

CITY OF NIAGARA FALLS

By-law No. 2016 – 108

A Consolidated By-Law

Being By-law No. 2016 - 108 as amended by:

By-laws 2017 – 41 and 2019-59

A by-law to regulate the supply of water and to provide for the maintenance and management of the waterworks and for the imposition and collection of rates for the use of water and water related services.

WHEREAS section 11 and Part III of the *Municipal Act*, 2001 authorize a municipality to pass by-laws respecting matters within the sphere of jurisdiction of public utilities;

AND WHEREAS section 391 of the *Municipal Act*, 2001 authorizes a municipality to pass by-laws imposing fees and charges for the use of waste management systems, use of sewage systems or the consumption of water;

AND WHEREAS O. Reg. 581/06 grants priority lien status to municipal public utilities fees and charges;

AND WHEREAS the Council of The Corporation of the City of Niagara Falls desires to use any and all legislative authority available to it by statute or by common law, to regulate the supply of water and to provide for the maintenance and management of the waterworks and for the imposition and collection of rates for the use of water and water related services.

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

1. Definitions

In this by-law,

- 1.1 "Appurtenance" and "Appurtenances" mean any or all municipal components related to the provision or Metering of water and includes electronic communications register(s), touch pad, flanges, and any new equipment or technology replacing the same.
- 1.2 "Back Flow Preventer Control Device" means a mechanical valve which, when installed in a Water Service pipe, prevents a Cross Connection, in accordance with the Ontario Building Code and "CAN/CSA-B64-10-11,

(R2016) Selection and installation of back flow preventers/Maintenance and field testing of back flow preventers.

- 1.3 "By-Pass means any form of piping, plumbing, fittings, valves, connections or other device that can or may divert water from passing through a meter or cause a meter to under-report water consumption.
- 1.4 "By-Pass Lock" means a City inspected and approved device that prevents the use of a By-Pass without the approval of the City.
- 1.5 "City" means The Corporation of the City of Niagara Falls.
- 1.6 "Council" means the Council of The Corporation of the City of Niagara Falls.
- 1.7 "Cover" means the distance between the finished grade ground surface and the top of a watermain, Private Water Service or Water Service pipe.
- 1.8 "Cross Connection" means any temporary, permanent or potential water connection that may have the potential to change the water quality in the Distribution System.
- 1.9 "Day" means working days, exclusive of weekends or observed holiday.
- 1.10 "Distribution System" means the transmission pipes of the City which are tapped for Water Services and includes all valves, hydrants, shut off valves, fittings, stand pipes, rods, wires and Appurtenances, but does not include Water Services nor Private Water Services.
- 1.11 "Engineer" means the Director of Municipal Works for the City and for the purpose of exercising any of the powers or duties of the Engineer under this by-law and shall include any employee of the City authorized by the Engineer to exercise any such powers or duties.
- 1.12 "Industrial Premises" means Premises used for or in connection with,
 - 1.12.1 Manufacturing, producing or processing anything;
 - 1.12.2 Research or development in connection with manufacturing, producing or processing anything;
 - 1.12.3 Storage, by a manufacturer, producer or processor, of anything used or produced in such manufacturing, production or processing if the storage is at the site where the manufacturing, production or processing takes place; or
 - 1.12.4 Retail sales, by a manufacturer, producer or processor, of anything produced in such manufacturing, production or processing if the

retail sales are at the site where the manufacturing, production or processing takes place.

- 1.13 "Meter" means a device installed for the purpose of measuring water supplied by the Distribution System and includes, the register, radio read, unitized measuring elements and other Appurtenances.
- 1.14 "Meter Pit" means a suitable structure or chamber to house a Meter.
- 1.15 "Owner" means any registered Owner of land or buildings thereon, or any authorized agent, contractor, employee, Tenant or servant representing such Owner.
- 1.16 "Premise(s)" shall mean real property that is not owned by The Corporation of the City of Niagara Falls and includes lands, buildings and structures.
- 1.17 "Private Water Service" means the pipes and fixtures (exclusive of Meter) used for the purpose of supplying water from the Water Service and Distribution System to any Premises and located upon private property beyond the limits of the road allowance.
- 1.18 "Remote Read Out Device" means any device, including the register on a Meter, used by the City to transmit and record the amount of water passing through a Meter.
- 1.19 "Residential Premises" means Premises used solely for residential occupancy as defined in the Ontario Building Code, consisting of three or fewer units which requires a separate and distinct Private Water Service with a separate shut-off.
- 1.20 "Schedule" means the Schedules attached to and identified in the by-law.
- 1.21 "Security Deposit" means an amount of money as set out in or as calculated in accordance with the Schedule(s), that is required to be provided to the City as a condition of supplying or continuing to supply water to the Premises.
- 1.22 "Tenant" means anyone other than the Owner who occupies any Premises.
- 1.23 "Treasurer" means the Director of Finance for the City for the purpose of exercising any of the powers or duties of the Treasurer under this by-law and shall include any employee of the City authorized by the Treasurer to exercise any such powers or duties.
- 1.24 "Water Service" means the pipes and fixtures located in the road allowance of any public highway, public street, public lane, public alley or public thoroughfare and extending between the watermain and the limit of such allowance and, including, the stopcock, service pipe, curb stop, and post

and service box, used for the purpose of supplying water from the Distribution System to any Private Water Service and Premises.

