

SERVICE AGREEMENT  
Building and Enforcement Service Unit

THIS AGREEMENT made this 23<sup>rd</sup> day of September, 2003.

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter referred to as

"Pelham"

- and -

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET

Hereinafter referred to as

"Wainfleet"

WHEREAS Pelham and Wainfleet (hereinafter collectively referred to as the "Municipalities" or the "parties) recognize the need for further joint efforts in regard to the provision of certain services;

AND WHEREAS there are existing agreements in place for the shared provision of services;

AND WHEREAS the parties hereto recognize that the cost and service efficiencies can be achieved through a restructuring of the building and enforcement services delivery model of each respective municipality to create one building and enforcement delivery model for both municipalities (hereinafter referred to as the "Building and Enforcement Service Unit").

AND WHEREAS the parties have agreed to enter into this agreement to set out the terms and conditions in regard to the creation of the Building and Enforcement Unit for the parties;

NOW THEREFORE THIS AGREEMENT WITNESSETH, that in consideration of the mutual covenants and agreements herein contained the parties hereto agree as follows:

1. (a) Each of the parties hereto agrees that it shall pass the necessary resolutions and by-laws and carry out whatever steps or procedures are necessary in order to integrate their respective building departments into the Building And Enforcement Unit, to carry out those specific matters as set out in this agreement and to give full force and effect to the terms of this agreement.

(b) The parties hereby acknowledge that a joint service committee has been created by the parties for the administration of this agreement (the "Joint Committee") will be made up of members as defined in the approved terms of reference for that committee and will be involved in the administration of this agreement. The administration procedures for the operation of the Joint Committee itself, including the consideration and resolution of all matters pursuant to this agreement shall be in accordance with the guidelines and operating procedures of the Joint Committee as established by it from time to time.

2. (a) The following services shall be provided in the administration of the Building and Enforcement Service Unit:

- (i) enforce the Ontario Building Code Act and all other by-laws as they may impact on the issuance of a building permit;
- (ii) compliance requests; and
- (iii) all other services incidental and necessary hereto.

The above-mentioned services shall hereinafter be referred to as the "Services".

3. Initially, the Services shall be carried out in accordance with the respective policies and standards of each of the individual parties hereto but it is the intention of the parties to commit to one set of unified policies during the term of the agreement.

4. The parties agree to co-operate in the goal of creating a unified set of policies and standards for the Services and in any event agree that the method of administration of all such policies and standards will be that as set out in this agreement.

5. (a) The director of building and enforcement services in Pelham (the "Director") shall be responsible for the general administration of the Services and each party hereto agrees that it will pass the necessary by-law in order to appoint the Director as each respective party's chief building official for the purpose of the enforcement of the *Building Code Act* (the "Act"). The job description for the duties of the chief building official to be carried out by the Director shall be that as set out in Schedule "A" to this agreement. The Director shall have the duties of the chief building official as so set out in Schedule "A" as well as those duties as specified in this agreement. There shall be no change to the duties of the chief building official unless and until they have been recommended by the Joint Committee and approved by the councils of the respective parties, subject to the provisions of paragraph 17 below. The Chief Building Official is persona designate under the act and the parties shall recognize the independence of the Director in his capacity as chief building official as contemplated by the Act respecting the mandate of each respective council of the municipality to appoint a chief building official and such inspectors as are necessary for the enforcement of the Act and regulations.

The parties agree that the chief building official must act as an independent individual in making decisions within the jurisdiction of the Act and the regulations thereto.

(b) Each of the parties hereby agrees that it will pass the necessary by-law in order to appoint Ralph Bradley as the chief building official pro tem for the period of the Term (as defined in paragraph 7 (a) below) only in order to fill in for the Director during his absence at any time.

6. Pelham shall be responsible for the hiring of all employees necessary for the administration of the Building Department except those employees as specified otherwise in this agreement. All those employees for whom Pelham shall be responsible shall be hired directly by Pelham, paid by Pelham and shall be considered employees of Pelham for all purposes.

