

**THE CORPORATION OF THE TOWNSHIP OF TUDOR AND CASHEL**

**BY-LAW NO.: 2013 - 34**

Being a By-Law authorizing execution of an Agreement  
between The Corporation of the Township of Faraday, The Corporation of the  
Township of Limerick and The Corporation of the Township of Tudor and Cashel

**WHEREAS** the Municipal Councils of The Corporation of the Township of Faraday, The Corporation of the Township of Limerick and The Township of Tudor and Cashel wish to enter into an agreement to provide for the Joint hiring of a Chief Building Official.

**AND WHEREAS** the Municipal Council of The Corporation of the Township of Faraday, The Corporation of the Township of Limerick and The Township of Tudor and Cashel have the authority conferred upon them by the Building Code Act, S.O. 1992, and the Municipal Act, 2001 as amended, for entering into such agreements;

**NOW THEREFORE** the Council of the Township of Tudor and Cashel hereby enacts as follows:

1. That the Reeve and the Clerk be and are hereby authorized to execute An agreement with The Corporation of the Township of Faraday and The Corporation of the Township of Limerick under the terms and conditions set out in said agreement hereto annexed and forming part of this By-Law.
2. This By-Law shall come into force and take effect on the 1<sup>st</sup> day of January, 2014, and that all former By-Laws governing such matters are hereby repealed.

Passed this 03<sup>rd</sup> day of December, 2013.

\_\_\_\_\_  
W. DONALDSON - REEVE

SEAL

\_\_\_\_\_  
BERNICE CROCKER - CLERK

## **AGREEMENT**

THIS AGREEMENT made this the 1<sup>st</sup> day of January, 2014

BETWEEN:

**The Corporation of the Township of Faraday**

(hereinafter referred to as **Faraday**)

-and-

**The Corporation of the Township of Limerick**

(hereinafter referred to as **Limerick**)

-and-

**The Corporation of the Township of Tudor and Cashel**

(hereinafter referred to as **Tudor and Cashel**)

Schedule "A" to By-Law 2

**WHEREAS:**

1. Faraday, Limerick and Tudor and Cashel each currently enforce the provisions of the Building Code Act and Building Code within their respective Municipalities;
  2. Section 3 (3) of the Building Code Act, S.O., 1992, c.23 as amended authorizes the Councils of two or more Municipalities to enter into an Agreement to provide for the joint enforcement of the Building Code Act and the Building Code within their respective Municipalities, to provide for the sharing of costs incurred in the enforcement of the Building Code Act within their respective Municipalities and to provide for the appointment of a Chief Building Official and Inspectors;
  3. Faraday, Limerick and Tudor and Cashel consider it desirable to employ a Chief Building Official to provide the necessary inspection services pursuant to the provisions of the Building Code Act, S.O., 1992, c.23 as amended in each Municipality including Class VI Sewage Systems;
  4. The parties have agreed to form a Committee to act in a management capacity for the purpose of reviewing the enforcement of the Building Code Act and making recommendations in that regard; and
  5. This Agreement has been authorized by By-Law by each of the parties hereto.
- IN CONSIDERATION OF** the mutual terms and conditions herein contained and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by each of the parties hereto) the parties hereby covenant and agree with each other as follows:

**DEFINITIONS:**

1. In this Agreement:
  - (a) "Building Code Act" means the Building Code Act, S.O., 1992, c.233 as amended and any successor thereto.
  - (b) "Building Code" means Ontario Regulation 403/97 as amended enacted pursuant to the provisions of the Building Code Act and any successor thereto.
  - (c) "Committee" means the North Hastings Inspection Services Committee (hereinafter referred to as the NHISC)

**TERM:**

2. This Agreement shall come into force and take effect upon the 1<sup>st</sup> day of January , 2014 and shall continue in full and force effect for a period of 4 years up to an including December 31, 2017 unless earlier terminated in accordance with the provisions of this Agreement.

Schedule "A" to By-Law 3

**SERVICES TO BE PROVIDED:**

3. This Agreement is intended to provide for the joint enforcement of the Building Code Act and the Building Code within each of the Municipalities that are parties to this Agreement and to provide for the sharing of costs incurred in the enforcement of the Building Code Act within each of the Municipalities.

