

Administrative Policy No.2026-01

Professional Review, Consultant Cost Recovery, and Escrow Policy

Purpose

The purpose of this policy is to ensure that the Town of Cape Charles recovers costs incurred when outside professional expertise is required to review, evaluate, analyze, or advise on development applications, land use requests, construction permits, or other matters administered by the Planning & Zoning Department.

1616/365 This policy is intended to protect public resources by ensuring that applicants, rather than taxpayers, bear the costs associated with specialized professional reviews that are necessary due to the nature, complexity, or impact of a proposed project or application.

Policy Statement

It is the policy of the Town of Cape Charles that applicants proposing development requiring specialized technical review shall bear the reasonable costs of that review. The Town's responsibility is to provide fair, objective, and technically sound review of development proposals while protecting public funds from subsidizing costs that are attributable to individual applicants.

Definitions

A. Applicant

Applicant means the property owner, contract purchaser, authorized agent, developer, engineer, architect, business entity, or other person or entity submitting, requesting, or benefiting from an application, permit, approval, review, or development activity administered by the Town.

B. Application

Application means any request, petition, permit, approval, plan, plat, certificate, variance, rezoning, conditional use permit, subdivision, site plan, building permit, floodplain permit, land disturbance permit, development agreement, or other submission requiring review or approval by the Town.

C. Complex Application

Complex Application means any application that, in the judgment of the Town, requires specialized technical, engineering, environmental, planning, architectural, legal, financial, or other professional expertise beyond the ordinary capabilities or available resources of Town staff in order to adequately evaluate the application and protect the public health, safety, and welfare.

D. Consultant

Consultant means any licensed or qualified professional, firm, agency, or organization retained by the Town to provide technical review, analysis, inspection, evaluation, recommendations, or professional services related to an application covered by this policy.

Consultants retained under this policy act solely as advisors to the Town and do not represent the applicant.

E. Escrow Deposit

Escrow Deposit means money deposited with the Town by an applicant for the purpose of paying actual costs associated with professional review, consulting services, inspections, or other authorized expenses incurred during the review of an application.

F. Professional Review

Professional Review means any technical evaluation, analysis, inspection, consultation, recommendation, report, or review performed by qualified Town staff or by an outside consultant to determine compliance with applicable laws, ordinances, regulations, engineering standards, environmental requirements, planning principles, or public safety considerations.

Professional review may include, but is not limited to, planning, engineering, environmental, surveying, architectural, historic preservation, legal, transportation, utility, stormwater, floodplain, wetlands, coastal resiliency, or other specialized services.

G. Reasonable and Necessary Costs

Reasonable and Necessary Costs means the actual costs incurred by the Town that are directly attributable to the professional review of a specific application and that are appropriate for the scope, complexity, and technical requirements of the project. Such costs shall not exceed those reasonably required to complete the review.

H. Reimbursement

Reimbursement means repayment by an applicant to the Town for actual professional review costs incurred by the Town under this policy.

I. Town

Town means the Town of Cape Charles, Virginia, including its departments, officers, employees, boards, commissions, consultants, agents, and authorized representatives acting within the scope of their official duties.

J. Town Manager

Town Manager means the Town Manager of the Town of Cape Charles or the Town Manager's authorized designee.

K. Outside Professional Services

Outside Professional Services means services provided by consultants or professionals who are not Town employees and who possess specialized expertise required to evaluate or review an application. Such services may include, but are not limited to, engineering, planning, legal, environmental, surveying, architecture, geotechnical analysis, traffic engineering, coastal resiliency, appraisal, historic preservation, or other technical disciplines.

L. Cost Recovery

Cost Recovery means the Town's collection of actual, reasonable, and necessary expenses incurred in providing professional review services associated with a private development application. The purpose of cost recovery is to ensure that expenses attributable to a specific applicant are borne by that applicant rather than by the Town's general taxpayers.

