

BY-LAW NUMBER 2023-10

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 Section 391 of the *Municipal Act* 2001, S.O. 2001, as amended, provides for a municipality to pass by-laws imposing fees or charges on persons for services and activities provided or done by or on behalf of it, for cost payable by it for services or activities provided or done by or on behalf of any other municipality or local board, and for the use of its property including property under its control.

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 Ontario Land 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 Ontario Land 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 Ontario Land 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. Schedule “A” hereto and forming part of this by-law is enacted as a Tariff of Fees payable for the processing of applications made in respect of Planning Matters by the Corporation of the Township of Nairn and Hyman.
11. Schedule “B” hereto and forming part of this by-law is enacted as an Agreement to Indemnify.
12. This By-law shall come into force and take effect immediately upon the passing thereof by Council.
13. That By-law No. 2018-38 is hereby repealed.

Read a first and second time this 13th day of March, 2023.

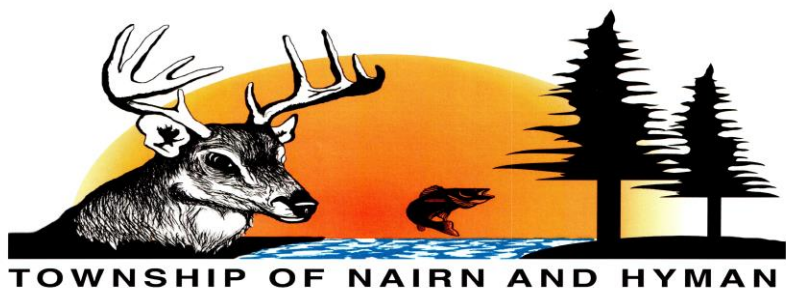
Read a third time and passed in open Council this 13th day of March, 2023.

(signature on original)

Mayor

(signature on original)

Clerk



SCHEDULE “A”
TO
BY-LAW NUMBER 2023-10

Tariff of Fees for Planning Matters
FEES PAYABLE

Type of Service/Application	Type of Fee	Fee
On-call Services*	Lump Sum	\$2,500 annually
Mandatory pre-consultation with applicant prior to submission of a Complete Application (please see Note #1)	Lump Sum	**\$500
Official Plan Amendment	Lump Sum	**\$2,500
Zoning By-law Amendment	Lump Sum	**\$2,000
Minor Variance	Lump Sum	**\$1,000
Consent	Lump Sum	**\$1,800
Part Lot Control, Deeming By-law, Validation of Title	Lump Sum	**\$1,000
Zoning Compliance, Building Permit Review	Hourly	**At rates listed below
MDS Calculations	Hourly	**At rates listed below
Site Plan Control application Review and Agreement	Hourly	**At rates listed below
Draft Plan of Subdivision/Condominium Application Review and Agreement(s)	Hourly	**At rates listed below
Attendance at Meetings and/or travel to meetings from our Sudbury office, should virtual or in-person attendance be required	Hourly	**At rates listed below
Preparation and attendance at Ontario Land Tribunal Hearings	Hourly	**At rates listed below

*This service will typically be provided by phone or email. A response requiring a formal memorandum, letter, report, or deliverable of similar nature will be subject to our hourly rates.

** A 7% administration fee will be added to the above amounts to cover miscellaneous expenses such as technology, support personnel, telecom, printing and other administrative costs. Tasks which are invoiced at hourly rates will be subject to the rates provided above plus HST. All of the foregoing application fees are non-refundable. In addition to the application fees above, the applicant shall pay all external costs incurred by the Municipality in respect of the planning application. All applications are subject to the terms and conditions in Sections 1 to 13 of Bylaw No. 2023-10.

Note #1:
Applications for zoning bylaw amendment, official plan amendment, consent, part lot control, deeming, site plan control, plan of subdivision or plan of condominium require a

preconsultation review to the municipality in advance of application submission. Preconsultation is not required, but is strongly encouraged, for minor variance applications.

Hourly Rates	
Principle in Charge	\$250.00 per hour
Senior Planner	\$187.50 per hour
Intermediate Planner	\$172.50 per hour
Junior Planner	\$140.00 per hour (average rate)
GIS Technologist	\$167.50 per hour
Mileage (\$/km)	\$0.61

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 2023-10

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.