

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



BY-LAW

NO. 2024 -

Being a By-law to Authorize an Agreement with Kincardine Farmland Holding Inc. for the Vanderveeken Drain, Municipality of Kincardine

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 purpose of exercising its authority under this or any other Act; and

Whereas under Section 2 of the Drainage Act, RSO 1990 when two or more owners of land desire to construct or improve drainage works on any of their lands and are willing to pay the cost thereof, they may enter into a written agreement for the construction, improvement, financing and maintenance of such drainage works; and

Whereas Kincardine Farmland Holding Inc. wishes to enter into an Agreement Drain – Vanderveeken Drain; now therefore be it

Resolved that the Council of The Corporation of the Municipality of Kincardine **Enacts** as follows:

1. That The Corporation of the Municipality of Kincardine enter into a Drain Agreement with Kincardine Farms Holding Inc.
2. That the Mayor and Clerk be authorized to sign and execute, on behalf of The Corporation of the Municipality of Kincardine, the Agreement with Vanderveeken Farms Inc. attached to this By-law as Schedule "A".
3. That By-law 2024 – 006 is hereby rescinded.
4. That this By-law shall come into full force and effect upon its final passage.
5. That this By-law may be cited as the "Vanderveeken Drain Agreement (2024) By-law".

Read a First, Second and Third Time and Finally passed this 14th day of August, 2024.

Mayor

Clerk

Agreement Drain – Vanderveeken Drain

Date of Agreement

AGREEMENT made in duplicate this _____ day of _____, 202__.

BETWEEN:

Kincardine Farmland Holdings Ltd.

hereinafter called the "Party of the First Part"

and

The Corporation of the Municipality of Kincardine

hereinafter called the "Party of the Second Part"

and

Kincardine Farmland Holdings Ltd.

hereinafter called the "Party of the Third Part"

Reference to Drainage Act, RSO, 1990

This agreement is made under the authority of Section 2 of *Drainage Act*, R.S.O. 1990, Chapter D.17.

WHEREAS the Party of the First Part desire an outlet for a tile drainage system for Lot 10, Concession 9.

WHEREAS it was necessary to construct the outlet on the property of the Party of the Second Part and Third Part.

AND WHEREAS all Parties herein do hereby agree that the work constructed will be repaired and will be maintained according to the following conditions:

The properties affected by this Drainage Agreement are described as follows:

Legal Description of Lands

a) PT LOT 10 CON 9 BRUCE AS IN R338304; MUNICIPALITY OF KINCARDINE, being all of PIN 33282-0021 (LT) & Roll Number: 410 826 00022 4500 — being the property of the Party of the First Part

and

b) RDAL BTN LT 10 AND LT 11 CON 7 BRUCE; RDAL BTN LT 10 AND LT 11 CON 8 BRUCE; RDAL BTN LT 10 AND LT 11 CON 9 BRUCE; RDAL BTN LT 10 AND LT 11 CON 10 BRUCE; KINCARDINE; being all of PIN 33282-0069 (LT) - being the property of the Party of the Second Part

and

c) LOT 11 CON 9 BRUCE EXCEPT PT 20, 3R802; MUNICIPALITY OF KINCARDINE, being all of PIN 33282-0020(LT) & Roll Number: 410 826 00022 4600 - being the property of the Party of the Third Part

Description of Drainage Works

The downstream end of the drainage works is a Natural Watercourse. The drain will consist of quarry stone riprap at outlet, 20 feet of HDPE outlet pipe with Rodent Grate, 820 feet of 10 inch (PDT) Plastic Drainage Tubing, 10 inch (HDPE) High Density Polyethylene Pipe 320 kPa and two catch basins.

From the outlet at or near the northwest corner of Lot 11, Concession 9 the Drain will be located in a southwest direction in Lot 11 Concession 9 and parallel to Sideroad 10 as a 8 inch PDT for 820 feet to or near the east boundary of Sideroad 10, a catch basin will be installed at this location, then in a northwest direction across Sideroad 10 as a 10 inch HDPE for 66 feet to or near the west boundary of Sideroad 10, a catch basin will be installed at this location.

A sketch indicating the location of the Drain is available at the office of the Corporation of the Municipality of Kincardine.

Direct connection of this Drain is allowed only to the Party of the First Part.

Construction Construction of the drain will take place in 2023. The contractor is to locate the existing tiles along the route prior to any work being commenced and any damages will be repaired in a timely manner during construction. Any fences that are damaged during construction shall be repaired in a timely manner.

Maintenance Party of the First Part shall have access to the drain for maintenance on Lot 11, Concession 9.
If the Party of the Third Part notices the drain requires maintenance, they shall inform the Party of the First Part and shall grant access for the repairs.
Any fences or tiles that are damaged during the maintenance shall be repaired by the Party of The First Part.
Any future maintenance shall be paid as stated under Costs.
Any work on the Municipal Right of Way, Second Part, must receive approval from the Municipality prior to proceeding. All locates, permits, permissions and approvals are the responsibility of the landowners.

Costs The cost of the construction of the Main Drain shall be paid in the following proportions:

Main Drain
100% Party of the First Part.

Estimated cost:
Main Drain \$16,500.00 (CDN)

The cost of the maintenance of the Main Drain shall be paid in the following proportions:

Main Drain.
100% Party of the First Part.


This agreement herein contained when executed by the parties hereto shall be registered in the proper Registry Office and any costs shall be borne by the Party of the First Part.

The parties hereto agree that no affidavit of subscribing witness to the execution of this Drainage Agreement is required, as contemplated by paragraph 2(1)(7) of the Drainage Act, for the purposes of registration of this Drainage Agreement in the proper registry office and, accordingly, the parties agree that the efficacy of this Agreement is not affected by the absence of such an affidavit.


The provisions herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors and assigns.

In Witness Whereof the Party hereto have hereunto set their hands or seals this ____ day of _____, 202__.

Kincardine Farmland Holdings Ltd.

Per: 
Name: Richard D'Archivio
Title: Director
I have authority to bind the Corporation.

Kincardine Farmland Holdings Ltd.

Per: 
Name: Andrea Gruza
Title: Director
I have authority to bind the corporation.


The Corporation of the Municipality of Kincardine
Per:

Kenneth Craig, Mayor


Municipality of Kincardine, Clerk

We have authority to bind the corporation.

Kincardine Farmland Holdings Ltd.

Per: 
Name: Richard D'Archivio
Title: Director
I have authority to bind the Corporation.

Kincardine Farmland Holdings Ltd.

Per: 
Name: Andrea Gruza
Title: Director
I have authority to bind the corporation.