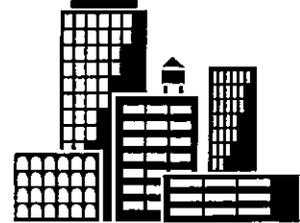


# SITE PLAN CONTROL POLICY

## PREAMBLE

### PURPOSE OF THE POLICY



1. The Site Plan Control Policy for the City of Niagara Falls is a document approved by City Council providing policies to guide the site planning and design of development sites. The following are the objectives of this policy:
  - 1.1 To ensure new developments are compatible, harmonious and sensitive with surrounding developments.
  - 1.2 To promote and protect greenspace through appropriate landscaping and the preservation of existing natural features. The latter will include tree and woodlot preservation, protection of watercourses, wetlands and other environmentally-sensitive areas.
  - 1.3 To encourage site and building designs that enhance streetscapes and do not cause or contribute to any adverse pedestrian level wind impacts.
  - 1.4 To ensure proper storm water management.
  - 1.5 To encourage site designs that are functional and promote vehicular and pedestrian safety.
  - 1.6 To ensure that developments comply with applicable legislation and policies and maintain a consistent municipal standard.
  - 1.7 To secure consents, road dedications and easements.
  - 1.8 To ensure properties are maintained over the long term.
2. In addition, all applications shall have regard to the following Official Plan policies.
  - 2.1 The City shall promote appropriate building and landscaping designs to improve the physical and social environment of the City and to enhance quality of life. Development should be integrated and compatible with surrounding buildings and the natural features of the landscape.
  - 2.2 The City shall encourage the sensitive design of new development, specifically regarding height, setbacks, massing, siting and type of buildings in order to provide a compatible relationship with development in an area.
  - 2.3 The City shall encourage proponents of development to design buildings having regard to the possible negative effects of shadowing and wind on the surrounding areas.

- 2.4 In prominent landmark locations such as gateway entrances to the City or along important roadways corridors, special attention to high-quality design and landscaping shall be encouraged. Furthermore, new development should be designed and sited to minimize the obstruction of scenic views and vistas.
- 2.5 Parking areas shall be encouraged in the rear or sideyards of development sites and be designed in a manner that blends in with the surrounding area.
- 2.6 Appropriately designed and scaled parking structures or underground parking shall be encouraged for large tourist commercial and high-density residential developments.
- 2.7 Linked parking and driveway areas shall be encouraged for adjacent developments in order to minimize the number of access points onto roadways. Access points shall be oriented toward major roadways.
- 2.8 The provision to trees, greening and landscaping shall be promoted along City streetscapes to provide an element of attractiveness throughout all neighbourhoods.

## PRE-CONSULTATION

It should be noted that the Site Plan Control Policy applies to all developments subject to the City's Site Plan Control By-law 2001- . In addition to this policy, developments may have to adhere to the requirements of certain studies:



- Tourist Area Development Application Guide
- The Streetscape and Urban Design Master Plan
- Transportation Master Plan
- Lundy's Lane Battlefield Master Plan

It is strongly recommended that applicants prepare several alternative design concepts of the proposed development and submit them to, and meet with, the Planning and Development office for review in advance of the preparation of detailed site plans. These conceptual designs help to demonstrate the various attributes and conflicts. They will assist in the development of a site design that is efficient, compatible and sensitive to adjacent lands. Applicants should also consult the Municipal Works, Parks, Recreation & Culture (Park Planning and Development Office), Building and By-law Services and Fire Services for their requirements prior to plan preparation.

Agencies other than the City who have jurisdiction over a proposed development should be consulted early in the site plan review process. City staff will indicate which agencies should be consulted such as the Ministry of Transportation, Ministry of Environment, and Regional Niagara. However, it is the applicant's responsibility to secure all external approvals prior to the site plan being approved.

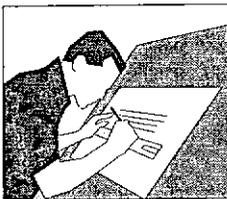
**1. APPLICATION FOR SITE PLAN AGREEMENT**

The applicant must complete an application for site plan approval and submit the required fee for the processing of the application, together with the plans and documents noted on the application form, and the Tourist Area Development Application Guide, if applicable. Incomplete applications will not be accepted.



