

The Corporation of the City of Kenora

By-Law Number 49 - 2016

A By-law to Regulate the Use of Municipal Docks, Buoys, Launching Ramps and Other City Property for Boating Purposes

Whereas The Corporation of the City of Kenora owns or otherwise controls numerous waterfront properties and numerous water lots that are used for mooring, launching and other boating purposes; and

Whereas pursuant to sections 8, 9 and 10 of the Municipal Act, 2001 the councils of municipalities may pass by-laws regulating the use of municipally owned or controlled land and may provide any service or thing that the municipality deems necessary or desirable for the public; and

Whereas Council deems it expedient to regulate the use of its property by boaters, including the use of its docks, buoys, boat launches and beaches; and

Whereas pursuant to section 128 of the Municipal Act, 2001 the councils of municipalities may pass by-laws regulating and prohibiting with respect to public nuisances, including matters that, in the opinion of Council, are or could become public nuisances;

Whereas in the opinion of the Council of The Corporation of the City of Kenora interference with rights and privileges to moor boats to City Property, to launch boats into the water from City Property, to remove boats from the water onto City Property and the beaching of boats on City Property are all public nuisances; and

Whereas section 425 of the Municipal Act, 2001 provides that the councils of municipalities may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Municipal Act, 2001 is guilty of an offence;

Now Therefore the Council of The Corporation of the City of Kenora hereby enacts as follows:

Part 1 – Interpretation

1. In this By-law,
 - a. “**abandoning**” means the mooring, parking, leaving, placing or storing of a boat on City Property for more than 48 hours without authorization from the City;
 - b. “**authorized sign**” means any sign, notice, or other device placed or erected by the City on or about City Property;
 - c. “**beach**” means the shore of a body of water that is often, but is not always, pebbly or sandy, and which is owned by, leased to, or otherwise under the control of the City;

- d. **“beaching”** means the running or hauling of a boat onto a beach;
- e. **“boat”** means any vessel which floats on water;
- f. **“By-law”** means this by-law, including its schedules;
- g. **“by-law enforcement officer”** means a person appointed by the Council of the City to enforce the by-laws of the City;
- h. **“Chief Administrative Officer”** means the Chief Administrative Officer of the City or his or her designate;
- i. **“City”** means The Corporation of the City of Kenora or, where referring to geographic area, the City of Kenora;
- j. **“City Clerk”** means the City Clerk of the City or his or her designate;
- k. **“City dock”** means a dock, wharf, pier or similar structure which is owned by, leased to, or otherwise under the control of the City;
- l. **“City Property”** means any property owned by, leased to, or otherwise under the control of the City adjoining water or comprising a water lot, and includes all ramps, docks, buoys, structures and equipment on such property;
- m. **“commercial use”** means the use of any boat regardless of size, type, or means of propulsion to generate revenue by charging a fee for the transportation of material, the transportation of people, the sale of goods from the boat, or any other service provided by or from the boat;
- n. **“designated spot”** means a specific area of City property designated by the City Clerk or the Parks and Facilities Division Lead for a specific purpose or use;
- o. **“docking space”** means a specific space adjacent to a City Dock that has, by permit, been assigned to a person to moor his or her boat;
- p. **“launching ramp”** means an area that is often, but not always, adjacent to a city dock and which is designed and used for the launching of boats into the water and the removal of boats from the water;
- q. **“moor”** means to moor, dock, anchor, park, tie up, fasten or otherwise secure a boat to a dock or a buoy, and includes the anchoring of a boat on City Property and the beaching of a boat on the shore of City Property;
- r. **“mooring buoy”** is a buoy on City Property anchored by the City offshore that serves as a point to moor a boat;
- s. **“nuisance”** means the mooring, parking, placing, leaving, storing, or abandoning of a boat or materials in contravention of this by-law in a location or manner which interferes with the use of a City dock, mooring buoy or beach by the general public or by a holder of a permit under this By-law;

