

THE CORPORATION OF THE CITY OF KENORA

BY-LAW NUMBER 26-2006

A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH AULNEAU ADVENTURE TOURS FOR WHARF MANAGEMENT OF PUBLIC DOCKING IN THE CITY OF KENORA FOR THE 2006 and 2007 SEASONS

WHEREAS Section 11 of The Municipal Act, 2001, as amended, authorizes a Municipality to pass by-laws respecting matters within certain spheres of jurisdiction; and

WHEREAS Section 391 of The Municipal Act, 2001, as amended, authorizes a Municipality to impose and collect fees and charges for services or activities provided or done by or on behalf of it; and

WHEREAS the City of Kenora has had an agreement with Aulneau Adventure Tours in the past for wharf management of public docking; and

WHEREAS the City of Kenora deems it expedient to enter into a further two (2) year agreement with Aulneau Adventure Tours for the provision of a public wharf management service;

NOW THEREFORE BE IT RESOLVED THAT the Council of The Corporation of the City of Kenora hereby enacts as follows:

1. **THAT** The Corporation of the City of Kenora is hereby authorized to enter into an Agreement with Aulneau Adventure Tours for a term of two (2) years commencing on May 15, 2006 and expiring on November 1, 2007 in accordance with the terms and conditions as identified as per attached Schedule "A".
2. **THAT** the Corporation of the City of Kenora hereby authorizes permitted use of public wharf facilities for recreational boating purposes in accordance with attached Schedule "B".
3. **THAT** the Corporation of the City of Kenora hereby authorizes the Imposition and collection of fees and penalties in accordance with attached Schedule "C".
4. **THAT** the Corporation of the City of Kenora hereby authorizes the regulating and removal of any boat or craft violating the permitted use of public wharfs facilities as outlined in Schedule "B" in accordance with attached Schedule "D".
5. **THAT** signage shall be placed on the public wharf facilities as indicated on Schedule "B", advising of the permitted uses, fees and penalties as outlined in Schedule "C" and "D".
6. **THAT** the Mayor and Clerk be and are hereby authorized to execute the Agreement attached hereto on behalf of The Corporation of the City of Kenora.
7. **THAT** By-law Number 45-2005 be and is hereby repealed.
8. **THAT** this By-law shall come into force and be in effect from and after the final passing thereof.

**BY-LAW READ A FIRST & SECOND TIME THIS 13TH DAY OF MARCH, 2006
BY-LAW READ A THIRD & FINAL TIME THIS 13TH DAY OF MARCH, 2006**

THE CORPORATION OF THE CITY OF KENORA:

per: _____ D. Canfield MAYOR

per: _____ J. McMillin CLERK

SCHEDULE "A" TO BY-LAW NUMBER 26-2006

THIS AGREEMENT MADE THIS 13TH DAY OF MARCH, 2006.

B E T W E E N:

THE CORPORATION OF THE CITY OF KENORA
(hereinafter called "the City")

OF THE FIRST PART

- and -

and
AULNEAU ADVENTURE TOURS
(hereinafter called "Aulneau")

OF THE SECOND PART

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises, and the covenants and conditions hereinafter contained, the parties hereto covenant and agree as follows:

1. **THAT** the term of the Agreement shall be for two (2) years commencing on May 15th, 2006 and expiring on November 1, 2007 on the following terms:
 - i) Aulneau shall manage and enforce, as Wharfinger, all public wharfs as identified by the City of Kenora, which are as follows:
 - a) Harbourfront "A" and "B" Docks - free daily docking/overnight fees
 - b) Harbourfront "C" Dock - seasonal docking
 - c) Water Street Dock - seasonal docking
 - d) Main Street dock excluding Pier Head - free daily docking/overnight fees
 - e) Seventh Street Docks - pick up and drop off only
 - f) Norman Pump house Dock – pick up and drop off only
 - g) Matheson Street Wharf – free daily docking/overnight berthing (at Harbourfront Mooring Rate)/only boats larger than 24feet
 - h) Mooring Balls – Harbourfront & Bush Island (balls owned by Aulneau Marketing & Consulting Inc.) – overnight and Seasonal fees
 - ii) Aulneau shall be responsible for the collection and recording of overnight fees and long term docking fees, and shall remit same to the City of Kenora.
 - iii) Aulneau shall be responsible to enforce the use of the above public/wharfs/docks as designated by the City.
 - iv) Aulneau shall manage and enforce the above described public wharfs/docks by:
 - a) Hiring and training qualified staff
 - b) Establishing a registration procedure for boat docking
 - c) Collecting and remitting fees as established by the City of Kenora for public wharfs
 - d) Impounding boats docked illegally
 - v) Aulneau shall erect and maintain signage relating to the public wharf boat docking.
 - vi) Aulneau shall provide collection and removal of all garbage and refuse generated from overnight users at no cost to the City.
 - vii) Aulneau shall maintain the public wharfs in a clean and safe condition in accordance with all applicable health regulations.
 - viii) Aulneau shall monitor and promptly report any damage to the public wharfs to the City.