2. Guide for Interpretation and Application of this By-law

- 2.1 This by-law shall be applied and interpreted so as to recognize that the Water Service and Distribution System are the property of the City.
- 2.2 This by-law shall be applied and interpreted so as to recognize that all Water Services end at the curb stop between a Water Service and a Private Water Service.
- 2.3 This by-law shall be applied and interpreted so that the City is responsible for the construction, installation, maintenance and operation of the Distribution System and all Water Services.
- 2.4 This by-law shall be applied and interpreted to ensure that Private Water Services shall be constructed, installed, maintained and operated at the sole expense of the owners of Premises.

3. Application for Permit for Watermain Extension, Water Service, Private Watermain Extension or Private Water Service

- 3.1 No person shall connect, or cause or permit to be connected, a system or means of drawing water from a City watermain or a Private Water Service or to a City-owned Water Service until written application for such connection is made to the City and a permit has been issued by the City.
- 3.2 No person shall, in any way, interfere with, obstruct, conceal or bypass any hydrant, valve, curb stop, service pipe, stopcock, Meter, remote reader, or other Distribution System or Water Service Appurtenances.
- 3.3 No person shall extend a watermain or otherwise tap into the Distribution System unless a permit has been issued by the City authorizing such extension and all applicable regulatory approvals have been obtained.

4. Installation of Water Service or Private Water Service

- 4.1 The pipes, fittings, attachments, methods of installation, maintenance, use, renovations to and removal of any Water Service shall be pursuant to, as required by, and in compliance with, all applicable legislation.
- 4.2 Every Water Service shall be buried to a minimum Cover of 1.8 metres below the finished grade of the highway, street, lane, alley or thoroughfare in which it is laid or an equivalent amount of insulation acceptable to the Engineer.

- 4.3 Every Private Water Service shall be buried with a minimum Cover of 1.8 metres below the finished grade of any private property traversed by it or otherwise insulated against the effects of cold weather, in a manner acceptable to the Engineer.
- 4.4 Every Private Water Service entering a building, which does not contain a cellar, shall be carried horizontally beyond the inside face of the exterior wall for a minimum distance of 0.6 metre before being carried upward, or shall be insulated in a manner acceptable to the Engineer, or both.
- 4.5 Where there is more than one building situated upon a single Premises, the Premises shall be supplied by a single Private Water Service located in a Meter Pit and equipped with a Master Water Meter.
- 4.6 Notwithstanding subsection 4.5 of this by-law, the Engineer may determine, in his sole discretion and acting in the public interest, that multiple Private Water Services can be permitted on a single Premises that has more than one building located upon it.
- 4.7 In any case in which the Engineer exercise his discretion under subsection 4.6 of this by-law, each building shall be serviced by a separate Private Water Service.
- 4.8 Notwithstanding subsection 4.7 of this by-law, the Engineer may determine, in his sole discretion and acting in the public interest, that, in the case of a multiple unit building or an existing building that is going to be, or has been, divided into multiple units, multiple Private Water Services can be permitted to a single building.
- 4.9 In any case in which the Engineer makes an determination of how and to what degree he chooses to exercise his discretion pursuant to subsections 4.6 or 4.8 of this by-law, his determination is final and not subject to any appeal.

5. Installation Costs

- 5.1 All Water Services from the watermain to the property line of any Premises shall be installed under the direction of the City at the expense of the Owner.
- 5.2 The cost of providing, installing, replacing and renewing each Private Water Service from the property line to the building shall be borne by the Owner of the Premises supplied by such Private Water Service.
- 5.3 The fee to be paid to the City for the installation of Water Services shall be in accordance with the Schedule(s) and shall be paid by the Owner to the Treasurer at the time of making application for the installation of the Water Service.

6. Meters

- 6.1 All Private Water Services, except those dedicated exclusively for fire suppression purposes, shall be equipped with a functioning Meter of a design, size and construction approved by the Engineer and installed in accordance with the City's specifications.
- 6.2 The Owner of a Premises shall pay the cost of installing a Meter or Meters upon the Premises.
- 6.3 In the case of the connection of the Private Water Service supplying or intended to supply water to an improvement of a Premises requiring a building permit, a water account shall be established at the time of building permit issuance for the Premises at or within which the Meter is, or is to be, installed and the Owner of the Premises will be billed at the flat rate, as set out in the Schedule(s), until such time as the Meter is installed, inspected, approved and operating to the satisfaction of the City.
- 6.4 In the case of the connection of a Private Water Service supplying, or intended to supply, water to a Premises that is being improved in a manner that does not require a building permit, a water account shall be established and the Owner of the Premises will be billed from the time the Meter is installed, inspected, approved and operating to the satisfaction of the City.
- 6.5 The Owner shall be responsible for all aspects of the installation of the Meter and contacting the City for a Meter inspection.
- 6.6 Should the Owner of a Premise that has been improved not contact the City for a Meter inspection or installation, the Owner will be billed on the basis of the refusal rate set out in the Schedule(s), from the date that the account is established, up to and including the recorded date of inspection and approval by City Staff. Upon the Meter on the subject Premises being inspected and approved by the City, the Metered rates set out in the Schedule(s) shall be applied to the account of the subject Premises.
- 6.7 Notwithstanding subsection 6.1 above, the Engineer, in situations in which it is not technically feasible to install a Meter, may permit the installation and operation of an unmetered Water Service at a particular Premise.
- 6.8 The determination of the Engineer as to whether or not it is technically feasible to install a Meter in a particular Premise is final and not subject to any form of review or appeal.
- 6.9 Where the Engineer has determined that it is not technically feasible to install a Meter on a Premises, the account of the Premises shall be billed at the flat rate set out in the Schedule(s).

