

## CITY OF NIAGARA FALLS

A Consolidated By-Law Being **By-law No. 2013-178** amended by By-law 2014-16, By-law 2014-108

### **A BY-LAW UNDER THE BUILDING CODE ACT RESPECTING CONSTRUCTION, DEMOLITION, CHANGE OF USE, OCCUPANCY PERMITS, TRANSFER OF PERMITS, INSPECTIONS AND ASSOCIATED FEES.**

WHEREAS pursuant to the *Building Code Act 1992, S.O. 1992, c .23* as amended, the Lieutenant Governor in Council has established a *Building Code* which is in force throughout Ontario;

AND WHEREAS Section 7 of the *Building Code Act 1992, S.O. 1992, c .23* as amended, empowers Council to pass by-laws respecting construction, demolition, change of use, transfer of permits, inspections, and the setting and refunding of fees;

AND WHEREAS Subsection 8(3) of the *Building Code Act 1992, S.O. 1992, c .23* as amended, authorizes a Chief Building Official to issue a Conditional Building Permit in circumstances and subject to the conditions listed in that subsection;

AND WHEREAS Article 8(3)(c) of the *Building Code Act 1992, S.O. 1992, c .23* as amended, sets out that the applicant or such other person as the Chief Building Official determines, must enter into a form of agreement which is described in that article and commonly known as a Conditional Building Permit Agreement;

AND WHEREAS the Council of the City of Niagara Falls deems it to be in the public interest that the Chief Building Official have the authority to execute Conditional Building Permit Agreements on behalf of the City of Niagara Falls;

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

### **SECTION 1 GENERAL PROVISIONS**

#### **1.1 SHORT TITLE**

1.1.1 This by-law shall be known as the "Building By-law".

#### **1.2 DEFINITIONS**

1.2.1 For the purpose of this by-law:

- 1) "Act" means the *Building Code Act 1992, S.O. 1992, c .23* as amended;
- 2) "applicant" means the owner of a building or property who applies for a permit or any person authorized by the owner to apply for a permit on the owner's behalf, or any person or corporation empowered by statute to cause the construction or demolition of a building or buildings and anyone acting under the authority of such person or corporation;
- 3) "architect" means the holder of a licence, certificate of practice or a temporary licence issued under the Architects Act as defined in the Building Code;
- 4) "as constructed plans" means as constructed plans as defined in the Building Code;
- 5) "authorized agent" means any person authorized by the owner of the building or property to apply for a permit on the owner's behalf as established by the completion of the prescribed form.
- 6) "building" means a building as defined in Section 1(1) of the Act;
- 7) "Building Code" means the regulations made under Section 34 of the Act;
- 8) "Chief Building Official" means the Chief Building Official appointed by by-law by The Corporation of the City of Niagara Falls for the purposes of enforcement and administration of the Act;
- 9) "City" means The Corporation of the City of Niagara Falls or the geographical area of the municipality, as the context requires;
- 10) "construct" means construct as defined in Subsection 1(1) of the Act;
- 11) "Corporation" means The Corporation of the City of Niagara Falls;
- 12) "demolish" means demolish as defined in Subsection 1(1) of the Act;
- 13) "Inspector" means an inspector appointed by by-law of The Corporation of the City of Niagara Falls for the purposes of enforcement of the Act;
- 14) "Landscape Architect" means a member of the Ontario Association of Landscape Architects;

- 15) "owner" means the registered owner of a property and includes a lessee, a mortgagee in possession, and any person who proves to the satisfaction of the Chief Building Official that they are the authorized agent of the owner of a property and any person who qualifies as the owner of a property pursuant to Section 15.1 of the Act;
  - 16) "permit" means permission or authorization given in writing from the Chief Building Official to perform work, to change the use of a building or part thereof, or to occupy a building or part thereof, as regulated by the Act and the Building Code;
  - 17) "permit holder" means the owner to whom a permit has been issued or where a permit has been transferred, the new owner to whom the permit has been transferred;
  - 18) "plumbing" means plumbing as defined by Section 1(1) of the Act;
  - 19) "Professional Engineer" means a person who holds a licence or temporary licence under the Professional Engineers Act, as defined by the Building Code;
  - 20) "Registered Code Agency" means a Registered Code Agency, as defined in Subsection 1(1) of the Act;
  - 21) "sewage system" means a sewage system, as defined in the Building Code; and
  - 22) "work" means construction or demolition of a building or part thereof, as the case may be.
- 1.2.2 Words or terms not defined in this by-law shall have the meaning ascribed to them in the Act or Building Code.
- 1.2.3 In the case of any conflict between the provisions of this by-law and the provisions of either of the Act or the Building Code, the provisions of the Act and of the Building Code shall prevail.

## **SECTION 2 PERMITS**

### **2.1 CLASS OF PERMITS**

- 2.1.1 Classes of permits required for construction, demolition or change of use are set forth in Schedule "A" of this by-law.

### **2.2 FILE APPLICATION ON FORMS PRESCRIBED**

- 2.2.1 To obtain a permit, an applicant shall file an application electronically or in writing, on forms prescribed by the Province of Ontario and available from the Chief Building Official, and supply any other information relating to the application, as required by the Chief Building Official.

