

SEWAGE SYSTEM MANAGEMENT AGREEMENT

This Agreement dated as of the 6th day of April, 1998

BETWEEN:

THE REGIONAL MUNICIPALITY OF NIAGARA

Hereinafter referred to as "the Region"

OF THE FIRST PART;

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter referred to as "the Corporation"

OF THE SECOND PART;

WHEREAS this Agreement is being entered into pursuant to the Building Code Act (hereinafter called the "Act"), for the purpose of delegating to the Region certain responsibilities under the Act and the Building Code, as they are from time amended, as set out herein with respect to sewage systems (with a capacity of 10,000 litres per day or less);

NOW THEREFORE IN CONSIDERATION of the mutual covenants herein contained, the parties hereto hereby agree as follows:

ARTICLE ONE

GENERAL PROVISIONS

1.01 Application:

This Agreement shall be applicable to all sewage systems located upon all lands located within the participating municipalities and those lands over which the Regional Municipality of Niagara exercises jurisdiction for the responsibilities under the Building Code Act and the Building Code (hereinafter called the "Lands").

1.02 Effective Date:

This agreement is deemed to come into operation on the date hereof.

1.03 Duties:

The Regional Municipality of Niagara shall faithfully carry out its duties hereunder in accordance with the Act and the Building Code in force from time to time, this Agreement, and any other legislation contemplated hereunder.

ARTICLE TWO

DEFINITIONS

2.01 In this Agreement,

- (a) "Act" means the Building Code Act, 1992, including amendments thereto;
- (b) "building code" means the regulations made under Section 34 of the Act.
- (c) "inspector" means an inspector appointed under section 32.1 of the Act, 1992 as amended;
- (d) "region" means the Regional Municipality of Niagara;
- (e) "Sewage System" means any works for the collection, transmission, treatment and disposal of sewage or any part of such works to which the Act applies, with a capacity of 10,000 litres per day or less;

- (f) "director" means that individual appointed by the Lieutenant Governor in Council as director of the Ontario Buildings Branch pursuant to Section 2 of the Building Code Act, 1992 as amended;

ARTICLE THREE

SERVICES OF THE REGION

3.01 The Region shall provide the following services in relation to the Lands:

- (a) Must carry out an inspection of land which is planned to be divided by severance, where no municipal sewage services are proposed, to insure that each lot will be suitable for the installation of a sewage system.
- (b) Inspection of properties prior to the issuance of a permit for the construction, installation, establishment, enlargement, extension or alteration of a sewage system.
- (c) Following the issuance of a permit, inspection and reinspection when necessary, of the sewage system installations to ascertain compliance with the permit and other requirements under the Act or Building Code.
- (d) Land inspections to determine the acceptability of applications for minor variances or lot line adjustments, as they relate to existing and proposed sewage systems and review of official plans and zoning by-laws and amendments to ensure compliance with provisions of the Act and Building Code relating to sewage systems.
- (e) Issue permits under the Act and Building Code relating to Sewage Systems (a "permit").
- (f) Receive and process applications and requests related to activities listed in paragraphs (a) through (e) of this section.
- (g) Provide reports and comments on minor variances and severances directly to the appropriate planning authority.
- (h) Review planning documents including, but not limited to, subdivision proposals, draft official plans, and proposed amendments, to ensure compliance with provisions of the Act and Building Code relating to sewage systems.

- (i) Inspect properties prior to the issuance of Building Permits to confirm the impact on existing sewage systems.
- (j) Attend meetings of the Councils of participating municipalities and its committees to discuss matters relating to any provisions of the Act or Building Code relating to sewage systems.
- (k) Maintain adequate records of all documents and other materials used in performing the duties required under this Agreement.
- (l) Upon reasonable notice by the participating municipalities, provide reasonable access to the participating municipalities of all records kept under 3.01(j).
- (m) Consult with various groups regarding compliance with provisions of the Act and Building Code relating to sewage systems.
- (n) Respond to inquiries made by any person under the Freedom of Information and Protection of Privacy Act and related Regulations, as amended from time to time, or through any other legal channel.
- (o) Investigate complaints and malfunctioning sewage systems, undertake compliance, counselling and preparation of reports for abatement action as it relates to existing and proposed Sewage Systems.
- (p) Issue orders under the Act relating to sewage systems.
- (q) Prepare documentation necessary for prosecution activities relating to sewage systems under the Act and the Building Code. Administer, including prosecuting, proceedings relating to sewage systems pursuant to the Provincial Offences Act, R.S.O. 1990, c. P.33.
- (r) The Region shall provide all forms necessary for the administration of this Agreement.
- (s) Any other matters related to the administration or enforcement of the Act or Building Code relating to sewage systems.

