

**TOWN OF CARMAN
BY-LAW 10/1958**

**BEING a by-law of the Town of Carman for
establishing a Recreation Commission.**

WHEREAS Section 250(2) of *The Municipal Act* provides, in part, as follows:

“Without limiting the generality of subsection (1), a municipality may for municipal purposes do the following:

- (c) acquire, establish, maintain and operate services, facilities and utilities;*
- (d) enter into agreements with one or more of the following regarding anything the municipality has power to do within the municipality;*
 - iii) the Government of Manitoba or one of its agencies,*
 - iv) a local authority,*
 - vi) another municipality in Manitoba or a municipality in another province;”*

AND WHEREAS Sections 253(1) of *The Municipal Act* provides, as follows:

“The power of a municipality referred to in clause 250(2)(d) to enter into agreements includes the power to enter into agreements pertaining to land, improvements, personal property, works, services, facilities, utilities or private works within or outside the boundaries of the municipality.”

AND WHEREAS Section 253(2) of *The Municipal Act* provides, as follows:

“No municipality has the power to enter into an agreement or to use its funds in a manner that is contrary to this or any other Act or a by-law of the municipality.”

AND WHEREAS Section 260(1) of *The Municipal Act* provides, as follows:

“A municipality that provides a service or other thing within its own boundaries may provide it in or to another municipality, with the agreement of the other municipality.”

AND WHEREAS Section 260(2) of *The Municipal Act* provides, as follows:

“The municipality providing a service or thing under subsection (1) may set terms and conditions including fees or other charges, for providing the service or thing, but is not required to apply the same terms and conditions that apply in the municipality.”

AND WHEREAS Section 261(1) of *The Municipal Act*, provides, in part, as follows:

“A council may make a grant to or otherwise assist...

- (b) another municipality;*
- (c) a local authority; or*

if in its opinion the purpose for which the grant is made is in the interest of or to advantage of the municipality or its residents.”

AND WHEREAS Section 261(2) of *The Municipal Act* provides, as follows:

“A council may make a grant under this section even though only a part of the municipality or some of the residents may benefit from the grant.”

AND WHEREAS Section 261(3) of *The Municipal Act* provides, as follows:

“A council may make a grant under this section even though the recipient, or any of its facilities, program or activities, is primarily or solely located or carried on outside the

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municipality, if the residents of the municipality or some of them, will or could benefit from the grant."

AND WHEREAS Section 231 of *The Municipal Act* provides, as follows:

"The power given to a council under this Division to pass by-laws is stated in general terms

- (a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate within the jurisdiction given to it under this and other Acts; and*
- (b) to enhance the ability of the council to respond to present and future issues in the municipality."*

AND WHEREAS Section 232(1) of *The Municipal Act* provides, in part, as follows:

"A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well being of people...*
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls and private clubs and facilities that are exempt from municipal taxation;"*

AND WHEREAS it is deemed expedient and in the best interest of the citizens of the municipality of establish a public Recreation Commission and to establish by by-law the rules and organizational structure of such a "Commission".

AND WHEREAS the elected officers of the parties hereto have opted in favour of passing a By-law for the establishment of the Carman Dufferin Recreation Commission.

NOW THEREFORE BE IT ENACTED by Council as a By-law of the Town of Carman, as follows:

1. THAT there is hereby established a Recreation Commission to be known as the "Carman Dufferin Recreation Commission (hereinafter called the "Commission")."
2. THAT Council through appointing representatives to this "Commission" hereby authorizes and empowers them on behalf of and in the name of the Corporation of the municipality for the establishment and operation of a Recreation Commission.
3. THAT within the agreement for the establishment and operation of a Recreation Commission, between the member municipalities, the presentation of the Commission Board shall be defined.
4. THAT Council through appointing representatives to this "Commission" hereby delegates to those appointees, the responsibilities to negotiate with Board members, the terms of reference for the operation of the "Commission".