## **2.3 REQUIRED SUBMISSIONS**

- 2.3.1 Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:

- (1) Where application is made for a construction permit under Subsection 8(1) of the Act, the applicant shall:
  - (a) use the provincial application form, "Application for a Permit to Construct or Demolish";
  - (b) include complete plans and specifications, documents and other information as required by Section 3 and described in Schedule "B" of this by-law for the work to be covered by the permit;
  - (c) include completed forms as set out in Schedule "B" of this By-law, where applicable; and
  - (d) submit the required fee(s) and deposit(s) as described in Schedule "A".
- (2) Where application is made for a demolition permit under subsection 8(1) of the Act, the applicant shall:
  - (a) use the provincial application form, "Application for a Permit to Construct or Demolish";
  - (b) include complete plans and specifications, documents and other information as required by Section 3 and Division C Sentence 1.3.1.1(4) of the Building Code and described in Schedule "B" of this By-law for the work to be covered by the permit;
  - (c) include completed forms as set out in Schedule "B" of this by-law, where applicable; and
  - (d) submit the required fee(s) and deposit(s) as described in Schedule "A".
- (3) Where application is made for a conditional permit under Subsection 8(3) of the Act, the applicant shall:

- (a) use the provincial application form, "Application for a Permit to Construct or Demolish";
  - (b) include complete plans and specifications, documents and other information as required by Section 3 and described in Schedule "B" of this By-law for the work to be covered by the permit;
  - (c) submit written correspondence to the Chief Building Official stating:
    - i. the reason(s) why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
    - ii. the necessary approval(s) which must be obtained in respect of the proposed building and the time in which such approvals will be obtained; and
    - iii. the time in which plans and specifications of the complete building will be filed with the Chief Building Official.
  - (d) be subject to entering into an agreement with the City as provided for in subsection 8(3) of the Act;
  - (e) include completed forms as set out in Schedule "B" of this by-law, where applicable; and
  - (f) submit the required fee(s) and deposit(s) as described in Schedule "A" of this by-law.
- (4) Where application is made for a change of use permit issued under Subsection 10(1) of the Act, the applicant shall:
- (a) use the prescribed application form, as may be amended from time to time, provided by the City;
  - (b) include complete plans and specifications, documents and other information as required by Section 3 and Division C Sentence 1.3.1.1(4) of the Building Code and described in Schedule "B" of this by-law for the work to be covered by the permit;
  - (c) submit written correspondence to the Chief Building Official to identify and describe:
    - i. the building in which the occupancy is to be changed, by a description that will readily identify and locate the building; and

- ii. in detail the current and proposed occupancies of the building or part of the building for which the application is made.
  
  - (d) include complete plans and specifications showing the current and proposed occupancy of all parts of the building, and which contain sufficient information to establish compliance with the requirements of the Building Code including, but not limited to: floor plans; details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities; and details of the existing sewage system, if any;
  - (e) include completed forms as set out in Schedule "B" of this by-law, where applicable; and
  - (f) submit the required fee(s) and deposit(s) as described in Schedule "A".
- (5) Where application is made for a transfer of permit because of a change of ownership of the land, as permitted under Clause 7(1)(h) of the Act, the applicant shall:
- (a) use the prescribed application form, as may be amended from time to time, provided by the City;
  - (b) provide the following information on the required application form:
    - i. the names and addresses of the previous and new land owner;
    - ii. the date that the land ownership change took place; and
    - iii. a description of the permit that is being transferred.
  - (c) submit the required fee(s) and deposit(s) as described in Schedule "A".
- (6) Where application is made for occupancy of an unfinished building as provided for in Division C Articles 1.3.3.1 and 1.3.3.2 of the Building Code, the applicant shall:
- (a) use the prescribed application form, as may be amended from time to time, provided by the City;
  - (b) include complete plans and specifications, documents and other information as required by Section 3 and as described in Schedule "B" of this by-law to identify, to the satisfaction of the Chief Building Official, the portion of the building intended to be occupied;

- (c) describe the part of the building for which occupancy is requested; and
- (d) submit the required fee(s) and deposit(s) as described in Schedule "A".

## **2.4 INCOMPLETE APPLICATIONS**

- 2.4.1 An application is deemed to be incomplete if it does not contain the prescribed information or is not accompanied by plans, certificates and documents specified in this by-law.
- 2.4.2 Where an application is found to be incomplete, except as permitted under Article 2.4.3, the application shall be refused.
- 2.4.3 An incomplete application may be accepted if the applicant acknowledges the application is incomplete by completing the "Acknowledgement of Incomplete Application" form as may be amended from time to time, provided by the City, thus postponing the application of the timelines stipulated by the Building Code until the application is deemed complete.

## **2.5 CONDITIONAL PERMITS**

- 2.5.1 The Chief Building Official may, upon being satisfied that as many of the requirements of this by-law, the Building Code Act, 1992, S.O. 1992, c. 23, as amended, and the Building Code as amended, as practicable have been complied with, execute an agreement that includes the terms described in Article 8(3)(c) of the Building Code Act, 1992, S.O. 1992, c. 23, as amended.
- 2.5.2 The delegation of authority set out in Subsection 2.5.1 above is effective as of July 15, 2013.

## **2.6 TRANSFER OF PERMITS**

- 2.6.1 In any case wherein the ownership of the land is transferred after a permit is issued, the ownership of that permit may be transferred if the new land owner completes the permit application form in accordance with the requirements of Section 2 of this by-law.

- 2.6.2 Once the permit is transferred, the new owner shall be the permit holder for the purpose of the Act and the Building Code, thus assuming any responsibility for outstanding inspections.

## **2.7 PARTIAL PERMITS**

- 2.7.1 Where feasible, the Chief Building Official may consider approval of a portion of the building or project prior to the issuance of a permit for the entire building of project, by way of issuance of a partial permit.
- 2.7.2 Where application is made for a partial permit, the applicant shall:
- (1) use the provincial application form, "Application for a Permit to Construct or Demolish";
  - (2) include complete plans and specifications, documents and other information as required by Section 3 and described in Schedule "B" of this by-law for the work to be covered by the partial permit;
  - (3) include completed forms as set out in Schedule "B" of this by-law, where applicable; and
  - (4) submit the required fee(s) and deposit(s) as described in Schedule "A" for the complete project.
- 2.7.3 Where a partial permit is requested, the application is deemed to be incomplete.
- 2.7.4 Where the Chief Building Official elects to grant a partial permit it shall be in the form of a conditional permit and shall be subject to all of the same terms and conditions as identified in Sentence 2.3.1(3), as well as the prescribe fees of Schedule "A" of this by-law for conditional Permits.
- 2.7.5 Where a permit is issued for part of a building or project, this shall not be construed to authorize construction beyond the plans for which approval was given, nor that approval will be necessarily granted for the entire building or project.