- t. **“park”** means securing a boat in any way to a City dock or mooring buoy whether it is attended by persons or not and shall include beaching a boat or otherwise placing a boat on a beach;
 - u. **“Parks and Facilities Division Lead”** means the Parks and Facilities Team Leader of the City or his or her designate;
2. Wherever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
 3. References to items in the plural include the singular, as applicable.
 4. The various prohibitions of this By-law are cumulative and not mutually exclusive.
 5. Where any expression of time occurs, or where any hour or other period of time is stated, the time referred to shall be either standard time or daylight savings time, whichever is in effect in the City at the time the By-law is interpreted.

PART 2 - AUTHORIZED SIGNS

6. The City Clerk and the Parks and Facilities Division Lead are authorized to erect or otherwise post and maintain, or cause to be erected, posted and maintained, such signs as are required to give effect to the provisions of this By-law and as are required to regulate, direct, warn or guide the mooring, launching or removal of boats for the safety and convenience of the public.

PART 3 - PERMITTED USES OF CITY PROPERTY

Without a Permit

7. In accordance with the provisions of this By-law, including the specific conditions set out in Schedule “A”, a person may, without a permit, use a City dock or launching ramp identified in Schedule “A” for the purpose of mooring a boat, launching a boat into the water or removing a boat from the water.
8. No person shall moor a boat to a dock identified in Schedule “A” except in accordance with the provisions of this By-law.
9. No person shall moor a boat to a dock or part of a dock identified in Schedule “A” as a loading and unloading zone unless such person is actually engaged in the loading or unloading of passengers or cargo or other materials.
10. No person shall moor a boat to a City dock or part of a City dock identified in Schedule “A” beyond the time limits permitted in Schedule “A” for mooring at that dock or that part of that dock, even if such person is actually engaged in the loading or unloading of passengers or cargo or other materials.

11. No person shall launch a boat into the water, remove a boat from the water or otherwise use any City Property identified in Schedule "A" for boating or boating related purposes except in accordance with the provisions of this By-law.
12. No person shall take more than 15 minutes to launch a boat or remove a boat from a launching ramp identified in Schedule "A".
13. No person shall use any City Property identified in Schedule "A" for boat mooring, launching or boat removal purposes between the hours of 12:00 a.m. (midnight) and 6:00 a.m.
14. Where a boat has been moored to a dock at a location set out in Schedule "A", no person shall moor such boat to a dock at that location again for at least one hour following the removal of the boat from that dock.

With a Permit

15. In accordance with the provisions of this by-law, a person may, provided that he or she has a permit and complies with its terms:
 - a) use the docking space assigned to such person for the mooring of his or her boat at a dock identified in Schedule "B"; or
 - b) use the mooring buoy assigned to such person for the mooring of his or her boat to a mooring buoy identified in Schedule "C".
16. No person shall moor a boat to a dock identified in Schedule "B" other than with a visible permit and in compliance with its terms, all applicable City policies and all applicable laws.
17. No person shall moor a boat at a mooring buoy identified in Schedule "C" other than with a visible permit and in compliance with its terms, all applicable City policies and all applicable laws.

City Property Where Public Mooring, Launching and Related Activities Are Prohibited

18. No person shall moor a boat to a City dock identified in Schedule "D" or to any City Property not identified in Schedules "A", "B", and "C" to this By-law.
19. No person shall launch a boat into the water, remove a boat from the water or otherwise use any City Property identified in Schedule "D" for boating or boating related purposes.
20. No person shall use any City Property not identified in Schedules "A", "B", and "C" to launch a boat into the water or to remove a boat from the water.

PART 4 - PERMITS

21. The registered owner of a boat may submit an application for a permit for a docking space at a dock set out in Schedule "B" or for a mooring buoy permit at a location set out in Schedule "C".