ix) Aulneau shall circulate tourism, special events and marine information to public wharf users.

x) Aulneau shall maintain and furnish records relating to the public wharf fees.

xi) Aulneau shall operate in full compliance with The Occupational Health and Safety Act.

xii) Aulneau shall obtain, at their own expense, property damage insurance and public liability coverage for \$2,000,000.00 on which policy the City of Kenora shall be named as an insured.

xiii) Aulneau shall operate the facilities for at least the period from May 15th to November 1st and any additional period that Aulneau may see fit.

xiv) Aulneau and/or The Corporation of the City of Kenora may terminate the two (2) year Agreement, at any time on thirty (30) days written notice to the other party, provided that the termination is effective November 2nd to May 14th of the year in question.

2. **THAT** The Corporation of the City of Kenora is hereby authorized to:

i) Designate the boat docking areas and determine the parking restrictions.

ii) Approve the public wharf/dock fees, and all procedures listed in Paragraph 1 above.

iii) Provide the necessary signage.

iv) Remit to Aulneau, remuneration over the year, in accordance with the following:

<u>Seasonal</u>	<u>Overnight</u>	<u>Mooring Balls</u>
40% of revenue collected	50% of revenue collected	90% of revenue collected

v) Terminate the Contract/Agreement at any time for cause.

THIS AGREEMENT shall enure to the benefit of and be binding upon the respective parties hereto and their respective heirs, executors, administrators, successors and/or assigns.

IN WITNESS WHEREOF the parties have hereunto affixed their hands and seals the day and year first above written.

**SIGNED, SEALED & DELIVERED) THE CORPORATION OF THE CITY OF KENORA:
in the presence of:**

) **per:** _____ MAYOR
) David Canfield

) **per:** _____ CLERK
) Joanne L. McMillin

) **AULNEAU ADVENTURE TOURS**

) **per:** _____
) (print name _____)
)

) **per:** _____
) (print name _____)

) **We have authority to bind the Corporation**

Witness:

) **per:** _____
) (print name _____)

SCHEDULE "B" TO BY-LAW NO. 26 - 2006

1. Permitted use of public wharfs within the City of Kenora are prescribed as follows for recreational boating purposes:

- a) Harbourfront "A" and "B" Wharfs - free daily visitor parking
- fee for overnight use
- b) Harbourfront "C" Wharf - seasonal docking only
- c) Water Street Wharf - seasonal docking only
- d) Main Street Wharf (excluding Pier Head) - free daily visitor docking
- fee for overnight use
- e) 7th Street Wharf - pick up and drop off only
- one hour maximum docking per visit
- f) Norman Pumphouse Wharf - pick up and drop off only
- one hour maximum docking per visit
- g) Mooring Balls -fee for overnight use
-seasonal mooring fees

2. Houseboats, commercial vessels, and recreational boats exceeding twenty-four (24) feet are prohibited from utilizing the public wharfs as identified above.

3. Permitted use of Matheson Street Wharf for boats in excess of twenty-four (24) feet as follows:

- a) Matheson Street Wharf -free daily docking
-fee for overnight berthing

SCHEDULE "C" TO BY-LAW NO. 26 - 2006

Docking fees applicable to permitted uses of public wharfs for recreational boating purposes:

- | | |
|--|---------------------|
| a) Overnight Docking Rental | \$ 10.00/boat/night |
| b) Seasonal Docking at Harbourfront
"C" Wharf | \$ 20.00/foot |
| c) Seasonal docking at Water Street Wharf | \$ 16.00/foot |
| d) Mooring Ball Fee Overnight | \$ 10.00/boat/night |
| e) Seasonal Mooring Ball Fee | \$ 15.00/foot |

Docking fees applicable to permitted uses of Matheson Street Wharf for boats in excess of twenty-four (24) feet as follows:

- | | |
|-----------------------|---------------------|
| a) Overnight Berthing | \$ 10.00/boat/night |
|-----------------------|---------------------|

SCHEDULE "D" TO BY-LAW NO. 26 – 2006

Prescribed fees for the removal of any boat or craft violating the permitted use of the public wharfs or using such wharfs in excess of such times as prescribed in Schedule "B":

- | | |
|------------------------------------|----------------|
| a) Impoundment of boat | \$ 100.00/boat |
| b) Storage Fee each day thereafter | \$ 50.00/boat |