

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2019 – do

**BEING A BY-LAW TO ENTER INTO A TEMPORARY AGREEMENT FOR THE
JOINT ENFORCEMENT OF THE BUILDING CODE ACT, 1992
BETWEEN THE MUNICIPALITY OF MAGNETAWAN, THE TOWN OF KEARNEY,
AND THE TOWNSHIP OF MCMURRICH/MONTEITH**

WHEREAS Section 3 of the *Building Code Act, 1992* as amended (*the Act*) authorizes Municipalities to enter into an Agreement to jointly enforce the *Act*;


AND WHEREAS the Municipality of Magnetawan, the Town of Kearney and the Township of McMurrich/Monteith wish to utilize that authority to enter into a Temporary Agreement, for the purpose of temporary joint enforcement with McMurrich/Monteith, which is attached hereto as Appendix A;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN ENACTS AS FOLLOWS:

1. The Mayor and Clerk are hereby authorized to execute the Agreement, attached hereto as Appendix 'A';
2. All conditions of this Temporary Agreement will remain in effect until this Temporary Agreement is terminated, as outlined;

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 27th day of November 2019

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



CAO/Clerk

Appendix 'A'

JOINT BUILDING CODE ACT, 1992 ENFORCEMENT AGREEMENT

Between

THE CORPORATION OF THE TOWN OF KEARNEY

(hereinafter 'Kearney')

- and -

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

(hereinafter 'Magnetawan')

- and -

THE CORPORATION OF THE TOWNSHIP OF MCMURRICH/MONTEITH

(hereinafter "McMurrich/Monteith")

WHEREAS Section 3 of the *Building Code Act, 1992* (the Act) authorizes municipalities to jointly provide for the enforcement of the Act;

AND WHEREAS Kearney and Magnetawan have entered into an Agreement dated the July 2, 2015 to provide for the joint enforcement of the Act, which Agreement is still in force (the Kearney Magnetawan Agreement);

AND WHEREAS McMurrich/Monteith wishes to enter into an Agreement with Kearney and Magnetawan to provide for the temporary enforcement of the *Building Code Act, 1992* within McMurrich/Monteith until such time as it retains a new Chief Building Official;

NOW THEREFORE both the Town of Kearney and the Municipality of Magnetawan agree as follows:

Term

1. This agreement shall terminate the earlier of :
 - a. May 1, 2020;
 - b. The date of termination in a notice issued under Section 12; and
 - c. The date upon which the McMurrich/Monteith appoints a person other than Brian Horsman to be its Chief Building Official.

Services Provided

2. Kearney and Magnetawan shall make available its Chief Building Official (Brian Horsman) and its Deputy Chief Building Official (Matthew Clouthier) (hereinafter referenced as the "Building Officials") to enforce the *Building Code Act, 1992* within the boundaries of the Township of McMurrich/Monteith on an as needed basis and specifically with respect to only the following:
 - a. Processing of new applications for building permits including all inspections related thereto;
 - b. Processing of applications to amend an existing issued building permit including all inspections related thereto;
 - c. The conduct of inspections related to existing issued building permits whereupon a notice of readiness for inspection is or has been submitted; and
 - d. The enforcement of Section 15.9 and 15.10 of the Act where the Building Officials have direct knowledge of circumstances giving rise to an unsafe condition.

Services Not Provided

3. The services provided hereunder do not include;
 - a. enforcement of any (property standards) by-law passed under section 15.1 of the *Building Code Act, 1992*;
 - b. the review of existing and/or unclosed building permit files;
 - c. the enforcement of municipal by-laws wherein the Chief Building Official or Building Official is delegated or given direction to administer and enforce such by-law, save and except the review of the Zoning By-law as it applies to the issuance of a building permit; and
 - d. administrative functions that are unrelated to the matters addressed in Section 2.

Compensation to Kearney/Magnetawan

4. McMurrich/Monteith shall be provided with Building Code Services on a day as determined by the Building Officials. All revenues received from McMurrich/Monteith shall be retained in a dedicated reserve account and at the end of the term of this Agreement with McMurrich/Monteith, the Councils of Kearney and Magnetawan will determine the allocation of funds.

Timing of Services

5. McMurrich/Monteith acknowledges and agrees that the services provided under Section 2 shall be in accordance with the following:
 - a. The Building Officials will complete the work assigned to them at Kearney and Magnetawan as their first priority, during regular work hours and days;
 - b. The Building Officials will complete the work at McMurrich/Monteith on a day as determined by the Building Officials and as under the Kearney Magnetawan Agreement.

Support Services

6. McMurrich/Monteith shall be responsible for providing support services related to the enforcement of the Act within its jurisdiction and the cost thereof. McMurrich/Monteith acknowledges and agrees that the cost of such support services is not covered by the compensation paid under Section 4. Support services may include: office space, furniture, telephones, photocopiers/printers, internet service, computers and the provision of personnel for administrative assistance.