- 6.10 Where a Premises that is required to be fitted with a Meter is found to be receiving water through an inoperative or defective Meter or without a Meter, the Owner of the Premises will be billed an amount based upon the City's estimate of the number of days the subject Premises has been receiving water through an inoperative or defective Meter or in the absence of a Meter, times the per diem amount of the flat rate set out in the Schedule(s) of this by-law.
- 6.11 The Owner of a Premise may apply to the City for permission to change the size of the water Meter installed in or upon the Premise.
- 6.12 The Engineer shall consider the application for permission to change the size of the Meter in or upon the subject Premises taking into account, among other things, the potential impact of the proposed change of Meter size upon the Distribution System and the public interest.
- 6.13 The Engineer may require such documentation, information and testing as is required to enable him to assess the potential impact of the proposed change in Meter size upon the Distribution System and the public interest.
- 6.14 The City shall have the right to seal, inspect and test any Meter or Meter By-Pass at any time.
- 6.15 No person shall break, alter or damage any seal attached to any Meter or Meter By-Pass.
- 6.16 If the seal attached to any Meter or Meter By-Pass becomes broken, altered or damaged from any cause, the occupant of the Premises where such Meter or By-Pass is situated shall forthwith report the breaking, alteration or damage to the City.
- 6.17 In the event that the City discovers a Meter that is altered, broken or damaged, the City may conduct a water consumption review of the Premise connected to the altered, broken or damaged Meter and bill the Owner the cost of the water consumption, estimated in accordance with the formula or rate set out in Schedule(s).
- 6.18 Where, in the opinion of the Engineer, it is not practical to locate the Meter inside the building to be supplied with water, the Meter may be located outside such building with the written consent of the Engineer, in which case the Meter shall be located in a Meter Pit, the location and construction of which shall be subject to the approval of the Engineer and the cost of which shall be paid for by the Owner of the building to be served by such Meter.
- 6.19 Where water is to be supplied to Premises on which no building is erected, the Meter shall be located in a Meter Pit, the location and construction of which shall be subject to the approval of the Engineer and the cost of which shall be paid by the Owner of the Premises to be served by such Meter.

- 6.20 The Engineer shall have the right to require the relocation of any Meter or Remote Read Out Device which he deems to be improperly or inconveniently located and the cost of such relocation shall be paid by the Owner of the Premises served by such Meter.
- 6.21 The Engineer may require that a specified Meter and Remote Read Out Device be installed in a specified location, on a particular private service.
- 6.22 In the event that a Meter or Remote Read Out Device becomes concealed or obstructed in any manner which in any way limits access to the specified Meter or Remote Read Out Device, the Owner shall take such steps as are necessary to remove the concealment or obstruction, at his or her own expense.
- 6.23 In the event that the City is unable to obtain a current read out from a particular Meter, the City may estimate the consumption of the Private Water Service that is served by that Meter, calculate the amount owing in accordance with the Schedule and bill the Owner the calculated amount.
- 6.24 In the event that an Owner, upon receiving ten Days' notice from the City of a requirement to relocate any Meter or Remote Read Out Device pursuant to subsection 6.20 of this by-law, fails or declines to take the corrective measures specified in the notice, the City may bill the Owner the refusal rate specified in the Schedule.
- 6.25 In the event an Owner, upon receiving ten Days' notice of the need to take such steps as are specified in the notice to remedy a condition described in subsection 6.22 of this by-law, fails or declines to take the corrective measures specified in the notice, the City may bill the Owner the refusal rate specified in the Schedule.
- 6.26 Where, upon inspection, a Meter is discovered to be inoperative for any reason including, without limiting the generality of the foregoing, the opening of a Meter By-Pass without the permission of the Engineer, the Owner of the property at which the inoperative Meter is located shall be billed at the inoperative Meter rate as calculated in accordance with the Schedule(s) of this by-law.
- 6.27 All Meters shall be provided by and remain the property of the City.
- 6.28 The cost of the installation and supply of a Meter shall be borne by the Owner.
- 6.29 In the event that any Meter owned by the City is damaged after or during installation, either willfully, through neglect or carelessness, the cost of repairing or replacing the Meter shall be paid by the Owner of the Premises served by the Meter, whether or not such willful act or such neglect or carelessness was that of the Owner.