## **2.8 REVOCATION OF PERMITS**

- 2.8.1 Prior to revoking a permit under Subsection 8(10) of the Act, the Chief Building Official may serve a notice by personal service or registered mail at the last known address to the permit holder.



- 2.8.2 A permit holder may, within thirty (30) days from the date of service of the notice described in Article 2.8.1 of this by-law, request in writing the Chief Building Official to defer the revocation by stating reasons why the permit should not be revoked.
- 2.8.3 The Chief Building Official shall consider the reasons provided and make a determination to revoke or extend the permit.
- 2.8.4 Notice of the decision of the Chief Building Official under sub-section 2.8.3 shall be mailed to the last known address of the permit holder.
- 2.8.5 A request for deferral of revocation shall be subject to payment of a non-refundable fee as set out in Schedule "A" of this by-law.

## **2.9 INACTIVE PERMIT APPLICATION**

- 2.9.1 Where an application for a permit remains incomplete or inactive for thirty (30) days after it is submitted, the application may be deemed by the Chief Building Official to have been abandoned and the application shall be returned to the applicant along with a notice of abandonment.
- 2.9.2 Where the application for permit has been deemed abandoned and returned to the applicant, it shall be accompanied by a refund of the applicable fees in accordance with the provisions for refund of fees described in Schedule "A" of this by-law.
- 2.9.3 Once an application is deemed to be abandoned and the applicant is notified, a new application shall be filed for the proposed work.

## **2.10 SEWAGE SYSTEM PERMITS**

- 2.10.1 The Administration and Enforcement Section of Division B Part 8 of the Building Code with respect to sewage systems remains the responsibility of the Regional Municipality of Niagara.
- 2.10.2 Any applicant wishing to make application for a sewage system permit under the provisions of Division B Part 8 of the Building Code shall do so by making application to the Regional Municipality of Niagara.

## **2.11 LIMITING DISTANCE AGREEMENTS**

- 2.11.1 An applicant may enter into a Limiting Distance Agreement with the City as provided for in Sentence (8) of Division B – Article 3.2.3.1 or in Sentence (5) of Division B – Article 9.10.14.12 of the Building Code.

## **SECTION 3 PLANS AND SPECIFICATIONS**

### **3.1 INFORMATION SUFFICIENT TO DETERMINE CONFORMITY**

- 3.1.1 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed construction, demolition, change of use or transfer of permit will comply with the requirements of the Act, the Building Code and any other applicable law.

### **3.2 COMPLETE SETS**

- 3.2.1 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by complete sets of plans and specifications as described herein as well as in Schedule “B” of this by-law.

### **3.3 REQUIREMENTS FOR PLANS**

- 3.3.1 Plans shall be drawn to scale to a minimum of 1:75 or 3/16” = 1’.
- 3.3.2 Plans shall be legible and drawn on paper, other durable material, or in an electronic media format approved by the Chief Building Official.

### **3.4 FIRE SAFETY MATTERS**

- 3.4.1 The Fire Chief, Fire Prevention Officer, or other specified official, if so designated, shall be responsible for the enforcement, plan examination and field inspections of the following sections of the Building Code, as amended, respecting fire matters; namely:
- (1) Fire alarm systems, and all ancillary functions;
  - (2) Fire detection systems;
  - (3) Standpipe, hose systems and water supply (including dry hydrants);
  - (4) Sprinkler systems;
  - (5) Portable fire extinguishing equipment;

- (6) Voice communication systems;
- (7) Systems for the ventilation and fire protection of restaurant and other commercial cooking equipment;
- (8) Access for Fire Department vehicles; and
- (9) Structural components damaged by fire or other unapproved use.

3.4.2 The Fire Chief, Fire Prevention Officer, or other specified official, if so designated, shall review all drawings submitted pursuant to an application for a permit as complying with the requirements of the Building Code, respecting fire safety matters specified in subsection 3.4.1. of this by-law prior to the issuance of a permit by the Chief Building Official.

### **3.5 SURVEYS**

3.5.1 Site plans shall be referenced to an up-to-date plan of survey and when required to demonstrate compliance with the Act, the Building Code or other applicable law, a copy of the survey shall be submitted to the Chief Building Official.

3.5.2 Site plans shall show:

- (1) lot size and the dimensions of property lines and setbacks to any existing or proposed buildings;
- (2) existing and proposed finished ground levels or grades; and
- (3) rights of ways, easements and all municipal services;
- (4) the location of any equipment placed on or crossing the property related to the transmission of hydroelectricity, such as but not limited to, hydro service poles, hydro service pole support components, transformers or hydro wires; and
- (5) calculated proposed lot coverage.

3.5.3 A surveyor's certificate, prepared by a registered Ontario Land Surveyor, shall be submitted and approved prior to commencement of the framing of the above grade portion of the building and shall show the location of the foundation or foundations on the lot for any single detached, semi-detached, duplex, triplex, fourplex or row house buildings. Elevations shall be given for the top of all foundations walls as well as to the top of any buck provided in the foundation wall to accommodate for doors or other openings.

### **3.6 LOT GRADING**

- 3.6.1 Each application for permit for the construction of a single detached, semi-detached, duplex, triplex, fourplex, row house, and any additions thereto shall be accompanied by a lot grading plan bearing the signature and seal of a practicing Engineer, Landscape Architect, Architect or Ontario Land Surveyor who certifies thereon that the drainage scheme depicted by the plan conforms to Division B - Subsection 9.14.6 of the Building Code.
- 3.6.2 Where a lot grading plan is required above, an as built lot grading plan shall be submitted within seven (7) months of issuance of the occupancy permit bearing the signature and seal of the chosen professional certifying that the finished elevations and grading of the land conforms with the lot grading plan specified above in Article 3.6.1.

### **3.7 AS CONSTRUCTED PLANS**

- 3.7.1 On completion of the construction of a building, the Chief Building Official may require a set of as constructed plans, including a plan of survey showing the location(s) of the building(s).