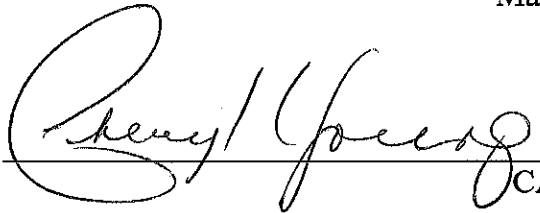
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5. THAT the terms of reference for the operation of the "Commission" shall be attached hereto as Schedule "A" and shall form part of this By-law.
6. THAT By-law No. 10/1953 of the Town of Carman be and is hereby repealed.

DONE AND PASSED by the Council of the Town of Carman, in open Council duly assembled, this 13th day of January 2011.



Mayor



CAO

Read a first time this 9th day of December 2010.
Read a second time this 13th day of January 2011.
Read a third time this 13th day of January 2011.

SCHEDULE "A" TO BY-LAW NO. 10/1958

TERMS OF REFERENCE

Schedule "A" to By-Law No. 10/1958 of the member municipalities setting out details of the terms of reference of the Carman Dufferin Recreation Commission, herein after referred to as "Commission".

WHEREAS the elected officers of the parties hereto have opted in favour of a By-law for the establishment of the "Carman Dufferin Recreation Commission".

TITLE

1.0 THAT there is hereby established a Recreation Commission to be known as the "Carman Dufferin Recreation Commission" (hereinafter called the "Commission").

ROLE OF DISTRICT

2.0 The purpose of the established "Commission" will be to foster and promote recreation and programs in the area outlined as the municipalities of the Town of Carman, and R.M. of Dufferin. It shall be the recreation-service organization here to service these communities, whether the recreation is sports, social, educational, etc.

2.1 Within the municipal area of the Town of Carman and the R.M. of Dufferin, the "Commission" shall operate, supervise and control the public recreation grounds and facilities in the community, as designated by the councils of the said two municipalities.

2.2 The "Commission" shall strive to establish such recreation grounds and facilities in the municipal area of the Town of Carman and R.M. of Dufferin, which may be deemed necessary by the said "Commission" to carry on a comprehensive recreation program.

2.3 The "Commission" will seek:

- To communicate to citizens at all levels the importance and applicability of recreation.
- To encourage the use of the "Commission" and recreation facilities as an integral part of community life.
- To encourage the involvement and support of recreation in all levels of society.
- To maintain liaison with pertinent recreation groups in order to share access to their resources and personnel.
- To program and coordinate functions according to the needs of communities.
- To approach universities, Government departments, and other agencies for additional services in the local communities dealing with recreation.
- To accept gifts, donations, legacies, and bequests devices, endowments and contributions, on behalf of the member municipalities, for the purpose of the aims and objectives.
- To dispense grants to local groups, upon proper application, as a means to promote the aims of the "Commission".

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COMPOSITION OF THE "COMMISSION"

3.0 The Board for the "Commission" shall be a nine (9) member board and be composed of the following members:

- Town of Carman shall appoint two (2) members of Council.
- R.M. of Dufferin shall appoint two (2) members of Council.

These members of the respective councils appointed to the "Commission" shall hold office for a term of one (1) year or until a respective successor is appointed.

- Town of Carman shall appoint two (2) members-at-large and these appointees shall be residents of the said Town and may be members of council.
- R.M. of Dufferin shall appoint two (2) members-at-large and these appointees shall be residents of the said Rural Municipality and may be members of council.
- Dufferin Agricultural Society shall appoint one (1) member-at-large and this delegate must be a resident of either the Town of Carman or the R. M. of Dufferin.

One of these members-at-large appointments shall be made in each year of a regular municipal election and shall be for the term of four (4) years the other two (2) members-at-large shall commence their term of office January 1, 2011 and shall be for the term of four (4) years.

3.1 The members appointed to the said "Commission", unless they are disqualified by some reason of place of residence, shall be eligible for reappointment.

3.2 In filling any of the "Commission" Board members, in the event that a member vacates a position prior to the expiry date of their appointment, the member appointed to fill the vacancy shall hold office for the remainder of the term. A retiring member shall serve until such time as a successor is appointed.

3.3 In the event of a vacancy, a member from the same jurisdiction shall fill the vacancy in order to maintain that jurisdiction's representation.