22. An applicant for a permit under this By-law shall:
- a) complete an application for the permit in the form provided by the City Clerk;
 - b) submit a completed application together with the fee as set out in the applicable City of Kenora Fees and Charges By-law; and
 - c) provide any other documentation that the City Clerk may require in consideration of the application for a permit.
23. Applications for permits, including permit renewal applications, will be considered in accordance with applicable City of Kenora policies.
24. Without limiting the generality of section 23, unless:
- a. an applicant is in default in the payment of fees that he or she was required to pay under this by-law;
 - b. an applicant has previously had his or her permit revoked by the City; or
 - c. there is a reasonable concern that the permit will not be used for a proper or lawful purpose or that the terms and conditions of the permit will not be complied with;

permits will generally be issued in the following order:

1. a holder of a docking space permit or a mooring buoy permit in the previous year will provide a fully completed renewal application by March 31st of the boating season to which the application relates and will be given a first opportunity to renew his or her permit; and, thereafter,
 2. when permits become available, they will generally be issued on a "first come, first serve basis".
25. In the event of inconsistency between the provisions of this by-law and any applicable City policies, this By-law prevails.
26. With respect to permits for docking space on the north side of Coney Island, to be eligible to apply for such a permit, a person must be a registered owner of an interior property on Coney Island.
27. Permits are seasonal with the season commencing on May 1st and ending on October 31st of a calendar year.
28. A permit is only valid for the year in which it is issued and expires on October 31st of the calendar year of issue.
29. A permit is only valid for the boat bearing the registration number on the permit for the boat described on the permit.

30. With a permit, the permit holder may moor his or her boat to the docking space indicated on the permit twenty-four (24) hours a day between May 1st and October 31st of a calendar year.
31. Notwithstanding section 30, the City may, in the discretion of the City Clerk, temporarily prevent a permit holder from using the docking space or mooring buoy assigned to him or her for any reason, including emergency, construction, maintenance or other reasons in the public interest.
32. A permit is not transferable.
33. Refunds for issued permits shall not be granted for any reason.
34. A permit shall be affixed to a boat in a manner which makes the permit easily visible from, or in close proximity to, the City dock or mooring buoy to which it is moored.
35. A permit holder shall comply, and shall ensure compliance by all others exercising privileges under the permit, with all of the terms and conditions of the permit, all applicable City Policies and all applicable federal, provincial and municipal laws, including this By-law.
36. Failure to comply with any term or condition of a permit, any applicable City policy or any federal, provincial or municipal law, including this By-law, which relates to the docking space or mooring buoy for which a permit was granted may result in the revocation of the permit by the City Clerk, in addition to any other enforcement proceedings against the permit holder as permitted by law.
37. A decision to revoke a permit may be served:
 - a) personally on the person to whom it is directed; or
 - b) by registered or certified mail to the last known address of the person to whom it is directed, in which case it shall be deemed to have been given on the third day after it was mailed.
38. Where a permit has been revoked by the City Clerk, and the permit holder believes such revocation to be unjustified, he or she may appeal the revocation decision in writing to the Chief Administrative Officer within 10 days of the sending of the revocation decision by the City Clerk to the permit holder.
39. Upon receipt of a Notice of Appeal, the Chief Administrative Officer shall hear the appeal orally, or in writing as he or she deems appropriate, and the Chief Administrative Officer's decision shall be final.

PART 5 - GENERAL CONDITIONS

40. No person shall moor, launch, remove or otherwise place or leave a boat on any City Property, except in accordance with the provisions of this by-law.

