

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 08-121

**BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF
EMERGENCY MANAGEMENT MUTUAL ASSISTANCE AGREEMENTS
WITH MUNICIPALITIES IN PETERBOROUGH COUNTY AND WITH
DURHAM REGION**

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL
THEREOF HEREBY ENACTS AS FOLLOWS:

1. That the Mayor and Clerk be hereby authorized to execute an agreement between the Corporation of the City of Peterborough and the County of Peterborough and the Townships of Asphodel-Norwood, Cavan-Monaghan, Douro-Dummer, Galway, Cavendish and Harvey, Havelock-Belmont-Methuen, North Kawartha, Otonabee-South Monaghan and Smith-Ennismore-Lakefield in the form attached hereby as Schedule "A", and to affix the Seal of the Corporation thereto.
2. That the Mayor and Clerk be hereby authorized to execute an agreement between the Corporation of the City of Peterborough and Durham Region in the form attached hereby as Schedule "B", and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 7th day of July, 2008

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) Leigh Doughty, Deputy Clerk

SCHEDULE "A"

Agreement made this 7th day of July, 2008.

A M O N G :

CITY OF PETERBOROUGH
COUNTY OF PETERBOROUGH
TOWNSHIP OF ASPHODEL-NORWOOD
TOWNSHIP OF CAVAN-MONAGHAN
TOWNSHIP OF DOURO-DUMMER
TOWNSHIP OF GALWAY-CAVENDISH AND HARVEY
TOWNSHIP OF HAVELOCK-BELMONT-METHUEN
TOWNSHIP OF NORTH KAWARTHA
TOWNSHIP OF OTONABEE-SOUTH MONAGHAN
TOWNSHIP OF SMITH-ENNISMORE-LAKEFIELD

WHEREAS Section 2.1 of the Emergency Management and Civil Protection Act, R.S.O. 1990 c. E.9 (the "Act"), requires every municipality to develop and implement an emergency management program;

AND WHEREAS Section 3(1) of the Act requires every municipality to formulate and adopt by by-law an emergency plan;

AND WHEREAS Section 2.1(1) requires every municipality to develop, implement and adopt by by-law an emergency management program;

AND WHEREAS Section 13(3) of the Act permits the Council of a municipality to enter into an agreement with any other municipality or with any person for the provision of personnel, services, equipment or material during emergencies ("Mutual Assistance");

AND WHEREAS for purposes of this agreement, Mutual Aid (Fire Services) is excluded and is covered under the approved "Mutual and Automatic Aid Plan for the County of Peterborough";

AND WHEREAS the Councils of the municipalities in the County of Peterborough and the City of Peterborough deem it necessary and desirable to enter into an agreement with each other for the provision of Mutual Assistance;

NOW THE PARTIES HERETO AGREE AS FOLLOWS:

1.0 Definitions

In this Agreement the following words shall have the following meanings,

Emergency Control Group – means the organizational entity responsible for directing and controlling the Assisted Municipality's response to an Emergency;

Emergency, Emergency Area and Emergency Plan – shall have their respective meanings as defined in the Act;

Incident Management System – means an accepted practice of managing personnel and resources during an Emergency in the Province of Ontario;

Mutual Assistance Agreement – means this Agreement and the attached Schedule(s), which together form the entire Agreement between the parties;

Mutual Assistance – means the provision of personnel, services, equipment or material during an Emergency by a Responding Party, but excludes the provision of personnel, services, equipment or material from a Responding Party's Fire Service;

Receiving Party – means a municipality which receives Mutual Assistance pursuant to this agreement;

Responding Party – means a municipality which provides Mutual Assistance pursuant to this Agreement;

2.0 Principles of Mutual Assistance Agreement

2.1 Each party agrees that:

- a. Mutual Assistance shall be supplied at no cost to a Receiving Party;
- b. This Agreement does not require any party to provide emergency Fire Services to any other party;
- c. The intent of this Agreement is to provide an organizational framework, within an Incident Management System, for the effective and co-ordinated provision of Mutual Assistance to a Receiving Party; and
- d. The provision of Fire Services during an Emergency are not covered by this Agreement, but that each party has entered into, or has had a reasonable opportunity to enter into, a mutual aid agreement concerning the provision of emergency Fire Services.

