

THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER 2011 - 3

A BY-LAW TO CONSTITUTE AND APPOINT A COMMITTEE OF ADJUSTMENT; TO DELEGATE THE AUTHORITY OF COUNCIL TO GIVE CONSENT TO THE COMMITTEE; AND TO SET POLICIES, PROCEDURES AND CONDITIONS FOR ITS OPERATION AND TO REPEAL ALL FORMER BY-LAWS

WHEREAS Section 44(1) of the Planning Act, R.S.O. 1990, Chapter P.13, as amended provides that Councils may, by By-law, constitute and appoint a Committee of Adjustment;

AND WHEREAS Section 238(2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, requires that every local board shall adopt a procedure By-law for governing the calling, place and proceedings of meetings;

AND WHEREAS Section 239 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, requires all meetings to be open to the public, including the taking of a vote, unless provided in the exceptions set out in Section 239;

AND WHEREAS under Section 45(1 and 2) of the Planning Act, R.S.O. 1990, Chapter P.13, as amended, the Committee of Adjustment has certain general and special powers;

AND WHEREAS under Section 45(3) of the Planning Act, R.S.O. 1990, Chapter P.13, as amended, Council may, by By-law, empower the Committee of Adjustment to grant Minor Variances from the provisions of any By-law of the municipality that implements an Official Plan;

AND WHEREAS the Regional Municipality of Niagara is the approval authority for the giving of Consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter P.13, as amended;

AND WHEREAS the Regional Municipality of Niagara, by By-law 188-1999 passed on the 16th day of December, 1999, has delegated the authority to give Consents to the Council of the Corporation of the City of Welland under Section 54(1) of The Planning Act, Chapter P.13, as amended;

AND WHEREAS pursuant to Section 54(2.1) of the Planning Act, R.S.O. 1990, Chapter P.13, as amended, the delegation to give consents is deemed to include the authority to give approvals under Section 50(18) and to issue certificates for validation under Section 57 of the Act;

AND WHEREAS the Council of the Corporation of the City of Welland deems it advisable to appoint a Committee of Adjustment and delegate the authority to give Consents to such Committee.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

1. That the Corporation of the City of Welland hereby constitutes the City of Welland Committee of Adjustment (herein referred to as the Committee) which shall be comprised of three (3) Members appointed from time to time by City Council;
2. That the Council of the Corporation of the City of Welland may appoint an Alternate Member to the Committee from time to time;
3. That the Council of the Corporation of the City of Welland hereby delegates the

authority for the giving of Consents to the Committee under Section 53(1) of The Planning Act, Chapter P.13, as amended;

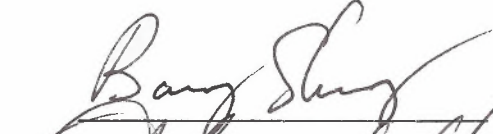
4. That the Corporation of the City of Welland hereby empowers the Committee to grant Minor Variances from the provisions of any local By-law which implement the City's Official Plan;

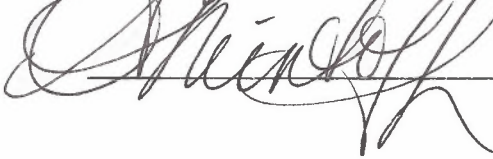
5. That the operation of the Committee shall be as set out in Schedule "A" attached hereto and forming part of this By-law;

6. That By-laws 1999-215 and 2003-183 affecting the Committee are hereby repealed;

7. That this By-law shall come into force and take effect on the day upon which it is passed.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS
18TH DAY OF JANUARY, 2011.


MAYOR


CLERK

SCHEDULE "A"

TO BY-LAW NO. 2011 - 3

POLICIES, PROCEDURES AND CONDITIONS FOR THE
OPERATION OF THE COMMITTEE OF ADJUSTMENT

1. Definitions

- (a) "Committee of Adjustment", hereinafter referred to as the "Committee", is a group of individuals appointed by the Council of The Corporation of the City of Welland to constitute the Committee of Adjustment pursuant to the provisions of the Planning Act, R.S.O. 1990, as amended;
- (b) "Member" is an individual who is appointed by Council to the Committee;
- (c) "Alternate Member" is an individual who is appointed by Council to the Committee to serve on an "as-needed basis" in the absence of a Member;
- (d) "Chair" is a Member of the Committee elected by the Members at the first regular Meeting of the Committee following their appointment or at any other time as necessary, who shall preside over the Meeting;
- (e) "Acting Chair" is a Member of the Committee elected by the Members at a Meeting on an "as-needed basis" who shall act as Chair in the Chair's absence or where the Chair has disclosed an interest;
- (f) "Secretary-Treasurer" is a City of Welland Staff person whose responsibility includes the authority to receive Applications, Application Fees, Decisions and Change of Conditions as required by the By-law and the Planning Act; to adhere to Regulations passed pursuant to the Planning Act; to record and file minutes and records of all Applications; to accept and process appeals on Committee Decisions to the Ontario Municipal Board; and to give such Certificates as required by the Planning Act and any related Regulations with respect to Consents;
- (g) "Acting Secretary-Treasurer" is a City of Welland Staff person who acts as Secretary-Treasurer in the absence of, and has the same authority as, the Secretary-Treasurer.