- 6.30 The City may, at any time or times, remove and test any Meter or part or parts of any Meter, whether owned by the City or privately owned, and to substitute another Meter or part or parts of a Meter for or in any Meter owned by it.
- 6.31 In the event that an Owner, upon having been provided with ten Days' notice of the City's intent to inspect, seal or test a Meter, Meter By-Pass or Meter By-Pass Lock or other Appurtenance, fails to permit the action as specified in the notice, the City may bill the Owner as provided in the Schedule.
- 6.32 The City shall remove and test any Meter at the written request of an Owner and such Owner shall pay to the City, in advance, the fee listed in the Schedule as a deposit on account of the estimated cost of removing, testing and replacing the Meter.
- 6.33 If the Meter, when tested, is found to register correctly or register in favour of the Owner, it shall be deemed to measure accurately and the cost of removing, testing and replacing the Meter shall be paid by the Owner requesting the test.
- 6.34 If the Meter, when tested, is found to register in excess of three percent (3%) in favour of the City, no charge shall be made for the cost of removing, testing and/or replacing the Meter and the City shall authorize a reduction or a refund to the Owner of an amount equal to the additional water rates incurred by reason of such excess percentage for the last preceding billing period, or for such larger billing period as the Treasurer may determine.
- 6.35 The Meter testing shall be conducted in accordance with section 4.2.8 of ANSI/AWWA C700 and AWWA Manual M6, Water Meters – Selection, Installation, Testing, and Maintenance.
- 6.36 All Meter Pits or chambers are subject to approval by the Engineer and shall be constructed so as to ensure the Meter or Water Service does not freeze, and that sufficient space is available to ensure repairs and inspections may be made with easy access.

7. Meter By-Passes

- 7.1 No person shall open a Meter By-Pass for any reason other than to replace, repair or service a Meter or to respond to an emergency.
- 7.2 No person shall open a Meter By-Pass without notice to the Engineer in advance of their intention to open the By-Pass.
- 7.3 The Engineer may permit the opening of a By-Pass.
- 7.4 The Engineer may require that the opening of a By-Pass be subject to certain terms.

- 7.5 Any person who opens a Meter By-Pass for any reason shall immediately notify the City that the By-Pass was opened.
- 7.6 Where a Meter By-Pass is opened, the Owner shall ensure that the By-Pass is closed immediately upon the resolution of the condition or situation for which the Engineer granted permission to open the By-Pass for, is resolved.
- 7.7 Where a By-Pass is discovered to be open without the permission of the Engineer, the Owner of the property at which the By-Pass is located shall be billed the By-Pass rate as calculated in accordance with the Schedule(s) to this by-law.

8. Commencement of Service

- 8.1 In any case in which the supply of water from the Distribution System to a Private Water Service is turned off, no person other than the Engineer shall turn the supply of water to the Private Water Service in question back on.
- 8.2 Notwithstanding subsection 8.1, a duly licensed plumber, when installing or repairing a Private Water Service or plumbing connected to that Private Water Service, may,
 - 8.2.1 Temporarily turn on the water for the purpose of testing his installation or repairs and shall forthwith thereafter shut the water off again; or
 - 8.2.2 If the supply of water to that Private Water Service has been turned on by the Engineer, prior to the licensed plumber beginning his installation or repairs on the Private Water Service or plumbing in question, the licensed plumber may shut off the water and after completing his installation or repairs, turn the water on again.

9. Residential Tenancy

- 9.1 The collection procedures for accounts supplying residential tenancies shall be as set out in this section 9.
- 9.2 The Owner and Tenant of a residential tenancy may jointly apply to have the water bill issued in the Tenant's name, (the "Tenant's Account").
- 9.3 The application for a Tenant's Account must be accompanied by a deposit in the amount specified in the Schedule(s).
- 9.4 In the event that any water bill issued to the Tenant's Account is unpaid 11 Days after the date of the bill, the City shall send a reminder notice, which reminder notice shall warn that Tenant that, if the account remains delinquent at the conclusion of a further 11 Days, the water supply to the Premises will be subject to shut off and the associated account will be

subject to the application of any fees charged for the shutting off of a water account that are provided in the Schedule.

- 9.5 If, at the end of the further 11 Days' notice prescribed in subsection 9.4 above, the account remains delinquent, a third notice shall be served upon the Tenant specifying the time by which payment, including any fees prescribed by the Schedule for the serving of the third notice, must be made in order for the Tenant to avoid having the water supply to the Premises shut off.
- 9.6 In the event that the Tenant's Account remains in default after the due date of the third notice described in subsection 9.5 above, the City may shut off the water to the Tenant's Residential Premises and apply the Tenant's deposit to the account and take whatever steps are required to collect the remaining balance and applicable fees.
- 9.7 In the event that the City is unable to shut off the water supply to a Residential Premises, for any reason, the Landlord shall be billed in the amount of any shortfall and the amount of any shortfall may be added to the tax roll entry for the Premises, to be collected in the same manner as municipal taxes.

