

# The Corporation of the Township of Huron-Kinloss



## BY-LAW No.

**2023 - 58**

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Being a By-Law to Authorize the signing of an agreement with Lucknow Kinsmen for use of municipal lands during Special Events

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**WHEREAS** Section 8(1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provide that the powers of a municipality under this or any other Act 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 has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

**AND WHEREAS** the Corporation of the Township of Huron-Kinloss owns lands that the Lucknow Kinsmen desire to use exclusively during Special Events on the adjacent properties;

**AND WHEREAS** the Lucknow Kinsmen desire to make modifications to the lands to facilitate a Tractor Pull event;

**AND WHEREAS** the Council of The Corporation of the Township of Huron-Kinloss deems it advisable to enter into an agreement with the Lucknow Kinsmen for the use of such lands, as per Report PW 2023-05-26;

**NOW THEREFORE** the Council of The Corporation of the Township of Huron-Kinloss **ENACTS** as follows;

1. That The Corporation of the Township of Huron-Kinloss enter into an agreement with the Lucknow Kinsmen for the use of certain lands during special events as set out in the agreement.
2. That the Mayor and the Clerk be authorize and directed to execute on behalf of The Corporation of the Township of Huron-Kinloss the agreement with the Lucknow Kinsmen attached hereto as Schedule "A" and forming part of this By-law.
3. That this by-law shall come into full force and effect upon its final passage.
4. That this by-law may be cited as the "Land Use Agreement (Lucknow Kinsmen) 2023 By-law".

**READ a FIRST and SECOND TIME** this 15<sup>th</sup> day of May, 2023

**READ a THIRD TIME and FINALLY PASSED** this 15<sup>th</sup> day of May, 2023

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Mayor

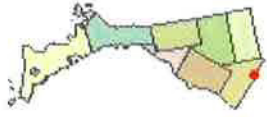
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Clerk