2. Chair

- (a) The Chair of the Committee shall be elected from amongst the Members of the Committee for a term to be determined by the Committee;
- (b) The Chair shall be counted in determining quorum and shall be entitled to all the rights of a Member on the Committee, including voting.

3. Calling, Location and Notice of Hearings and Meetings

- (a) Hearings by the Committee shall be pre-scheduled for a minimum of six (6) months and Hearings/Meetings may also be held at the call of the Chair or Secretary-Treasurer;
- (b) All Hearings and Meetings of the Committee shall be held at Welland Civic Square in a room accessible to the public.
- (c) Notice of all Hearings and Meetings shall be posted on the City of Welland website and on the public bulletin board located within Civic Square prior to the Hearing/Meeting.

4. Notice of Applications

- (a) The Notice of an Application to be considered at a Hearing shall be given in a local newspaper in accordance with the provisions of the Planning Act, as amended, and any applicable Regulations;
 - (b) Notice shall also be given by prepaid mail to all Owners of land within 60 metres of the subject property;
 - (c) Notice shall also be posted on the City of Welland website;
 - (d) Notice of Application procedures with respect to Applications for Validation of Title and Power of Sale/Foreclosure shall be in accordance with applicable Regulations;
 - (e) Notice shall also be sent to those prescribed.
5. The Committee of Adjustment shall hold a Public Hearing on every Application prior to a decision being made.
6. Applications and Agenda to Members
- (a) Copies of each Application shall be delivered to each Member of the Committee at least fourteen (14) days prior to the Hearing. An agenda, prepared by the Secretary-Treasurer, with copies of all correspondence received, shall be forwarded to each Member prior to the Hearing.
 - (b) The addition of agenda items less than 24 hours prior to the Hearing or Meeting of the Committee shall be by unanimous consent of the Members present.
7. Quorum
- (a) Pursuant to the Planning Act, where a Committee is composed of three members, two members constitute a quorum.
8. Cancellation and Rescheduling of Hearings and Meetings
- (a) In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a Hearing or Meeting.
9. Hearing (Meeting) Procedures
- (a) The Hearing shall be called to order by the Chair;
 - (b) The Chair shall ask for disclosure of any conflict of interest to any item on the Agenda at the beginning of the Hearing;
 - (c) The Minutes of the previous Meeting shall be adopted;
 - (d) The Chair shall call for any requests for deferral or withdrawal of an Application;
 - (i) a request for deferral to a later Hearing must be for a reasonable cause;
 - (ii) the Committee may set a new Hearing date for consideration of the deferred Application;
 - (iii) the Committee may indicate requirements or conditions for deferral, such as renotification, payment of rescheduling fees, amendment or additional information;
 - (iv) if any particulars concerning the Application are discussed or if the correspondence has been read; the Hearing Panel is seized of the Application;
 - (e) The Chair shall call each Application in an order determined by the Agenda or in an order determined by the Committee;
 - (f) The Applicant or Agent must be present at the Hearing of the Application or the

Application shall be deferred;

- (g) The Chair shall summarize the Application;
- (h) The Chair shall ask the Applicant/Agent to introduce themselves and present the Application;
- (i) The Chair shall ask the Secretary-Treasurer to read aloud, or summarize, correspondence received from Agencies or interested parties;
- (j) The Committee may ask questions of the Applicant/Agent including whether the Applicant/Agent understands the comments or conditions requested and whether there are any questions;
- (k) The Chair shall invite all persons having an interest in the Application to be recognized, state their names and advise the Committee of their positions. All discussion shall be directed to the Chair;
- (l) The Chair shall give the Applicant/Agent the opportunity to respond to any comments received;
- (m) After having considered the issues raised by the Applicant/Agent, interested parties, Agencies, the evidence heard at the Hearing by the Committee and after having regard for Official Plan issues, the Zoning By-law(s) in effect and the Provincial Policy Statement, the Chair shall ask the Members of the Committee for a decision in public with respect to the disposition of the Application. A tie vote shall be deemed a denial of the Application. The Committee may adjourn the Hearing or reserve its decision;
- (n) Members concurring in the discussion shall sign the decision at the Hearing. All Members who have not disclosed an interest must make a decision on the Applications and may not abstain from voting.

10. Conduct of Hearings and Members

- (a) The conduct of Hearings and Members, with respect to matters not specifically addressed in this By-law, shall be generally pursuant to the Statutory Powers Procedure Act, R.S.O. 1990, Chapter S.22, as amended; the Municipal Conflict of Interest Act, R.S.O. 1990, Chapter M50, as amended; the Planning Act, R.S.O. 1990, Chapter P.13, as amended, and other applicable legislation and regulations;
- (b) All Hearings and Meetings shall be conducted in an open forum, open to the public including all deliberations and voting. A Hearing or Meeting may be closed to the public for matters described in Section 239 of the Municipal Act.

11. General

- (a) The Committee shall be empowered to impose necessary conditions as authorized under the Planning Act and other applicable legislation taking into consideration various planning documents and Policies of the City of Welland, the Regional Municipality of Niagara, the Provincial Government and other applicable agencies.
- (b) Pursuant to the Planning Act, the Committee of Adjustment is authorized to reduce or waive the City's requirement for the payment of a fee in respect of an Application provided the Committee is satisfied that it would be unreasonable to require such fee.
- (c) The Committee of Adjustment shall operate under the rules, procedures and policies of the City of Welland as established under Section 270(2) of the Municipal Act, as amended.