10. Maintenance of Water Service and of a Private Water Service

- 10.1 The cost of maintaining and repairing a Water Service shall be borne by the City.
- 10.2 Notwithstanding subsection 10.1, a person who damages such a Water Service intentionally or by way of negligence or neglect, shall bear the cost of repairing the damaged Water Service.
- 10.3 Upon the construction or installation of a new Private Water Service, the City shall inspect the Private Water Service.
- 10.4 In the event that, upon inspection, the new Private Water Service is unacceptable to the Engineer, the Meter in the Premises serviced or intended to be supplied by the new Private Water Service will not be inspected and the Premises serviced or intended to be supplied by the new Private Water Service will be billed for its supply of water as specified in the Schedule(s).
- 10.5 The cost of maintaining and repairing a Private Water Service shall be borne by the Owner of the Premises supplied by the Private Water Service.
- 10.6 The Owner of any building into which a Private Water Service extends and in which water is supplied to any range or steam boiler, shall take such precautions as may be necessary to prevent damage to the Meter from hot water or steam and to prevent water escaping back into the watermain and

shall be responsible to the City for any loss, injury or expense incurred by the City as a result of his or her failure to do so.

- 10.7 The Owner shall bear the cost of repairing any damage to a Water Service box or any other Appurtenance that serves that Owner's Premises irrespective of how the Water Service box or other Appurtenance came to be damaged.

11. Shutting Off Service

- 11.1 In the case of any Premises other than a residential tenancy, the City, upon providing notice as specified in section 20 of this by-law, may shut off the supply of water to any Private Water Service for any of the following causes;

11.1.1 Failure to pay any water rate or charge for water supplied to any Premises;

11.1.2 Failure to pay the rent or charges for fittings, apparatus, Meters or other things leased or furnished by the City;

11.1.3 Failure to pay any sewer rate which is based on the water rates or charges for water supplied to any Premises;

11.1.4 Failure to maintain or provide any Security Deposit requested by the City Treasurer; or

11.1.5 Construction, installation or maintenance work is being carried out by or with the permission of the City that requires the supply of water to be shut off.

- 11.2 Notwithstanding subsection 11.1 or any other provision of this by-law, the City may shut off any water supply without notice of any kind in any case where:

11.2.1 There is an emergency;

11.2.2 A leaking Water Service, Private Water Service, or leaking plumbing or a Cross Connection is causing damage to the Premises or property of any description including, without limiting the generality of the foregoing, the Distribution System; or

11.2.3 The Chief Building Official of the City of Niagara Falls has issued an Order that forbids occupancy of a building or Premises.

- 11.3 Subject to subsection 11.4, if the rates and charges are not paid within seven Days from the day on which they fall due, then the supply of water may be shut off from the Premises and such supply shall not be restored until such rates and charges and arrears, if any, are paid in full including the

charges set out in the Schedule for turning off and turning on the Water Service.

- 11.4 Before shutting off the supply of water, the City shall serve notice upon the Owner and any Tenant of the Premises of the City's intention to shut off the water supply.
- 11.5 The City shall not shut off the supply of water until 14 Days after service of the notice described in subsection 11.4.
- 11.6 Where the water supply is shut off as a result of an Order of the Chief Building Official, the supply shall not be restored without the express written approval of the Chief Building Official.

12. Permitted Use of Water

- 12.1 No person shall sell or otherwise redistribute water supplied by the City without the express written approval of the Engineer.
- 12.2 No person, other than the Engineer, shall open, let off or use water from a hydrant or any valve or other Appurtenance which is the property of the City, without the express written approval of the Engineer.
- 12.3 No person shall use water supplied by the City unless the consumption of that water is measured by a Meter and the fee set out in the Schedule for that water is paid.
- 12.4 Subsection 12.3 does not apply to any Premise that is not fitted with a Meter with the express permission of the Engineer.
- 12.5 No person shall attach any automatic fire suppression in a building to the Distribution System, without the express written approval of the Engineer.
- 12.6 The piping and associated plumbing for any such automatic fire suppression system shall be entirely separate from the piping and associated plumbing used for any other purpose in the building and any such automatic fire suppression system shall be equipped with a shut-off valve located outside the building, which shut-off valve shall be under the exclusive control of the City.
- 12.7 No person shall install a stand-pipe for fire protection without the approval of the City and any such stand-pipe shall be equipped at each hose opening with a valve.
- 12.8 No person shall attach any fire hydrant to a watermain or a Private Water Service without the approval of the City.

