THE CORPORATION OF THE TOWN OF GODERICH
BY-LAW NO. 38 OF 2019

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN OPERATING AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF GODERICH AND MAITLAND VALLEY MARINA LTD., OF THE TOWN OF GODERICH FOR THE TWO WHARFS LOCATED IN THE MAITLAND RIVER CHANNEL AND AT SNUG HARBOUR

WHEREAS The Town of Goderich is the registered owner of an area of a wharf in the river channel known as Fisherman’s Wharf which is located in the Maitland River and the Snug Harbour Wharf located at Snug Harbour;

AND WHEREAS Snug Harbour Marina and Fisherman’s Wharf have been operated previously by North End Marina, a division of MacDonald Marine Ltd since 2001;

AND WHEREAS Mr. Dick Peever of Maitland Valley Marina Limited has indicated an interest to operate and maintain Fisherman’s Wharf, located in the river and the Snug Harbour Wharf, located at Snug Harbour, under certain terms and conditions in the operating agreement appended hereto;

AND WHEREAS the rates for the year 2019, 2020 and 2021 will remain the same.

NOW, THEREFORE, THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF GODERICH ENACTS AS FOLLOWS:

1. That the Mayor and the Clerk be authorized and are hereby instructed to sign the agreement hereto attached and place the corporate seal thereunto.

READ A FIRST AND SECOND TIME THIS 8th DAY OF APRIL, 2019.

READ A THIRD TIME AND FINALLY PASSED THIS 23rd DAY OF APRIL, 2019.

[Signature]
MAYOR, John C. Grace

[Signature]
CLERK, Janice Hallahan
TOWN OF GODERICH
WHARFS
OPERATING AGREEMENT

THIS AGREEMENT made in triplicate this 23rd day of April, 2019.

BETWEEN:

THE CORPORATION OF THE TOWN OF GODERICH
(hereinafter called the “TOWN”)

OF THE FIRST PART

- AND -

MAITLAND VALLEY MARINA LIMITED
(hereinafter called the “OPERATOR”)

OF THE SECOND PART

WHEREAS the Town of Goderich is the owner of the property known as Fisherman’s Wharf and Snug Harbour Wharf for the use of a small boat launching ramps;

AND WHEREAS it is desirable to enter into an operating agreement with Maitland Valley Marina Limited for the purpose of operating the Fisherman’s Wharf and Snug Harbour Wharf on behalf of the Corporation of the Town of Goderich under the terms and conditions contained herein and the same as conditions contained in previous agreement between the parties;

AND WHEREAS the Town of Goderich and the Operator wish to enter into an agreement for the operation and management of Fisherman’s Wharf and Snug Harbour Wharf on behalf of the Town with Maitland Valley Marina Limited.

THEREFORE, THE PARTIES MUTUALLY COVENANT AND AGREE AS FOLLOWS:

PART A DUTIES OF THE OPERATOR

The Operator Agrees to perform the following duties and pay all costs with regard to the operation, maintenance and management of Fisherman’s Wharf and Snug Harbour Wharf to the full satisfaction of the Town.

The complete management, maintenance and operation of Fisherman’s Wharf and Snug Harbour Wharf is required for a smooth, satisfactory operation including, but not limited to:

1. Management & Operation
   a) Soliciting and collection of seasonal wharf fees and launch ramp fees;
   b) Daily management at the wharfs during the operating season;
   c) Collection of daily and other wharfage fees, daily launching ramp fees;
   d) Record keeping/administration;
e) Greeting customers and the general public;

f) Supplying information and serving the customers and the general public;

g) Supplying the Town with verbal and written reports as required;

h) Provide staff, who are knowledgeable, courteous and neat in appearance. Such staff should be at the wharfs as required. The Operator shall provide a method of making staff available at short notice;

i) Policing of the wharfs with regard to vandalism, behaviour of customers and the public, etc.;

2. Maintenance Duties as follows:

(a) Cleaning of property including pick up of garbage and disposal;

(b) Repairs to the wharfs;

(c) To supply all materials, equipment, supplies etc., to operate and manage wharfs;

(f) The hire of necessary trades people as required;

(g) The cleaning of the ramp area of debris and floating objects.