### **3.8 PLANS PROPERTY OF CORPORATION**

- 3.8.1 Plans and specifications furnished according to this by-law or otherwise required by the Building Code and the Act, become the property of the Corporation and will be dealt with, including both disposal and retention, in accordance with relevant legislation and applicable municipal policies and procedures.

## **SECTION 4 REGISTERED CODE AGENCIES**

### **4.1 DELEGATION OF AUTHORITY**

- 4.1.1 The Chief Building Official is authorized to enter into and sign contracts for service agreements with Registered Code Agencies and appoint them to perform specified functions from time to time, in order to maintain the time periods for permits prescribed in Division C - Article 1.3.1.3 of the Building Code.

### **4.2 FUNCTIONS OF REGISTERED CODE AGENCY**

- 4.2.1 The Registered Code Agency may be appointed to perform one or more of the specified functions described in Section 15.15 of the Act.

## **SECTION 5 FEES AND REFUNDS**

### **5.1 FEES – SCHEDULE “A”**

- 5.1.1 The Chief Building Official shall determine the required fees for the work proposed, calculated in accordance with Schedule “A” of this by-law and the applicant shall pay such fees.
- 5.1.2 If a fee cannot be calculated in accordance with Schedule “A”, the Chief Building Official shall calculate the fee and the applicant shall pay such fee.
- 5.1.3 A permit shall not be issued until the fees thereof have been paid in full.

### **5.2 REVISIONS TO PERMITS**

- 5.2.1 Where the applicant for a permit makes material changes to plans, specifications or calculations after submission to the Chief Building Official for approval, the Chief Building Official may increase the required permit fee or fees by applying the rates in Schedule “A” to these changes and require payment of such increased fees before the permits or approvals are issued.
- 5.2.2 Where the applicant for a permit makes material changes to plans, specifications or calculations after a permit is issued, the Chief Building Official may request an additional permit fee or fees by applying the rates in Schedule “A” to those changes and require payment of such additional fees before the occupancy permit is issued.

### **5.3 PLANS EXAMINATION**

- 5.3.1 The initial plans examination of a complete application, as well as the preparation of the plans examination report shall be included as a component of services provided for the permit fee as identified in Schedule “A” of this by-law.
- 5.3.2 In addition to the initial plans examination of a complete application as identified above, a single follow up plans examination with regard to addressing items identified in the plans examination report shall also be included as a component of services provided for the permit fee as identified in Schedule “A” of this by-law.

- 5.3.3 Notwithstanding subsections 5.3.1 and 5.3.2, any subsequent plans examination review beyond those identified as included in the permit fee shall be subject to a secondary plans review fee based on a rate per hour of plans examination beyond those provided for in the cost of the permit. This additional hourly rate shall be calculated by the Chief Building Official in accordance with the fee established in Schedule “A” of this by-law.

#### **5.4 CONDITIONAL PERMITS**

- 5.4.1 Where the applicant for a permit requests and is granted a conditional permit, additional fees shall be applicable as detailed in Schedule “A” to this by-law.
- 5.4.2 The granting of a conditional permit requires the applicant to enter into a Conditional Permit Agreement with the City to ensure that the interests of both parties are appropriately captured.
- 5.4.3 In addition to the additional fees described above in subsection 5.4.1 for a conditional permit, a security deposit shall also be required as part of the Conditional Permit Agreement in an amount as detailed in Schedule “A” to this by-law.

#### **5.5 BUILDING WITHOUT A PERMIT**

- 5.5.1 Any person or Corporation who commences construction, demolition or changes the use of a building before receiving a permit to commence such work, shall in addition to any other penalty under the Act, Building Code or this by-law pay an additional fee equal to 100% of the amount calculated as the full permit fee for the entire project in order to compensate the City for the additional work incurred by such early commencement of work.
- 5.5.2 Where a project receives multiple partial permits, the additional fee described above shall be based on the overall permit fee and will not exceed \$10,000 per occurrence for each state of construction.
- 5.5.3 The additional fee outlined in this Section shall not relieve any person or other corporate entity from complying with the Building Code and other applicable law or from any penalty prescribed by the Act, for commencing construction prior to obtaining a permit.

#### **5.6 LIMITING DISTANCE AGREEMENTS**

- 5.6.1 Where the applicant for a permit requests entering into a Limiting Distance Agreement, additional fees shall be applicable as detailed in Schedule “A” to this by-law.

## **5.7 REFUNDS**

- 5.7.1 Where there is a written request for a refund of permit fees paid due to the withdrawal of an application, the abandonment of all or a portion of the work, refusal of a permit or the noncommencement of any project, the Chief Building Official shall determine the amount of paid permit fees that may be refunded to the applicant, if any, in accordance with Schedule "A" of this by-law.
- 5.7.2 Fees collected for Administrative fees as detailed in Schedule "A" to this by-law shall not be refundable.
- 5.7.3 Notwithstanding subsection 5.7.1, no refund will be made which shall result in the retention by the City of a sum less than the minimum permit fee payable as detailed in Schedule "A" to this by-law.

## **SECTION 6 INSPECTIONS**

### **6.1 NOTICE REQUIREMENTS**

- 6.1.1 The permit holder shall notify the Chief Building Official or a Registered Code Agency, where one is appointed, of each stage of construction for which a mandatory notice is required under Division C – Subsection 1.3.5 of the Building Code.
- 6.1.2 The permit holder shall provide the notice of completion as prescribed by Section 11 of the Act, or where occupancy is required prior to completion, notice of inspection to ensure that the requirements of Section 11 of the Act and Division C – Subsection 1.3.3 of the Building Code are complied with.
- 6.1.3 A notice pursuant to this part of the by-law is not effective until notice is actually received by the Chief Building Official or the Registered Code Agency, if one is appointed.
- 6.1.4 Notice shall be deemed to have been received when the Chief Building Official makes a written or electronic record of the request for inspection.
- 6.1.5 Upon receipt of proper notice, the inspector or Registered Code Agency, if one is appointed, shall make a written or electronic record of the time notice is received and undertake a site inspection of the building to which the notice relates, in accordance with the time periods stated in Division C – Article 1.3.5.3 of the Building Code and Section 11 of the Act.