- 12.9 The piping for any such fire hydrant shall be entirely separate from the piping used for any other purpose on the Premises.
- 12.10 Any such fire hydrant shall be equipped with a locking device, a City approved Back Flow Preventer Control Device, and sealed as directed by the City.
- 12.11 No person shall break any seal referred to in subsection 12.10, except for the purpose of using water for fire suppression and the person breaking any such seal shall forthwith report the breaking to the Engineer, who shall cause the hydrant to be resealed.
- 12.12 No person shall use water from the equipment referred to in either subsections 12.5, 12.7 or 12.8 for any purpose other than the suppression of fire, unless otherwise authorized by the Engineer.
- 12.13 When the City authorizes the use of a fire hydrant, the City shall require the installation of a hydrant Meter and Back Flow Preventer Control Device, in which case the cost of the installation, maintenance and water consumption, including the sewer portion thereof, shall be charged to the person applying to use the fire hydrant.
- 12.14 Persons may request, in writing to City Council, to have water/sewer consumption and/or installation fees waived prior to installation of the equipment.
- 12.15 All lawn and garden sprinkling systems which are connected to the water lines must be connected so that the flow of water is recorded by the water Meter.
- 12.16 No person shall use water supplied by the City in any air conditioning or refrigeration unit or other equipment for the cooling of air unless such unit or equipment is provided with an evaporative condenser or other device which efficiently conserves, cools and recirculates the water so used.
- 12.17 This section shall apply to:
- 12.17.1 All air conditioning units and other equipment for the cooling of air which utilize water in any way, which are installed after the passing of this by-law, and have a rating of more than ten tons of refrigeration capacity; and
- 12.17.2 All air conditioning units and other equipment for the cooling of air which utilizes water in any way, which are installed after the passing of this by-law, in or on a single building or more than one connected building where the total rated refrigeration capacity of all such units or equipment in or on such building or buildings is more than ten tons.

12.18 No person shall use water for construction purposes for a building, road, sewer, watermain or similar matter without paying the fee set out in the Schedule(s).

12.19 No person shall permit or maintain a Cross-Connection.

13. Rates and Charges

13.1 The City may fix such water rates, sewer rates, fees and charges in the Schedule, to be paid by persons who receive a supply of water or sewage service to any Premises from the City and, without limiting the generality of the foregoing,

13.1.1 The City shall impose a service charge on all Metered and unmetered Private Water Services in respect of the construction, operation or maintenance of water works;

13.1.2 All water passing through a Meter shall be charged at the water rates or charges set out in the Schedule;

13.1.3 With respect to sewage services, the City shall impose on all Metered Private Water Services, a sewer rate that is based on the water rates or charges at the rates set out in the Schedule;

13.1.4 The Owner or Tenant of a Private Water Service not Metered at the time of the passing of this by-law, whether by the choice or other determination of the City, or by refusal of an Owner, shall pay the flat rate set out in the Schedule; and

13.1.5 The City may impose a fee as set out in the Schedule in any instance where the outstanding balance of a private water account is transferred to the tax account for the Premises to which the water was supplied.

13.2 The rates and charges set out in the Schedule shall fall due when the bill therefor is rendered and shall be payable as indicated on the bill.

13.3 Where, pending the installation of a Meter, water rates are being charged on a flat rate service basis for water supplied to any multiple or semi-detached dwelling, apartment building or buildings divided into separate dwelling units, the flat rate shall be charged for each dwelling unit in the same manner as if each unit was a separate dwelling house.

14. Responsibilities of Owner of Property Other Than Residential Premises

14.1 The Owner of Premises other than Residential Premises may apply on his own behalf or jointly with a Tenant of his Premises, to have the water account for the Premises billed directly to the Tenant.

- 14.2 Notwithstanding the direct billing of a water account to a Tenant of a Premises other than a Residential Premises, the Owner shall at all times be and remain responsible to the City for the payment of all rates and charges in respect of water and sewage service supplied to the Premises and for all costs and fees of the City applicable to the supply of water and sewage service to such Premises.

15. Separate Metering of Multi-Unit Residential Premises

- 15.1 Where the Owner of a multiple or semi-detached dwelling, apartment building, or building with a single Water Service, desires a separate Metered connection to each dwelling, apartment or unit, a lock valve shall be installed ahead of each Meter, at the expense of the Owner, which lock valve shall be of a type approved by the Engineer, who shall have the right to cause it to be sealed from time to time as he or she deems necessary. Meters shall be installed so as to capture common water elements and no "down stream" Metering.

16. Leaking Private Water Services

- 16.1 In the event of a leak in a Private Water Service, the Owner shall repair the said leak at his or her own expense within 48 hours after being notified to do so by the City.
- 16.2 Should the Owner not comply with subsection 16.1, the City may enter the Premises, repair the leak and charge the Owner of the Premises for which the repairs were made, the costs of such repairs, which may be collected or recovered by any legal means available to the City.
- 16.3 The Engineer may turn off the water supply until the leaking Private Water Service is repaired.

17. Shut off to Replace, Repair or Inspect Water Meter

- 17.1 The City may shut off or restrict the supply of water to any Premises in the absence of the permission of the Owner, Tenant or occupant of that Premises to shut off or restrict the supply of water for the purpose of replacing, repairing or inspecting a water Meter.
- 17.2 In any case in which the City intends to rely upon the authority to shut or restrict the supply of water to a Premises pursuant to subsection 17.1 of this by-law, prior to shutting off or restricting the supply of water to a Premises the City shall serve the Owner, Tenant or occupant, if any, of the Premises with notice of the City's intention to shut off the water supply.
- 17.3 The City shall not shut off or restrict the supply of water unless it has made reasonable efforts to obtain the permission of the Owner, Tenant or occupant of the Premises or when such permission cannot be obtained,

until ten Days' notice of the City's intention to shut off or restrict the supply of water to the Premises has been provided to the Owner, Tenant or occupant of the affected Premises.

