



**The Corporation of the
Town of Cobourg**

Resolution

Moved By

Seguin

Resolution No.: 024-20

Last Name Printed

SEGWIN

Seconded By

Emily Chorley

Council Date:

Last Name Printed

CHORLEY

February 3, 2020

WHEREAS at the Committee of the Whole Meeting on January 27, 2020, Council considered a Memo from the Treasurer/Interim Chief Administrative Officer, regarding a Memorandum of Understanding between the Town of Cobourg and the Cobourg Dragon Boat and Canoe Club;

NOW THEREFORE BE IT RESOLVED THAT Council authorize the Chief Administrative Officer to execute the Memorandum of Understanding (MOU) between the Corporation of the Town of Cobourg and the Cobourg Dragon Boat and Canoe Club (CDBCC) as provided in Appendix 'A'.

This Memorandum of Understanding (MOU) replaces all previous lease agreements made between

THE CORPORATION OF THE TOWN OF COBOURG

Hereinafter called the "Town"

OF THE FIRST PART

-and-

THE COBOURG DRAGON BOAT AND CANOE CLUB

Hereinafter called the "Club"

OF THE SECOND PART

WHEREAS the Town owns the land used, operated and maintained by the Club, located by the West Harbour north of the Cobourg Yacht Club compound (**Schedule "A"** shows the exact location of the Club compound);

WHEREAS the Club is a volunteer-based, incorporated not-for-profit corporation;

WHEREAS the Club occupies space on Town-owned land for the purpose of having a compound to provide leisure, recreational and competitive programs and services to the community for the benefit of the citizens of the Town of Cobourg and Northumberland County;

WHEREAS the Club has proven to be a valuable volunteer-based partner to the Town and the parties are interested in continuing this volunteer-based partnership in the future for the purposes of further developing sustainable and accessible programming on these Town-owned lands;

WHEREAS the parties are committed to preserving and increasing the well-being of people who live, work, learn and play in the Town and encouraging healthy lifestyles across all age groups, with the pursuit of a vibrant, healthy Ontario community being of mutual concern to both parties;

WHEREAS effective cooperation between the Town and the Club enhances certainty of performance and promotes public confidence and sound planning;

WHEREAS this MOU is considered the first formal step to establishing a strong, enduring and collaborative relationship between the Town and the Club; and

WHEREAS the following principles are to be modeled by both the Town and the Club:

- **Respect for public:** The parties shall respect the interests of all taxpayers and members of the public in Ontario. As such, neither party will restrict the enjoyment of public lands for leisure and recreation.
- **Respect for area of jurisdiction:** The parties shall endeavour to discharge their responsibilities with this MOU, while respecting each party's area of jurisdiction. For example, the Town will respect the knowledge and expertise of the Club providing paddling programs and the Club will respect the knowledge and expertise of the Town to meet their municipal objectives.

- **Respect for policies:** The conditions in this MOU models an evidence-based rationale for roles and responsibilities supported by governing policies for both parties.
- **Respect for cooperation:** The parties will cooperate in implementing this MOU consistent with the above principles.

NOW THEREFORE in consideration of the provisions above, the parties, each intending to be bound by this MOU, agree as follows:

1. TERM

The MOU is for an initial period of two years commencing March 1, 2020 and ending February 28, 2022 with a five year extension if agreed to by both parties.

2. AGREEMENT FOR THE PROVISION OF A CLUB COMPOUND

The terms of this agreement are related to the Club compound located adjacent to the north of the Cobourg Yacht Club compound (approximately 4,000 sq ft):