## **6.2 UNPREPAREDNESS FOR SCHEDULED INSPECTION**

- 6.2.1 A permit holder shall be subject to a fee, as prescribed in Schedule "A" to this by-law, for each inspection which is cancelled less than twenty four (24) hours prior to the time of the scheduled inspection or where an inspection is conducted on work which is not substantially completed as required for the requested inspection.
- 6.2.2 Inspections may be cancelled and the applicable fee waived where the inspection was cancelled for reasons due to natural causes, at the discretion of the Chief Building Official.
- 6.2.3 The fees assessed for the instances described in subsections 6.2.1 and 6.2.2 above shall be required to be paid in full prior to the issuance of an occupancy permit and / or the closing of the permit file and the release of any applicable deposits.

## **SECTION 7 ADMINISTRATION**

### **7.1 SEVERABILITY**

- 7.1.1 In the event that any provision of this by-law is declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of the by-law.

### **7.2 CHIEF BUILDING OFFICIAL DISCRETION**

- 7.2.1 The Chief Building Official may waive the requirements of Part 2 or Schedule "B" of this by-law with respect to any particular applications.
- 7.2.2 Where the Chief Building Official exercises his discretion as set out in this section, the requirements of this by-law are deemed to be modified accordingly.

### **7.3 BY-LAWS TO BE REPEALED**

- 7.3.1 By-law Nos. 2007-33 and 2013-158 of The Corporation of the City of Niagara Falls, and any amendments made thereto, are hereby repealed.

### **7.4 DATE OF ENACTMENT**



7.4.1 This by-law shall come into force and effect on January 1, 2014.

(Original Bylaw 2013-178) Passed this tenth day of December, 2013.

.....  
DEAN IORFIDA, CITY CLERK

.....  
JAMES M. DIODATI, MAYOR

First Reading: December 10, 2013  
Second Reading: December 10, 2013  
Third Reading: December 10, 2013

**Schedule “A”**  
By-law No. 2013-178

**SECTION 1    FEE CALCULATION**

**1.1    FORMULA**

- 1.1.1 All permit fees provided in the tables below shall be considered to be per square metre for the purpose of the prescribed formula unless otherwise noted.
- 1.1.2 Permit fees shall be calculated based on the formula given below, unless otherwise specified by this schedule.

**Permit Fee = Prescribed Fee x Area**

Where the prescribed fee is that specified in the schedule for classification of the proposed work; and

Where Area is the calculated gross floor area of the proposed work in square metres (sq. m.) for each class of permit

**1.2    MINIMUM PERMIT FEE**

- 1.2.1 A minimum permit fee of \$150.00 shall be charged for all work, unless otherwise indicated or prescribed “flat fee” has been assigned within the tables below
- 1.2.2 The minimum permit fee shall be a non-refundable fee.

**SECTION 2    PERMIT FEES**

**2.1    NEW CONSTRUCTION AND ADDITIONS**

**Group A – Assembly Occupancies**

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
school, church, restaurant over 30 seats, library, theatre, educational or recreational facility and occupancies of a similar nature	\$16.04	\$16.52	\$17.01	\$17.52	\$18.05
casino	\$26.01	\$26.79	\$27.59	\$28.42	\$29.27

**Group B – Institutional Occupancies**

<b>Class of Permit</b>	<b>Jan. 1, 2014</b>	<b>Jul. 1, 2014</b>	<b>Jan. 1, 2015</b>	<b>Jul. 1, 2015</b>	<b>Jan. 1, 2016</b>
hospital, nursing home, reformatory, prison and occupancies of a similar nature	\$16.04	\$16.52	\$17.01	\$17.52	\$18.05

**Group C – Residential Occupancies**

<b>Class of Permit</b>	<b>Jan. 1, 2014</b>	<b>Jul. 1, 2014</b>	<b>Jan. 1, 2015</b>	<b>Jul. 1, 2015</b>	<b>Jan. 1, 2016</b>
single detached, semi-detached, duplex dwellings	\$10.43	\$10.75	\$11.07	\$11.40	\$11.74
triplex, fourplex, townhouse dwellings	\$9.91	\$10.21	\$10.51	\$10.83	\$11.15
additional fee for finishing basement	\$3.05	\$3.14	\$3.23	\$3.33	\$3.43
apartment building	\$9.70	\$9.99	\$10.29	\$10.60	\$10.92
hotel / motel / bed & breakfast	\$16.04	\$16.52	\$17.01	\$17.52	\$18.05

**Accessory Structures to Group C – Residential Occupancies**

<b>Class of Permit</b>	<b>Jan. 1, 2014</b>	<b>Jul. 1, 2014</b>	<b>Jan. 1, 2015</b>	<b>Jul. 1, 2015</b>	<b>Jan. 1, 2016</b>
attached garage / carport	\$8.15	\$8.39	\$8.64	\$8.90	\$9.17
other accessory buildings (detached garage / carport or shed)	\$3.36	\$3.46	\$3.56	\$3.66	\$3.78
covered deck / porch	\$2.97	\$3.06	\$3.15	\$3.24	\$3.34
uncovered deck / porch	\$150 flat	\$150 flat	\$150 flat	\$150 flat	\$150 flat
sunroom / solarium	\$8.15	\$8.39	\$8.64	\$8.90	\$9.17

**Group D – Business and Personal Service Occupancies**

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
office or medical building, financial institution and occupancies of a similar nature – <b>FINISHED</b>	\$16.04	\$16.52	\$17.01	\$17.52	\$18.05
office or medical building, financial institution and occupancies of a similar nature – <b>ARCHITECTURAL SHELL</b>	\$12.83	\$13.22	\$13.62	\$14.02	\$14.44