**BUILDING INSPECTION SERVICES COMMITTEE:**

4. (a) The parties hereto hereby agree to establish a Committee to be known as the North Hastings Inspection Services Committee (hereinafter referred to as the NHISC) which shall:
  - (i) be responsible for and oversee the proper administration, management and operation of the enforcement of the Building Code Act and Building Code within the Municipalities that are the parties to this Agreement and to consult with the Chief Building Official regarding same;
  - (ii) Prepare and approve each year during the term of this Agreement a budget for the administration of the enforcement of the Building Code Act and Building Code which budget shall include revenue for estimated permit fees from each of the participating Municipalities, and expenses

such as employment costs, travel expenses, costs of training and education, telephone costs, office supplies, membership fees and administrative support required for the enforcement of the Building Code Act and Building Code. The parties hereby acknowledge that each budget shall be structured so that estimated revenues for the year will be equal to the estimated expenditures for the year in questions; and (iii) shall meet on a regular basis to review the annual budget and to make adjustments that may be necessary to adhere to the budget and to review the report prepared by the Chief Building Official on a regarding the number of permits issued and financial statement.

(b) The NHISC shall be composed of three members which are the three parties to

this Agreement. Each of the parties hereto shall appoint one individual from respective elected Councils to sit as members of the NHISC on behalf of each Municipality and the members of the NHISC shall hold office for the term of the Council that appointed them.

(c) If a vacancy or vacancies occur on the NHISC at any time or times, the Council

that appointed such member shall, as soon as possible, appoint another member of its elected Council to the NHISC who shall hold office for the remainder of the unexpired term of such member.

(d) The NHISC shall establish regularly scheduled meetings and designate a regular

meeting place or places. The Clerk of each of the participating Municipalities may attend the meetings in addition to the member from each Municipality but shall not have any voting privileges.

(e) The Chief Building Official may attend Committee meetings at the invitation of

the NHISC but shall not have any voting privileges.

Schedule "A" to By-Law 4

(f) Each member of the NHISC shall have one vote and all matters coming before the NHISC for approval or consideration shall, except as may otherwise be provided in this Agreement, be decided by a majority vote of those members attending such meeting. In the event of a tie vote, the matter before the NHISC for decision shall be deemed to have been denied or refused. The attendance of a majority of the members of the NHISC shall constitute a quorum at any Committee meeting.

(g) (i) Subject to the provisions of sub-paragraph 4 (g) (ii) of this Agreement, The Township of Faraday shall act as Treasurer for the NHISC and the Council for The Township of Faraday shall assign such members of its staff as it deems expedient to perform the services of the Treasurer. These services shall include the administering of and the accounting for all funds received by The Township of Faraday pursuant to this Agreement for the administration and enforcement of the Building Code Act and Building Code.

(ii) The parties to this Agreement may by a majority vote of all parties to this Agreement on or before December 31<sup>st</sup> in any year during this Agreement agree that a party other than The Township of Faraday act as Treasurer and upon that party agreeing to act as Treasurer in place of The Township of Faraday , that party shall assign such members of its staff as it deems expedient to perform the services of the Treasurer and assume the obligations of the Treasurer pursuant to this Agreement until such time as the parties hereto agree to appoint another party as Treasurer.

(h) The execution of documents authorized by the NHISC shall be evidenced by the

signatures of the Chair and the Vice-Chair.

(i) The Chairperson shall keep on file minutes and records of all business of the NHISC and Section 253 of the Municipal Act, 2001 shall apply with necessary modifications in respect of the documents kept.

(j) The NHISC shall maintain books, records and accounts of all actions, proceedings

and matters within its authority, which books, records and accounts shall be available to the councils of the parties hereto upon the request of any such Council.

(k) (i) The NHISC shall prepare a budget of the anticipated revenues and expenditures for each calendar year.

(ii) The parties agree that all building permit fees collected by each of the parties hereto shall be paid to The Township of Faraday which shall use the building permit fees as collected to pay the salaries and attendant expenses of the Chief Building Official.

(l) The NHISC shall be entitled to arrange for such legal and accounting services as

may be necessary or advisable for the proper management and enforcement of the provisions of the Building Code Act and Building Code.

Schedule "A" to By-Law 5

(m) The NHISC may direct The Township of Faraday to deposit any surplus revenue

received for building permit fees for any calendar year in a reserve account which may be used for any purpose authorized by this Agreement. In the event that the surplus funds in the reserve account exceed 150% of the revenue actually received by The Township of Faraday pursuant to this Agreement for the preceding calendar year, the NHISC shall reduce the amount of revenue required from each of the member Municipalities and recommend that the building permit fees in each Municipality be reduced accordingly until such time as the surplus funds held in the reserve account are less than 150% of the annual revenue received from the parties for permit fees.

