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# CITY OF KELOWNA

## MEMORANDUM

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**Date:** July 8, 2002  
**File No.:** 3760-10

**To:** City Manager

**From:** Director of Works and Utilities

**Subject:** **Strata Development Requirements**

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### **RECOMMENDATION**

THAT Council support the proposed changes to approvals of strata on site common works as outlined in the following report of the Director of Works and Utilities;

AND THAT Council rescind Council Policy 91;

AND FURTHER THAT Development Applications Fee Bylaw 8034 be amended by deleting the Bare Land Strata 3% Engineering Fee requirement.

### **DISCUSSION**

City staff and the Urban Development Institute (UDI) have completed a review of the City's requirements for on site common works for strata developments. The works in question are the roads, water, wastewater, drainage, electric, streetlights and common landscaping that are turned over to Strata Corporation by the owner developer upon their completion.

The City has had in place since the late 1980s City Policy 91, which set minimum standards for the on-site works. The standards were developed jointly with the development industry when the first strata developments occurred in the City. In the late 1990s the City added a 3% Engineering Review fee for stratas to the Development Applications Bylaw to offset some of the City of Kelowna's costs for reviewing these designs and ensuring their completion. In late 2000 the City's Approving Officer requested the involvement of the Development Engineering group due to concerns from strata corporations that works were not completed or due to post construction deficiencies. The City began detailed engineering review of strata designs and construction at that time with the 3% fee being imposed. Prior to that time City engineering review consisted of limited review of the design to provide advice to the Approving Officer that the works were to Policy standards with no fees charged.

In the joint review of this development approval process, a number of legislative changes allow for a new method of ensuring these works are designed and constructed with good engineering practice. Section 938(3) of the Local Government Act states that a local government must not impose a requirement or standard in respect of a subdivision under the Strata Property Act. As such, Council cannot impose a requirement or standard with respect to the on site works for bare land strata through bylaw or policy. However, it is open for the City's Approving Officer to adopt a policy or guidelines that are reflective of "good engineering practice". Therefore Council Policy 91 should be withdrawn even though the Approving Officer intends to continue to use the requirements therein as a guideline for the onsite works.

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The joint review also identified that the Land Titles Act and recent changes to the Strata Property Act also provide protection to the strata property owners and to the City in ensuring the works are properly constructed. The Land Titles Act identifies the role of the Approving Officer in reviewing on-site works and services. The Approving Officer must ensure that the proposed works and services can be constructed in accordance with standards generally accepted as good engineering practice and can rely on a certificate of a professional engineer as evidence of this. The Strata Property Act ensures the Strata Corporation will receive all the necessary information as well as a two-year warranty for such works. With these factors in mind staff recommend to Council that the Approving Officer require a professional engineer's certificate that the on-site works and services have been constructed and completed to good engineering practice prior to subdivision plan approval. Attached for Council information is the Engineering Certificate that will be provided to the Approving Officer. This certificate was developed based on similar certificates that exist in the B.C. Building Code and has been agreed to by UDI.

The proposed changes to the City requirements provide benefits to the City and the development industry while ensuring that strata corporation interests are met. The new process will streamline workload for the City and development industry, reduce City liabilities, provide required assurance to the Approving Officer that the works are to adequate engineering standard and ensure the strata corporation has all the necessary information.

Upon Council approval an information circular be provided to developers of bare land strata projects advising that the City/approving officer are limiting their plan review function and that responsibility and liability, for plan review will henceforth be with the outside professional. Two developments that had the 3% engineering fee applied with be refunded upon receipt of a certificate from the responsible engineering professional.

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John Vos

Attachment

cc. Director of Planning and Development Services  
Subdivision Approving Officer  
Legislative and Records Supervisor  
Development Engineering Manager

**CITY OF KELOWNA**  
**ON SITE STRATA CIVIL WORKS**  
**CONFIRMATION OF COMMITMENT BY OWNER AND**  
**COORDINATING ENGINEERING PROFESSIONAL**

Re: Design and Field Review of Construction  
By a Coordinating Engineering Professional

Note: This letter must be submitted to the Approving Officer before issuance of

File No.

TO: APPROVING OFFICER

DATE:

Address

Dear Sir:

Re:

Name of Project (Print)

Address of Project (Print)

Legal Description of Project (Print)

I the undersigned have retained \_\_\_\_\_ as the Coordinating Engineering Professional to coordinate the design work and construction field reviews required for the on-site common civil works for this strata development. The coordinating engineering professional hereby certifies that the design work and construction field reviews of the registered engineering professionals required for the common civil works required for the project substantially complies with good engineering practice, the requirements of Approving Officer and other applicable enactments and that the construction of these works complies with the requirements of the Approving Officer and other applicable enactments respecting safety, not including construction safety aspects.

“common civil works” are considered those roads, water, wastewater, drainage, electrical, streetlighting, that become the responsibility of the Strata corporation upon completion as required in the Strata Property Act.

“field reviews” are defined as inspection of the construction of the common civil works to ensure compliance with good engineering practice and requirements of the Approving Officer and other applicable enactments and that the works substantially comply in all material respects with the plans and supporting documents prepared by the engineering professionals.

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The owner and the coordinating engineering professional each acknowledge responsibility to notify the addressee of this letter of the date that the coordinating engineering professional ceases to be retained by the owner before the date the coordinating engineering professional ceases to be retained or, if that is not possible, then as soon as possible. The owner and the coordinating engineering professional understands that construction of the common civil works will cease until a new coordinating engineering professional is retained and a new letter is sent to the Approving Officer.

The undersigned coordinating engineering professional certifies that he/she is a registered engineering professional as defined by the Engineers and Geoscientist Act and registered with the Association of Professional Engineers of British Columbia and agrees to coordinate the design work and field reviews required for the common civil works of this project.

**Coordinating Engineering Professional** **Owner**

Coordinating Engineering Professional (Print) Owner's Name (Print)

Coordinating Engineering Professional Signature Owner's Signature or Owners Appointed Agent

Date Date

Address Address

If Coordinating Engineering Professional is a member of a firm, complete below:

I am a member of the firm