**2. DESIGN AND GENERAL REVIEW OF SITE PLAN DRAWINGS**

The following chart indicates the types of professionals accepted by the City of Niagara Falls to complete and/or approve the design for the following Site Plan Application Drawings. The intent is to assist small developments through the use of technicians or technologists, but to still achieve high-quality design work. For larger developments, professional design and review is required.



Building Area or Lot Area	Site Plan Application Drawings			
	Site Plan & Other Architectural Plans	Servicing Plans	Grading Plans	Landscape Plan
Building Area greater than 600 sq. m	- as required by the Ontario Building Code (see Appendix 1)	- Professional Engineer	- Professional Engineer or Landscape Architect	- Landscape Architect
Building Area less than 600 sq. m	- certified planning, engineering or architectural technologist or technician	- certified planning, engineering or architectural technologist or technician	- certified planning, engineering or architectural technologist or technician	- certified planning, engineering or architectural technologist or technician
Lot Area greater than 0.2 ha (0.5 ac.)		- Professional Engineer	- Professional Engineer or Landscape Architect	- Landscape Architect

**3. STAFF REVIEW AND AGREEMENT PREPARATION**

Upon receipt of the complete application, the site plan drawings will be circulated to various City departments and applicable external agencies for review. Legal documents will be forwarded to the City Solicitor in order to prepare a draft site plan agreement. Review comments will be sent to the applicant for plan revision. Staff will advise if a re-submission of plans is required for further review. The applicant will also be advised at this time of any conditions of approval that will have to be satisfied prior to the issuance of building permits.



#### 4. **SITE PLAN APPROVAL**

Once the site plan drawings have been satisfactorily reviewed by all City departments and applicable external agencies, the final drawings will be forwarded to the Director of Planning and Development for approval. Subsequent to approval, the agreement will be sent to the owner for signature. Upon return of the agreement, it and any postponement agreements will be registered on title.

#### 5. **SITE PLAN DEPOSITS**

The owner shall provide a letter of credit or cash to the City at the time of issuance of the building permit as a commitment of undertaking that the work shown on the site plan will be completed. The amount of the deposit shall be the total estimated cost of all landscaping, fencing, walls, sidewalks, walkways, lighting, curbing and top course asphalt. All letters of credit are to be submitted to the Planning and Development office for review. The letter of credit shall be in the format approved by the City Solicitor with no additions, deletions or substitutions. Letters of credit determined not to conform with this format will be returned to the applicant for correction and re-submission.

Upon completion of the site works, the designer(s) (refer to section 2) will confirm in writing that the site works have been constructed in accordance with the site plan agreement. When City staff have inspected and confirmed that the site plan agreement has been complied with, the letter of credit or cash shall be returned. However, if the work is not completed as shown, the owner will be required to correct the outstanding matters and bring the site works into conformity with the agreement.

“As-built” drawings may be required as a condition of release of the deposit. These drawings shall be prepared by the appropriate site designer and will be registered on title by way of an amending agreement. Costs for the preparation and registration of the amending agreement shall be borne by the owner.

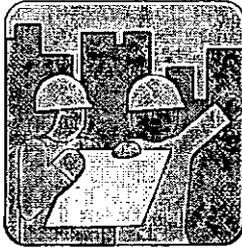
##### 5.1 **Reduction in Site Plan Deposits**

During the construction of a development, the Planning & Development Division will accept applications for the reduction in a site plan deposit, on a one-time basis.

The site designer(s) shall complete an application in full and supply supporting documentation regarding site plan conformance to date. Upon receipt of the application and documentation, City staff will inspect the development in order to assess the designer's estimates.

After assessment of the estimates, the Site Plan Deposit will be reduced to a value determined by staff.

## 6. SERVICING & SECTION 37 AGREEMENTS



Servicing and developments agreements may be required by the City where significant off-site construction is necessary to service the development. The Site Plan Technical Committee will determine if a servicing agreement for a development is necessary and will advise the applicant. Examples of where a servicing agreement would be necessary are: installation of sewer works and/or drainage works along an extensive portion of a municipal right-of-way, upgrading of a municipal road to an urban cross-section, installation of traffic signals or construction of sidewalks and similar works.

