

## **RESOLUTION NUMBER 2020-11**

A RESOLUTION GRANTING A LICENSE TO 2 FISH HOLDINGS, LLC, FOR THE DAIRY STAND'S EXISTING DUMPSTER TO REMAIN IN A PORTION OF THE CHURCH STREET PUBLIC RIGHT OF WAY, AND AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT DETAILING SUCH TERMS.

WHEREAS in May 2020, 2 FISH HOLDINGS, LLC, acquired title to the property commonly known as the Golden Bear Dairy Stand at 546 West Main Street, Apple Creek, Ohio; and

WHEREAS in order to minimize its impact on traffic, the Dairy Stand's garbage dumpster has sat in a graveled area on the north side off of Church Street for several years; and

WHEREAS, it was recently discovered that the graveled area where the dumpster sits is in fact part of the public right of way owned by the Village; and

WHEREAS, due to space and traffic constraints on the Dairy Stand lot, a request has been made that the Village permit the dumpster to remain where it presently sits.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF APPLE CREEK, OHIO, THAT:

### **SECTION ONE.**

Apple Creek Village Council hereby grants 2 FISH HOLDINGS, LLC a license to permit the dumpster to remain in its current location.

### **SECTION TWO.**

This license may be terminated by the Village at any time, without prior notice.

### **SECTION THREE.**

As a condition of granting this license, 2 FISH HOLDINGS, LLC, together with its principal owners, shall hold the Village of Apple Creek harmless, and indemnify the Village, its employees and elected officials, from and against any claims whatsoever for damages of any nature related to said dumpster and its placement.

### **SECTION FOUR.**

The Mayor of Apple Creek is authorized by Village Council to execute the attached "License Agreement".

### **SECTION FIVE:**

All prior Resolutions and parts of Resolutions which conflict with the provisions of this Resolution are hereby repealed to the extent that they are in conflict herewith.

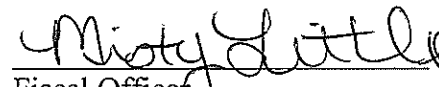
**SECTION SIX:**

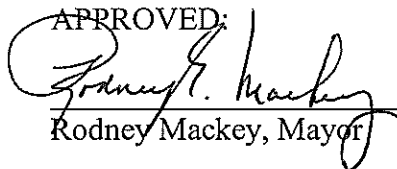
This Resolution shall go into effect at the earliest date allowable by law.

PASSED:	First Reading	<u>7/6/2020</u>
	Second Reading	<u>7/20/2020</u>
	Third Reading	<u>8/3/2020</u>

ATTEST:

  
\_\_\_\_\_  
President of Council

  
\_\_\_\_\_  
Fiscal Officer

APPROVED:  
  
\_\_\_\_\_  
Rodney Mackey, Mayor

LICENSE AGREEMENT

On this 31 day of July, 2020, the below signed parties agree as follows:

Whereas the Village owns an undeveloped portion of Church Street in proximity to Dale James Ford and the Golden Bear Dairy Stand, and

Whereas, a trash dumpster has sat on a graveled portion of the Church Street public right of way for several years, most residents erroneously believing the land to have belonged to either Dale James Ford or the Dairy Stand; and

Whereas, due to space constraints on the Dairy Stand lot, the current owners of the Dairy Stand, 2 FISH HOLDINGS, LLC, have requested the continued placement of the dumpster where it currently sits.

Now, therefore, the parties agree as follows:

The Village of Apple Creek, Ohio, an Ohio municipal corporation, hereby grants 2 FISH HOLDINGS, LLC a non-assignable license to permit the existing dumpster in the vicinity of 546 West Main Street, Apple Creek, Ohio, sitting on the north side of the Church Street right of way, to remain where it presently is. As a condition of such use, 2 FISH HOLDINGS, LLC, together with its principal owners individually, as identified below, shall maintain said dumpster and **shall hold the Village of Apple Creek, Ohio, a municipal corporation, harmless, as well as indemnify the Village, its employees and elected officials, from and against any claims whatsoever for damages of any nature related to said dumpster and its placement.**

This license is non-assignable, and may be revoked at any time by the Village of Apple Creek, Ohio, without notice, such revocation being entirely within the discretion of the Village.

VILLAGE OF APPLE CREEK, OHIO

By: Rodney E. Mackey  
Mayor Rodney Mackey

2 FISH HOLDINGS, LLC

By: R. Matthew Smith  
authorized agents

R. Matthew Smith  
Matt Smith, individually