- The Town agrees to work with the Club to erect a compound fence that encloses an area of approximately 4,000 sq ft and includes two gates to meet fire safety standards.
- Rent for the Club will be at the current rate of fifty cents (\$.50) per square foot plus HST for the term of this MOU.
- The Club has access to the Marina building's washrooms and the Marina building for safe haven from inclement weather, if needed.
- The Town agrees that an enclosed single-story building no larger than 600 sq ft with a roof no higher than 10 ft, that meets building codes and includes hydro, may be erected in the Club compound at their expense. This building may be used for safe haven in the event of inclement weather.
- The Club is responsible for the annual utility costs for the use of hydro, if applicable, for the site.
- The Club, at their expense, will provide all racks, storage and program infrastructure needed to securely store necessary equipment.
- As the property owners, the Town is responsible for addressing any issues of flooding and/or other weather-related damage that impacts the viability of the Club compound.
- The Club will notify the Town as soon as possible if the Club compound incurs any weather-related damage.
- The Club is solely responsible and liable for all maintenance activities on the Club compound as defined under Schedule "A" not related to weather damage.
- The Town would permit the location of a port-a-potty in the compound for emergency use (e.g., during inclement weather).
- The Club compound will not be used for overnight programs.

3. RESPONSIBILITY OF THE TOWN

- The Town will communicate via email to the President and the Executive Director of the Club any concerns related to the compound and/or programs, and how the concern and any recommended actions are related to municipal, provincial and/or federal policy. The Town agrees to submit this information within five (5) days of when the concern occurred.

Within two weeks, if the concern cannot be addressed via email communication, a meeting must be held between the Town and the Club to dialogue and identify a mutually agreeable solution. If a resolution cannot be reached the Municipal Council will have the final say.

- b. The Town acknowledges the rights of the public, other user groups, and the Club's right to access the water at any time.
- c. The Town will consider suggestions by the Club regarding rest areas, garbage cans, signage and safe parking to increase the enjoyment and use of the West Beach area.
- d. The Town will work with the Club to provide signage (e.g., wayfinding, information) so the public knows the location and function of the Club.
- e. The Town will provide and maintain safe access to and from the Club compound to the water. This may include the Town surveying the parking lot, beach area and grass to identify hazards and to provide ground maintenance for safe debris- and obstacle-free walking.
- f. The Town recognizes the policy that governs the Club's programs is the Canoe Kayak Canada Code of Safety (2019). This is the code of safety to which the Club is required to adhere. When this code of safety is updated, a copy will be provided to the Town by the Club. Safety requirements by the Town that are above and beyond the Canoe Kayak Canada Code of Safety (2019) would be implemented at the expense of the Town.
- g. If safety concerns arise, the Town will work with the Club, other user groups, and the public to identify potential solutions.
- h. The Town will seek input from the Club, other user groups, and the public regarding the provision of an accessible dock for people with disabilities.
- i. The Town will provide as much notice as possible if the areas approaching and/or surrounding the West Beach and/or the West Beach specifically has been booked under a Special Events Permit.
- j. The Town will dialogue and work with the Club to pursue grant opportunities to enhance the West Beach area and the enjoyment of leisure and recreation activities.

4. DESCRIPTION OF CLUB PROGRAMS

- a. Governance, management and operation of a Dragon Boat and Canoe/Kayak Club and Club Compound.
- b. The on-water season is approximately April to late-October, weather permitting, with general operating hours of dawn to dusk. Dryland training programs may continue through the fall/winter.
- c. Establishment and administration of a membership program to ensure equitable access to the Club by the public and various users.
- d. Provision of recreational programs including dragon boat and canoe/kayak instruction to children, youth, adults, seniors and those with disabilities, as well as competitive training and development programs *including but not limited to*:
 - i. Dragonboat
 - ii. Masters Canoe and Kayak
 - iii. Paddle All (programs for individuals with disabilities)
 - iv. Canoe Kids Programs (including Summer Day Camp)

- v. Outrigger Canoe
- vi. Para-canoe
- vii. Special Olympics
- viii. Dryland weight training/cardio
- ix. Corporate, Community or Team Outings Team Building
- x. Coaching, Official and Instructor Certification

Sanctioned/approved programs by Canoe Kayak Ontario's insurance is listed in **Schedule "B"**. Not all programs are implemented each year. The Club will provide an updated list of the sanctioned/approved programs annually.