#### **ADMINISTRATIVE DUTIES OF**

5. The parties hereto hereby agree that The Township of Faraday will hire the Chief

Building Official as recommended by the NHISC. The Township of Faraday shall be

reimbursed for the salaries and benefits payable to the Chief Building Official together

with associated administrative costs in accordance with the provisions of subparagraph 4

(k) (ii) of this Agreement. The duties of Township of Faraday shall include the following:

(i) The payment of salaries and benefits for the Chief Building Official in accordance

with the terms of the Wage By-Law for the Township of Faraday Salary Paid Employees;

(ii) The payment of Canada Pension Plan, Employment Insurance, Employer Health

Tax, Workplace Safety and Insurance premiums and all other usual expenses arising out of an employer/employee relationship;

(iii) The payment of any direct costs associated with the Chief Building Official such

as accommodation costs if his/her duties require it, membership fees, office supplies and direct administrative costs;

(iv) Segregating all financial transactions into general ledger accounts solely for use

pursuant to this Agreement;

(v) Maintaining accurate financial records of all costs incurred by The Township of

Faraday for the employment of the Chief Building Official and his / her operation for review by the NHISC if requested;

(vi) Preparing reports of budget to actual revenue and expenses for NHISC; review;

(vii) Preparing reports on the numbers of permits issued for NHISC review; and

(viii) Supervising in consultation with the NHISC, the performance of the duties of the

Chief Building Official.

Schedule "A" to By-Law 6

#### **DUTIES OF CHIEF BUILDING OFFICIAL:**

6. The duties required of the Chief Building Official shall be as set out in the Building Code

Act and shall include:

(i) Ensuring that services are provided in accordance with the Ontario Building Code

Act as amended;

(ii) Ensuring that all time limits as set out in the Act are met by scheduling work and

arranging personal relief and substitution when the work load warrants;

- (iii) Maintaining a weekly log of hours worked by the Chief Building Official and the Building Inspector;
- (iv) Reporting quarterly and/or as request, to the NHISC as to the value and number of permits issued in each of the Municipalities; and
- (v) Enforcement of Municipal By-Laws.

**RESPONSIBILITIES OF THE PARTIES TO THIS AGREEMENT:**

7. In addition to any responsibilities any of the parties to this Agreement may have pursuant to the provisions of this Agreement, each of the parties hereby agrees:

- (a) to on or before January 1, 2014 enact a Building By-Law pursuant to the provisions of Section of the Building Code Act in the form as recommended by the NHISC;
- (b) to pass such By-Laws as may be necessary throughout the term of this Agreement for the establishment of building permit fees within each Municipality in accordance with the NHISC budget as approved on a yearly basis;
- (c) appoint by By-Law a Chief Building Official and By-Law Enforcement Officer for each respective Municipality as recommended by the NHISC;
- (d) collect all building permit fees received by the Municipality in each calendar month and forward the building permit fees as collected to The Township of Faraday within 15 days of the end of the month for which the fees were collected.
- (e) act expeditiously and in good faith with respect to all of their obligations in accordance with the terms and provisions of this Agreement; and
- (f) authorize the proper signing officers to execute any documents, agreements or applications as may be required by the NHISC in accordance with the terms and provisions of this Agreement.

Schedule "A" to By-Law 7

**COURT PROCEEDINGS:**

8. The parties hereby acknowledge and agree that in the event that it becomes necessary in any of the Municipalities that are parties to this Agreement to take any court action to enforce the provisions of the Building Code Act., Building Code or Municipal By-Laws to respond to any action arising out of the enforcement of the Building Code Act, the Municipality in which the proceeding arises shall be responsible for authorizing a By-Law for the taking of such action or responding to such claim or appeal and shall also be responsible for any legal costs that may be incurred in undertaking or responding to the proceeding.