ARTICLE FOUR

EXECUTION OF AGREEMENT

4.01 The Regional Chair and the Regional Clerk are authorized and directed to execute agreements with any area municipalities which wish the Region to carry out the regulation of small, on-lot sewage systems for them.

ARTICLE FIVE

FEES

5.01 Collection of Fees:

The Region shall collect and retain all fees, as set out in Schedule "A", payable by any person for work performed by the Region hereunder as compensation for its services provided hereunder and all persons required to pay any such fee shall pay the fee to the Public Health Department.

5.02 Amendment of Fee Schedule:

The Region shall have the sole discretion, acting reasonably, to amend the fees as set out in Schedule "A" from time to time.

ARTICLE SIX

INSPECTORS

6.01 Qualifications:

Pursuant to the Regulations enacted with respect to sewage systems under the Act the following are the prescribed qualifications for persons appointed under the Act as inspectors whose duties include plans review or inspection under the Act of sewage systems:

- (a) Subject to the temporary exemption as outlined in paragraph below, the person must have successfully completed an examination administered by the Ministry of Municipal Affairs and Housing of the person's knowledge of the Act, the building code and the construction, maintenance and operation of sewage systems; and
- (b) The person must file the following information with the director in a form established by the director:
 - i) the person's name and address;

- ii) the name and address of the municipality, county, board of health or conservation authority that has appointed the person as an inspector under the Act;
 - iii) if the person qualifies for the temporary exemption, information concerning the person's employment by a municipality, county, board of health or conservation authority or the Ministry of the Environment during the period from April 5, 1996 to April 5, 1998 in respect of the examination of plans and inspection of sewage systems to determine compliance with Part VIII of the Environmental Protection Act; and
 - iv) whether the person has successfully completed the examination referred to in Clause (1)(a) and, if so, the date and place of the examination.
- (c) The person shall update the information required in (b) every three years.
- (d) The qualifications set forth in (b) do not apply until April 6, 1999 to a person who establishes to the director that the person has, during the period from April 5, 1996 to April 5, 1998, carried out plans review or inspections of sewage systems for at least four months as an employee of a municipality, county, board of health, conservation authority or the Ministry of the Environment to determine compliance with Part VIII of the Environmental Protection Act.

6.02 Appointment:

Regional Council shall appoint as sewage system inspectors for the purposes of carrying out the responsibility for the issuance of permits for the regulation and operation of sewage systems as prescribed by the Building Code Act, 1992 and its Regulations, all individuals appointed from time to time as Public Health Inspectors for the Region.

ARTICLE SEVEN

LIABILITIES AND INSURANCE

7.01 Liability of the Region:

The Region shall indemnify and save harmless the participating municipality from and against all claims, demands, losses, costs, damage, actions, suits or proceedings by whomsoever made, brought or prosecuted in any manner based upon, arising out of, related to, occasioned by or attributable to the activities of the Region in executing the work under this Agreement.

7.02 Insurance:

For the term of this Agreement, the Region will, at its expense, maintain liability insurance contracts of the nature, in the amounts and containing the terms and conditions, if any, set out in Schedule "B".

ARTICLE EIGHT

TERM AND TERMINATION OF AGREEMENT

8.01 Term:

This Agreement shall remain in full force and effect continuously until such time as Notice of Intention to Terminate Agreement is given in accordance with the provisions of Articles 8.02 and 8.03.

8.02 Notice of Intention to Terminate Agreement:

In the event that either party wishes to terminate this Agreement they shall give the other party one calendar year's notice of intention to terminate.