5. RESPONSIBILITIES OF THE CLUB

- a. The Club will communicate via email to the CAO or a designate of the Town any concerns it may have related to the compound and/or West beach area. The Club will submit this within five (5) days of when the concern occurred. Within two weeks, if the concern cannot be addressed via email communication, a meeting must be held between the Town and the Club to dialogue and identify a mutually agreeable solution. If a resolution cannot be reached the Municipal Council will have the final say.
- b. All work undertaken by the Club shall be consistent with the Canoe Kayak Canada Code of Safety (2019) for the type of service provided, as described in **Schedule "B"**.
- c. The Club must, at all times, supervise and control the programming that is provided under this agreement and provide adequate direction and training to those leading/providing the programs. The Club shall put into place reasonable practices necessary to minimize the possibility of injury or property damage. The Club is responsible for the implementation and enforcement of the Canoe Kayak Canada Code of Safety (2019) for all programs that fall under their authority.
- d. The Club shall respond swiftly and appropriately to all incidents of critical and personal injury, property damage, vandalism, criminal, unlawful or inappropriate behaviour and/or activity at the compound or during the period that the program/service is offered.
- e. Critical injuries (defined under **Schedule "C"**) will be reported to the CAO or designate of the Town responsible for this agreement.
- f. The Club may use the enclosed building in the Club compound as a safe haven during inclement weather. Further, the Club may use the marina building as an emergency shelter in the event of sudden and unexpected inclement weather; not as an alternative camp location for prolonged periods of time.
- g. When there is lightning and/or thunder, all on-water program participants must immediately head for the nearest shoreline to seek shelter. In the event of lightning and thunder, a 30-minute rule will be implemented. All program participants must remain sheltered and off the water for 30 minutes after the last incident of thunder and lightning, as per the Canoe Kayak Canada Code of Safety.
- h. The Club shall obtain a Special Events Permit for activities that are outside the described programs and/or that will impede with the public use of the West Beach area.
- i. The Club shall comply with all applicable federal and provincial laws, regulations and applicable municipal by-laws during the provision of the services provided under this MOU.

- j. The Town and Club understand and agree that this agreement does not confer any right or obligation to the Club or its members to carry out by-law enforcement activities. The Club can call the by-law officer or police if infractions are witnessed.
- k. The Town shall not be liable to the Club or any other party in relation to the programs/activities provided by the Club pursuant to the terms of this agreement and the parties agree that the Club shall not be deemed to be an agent of the Town for any purpose under this agreement.
- l. The Club shall obtain and maintain during the term of the agreement comprehensive/commercial general liability insurance for an amount no less than Five Million Dollars (\$5,000,000), inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. This insurance certificate is provided by Canoe Kayak Ontario for member clubs of which the Club is a member.
- m. Evidence of insurance, with the Town named as additional insured entity on the Club policy, shall be provided to the Town by May 1st annually.
- n. The Club will dialogue and work with the Town to pursue grant opportunities to enhance the West Beach area and the enjoyment of leisure and recreation activities.

6. APPLICABLE STRATEGIC DIRECTIONS AND POLICIES

This section lists municipal strategic directions and policies that have been adopted by Council that are applicable to the Club and those adopted by the Club:

Town of Cobourg Strategic Plan (2019-2022), which includes the following objectives:

- The Town supports and cares for the social and physical well-being of its citizens; and
- The Town engages in strong, sustainable public-private partnerships to improve the quality of life for everyone.

Canoe Kayak Canada Code of Safety (2019)

Federal Policy: The water component of the West Harbour is under the jurisdiction of the federal government and is governed under the Canadian Navigable Water Act (2019), which is designed to protect the public's right to navigation. Any municipal regulation governing this water component must comply with this federal legislation.

