

## PARKS AND RECREATION BY-LAW NO. 7337

A BY-LAW of the City of Brandon relating to the operation and control of greenspaces, parks and recreation facilities owned by or under the jurisdiction of the City of Brandon.

WHEREAS Section 231(1) of The Municipal Act, SM2010, c. 2. S. 10 provides authority for a municipality to pass by-laws for the admission, maintenance, management, use, regulation, protection, and operation of people, activities and things in, on or near a public place or a place open to the public, including parks and recreation facilities;

AND WHEREAS the City of Brandon deems it expedient to adopt rules and regulations for the maintenance of, order in, and for the proper care of greenspaces, parks and recreation facilities;

NOW THEREFORE the City of Brandon, in Council assembled, enacts as follows:

### INTERPRETATION

1.0 Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions in *The Municipal Act*, the City's Legislative Standards By-law and Tree Protection By-law, *The Highway Traffic Act* of the Province of Manitoba, or as defined within other by-laws for the City of Brandon.

### SHORT TITLE

2.0 This By-law shall be referred to as "Parks and Recreation By-law".

### DEFINITIONS

3.0 In this by-law

- a. "ANNUAL SCHEDULE OF FEES" means those fees for service, activities, or other things related to this by-law and established annually by the City Council through its Fee Schedule By-law.
- b. "ACTIVITIES" mean but are not limited to a large gathering, public meeting, ceremony, parade, concert, church service, large scale sporting events, events of local significance, fairs, celebrations, or petting zoos.
- c. "COMMUNITY CENTRE" means centres owned by the City of Brandon.
- d. "CONCESSIONS" shall include the offering and exposing of food and other goods for sale, the soliciting for rental by passengers, the offering to rent bicycles, trains or other modes of recreational conveyance or the sharpening of skates and other private businesses providing services in a public park, greenspace or recreation facility but shall not include lessees or licensees under a lease or license duly granted by the City of Brandon nor canteens operated for the purpose of a Community Centre.
- e. "DESIGNATED" means designated by a sign or notice posted for the purpose under the authority of the City of Brandon or such committee or officer of the City as Council may delegate.
- f. "ENCROACHMENT" means any intrusion upon or use of a park or recreational area, other than an intrusion or use that is allowed under a specific provision of this by-law or has been sanctioned by a specific authorization procedure adopted by resolution of the Council.

- g. **“FIREARMS AND OTHER WEAPONS”** as defined in *The Criminal Code* Section 84 Part 3.
- h. **“GREENSPACE”** means parks, open spaces, cemeteries, golf courses, pathways, trails, trailheads, outdoor recreation facilities, school yards, natural lands as defined within the Greenspace Master Plan and any other space owned, leased or maintained by the City of Brandon or jointly with another body.
- i. **“LITTER”** means any solid or liquid material or product or combination of solid or liquid materials or products, including but not limited to such things as specified in this By-law.
- j. **“MOTORIZED MOBILITY AID”** means a device which is specifically manufactured or designed to assist persons with walking disabilities. This includes electric wheelchairs, three-wheel and four-wheel electric scooters.
- k. **“PARK”** or **“PUBLIC PARK”** means a public area or greenspace as defined within *The Greenspace Master Plan* owned, leased or maintained by the City of Brandon or jointly with another body and includes any amenities and facilities to be used for rest, recreation, sport, exercise, pleasure, amusement, cultural heritage, education, appreciation of nature and enjoyment by residents or visitors of the City of Brandon.
- l. **“PRESCRIBED”** means prescribed by resolution of Council.
- m. **“RECREATION FACILITIES”** means an athletic, recreation or cultural facility owned, leased or maintained by the City of Brandon or jointly with another body and includes areas, pools, community centres, community shelters and the property, grounds and parking areas ancillary thereto.
- n. **“VEGETATION”** means trees, shrubs, decorative plants, flowers and grass.
- o. **“MOTOR VEHICLE”** means a vehicle that is propelled by any power other than muscular power excepting a bicycle as defined in *The Highway Traffic Act*, a motorized mobility aid or lawn mowers, or other maintenance driven machines owned or operated by the City.
- p. **“WILDLIFE”** means an animal or bird of a species or type listed in Schedule “A” of The Wildlife Act, RSM 187, c. W130, or declared by the regulation to be a wild animal.