- 17.4 In the event that the City has shut off or restricted the supply of water under subsection 17.1, the City shall restore the supply of water as soon as practicable after replacing, repairing or inspecting the water Meter.

18. Cross Connections and Backflow Prevention

- 18.1 No person shall connect, cause to be connected, or allow to remain connected to the Water Distribution System, any piping, fixture, fitting, container, plumbing or appliance, in a manner which under any circumstances, may allow water, wastewater, non-potable water, or any other liquid, chemical contaminant or substance to enter the Water Distribution System. The means for "protection from contamination" shall be in accordance with the requirements of the *Ontario Building Code Act*.
- 18.2 The Engineer and/or Chief Building Official shall have free access, at all reasonable times, and upon reasonable notice given and request made, to all parts of every Premises to which any Private Water Service Pipe is supplied for the purpose of inspecting or repairing, or of altering or disconnecting any Private Water Service pipe, wire, rod, Appurtenance, plumbing or Cross Connection within or without the Premises.
- 18.3 Where access is not provided, a written notice by the Engineer will be issued, as per section 20 of this by-law allowing 14 Days to provide access. If access is not provided within this time frame, the City may, at its discretion, shut off the supply of Water to the Premises until such time as the access is provided.
- 18.4 If a condition is found to exist which is contrary to subsection 18.1 of this by-law, the Engineer shall immediately carry out an inspection and shall issue such Order or Orders to the Owner as may be required to obtain compliance with section 18.1 of this by-law.
- 18.5 If the Owner to whom the Engineer has issued an Order fails to comply with that Order, the Engineer, at his or her discretion, may:
- 18.5.1 give notice to the Owner to correct the fault, at their expense, within a specified time period and, if the notice is not complied with, the Engineer may then shut off the Water Service or services; or
- 18.5.2 without prior notice, shut off the Water Service or services.
- 18.6 Notwithstanding sections 18.1, 18.4 and 18.5 of this by-law, where a risk of possible contamination of the Water Service exists in the opinion of the Engineer or an approved authority, an Owner shall, on notice from the

Engineer, install on their Private Water Service pipe a Back Flow Preventer Control Device, approved by the Engineer or Chief Building Official, in addition to any flow preventer control device installed in the Owner's plumbing system at the sources of potential contamination.

- 18.7 Back Flow Preventer Control Devices shall be installed in accordance with the Ontario Building Code and "CAN/CSA-B64.10-11(R2016) Selection and installation of backflow preventers/Maintenance and field testing of backflow preventers Manual for the Selection, Installation, Maintenance and Field Testing of Backflow Prevention Devices".
- 18.8 All Back Flow Preventer Control Devices shall be inspected and tested at the expense of the Owner, upon installation, and thereafter annually, or more often if required by the Engineer, by personnel approved by the Engineer to carry out such tests to demonstrate that the Back Flow Preventer Control Device is in good working condition. The Owner shall submit a report on a form approved by the Engineer of any or all tests performed on a Back Flow Preventer Control Device within 14 Days of a test, and a record card shall be displayed on or adjacent to the Back Flow Preventer Control Device on which the tester shall record the address of the Premises, the location, type, manufacturer, serial number and size of the device, and the test date, the tester's initials, the tester's name (if self-employed) or the name of his employer and the tester's license number.
- 18.9 If a Customer fails to have a Back Flow Preventer Control Device tested, the Engineer may notify the Owner that the Back Flow Preventer Control Device must be tested within four Days of the Owner receiving the notice. If the Owner fails to have the Back Flow Preventer Control Device tested within the time allowed, the Engineer may shut off the Water Service or Water Services until the Back Flow Preventer Control Device has been tested and approved, as required by section 18.8 of this by-law.
- 18.10 When the results of a test referred to in section 18.8 of this by-law show that a Back Flow Preventer Control Device is not in good working condition, the Owner shall make repairs or replace the Back Flow Preventer Control Device within four Days. If an Owner fails to repair or replace the Back Flow Preventer Control Device within the time allowed, the Engineer may shut off the Water Service until such repair or replacement has been made.
- 18.11 No person shall, without the permission of the Engineer, remove any Back Flow Preventer Control Device.