7. ADMINISTRATION OF THIS MOU

The lead contacts for administrating this MOU:

Chief Administrative Officer (CAO): Name (Print) _____

Date _____

Signature _____

**Chair / President of the Board
of Directors of the Club** Name (Print) _____

Date _____

Signature _____

Schedule "A"

Site Location of Club Compound

<To be submitted by the Town>



Schedule "B"

Canoe Kayak Sanctioned/Approved Activities



Sanctioned Activities Whitewater, Sprint, Marathon Disciplines

February, 2019

- supervised* on water training and practices including:
 - programs for all skill levels
 - Special O/PaddleAll programs
 - para programs
 - Canoe Kids programs
 - canoe polo

- training and practices may use a variety of boat types, including:
 - sprint boats
 - war canoes
 - dragon boats
 - stand up paddleboards
 - outriggers
 - other non-motorized recreational boats
 - marathon boats
 - whitewater boats
 - voyageur canoes
 - surf skis
 - prone paddle boards

- supervised* river trips

- sanctioned training camps

- competitions
 - sanctioned regattas and races
 - club and intra-club competitions
 - canoe polo
 - loading and unloading boats for travel to and from regattas

- clinics
 - coaching and instructor certification
 - official certification
 - motor boat safety (on and off water training)

- off water training programs including:
 - running
 - weight training
 - ergometer training
 - aerobic training
 - paddle pool training
 - cross country skiing
 - soccer and other aerobic games
 - swimming
 - strength training

CANOEKAYAKONTARIO

- general maintenance activities including:
 - installing and removing club docks
 - installing and removing race course
 - boat and motor maintenance and repair
 - maintenance of club and grounds

- other activities
 - year end banquets, sports awards, social events (subject to alcohol service policy)
 - promotional activities including:
 - “try-it-outs”
 - demonstrations
 - distribution of promotional material

*Supervised means overseen by sanctioned leader(s) per CKO affiliate safety policy.

Safety Policy Adherence

As a requirement of a CKO sanction, it is understood that all activities will be conducted in accordance with the Sprint, Marathon and Whitewater safety policies as posted on the respective websites:

[Sprint Safety Policy](#)

[Whitewater Safety Policy](#)

[Marathon Safety Policy](#)

The Sprint Safety Policy applies to the Club and is available at the Canoe Kayak Canada website. The Whitewater and Marathon Safety Policies are not applicable to the Club.

If your organization experiences any sort of incident during a CKO sanctioned activity, that leads to a potential Sport Accident Insurance claim or legal claim, you must submit all details and relevant claim submission forms directly to CKO.

Activities that are NOT sanctioned by CKO include:

- Any event/activity where alcohol service is included and does not meet the standards of the service of alcohol policy
- Unsupervised paddling activities
- Dragon Boat rentals
- Dragon Boat festivals
- Fundraising activities such as golf tournaments, bonspiels etc.
- Other activities not listed and as defined by CKO



Service of Alcohol Policy - Sanctioned Activities

A CKO member activity, that includes the service and consumption of alcohol, will be eligible for a CKO sanction if it meets the following standards:

- The service of alcohol must be conducted by a third party and not the CKO member. Alcohol service is fully managed and conducted by the third party, and all service providers are fully trained and certified.
- The CKO member must verify that the third party has liquor liability insurance coverage. A certificate of insurance with a minimum coverage of \$2 million is required from the third party, listing CKO and the CKO member as additional insured.
- The service of alcohol takes place within a facility that is fully licensed for alcohol service and that adheres to all regulations as outlined by the Alcohol and Gaming Commission of Ontario. A copy of this license may be requested by CKO.
- The activity meets the satisfaction of CKO, who reserves the right to decline a sanction at its discretion.

Schedule "C"

Critical Injury Definitions

Critical injury, as defined under the Ontario Occupational Health and Safety Act (2019), is an injury of a serious nature that:

- Places life in jeopardy
- Produces unconsciousness
- Results in substantial loss of blood
- Involved the fracture of a leg or arm (but not a finger or a toe)
- Involved the amputation of a leg, foot, arm, or hand (but not a finger or a toe)
- Consists of burns to a major portion of the body, or
- Causes the loss of sight in an eye(s)