

## BY-LAW NUMBER 2018-38

### ***BEING A BY-LAW TO ESTABLISH A TARIFF OF FEES FOR THE PROCESSING OF APPLICATIONS MADE IN RESPECT OF PLANNING MATTERS WITHIN THE TOWNSHIP OF NAIRN AND HYMAN***

**WHEREAS** Section 69(1) of the *Planning Act, R. S. O. 1990, Chapter P.13* provides that the Council of a municipality, by by-law, establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the Council of the municipality in respect of the processing of each type of application provided for in the tariff;

**AND WHEREAS** the cost to the municipality may include both internal administrative costs and disbursements paid to external agencies and service suppliers;

**AND WHEREAS** the cost to the municipality may also include costs in connection with proceedings before the Local Planning Appeal Tribunal;

**AND WHEREAS** the Council of the Corporation of the Township of Nairn and Hyman deems it expedient to enact a by-law to establish a tariff of fees for the processing of planning applications.

**NOW THEREFORE** the Council of the Corporation of the Township of Nairn and Hyman **HEREBY ENACTS AS FOLLOWS:**

#### 1. DEFINITIONS

In this By-law:

- a) "Applicant" means a person who submits a planning application, and in the case of an application submitted by the authorized agent of the property owner, it shall include both the property owner and the authorized agent;
- b) "Application Fee" means a fee payable for a planning application in accordance with the Tariff of Fees;
- c) "CAO" means the Chief Administrative Officer of the Municipality;
- d) "Council" shall mean the Council of the Corporation of the Township of Nairn and Hyman;
- e) "External Costs" shall mean all costs and expenses paid by or on behalf of the Municipality to an external agency or service provider, including but not limited to legal, engineering, planning, surveying, advertising, and consulting costs and expenses, in connection with a planning application or its related Tribunal appeal;
- f) "Municipality" shall mean the Township of Nairn and Hyman;
- g) "Planning Application" means any application for approval made pursuant to the *Planning Act, R.S.O. 1990, Chapter P.13*, as amended;

- h) "Related Local Planning Appeal" means an appeal to the Local Planning Appeal Tribunal in circumstances where the Municipality is required to appear before the Tribunal in support of a decision by Council to approve a planning application for the benefit of the applicant; and
- i) "Tariff of Fees" means the tariff of application fees to be charged by the Municipality in respect of planning applications as set out in Schedule "A" to this by-law.

## 2. TARIFF OF FEES

The Municipality shall charge a non-refundable application fee in accordance with the Tariff of Fees for processing planning applications.

## 3. FEE PAYABLE UPON APPLICATION

The applicant shall pay the required application fee in full to the Municipality at the time of submitting the planning application and the Municipality shall not be required to process or otherwise consider or review the application until the fee has been paid.

## 4. EXTERNAL COSTS

In addition to the application fee, the applicant shall pay all external costs incurred by the Municipality in respect of the planning application.

## 5. AGREEMENT TO INDEMNIFY

Every planning application shall include an Agreement to indemnify as set out in Schedule "B" to this by-law that the applicant shall be required to execute and deliver to the Municipality, failing which the Municipality shall be entitled to treat the application as being incomplete for the purpose of processing or otherwise considering it.

## 6. DEPOSIT ON ACCOUNT OF EXTERNAL COSTS

a) Despite Section 5, if the Municipality determines at any time or times that it will be required to incur external costs in respect of a planning application, the Municipality may require as a condition of it processing or continuing to process the planning application that the applicant deposit with the Municipality such amount or amounts on account of the anticipated external costs as estimated by the external sources.

b) If an applicant fails or refuses to comply with a request by the Municipality to deposit funds as security for external costs as required by Section 6 a) of this by-law, the Municipality shall be entitled to cease all work in connection with the processing of the planning application until the required deposit has been paid.

## 7. PARTICIPATION IN LOCAL PLANNING APPEAL TRIBUNAL PROCEEDINGS

If a decision of Council approving a planning application is appealed to the Local Planning Appeal Tribunal and the Municipality is required, or requested by the applicant, to appear as a party at the hearing of the appeal in support of its decision, the applicant shall pay any external costs incurred in connection with the hearing and the provisions of Sections 6a) and 6b) shall apply with necessary modifications.

## 8. ENFORCEABILITY OF AGREEMENT TO INDEMNIFY

If an applicant fails to reimburse the Municipality for its external costs when due, the applicant shall be deemed to be in default of the Agreement to Indemnify and the Municipality may, in addition to any other remedies available to it by law, recover the amount owing by action.

9. SEVERABILITY

If any Section, clause, sub-clause, provision, or part of this By-law should be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole, nor any part thereof, other than the part declared invalid.

10. EFFECTIVE DATE

This By-law shall come into force and take effect immediately upon the passing thereof by Council.

11. REPEALING PREVIOUS BY-LAW

That By-law 2015-12 "Being a by-law to establish a tariff of fees for the processing of applications made in respect of planning matters within the Township of Nairn and Hyman" is hereby repealed.

Read a first and second time this 15<sup>th</sup> day of October, 2018.

Read a third time and passed in open Council this 15<sup>th</sup> day of October, 2018.