**Group E – Mercantile Occupancies**

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
low rise retail store, strip plaza, small restaurant or 30 seats or less and occupancies of a similar nature – <b>FINISHED</b>	\$13.05	\$13.44	\$13.84	\$14.26	\$14.69
low rise retail store, strip plaza, small restaurant or 30 seats or less and occupancies of a similar nature – <b>ARCHITECTURAL SHELL</b>	\$10.44	\$10.76	\$11.08	\$11.41	\$11.76

**Group F – Industrial Occupancies**

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
factory, plant, warehouse, industrial building and occupancies of a similar nature	\$6.36	\$6.55	\$6.74	\$6.94	\$7.15
offices in industrial buildings	\$11.95	\$12.31	\$12.68	\$13.06	\$13.45
parking garages	\$4.56	\$4.70	\$4.84	\$4.99	\$5.14
service station and / or car wash	\$10.89	\$11.21	\$11.55	\$11.90	\$12.25

## Agricultural Buildings

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
barn, greenhouse and occupancies of a similar nature	\$3.20	\$3.30	\$3.40	\$3.50	\$3.61

## Special Categories / Designated Structures

Class of Permit	Permit Fee
air supported structure, tent, temporary fabric structure (use aggregate area for multiple tents) – <b>under 250 m<sup>2</sup></b>	\$150 flat
air supported structure, tent, temporary fabric structure (use aggregate area for multiple tents) – <b>under 250 m<sup>2</sup> or more</b>	\$1.35
conversion of interior of existing building to casino	\$13.89
signs – <b>under 10m<sup>2</sup></b>	\$150 flat
signs – <b>10m<sup>2</sup> or more</b>	\$300 flat
trailer (construction trailer / sea container)	\$200 flat
relocatable building / portable (support structure included)	\$475 flat
communication tower	\$225 flat
Unenclosed public swimming pool / spa (swimming pool or spa only)	\$475 flat
other designated structures as listed in Division A 1.3.1.1 of the Ontario Building Code	\$250 flat

## Energy Projects

Class of Permit	Permit Fee
wind turbine structure / on ground solar collector	\$350 flat
Roof mounted solar panels / array	\$250 flat

## Mobile Homes

Class of Permit	Permit Fee
csa certified mobile home (foundation not included)	\$250 flat
uncertified mobile home (foundation included)	\$6.24
mobile home foundation	\$1.79

## 2.2 ALTERATIONS AND REPAIRS

### Group A – Assembly Occupancies

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
including plumbing AND mechanical	\$9.62	\$9.91	\$10.21	\$10.51	\$10.83
including plumbing OR mechanical	\$8.82	\$9.09	\$9.36	\$9.64	\$9.93
excluding plumbing AND mechanical	\$8.02	\$8.26	\$8.51	\$8.76	\$9.03

**Group B – Institutional Occupancies**

<b>Class of Permit</b>	<b>Jan. 1, 2014</b>	<b>Jul. 1, 2014</b>	<b>Jan. 1, 2015</b>	<b>Jul. 1, 2015</b>	<b>Jan. 1, 2016</b>
including plumbing AND mechanical	\$9.62	\$9.91	\$10.21	\$10.51	\$10.83
including plumbing OR mechanical	\$8.82	\$9.09	\$9.36	\$9.64	\$9.93
excluding plumbing AND mechanical	\$8.02	\$8.26	\$8.51	\$8.76	\$9.03

**Group C – Residential Occupancies**

<b>Class of Permit</b>	<b>Jan. 1, 2014</b>	<b>Jul. 1, 2014</b>	<b>Jan. 1, 2015</b>	<b>Jul. 1, 2015</b>	<b>Jan. 1, 2016</b>
including plumbing AND mechanical	\$6.26	\$6.45	\$6.64	\$6.84	\$7.04
including plumbing OR mechanical	\$5.74	\$5.91	\$6.09	\$6.27	\$6.46
excluding plumbing AND mechanical	\$5.22	\$5.38	\$5.54	\$5.70	\$5.87
foundation only	\$2.61	\$2.69	\$2.77	\$2.85	\$2.94

**Group D – Business and Personal Service Occupancies**

<b>Class of Permit</b>	<b>Jan. 1, 2014</b>	<b>Jul. 1, 2014</b>	<b>Jan. 1, 2015</b>	<b>Jul. 1, 2015</b>	<b>Jan. 1, 2016</b>
including plumbing AND mechanical	\$9.62	\$9.91	\$10.21	\$10.51	\$10.83
including plumbing OR mechanical	\$8.82	\$9.09	\$9.36	\$9.64	\$9.93
excluding plumbing AND mechanical	\$8.02	\$8.26	\$8.51	\$8.76	\$9.03

**Group E – Mercantile Occupancies**

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
including plumbing AND mechanical	\$7.83	\$8.06	\$8.30	\$8.56	\$8.81
including plumbing OR mechanical	\$7.18	\$7.39	\$7.61	\$7.84	\$8.08
excluding plumbing AND mechanical	\$6.53	\$6.72	\$6.92	\$7.13	\$7.35

**Group F – Industrial Occupancies**

Class of Permit	Jan. 1, 2014	Jul. 1, 2014	Jan. 1, 2015	Jul. 1, 2015	Jan. 1, 2016
including plumbing AND mechanical	\$3.82	\$3.93	\$4.04	\$4.16	\$4.29
including plumbing OR mechanical	\$3.50	\$3.60	\$3.71	\$3.82	\$3.93
excluding plumbing AND mechanical	\$3.18	\$3.28	\$3.37	\$3.47	\$3.58

**General Alterations – All Classifications**

Class of Permit	Permit Fee
roof structure (replace, modify or alter structure)	\$375 flat
installation of drainage layer & weeping tile system	\$200 flat
minor alterations (not requiring plans)	\$150 flat



### 2.3 DEMOLITION

Class of Permit	Permit Fee
buildings less than <b>275m<sup>2</sup></b> in gross floor area	\$150 flat
all other demolitions	\$0.29