GENERAL DUTIES OF MEMBERS

4.0 Each member of the "Commission" has the following duties:

- To consider the well-being and interests of the "Commission" as a whole and to bring to the Board's attention anything that would promote the well-being or interests of the "Commission";
- To participate generally in developing and evaluating the policies and programs of the "Commission";
- To participate in the meetings of the "Commission" and of any committee meetings and other bodies to which the member is appointed by the "Commission";
- To perform any other duty or function imposed on the member by the "Commission".

COMMITTEES AND COMMITTEE MEETINGS

5.0 The general duties of committees shall be as follows:

- To report from time to time on all matters connected with the duties imposed on the committee and to recommend such action as may be deemed necessary;

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- To prepare and introduce to the "Commission" all such motions or resolutions that may be necessary to give effect to the reports or recommendations that are adopted by the "Commission";
- To consider and report respectively on any and all matters referred to them by the "Commission".

5.1 The following committees are hereby established as the Standing Committees of the "Commission":

- Finance Committee
- Facilities Committee
- Fundraising Committee
- Personnel Committee

5.2 The special duties of the Standing Committees, in addition to the aforesaid general duties shall be as follows:

(a) Finance Committee

- This committee shall comprise of two representatives from the Town of Carman and two representatives from the Rural Municipality of Dufferin.
- To supervise all contracts, orders, reports, recommendations and proceedings involving the expenditure of "Commission" funds.
- To supervise all accounts, expenditures and outlay all sums payable under contract before any monies are paid; and no account, claim or demand not expressly authorized to be paid by a statute, by-law or resolution of the "Commission", shall be paid by the Manager of Recreation Services, or appointee, until the same has been authorized by the Finance Committee and approved by the "Commission".
- The committee shall ensure that the Secretary-Treasurer, hired by the Commission, shall keep a proper set of books of account, showing all receipts and disbursements of moneys. All moneys received shall be deposited with all due dispatch in an account in a chartered bank or credit union to the credit of the "Commission".
- The committee shall ensure that all disbursements shall be made by cheque thereon signed by the Chairperson or the Assistant Chairperson and the Manager of Recreation Services or the Secretary-Treasurer.
- The committee shall supply monthly financial statements to members of the "Commission" or to member municipalities, if requested.
- To have the books and affairs of the "Commission" audited annually by one of the municipal auditors of either the Town of Carman or the Rural Municipality of Dufferin. Such auditor to be selected annually by the Councils of Carman and Dufferin and the report of such an auditor shall be made available to the member municipalities forthwith upon its receipt.
- To work with the Manager of Recreation Services in preparing and planning the annual budget and present this budget to the "Commission"; once approved by the "Commission", to the councils of the Town of Carman and the R. M. of Dufferin at a date in each year that is convenient for the purpose of discussing such budget and the means whereby the necessary moneys can be provided. This budget shall be comprised of two sections - capital and operating.
- To work on any long-term planning of finances.
- To develop of fee structure for facilities, programs, campground, pool and arena.
- The Board Chairperson and the Chairperson of the Finance Committee must approve any sum greater than \$1,000.00 that is not included in the approved budget before the expenditure is made and brought forward to the "Commission".

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- (b) **Facilities Committee**
 - This committee shall comprise of four representatives from the Town of Carman and/or the Rural Municipality of Dufferin.
 - This committee shall work with the Manager of Recreation Services in planning facility maintenance and/or renovations.
 - To work with the Manager of Recreation Services on annual budgets required necessary to operate all facilities for the "Commission".

- (c) **Fundraising Committee**
 - This committee shall comprise of four representatives from the Town of Carman and/or the Rural Municipality of Dufferin.
 - To work with other groups who raise money through the "Commission".
 - Organize and plan fundraising activities for the "Commission".

- (d) **Personnel Committee**
 - This committee shall comprise of four representatives from the Town of Carman and/or the Rural Municipality of Dufferin.
 - Aid in hiring of full-time and part-time staff for the "Commission".
 - Conduct yearly evaluations with the full-time staff.
 - To consider salary and wage negotiations.
 - To develop and review Job Descriptions.
 - To review and consider grievances of employees.
 - Deal with any personnel issues that may arise.
 - Review and update staff policy, as required.