(Original Signature on File)

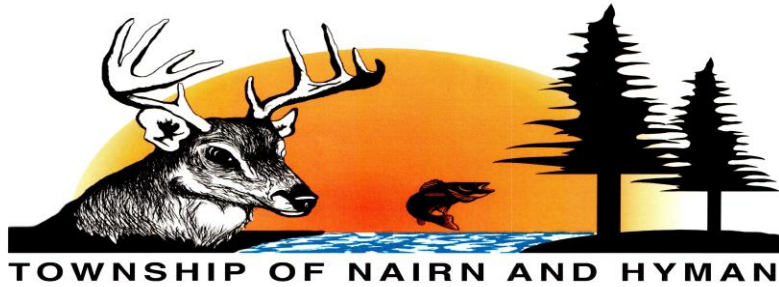
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Laurier Falldien, Mayor

(Original Signature on File)

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Robert Deschene, Clerk



SCHEDULE "A"  
TO  
BY-LAW NUMBER 2018-38

Tariff of Fees for Planning Matters

FEES PAYABLE

Type of Service	Professional Fees
Minor Variance (see note 1)	\$ 800.00
Site Plan Control Agreement	\$ 1,200.00
Official Plan Amendment – Major (see note 2)	\$ 2,500.00
Official Plan Amendment – Minor (see note 3)	\$ 1,500.00
Zoning By-law Amendment	\$ 1,000.00
Application for Consent	\$ 1,000.00
Validation of Title (see note 4)	\$ 600.00
Deeming By-law (see note 5)	\$ 600.00
Consent for Part Lot Control	\$ 600.00
Plan of Subdivision or Condominium Review and/or Agreement	Hourly based on rates noted below. Subject to HST.
Attendance at Meetings	
Preparation and Attendance at Local Planning Appeal Tribunal Hearings	

A 5% administration fee will be added to the above amount for miscellaneous expenses, printing, telephone, and courier costs.

All of the foregoing application fees are non-refundable.

**Notes**

1. A minor variance is a small variation from the requirements of the zoning by-law. Under Section 45(1) of the Planning Act there are four tests a minor variance must meet:
  1. Is the application minor in nature?
  2. Is the application desirable for the appropriate development or use of the land, building, or structure?
  3. Does the application conform to the general intent of the Zoning By-law?
  4. Does the application conform to the general intent and purpose of the Official Plan?

It is important to note that to consider any application for a minor variance it must meet all four tests.

5. Major Official Plan Amendment: An application that is significant in scale and scope which may have greater impact or policy implication beyond the subject lands. Such applications may include those relating to multiple properties; site specific proposals that represent large scale development/significant change in use; and applications involving significant changes to the text/policies of the Official Plan.
6. Minor Official Plan Amendment: An application that is a small scale amendment to the Official Plan policies and designations, having limited impact or policy implications beyond the subject lands.
7. Validation of title is to grant authority to validate title to a property which was conveyed in contravention of the Planning Act.
8. A deeming By-law application is applied for in order to allow for two or more neighbouring lots on a registered plan of subdivision to merge.

**Hourly Rates**

<b><i>Primary Planners</i></b>	
Sarah Vereault, MCIP, RPP Planner	\$140.00 per hour
Marc Rivet, MCIP, RPP Senior Planner	\$170.00 per hour
<b><i>Supporting Planners</i></b>	
Tim Chadder, MCIP, RPP Associate, Chief Planner	\$185.00 per hour
Wes Paetkau, MCIP, RPP Senior Planner	\$170.00 per hour
Katelyn Morphet, MCIP, RPP Planner	\$140.00 per hour
Tyler Duval, M.Pl. Planner	\$105.00 per hour

As noted above, tasks which are invoiced at hourly rates will be subject to the rates provided above plus HST.

TOWNSHIP OF NAIRN AND HYMAN  
SCHEDULE "B"  
TO  
BY-LAW NUMBER 2018-38

AGREEMENT TO INDEMNIFY

The applicant hereby agrees to indemnify and save harmless the Corporation of the Township of Nairn and Hyman ("the Municipality") from all costs and expenses that the Municipality may incur in connection with the processing of the applicant's application for approval under the Planning Act.

Without limiting the foregoing, such costs and expenses will include all legal, engineering, planning, advertising, and consulting fees and charges incurred or payable by the Municipality to process the application together with all costs and expenses arising from or incurred in connection with the Municipality being required, or requested by the applicant, to appear at the hearing of any appeal to the Local Planning Appeal Tribunal from any decision of the Council or Committee of Adjustments.

The applicant acknowledges and agrees that if any amount owing to the Municipality in respect of the application is not paid when due, the Municipality will not be required to process or to continue processing the application, or to appear before the Local Planning Appeal Tribunal in support of a decision approving the application until the amount has been paid in full.

The application further acknowledges and agrees that any amount owing by the applicant to the Municipality is, when due, a debt of the applicant and the Municipality may, in addition to any other remedies available to it at law, recover the amount owing together with interest from the applicant by action.

Declared before me at the \_\_\_\_\_ in the Province of  
Ontario this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Applicant's Name (Please Print)

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
A Commissioner, etc.