#### **APPLICATION OF BY-LAW**

- 4.0 Unless the contrary is expressly stated, the provisions of this By-law apply to greenspaces, parks and recreation facilities owned, leased or maintained by the City of Brandon or jointly with another body or otherwise or under the jurisdiction of the City of Brandon.

#### **ADMINISTRATION**

- 5.0 The City of Brandon’s Director of Parks and Recreation Services or designate may prescribe rules and regulations governing the safe and orderly use of greenspaces, parks and recreation facilities falling within their area of responsibility and jurisdiction, provided that same are consistent with this By-law.
- 5.1 Parks and Recreation Services shall, wherever practicable, post signs in conspicuous places designating and listing such rules and regulations of the applicable area.

- 5.2 All matters pertaining to rates, fees, or other charges shall be in accordance with the Annual Schedule of Fees.
- 5.3 Authorization to develop regulations, forms, agreements and directives needed to implement or aid in achieving compliance with this By-law shall be in accordance with the Legislative Standards By-law.

#### **POWER TO DESIGNATE**

- 6.0 To achieve the purpose of this by-law, the Director of Parks and Recreation Services is authorized to designate any park, greenspace or recreation facility:
- a. to be exclusively reserved for specific uses or activities at all times or at specific times or days;
  - b. to be reserved for the exclusive use of particular individuals or groups;
  - c. in which specific uses or activities are prohibited; and
  - d. in which certain animals are permitted or prohibited.
- 6.1 Council by resolution may establish and designate areas as parks.

#### **CLOSED OR RESTRICTED AREAS**

- 7.0 City Council may, from time to time, designate any park, greenspace or recreation facility, or portion thereof, restricted or closed to the public for any interval of time, either temporarily, at regularly stated intervals, entirely, or for certain uses only as shall be reasonably necessary for any or all of the following reasons:
- a. public health or safety;
  - b. public nuisance;
  - c. park, greenspace or recreation facility improvements;
  - d. use of park, greenspace or recreation facility for permitted recreation or related activity necessitating; or
  - e. restricted access.
- 7.1 The Director of Parks and Recreation Services may designate any park, greenspace or recreation facility, or portion thereof, restricted or closed to the public for the same reasons stated in section 7.0 and authorize the following notification:
- a. cause the entrances to the affected park or parks to be posted with a sign indicating the times of such closure or restriction;
  - b. cause notice to be given to the general public of such closure or restriction; and
  - c. notify the Police Service in order that they may proceed to patrol the affected park or parks on a routine basis.

#### **AREAS PREVIOUSLY DESIGNATED**

- 8.0 All areas designated for a particular recreation purpose or purposes in any public park or recreation facility at the date of the commencement of this by-law shall be deemed to have been designated under section 6.0.

#### **CITY ASSETS**

- 9.0 Parks, recreational facilities and greenspaces are operated and maintained by Parks and Recreation Services, or through 3<sup>rd</sup> Party Agreements.

#### **PRESUMPTION**

- 10.0 In any legal proceeding, a sign or notice designating a particular recreation purpose or purposes shall be presumed to have been placed under the authority of the Director of Parks and Recreation Services or persons duly authorized until the contrary is shown.

### **AUTHORIZED USES**

- 11.0 A person may take part in recreation and leisure activities not otherwise prohibited in a park, greenspace or recreation facility.

### **BOOKING REQUEST FORM**

- 12.0 Where any act or activity is expressed to be prohibited unless permitted by Council, the Director of Parks and Recreation Services, or designate, any person seeking such permission shall submit a booking request form to the City of Brandon, through Parks and Recreation Services and shall pay any required fees for use of the facility, amenities or City owned equipment as per the Annual Schedule of Fees.
- 12.1 The applicant must ensure the park is free of litter, debris and structures following the event and ensure all property owned by the City including, but not limited to grass, walkways, shrubs, trees, signage, benches, and restrooms are left in the same condition or better.

### **ANIMALS IN PARKS AND GREENSPACES**

- 13.0 A person may bring a cat or dog as defined within the Animal Control By-law controlled by a leash into a park or greenspace, except in designated areas in which that animal is prohibited.
- 13.1 No person who has brought a dog into a park shall permit it to run unleashed unless in a designated off leash area that is designated by signage.
- 13.2 Every person who brings a cat or dog into a park or greenspace is responsible to clean up and remove the animal excrement immediately after droppings have occurred.