**INSURANCE:**

9. The parties hereto hereby acknowledge that the Chief Building Official / By-Law Enforcement Officer appointed as such pursuant to this Agreement is a statutory officers in each Municipality which appoints him / her as such by By-Law and the parties hereto agree that each Municipality that is a party to this Agreement shall take such steps as may be necessary to obtain and keep in place throughout the term of this Agreement insurance commonly referred to as Public Liability Insurance with an Insurance Company duly authorized by law to underwrite such insurance for that Municipality. The policy or policies of insurance shall indemnify the Chief Building Official / By-Law Enforcement Officer and Municipality for any claims arising from or as a consequence of or in any way

relating to the enforcement or failure to enforce the provisions of the Building Code Act.,  
Building Code and Municipal By-Laws within that Municipality. Each Municipality hereby  
further covenants and agrees to provide to the NHISC, upon request, evidence satisfactory to the NHISC that such insurance is in place throughout the term of this Agreement or any renewal thereof.

**DIVISION OF TIME:**

10. The parties hereto acknowledge that it is the intention of the Chief Building Official / By-Law Enforcement Officer to divide their time among the Municipalities that are parties to this Agreement in as equitable a manner as possible based on the number of permits outstanding for each Municipality at any one time.

**INDEMNIFICATION:**

11. Each of the Municipalities hereby agrees to indemnify and save harmless The Township of Faraday and its Councillors, officers, employees and agents from and against all actions, causes of action, losses, liens, damages, suits, Judgments, awards, orders, claims, fines, costs or demands which may arise either directly or indirectly or by reason of or as a consequence of or in any way related to the provisions or subject matter of this Agreement or for any action or actions properly taken pursuant to this Agreement within that Municipality, including, without limiting the generality of the forgoing, the enforcement of the provisions of the Building Code Act., Building Code and Municipal By-Laws within that Municipality by the Chief Building Official / By-Law Enforcement Officer.  
Schedule "A" to By-Law 8

**TERMINATION:**

12. (a) The parties hereto hereby agree that this Agreement shall not be terminated by any of the parties hereto prior to December 31, 2015.

(b) The parties hereto hereby agree that after December 31, 2016, this Agreement shall not be subject to any right of termination by any party or parties hereto unless:

- (1) the party or parties to this Agreement wishing to have the Agreement terminated has or have given written Notice to all other parties; and
- (2) all parties to this Agreement have agreed in writing to the termination of this Agreement.

The termination of this Agreement shall occur on the 31<sup>st</sup> day of December in the year subsequent to the year in which agreement by all parties to terminate this Agreement is achieved unless all of the parties to this Agreement agree to an earlier termination date.

(c) In the event of any termination of this Agreement pursuant to this paragraph, the parties shall continue to collect all permit fees and to pay such permit fees to The Township of Faraday on a monthly basis in accordance with the terms of this Agreement until the effective date of termination.

(d) In addition to the obligation to continue to collect and pay permit fees to The Township of Faraday as set out above, the parties shall pay to The Township of Faraday any costs that may be incurred by The Township of Faraday for the termination of the employment of the Chief Building Official / By-Law Enforcement Officer as a result of the termination of this Agreement and each of the parties shall contribute to the termination costs in an amount equal to each party's proportionate share of the total of the building permit fees collected for the last calendar year prior to the year of the effective date of termination.

**WITHDRAWAL:**

13. (a) The parties hereto and each of them agree that no party or parties shall withdraw or be entitled to withdraw from this Agreement prior to December 31, 2016.

(b) Upon the withdrawal of any party or parties to this Agreement, the withdrawing party or parties shall not be entitled to any reimbursement or compensation for any money paid pursuant to the provisions of this Agreement. Further, the said withdrawing party or parties shall, upon the effective date of withdrawal, cease to be a party to this Agreement and cease to have any representation on the NHISC.

Schedule "A" to By-Law 9

(d) Despite the withdrawal of any party or parties hereto, this Agreement shall continue in full force and effect unless and until terminated by the remaining parties as contemplated by the provisions of paragraph 12 of this Agreement.

(e) Despite the withdrawal of any party or parties hereto, the withdrawing party or

parties shall continue to be responsible and liable for the collection and payment of all building permit fees up to and including the effective date of withdrawal.

(f) Upon the withdrawal of any party or parties to this Agreement, the withdrawing

party or parties shall pay to The Township of Faraday the withdrawing party or parties share of the costs that may be incurred by The Township of Faraday for the termination of the employment of the Chief Building Official / By-Law Enforcement Officer as a result of the withdrawal of the party or parties to this Agreement and the withdrawing party or parties share of these costs shall be an amount equal to the withdrawing party or parties proportionate share of the total building permit fees collected from all the parties for the last calendar year prior to the year of the effective date of withdrawal. The withdrawing party or parties share of the costs of withdrawal as determined in this paragraph shall be paid to the Treasurer on or before the effective date of withdrawal and shall be held by the Treasurer in a separate interest bearing account and shall be paid to The Township of Faraday at such times as the Chief Building Official / By-Law Enforcement Officer are terminated.

