

**THE CORPORATION OF  
THE TOWNSHIP OF MCGARRY**

**BY-LAW NO. 2019-36**

**BEING A BY-LAW TO HIRE  
A BY-LAW ENFORCEMENT OFFICER**

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**WHEREAS** Section 11 of the Municipal Act as amended provides Council can enact By-Law to regulate structures, including fences.

**AND WHEREAS** Council has enacted a Property Standards By-Law, a Clean Yard By-Law a Temporary Structure Law and a Zoning By-Law.


**AND WHEREAS** Council is desirous to enforce their Property Standards By-Law, and other By-Laws enacted.

**NOW THEREFORE** Council of the Township of McGarry enacts as follows:

1. THAT Council does hereby appoint Mr. Bastiaan Koomans as By-Law Enforcement Officer and Property Standards Enforcement Officer for the Township of McGarry.
2. THAT Mr. Koomans shall be employed as per terms of a service contract, being Schedule "A" attached to and forming part of this By-Law.
3. THAT Mr. Koomans shall perform the duties outlines in Schedule "B" attached to and forming part of this By-Law.
4. THAT Mr. Koomans shall be designated as a Provincial Offences Offices for purpose of Enforcing Township By-Laws.
5. THAT this By-Law shall take effect on November 12<sup>th</sup>, 2019

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 12<sup>th</sup>  
DAY OF NOVEMBER, 2019.**

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Deputy Clerk

**Schedule "A"**

**This By-Law Enforcement Contract made this 12<sup>th</sup> day of November, 2019**

**BETWEEN:**

**The Corporation of the Township of McGarry  
P.O. Box 99, 27 Webster Street  
Virginiatown, Ontario  
P0K 1X0  
705-634-2145  
(Hereinafter referred to as the "Township")**

**And**

**Contractor  
Bastiaan Koomans  
18 - 30<sup>th</sup> Street  
Virginiatown, Ontario  
P0K 1X0  
705-668-1700  
(Hereinafter referred to as the "By-Law Enforcement Officer")**

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements herein subject to the terms and conditions set out in this agreement, the parties agree to undertake By-Law Enforcement Services as follows:

**1. Definitions**

The following terms have the following meanings:

**“Work”** means the services related to the Plan of Work set out in Appendix “A” to this agreement. (Appendix “A” forms part of this agreement.)

**2. Costs**

The Township agrees to pay an hourly rate plus an administrative fee as consideration for work completed on behalf of the Township of McGarry. The payment breakdown is as follows:

- \$500.00 per month for the provision of services and use of personal vehicle.
- \$30.00/hour when attending to all Court matters
- \$0.45/KM travel when attending to all Court matters.

**Obligations of the Township**

The Township will pay invoices rendered by the Contractor pursuant to Section 2.

- Township to provide Contractor coverage under Municipal Liability Insurance Policy and WSIB

**3. Obligations of the Contractor**

The Contractor will use all reasonable efforts to perform the Work as directed and as intended in all by-laws to be enforced. The By-Law Enforcement Officer shall provide “on call” services to the Corporation. Complaints received by the Township will be directed to the By-Law Enforcement Officer by the Head of Council, the CAO or a person designated. The By-Law Enforcement Officer will perform the duties, as outlined herein as well as in the “Services Description” attached hereto as Schedule “A”. The By-Law Enforcement Officer agrees to provide the services conscientiously and faithfully throughout the term of the contract.

**4. Confidentiality**

Each party may be required from time to time to exchange trade secrets or other confidential or proprietary information. Each Party

Agrees: (a) that the other's Confidential Information, other than that which is publicly known, is confidential proprietary information, which constitutes trade secrets; (b) to exercise the same degree of care regarding the other's Confidential Information as it does with its own Confidential Information; (c) to confine knowledge of Confidential Information only to its employees who require such knowledge for use in the ordinary course of their employment; (d) not to use or disclose the other's Confidential Information to any third party either directly or indirectly in any matter whatsoever, either during or after the term of this Agreement, without the prior written consent of the other party; and (e) to sign a confidentiality agreement.

#### **5. Publicity**

The Township's name and/or information may not be used in any publication, promotion, or advertisement without its prior written consent.

#### **6. Training**

The operator will have all necessary training and certification required to carry out their duties and will heed the direction and advice of the municipality to ensure no damage and/or liability is incurred resulting in a claim.

#### **7. Indemnification**

The Contractor hereby indemnifies the Township, including its councilors, officers, employees, servants or agents against all claims, losses, damages or expenses of any kind, especially those arising from the negligence, willful neglect or malfeasance of the Contractor (or those for whom in law it is responsible).