Section 1. Authority

This policy is adopted pursuant to the authority granted to the Town of Cape Charles under its Charter, including but not limited to Sections 2.1, 2.2, 3.10, and 4.5, and pursuant to the applicable provisions of Title 15.2 of the Code of Virginia authorizing local governments to regulate land use, administer permitting processes, protect the public health, safety, and welfare, and recover reasonable costs associated with development review and professional consulting services.

Section 2. Applicability

A. Applicability:

This policy shall apply to any application, permit, approval, review, or development activity submitted to or administered by the Town of Cape Charles Planning & Zoning Department, including but not limited to:

- Rezoning applications
- Conditional Use Permits
- Special Exception requests
- Subdivision plats
- Site plans
- Building permits
- Floodplain development permits
- Environmental permits or reviews
- Variance applications
- Comprehensive Plan amendments
- Annexation or development agreements
- Large-scale development proposals
- Any application requiring technical review beyond ordinary staff capacity

B. Applicant

“Applicant” shall mean the property owner, contract purchaser, authorized agent, developer, engineer, architect, business entity, or representative submitting or benefiting from an application or approval.

Section 3. Professional Review Services

The Town may require review, consultation, or analysis by qualified outside professionals when deemed necessary by the Town Manager, Planning & Zoning Director, Zoning Administrator, Building Official, Town Engineer, Town Attorney, or other authorized Town official.

The Town shall retain sole discretion in selecting, assigning, and managing outside consultants or professional reviewers.

All outside consultants retained under this policy shall act solely as advisors to the Town and shall not establish any contractual relationship with the applicant. Consultant recommendations shall be advisory only and final decisions shall remain with the Town in accordance with applicable law.

Outside consultants retained by the Town shall disclose any known conflicts of interest related to the application under review. The Town reserves the right to select an alternate consultant whenever a conflict may impair independent review.

Professional services may include, but are not limited to:

A. Planning Services

- Land use analysis
- Comprehensive planning review
- Traffic or parking review
- Urban design review
- Development impact analysis

B. Engineering Services

- Civil engineering review
- Stormwater analysis
- Utility infrastructure review
- Drainage review

- Roadway or access review
- Floodplain analysis
- C. Environmental Services**
 - Wetlands analysis
 - Environmental impact review
 - Chesapeake Bay compliance review
 - Shoreline stabilization review
 - Hazard mitigation review
- D. Legal Services**
 - Review of development agreements
 - Easement or title review
 - Zoning interpretation
 - Code enforcement support
 - Legal analysis of applications or disputes
- E. Other Specialized Services**
 - Architectural review
 - Structural review
 - Appraisal services
 - Survey review
 - Historic preservation consulting
 - Coastal resiliency review
 - Third-party inspections

Section 4. Complex Application Review Threshold

The Town reserves the right to determine when an application, permit request, development proposal, or land use matter exceeds ordinary staff review capacity and requires outside professional review or consultation.

An application may be deemed a “Complex Application” based on factors including, but not limited to:

- Size or scale of the proposed development
- Potential impacts to public infrastructure or utilities
- Environmental sensitivity or Chesapeake Bay compliance concerns
- Floodplain or coastal resiliency considerations
- Stormwater management complexity
- Traffic, parking, or access concerns
- Legal complexity or need for specialized legal analysis
- Historic district or architectural review issues
- Requests involving variances, rezoning, conditional use permits, or development agreements
- Applications involving multiple parcels, phased development, or mixed-use projects
- Potential for significant public impact
- Technical issues requiring specialized expertise not available through Town staff
- Applications requiring coordination with outside agencies, consultants, or regulatory bodies
- Incomplete, inconsistent, or technically deficient submissions requiring substantial additional review
- Any project determined by the Town Manager, Planning & Zoning Director, Zoning Administrator, Building Official, Town Engineer, or Town Attorney to require specialized professional review in order to protect the public health, safety, and welfare

The determination that an application qualifies for outside professional review shall be made administratively and in the best interest of the Town. Such determination shall not be considered a

denial of the application, but rather a procedural requirement necessary to complete an adequate review.

