

Schedule "A" Amended April 7, 2015

TOWN OF SAINT ANDREWS BY-LAW 13-02

A BY-LAW TO AMEND BY-LAW 02-8, BEING A BY-LAW RELATED TO THE OPERATION AND MANAGEMENT OF THE ST. ANDREWS MARKET WHARF

1.0: Authority

- 1.1. The Council of the Town of Saint Andrews, under authority vested in it by *Section 11* and the First Schedule of the *Municipalities Act*, R.S.N.B., 1973, c. M-22 and amendments thereto, enacts this By-Law.

2.0: Purpose

- 2.1 This By-Law is intended to enable, provide and enforce the responsible management and operation of the St. Andrews Market Wharf.

3.0: Interpretation

In this by-law,

- 3.1 "Council" means the Town Council of the Town of Saint Andrews.
3.2 "Board" means the Board of Directors of the St. Andrews Market Wharf.
3.3 "Committee" means the Wharf Users Committee.
3.4 "Wharf User" means the owner(s) or operator(s) of a boat or vessel or other commercial motor vehicle who use the Wharf to dock, moor, or berth their boat or vessel or to load and unload freight from a commercial motor vehicle or anyone else who uses the Wharf in the course of any a commercial or recreational activity.
3.5 "Fishery/Aquaculture vessel" means a vessel that is primarily used in the course of a fishery or Aquaculture business.
3.6 "Tour Boat" means a boat that is used to carry paying passengers.
3.7 "Pleasure Boat" means a boat used solely for recreation or pleasure.
3.8 "commercial motor vehicle" means any vehicle used to move freight on or off the wharf, which is subject to wharf fees
3.9 "Business Plan" means the Wharf's current five (5) year Business Plan.
3.10 "Wharf" means the St. Andrews Market Wharf.
3.11 "Wharfinger" means the employee of the Town of Saint Andrews who manages the Wharf.

4.0: Scope

This by-law

- 4.1 applies to all aspects related to the management and operation of the St. Andrews Market Wharf, including the establishment and enforcement of a fee schedule for Wharf Users.
4.2 establishes the Board to provide Council with advice and recommendations regarding the management and operation of the Wharf.
4.3 recognizes the Committee may provide advice and recommendations to the Board regarding the Wharf.
4.4 applies to any rules and regulations that are established to provide for the safe, secure and efficient operation of the Wharf.
4.5 applies retroactively.

5.0 Board of Directors

Purpose

- 5.1 The Board shall be responsible to advise, recommend and report to Council on all areas respecting the management and operation of the Wharf. The Board shall also provide guidance to the Wharfinger with respect to achieving the goals and objectives of the Wharf. All decisions, advice and recommendations of the Board shall be subject to the approval of Council.

Composition

- 5.2 The Board of Directors of the St. Andrews Market Wharf hereinafter referred to as the "Board" shall be established and appointed by Council. All of the Board's respective successors shall be appointed by Council. All members shall serve without remuneration

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for their services but shall be paid travel expenses according to the Town's travel directive when authorized to travel outside the Town by the Board.

- 5.3 The Council shall appoint the following as members of the Board of Directors: Two(2) Wharf Users, one(1) Council member, and four (4) persons from the community at large. The Board shall consist of seven(7) members of whom one(1) shall be its Chairperson and another its Vice-chairperson. The Assistant Town Manager shall be a non-voting member of the Board and shall act as Executive Secretary to the Board. The Wharfinger shall be a non-voting member of the Board and shall report to the Board.
- 5.4 The Board members shall be appointed as follows: Three(3) members initially for one(1) year, after which these will become two(2) year terms, three(3) members for two(2) years and a Council member at pleasure of Council. If a board member's term expires in a given year, that term shall expire on March 31 of that year. No member shall serve for more than four(4) consecutive years but shall be eligible for reappointment to the Board after a two (2)year absence. Council may vary this provision by resolution if there are no successor members available from the community or nominated by the Committee.
- 5.5 If at any time a member of the Board member misses three (3) consecutive Board Meetings or is unable to fulfill his or her term, Council shall appoint a replacement. That person shall serve out the remainder of the term of the member her/she is replacing.

Procedure

- 5.6 Those decisions of the Board, which are subject to approval by Council, shall be made by or under authority of resolution adopted by the majority of the votes cast at a duly convened meeting of the Board.
- 5.7 A majority of all Board members shall constitute a quorum.
- 5.8 The Chairperson or, in the Chairperson's absence, the Vice-Chairperson shall preside at all board meetings. Should the latter and former both be absent, the members in attendance shall, if a quorum exists, elect a Chairperson for that meeting only.

Duties

- 5.9 The Board shall meet at least six(6) times per year. One(1) of the meetings shall be in April at which time the Board shall present its annual report and elect its Chairperson and Vice-Chairperson from amongst its current membership. One(1) of the meetings shall be in September to prepare its proposed budget for the next fiscal year.
- 5.10 The Board shall develop and maintain the long term Business Plan for the Wharf.
- 5.11 Not later than October 1st of each year, the Board and the Finance and Administration Committee of Council shall prepare a budget for the operation of the Wharf for the next fiscal year, in consultation with the Town's administration, for review, amendment, consideration and adoption by Council.
- 5.12 The Board shall provide Council with the April annual report and a monthly report for those months during which the Board holds a meeting(s).

