

BY-LAW NO. 2012-17

**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 McGARRY;**

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**WHEREAS** Section 69(1) of the Planning Act provides that the council of a municipality may, by by-law, establish a tariff of fees for the processing of applications made in respect of planning matters;

**AND WHEREAS** Section 69(1) of the Planning Act provides that such tariff shall be designed to meet only the anticipated costs 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 Ontario Municipal Board;

**AND WHEREAS** the Council of the Corporation of the Township of McGarry 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 McGarry 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) **“Clerk”** means the Clerk of the Municipality;
- d) **“Council”** shall mean the Council of The Corporation of the Township of McGarry and includes the Committee of Adjustment for the Municipality in respect of those planning applications where the authority of Council has been delegated to it;
- 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 Board appeal;
- f) **“Major Amendment”** means an application which is significant in scale or scope which may have an impact or policy implication beyond the subject lands such as an amendment affecting multiple properties, any residential development exceeding 10 units, any development involving two or more technical studies, a significant shift in policy, or as otherwise determined by the Council;
- g) **“Minor Amendment”** means an application that is small scale and having

minimal or no impact beyond the subject lands such as site specific land use redesignation involving only one property, a minor change to the text or land use plan schedule, a residential development of less than 10 units or as otherwise determined by Council;

- h) **“Municipality”** shall mean the Township of McGarry;
- i) **“Planning application”** means any application for approval made pursuant to the Planning Act, RSO 1990, c. P.13, as amended;
- j) **“Related Board appeal”** means an appeal to the Ontario Municipal Board in circumstances where the Municipality is required to appear before the Board in support of a decision by Council to approve a planning application for the benefit of the applicant; and
- k) **“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**

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 the Clerk deems advisable.

- 7. 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 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.

## **8. PARTICIPATION IN ONTARIO MUNICIPAL BOARD PROCEEDINGS**

If a decision of Council approving a planning application is appealed to the Ontario Municipal Board 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 6 and 7 shall apply with necessary modification.

**9. 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 at law, recover the amount owing by action.

**10. 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.

**11. EFFECTIVE DATE**

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

**READ a first and second time this 10th day of July, 2012.**

**READ a third time and passed this 10<sup>th</sup> day of July, 2012.**

  
Reeve

  
Clerk

I hereby certify the above to be a true copy of By-law Number \_\_\_\_\_ passed by the Council of Township of McGarry at its meeting held on \_\_\_\_\_, 2012.

\_\_\_\_\_  
Clerk

**SCHEDULE 'A'**  
**TO**  
**BY-LAW NUMBER 2012-17**

Being a By-Law to establish a tariff of fees for planning matters

<b>FEES PAYABLE</b>		
<b>Type of Application</b>	<b>External Costs</b>	<b>Total Fee Payable</b>
Zoning By-law Amendment	\$950.00	\$2,000.00
Minor Official Plan Amendment	\$1,500.00	\$2,500.00
Major Official Plan Amendment	\$2,500.00	\$3,500.00
Combined Zoning and Official Plan Amendment	\$3,000.00	\$4,500.00
Consent	\$175.00	\$400.00
Minor Variance/Permission	\$175.00	\$400.00
Site Plan Approval	\$1,000.00	\$1,200.00
Site Plan Agreement	\$500.00	\$700.00
Subdivision Application	\$3,000.00	\$4,000.00
Subdivision Agreement	\$2,000.00	\$2,300.00
Part-lot Control/Validation of Title	\$500.00	\$700.00
Solicitor's Compliance Report	\$100.00	\$125.00

**SCHEDULE 'B'**  
**TO**  
**BY-LAW NUMBER 2012-17**

**AGREEMENT TO INDEMNIFY**

The applicant hereby agrees to indemnify and save harmless The Corporation of the Township of McGarry ("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 Ontario Municipal Board from any decision of the Council or Committee of Adjustments, as the case may be, approving the applicant's application.

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 Ontario Municipal Board in support of a decision approving the application until the amount has been paid in full.

The applicant 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.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Applicant (Print Name)

\_\_\_\_\_  
Date