Responsibility: McMurrich/Monteith

7. McMurrich/Monteith shall be responsible for the conduct and expense of any enforcement proceedings initiated by the Building Officials under the Act in relation to any property within the jurisdiction of McMurrich/Monteith. Any claims, suits or actions initiated in respect of property within McMurrich/Monteith and/or arising from alleged negligence in the enforcement of the Act related thereto shall be the responsibility of McMurrich/Monteith. Such responsibility shall continue notwithstanding the expiry or termination of this agreement.

Responsibility

8. The parties agree that any claims, suits or actions initiated by the Building Officials in respect of property within a municipality, shall be the responsibility of the respective municipality within which the property which gave rise to such

enforcement activity and all costs related thereto shall be borne by that municipality.

Insurance

9. Each party agrees to each maintain an insurance policy relating to and covering the enforcement of the *Act* within its territorial jurisdiction for the entire term of this Agreement and with respect to any work conducted under this Agreement by the Building Officials within each respective municipality.

Indemnification

10. Each party agrees on behalf of itself, its successors and assigns, to indemnify and save harmless the other parties, and their respective servants and agents from and against any actions, causes of actions, damages, suits, claims and demands whatsoever which may arise, either directly or indirectly, out of the good faith performance or non-performance of the services provided herein and in connection with the carrying out of the provisions of the Agreement within each parties' respective territorial jurisdiction.

Documentation

11. All documents and files related to properties within McMurrich/Monteith shall remain the property of McMurrich/Monteith. Notwithstanding the foregoing the Building Officials shall be entitled to retain an electronic copy of any product of their work for record keeping purposes and in the event that future enforcement proceedings or claims arise wherein the Building Officials are or become parties or witnesses in such proceedings. The parties acknowledge that such electronic copy is subject to the application of the *Municipal Freedom of Information and Protection of Privacy Act* and that the Building Officials may be required to produce copies of such information should McMurrich/Monteith receive a request under that Act should its records be incomplete.

Termination: Discretionary

12. Any party may terminate this Agreement by delivering fourteen (14) days written notice of the termination to the other party. Upon delivery of such notice, Kearney will undertake an accounting of all amounts owing by McMurrich/Monteith under this Agreement which amount shall be due and payable as of the date of termination.

"Schedule A"

To the Joint *Building Code Act, 1992* Enforcement Agreement
between the Township of McMurrich/Monteith
and the Town of Kearney and the Municipality of Magnetawan

Fees Payable:

- \$100.00 per hour, per person from the time the CBO or DCBO leaves the Kearney and/or Magnetawan Municipal Office until time of return or until commencement of work in another jurisdiction;
- Mileage charge of \$0.54 per kilometer from the Kearney and/or Magnetawan Municipal Office;
- Due to the nature of the municipal landscape/terrain, there will be surcharges for 'out-of-pocket' expenses related to, but NOT restricted to towing required (by a professional firm) to remove the vehicle used by the CBO/DCBO in the course of business from any natural physical entrapment or towing to an authorized repair centre (of the Towns choosing) should the vehicle become inoperable due to the severity/ruggedness of the terrain (fees of this nature will also necessitate a \$50.00 service fee to cover additional administration);
- The Township of McMurrich/Monteith will be solely responsible to pay all legal fees in the research and development of this Temporary Service Agreement;
- Fees are billed quarterly and due net fifteen (15) business days thereafter. 1.25% interest will be charged on late payments.

Additional Terms:

- The employees made available for the provision of services from the Town of Kearney are strictly employees of the Town of Kearney. Any conflict with the terms of employment are to be addressed solely by the Town of Kearney.

This Agreement entered into this 22nd day of NOVEMBER, 2019.

By the Corporation of the Town of Kearney

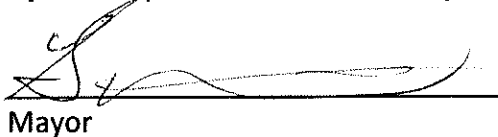


Mayor

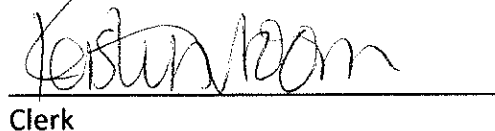


Clerk

By the Corporation of the Municipality of Magnetawan

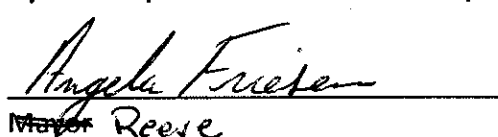


Mayor

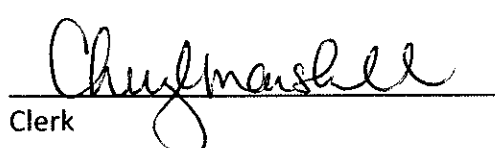


Clerk

By the Corporation of the Township of McMurrich/Monteith



Mayor Reese



Clerk