County of Bruce

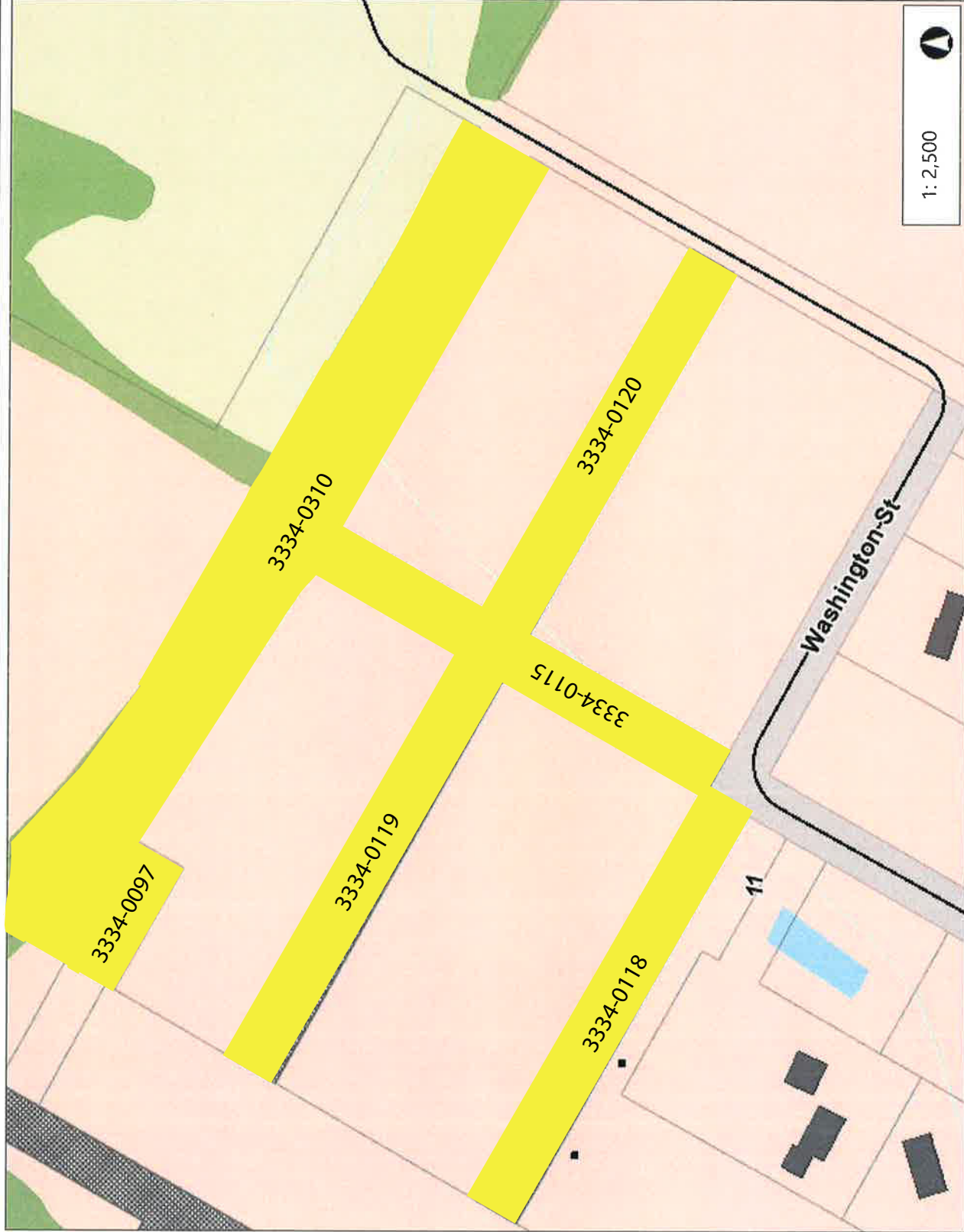
Bruce County



### Legend

- Rural Community point, labelled
- Ferry
- Provincial Highway
- County Road
- County Road
- ↔ Bridge reconstruction
- Municipal or Other Road
- Bridge Detour
- OBM Building Location
- OBM Building Footprint
- Building Footprint
- Propane Facility Buffer
- Severance
- Severed portion
- Retained portion
- Subdivision
- Draft Approved
- Final Approved
- Body of Water
- Evaluated Wetland
- Watercourse
- Permanent Stream
- Intermittent Stream
- Road Allowance/Right-of-way
- Private Road Allowance
- Right-of-Way
- Road Allowance or Condo Road
- Unopened Road Allowance
- Conservation Authority Property boundary
- Provincial Park
- Fathom Five
- County Forest Boundary

### Notes



1: 2,500

0.1 Kilometers



0.1  
NAD\_1983\_UTM\_Zone\_17N  
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This map is a user-generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

**THIS LICENSE AGREEMENT** made the \_\_\_\_ day of May, 2023 (“**Agreement**”).

**BETWEEN:**

**THE CORPORATION OF THE TOWNSHIP OF HURON-KINLOSS**  
(the “**Licensor**”)

– and –

**LUCKNOW AND DISTRICT KINSMEN CLUB INCORPORATED**  
(the “**Licensee**”)

**WHEREAS:**

1. The Licensor is the owner of the lands and premises legally described as:
  - i. ALFRED ST PL 101 W. OF WASHINGTON ST; HURON-KINLOSS being all of PIN 33334-0118 (LT);
  - ii. WASHINGTON ST PL 101; HURON-KINLOSS being all of PIN 33334-0115 (LT);
  - iii. DUFFERIN ST PL 101 W OF WASHINGTON ST; HURON-KINLOSS being all of PIN 3334-0119 (LT);
  - iv. DUFFERIN ST PL 101 E OF WASHINGTON ST; HURON-KINLOSS being all of PIN 33334-0120 (LT);
  - v. PT LT 102-104 PL 101 AS NIN R249281; HURON-KINLOSS being all of PIN 33334-0097 (LT); and
  - vi. PT PARKLT 18, 23 PL 43; PT LT 232 PL 20; PT LT 53-57 CON 1 KINLOSS; PT S1/2 LT 58 CON 1 KINLOSS PT 1, 3 & 4, 3R4526, PT 1, 3R4541 SRO, PT 1, 3R5474 SRO, PT 15, 3R4334 SRO EXCEPT PT 1 & 2, 3R46514; HURON KINLOSS being all of PIN 33334-0310 (LT).