5.3 All committees shall meet on a monthly basis at a time and location agreed on by the committee members.

5.4 Committee meetings shall be limited to a maximum of 1 ½ hour.

5.5 In the event that a special committee meeting needs to be held, the Chairperson of the said committee shall notify the Manager of Recreation Services of the need and together they shall determine a date for the special committee meeting. Committee members must be notified a minimum of 24 hours prior to the special committee meeting.

APPOINTMENT OF CHAIRPERSON AND OTHER OFFICERS

6.0 The "Commission" shall elect from its membership a chairperson in each and every year of operation from those members of the "Commission", and this position shall be for no more than a two (2) year term and shall be rotated between the Town of Carman and R. M. of Dufferin.

6.1 Where the Chairperson is absent or unable to act, the "Commission" may appoint a temporary Chairperson.

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- 6.2 The "Commission" shall elect from its membership a Vice Chairperson and a Secretary-Treasurer in each and every year of operation from those members of the "Commission", and these positions shall be for no more than a two (2) year term.

EXPECTATIONS OF "COMMISSION"

- 7.0 That the monies allocated to the "Commission" from municipal levies and from government grants shall be expended by the board for the recreation purposes provided in the budget of the "Commission", however any donation or gift accepted by the "Commission" shall be expended and allocated in accordance with the wishes of the donor thereof.
- 7.1 That the said "Commission" shall adopt rules and regulations governing its procedure, provided such rules and regulations are not inconsistent with the provisions of *The Municipal Act*, any act of Legislature of the Province of Manitoba or any By-law of the municipal corporations.

QUORUM

- 8.0 A majority of the members of the "Commission" constitutes a quorum. The quorum of the Carman Dufferin Recreation Commission shall be five (5) members.
- 8.1 If a position on the "Commission" is vacant, the quorum will be the majority of the remaining members provided that the minimum number for a quorum cannot be less than three members.
- 8.2 If no quorum is present within 30 minutes after the time scheduled for a meeting, the "Commission" shall stand adjourned and the names of the members present at that time shall be entered into the minutes.

AGENDA

- 9.0 A draft agenda of each regular meeting of the "Commission", together with copies of supporting materials shall be available to the members at least 48 hours preceding the meeting.
- 9.1 All items to be placed on the agenda of the next regular meeting of the "Commission" should be provided to the Manager of Recreation Services at least 96 hours prior to the scheduled time of the regular meeting.
- 9.2 Items may be added to the agenda at a regular meeting of the "Commission" by a majority vote of the members present, prior to adopting the final agenda for the regular meeting.
- 9.3 In preparing the agenda, the Manager of Recreation Services shall state the business for consideration in accordance with the following order of business:
- Call to Order
 - Additions/Deletions to Agenda
 - Adoption of Minutes
 - Matters Arising from Minutes
 - New Business
- Manager of Recreation Services' Report

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- Facility Manager's Report
- Committee Reports
 - Facility Committee
 - Fundraising Committee
 - Finance Committee
 - Personnel Committee
- Next Meeting – Time and Date
- Adjournment

9.4 Notwithstanding the provisions under 9.3, it shall always be in order for the "Commission" to vary the order in which business on the agenda shall be dealt with by a majority vote of the members present.

REGULAR MEETINGS OF THE "COMMISSION"

- 10.0 Regular meetings of the "Commission" shall be held on the third Monday of each month in the Memorial Hall at the hour of 7:00 p.m., or at a time agreed to by the "Commission".
- 10.1 The Chairperson, or in his/her absence a person appointed by the members of the "Commission" in attendance at the meeting, shall chair all meetings of the "Commission".
- 10.2 If the day fixed for a regular meeting is a general holiday, the meeting shall be held on the next day following which is not a holiday at the same time and place or at another date determined by the majority of the "Commission".
- 10.3 The "Commission" may, by resolution, vary the date and time of a regular meeting as circumstances may require.
- 10.4 Notice of any change of day or time of a regular meeting must be posted in the Recreation Office at least 15 days before the regularly scheduled date of the meeting.
- 10.5 At the hour set for a meeting to commence, and providing that a quorum is present, the Chairperson shall take the chair and shall call the meeting to order.
- 10.6 The "Commission" shall observe a curfew whereby the item on the agenda under discussion at 11:00 p.m. will be the last item dealt with on that day unless by majority vote the "Commission" decides to extend the time of adjournment. In any case, only one half hour extension is allowed.
- 10.7 The "Commission" shall hold its meetings openly and no person shall be excluded, except for improper conduct.
- 10.8 Despite Clause 3.7 of this by-law, the "Commission" may close a meeting to the public if:
- (a) The members decide during the meeting to meet as a committee to discuss a matter, and
 - (b) The decision and general nature of the matter are recorded in the minutes of the meeting, and
 - (c) The matter discussed relates to
 - (i) An employee, including the employee's salary, duties, and benefits and any appraisal of the employee's performance,

