

# The Corporation of the Town of Minto

## By-Law No. 2017-32

to authorize the Mayor and Clerk to execute an Agreement between the Corporation of the Town of Minto and Lisa Calzonetti and Ken Morris (Mural Agreement)

**WHEREAS** the Town is wishing to promote the Town of Minto as a centre for tourism in Wellington;

**AND WHEREAS** the Town has determined that one of the ways it might make the area more attractive to both residents and tourists is to place murals on buildings within the municipality;

**AND WHEREAS** the Building Owner owns a building located in the former Town of Clifford, a community within the Town of Minto which has been deemed suitable and desirable for the placement of one such mural;

**AND WHEREAS** the Building Owner and the Town agree on the use of the building for such a mural;

**NOW THEREFORE** the Council of the Corporation of the Town of Minto enacts as follows:

1. That the Deputy Mayor and Deputy C.A.O. Clerk are hereby authorized and directed to execute the Agreement, in substantially the same form, as that is as attached hereto as Schedule "A" and forming part of this By-law.
2. That the Clerk is hereby instructed to affix the Corporate Seal hereto.

READ a first, second, third time and passed in open Council this 18<sup>th</sup> day of April, 2017.

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Ronald Faulkner, Deputy Mayor

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Gordon Duff, Deputy C.A.O. Clerk

**THIS AGREEMENT** made as of the 8th day of March, 2017

**BETWEEN:**                 **Lisa Calzonetti and Ken Morris**  
(hereinafter called the "Building Owner")

**OF THE FIRST PART**

and

**THE CORPORATION OF THE TOWN OF MINTO**  
(hereinafter called the "Town")

**OF THE SECOND PART**

**WHEREAS** the Town is wishing to promote the Town of Minto as a centre for tourism in Wellington;

**AND WHEREAS** the Town has determined that one of the ways it might make the area more attractive to both residents and tourists is to place murals on buildings within the municipality;

**AND WHEREAS** the Building Owner owns a building located in the former Town of Clifford, a community within the Town of Minto which has been deemed suitable and desirable for the placement of one such mural;

**AND WHEREAS** the Building Owner and the Town agree on the use of the building for such a mural;

**NOW THEREFORE THIS AGREEMENT IN WITNESS THAT** the parties agree as follows:

#### **License and Access**

1.     The Building Owner hereby grants to the Town a license and right to install one 8' x 8' Mural on the outer wall of the building located at 2 Elora St. N., Clifford, Ontario (Mural Image attached as Schedule "A"). The parties agree that the mural shall be installed on the south wall of the building (hereinafter known as the mural site).
2.     The Building Owner shall allow the Town, through its designated Artist or the Artist's employees, access to the mural site at reasonable times and days for a period of time sufficient to install the mural.
3.     The Building Owner shall allow the Town, through its designated Artist or the Artist's employees, access to the mural site at reasonable times and days for a period of time sufficient to allow proper maintenance of the mural.
4.     The Building Owner shall not interfere with the activities of the Town, through its Artist and the Artist's employees, during the installation and maintenance of the mural.
5.     The Building Owner shall not cover the mural with any object and shall not use the mural in any way to advertise its business. However, the Building Owner may include the mural in a general depiction of its building, provided that the mural is not the principal focus of the depiction and that depiction is not used for advertising purposes.
6.     The Town shall not block any avenue of ingress or egress from the building during the periods for installation or maintenance of the mural nor shall the Town interfere with traffic into and out of the building.

### **Cost of Completion and Maintenance**

7. The Town shall be solely responsible for all costs associated with the preparation, completion and maintenance of the mural including any costs associated with removing graffiti or repairing of the mural due to vandalism.

### **Consideration**

8. The Town shall pay to the Building Owner a license fee of \$1.00 (One Dollar) as consideration for the rights conferred by this license. Said sum shall be paid at the time this License Agreement is executed.

### **Building Owner's Representations**

9. The Building Owner represents that they have an ownership interest in the building in question or that he/she is the duly authorized representative of a party with an ownership interest in the building and that the land is unencumbered with any limitations which might restrict the Town's exercise of this license other than the impact of any ordinances or restrictions imposed by a government body.
10. The Building Owner represents that he/she enjoys the rights to access and use of the building that he/she purports to grant to the Town via this license.
11. The Building Owner is duly organized/formed, validly existing and of good standing and has all rights, power and authority to make this license and bind itself hereto.

### **Town's Representations**

12. The Town represents that it is duly organized/formed, validly existing and in good standing and has all rights, power and authority to make this license and bind itself hereto.
13. The Town represents that upon completion of the mural, it will become the owner of the mural and the holder of the copyright.
14. The Town represents that the mural is an original work of art and has not appeared at any other time and at any other site.
15. The Town represents that the installation of the mural will not violate any laws, or regulations, or rights or interests of any third parties, including copyright and intellectual property rights.

### **Art Preservation**

16. The Building Owner agrees to preserve the integrity of the wall and agrees not to alter, damage, desecrate, obstruct or remove the mural in any manner for a period of twenty (20) years.

### **Destruction of the Mural Site**

17. If the Building Owner determines that the building must be demolished, he shall notify the Town of the imminent destruction of the building as soon as practicable, and in no event later than 90 days before the demolition of the structure.

18. This is a community cooperative effort. Should the Building Owner need to take action to maintain the wall in any way that will or could harm the painting, or should the Town need to take action to preserve or maintain the painting in a manner that will or could harm the wall, the parties will notify each other and work out a cooperative solution.

#### **Risk of Loss**

19. The Town accepts the risk of loss of the mural due to casualty such as a natural disaster or fire.

#### **Indemnification**

20. The Town shall indemnify the Building Owner against any claim, action or suit brought against the Building Owner or any property damage sustained by the Building Owner arising out of the Town's completion or maintenance of the mural.

21. The Town shall obtain and keep in force a comprehensive general liability insurance policy, in standard form, protecting the Town against any and all liabilities arising out of or related to the installation and maintenance of the mural in respect of destruction of or damage to any property. Such policy shall also be written as a primary policy not contributing with any other coverage which the Artist may carry. The Town shall name the Building Owner and Artist as an additional insured on this policy and shall provide the Building Owner with proof thereof.

#### **Compliance with Laws**

22. The parties agree to comply with all applicable laws, rules and regulations respecting the building and its uses.

23. This license shall be governed by the laws of the Province of

#### **Ontario Assignment of the License**

24. Either of the parties may assign this license provided that their successors agree to comply with the terms of the license and the assigning party notifies the non-assigning party in writing of the name and address of the assignee.

#### **Miscellaneous**

25. Notices to either party shall be made in writing and sent to the other party, by certified mail, return receipt requested, at the address set forth below. Notice is effective upon receipt.

26. No revision of this license is valid unless in writing and executed by the parties or their authorized officers.

27. The terms of this license shall be binding upon the heirs, successors and permitted assigns of the parties.

28. This license constitutes the entire agreement of the parties.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals.

**SIGNED, SEALED AND DELIVERED**

In the presence of

..... )  
Witness ) Lisa Calzonetti  
..... )  
Witness ) Ken Morris  
 )  
 )  
 )  
 ) THE CORPORATION OF THE TOWN OF MINTO  
 ) Per:  
 ) .....  
 ) Deputy Mayor, Ronald Faulkner  
 )  
 ) .....  
 ) Deputy CAO/Clerk, Gordon Duff  
 )  
 ) We have authority to bind the corporation.

Schedule "A"  
Mural Image