(the “**Licensor’s Lands**”).
2. The Licensee is the owner of the land and premises legally described as:
  - i. LT 27-30, 98-101; PT LT 102-104 PL 101; PT LT 219 PL 20; LT 220-229 PL 20 AS IN R83046; TOWNSHIP OF HURON-KINLOSS being all of PIN 3334-0098 (LT); and
  - ii. PT LT 55-56 CONC 1 KINLOSS AS IN KL11977; EXCEPT PT 1 3R4526; S/T R251626; TOWNSHIP OF HURON-KINLOSS being all of PIN 3334-0325 (LT).
3. The Licensor has agreed to permit the Licensee, its employees, contractors, invitees, and agents: (i) to ingress and egress over the portion of the Licensor’s Lands, identified in

yellow on the sketch attached herewith as Schedule A ("**License Area**"); and (ii) to use the License Area for the purposes of hosting Township approved special events (the "**Activity**").

**NOW THEREFORE IN CONSIDERATION** of the mutual premises herein contained and the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Licensee to the Licensors, and such other good and valuable consideration, the receipt and sufficiency of which by the Licensors is acknowledged by the Licensors' signature below, the parties hereto agree and covenant as follows:

## **ARTICLE 1 INTERPRETATION**

- 1.1 The above recitals comprising the preamble to this Agreement and the attached schedules shall form part of this Agreement. The schedules annexed hereto are hereby incorporated into this Agreement and form an integral part hereof, without further reference or language of incorporation.
- 1.2 Nothing in this Agreement or any acts of the Licensors or the Licensee pursuant to this Agreement shall be deemed to create a relationship of partners or a joint venture.
- 1.3 The parties hereto acknowledge and agree that in no event shall this Agreement be deemed to create a relationship of landlord and tenant between the parties, nor shall it be deemed to grant any leasehold interest in the Licensors' Lands.

## **ARTICLE 2 GRANT, TERM, AND TERMINATION**

- 2.1 The Licensors hereby grants to the Licensee, its employees, contractors, invitees, and agents the right to ingress and egress over the License Area, and to use the License Area for the Activity.
- 2.2 The term of the this Agreement shall commence on the 15<sup>th</sup> day of May, 2023, and end on the 31<sup>st</sup> day of December, 2023 (the "**Term**"), unless otherwise terminated in accordance with this Agreement.
- 2.3 This Agreement may be immediately terminated by the Licensors for any reason in its sole and absolute discretion.
- 2.4 During the Term, the Licensee shall have access and *non-exclusive* use of the License Area twenty four (24) hours a day. Notwithstanding the foregoing, the parties hereto acknowledge, confirm, and agree that on the below-noted dates, the Licensee shall have access and *exclusive* use of the License Area twenty four (24) hours a day \*.
  - i. June 15, 2023
  - ii. June 16, 2023
  - iii. June 17, 2023
  - iv. August 23, 2023
  - v. August 24, 2023
  - vi. August 25, 2023
  - vii. August 26, 2023
  - viii. August 27, 2023

**\*note however, that the CNR does maintain (at all times) mining/mineral rights over a portion of PIN 33334-0310]**

- 2.5 The Licensee shall pay the Licensors a flat fee of One (\$1.00 CAD) Canadian Dollars for its use and occupation of the License Area during the Term, which amount shall be inclusive of Harmonized Sales Tax.
- 2.6 Upon expiration of the Term or termination of this Agreement, the Licensee shall surrender the License Area in substantially the same condition as the License Area was found immediately prior to commencement of the Term. With the exception of reasonable wear and tear, the Licensee shall be responsible for any damage caused to the License Area during the Term.