#### **8. Insurance**

The Township agrees to maintain, for the length of this agreement, all necessary insurances to conduct this work in addition to maintaining W.S.I.B. coverage.

#### **9. Termination**

Either Party may terminate this Agreement upon thirty (30) days written notice to the other Party.

## **10. Laws**

The Contractor shall be governed by, and the agreement shall be interpreted in accordance with, the laws of Canada, the Province of Ontario and the by-laws of the Township of McGarry. The Contractor is an independent contractor, and as such, will not be considered an employee of the municipality and therefore not entitled to any benefits or remuneration normally associated with staff or employees of the Township of McGarry or any other municipality, body, business or agency. It is the Contractor's responsibility to report any earnings and/or benefits to the Canada Customs and Revenue Agency or any other body or agency required under the laws, statutes and regulations of Canada and Ontario.

## **11. Assignment and Subcontracting**

The Contractor may not assign any of its interest in this Agreement without the prior written approval of the Township.

## **12. Amendment**

This Agreement may only be modified or amended by written agreement of both parties. The term of this contract shall be for one year, commencing on the 12<sup>th</sup> day of November, 2019 and may be extended at anytime by mutual agreement of both Parties.

## **13. Conflict of Interest**

This Agreement is a contract for the performance of a service and the By-Law Enforcement Officer is engaged as an independent contractor; neither the Contractor, nor its agents or employees, is engaged as an employee or agent of the Township, nor is there any partnership or joint venture relationship created hereby.

## **14. Binding**

This Agreement shall be binding on the parties hereto and their respective successors and permitted assigns. The Contractor hereby accept the roles and responsibilities of said position and agrees that failure to complete the required tasks associated with this position will result in the termination of this contract for cause and will not be subject to appeal.

**15. Survival of Term and Conditions**

In addition to those provisions surviving by operation of law, sections titled "Confidentiality", "Publicity", "Indemnification", and "Insurance" shall survive the termination of this Agreement for any reason.

**IN WITNESS HEREOF** the parties have set their hands.

**SIGNED AND DELIVERED**  
in the presence of:

All parties herein have the authority to bind their respective corporations.



Bastiaan Koomans  
By-Law Enforcement Officer



Karine Pelletier  
Deputy Clerk  
The Corporation of the Township of McGarry

## SCHEDULE "B"

### SERVICES DESCRIPTION

#### REPORTING RELATIONSHIP:

Reports to and works under the direction of the Council, CLERK TREASURER or designated person.

#### PURPOSE OF THIS POSITION:

To provide a variety of enforcement services, pertaining to the By-Laws of the Corporation and applicable provincial and federal legislation.

#### SCOPE OF THIS POSITION:

- As By-Law Enforcement Officer, the position is designated as the Provincial Offences Officer under legislation for legal action on By-Laws.
- Maintains confidentiality of ratepayers, fellow employees and Council in the spirit of the Municipal Freedom of Information and Protection of Privacy Act and individual rights and privileges.

#### RESPONSIBILITIES:

- Responds to complaints regarding alleged violations
- Conducts investigations into allegations as necessary and appropriate
- Provides information on By-Laws and enforcement conditions to ratepayers in both verbal and written form
- Will complete all necessary correspondence, orders and notices as required.
- Enforces By-Laws through ticketing and/or Court Action when required
- Performs such other related duties as may be reasonably required
- Attends meetings of Council, as required
- Reviews and makes necessary recommendations to existing By-Laws

#### WORKING CONDITIONS:

- Nature and variety of duties place this position in a high public profile
- Timely and accurate Progress Reports are required by the Director of the Community Service or delegate
- Stress is a factor due to the reality of potential conflict with citizens regarding enforcement
- Required to work outdoors in all weather conditions
- Maintain an On-Call schedule as required

#### WORKING RELATIONSHIPS:

- **With Council/CLERK TREASURER:** receives assignments in response to citizens enquiries as well as direction and guidance as required
- **With other staff:** Maintains harmonious relationships as a member of the Township Team
- **With the Public:** Explains the content of legislation and By-Laws and promotes self compliance when practical, stricter enforcement may be necessary.

#### KNOWLEDGE AND SKILL:

- Relevant and responsible experience in By-Law enforcement
- Exhibits high initiative and self direction
- Good knowledge of Corporation's By-Laws and Provincial Legislation
- Good knowledge of municipal operations
- Good analytical and organizational skills and an ability to communicate effectively
- Ability to rationalize with citizens so they are more likely to comply with statutes and By-Laws