6.0: Usage Fees

- 6.1 Fees shall be assessed as per the attached Schedule "A".
- 6.2 Fees may be reviewed and adjusted by the Board. Any review or adjustment of the Fee Schedule shall take place at the annual budget meeting as referred to in s. 5.11.
- 6.3 Any Fee adjustment shall require the approval of Council by formal resolution.
- 6.4 Wharf Users from the previous year shall be notified of any adjustment to the Fee Schedule, delivered by regular mail to their last stated address.
- 6.5 The Wharfinger shall ensure that the annual Fee Schedule is posted at a prominent place on the Wharf.

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7.0: Administration of Fee Schedule

7.1 The Town shall be responsible for preparing the annual Wharf User Application Forms, collect fees, administer financial penalties for late payment, mail notices, and any other administrative duty that may be required of the Town to administer the Fee Schedule or any other aspect of this By-Law.

8.0: Enforcement

8.1 The Wharfinger, as directed by the Board and approved by Council, shall enforce all rules and regulations required for the safe, secure and efficient operation of the Wharf. Any Rules and Regulations require the approval of Council and shall be in writing and posted in prominent areas of the Wharf.

8.2 Any Wharf User who fails to abide by the rules of the Wharf or fails to obey any verbal direction by the Wharfinger, shall be subject to the following penalty:

- (a) First Offence, a written warning to desist from committing the particular offence;
- (b) Second Offence, suspension of Wharf privileges for a period of one (1) to five (5) days; and
- (c) Third Offence, indefinite suspension of Wharf privileges for an indefinite period of time, reviewable by the Board and subject to the approval of Council.

9.0: Repeal

9.1 The Town of Saint Andrews By-Law 02-08 is hereby repealed.

FIRST READING: July 8, 2013
SECOND READING: August 12, 2013
THIRD READING: August 12, 2013

DS *Stan Chaptiany*

DS *Tim Henderson*

MAYOR

CLERK

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SCHEDULE "A"

It was moved by Councillor Naish, seconded by Councillor Sochasky and carried that Council amend **Schedule "A"** of By-law 13-02, A By-law to Amend By-law 02-08, Being a By-law Related to the Operation and Management of St. Andrews Market Wharf as follows:

Tour Boats

30' & Under	\$ 660
31' to 60'	\$ 1,190
61' and over	\$ 1,585
Passenger fees	\$ 0.75 per trip at the capacity of the vessel

Commercial Fishery \$ 695

Aquaculture Vessels \$ 1,040

Pleasure Boats

Up to 24'	\$ 297
25' to 36'	\$ 396
Over 36'	\$ 495
Non-Resident Charge	\$ 50 in addition to above
Daily Berthing, per foot	\$ 2.00
Grounding Fee	\$ 50 (Daily)
Visitor on Town Mooring	\$ 40

Tender, Daily Fee \$ 10

Amended this 7th day of April, 2015

Stan Choptiany

Stan Choptiany, Mayor

Jamie Carr

Jamie Carr, Clerk

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CONDITIONS

- Fees for Tour Boats, Commercial Fishery & Aquaculture Vessels, Pleasure Boats as well as for Daily Berthing (if alongside wharf) include one (1) tender, use of water, power, pump out facility and grounding.
- Berthing up to three (3) hours may be provided free of charge with the permission of the Wharfinger.
- The maximum time allowed in the load/unload areas of the Wharf is thirty (30) minutes.
- Tenders less than twelve feet (12') are requested to use the finger piers if space is available.
- All fees must be paid by due dates or further use of the Wharf will be terminated until the fees are paid.
- Harmonized Sales Tax (H.S.T.) is applicable to all fees.
- In the event of special occasions (i.e. official ceremonies, July 01 celebrations, emergent or extra-ordinary circumstances), the St. Andrews Market Wharf Board (Wharfinger) reserves the right to limit and/or restrict access and certain operation as may be deemed necessary.
- Security to the Wharf will be provided as required, however, the St. Andrews Market Wharf Board assumes no liability for any items damaged, stolen or left unattended.
- In the event that a current St. Andrews Public Harbour mooring permit holder, whose fees have been paid, should lose the use of their own mooring through hardware failure or inability to locate the mooring tackle, they may receive use of a vacant municipally-owned mooring at the rate of ten dollars (\$10.00) per day for a maximum of three (3) days to allow them to locate or make repairs to their mooring hardware. If additional time is required, it shall be at the full rate.
- Grounding time limit to be allotted at the discretion of the Wharfinger.

ALL ANNUAL FISHERY, AQUACULTURE, TOUR BOATS AND PLEASURE BOATS ARE REQUIRED TO COMPLETE AN APPLICATION FORM PRIOR TO APPROVAL OF WHARF USE.