

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

BY-LAW NO. 2011-42

Being a by-law to authorize an Agreement between the Corporation of the Municipality of Powassan and Ethel's Snack Bar to allow for parking vehicles on a portion of property.

WHEREAS the Corporation of the Municipality of Powassan is desirous of entering into an agreement with Ethel's Snack Bar in order to provide parking for the users of the Sportsplex Community Recreation Centre on Ethel's Snack Bar property.

NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF POWASSAN ENACTS AS FOLLOWS:

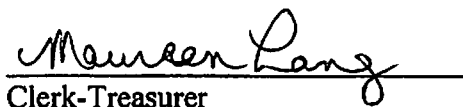
1. That the Mayor and Clerk-Treasurer be authorized to execute the agreement, attached as Appendix "A" and forming part of this by-law.

Read a first and second time in open session on December 6, 2011.

Read a third and final time on December 20, 2011.



Mayor



Clerk-Treasurer

APPENDIX 'A'
TO BY-LAW 2011-42

THIS LICENSE made this 6th day of December, 2011

BETWEEN:

**Ethel's Snack Bar
(the "Licensor")**

AND

**The Corporation of the Municipality of Powassan
(the "Licensee")**

WHEREAS:

1. The Licensor is the owner of the lands and premises known as Ethel's Snack Bar, 440 Main Street, Powassan, Ontario (the "Property"):
2. The Licensor and the Licensee have agreed that the Licensee shall have a license to park vehicles on a portion of the Property in accordance with the terms hereof.

NOW THEREFORE this agreements (the "Agreement") witnesses that in consideration of the premises and the obligations herein expressed and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the Licensor and Licensee hereby agree as follows:

(1) Grant

1. The Licensor hereby grants to the Licensee that the license (the "License") to use that portion of the Property shown outlined in Schedule "A" (the "Designated Area") solely for the purpose or parking vehicles for a term (the "Term") of three years from August 20th, 2011 to August 20th, 2014 subject to the right of renewal as hereinafter set forth.
2. The Licensee, when not in default hereunder, shall have the option to renew this License for a further term of three years upon the same terms and conditions as the within License, save as to further right renewal. In order to exercise this right of renewal, the Licensee shall give to the Licensor sixty days notice of its intention to renew.
3. The designated area is accepted "as is where is" by the Licensee.

4. The Licensee acknowledges that the licensor has no obligations to delineate or separate the Designated Area from the remainder of the Property.
5. The License shall be entitled to access the Designated Area as reasonable required in connection with its use and operation of the balance of the Property. In exercising this right, the Licensor agrees to use all reasonable commercial efforts to minimize any interruption with the licensee's use of the Designated Area.

(2) License Fee

1. The Licensee shall, as a License fee, provide snow plowing and removal from the Designated Area during the term of this License or any renewal thereof.
2. The Licensee covenants and agrees to pay to the Licensor any taxes or other additional costs imposed on or incurred by the Licensee of the Designated Area

(3) Licensee's Covenants

1. The Licensee covenants and agrees with the Licensor that, throughout the Term:
 - a. The Licensee shall observe all of the terms, covenants and conditions of this Agreement;
 - b. The Designated Area may be used only for the purpose of parking motor vehicles, for persons attending at the Municipal Sportsplex or Lions Ball Park;
 - c. The Licensee shall do nothing on or from the Designated Area and the Property shall be or result in a nuisance;
 - d. The Licensee shall not act or fail to act in any manner that causes damage to the Designated Area or the Property.

(4) Insurance and Indemnity

1. The Licensee shall maintain an insurance policy including public liability and property damage insurance coverage, in an amount not less than \$2,000,000.00 per occurrence which shall name the Licensor as an additional insured. The Licensee shall provide evidence reasonable satisfactory to the Licensor that such insurance coverage is in force.
2. The Licensee shall indemnify and save harmless the Licensor against all actions, suits, claims, damages, costs and liabilities arising out of or as a result of:
 - a. Any breach, violation or non-performance by the Licensee of the terms, conditions, covenants and obligations on the part of the Licensee set out in this Agreement;
 - b. Any damages to the Property occasioned by the use of the Designated Area by the Licensee, its employees, contractors, invitees, customers and others for whom it is in law responsible; and

- c. Any injury to or death of any person resulting from the use of the Designated Area by the Licensee, its employees, contractors, invitees, customers and others from whom it is in law responsible.
3. The Licensee shall use the Designated Area as its sole risk, and the Licensor shall not be liable for any loss, injury, or damage caused to persons using the Designated Area or to automobiles or their contents or any other property, the responsibility for insuring against any such loss, injury or damage being that of the Licensee who hereby waives, on behalf of itself and its insurers, any rights of subrogation against the Licensor.

(5) Default

1. Any of the following occurrences or acts shall constitute an event of default by the Licensor or Licensee (as applicable) under this Agreement:
 - a. Failure to perform any of its obligations under this Agreement;
 - b. The bankruptcy or insolvency of either of the parties hereto. If an event of default shall occur and be continuing the non-defaulting party, in addition to all other rights it may have, shall have the right to immediately terminate the Agreement by giving written notice of such termination to the defaulting party.

(6) Assignment

1. The Licensee shall not assign this Agreement in the whole or in part or enter into any sub-license or otherwise permit any other party to occupy the Designated Area without the prior written consent of the Licensor, which consent may be unreasonably or arbitrarily withheld.

(7) Notices

1. Any demand, notice, direction or other communication made or given hereunder shall be in writing and shall be made or given by personal delivery, or sent by registered mail addressed as follows:

Licensor

Ethel's Snack Bar
440 Main St.
Powassan, ON P0H 1Z0

Licensee

The Corporation of the Municipality of Powassan
466 Main St., PO Box 250
Powassan, ON P0H 1Z0

2. Any communication made by personal delivery shall be conclusively deemed to have been given and received on the day of actual delivery. Any communication

made by pre-paid registered mail shall be conclusively deemed to be given and received on the fifth business day following the date of mailing thereof.


(8) General

1. This Agreement shall endure to and bind the parties hereto, their successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.


I have authority to
bind the Licensor

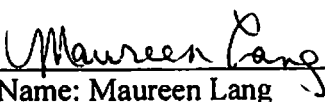
Ethel's Snack Bar

Per: 
Name:
Title: President

I have authority to
bind the Licensee

The Corporation of the Municipality of Powassan

Per: 
Name: Peter McIsaac
Title: Mayor

Per: 
Name: Maureen Lang
Title: Clerk-Treasurer

Attach Schedule "A" (Sketch showing Designated Area)