7. (a) It is acknowledged that since Pelham is responsible for the employment of all employees referred to in paragraph 6 above as well as incurring other additional costs that Pelham requires a specific commitment from Wainfleet to the terms and provisions of this agreement throughout the term of this agreement. As such the parties hereto agree that the term of this agreement shall be for a period commencing as of the 1st day of October, 2003 to the 30th day of November, 2006. It is further agreed that this agreement shall automatically renew for a further two year period from the end of the Term, provided, however, that any party may opt out of such renewal if it gives the other party notice that it wishes to so opt out of this agreement no later than six months prior to the end of the Term; and

(b) Any party to this agreement may opt out of this agreement at any time provided that it gives either six (6) months notice in writing to the other parties or pays to Pelham a flat amount equal to the administration costs paid by that party over the previous six (6) months as calculated in accordance with Schedule "D" plus six (6) months of salary and benefits for a building inspector at the job rate of a building inspector. In the event that any such party shall give the written notice as required pursuant to this agreement it shall still be required to continue to abide by the terms of this agreement for that six (6) month period including use of all the Services as are being provided to that party at the time such notice is given.

8. No party will employ any other personnel whatsoever for the purpose of carrying out any of the Services which are provided to that party, unless and until the hiring of any such additional personnel has been recommended by the Joint Committee and approved unanimously by the councils of the respective parties, subject to the provisions of paragraph 18 below. The parties hereto acknowledge that this provision is necessary to protect Pelham given that it has taken on the responsibility and cost of hiring additional personnel and incurring all other additional expenses in regard to the carrying out of the terms of this agreement.

9. The Director shall be responsible for the hiring of those personnel as specified in this agreement who are to be hired by Pelham and that he/she shall be ultimately responsible for the enforcement of the terms and conditions of this agreement in regard to carrying out said terms and providing the Services to the parties hereto.

The Director shall be responsible for the training of all necessary personnel including insuring that all such personnel are, where necessary, familiar with all of the policies and standards of each of the respective parties hereto.

10. Pelham will be required to hire a sufficient number of additional building inspectors in order to carry out the terms of this agreement. It is contemplated that the Director will remain in Pelham's municipal offices and that he/she will administer staff and the Building and Enforcement Unit from that location. It is expected that the Director will still be required to carry out any building inspections and all relevant enforcement procedures, which are necessary from time to time in order to comply with the act and to provide the Services to the parties in an efficient and expedient manner.

11. The by-law and parking enforcement will be continued to be carried out by an independent contractor. The parties acknowledge that there is an existing memorandum of understanding, dated December 22nd, 1998 between the parties hereto in regard to parking enforcement matters and that agreement will continue to be honoured in accordance with its terms. In addition, the parties agree that the independent contractor to be employed for providing parking and by-law enforcement should be the same person for all of the parties and therefore each party agrees to take the necessary steps including the appointment of personnel and the passing of any by-law as necessary, if same has not been done so already, in order to enter into a contract with the same contractor.

12. Subject to the provisions of paragraph 2, the parties acknowledge that it is more efficient to have the independent contractor referred to in paragraph 11 above carry out the duties of enforcement of property standards. Therefore each party hereto, if it has not done so already, agrees to pass the necessary resolution or by-law in order to appoint the person referred to in paragraph 11 as the property standards officer under the Act (which said officer shall hereinafter be referred to as the "By-law and Property Standards Officer"). The duties of the By-law and Property Standards Officer shall be those as set out in Schedule B to this agreement.

13. The hours of operation of the Building Department shall be those as set by the Director in order to most efficiently and expediently provide the Services to the parties.

14. The parties agree to support the communication systems that have been put in place and will permit all personnel, where necessary, to access the systems from any office, to ensure that the Services can be provided in a more efficient manner and to ensure more efficient record keeping and tracking of the Services.

15. It is agreed that Wainfleet shall distribute the revenues and expenditures from the Services in accordance with Schedule "C" to this agreement.

16. (a) All complaints of a party to this agreement or complaints by any other person in regard the provisions of the Services shall be made in writing to the Director with a copy of such complaint to be given to the chief administrative officer of Pelham and the Clerk-Treasurer of Wainfleet.