### **ARTICLE 3 INSURANCE AND INDEMNIFICATION**

- 3.1 During the Term, the Licensee shall have and maintain in force all the necessary and appropriate insurance policies that a prudent person in the business of the Licensee would maintain and in keeping with industry standards. Such policies shall have policy limits that are sufficient to protect and indemnify the Licensors from any losses arising from the conduct, acts, or omissions of the Licensee. The Licensee shall forward to the Licensors a certificate verifying such insurance, upon the Licensors' written request. Such policy of insurance shall not be cancelled or permitted to lapse unless the Licensee notifies the Licensors in writing at least thirty (30) days prior to the effective date of the cancellation or expiry.
- 3.2 The Licensee shall indemnify and hold harmless the Licensors, against all liabilities, costs, fines, suits, claims, demands or actions of any kind for which Licensors may become liable for reason of any breach, violation or non-performance by the Licensee of any covenant, term or provision of the Agreement, or any injury, death or damage to property, occasioned to or suffered by any person or any property by reason of any act, negligence, or default by the Licensee or its employees, invitees or agents, or by reason of the use and/or occupation of the License Area by the Licensee, or by reason of the condition of the License Area. For clarity, the Licensors shall not, in any way, be responsible for any liabilities, costs, fines, suits, claims, demands or actions of any kind with respect to, or in connection with, the use and/or occupation of the License Area by the Licensee. This Article 3.2 shall survive the expiration or termination of this Agreement.

### **ARTICLE 4 LICENSEE'S COVENANTS**

- 4.1 The Licensee represents, warrants, covenants, and agrees as follows:
  - (a) to have full power and authority to enter into this Agreement;
  - (b) to hold all applicable permits, licenses, consents, registrations, and authorities necessary to perform its obligations under the Agreement and to carry out the Activity;
  - (c) to comply with any and all applicable federal, provincial, and municipal laws, rules, orders, regulations, and by-laws;

- (d) to observe and perform all of the terms and conditions of this Agreement;
- (e) not to do or omit to do or permit to be done or omitted anything upon or in respect of the License Area, the doing or omission of which shall result in a nuisance or the cancellation of any insurance policy;
- (f) not to assign all or any portion of its interest in this Agreement;
- (g) not to use the License Area or allow the License Area to be used for any purpose other than the Activity;
- (h) not to make any alterations to the License Area, except the Permitted Alterations (as defined herein), which shall be carried out in accordance with Schedule B attached hereto, or otherwise in furtherance of this Agreement;
- (i) to be responsible for all costs associated with the Activity;
- (j) to accept the License Area on an “as is, where is” basis;
- (k) to maintain and repair the License Area during the Term, and clear the License Area of accumulated debris, at its sole cost and expense, so that the Licensee, its employees, contractors, invitees, and agents can safely access and use the License Area for the Activity. For clarity, this includes the responsibility of limiting access to any sloped/ditch areas within the License Area which may be/become hazardous to the Licensee’s employees, contractors, invitees, and agents. For further clarity, for the purposes of this Agreement, the License Area shall include the twelve (12) foot pedestrian walkway included within the area identified in yellow on the sketch in Schedule A as 3334-0310 and 3334-0097 ; and
- (l) to abide by and ensure its staff and invites abide by all rules and regulations which relate to the License Area, and are established/amended by the Licensor from time to time, including but not limited to adhering to any and all conditions which may be imposed by the Licensor from time to time for the Licensee to obtain any requisite permit(s) for the Activity.