41. No person shall disobey an authorized sign regulating the use of any City dock, buoy, beach, launching ramp or other City property.
42. With the exception of a commercial boat exclusively engaged in the transportation of passengers, no person operating a commercial boat shall use a City dock, launching ramp, beach or other City Property unless such boat is clearly marked with the registered owner's name and telephone number.
43. No person shall cause a nuisance on any City Property.
44. No person shall store cargo or other material on a City dock, launching ramp, beach or other City Property in a way which impedes another person from reasonably using such City dock, launching ramp, beach or other City Property.
45. Section 44 does not apply when the person is actually engaged in the loading or unloading of cargo or other materials, provided that such loading or unloading does not takes more than fifteen minutes.
46. No person shall leave a boat unattended at a launching ramp.
47. No person shall, at any time, place or otherwise leave a boat, boat trailer or land vehicle, attended or unattended, in a location which impedes or interferes with the use of a Launching Ramp.
48. The presence of a boat, boat trailer or land vehicle on or adjacent to a launching ramp during launching or removal from the water in accordance with the provisions of this By-law does not contravene Section 47.
49. No person shall load or unload a boat at a Launching Ramp on any City Property under power of the boat's propulsion system.
50. No person shall moor a boat which exceeds 6.4 metres (21 feet) in length at its longest dimension to a City dock, except when authorized in writing to do so by the City Clerk.
51. No person shall moor a boat which exceeds 12.2 metres (40 feet) in length at its longest dimension to a mooring buoy, except when authorized in writing to do so by the City Clerk.
52. No person shall tamper with a mooring buoy.
53. No person shall move a mooring buoy from its designated spot.

PART 6 - EXEMPTIONS

54. This By-law shall not apply to:
 - a) employees or agents of police, fire and ambulance services acting in the scope of their duties to provide emergency services or enforcement activities;

- b) the City and its employees or agents acting within the scope of their duties as employees or agents of the City; and
- c) any person exempted, in writing, by the City Clerk of the provisions of this by-law, in accordance with the terms and conditions of the exemption.

PART 7 - ENFORCEMENT

Orders Made Under Sections 444 and 445 of the Municipal Act, 2001

- 55. Any person who contravenes an order made under section 444 of the *Municipal Act, 2001* is guilty of an offence.
- 56. Any person who contravenes an order made under section 445 of the *Municipal Act, 2001* is guilty of an offence.
- 57. An order may be served:
 - c) personally on the person to whom it is directed; or
 - d) by registered or certified mail to the last known address of the person to whom it is directed, in which case it shall be deemed to have been given on the third day after it was mailed.

Remedial Action

- 58. If a person is directed or required to do a matter or thing under this by-law or pursuant to an order made under section 445 of the *Municipal Act, 2001*, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense.

Removal and Storage of Boats, Cargo and Other Material

- 59. Where a By-Law Enforcement Officer, the Parks and Facilities Division Lead or the City Clerk finds a boat moored or otherwise in contravention of this By-law, he or she may arrange for the boat to be removed to a storage area.
- 60. Where a By-law Enforcement Officer, the Parks and Facilities Division Lead or the City Clerk finds cargo or other material stored on City Property in contravention of this By-law, he or she may arrange for same to be removed to a storage area.
- 61. Where a boat, cargo or other material has been removed to a storage area, it may be released to the registered owner upon payment of all removal and storage costs and a City administration fee of \$250. Without limiting the generality of the foregoing, all costs and charges for the removing, care and storage thereof are a lien upon the property and may be enforced in the manner provided by the Repair and Storage Liens Act.

General Offence and Penalty Provision

62. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or other penalty as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.

PART 8 - EFFECTIVE DATE

63. This By-law shall be in full force and effect on the third and final reading and approval thereof.

PART 9 - REPEAL

64. That By-law Number 100-2011 and all amendments thereto be and are hereby repealed.

By-law read a First and Second Time this 17th day of May, 2016

By-law read a Third and Final Time on this 17th day of May, 2016

The Corporation of the City of Kenora:-

David S. Canfield, Mayor

Heather Kasprick, City Clerk

SCHEDULE "A"**City Docks and Launching Ramps Where Use by the Public is Permitted for Boating Purposes in Accordance with the Provisions of this By-law, including the Specific Conditions Contained in this Schedule****1. 7th Street South****Specific Conditions**

- no mooring permitted except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign

2. Anicinabe Park Boat Launch**Specific Conditions**

- no mooring permitted except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign
- launching from the launching ramp and the use of the launching ramp to remove a boat from the water is permitted for a maximum of fifteen minutes