(b) All complaints in regard to the Director personally shall be in writing and shall be made to the chief administrative officer of Pelham.

(c) Any complaint under 16(a) or (b) above which is not resolved in a manner which is satisfactory to the complainant shall be referred to the Joint Services Committee and the decision of the Joint Committee in regard to such complaint shall be, provided it complies with all applicable laws, final and binding.

17. (a) In the event that any matter which is required by the terms of this agreement to be referred by the Joint Committee to the councils of the parties for approval is not unanimously approved by all of the respective councils and of the parties then such matter shall be referred back to the Joint Committee for further recommendations to the parties.

(b) The parties intend in future to insert an agreed arbitration clause into this agreement and upon the same being approved by the parties it shall be deemed thereafter to be and form part of this agreement.

18. Each party agrees to obtain written confirmation from its insurer that it has adequate liability, errors and omissions and all other applicable insurance coverage in place to cover all personnel to be employed in the administration of the Building Department as well as the individual parties hereto. Each party agrees to provide the other parties with copies of such confirmation and agrees to maintain all such insurance throughout the Term or any renewal thereof.

19. Any notice or other writing required or permitted to be given under this agreement or for the purpose hereof (referred to in this paragraph as a "notice") to any party shall be sufficiently given if delivered personally, or if sent by prepaid registered mail or if transmitted by fax or other form of recorded communication tested prior to transmission to such party:

(a) in the case of notice to Pelham at 20 Pelham Town Square, P. O. Box 400, Fonthill, Ontario, L0S 1E0, fax number (905) 892-5055;

(b) in the case of notice to Wainfleet at P. O. Box 40, 19M43 Highway 3, Wainfleet, Ontario, L0S 1V0, fax number (905) 899-2340, or any such address as the party to whom such writing is to be given shall have last notified the party given the same in a manner provided in this paragraph. Any notice delivered to the party to whom it is addressed as provided in this paragraph shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a business day then notice shall be deemed to have been given and received on the business day next following such day.

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

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the  
date first above written.

Per: B. Brown  
- Mayor

THE CORPORATION OF THE TOWNSHIP OF  
WAINFLEET

Per: Gord Henry Mayor

Per:  - Clerk



## **SCHEDULE "A"**

### **JOB DESCRIPTION: CHIEF BUILDING OFFICIAL SHARED BUILDING AND ENFORCEMENT SERVICES**

**Position Title:** Director of Building & Enforcement Services

**Primary Functions:** Plans, organizes, manages and directs all the activities of the Building and Enforcement Services Department for the municipalities including duties of Chief Building Official, By-law Enforcement Officer and Property Standards Officer.

**Reporting Relationship:** Reports to the Chief Administrative Officer of the Town of Pelham.

**Duties and Responsibilities subject to paragraph 2 of the agreement:**

1. Enforces the Ontario Building Code under the Building Code Act and any other applicable by-laws in effect within the municipalities.
2. Submits reports, on a monthly basis, to the councils of the Municipalities, to Statistics Canada and to associated agencies with respect to building activity.
3. Licences plumbers operating within the Town of Pelham.
4. Enforces all by-laws and site plan agreements of the municipalities (unless statutory authority provides otherwise.)
5. Acts as zoning administrator which includes responding to all letters of request for zoning information, work orders and related inquiries and examining site plans submitted with applications for building permits to ensure that applicable zoning regulations are being complied with.
6. Provides supervision, guidance and training to the Building Department Staff including an annual performance appraisal.
7. Attends Council and Committee meetings of the Municipalities as required from time to time.
8. Sets annual goals and objectives for the Building Department to meet the Corporate goals and objectives.
9. Co-operates with Municipal Freedom of Information officer in complying with Provincial legislation on Freedom of Information and Protection of Privacy matters.
10. Oversees the maintenance of a standardized filing system for the Building Department files.
11. Is a member of the Management team of Pelham and acts in an advisory capacity to the management committee of Wainfleet.