Section 37 agreements are required for developments on lands designated Tourist Commercial where a Zoning By-law amendment has been approved for additional building height above four storeys. These agreements will detail works that are of public benefit to be provided by the owner. These works may include, but are not limited to, streetscaping, sidewalk extensions, traffic light installation and road reconstruction. The owner will be advised by staff of the level of detail of the works that are to be provided for the agreement.

## 7. 2% PARKLAND DEDICATION

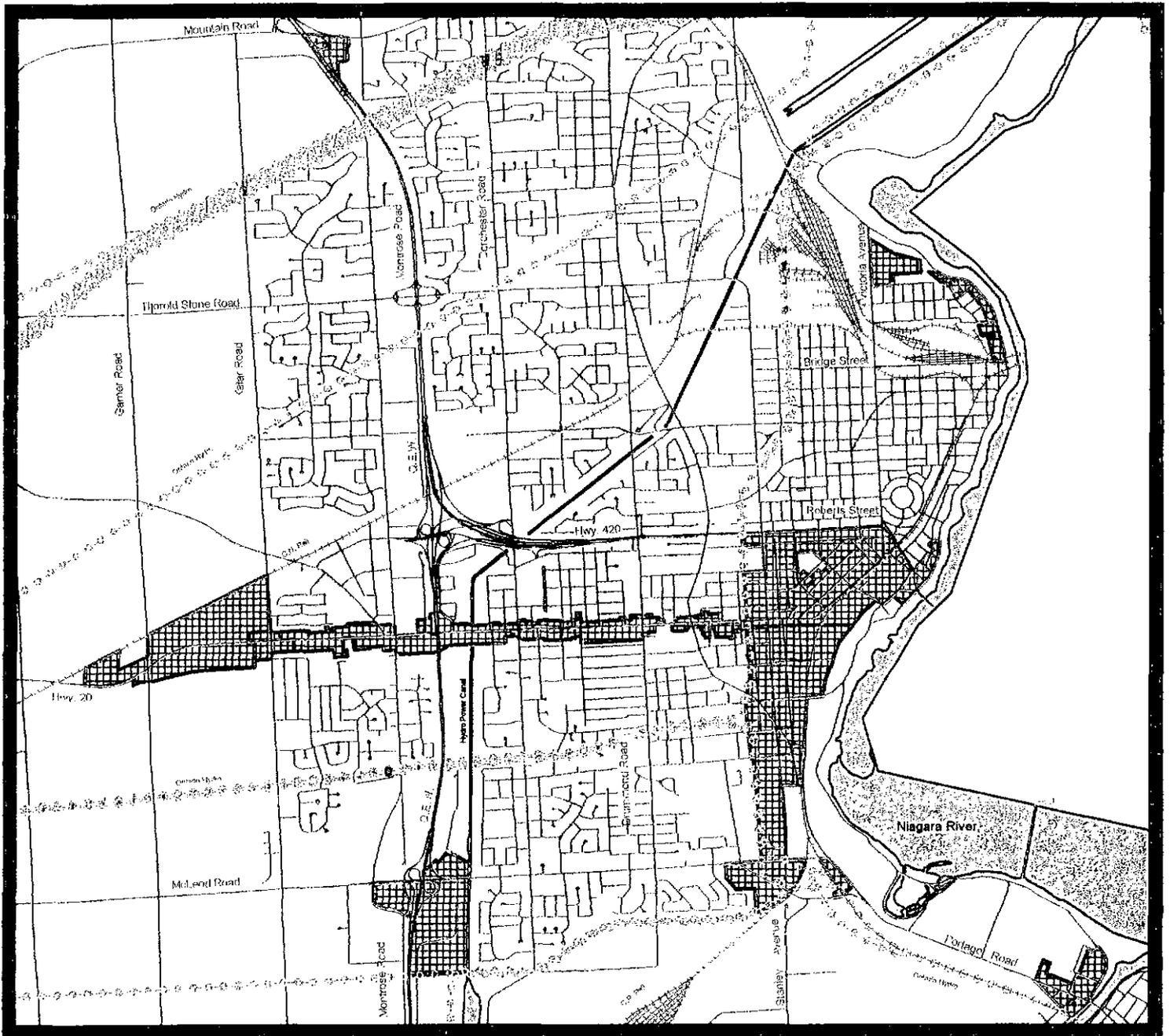
Developments on lands within the areas shown hatched on map no. 1 are subject to the City's 2% parkland dedication by-law. This by-law requires 2% of the lot area to be dedicated to the City for park purposes or 2% of the land's appraised value to be collected as a cash-in-lieu of parkland dedication.

