

## WATER AND SEWER BILL ADJUSTMENT POLICY

**WHEREAS**, the Niagara Falls Water Board ("NFWB") receives claims from customers challenging high water and or sewer bills regarding the consumption billed, and

WHEREAS, the NFWB desires to implement a policy and standard for processing, determining and settling such claims, and

**WHEREAS**, the NFWB is authorized to correct legitimate errors in billing and may waive the imposition of penalties and interest arising from the nonpayment of the water and or sewer rents in the context of compromising a claim pursuant to the NFWB's general authority to compromise and settle claims arising from contracts; and

**WHEREAS**, the NFWB was created by the state under Article 5, Title 10-B of the New York State Public Authorities Law and Section 1230-j of the above statute authorizes the NFWB to impose and collect fees, rates and other charges, and

**WHEREAS**, it is within the sole discretion of the NFWB to charge and collect penalties and interest, and

**WHEREAS**, Section 1230-f, Title 10-B, Article 5 of the Public Authorities Law authorizes the NFWB "to enter into contracts...and to sue and be sued", and the NFWB has the inherent power to compromise claims arising under the NFWB'S contracts; and

**WHEREAS**, claims for overcharge that are supported by sufficient facts may warrant consideration by the NFWB to consider and agree to a compromise based upon the claimant's good faith opposing contentions and facts; and

**WHEREAS**, the consideration the parties receive under this policy is the avoidance of protracted and costly litigation; and

**WHEREAS**, NFWB is not prohibited from settling claims if it acts with competent authority, in good faith, and for sufficient consideration.

## NOW THEREFORE BE IT

**RESOLVED**, that the following Water and Sewer Adjustment Policy be and is hereby adopted:

1. The Director of Financial Services subject to the approval of the NFWB legal counsel is hereby authorized to receive, review and adjust bills in accordance with the following.

- 2. This policy shall apply to all customers/users except that Commercial, Small Industrial, Industrial, Significant Industrial Users and Non-Residential (Out of District) Users may only be adjusted by recommendation to the NFWB by the Director of Finance and the approval by Resolution of the NFWB. Residential, Industrial, Significant Industrial Users and Non-Residential (Out of District) Users must be at least 2.5 times higher than the average actual bill over the past year to qualify. Residential properties shall be defined as single and two-family residences. Apartment buildings (two units or more) shall be considered commercial properties.
- 3. Customer accounts must be current for consideration under this program. Accounts transferred to taxes will be considered outstanding, whether paid in taxes or not.
- 4. Claimants must complete and file a claim form provided by the NFWB with the NFWB within 30 days of the date of the bill. Late claims will be presented to the Board of Directors for approval, if eligible under the above conditions.
- 5. Claims are limited to one every two (2) years from the date of the claim for each property and not per owner.
- 6. The adjustment shall be based upon an average of the four (4) previous quarters of actual consumption plus at least fifty percent (50%) of the registered sewer consumption and at least fifty percent (50%) of the registered water consumption.
- 7. **Zero to 13** consumption will be treated as a minimum bill and be assigned the minimum consumption of 13.
- 8. Adjustments for both water and sewer, combined, may not exceed \$1,000.00 per claim, without Board resolution and approval.
- 9. In the event a Payment Installment Agreement is implemented the claimant/customer must remain current with all water and sewer bills during the payment period. In the event of default in the Payment Installment Agreement the initial charges including penalties and interest in accordance with the rules and regulations of the NFWB shall be restored to the account. This rate is currently set at 6% per quarter on all outstanding balances. All installment payments must be completed by the 15<sup>th</sup> day of November each year to avoid a transfer of the account balance to the City of Niagara Falls to be added to the tax roll.
- 10. All claims based upon leaks must be repaired within 1-2 weeks of initial discovery by the claimant/customer.
- 11. The Niagara Falls Water Board may discontinue this policy at any time.
- 12. In the event of any inconsistencies between the Policy and the Rules and Regulations of the Niagara Falls Water Board, the Rules and Regulations of the Niagara Falls Water

	Board shall control, except as expressly determined by Resolution of the Niagara Falls Water Board pursuant to the Policy.
13.	This <i>amended</i> policy shall be effective upon adoption.