2.2 Each party agrees that it is entering into this Agreement in order to:

- a. Minimize the effects of an Emergency by establishing the process the effective and co-ordinated provision of Mutual Assistance; and
- b. Provide the organizational framework necessary to effectively manage Mutual Assistance resources within a recognized Incident Management System.

3.0 Activation of Mutual Assistance

3.1 In order to receive Mutual Assistance, the Receiving Party shall:

- a. Activate its Emergency Control Group;
- b. Implement its Emergency Plan;
- c. Request Mutual Assistance by or on behalf of the Head of Council or Alternate;
- d. Set up an Incident Management System, in order to assume direction and control of the Mutual Assistance it receives;
- e. Provide clear, concise and specific direction to the Responding Party concerning the specific staff and resources required as Mutual Assistance;
- f. Provide clear, concise and specific direction so that the Mutual Assistance is directed to the correct location;

- 5.2 During the term of this Agreement, each party shall obtain and maintain in full force and effect, automobile liability insurance in the amount of Five Million Dollars (\$5,000,000) for injury, loss or damage resulting from any one occurrence.
- 5.3 Upon the request of the other party, each party shall provide proof in a form satisfactory to the Receiving Party's Chief Administrative Officer, or designate.
- 5.4 In the case of any conflict between the provision of this document and other provisions speaking to contractual indemnity or insurance clauses, the provisions of this Agreement will govern.

6.0 Costs

- 6.1 Any costs incurred in connection with the provision of Mutual Assistance shall be borne by the Responding Party providing such aid unless:
- a. An alternate agreement is reached between the parties for payment of services provided prior to deployment of any Mutual Assistance.
 - b. Provincial and/or federal funding becomes available to offset the costs associated with responding to an Emergency.
- 6.2 In the event provincial and/or federal funding becomes available to offset costs associated with responding to an Emergency, and such funding exceeds the Receiving Party's own expenses, then the Receiving Party shall distribute such excess funds in an equitable manner between the Responding Parties in accordance with the following:
- a. Any agreement it entered into in order to receive the funding;
 - b. Invoices submitted by a Responding Party;
 - c. The value of the Mutual Assistance provided by a Responding Party; and
 - d. A consideration of the costs borne by each Responding Party.
- 6.3 The parties agree and accept that provincial and/or federal funding may not be available, or, if available, may not completely compensate the Receiving Party for its expenses associated with responding to an Emergency. The parties also agree and accept that the Receiving Party shall have the unfettered discretion to distribute excess funds in accordance with Article 6.2.

7.0 Review and Termination

- 7.1 This agreement comes into force and effect on the day of endorsement and will be reviewed yearly thereafter by all parties. At the time of the review, changes or additions may be introduced by way of a rider, which shall become part of the agreement upon ratification by all parties.
- 7.2 Any one of the parties may withdraw from this agreement by giving thirty (30) days notice of termination to all other parties. After the withdrawal of any party, the agreement shall continue to be in force between the remaining parties.

IN WITNESS WHEREOF the City of Peterborough, the County of Peterborough, and the Townships of Asphodel-Norwood, Cavan-Monaghan, Douro-Dummer, Galway-Cavendish and Harvey, Havelock-Belmont-Methuen, North Kawartha, Otonabee-South Monaghan, and Smith-Ennismore-Lakefield have hereunto caused their corporate seals to be affixed, attested to by the proper officers in its behalf, the day and year first above written.