### **PROHIBITED ACTIVITIES**

#### **ENCROACHMENT**

14. Unless authorized by the Director of Planning & Buildings Department, the owner or occupant of property adjacent to a park or greenspace must not:
- a. erect a fence, hedge, building or any other structure in a park or greenspace or allow any structure to encroach into a park or greenspace;
  - b. remove or plant vegetation;
  - c. change the grade of land;
  - d. drive a motor vehicle on land that is not a roadway;
  - e. use water for private purposes; or
  - f. park a motor vehicle, trailer or boat on land that is not designated for vehicle parking.

#### **BATHING**

15. No person shall bathe in a fountain, pool, pond, well, spring, water retention pond or other body of water in a park, greenspace or recreation facility.

#### **FIRES AND COMBUSTIBLES**

- 16.0 No person shall:
- a. throw or place upon the ground or floor of any structure a lighted match, cigar, cigarette ember or other burning substance, within any public park, greenspace or recreation facility; or
  - b. start a fire in a public park or recreational area except in such places and in such containers as may be provided for the purpose by the City of Brandon; or
  - c. set off fireworks/flame effects device or pyrotechnics within the boundaries of the City of Brandon in accordance with the Brandon Fire and Emergency Services, Fireworks/flame Effects Device and Pyrotechnics Regulation – P31; or
  - d. leave a fire unattended.

#### **POSSESSION OF FIREARMS and OTHER WEAPONS**

**17.0** No person shall carry or discharge any firearm or weapon in a public park, greenspace or recreation facility.

#### **PARADES**

**18.0** No parade will be permitted unless authorization is granted in accordance with the Traffic By-law.

#### **DISTURBING ANIMALS AND WILDLIFE**

**19.0** Except as authorized herein, no person:

- a. shall, or shall allow, the teasing, annoying, disturbing or interfering with any animal and/or wildlife in any park, greenspace or recreation facility;
- b. shall strike, injure, maim or kill an animal or wildlife in any park, greenspace or recreation facility;
- c. shall disturb, rob, injure or destroy any habitat of any animal or wildlife in any park, greenspace or recreation facility.

**19.1** Notwithstanding Section 19.0, a person may fish in areas of parks designated for this purpose.

#### **PROHIBITED ANIMALS**

**20.0** No person shall bring an animal other than a dog or cat into a park or greenspace except in a designated area in which that animal is permitted or with the authorization of the Director of Parks and Recreation Services.

#### **REMOVAL**

**21.0** Where any person:

- a. who has brought into a park or has in his possession any animal described in Section 20.0; or
- b. who has in his possession or control a cat or dog, on a leash, which disturbs or has disturbed the comfort or safety of other persons using the park or which causes or might reasonably be expected to cause damage to turf; and refuses upon reasonable request to remove such animal from the park, a person charged with the enforcement of this By-law may lawfully remove or cause to be removed from the park any such animal;
- c. a peace officer, or person authorized to enforce this By-law may remove or have removed any person that violates any provision of this By-law and who has refused to leave immediately after being requested to do so.

#### **DAMAGE TO TREES, TURF AND FACILITIES**

**22.0** Unless an authorized employee of the City of Brandon, or operating under license from or contract with the City and conforming to the City of Brandon Tree Protection Policy and Tree Protection By-law No. 7282, no person shall:

- a. disturb, remove, damage or destroy any rock, gravel, sand or soil;
- b. cut, break, pull, bend or in any way injure or deface any turf, tree, shrub, hedge, plant, flower, or any park ornament;
- c. break, injure, remove, or in any way physically interfere with any building, structure, fence, seat, bench, ornament, or other man-made structure;
- d. adding or modifying anything identified in Subsection 20.0(a) through (c); or
- e. pollute, foul or deposit any substance in any fountain, lake, stream, pool, pond, well, spring, or other body of water; within a park, greenspace and recreation facility.

