The Corporation of the Town of South Bruce Peninsula

By-Law Number 15-2017

Being a By-Law to Authorize the Mayor and Clerk to
Sign a License Agreement with Bryon David Downs and
Bonnie Arlette Lorraine Downs

Whereas Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that Section 8 shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

And whereas Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas the Corporation of the Village of Hepworth entered into a license agreement with Mr. and Mrs. Downs on September 14, 1998 for use of Village property known as Lots 4, 5 and 6 Plan 248; Parts 1 and 2 Plan 3R6851;

And whereas the Town is desirous of entering into a further license agreement with Mr. and Mrs. Downs for the continued use of the Town property.

Now therefore the Council of the Corporation of the Town of South Bruce Peninsula enacts as follows:

1. That the Mayor and Clerk are hereby authorized to sign a license agreement with David Downs and Bonnie Arlette Lorraine Downs for the use of Town property known as Lots 4, 5 and 6 Plan 248; Parts 1 and 2 Plan 3R6851.

2. That the agreement shall be attached hereto and form a part of this by-law.

Read a first and second time this 21st day of February, 2017.

[Signatures]

Read a third time and finally passed this 21st day of February, 2017.

[Signatures]
Licence Agreement

Between
The Corporation of the Town of South Bruce Peninsula;
Hereinafter referred to as the Licensor

And
Bryon David Downs and Bonnie Arlette Lorraine Downs;
Hereinafter collectively referred to as the Licensee

Whereas the Licensee is the registered owner of the lands in the Town of South Bruce Peninsula as described on Schedule “A” attached hereto;

And whereas the Licensor is the registered owner of lands in the Town of South Bruce Peninsula as described on Schedule “B” attached hereto;

And whereas the lands described as attached in Schedule “B” attached hereto will hereafter be referred to as “the Lands”;

And whereas for the purposes of the construction and maintenance on the Lands of a sewage treatment facility, the Licensor has agreed to grant this license.

Now therefore in consideration of the premises and other good and valuable consideration, the parties agree as follows:

1.1 The Licensor grants to the Licensee the non-exclusive use of the Lands for the purposes hereinafter set forth, for the period of twenty years, commencing September 15, 2018 and expiring September 14, 2038.

1.2 The Licensee hereby accepts the Lands in their condition as of the date hereof and shall not call upon the Licensor to do or pay for any work or supply any equipment to make the Lands more suitable for the proposed use by the Licensee hereunder.

1.3 The Licensee shall pay the Licensor one dollar ($1.00) payable in advance as a licence fee for each year of the term hereof.

2.1 The Licensee covenants with the Licensor:

2.1.1 To pay the amount set out in Clause 1.3 hereto;

2.1.2 To pay taxes (including local improvements) and all rates, licence fees and other charges imposed on or with respect to the Lands as same become due;
2.1.3 To use the Lands only for the purposes of an approved septic system serving the Tim Horton’s Development (hereinafter referred to as the “Development”) which is constructed on the lands described in Schedule “A” hereto;

2.1.4 Not to erect any structures on the Lands without written permission from the Licensor;

2.1.5 To maintain the appearance of the Lands and the equipment thereon in a neat, clean and well-kept manner appropriate to the condition of the land in the area;

2.1.6 To ensure that the Lands are levelled and sodded after any installation or maintenance of the septic system thereon;

2.1.7 To maintain all equipment in repair at its own expense and to repair on written notice from the Licensor;

2.1.8 To ensure that no refuse, waste, sewage, litter, garbage, loose or objectionable material accumulates in or around the Lands;

2.1.9 To ensure that no nuisance is allowed in or about the Lands as a result of the construction or operation of the septic system or any part thereof;

2.1.10 To ensure that no trees are removed and no grade changes are carried out except as are approved by the Licensor in writing and except as necessary for the Development;

2.1.11 To provide and maintain comprehensive general liability insurance in the minimum amount of one million dollars ($1,000,000) with respect to its use of the Lands during the full term of this licence, naming the Lessor as an additional insured and to provide a certificate evidencing same prior to the execution of this licence and as required by the Licensor throughout the term of this licence. Without limiting the generality of the foregoing, such public liability insurance shall contain provisions for cross-liability, severability of interests and no cancellations or alterations without the consent of the Licensor;

2.1.12 Not to assign this license without the prior written consent of the Licensor which consent may be unreasonably withheld;

2.1.13 To leave the Lands in substantially the same condition at the expiry of this license as they were at the commencement of the original license which was dated September 14, 1998;

2.1.14 To comply with all Federal, Provincial and municipal laws, rules, regulations and by-laws and to hold the Licensor harmless from the consequences of its failure to do so.
3. The Licensee may remove its equipment from the Lands provided that all damage thereby occasioned shall forthwith be repaired by the Licensee at its own expense.