ON BEHALF OF THE CORPORATION OF THE CITY OF PETERBOROUGH

Mayor

Clerk

ON BEHALF OF THE COUNTY OF PETERBOROUGH

Warden

Clerk

ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF ASPHODEL-NORWOOD

Reeve

Clerk

ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF CAVAN-MONAGHAN

Reeve

Clerk

ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF DOURO-DUMMER

Reeve

Clerk

**ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF GALWAY-
CAVENDISH AND HARVEY**

Reeve

Clerk

**ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF HAVELOCK-
BELMONT-METHUEN**

Reeve

Clerk

**ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF NORTH
KAWARTHA**

Reeve

Clerk

**ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF OTONABEE-
SOUTH-MONAGHAN**

Reeve

Clerk

**ON BEHALF OF THE CORPORATION OF THE TOWNSHIP OF SMITH-
ENNISMORE-LAKEFIELD**

Reeve

Clerk

SCHEDULE "B"

Agreement made this 7th day of July, 2008.

A M O N G :

THE CORPORATION OF THE CITY OF PETERBOROUGH

hereinafter called the "City" of the FIRST PART

-and –

THE CORPORATION OF THE REGION OF DURHAM

hereinafter called the "Region" of the SECOND PART

WHEREAS the *Emergency Management Act*, R.S.O. 1990, c. E. 9. provides that the Council of a municipality or county may make an agreement with another municipality or county for the provision of any personnel, service, equipment or material during an Emergency;

AND WHEREAS the parties wish to provide for mutual aid and assistance to each other through the provision of personnel, services, equipment or material to one or the other within the meaning of the *Emergency Management Act*;

AND WHEREAS the parties have Emergency Plans pursuant to the *Emergency Management Act*;

NOW THEREFORE in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Definitions

1.1 In this Agreement,

Assisted Municipality – means the municipality or county receiving aid or assistance pursuant to this Agreement;

Assisting Municipality – means the municipality or county providing aid or assistance pursuant to this Agreement;

Emergency, Emergency Area and Emergency Plan – have the same meanings as in the *Emergency Management Act*;

Mutual Assistance Agreement – means this Agreement and the attached Schedule(s) which embody the entire Agreement between the parties;

Requested Party - means the municipality or county which has been asked for aid, assistance or both pursuant to this Agreement;

Requesting Party – means the municipality or county asking for aid, assistance or both pursuant to this Agreement;

Emergency Control Group – means the organizational entity responsible for directing and controlling the Assisted Municipality’s response to an Emergency.

2. Role of the Minister of Community Safety and Correctional Services

2.1 The parties acknowledge that pursuant to the *Emergency Management Act* (the “Act”), the Minister of Community Safety and Correctional Services for the Province of Ontario is responsible for the administration of the Act and is the principal contact for all Emergencies.

2.2 The parties further agree that the Minister of Community Safety and Correctional Services should be notified in writing of any request made under this Agreement. The Requesting Party agrees to notify as soon as reasonably practicable, Emergency Management Ontario (EMO), Ministry Community Safety and Correctional Services on the matter of any request for assistance made under this Agreement.

3. Authorization to Request/Offer Assistance

3.1 Each party hereby authorizes its Chief Administrative Officer, or such other senior officer of the party as the Chief Administrative Officer has designated (hereinafter "CAO") to request assistance, accept offers to provide assistance, accept requests for assistance or offer to provide assistance pursuant to this Agreement on behalf of that party.

4. Requests for Assistance

4.1 The parties agree that in an Emergency, a Requesting Party may request assistance in the form of qualified personnel, services, equipment, or material from the other party.

4.2 The request for assistance shall be made by the CAO of the Requesting Party to the CAO of the Requested Party. The CAO may make the initial request for assistance orally however a written request should follow as soon as reasonably practicable. The Requested Party may request such reasonable additional information as it considers necessary to confirm the existence of the Emergency and to assess the type, scope, nature and amount of assistance to be provided.