(h) To prepare the wharfs each spring for operation and to prepare the Wharf for winter each fall;

(i) Minor capital works;

(j) Advertising;

(k) Supply utilities.

PART B  DUTIES OF THE TOWN OF GODERIC

The Town of Goderich agrees to provide the following:

(a) Property & Liability insurance for the wharfs;

(b) Major capital works or repairs. A major capital works or repairs is defined as any capital work or repair that exceeds $5,000.

(c) Due to low water levels, launching ramps may require additional capital works. The costs associated for any capital works required will be discussed and agreed upon by the parties including costs associated.

PART C  FINANCES

(a) All fees collected by the Operator, for use of the facility, shall become the property of the Operator.

(b) The Operator shall pay the Town a flat payment amount of $2,000 + applicable taxes per year plus 20% of gross income derived from seasonal, weekly and daily wharfage rates.

The wharfage rates to the public for the use of the marina/ramps on behalf of the Town of Goderich, shall be as follows:

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<tr>
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<th>2019</th>
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<tr>
<td>Seasonal</td>
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<td>Weekly</td>
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<td>Daily</td>
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(c) **PAYMENT** shall be made by the Operator to the Town on or before July 15th annually.

**PART D** **TERM**

This agreement shall continue in effect from April 1st, 2019, to December 31st, 2021, and will be reviewed at the end of each boating season with an option for extension or renewal. Maitland Valley Marina Limited will be given the First Right of Refusal to negotiate an additional three year term subject to an agreement.

Both parties agree that in the event that the agreement with the Goderich Port Management Corporation should affect this agreement that the Agreement with GMPC takes precedence over and above this agreement. In the event that the Operator does not perform their duties, as required by this agreement, to the satisfaction of the Town, the Town may terminate the agreement on two (2) weeks notice. Either party can terminate the agreement without cause, with notice to the other in writing, and such termination shall take effect at the end of the calendar year in which the notice was given.

**PART E** **GENERAL**

(a) **Operator’s Employees**

All of the Operator’s employees shall remain the employees of the Operator and shall be covered under Operators Workers’ Compensation.

(b) **Assignments, Transfers, Sub-leases and Licences**

The tenants shall not make any assignment of this agreement nor any transfer in whole or any portion of the premises, nor grant any licence to use any part of the premises without obtaining the prior consent, in writing, of the Town, to such assignment, transfer, sub-lease or licence. The landlord reserves the right to withhold the consent.

(c) **Access by Town**

The Town, its officers, servants or agents shall have full and free access in order to view, inspect the state of repair during normal business hours in the presence of the operator or representative of the operator to any and every part of the premises, it being expressly understood and agreed, however, that in case of emergency the Town, its officers, servants or agents shall at all times and for the purpose have full and free access to the leased premises.

(d) **Insurance**

The Operator shall, at his own expense, secure and maintain in effect, during the term of this agreement, the following insurance. Commercial General Liability insurance covering third party liability for property damage and/or bodily injury caused by negligence arising out of the operations covered under this agreement. Limit $2,000,000 per occurrence. The Town of Goderich shall be named as an additional insured.

(e) **Fees**

That these shall be set by the Operator subject to the Town’s approval annually and a copy of the most up to date fees will be provided to the Town. The fees must be acceptable to the Town and eventually through annual approved increases be comparable to other Marina operations.
Reserved Rights

The Town reserves the right to use the facilities and launching wharfs, at no cost, for special events such as Tall Ship Festivals, visiting vessels, etc. Such use of the facilities will be negotiated with the operator such as to cause the least amount of disturbance to the operation of the wharfs as possible.

Public Access

The Operator agrees to allow public access, at all times, to the ramp areas.

The Operator shall have no claim of ownership on Town owned lands.

PART G PREMISES

The area to be maintained, operated and managed by the Operator shall be the area as shown on the map as attached as Schedule “A” to this agreement.

IN WITNESS WHEREOF the said Corporations have affixed their Corporate seals and the hands of their proper officers.

MAYOR, John C. Grace

CLERK, Janice Hallahan

MAITLAND VALLEY MARINA LIMITED

WITNESS

MAITLAND VALLEY MARINA LIMITED