## **RESTRICTED USE OF CERTAIN AREAS**

### **23.0 No person shall:**

- a. climb, walk or sit upon any building, wall, fence, or other structure excepting only play apparatus, pedestrian walkways and seating specifically provided to be climbed, walked or sat upon in a park, greenspace and recreation facility;
- b. walk on, cross, travel on or use or sit upon any grass, plot or land where signs have been posted forbidding any such use;
- c. make use of a public park or greenspace for the purpose of a trailer park, tenting, campsite or recreation vehicle site except in areas designated for such a purpose;
- d. operate a motor vehicle or take a horse or other animal used or capable of being employed to transport persons directly or by drawing a conveyance other than on a highway in a public park, greenspace or recreation facility except:
  1. as required or authorized by law or permitted under this or any by-law of the City of Brandon; or
  2. except in areas designated for the use or presence of a particular animal or vehicle.
- e. No person shall use a path designated as a bicycle path for a purpose other than the following:
  1. the use of vehicles propelled by human muscular power;
  2. roller skating, skateboards, and similar means of human locomotion;
  3. motorized mobility aids;
  4. pedestrian traffic;
  5. cross-country skiing and snowshoeing;
  6. lawnmowers, maintenance and other motor driven machines owned and operated by the City of Brandon; or
  7. emergency vehicles.

## **OPERATION OF WATERCRAFT**

**24.0** No person shall act in a noisy, disorderly, or unsafe manner on the waters in or partly in or adjacent to any park.

## **INTOXICATING SUBSTANCES**

**25.0** No person shall take or consume therein any intoxicating substances into any public park, greenspace or recreation facility. This provision shall not extend to prohibit the transportation to and consumption of alcohol in either:

- a. an area for which a license has been granted to the City or a license thereof, pursuant to *The Liquor, Gaming and Cannabis Control Act*; or
- b. any area designated by Resolution of Council as an approved location for an occasional permit pursuant to *The Liquor, Gaming and Cannabis Control Act* and for which such an occasional permit has been issued.

## **DISRUPTING ENJOYMENT**

**26.0** No person shall disturb or threaten to disturb the orderly and peaceful enjoyment of persons using a park, greenspace or recreation facility.

## **CONCESSIONS**

**27.0** Council, the Director of Parks and Recreation Services or a designate may permit concessions as defined in Subsection 3.0(b) by way of an approved application to Parks and Recreation Services and the City of Brandon Real Estate Services.

## **SPEED RESTRICTION**

**28.0** No person shall operate a vehicle in any public park, greenspace or recreation facility at a rate of speed in excess of 30 kilometers per hour or otherwise posted.

**CAMPING**

29.0 No person shall set up a tent or take up temporary abode in a park or recreational area unless it is an area designated for such use.

**PARK HOURS**

30.0 The Director of Parks and Recreational Services or designate may, from time to time, establish hours of operation for parks or recreational areas.

**EXEMPTIONS**

- 31.0 The following are exempt from the provisions of this by-law:
- a. the employees, representatives and agents of the City while acting in the course of their employment or duty; or
  - b. any person who has received prior written permission from the Director of Parks and Recreation Services or designate to use the park, greenspace or recreation facility and outlining the applicable exemptions.

**PENALTY**

32.0 Any person who contravenes, disobeys, refuses or neglects to obey any provisions of this By-law is guilty of an offence and liable to a penalty, as set out in the Compliance By-law, or *The Provincial Offences Act* upon summary conviction.

**SEVERABILITY**

33.0 If any provisions of this By-law are held to be invalid by any Court of competent jurisdiction, the remaining provisions of the By-law shall not be invalidated.

**REPEAL AND ENACTMENT**

- 34.0 By-law No. 5268/37/84 and amending By-laws, being No.s 5295/05/85, 6005/42/92 and 6383/42/96, are hereby repealed.
- 35.0 This by-law shall come into full force and take effect on the day following its passage.

DONE AND PASSED by Council of The City of Brandon duly assembled this 4<sup>th</sup> day of December, 2023.

<u>“J. Fawcett”</u>			<u>“R. Sigurdson”</u>		
MAYOR			CITY CLERK		
Read a first time this	3 <sup>rd</sup>	day of	April	A.D.	2023
Read a second time this	6 <sup>th</sup>	day of	November	A.D.	2023
Read a third time this	4 <sup>th</sup>	day of	December	A.D.	2023

I, Renee Sigurdson, Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to 7be a true and correct copy of By-law No. 7337.

Original Signed by  
R. Sigurdson

R. Sigurdson, City Clerk