- 4.3 The Requested Party shall respond to the request within one (1) day, and may in its sole discretion determine the type and scope, nature and amount of assistance it will provide. The Requested Party may respond to the request orally however a written response should follow as soon as reasonably practicable.
- 4.4 The Assisting Municipality may provide assistance to the other party upon a request and a response having been given orally.
- 4.5 The agreement to provide assistance shall be confirmed in writing as soon as reasonably practicable using the form set out in Schedule "A" attached hereto. The CAO of the Requesting Party shall complete, sign and forward the form to the CAO of the Requested Party, who shall then return a signed copy. The written confirmation shall set out in detail the specific personnel, services, equipment or material that has been requested as assistance, and which the Assisting Municipality has agreed to provide.
- 4.6 The parties may, by mutual agreement, amend the assistance to be provided to the Assisted Municipality under this Agreement. Amendments to the scope, type, nature or amount of assistance shall be confirmed in writing by the parties using the form set out in Schedule "A" attached hereto within three (3) days of being agreed upon.

5. Limitations on Assistance Provided

- 5.1 Nothing in this Agreement shall require or obligate or be construed to require or obligate a party to provide assistance. Each party shall retain the right to refuse the request to provide assistance, and the right to offer options to the assistance that has been requested.
- 5.2 No liability shall arise against the Requested Party if it fails, for any reason whatsoever, to respond to a request for assistance made under this Agreement.
- 5.3 When assistance has been offered or provided by the Assisting Municipality, the Assisting Municipality shall not be obligated to provide any further assistance or to do anything or take any action beyond that which is specifically agreed to by the acceptance of the request for assistance.
- 5.4 Nothing in this Agreement shall prevent the Assisting Municipality, in its sole discretion, from withdrawing any or all assistance provided to the Assisted Municipality. Any withdrawal of assistance by the Assisting Municipality shall be made only upon at least forty-eight (48) hours notice to the Assisted Municipality, unless the Assisting Municipality is responding to an actual or pending Emergency within its own geographical boundaries, in which case it may withdraw assistance from the Assisted Municipality without notice.

5.5 The Assisted Municipality may determine in its sole discretion that its requirement for assistance has ceased and shall notify the Assisting Municipality of this in writing.

6. Term and Termination

6.1 This Agreement shall be in effect from the date on which the second party signs the Agreement.

6.2 Despite any other section of this Agreement, either party may terminate this Agreement upon at least sixty (60) days' written notice to the other party.

7. Costs

7.1 The parties agree that any and all direct and indirect costs for assistance are to be paid by the Assisted Municipality. The Assisted Municipality shall be responsible to pay for any and all actual costs incurred by the Assisting Municipality in providing the assistance. Such costs shall include all wages, salaries, overtime, shift premium, and similar charges and expenses incurred in providing the assistance including those wages, salaries, overtime and shift premium charges incurred resulting from staffing requirements in its home jurisdiction during the period of the assistance, providing all such costs are reasonable in the circumstances. However, such costs shall not include the Assisting Municipality's cost of employment benefits which includes, for the purposes of this Agreement, Canada Pension Plan, Employment Insurance, OMERS contributions, and/or contributions made to life insurance, health, dental, and/or disability plans or policies.

7.2 The Assisted Municipality shall also be responsible for all actual operating costs for all personnel, services, equipment, machinery or material furnished, including, but not limited to, costs of fuel, repairs, parts and any and all other items directly attributable to the operation of equipment and machinery, services and material furnished as assistance to the Assisted Municipality under this Agreement. The Assisted Municipality shall be responsible for the cost of replacing equipment or material furnished by the Assisting Municipality if damaged beyond reasonable repair.

7.3 The Assisting Municipality shall provide to the Assisted Municipality, if practical, an estimate of the cost of providing the assistance.