**7.1 Parkland dedication.** Should the subject lands be in a location where a parkland dedication is appropriate, 2% of the lot area, in a location satisfactory to staff, will be dedicated to the City. The land is to be dedicated free and clear of all liens and mortgages. Survey and legal costs are borne by the owner.

**7.2 Cash-in-lieu.** Alternatively, cash-in-lieu of parkland dedication may be required. In this case, a \$2,500.00 deposit shall be submitted to the Planning and Development office in order to cover the cost of the appraisal, as the appraisal work is contracted out by the City. The appraiser's fee is paid from the deposit with the remainder remitted to the applicant when the appraisal report is submitted to the City. Payment of the cash-in-lieu is to be made prior to the issuance of any building permits. In certain cases, the completion of the appraisal may not be possible prior to the issuance of building permits. In these cases, the applicant will be required to deposit a letter of credit with the City, in an amount that approximates the cash-in-lieu payment, prior to permit issuance. The letter of credit will be returned once the appraisal is complete and the payment made.

Should the applicant not agree with the appraisal conducted on behalf of the City, payment under protest will be made and the matter referred to the Ontario Municipal Board pursuant to section 42(10) and (12) of the Planning Act.

# MAP 1



Lands Subject to 2 %  
Parkland Dedication



1:NTS

8. **BUILDING PERMITS**

Application for a building permit may be made after satisfactory review of the site plan drawings. Building and By-law Services should be contacted directly regarding application requirements. Permits, however, will only be issued after the site plan agreement has been registered on title and conditions of approval satisfied.

9. **INFORMATION REQUIREMENTS**

Each application shall include the following separate plans:

- survey plan
- site plan
- site servicing and grading plan
- landscape plan
- building elevations
- floor plans
- roof plan

10. **SITE PLAN**

10.1 **Details of Development** - See Appendix 2

10.2 **Key Plan Location - Scale** (1" = 2000'), outline of the development site with sufficient amount of surrounding area to indicate its general location, with major adjacent features, such as parks, bus routes etc. (base map is available from the City).

10.3 Title, location (plan and lot number), date and drawing number.

10.4 **North Point and Scale.** Plan shall be metric, preferably 1:200, however the designer may use other scales where appropriate. North should be directed to the top of the sheet.

10.5 **Centre Line and Curb Line of Adjacent Streets**, sidewalks and existing street lines (all dimensions shall be included on the drawing).

10.6 **Road Widenings**

The site plan shall show, properly dimensioned, the property required for the dedication of road widenings and daylighting triangles in accordance with City Standards and other authorities. Please refer to the City Standards for Site Planning for procedures regarding road widening.

**10.7 Clear Indication of Property Boundaries**

(include all perimeter dimensions).

**10.8 Approximate Location and Height of Buildings on Adjacent Sites**

**10.9 Adjacent Property Owned or Controlled by the Applicant**

**10.10 Location, Height and Dimensions**

Distances between buildings and yard dimensions (front yard, side yard, rear yard) of all buildings and other structures existing and proposed on the site.

**10.11 Lighting Facilities**

- (a) The electrical site plan shall show the type location and height of all lighting fixtures.
- (b) The lighting shall be designed and installed as to insure that glare is not cast onto adjacent properties and roadways.

**10.12 Garbage Storage** (type and location) and collection areas designed in accordance with Article 5.5.5 of the City Standards for Site Planning.

- (a) Garbage should be stored within a building if feasible.
- (b) When garbage is to be stored outside, it shall be located such that it causes the least possible adverse effects to adjoining properties and in a screened enclosure. These adverse effects include odour, noise and potential rodent problems. When the facility is located close to an abutting property, the enclosure may be required to be constructed with a roof. The location shall be easily accessed by garbage trucks.
- (c) A proper access driveway must be provided.

**10.13 Location of Transformer** (on proponents property) and type of enclosure shall be shown on the electrical site plan.