4.1 The Licensee shall at all times indemnify and save harmless the Licensor from and against any and all claims, demands, losses, costs, charges, expenses, actions and other proceedings (including those in connection with Worker’s Compensation or any other similar or successor arrangement) made, brought against, suffered by or imposed on the Licensor or its property in respect of any failure by the Licensee to fulfil any of its obligations under this license or for any reason whatsoever or in respect of any loss, damage or injury (including injury resulting in death):

4.1.1 To any person or property (including without restricting the generality of the foregoing, employees, contractors, agents and property of the Licensor) directly or indirectly arising out of resulting from or sustained by reason of the occupation or use of the Lands or any operation in connection therewith or any fixture or chattels thereon; or

4.1.2 To any person while on adjoining lands of the Licensor in the course of that person’s entry onto or exit from the Lands.

5. The Licensor shall not be liable directly or indirectly for any personal injuries that may be suffered or sustained by any person who may be on the Lands or for any loss of or damage or injury to property belonging to the Licensee or any other person unless such injury, loss or damage is due to the Licensor’s negligence or default or the negligence or default of those for whom the Licensor is in law responsible.

6.1 The Licensee shall fully indemnify and save harmless the Licensor from and against all construction liens and related costs and other claims in connection with all work performed by or for the Licensee on the Lands and shall promptly remove all registered claims from title.

7. If the Licensee defaults in performing any of its obligations under this licence, the Licensor shall give written notice to the Licensee thirty (30) days to remedy such default, failing which the Licensor may terminate the licence hereunder and the Licensee shall then forthwith remove its chattels, equipment and fixtures if any from the Lands and shall restore the Lands to the condition in which they were at the commencement of the original license which was dated September 14, 1998. If the Licensee does not, the Licensor may carry out said removal and restoration at the cost of the Licensee. In case of an emergency, the Licensor may without notice at its option carry out any repairs to correct the situation and the Licensee shall forthwith reimburse the Licensor for all costs of the same.
8.1 Any notice required to be given to the Licensor under the terms of this license shall be sufficiently given if delivered to the Licensor or mailed by prepaid registered mail addressed to them at PO Box 310, 315 George Street, Wiarton ON N0H 2T0 or at such other address as the Licensor may in writing designate.

8.2 Any notice required to be given to the Licensee under the term of this license shall be sufficiently given if delivered to the Licensee or mailed by prepaid registered mail addressed to them at Hepworth ON N0H 1P0 or at such other address as the Licensee may in writing designate.

8.3 In either case, such notice shall be deemed to have been received on the date of its delivery or in the case of mailing, five (5) days after it is delivered to the post office.

9. Any costs, charges or amounts paid by the Licensor to compel the Licensee to comply with this license or to carry out any obligations of the Licensee due to his failure to do so shall form a lien against the lands described in Schedule “A” which may be enforced by the Licensor in the same manner and with the same priority as realty taxes.

10. This license shall enure to the benefit of and be binding upon the parties and their respective successors and assigns.

In witness whereof the parties have affixed their respective corporate seals attested by the hands of their respective officers duly authorized in that behalf.

The Corporation of the Town of South Bruce Peninsula

Mayor

Clerk

We have the authority to bind the Corporation.

Bryon David Downs and Bonnie Arlette Lorraine Downs

Bryon David Downs

Witness

Date

Bonnie Arlette Lorraine Downs

Witness

Date
License Agreement
Schedule “A”

Pt Lt 7-8 Pl 248 as in R266576 & Pt 2, 3R3119; s/t R337731; South Bruce Peninsula
PIN 33158-0340 (LT)

Pt Lt 9-10 Pl 248; South Bruce Peninsula PIN 33158-0338 (LT)
License Agreement
Schedule “B”

Lt 4 Pl 248; South Bruce Peninsula PIN 33158-0341 (LT)
Lt 5-6 Pl 248; South Bruce Peninsula PIN 33158-0342 (LT)
And more particularly designated as Part 1 and Part 2, Plan 3R6851.