## **ARTICLE 5 GENERAL**

- 5.1 This Agreement may not be modified or amended except by instrument in writing signed by the Licensor and Licensee.
- 5.2 This Agreement shall be interpreted under, and is governed by, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 5.3 This Agreement shall be binding upon and enure to the benefit of and shall be binding upon the parties hereto and their respective successors, successors in title and assigns.
- 5.4 All notices that may be or are required to be given pursuant to this Agreement shall be in writing and must be given by personal delivery, by e-mail, or by mail. Any notice given personally or by registered mail will be deemed to have been given and received on the date of delivery on a business day. If notice is sent by regular mail it will be deemed to have been given three (3) days after it is mailed and if sent by email, it shall be deemed to have been given the next business day following transmission.

- 5.5 This Agreement may be executed in counterparts and delivered by e-mail or facsimile transmission and each such counterpart, whether delivered executed in its original form or by e-mail or facsimile transmission, shall be, and be deemed to be, an original instrument all such counterparts, when taken together, shall constitute one and the same document.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date first mentioned.

**LUCKNOW AND DISTRICT KINSMEN  
CLUB INCORPORATED**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the  
corporation

**THE CORPORATION OF THE TOWNSHIP  
OF HURON-KINLOSS**

Per: \_\_\_\_\_

Name:

Title:

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the  
corporation



**Schedule A**  
**Place Holder**

## **Schedule B Permitted Alterations**

The parties hereto acknowledge, confirm, and agree that the Licensee shall be permitted to reconstruct the rail trail pedestrian pathway and create "Tractor Pull Tracks" on either side of the rail trail (the "**Permitted Alterations**") which is situate on the Licensors' lands legally described as:

PT PARKLT 18, 23 PL 43; PT LT 232 PL 20; PT LT 53-57 CON 1 KINLOSS; PT S1/2 LT 58 CON 1 KINLOSS PT 1, 3 & 4, 3R4526, PT 1, 3R4541 SRO, PT 1, 3R5474 SRO, PT 15, 3R4334 SRO EXCEPT PT 1 & 2, 3R46514; HURON KINLOSS being all of PIN 33334-0310 (LT)

### **("Lands to be Altered")**

Notwithstanding the foregoing, the parties hereto acknowledge, confirm, and agree that the Licensee shall only be permitted to make the Permitted Alterations provided the following conditions are met.

- 1) Upon expiration of the Term or termination of this Agreement, the Licensee shall surrender the Lands to be Altered in substantially the same condition as the Lands to be Altered were found immediately prior to commencement of the Term. This shall include but not be limited to removal of the Permitted Alterations made in accordance with this Agreement and restoration of the Lands to be Altered to same or better condition than existed at the commencement of the Term. This condition shall survive the expiration of the Term or Termination of this Agreement.
- 2) Should the Licensee not remove the Permitted Alterations or restore the Lands to be Altered upon expiration of the Term or termination of this Agreement, the Township shall be permitted to complete the foregoing, and any costs and expenses associated therewith shall be the responsibility of the Licensee, and the Licensors shall be permitted to collect these costs and expenses from the Licensee in the same manner as realty taxes.
- 3) The Permitted Alterations shall at all times be completed at the Licensee's sole cost and expense.
- 4) The Permitted Alterations shall be completed in accordance with the specifications of engineering drawing provided to the Licensee, and to the complete satisfaction of the Director of Public Works for the Licensors.
- 5) In connection with the Permitted Alterations, the Licensee shall provide the Licensors with any proof of additional insurance which may be requested by the Licensors from time to time. Such additional insurance required by the Licensors shall include at minimum:
  - a) a limit of liability of not less than Five Million Canadian Dollars (\$5,000,000.00 CAD) per occurrence with an aggregate limit of not less than Six Million Canadian Dollars (\$6,000,000.00 CAD);
  - b) that the Licensors be named as an additional insured in respect of the named insured;
  - c) that the policy contain a provision for cross liability and severability of interest in respect of the named insured;

- d) that the policy covers work performed on behalf of the named insured by any sub-contractor(s); and
- e) that the policy requires the named insured by provided with thirty (30) days prior notification of cancellation.