**10.14 Location of Utility Poles, Hydrants and Other Utilities** on and adjacent to the site.

**10.15 Roadways, Existing and Proposed Driveways**

- (a) Fully dimension all roadways and driveways within the site.
- (b) Dimension and label all existing and proposed curb cuts, and curb depression fills.
- (c) Existing Municipal sidewalks must be retained or replaced through areas designated for a new driveway to Municipal standards.

Note: All abandoned driveways shall be removed and replaced with sidewalks, curbs, boulevards, and gutters as required by the City. This work shall be shown on the site plan. All alterations to Municipal curbs and sidewalks shall be at the owner's expense.

#### 10.16 Fire Department Requirements

- (a) Fire routes are to be clearly labelled on a site plan, and designed in accordance with the Ontario Building Code.
- (b) Fire route by-laws will be passed when the site plan is approved by Council.

#### 10.17 Proposed Parking Areas or Structures

All parking areas and parking structures will include the following information:

- (a) Dimensions of parking spaces, manoeuvring aisles, landscaping islands, etc.
- (b) The total number of parking spaces provided in all parking areas.
- (c) A cross section taken along the driveway providing access to the street and showing the grade of the ramps.
- (d) The surface material to be used (asphalt, concrete, etc.).
- (e) Location, type and size of curbs enclosing all parking areas.
- (f) All fencing abutting parking areas shall be protected from damage that maybe caused by parking vehicles.
- (g) Location of stairwells and ventilation (for parking structures).
- (h) Location, grade and elevation of all floor drains (for parking structures).
- (i) Drainage piping showing size and grade.

Proposals that include a parking structure shall illustrate the above on separate floor plans and cross-sections.

#### 10.18 Barrier Free Access

The site plan will illustrate the following barrier-free access shall be designed in accordance with Ontario Building Code.:

- (a) Walkway ramps and facilities shall be designed to provide barrier free access from the site to the building.
- (b) Location of all required parking spaces for the physically challenged. They shall be located at close proximity to the main building entrance.

#### 10.19 Easements

- (a) The site plan shall show both existing easements and any easements to be conveyed.
- (b) Indicate whether it is a municipal service or utility easement.
- (c) All easements shall be free of buildings.

#### 10.20 Signs

- (a) Location and height of free-standing signs.
- (b) Location of all signs (eg. business, traffic, advertisement signs).

## APPENDIX 1

Table 2.3.1.A - Forming Part of Sentence 2.3.1.1.(1)

Building Classification by Major Occupancy	Building Description	Design and General Review By:
Assembly occupancy only	Every Building	Architect and professional engineer <sup>(1)</sup>
Assembly occupancy and any other major occupancy except industrial	Every Building	Architect and professional engineer <sup>(1)</sup>
Institutional occupancy only	Every Building	Architect and professional <sup>(1)</sup>
Institutional occupancy and any other major occupancy except industrial	Every Building	Architect and professional engineer <sup>(1)</sup>
Residential occupancy only	Every building that exceeds 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>
	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area and that contains a residential occupancy other than a dwelling unit or dwelling units.	Architect <sup>(1)</sup>
Residential occupancy only	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area and contains a dwelling unit above another dwelling unit.	Architect <sup>(1)</sup>
	Every building that exceeds 600 sq. m (6460 sq. ft.) in building area, contains 3 or more dwelling units and has no dwelling unit above another dwelling unit.	Architect <sup>(1)</sup>
Residential occupancy and any other major occupancy except industrial, assembly or institutional occupancy.	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>
Business and personal services occupancy only	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>
Business and personal services occupancy and any other major occupancy except industrial, assembly or institutional occupancy	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>
Mercantile occupancy only	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>
Mercantile occupancy and any other major occupancy except industrial, assembly or institutional occupancy	Every building that exceeds 600 sq. m (6460 sq. ft.) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>

Industrial occupancy only and where there are no subsidiary occupancies	Every building that exceeds 600 sq. m (6460 sq. ft) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>
Industrial occupancy and one or more other major occupancies where the portion of the area occupied by one of the other major or subsidiary occupancies exceeds 600 sq. m (6460 sq. ft.)	The non-industrial portion of every building	Architect and professional engineer <sup>(1)</sup>
	The industrial portion of every building	Architect and professional engineer <sup>(1)</sup>
Industrial occupancy and one or more other major occupancies where no portion of the area occupied by one of the other major or subsidiary occupancies exceeds 600 sq. m (6460 sq. ft.)	Every building that exceeds 600 sq. m (6460 Sq. Ft.) in gross area or 3 storeys in building height	Architect and professional engineer <sup>(1)</sup>

Notes To Table 2.3.1.A.