12. Performs other duties as assigned by the Chief Administrative Officer of Pelham.
13. Prepares budgets for building department and oversees building and maintenance projects.
14. Coordinates inter-municipal service sharing with participating municipalities.
15. Administers the parking enforcement service, which Pelham provides for the participating municipalities including prosecution of parking tickets from four municipalities in two separate court locations.

**Working Relationships:**

- a. **With Council** – provides advice and assistance in the development and evaluation of building and by-law enforcement policies and implements and administers the policies.
- b. **With Chief Administrative Officer of Pelham** – receives direction, discusses corporate policies, plans and priorities, provides advice on building and by-law enforcement matters.
- c. 1. **With the Public** – responds to inquiries and complaints – maintains courteous relations while enforcing regulations strictly but tactfully, encourages self-compliance.
- d. 1. **With Staff** – maintains harmonious working relations with senior staff to coordinate activities and maintains co-operation and courtesy with others.
- e. **With subordinate staff** – plans, organizes and assigns work – directs operations, provides instruction and guidance – reviews performance.
- f. **With external contacts** – usual courtesy and co-operation in obtaining and furnishing information. Strict but tactfully enforcement of regulations and by-laws.

**Qualifications:** Recognized advance specialized training beyond secondary school – 3 years equivalent.

**Experience:** 5 to 7 years experience in municipal building and by-law enforcement department.

## **SCHEDULE "B"**

### **JOB DESCRIPTION: BY-LAW ENFORCEMENT AND PROPERTY STANDARDS OFFICER SHARED BUILDING AND ENFORCEMENT SERVICES**

**Subject to paragraph 2 of the agreement:**

**Position Title:** By-law Enforcement Officer and Property Standards Officer

**Primary Functions:** Performs by-law enforcement, parking enforcement and property standards duties in accordance with the policies and procedures of the municipalities.

**Reporting Relationship:** Reports to the Director of Building and Enforcement Services of Pelham.

#### **Duties and Responsibilities:**

1. Provides enforcement of the municipalities' by-laws, including property standards and parking, in accordance with the policies and procedures of the municipalities and provincial and federal legislation.
2. Investigates formal complaints received by the municipalities.
3. Meets with all parties concerned including apparent offenders and complainants as necessary to ensure thorough enforcement.
4. Provides all necessary warnings and notices both verbal and written as necessitated in the circumstances.
5. Issues Provincial Offence Notices as necessary for minor offences where by-laws have set fines approved.
6. Issues information for major offences, for frequently occurring minor offences and for offences under by-laws not having set fines approved.
7. Makes court appearances as necessary for municipal prosecutions.

#### **Working Relationships:**

1. **With the Public** – responds to inquiries and complaints, maintains courteous relations while enforcing regulations strictly but tactfully, encourages self and voluntary compliance.
2. **With Other Staff** – maintains harmonious relations with other staff to coordinate activities and maintain cooperation and courtesy.
3. **With External Contacts** – usual courtesy and cooperation in obtaining and furnishing information.

**Qualifications:**

Completion of community college – Law & Security or equivalent education and experience.

**Experience:**

3 to 5 years in a municipal by-law enforcement department or equivalent experience.

## **SCHEDULE "C"**

### **REVENUE AND EXPENSE DISTRIBUTION**

#### **SHARING OF ADMINISTRATION, COSTS AND EXPENSES**

1. It is agreed that each party shall collect and retain their own revenue from all Services provided pursuant to this agreement.
2. It is agreed that Pelham will bill Wainfleet and quarterly for the actual costs for the building inspections carried out in regard to each such party which costs shall be based on the hourly costs, benefits and mileage charges for the building inspectors utilized and as reflected in their actual time sheets. Wainfleet agrees to pay such amounts immediately upon receipt of the invoices.
3. The costs of the administration of the Building Department including but not limited to payment of the Director's salary shall be shared by the parties – Wainfleet 25%, Pelham 75%. Pelham shall bill on June 30<sup>th</sup> and December 31<sup>st</sup> of each calendar year or any renewal thereof for the costs of administration. Wainfleet agrees to pay all such invoices immediately upon receipt.
4. Wainfleet hereby delegates the authority to pay all such invoices pursuant to this agreement to its clerk-treasurer.