form

Subdivision: _____ Date: _____

Registered Plan # (if not registered, provide 39T#): _____

Owner: _____

Consulting Engineer: _____

Inspection Contact Person / Number: _____

By the submission of this inspection request, I confirm that the consulting engineer has inspected the works & services in advance, and the area is ready for inspection.

Mandatory for first Conditional Approval inspection request:

MECP Environmental Compliance Approval #s: _____

Date Construction Drawings Accepted: _____

Type of Inspection:

- | | |
|-----------------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> Conditional Approval _____ | <input type="checkbox"/> External Works _____ |
| <input type="checkbox"/> Assumption _____ | <input type="checkbox"/> End of Warranty _____ |

Limits of Inspection:

List each street with to and from limits, or all. Include works, if any, on external streets, walkways, etc.

Prior to a Conditional Approval, Assumption, or End of Warranty inspection, the sewers must be flushed to ensure they are clean and functioning properly.