8. Payment

- 8.1 Payment by the Assisted Municipality for costs incurred for the assistance provided, shall be subject to the Assisted Municipality's receipt of an invoice from the Assisting Municipality. Such invoice shall set out in sufficient detail the costs actually incurred by the Assisting Municipality in providing assistance, and where practically available, receipts for disbursements shall be forwarded in support of the invoice.
- 8.2 The Assisted Municipality shall remit payment of the amount owing for the assistance provided within thirty (30) days of the receipt of the Assisting Municipality's invoice.
- 8.3 Any amount remaining unpaid and outstanding after the thirty (30) day period referred to in sub-section 8.2 of this Agreement shall bear interest at the rate stipulated in the Assisting Municipality's invoice, which rate shall not exceed the Bank of Canada bank rate at the date of the invoice plus two (2) per cent per annum until paid.

9. Employment Relationship

- 9.1 Despite that the employees, contractors, servants and agents (collectively "the workers") of the Assisting Municipality may be assigned to perform duties for the Assisted Municipality, and that for the duration of the Emergency, the Assisted Municipality shall reimburse the Assisting Municipality for the costs of the wages, salaries and expenses of the workers, in all other respects the workers of the Assisting Municipality retain their employment or contractual relationship with the Assisting Municipality. The parties acknowledge and agree that the Assisted Municipality is not to be deemed the employer of the Assisting Municipality's employees, agents, or contractors or servants, under any circumstances or for any purpose whatsoever. The Assisting Municipality shall remain responsible for all statutorily required deductions, contributions and/or payments, such as E.I. CPP, etc.

10. Indemnity

- 10.1 The Assisted Municipality shall indemnify and save harmless the Assisting Municipality from all claims, costs, all manner of action or actions, cause and causes of action, accounts, covenants, contracts, demands or other proceedings of every kind or nature whatsoever at law or in equity arising out of this Agreement and out of assistance provided pursuant to this Agreement. The indemnity herein provided shall include all costs, including but not limited to duties, dues, accounts, demands, penalties, fines and fees.

11. Insurance

- 11.1 During the term of this Agreement, each party shall obtain and maintain in full force and effect, general liability insurance issued by an insurance company authorized by law to carry on business in the Province of Ontario, providing for, without limitation, coverage for personal injury, public liability and property damage. Such policy shall:
- a. Have inclusive limits of not less than Five Million Dollars (\$5,000,000) for injury, loss or damage resulting from any one occurrence;
 - b. Contain a cross-liability clause endorsement and severability of interests clause of standard wording;
 - c. Name the other party as an additional insured with respect to any claim arising out of the Assisted Municipality's obligations under this Agreement or the Assisting Municipality's provision of personnel, services, equipment or material pursuant to this Agreement; and
 - d. Include a Non-Owned Automobile endorsement.
- 11.2 During the term of this Agreement, each party shall obtain and maintain in full force and effect, automobile liability insurance in the amount of Two Million Dollars (\$2,000,000.00) for injury, loss or damage resulting from anyone occurrence.
- 11.3 Upon the request of the other party, each party shall provide proof of insurance in a form satisfactory to the requesting party's CAO.
- 11.4 In the case of any conflict between the provisions of this document and any other provisions speaking to contractual indemnity or insurance clauses, the provisions of this Agreement will govern.

12 Collective Agreements

- 12.1 Each Party agrees to review the provisions of this Agreement with its appropriate local bargaining units for the purpose of seeking amendments to local agreements, if necessary, to reflect the terms of this Agreement. Each party further agrees to advise the other party as soon as practically possible if it becomes aware of any impediments or obstacles imposed by local agreements to meeting its obligations under this Agreement.