19. Miscellaneous

- 19.1 The City does not guarantee the supply of water, and failure to supply water shall not be construed as negligence or nuisance on the part of the City.
- 19.2 Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to a fine of up to \$100,000.00.
- 19.3 In the case of an offence that includes a condition or situation that requires a person to take action to remedy the condition or situation, the offence shall be deemed to be a continuing offence.
- 19.4 For each day or part of a day that the person required to take the action required to remedy the condition or situation described in subsection 19.2 of this by-law, the person required to take the action is, upon conviction, guilty of an offence and liable to a fine of up to \$100,000.00 for each day or part of a day that the offence continued.
- 19.5 Unless otherwise specified, the Owner is responsible for carrying out the provisions and requirements of this by-law.
- 19.6 In the event of any conflict between the provisions of this by-law and any other general or special by-law, the provisions of this by-law shall prevail.
- 19.7 In the event that a court of competent jurisdiction should declare any section of this by-law or part thereof, or any provision in the Schedule to be invalid, such section, part or provision in the Schedule shall not be construed as having influenced Council to pass the remainder of the by-law or the provision in the Schedule, and it is hereby declared that the impugned section or provision in the Schedule shall be severable and distinct from the remainder of this by-law or Schedule and the remainder of the by-law or Schedule shall be valid and shall remain in force.
- 19.8 The Engineer may impose such restrictions on the consumption of water as may be required from time to time to preserve the integrity of the water supply or the Distribution System.
- 19.9 The restrictions on the consumption of water imposed by the Engineer may include restrictions on the time, place and quantity of consumption.
- 19.10 No person shall consume water in a manner or at a time that is contrary to any restriction imposed by the Engineer pursuant to subsection 19.8 of this by-law.
- 19.11 The Engineer shall have free access, at all reasonable times, and upon reasonable notice being given and request made, to all parts of every building or Premises to which water is supplied by the City for the purpose of inspecting or repairing, or of altering or disconnecting any service pipe,

wire, or rod within or without the building, or for placing Meters upon any service pipe or connection within or without the building as he or she may deem expedient and for that purpose, or for the purpose of protecting or regulating the use of the Meter, may set it or alter the position of it, or any pipe, wire, rod, connection or tap, and may alter or disconnect any service pipe to examine the pipes, Meters, remote readers, fixtures, appliances, Appurtenances to ascertain the quantity of water used.

- 19.12 The Treasurer and the Engineer may make such forms as are required to administer this by-law and such forms shall be recognized as official forms.
- 19.13 Notwithstanding any provision of this by-law, the Niagara Falls Fire Department and any volunteer Fire Service affiliated with the Niagara Falls Fire Department may use any and all water required to carry out their duties.
- 19.14 The City may carry out any of the actions and procedures set out in this by-law by means of an agent or contractor.
- 19.15 No person shall permit, install or maintain any system of any kind whereby water may be drawn by any means and in any manner from the Distribution System without paying the required fees for the consumption of that water or, in the alternative, having the express permission of the City to draw the water in question without paying the associated fees.

20. Notice and Service of Notice

- 20.1 In any instance within this by-law in which there is a reference to notice being provided, the following rules shall apply:
 - 20.1.1 Notice shall be given in writing; and
 - 20.1.2 Notice shall be served upon the Owner and any known Tenant of the property.
- 20.2 Service may consist of one or all of:
 - 20.2.1 Personal service;
 - 20.2.2 Posting the notice in a conspicuous place upon the Premises; and
 - 20.2.3 Mailing the notice by registered mail to the address listed for the Owner in the last returned assessment roll to the Premises.
- 20.3 Where notice is given by posting the notice at the property or by registered mail, it shall be deemed to have been received three days after the posting or mailing as the case may be.

21. Schedule(s)

21.1 The Schedule(s) attached to this by-law shall form part of this by-law.

22. Effective Date

22.1 This by-law shall come into effect on October 25, 2016.

23. Repeal

23.1 By-law No. 2007-161 and all amendments thereto are hereby repealed.

Passed this twenty-fifth day of October, 2016.

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DEAN IORFIDA, CITY CLERK

.....
JAMES M. DIODATI, MAYOR

First Reading: October 25, 2016
Second Reading: October 25, 2016
Third Reading: October 25, 2016

Schedule "A"

Schedule of rates, fees and charges

1. Service Charges Monthly:

Meter Size	Water Rate	Sewer Rate
15mm (5/8")	\$22.64	\$27.19
18mm (3/4")	\$22.64	\$27.19
25mm (1")	\$35.09	\$42.15
37mm (1 1/2")	\$87.17	\$104.69
50mm (2")	\$164.15	\$197.14
75mm (3")	\$316.99	\$380.68
100mm (4")	\$549.06	\$659.40
150mm (6")	\$1,075.49	\$1,291.61
200mm (8")	\$1,794.36	\$2,154.94
250mm (10")	\$2,575.51	\$3,093.06

2. Water and Sewer Volumetric Rates:

Water	Sewer	Rate Type
\$1.394	\$1.713	Per cubic meter

3. Monthly Flat rates for a Private Water/Sewer Service not Metered by choice or other determination of the City:

Water	Sewer
\$51.64	\$58.13

4. Monthly flat rate for a Private Water/Sewer Service not Metered due to new construction of a residential property:

Water	Sewer
\$25.90	\$26.99

5. Flat rates for a Private Water Service not Metered because of refusal of Owner:

Residential Premises

After the Due Date

3x the current flat rate as per Section 3

Before Due Date

3x the current flat rate as per Section 3

Other than Residential Premises

After Due Date

3x the current service charge per Section 1
plus 3x single month average of previous 12
months consumption history, **OR**

3x the current service charge per Section 1,
After Due Date
plus, if no previous consumption history, 3x
single month average of similarly sized
account/type at the Engineer's discretion

Before Due Date

4% less than the After Due Date amount as
calculated for ICI, Section 4

4% less than the After Due Date amount as
Before Due Date
calculated for ICI, Section 4