- (1) An architect shall provide services within the practice of architecture and a professional engineer shall provide the services within the practice of professional engineering.
- (2) An architect may engage a professional engineer to provide services within the practices of professional engineering.
- (3) Only a professional engineer may provide services within the practice of professional engineering.
- (4) Requirements for design and general review by an architect or professional engineer or a combination of both for the construction, enlargement or alteration of a building are set out in the Architects Act, 1984 and the Professional Engineer Act, 1984.

## Appendix 2

### Zoning Details for Site Plan Drawings

#### A. Residential - Multiple Uses

1. Present zoning shall be identified along with applicable amending by-law(s) and/or Committee of Adjustment decisions.
2. Lot area - expressed as an overall area and expressed as area per unit.
- 3.(a) Number of dwellings and identify type (townhouse and/or apartment).  
  
(b) Number of units; unit sizes expressed as floor area and identified as 1 bedroom, 2 bedrooms, 3 or more bedrooms.
4. Lot coverage.
5. Maximum building height (taken from average grade at front of building to upper most part of roof or building feature, which is not exempt).
6. If more than one dwelling is on the lot then minimum distances between the buildings shall be shown on the plan; any windows to habitable rooms in exterior walls which face opposing walls of buildings within the parcel shall also be identified.
7. Identify the number of parking spaces that are to be provided and the number required.
8. Landscaping area shall be identified. It shall be expressed as a percent of lot area, as a total area and as an area per unit.
9. Zoning of adjoining lands shall also be identified.

#### B. Open Space Zones, Institutional Zones, Commercial Zones

The zoning of the subject property should be identified along with any applicable amending by-laws or decision of the Committee of Adjustment.

The zoning of the adjoining lands shall also be provided. The following site details shall be provided:

- lot area
- lot coverage
- maximum building height (measured from the average grade at the front of the building to the upper most part of the roof or building feature not exempt in the by-law)
- all existing building uses and their floor areas along with parking requirements provided
- all proposed building uses and their floor areas along with parking requirements provided.

- Note: a) If occupancy is a factor for the existing and proposed uses all seating capacities, assembly occupancies, number of medical practioners; if relevant, along with their floor areas and parking requirements shall be provided.
- b) If retail uses exist and proposed then their floor areas shall be provided and expressed on an individual unit basis and parking requirements provided.
- c) For a hotel or other such multiple occupancy building use each category of land use within the building shall be listed and parking requirements provided.

i.e. Hotel:	Number of Rooms	Parking Required		Parking Provided	
	Restaurant, Number of Seats	"	"	"	"
	Bar/Lounges Number of Seats	"	"	"	"
	Coffee Shop seating	"	"	"	"
	Dining Room seating	"	"	"	"
	Banquet Facilities seating	"	"	"	"
	Meeting Rooms - list of floor areas	"	"	"	"
	Retail areas - provide floor areas	"	"	"	"

**Industrial**

The zoning of the subject lands shall be identified and any by-law amendments and/or decisions of the Committee of Adjustment provided. The zoning of adjoining properties shall be identified.

Site Details Required:

- Identify existing and proposed land uses and their floor areas while providing the parking requirements and parking spaces to be provided.
- Lot area shall be provided.
- Building height provided/measured at the average grade of the property at the front of the building to the highest part of the roof or building which is not exempt in the by-law.
- Lot coverage provided.
- Landscaping provided and shall be provided as:
  - i) a percent of the lot area;
  - ii) as a value; and
  - iii) as a percentage of the required front yard.