3. Bay Road**Specific Conditions**

- no mooring permitted except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign
- launching from the launching ramp and the use of the launching ramp to remove a boat from the water is permitted for a maximum of fifteen minutes

4. Coney Island Beach**Specific Conditions**

- no mooring permitted except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign

5. Harbourfront - Dock B

Specific Conditions

- mooring to Dock B is permitted for a maximum of four hours in the areas identified by authorized sign
- where a boat has been moored to Dock B, no person shall moor such boat to a dock at this location again for at least one hour following the removal of the boat from the dock

6. Keewatin Arena - Dock E

Specific Conditions

- mooring is permitted to Dock E for a maximum of four hours
- where a boat has been moored to Dock E, no person shall moor such boat to a dock at this location for at least one hour following the removal of the boat from the dock

Keewatin Arena - Dock F

Specific Conditions

- no mooring permitted to Dock F except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign
- launching from the launching ramp and the use of the launching ramp to remove a boat from the water is permitted for a maximum of fifteen minutes

7. Keewatin Wharf - Dock A

Specific Conditions

- mooring to Dock A is permitted for a maximum of four hours in the areas identified by authorized sign.
- where a boat has been moored to Dock A, no person shall moor such boat to a dock at this location for at least one hour following the removal of the boat from the dock.

Keewatin Wharf - Dock B (west side only)

Specific Conditions

- mooring to Dock B is permitted for a maximum of four hours in the areas identified by authorized sign.
- where a boat has been moored to Dock A, no person shall moor such boat to a dock at this location for at least one hour following the removal of the boat from the dock.
- EAST side of Dock B is leased space only.

8. Kenora Recreation Centre

Specific Conditions

- no mooring permitted except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign
- launching from the launching ramp and the use of the launching ramp to remove a boat from the water is permitted for a maximum of fifteen minutes

9. Matheson Street South

Specific Conditions

- mooring is permitted to the docks at this location for a maximum of four hours
- where a boat has been moored to a dock at this location, no person shall moor such boat to a dock at this location again for at least one hour following the removal of the boat from the dock

10. Main Street South

Specific Conditions

- mooring is permitted to the docks at this location for a maximum of four hours
- where a boat has been moored to a dock at this location, no person shall moor such boat to a dock at this location again for at least one hour following the removal of the boat from the dock

11. Discovery Centre

Specific Conditions

- mooring is permitted to the docks at this location for a maximum of four hours
- where a boat has been moored to a dock at this location, no person shall moor such boat to a dock at this location for at least one hour following the removal of the boat from the dock

12. Winnipeg River Boat Launch

Specific Conditions

- no mooring permitted except for the purposes of loading and unloading of passengers, cargo and other material for a maximum of fifteen minutes in the loading and unloading zone identified by authorized sign
- launching from the launching ramp and the use of the launching ramp to remove a boat from the water is permitted for a maximum of fifteen minutes

SCHEDULE “B”

Locations of City Docks Where Use by the Public is Only Permitted with a Permit and in accordance with its Terms, All Applicable City Policies and All Applicable Laws

1. Coney Island North
2. Harbourfront – Dock A
3. Keewatin Arena – Dock A, B, C and D
4. Keewatin Wharf – Dock B (East Side only)
5. Keewatin Wharf – Dock C
6. Water Street
7. Anicinabe Park West
8. Anicinabe Park East

SCHEDULE "C"

Locations of City Mooring Buoys Where Use by the Public is Only Permitted with a Permit and in accordance with its Terms, All Applicable City Policies and All Applicable Laws

1. Harbourfront Mooring Buoys

SCHEDULE “D”

City Docks Where Use by the Public for Mooring, Launching and Other Boating and Boating Related Purposes is Specifically Prohibited

1. Keewatin Beach
2. Water Treatment Plant
3. Anicinabe Park Beach