**RESOLUTION OR DISPUTES:**

14. (a) If a disagreement or dispute arises between any of the parties to this Agreement

with respect to the interpretation, construction, or performance of this Agreement which the parties are unable to resolve, such disagreement or dispute shall be determined by arbitration in accordance with and pursuant to the provisions of the Arbitrations Act, 1991, S.O. 1991 c.17 and arbitrator's decision shall be final and binding upon the parties and upon their respective successors and assigns and shall not be subject to appeal.

(b) In the event that the parties cannot agree on an arbitrator, any party can apply

to a single Judge of the Superior Court of Justice in accordance with and pursuant to the provisions of the Arbitration Act, 1991, S.O. 1991, c.17 to have an arbitrator appointed.

**NOTICE:**

15. (a) Any notice which is permitted or required to be given pursuant to the provisions

of this Agreement shall be in writing and shall be served personally or by fax or by registered mail upon the Municipal Clerk of each of the parties hereto and the other persons and bodies noted hereunder at the address hereinafter set forth:

(1) The Corporation of the Township of Faraday

29860 A Hwy 28 South

Bancroft, Ontario

K0L 1C0

Schedule "A" to By-Law 10

(3) The Corporation of the Township of Limerick

89 Limerick Lake Road

RR 2

Gilmour, Ontario

K0L 1W0

(3) The Corporation of the Township of Tudor and Cashel

371 Weslemkoon Lake Road

PO Box 436

RR 2

Gilmour, Ontario

K0L 1W0



or at such other address as may be given by any of them to the other in writing from time to time and such notice shall be deemed to have been received when faxed or delivered or, if mailed, twenty-four (24) hours after 12:01 a.m. on the day following the day of mailing.

**AMENDMENTS TO THE AGREEMENT:**

16. This Agreement may be amended in accordance with the majority vote of the parties to this Agreement. Formal agreement of any and all amendment (s) proposed by the NHISC shall be by way of adoption by By-Law by the Councils of each of the participating municipalities.

**NEW MEMBERS:**

17. In the event that a Municipality makes a request to join the NHISC and become a party to this Agreement, notification of such request shall be provided to the NHISC and each of this parties to the Agreement. In the event that each of the parties hereto agrees to accept the new Municipality, this Agreement shall be amended to include the new Municipality as party to this Agreement and all the terms and conditions of this Agreement shall apply to the new party.

**GOVERNING LAW:**

18. This Agreement shall be construed in accordance with the laws of the Province of Ontario.

**HEADINGS:**

19. The headings in this Agreement are for ease of reference only and shall not be read or construed so as to abridge or modify the meaning of any provision in the main text of this Agreement.

**SEVERABILITY:**

20. If any term or provision of this Agreement or the application thereof to any party hereto shall to any extent be held to be void, invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to all parties other than those to whom it was held to be void, invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

Schedule "A" to By-Law 11

**TIME OF ESSENCE:**

21. Time shall be of the essence of this Agreement and of every part hereof and no extension or variation of this Agreement shall operate as a waiver of this provision.

**ESTOPPEL:**

22. No party hereto shall call into question, directly or indirectly, in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the parties hereto or any of them to enter into this Agreement or the enforceability of any term (s), agreement (s), provision (s), covenant (s) and /or conditions (s) herein contained, and this clause may be pleaded as an estoppels against any such party in any such proceedings.

**SUCCESSORS AND ASSIGNS:**

23. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF** the parties have hereunto affixed their corporate seals  
duly  
attested by their proper officers in that behalf.

SIGNED, SEALED AND ) **THE CORPORATION OF THE TOWNSHIP OF**  
DELIVERED ) **FARADAY**

)  
)

) Carl Tinney – Reeve

)  
)

) Brenda Vader – Clerk

))  
**THE CORPORATION OF THE TOWNSHIP OF**  
)  
**LIMERICK**

)  
)

) Dave Golem – Reeve

)  
)

) Jennifer Trumble – Clerk

))  
**THE CORPORATION OF THE TOWNSHIP OF**  
)  
**TUDOR AND CASHEL**

)  
)

) Wanda Donaldson – Reeve

)  
)

) Bernice Crocker – Clerk