The Town may require escrow deposits, reimbursement agreements, or direct payment arrangements prior to commencement of professional review services. Failure to provide required deposits or reimbursements may result in suspension of application processing or withholding of approvals until all outstanding obligations are satisfied.

Section 5. Applicant Responsibility for Costs

Any costs incurred by the Town for outside professional review or consulting services associated with an application or project shall be the responsibility of the applicant. All consultant and professional review costs charged to an applicant shall be reasonable, necessary, and directly related to the review of the application or project.

The applicant shall reimburse the Town for all reasonable and necessary costs associated with such reviews.

These costs may include:

- Consultant hourly fees
- Engineering fees
- Legal fees
- Administrative processing costs
- Meeting attendance costs
- Site visit expenses
- Publication or recording costs

Section 6. Escrow Deposits

The Town Manager may establish administrative escrow schedules based upon the anticipated complexity, scale, and expected professional review costs of the application. Escrow amounts may be adjusted during review if actual consultant expenses exceed the original estimate.

A. Initial Escrow

The Town may establish an initial escrow amount based on the anticipated complexity of the project.

B. Replenishment

If escrow funds become depleted, the applicant shall replenish the escrow account upon request before additional review work continues.

C. Refunds

Any unused escrow balance shall be refunded to the applicant upon completion of the review process.

The Town Manager may establish administrative procedures, fee schedules, escrow amounts, and implementation guidelines consistent with this policy.

The Town Manager is authorized to adopt administrative procedures necessary to implement this policy, including:

- Escrow schedules
- Consultant engagement procedures
- Billing procedures
- Cost recovery procedures
- Refund procedures
- Standard application language
- Administrative forms

Section 7. Withholding of Approvals

The Town may withhold issuance of any of the following until all outstanding consultant or professional review fees have been paid in full:

- Building Permit
- Land Disturbance Permit
- Site Plan Approval
- Subdivision Approval
- Certificate of Occupancy
- Final Inspection Approval
- Utility Connection Authorization
- Business License related to the project
- Any other final development approval

The Town may also suspend further processing of an application until outstanding balances are satisfied.

Any statutory or administrative review timeline may be suspended until outstanding escrow deposits or consultant invoices are paid in full.

Failure to provide requested information, deposits, reimbursements, or materials necessary for professional review may result in suspension or delay of application processing.

No final action requiring consultant review shall be scheduled for a public hearing, Planning Commission recommendation, Board action, or Town Council consideration until all required escrow deposits have been received and all outstanding consultant invoices have been paid, unless expressly authorized by the Town Manager.

Any unpaid consultant fees or reimbursements owed under this policy shall constitute a debt owed to the Town and may be collected through any lawful means available to the Town.

Section 8. Notification to Applicant

Applicants shall be notified in writing when outside professional review services are required. The notice shall include:

- The nature of the review
- The reason the review is necessary
- Estimated costs, if available
- Escrow requirements, if applicable

Section 9. Appeals

Any dispute regarding the necessity or reasonableness of consultant costs may be appealed in writing to the Town Manager within ten (10) business days of notification.

The Town Manager shall review the administrative determination for abuse of discretion, mathematical error, or inconsistency with this policy. The Town Manager's decision shall be final unless otherwise provided by law.

Section 10. Non-Waiver

Failure of the Town to require reimbursement in one instance shall not waive the Town's right to require reimbursement in future cases.

Section 11. No Vested Rights

Payment of consultant fees, escrow deposits, or reimbursement costs shall not guarantee approval of any application, permit, or development proposal, nor shall such payment create any vested rights or entitlement.

Section 12. Effective Date

This policy shall become effective upon adoption by the Town Council of the Town of Cape Charles.

Section 13. Severability

If any provision of this policy is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue in full force and effect.