8.03 Termination of Agreement:

Where either party gives Notice of Intention to terminate in accordance with Article 8.02, this Agreement shall remain in full force and effect for one calendar year from the date of Notice of Intention to terminate.

ARTICLE NINE

MISCELLANEOUS

9.01 Preamble:

The preamble hereto shall be deemed to form an integral part of this agreement.

9.02 Gender. etc.:

Whenever the singular form is used in this Agreement and when required by the context, the same shall include the plural, the plural shall include the singular and the masculine gender shall include the feminine and neuter genders.

9.03 Amendments:

This Agreement shall not be changed, modified, terminated or discharged in whole or in part except by instrument in writing signed by the parties hereto, or their respective successors or permitted assigns, or otherwise as provided herein.

9.04 Assignment:

This Agreement shall not be assignable by either party hereto without the written consent of the other party first being obtained.

9.05 Notices:

Any notice, report or other communication required or permitted to be given hereunder shall be in writing unless some other method of giving such notice, report or other communication is expressly accepted by the party to whom it is given and shall be given by being delivered or mailed to the following addresses of the parties respectively:

(a) To the Regional Municipality:

The Regional Municipality of Niagara
2201 St. David's Road, P.O. Box 1042
Thorold, Ontario
L2V 4T7

Attention: Regional Clerk

(b) To the Municipality:

The Corporation of the Town of Pelham
Pelham Municipal Building, 20 Pelham Town Square
P.O. Box 400
Fonthill, Ontario L0S 1E0

Attention: Town Clerk

Any notice, report or other written communication, if delivered, shall be deemed to have been given or made on the date on which it was delivered to any employee of such party, or if mailed, postage prepaid, shall be deemed to have been given or made on the third business day following the date on which it was mailed (unless at the time of mailing or within forty-eight hours thereof there shall be a strike, interruption or lock-out in the Canadian postal service, in which case service shall be by way of delivery only). Either party may at any time given notice in writing to the other party of the change of its address for the purposes of Article 9.03.

9.06 Headings:

The section headings have been inserted for the convenience of reference only and shall not be construed to affect the meaning, construction or effect of this Agreement.

9.07 Applicable Law:

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

9.08 Invalidity of Provision:

The invalidity or unenforceability of any provision of this agreement, or any covenant in it, shall not affect the validity or enforceability of any other provision or covenant in it and the invalid provision or covenant shall be deemed to be severable.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed as of the day and year first above written.

The Regional Municipality of Niagara

(Corporate Seal)

APPROVED AS TO FORM
BWB
REGIONAL SOLICITOR

Per: Debbie M. Zimmerman
Debbie M. Zimmerman, Regional Chair

Per: Thomas R. Hollick
Thomas R. Hollick, Regional Clerk 980505

The Corporation of the Town of Pelham

(Corporate Seal)

Per: Ralph Beamer
Ralph Beamer - Mayor

Per: Murray Hackett
Murray Hackett- Chief Administrative
Officer/Clerk

SCHEDULE "A"

FEE SCHEDULE PUBLIC HEALTH DEPARTMENT

ONTARIO BUILDING CODE ACT

Sewage System Applications

- Less than 10,000L daily including major repair \$500.00
- Less than 10,000L daily involving minor repair \$250.00

Land Severance Applications &. Niagara Escarpment Commission Applications

- Each parcel severed \$175.00
- Parcel retained \$175.00

Subdivision, Condominiums

- Each lot or unit \$175.00

Minor Variances

- Each lot \$175.00

NOTE: The above fees apply only to those lots serviced
by private sewage systems

Special Requests

- For preliminary site inspections related to proposed lot
development where no other application has been made \$100.00

NOTE: Standard application fees will be reduced by this
amount if made within one year

- For routine inspections after business hours \$175.00

Real Estate Inquiries Which Include Site Inspection Visits

- Initial Fee \$200.00
- Each additional hour or part thereof over 2 hours \$100.00
- Real Estate Inquiries which include existing file searches only \$100.00

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SCHEDULE "B"

Liability Insurance Contracts of the Region

(Paragraph 7.02)

Commercial General Liability Insurance in the amount of at least \$5,000,000