13 Liaison and Supervision

- 13.1 The Assisting Municipality shall have the right, to be exercised in its sole discretion, to assign an employee or agent (the “Liaison Officer”) of the Assisting Municipality to the Emergency Control Group of the Assisted Municipality. The Liaison Officer shall provide a liaison between the Assisting Municipality and the Emergency Control Group of the Assisted Municipality. The parties acknowledge that the purpose of the Liaison Officer shall be to permit communication between the Assisted and Assisting Municipalities. Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, the Liaison Officer shall be permitted to inform the Assisting Municipality on the status of the Emergency and the actions taken by the Assisted Municipality. The Liaison Officer shall have the right to obtain information about the Emergency and the use of the assistance provided in order to report to the Assisting Municipality during and after the duration of the assistance provided and the Emergency. The Assisting Municipality shall keep confidential and not disclose any information concerning the emergency or the assistance provided without the prior consent of the Assisted Municipality, except as may be legally required.
- 13.2 The Assisting Municipality shall assign its personnel to perform tasks as directed by the Emergency Control Group of the Assisted Municipality. The Assisting Municipality shall have the right to assign supervisory personnel to operate or supervise the operation of any of the Assisting Municipality’s personnel and or equipment furnished as assistance to the Assisted Municipality. Such supervision shall be in accordance with the instructions of the Emergency Control Group.

14 Information Sharing

- 14.1 If requested and subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), each party shall respond to the other party's request for information regarding specified types of personnel, services, equipment or material in the possession of each party that may be used in the provision of assistance under this Agreement. All such information shall be provided without any warranty of any kind as to its accuracy, reliability, usefulness or other characteristics.

15 Food and Lodging

- 15.1 For the duration of the assistance provided under this Agreement, the Assisted Municipality shall be responsible for providing all food, lodging and accommodation required by the personnel furnished pursuant to this Agreement. Where food and lodging cannot be provided in-kind, the Assisted Municipality shall pay a reasonable *per diem* to personnel for any food and lodging purchased by personnel of the Assisting Municipality. The per diem shall be no less than the Assisted Municipality pays to its own employees as a matter of policy or agreement.

16. Notice

- 16.1 If not otherwise provided in this Agreement, written notice given pursuant to this Agreement must be addressed,

in the case of notice to the Regional Municipality of Durham to:

The Chief Administrative Officer
The Regional Municipality of Durham
605 Rossland Road East
P.O. Box 623
Whitby, ON L1N 6A3

- and -

in the case of notice to the City of Peterborough to:

The Chief Administrative Officer
The City of Peterborough
City Hall
500 George Street North
Peterborough, ON K9H 3R9

F: 705.749.6687

- 16.2 If hand delivered, the notice is effective on the date of delivery; if faxed, the notice is effective on the date and time the fax is sent; if sent by electronic mail, the notice is effective on the date sent; and if mailed, the notice is deemed to be effective on the fifth business day following the day of mailing.
- 16.3 Any notice given shall be sufficiently given if signed by the CAO or by a person authorized by or acting under the direction or control of the CAO.

17. Rights and Remedies

- 17.1 Nothing contained in this Agreement shall be construed as restricting or preventing either party from relying on any right or remedy otherwise available to it under this Agreement, at law or in equity in the event of any breach of this Agreement.

18. Binding Effect

- 18.1 This Agreement shall enure to the benefit of, and be binding upon the parties and their respective successors, administrators and assigns.
- 18.2 This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third parties, and no third party shall have any right of action arising in any way or manner under this Agreement for any cause whatsoever.

SCHEDULE "A"

MUTUAL ASSISTANCE AGREEMENT

I, _____, Chief Administrative Officer / Designated Official of _____, duly authorized to do so by the Council of _____, do hereby confirm my request of _____, to provide assistance in the form of:

- ____ PERSONNEL
- ____ SERVICES
- ____ EQUIPMENT
- ____ MATERIAL

AS IS MORE PARTICULARLY SET OUT IN DETAIL AS FOLLOWS:

The above confirms the assistance verbally requested on _____, and which assistance _____ has agreed to provide.

Dated at _____ this _____ day of _____, _____,

Chief Administrative Officer

(Assisted Municipality)

Confirmed at _____ this _____ day of _____, _____

Chief Administrative Officer

(Assisting Municipality)