### 2.4 MISCELLANEOUS WORKS

Class of Permit	Permit Fee
underpinning	\$29.00 per linear metre
temporary stages	\$275 flat
demising wall / party wall installation	\$150 flat
fireplace / woodstove	\$150 flat
commercial kitchen hood & fire suppression system	\$275 flat
fire alarm system upgrades / installations	\$275 flat
sprinkler system upgrades / installations	\$275 flat
Standpipe system upgrades / installations	\$275 flat

### 2.5 CONDITIONAL / PARTIAL PERMITS

Class of Permit	Percentage of Total Permit Fee
conditional building permit agreement, in addition to all applicable building permit fees – <i>the conditional building permit fee shall be a nonrefundable fee</i>	\$500 flat

Class of Permit	Percentage of Total Permit Fee
Building Foundation – complete to grade including all underground services	15%
Completed Structural Shell – complete exterior shell without any interior finishes	55%
Completed Architectural Shell – complete exterior shell including interior finishes on exterior and structure walls	80%
Complete Building – includes all tenant improvements and complete interior finishes	100%

## 2.6 PLUMBING AND SEWER

- 2.6.1 Construction work related to plumbing and sewer installation when conducted as a component of other construction covered by a permit shall be included in the permit fee charged for that construction.
- 2.6.2 Where plumbing or sewer works are done as standalone projects the following fees shall be applicable:

### **Single, Semi-Detached, Duplex, Triplex, Fourplex, and Row House**

*The fee in the table below shall include all plumbing contained inside of the building*

Class of Permit	Permit Fee
first seven (7) fixtures	\$100 flat
each additional fixture	\$8 per fixture

### All Other Buildings

*The fee in the table below shall include all plumbing contained inside of the building*

<b>Class of Permit</b>	<b>Permit Fee</b>
first five (5) fixtures	\$200 flat
each additional fixture	\$8 per fixture

### Sewer and Water Main Installations

*The fee in the table below shall include all buried pipe on private property outside of a building*

<b>Class of Permit</b>	<b>Permit Fee</b>
first fifteen (15) metres	\$100 flat
each additional fifteen (15) metres	\$35 flat

### Specialized Plumbing Fixtures and Appurtenances

*The fee in the table below shall include all plumbing contained inside of the building*

<b>Class of Permit</b>	<b>Permit Fee</b>
back flow preventer installation (water line)	\$150 flat
back water valve (sewer)	\$150 flat
sump pump installation (weeping tile installation included)	\$200 flat
grease / oil interceptor installation	\$200 flat

## 2.7 OTHER FEES

### Administration

Class of Permit	Permit Fee
conditional building permit agreement (in addition to permit fees)	\$500 flat
transfer of permit	\$150 flat
moving a building	\$100 flat
deferral of permit revocation (per instance)	\$100 flat
building / property / zoning report	\$100 flat
compliance letter	\$200 flat
liquor license inspection report	\$150 flat
limiting distance agreement (registered on title)	\$1,000 flat

### Permits

Class of Permit	Permit Fee
change of use (under 400m <sup>2</sup> )	\$150 flat
change of use (400m <sup>2</sup> or more)	\$0.76
change of use (no construction required)	\$75 flat
partial occupancy permit for unfinished buildings	\$150 flat

## Inspections

Class of Permit	Permit Fee
non routine inspection	\$75 per hour
off hours inspection	\$150 per hour
unprepared for inspection	\$75 flat

## Plans Examination

Class of Permit	Permit Fee
stock plans examination (model plans reviewed without building permit application)	\$350 flat
off hours plans examination requests (min. 4 hours)	\$125 per hour
review of alternative solution (min. 4 hours)	\$125 per hour
secondary plans examination	\$75 per hour
review of revisions / amendments to permits	\$100 per hour

## Fee Based on Value of Construction

Class of Permit	Permit Fee
for categories of construction not listed above (minimum permit fee identified in subsection 1.2 of this schedule shall apply)	\$15 per \$1,000 of valuated construction cost or portion thereof

## **SECTION 3    DEPOSITS**

### **3.1    PERFORMANCE / SECURITY**

- 3.1.1    The performance / security deposit is collected by the City to provide securities for any potential damage that may occur to municipal property through the course of the permitted construction. Furthermore, the deposit is also held for the assurance that all necessary inspections are completed through the duration of construction and finally to ensure that the permit file can be appropriately closed at the conclusion of the works.
- 3.1.2    Except as provided for in Article 3.1.3, an applicant shall be required to submit the applicable deposit(s) as specified below for each permit application submitted.
- 3.1.3    Where an applicant regularly submits more than seven (7) building permit applications per year, the applicant shall be eligible to submit a multiple permit deposit as specified below which, in turn, would exempt the applicant from the submission of the single permit deposits as required by Article 4.1.2.
- 3.1.4    In the case of single permit deposits:
- (1)    where fees are incurred by the applicant through the course of the construction process, these fees shall be deducted from the submitted deposit; and
  - (2)    upon the close of the permit, any deposit funds remaining will be refunded to the applicant.
- 3.1.5    In the case of multiple permit deposits:
- (1)    where fees are incurred by the applicant through the course of the construction process, these fees shall be deducted from the submitted deposit;
  - (2)    upon the submission of permit applications, the value of the multiple permit deposits shall be validated and where the remaining deposit does not satisfy the full value as required below, the difference shall be submitted with the permit application submission as a component of a complete application.
  - (3)    where the applicant wishes to withdraw the value of the multiple permit deposit, written notification shall be submitted to the Chief Building Official and any deposit funds remaining will be refunded to the applicant.
- 3.1.6    In the case of a conditional building permit the applicant shall submit a conditional building permit deposit which shall be calculated by the Chief Building Official to be a percentage of the value of construction as prescribed in Article 2.5.1 of this by-law.