**PLANNING & DEVELOPMENT DIVISION**

**APPLICATION FOR THE APPROVAL OF  
REDUCTION IN SITE PLAN DEPOSIT**

- 1. Site Location \_\_\_\_\_
- 2. Applicant's Name and Address \_\_\_\_\_  
Telephone # \_\_\_\_\_
- 3. Amount of Site Plan Deposit \$ \_\_\_\_\_
- 4. Estimated Percentage of Completed Site Works: \$ \_\_\_\_\_
- 5. Estimated Percentage of Completed Site Works: \_\_\_\_\_ %
- 6. Estimated Value of Works Completed to Date: \_\_\_\_\_
  - (a) Storm Drainage System Sub-total \$ \_\_\_\_\_
  - (b) Paving
    - base preparation \_\_\_\_\_
    - base course \_\_\_\_\_
    - top course \_\_\_\_\_
    - line painting \_\_\_\_\_Sub-total \$ \_\_\_\_\_
  - (c) Curbing
    - base preparation \_\_\_\_\_
    - concrete work \_\_\_\_\_Sub-total \$ \_\_\_\_\_
  - (d) Sidewalks
    - base preparation \_\_\_\_\_
    - concrete work \_\_\_\_\_Sub-total \$ \_\_\_\_\_
  - (e) Landscaping
    - grading \_\_\_\_\_
    - plantings \_\_\_\_\_
    - sodding \_\_\_\_\_
    - amenity areas \_\_\_\_\_
    - fencing \_\_\_\_\_Sub-total \$ \_\_\_\_\_

**TOTAL VALUE OF WORKS COMPLETED** \$ \_\_\_\_\_

**TOTAL VALUE OF WORKS OUTSTANDING** \$ \_\_\_\_\_

I \_\_\_\_\_ am the authorized agent of the owner and hereby declare that the information herein is true and correct and that I have been retained by the owner to design and review the site works for the above project. I request that the site plan deposit for the project be reduced by an amount not exceeding the value of the works completed provided that the value of the amended site plan deposit is not less than the value of site works outstanding.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**CITY OF NIAGARA FALLS**

**By-law No. 2011 -113**

For reference only: By-law approved by Council August 25, 2011. For a signed copy please contact the Clerks Department.

A by-law to designate the whole of the City of Niagara Falls as a site plan control area, to define the classes of development that may be undertaken without the approval of plans and drawings, and to delegate to an appointed officer of the municipality the powers or authority of council permitted under section 41 of the *Planning Act*, R.S.O. 1990, c.P.13.

**WHEREAS** the Official Plan of the City of Niagara Falls states that the whole of the area of the City of Niagara Falls shall be a site plan control area;

**AND WHEREAS** the Council of the Corporation of the City of Niagara Falls deems it desirable to designate the whole of the area of the City of Niagara Falls as a site plan control area as established by the Official Plan of the Regional Municipality of Niagara and the City of Niagara Falls, pursuant to section 41 of the *Planning Act*, R.S.O. 1990, c.P.13;

**AND WHEREAS** the Council of the Corporation of the City of Niagara Falls deems it desirable to define certain class or classes of development that may be undertaken in the site plan control area without the approval of plans and drawings otherwise required under subsections 41(4) or 41(5) of the *Planning Act*, R.S.O. 1990, c.P. 13 pursuant to clause 41(13)(a) of the said Act;

**AND WHEREAS** the Council of the Corporation of the City of Niagara Falls deems it desirable to streamline and expedite the approval of plans and drawings;

**AND WHEREAS** clause 41(13)(b) of the *Planning Act*, R.S.O. 1990, c.P.13 states that the council may by by-law delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers and authority under section 41 of the said Act, except the authority to define any class or classes of development as mentioned in clause 41(13)(a) of the said Act;

**AND WHEREAS** the Council of The Corporation of the City of Niagara Falls deems it desirable to delegate its powers and authority under section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 to the Director of Planning, Building and Development or his or her designate, when the Director of Planning, Building and Development is unable to conduct his or her duties pursuant to this by-law through illness or otherwise.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:**

1. In this by-law,

“development” means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the *Municipal Act* or of sites for the location of three or more mobile homes as defined in subsection 46(1) of the *Planning Act* or of sites for the location of three or more community homes as defined in subsection 46(1) of the *Planning*

*Act*, but does not include the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.