- 3.1.7 The conditional permit deposit shall be submitted as a condition of a Conditional Building Permit Agreement whereby a limitation of the extent to which the construction permitted can be taken shall be established.
- 3.1.8 Where an applicant exceeds the limitations set out by the Conditional Building Permit Agreement, the Applicant shall be deemed to be in breach of the said agreement and as such the conditional building permit deposit, in its entirety, shall be forfeited to the City.
- 3.1.9 Forfeiture of the Performance / Security deposit due to additional administrative or inspection costs may result in whole or in part when one or more of the following occurs:
- (1) where the applicant fails to call for a building inspection that is required by the Ontario Building Code and identified through the permit process;
  - (2) when a dwelling is occupied prior to the issuance of an occupancy permit or approval of occupancy of an unfinished building; or
  - (3) where more than five (5) years have lapsed from the date of the last documented inspection.

**Single Permit Deposit**

Class of Permit	Permit Fee
Detached dwelling, semi-detached dwelling, duplex, triplex, fourplex, townhouse	\$1,000 per dwelling unit

**Multiple Permit Deposit**

Class of Permit	Permit Fee
detached dwelling, semi-detached dwelling, duplex, triplex, fourplex, townhouse	\$10,000 flat

### Other Permit Deposits

Class of Permit	Permit Fee
addition(s) to buildings described above where excavation is required	\$750 flat
miscellaneous construction accessory to the buildings described above with a construction value greater than \$3,500	\$500 flat
construction projects other than those described above involving buildings or additions where a Site Plan Agreement <b>IS</b> required	\$1,250 flat
construction projects other than those described above involving buildings or additions where a Site Plan Agreement <b>IS NOT</b> required	\$2,500 flat
demolition project	\$750 flat
moving a building	\$1,000 flat
conditional building permit deposit	10% of construction value (minimum \$5,000)

### Lot Grading Deposit

Class of Permit	Permit Fee
any type of dwelling in a plan of subdivision that has <b>NOT</b> already been assumed by the City	\$1,000 per dwelling unit
any type of dwelling proposed to be placed on an infill lot	\$1,500 per dwelling unit



## **SECTION 4   REFUNDS**

### **4.1   FEES**

4.1.1 Pursuant to Subsection 5.7 of this by-law, the fees that may be refunded shall be a percentage of the applicable fees assessed by this Schedule of Fees, calculated by the Chief Building Official as follows:

<b>Stage of Permit</b>	<b>Refund</b>
where only administrative functions have been completed (application received, cost analysis complete and application is entered into Building Services Database)	90%
where only administrative and zoning functions have been completed	80%
where administrative, zoning and plans examination functions have been completed	60%
where the permit has been issued and field inspections have yet to be performed, subsequent to permit issuance	50%

4.1.2 If the calculated refund is less than the minimum permit fee applicable to the work as described in Subsection 1.2 of this Schedule, no refund shall be made of the fees paid.

4.1.3 Where a request for refund is made twelve (12) months or more after the issuance of the permit, there shall be no fees refunded to the applicant.

### **4.2   DEPOSITS**

4.2.1 The deposits identified in this Schedule shall be held as security by the City until the work for which the permit has been issued has been completed in accordance with the stipulated requirements of the permit to the satisfaction of the Chief Building Official. The applicant shall be responsible for any damage to municipal property or any restriction and associated costs of any such damage or repair may be deducted by the City in addition to any other available remedy or penalty.

- 4.2.2 Should the cost of repairs exceed the value of the deposit held, the City shall invoice the applicant for the amount in excess of the deposit, and if such invoice is not paid by the stipulated due date, the City may recover the costs by action or by adding the costs to the tax roll of the property to which the permit relates, and collecting them in the same manner as taxes according to Section s.1 (2.1) of the *Municipal Act*.
- 4.2.3 Should deposits not be required to be called upon during the duration of the project, they will be released as follows:
- (1) Lot Grading shall be released upon successful approval of the Final Lot Grading Certificate submitted in accordance with Article 3.6.2 of this by-law;
  - (2) Performance / Security Deposits shall be released upon successful completion of the project in accordance with the approved permit documents which results in closure of such permit file.

## **SECTION 5    EXPLANATORY NOTES**

### **5.1    AREA OF CALCULATION**

- 5.1.1 The area to be used in the calculation of fees shall be the total area of all floors, including those below grade, measured between the outside surfaces of the exterior walls or between the outside surfaces of exterior walls and the centre line of firewalls. Area shall be calculated in square metres (m<sup>2</sup>) for the purpose of this schedule.
- 5.1.2 Where there are no floor or exterior walls for the project, area is to be calculated as the greatest horizontal area of the structure
- 5.1.3 No deductions shall be made in the calculation of floor area for openings such as stairs, elevators, shafts or ramps.
- 5.1.4 Unfinished or unoccupied basements and crawlspaces are not to be included in the calculation of area in fee calculations for new construction and additions. Attached garages are not to be include in the fee calculation for new dwellings.

### **5.2    INTERPRETATION**

- 5.2.1 Major occupancy is based upon the Ontario Building Code.
- 5.2.2 A multiple unit (apartment) building is a building which consists of five (5) or more individual residential units in the same building.
- 5.2.3 An Alternative Solution is as defined in the Ontario Building Code.

- 5.2.4 The fee prescribed for and Alternative Solution shall be in addition to any other applicable fee prescribed by this Schedule. Should any additional fees be incurred by the City in relation to the review of such a submission, but not limited to consultant fees, these costs shall be added to the calculated permit fee at 100% of its value.
- 5.2.5 Where multiple conditional permits are requested for the same property due to the construction of multiple buildings on the same site, the Chief Building Official may assign a value for the conditional building permit deposit that differs from that specified in the table above. This process may be utilized to collect a deposit for the property for the removal of the requested construction collectively as opposed to individually with each permit and shall be reflective of the cost associated with the removal of the requested construction. This deposit shall be associated and available to be drawn upon by each of the individual conditional building permits that it is assigned to represent.

### **5.3 DISPUTE**

- 5.3.1 The permit fee shall be determined by the Chief Building Official or designate, on the basis of this Schedule. If the applicant disagrees with the fee so determined, then the prescribed fee shall be paid as a deposit and after the works are complete, a refund shall be made based on the actual work done and inspection performed, at the discretion of the Chief Building Official.