2. All the lands lying within the limits of the City of Niagara Falls are hereby designated as a site plan control area.
3. The class or classes of development that may be undertaken in the site plan control area without the approval of plans and drawings otherwise required under subsections 41(4) or 41(5) of the *Planning Act*, R.S.O., 1990, c.P.13 are hereby defined as follows:
  - (a) Any residential development that is proceeding by plan of vacant land condominium and any residential building containing less than three dwelling units, and buildings and structures accessory thereto.
  - (b) An addition or alteration to a building or structure mentioned in clause (a) above.
  - (c) Any building or structure located on a parcel of land owned and operated by the City of Niagara Falls, the Niagara Peninsula Conservation Authority, the Government of Ontario, or any Authority, Board or Ministry of the Province of Ontario or the Government of Canada.
  - (d) Any structure erected for the purposes of flood or erosion control by the Niagara Peninsula Conservation Authority.
  - (e) Any building or structure permitted under the OS 6 zone.
  - (f) Any agricultural building or structure, save and except for greenhouses greater than 2000 square metres.
  - (g) Any building or structure permitted as part of any extractive industrial use licensed under the *Aggregate Resources Act*, R.S.O. 1990, c.A.8.
4. Notwithstanding any clause contained in paragraph 3 above, the Council of the Corporation of the City of Niagara Falls may impose, as condition of a zoning by-law amendment, site plan control on any use otherwise exempt from site plan control, without amendment to this by-law.
5. Notwithstanding any clause contained in paragraph 3 above, the Committee of Adjustment may impose, as condition of a minor variance or a consent, site plan control on any use otherwise exempt from site plan control, without amendment to this by-law.
6. Notwithstanding any of the provisions of section 3 of this by-law, the approval by Council of the plans and drawings referred to in subsections 4 and 5 of Section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 shall be required for any non farm residential development on the lands located within Special Policy Area “37” in the City’s Official Plan.
7. All applications submitted to the Corporation of the City of Niagara Falls shall conform to the policies within the Site Plan Control Policy.

8. The Corporation of the City of Niagara Falls may regulate, through site plan control, matters relating to exterior design, including without limitation, the character, scale, appearance and design features of buildings and their sustainable design in accordance with Official Plan policies which have been adopted.
9. The Corporation of the City of Niagara Falls may regulate, through site plan control, matters relating to sustainable design elements on any adjoining highway under the City's jurisdiction or the Region of Niagara's jurisdiction, including without limitation, trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities in accordance with Official Plan policies which have been adopted by Council.
10. The approval of the drawings that make up the site plan may be subject to a requirement that the applicant/owner enter into one or more agreements with the City which agreements may, at the sole discretion of the City, require the applicant to post such security of performance as the City, in its sole discretion, considers appropriate.
11. The Council of the Corporation of the City of Niagara Falls hereby delegates to and appoints the Director of Planning, Building and Development or his or her designate when the Director of Planning, Building and Development is unable to conduct his or her duties pursuant to this by-law through illness or otherwise, to execute any of the powers and authority of Council under section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 except the authority to define any class or classes of development as stated in clause 41(13)(a) of the said Act.
12. Any approval granted in accordance with this by-law shall be deemed to be subject to the terms of any agreement required as a condition of that approval. Failure to adhere to the terms of any agreement required as a condition of an approval, including, without limiting the generality of the foregoing, failure to post or maintain any required securities, shall nullify that approval. In the event an approval is nullified due to a failure to adhere to the terms of an agreement, any and all development that has been undertaken in purported reliance upon the nullified approval shall be deemed to have been undertaken without the approval of Council.
13. Notwithstanding any clause contained in this by-law, the Director of Planning, Building and Development, or his or her designate, may amend an approved site plan drawing and/or site plan agreement with a redline revision to facilitate a change, alteration or modification that is considered minor in the opinion of the Director of Planning, Building and Development or his or her designate.
14. The Mayor and Clerk are hereby authorized to execute on behalf of and under the seal of The Corporation of the City of Niagara Falls any agreement made pursuant to Section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 and provided for by this by-law.
15. By-laws No. 2001-103, 2003-28 and 2004-152 are hereby repealed.

Passed this twenty-fifth day of August, 2011.

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DEAN IORFIDA, CITY CLERK

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JAMES M. DIODATI, MAYOR

First Reading: August 25, 2011  
Second Reading: August 25, 2011  
Third Reading: August 25, 2011