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- (ii) A matter that is in its preliminary stages and respecting which discussion in public could prejudice the "Commission's" ability to carry out its activities or negotiations,
- (iii) The conduct of existing or anticipated legal proceedings,
- (iv) The conduct of an investigation under, or enforcement of an Act or by-law,
- (v) The security of documents or premises.

SPECIAL MEETINGS OF THE "COMMISSION"

- 11.0 A special meeting of the "Commission" may be called at any time by the Chairperson, and must be called by the Chairperson, if he/she receives a written request from at least two members of the "Commission" stating the purpose. A copy of the written request must also be served on the Manager of Recreation Services.
- 11.1 Should the Chairperson not call a special meeting within 48 hours of receiving written request by two members, the Manager of Recreation Services must call the meeting in accordance with section 11.2 of this by-law.
- 11.2 The notice of the special meeting to all members of the "Commission" may be oral, in electronic or written form, and must state the purpose of the meeting, and must be provided to all members of the board at least 24 hours before the schedule time of the meeting.
- 11.3 Any member of the "Commission" may waive the right to be given notice by giving written notice to the Manager of Recreation Services and having done so shall be deemed to have been given notice of a special meeting of the "Commission".
- 11.4 At a special meeting no subjects or matters, other than those mentioned in the notice calling the meeting, shall be taken into consideration unless all Members of the "Commission" are present, and the members unanimously agree by resolution to adding of items to the agenda.

DELEGATIONS

- 12.0 The Chairperson may limit the time taken by a delegation to 10 minutes. The delegation must appoint a spokesperson.
- 12.1 To allow members of the "Commission" to prepare for delegations all presenters shall register with the Manager of Recreation Services at least 96 hours before the meeting and advise of the topic and scope of the presentation.
- 12.2 There shall not be a limit to the number of delegations included on the agenda at a meeting, but the Manager of Recreation Services is granted authority to schedule delegations as deemed appropriate.
- 12.3 If a delegation is present at a meeting to discuss the expenditure of funds, no decision shall be made at the time of the delegation hearing. Rather the Chairperson shall request the item be inserted in the agenda under New Business or held over to a Finance Committee meeting for a future recommendation.

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VOTING

- 13.0 A member has one vote each time a vote is held at a meeting at which the member is present.
- 13.1 It must be recorded in the minutes the name of any member who exercises his/her right to abstain from voting on any resolution.
- 13.2 If an equal number of members vote for and against a resolution or by-law, the resolution or by-law is defeated.
- 13.3 The "Commission" may not reconsider or reverse a decision within one year after it is made unless:
- (a) At the same meeting at which the decision is made, all the members who voted on the original resolution are present and agree to reconsider and vote again; or
 - (b) A member gives written notice to the "Commission" from at least one regular meeting to the next regular meeting, of a proposal to review and reverse the decision.
- 13.4 When the "Commission" reconsiders and reverses a decision, the minutes must show the original decision and the decision made on reconsideration.
- 13.5 Any member of the "Commission" may, prior to the taking of a vote on any question put, require a recorded vote to be taken. In this case, it must be recorded in the minutes of the meeting the names of the members present and the vote or abstention of each member.

RESOLUTIONS

- 14.0 The "Commission" may act only by resolution and under the powers given to them by the member municipalities.
- 14.1 No motion shall be debated or put unless it is in writing and is seconded, excepting only a motion to adjourn, which need not be in writing.

CONFLICT OF INTEREST

- 15.0 No member of the "Commission" or member of any member municipalities shall have any contract with the "Commission", or have any pecuniary interest, directly or indirectly, in any contract or work relating to the "Commission", its activities, or its property. No such person shall be deemed to have any contract or to be pecuniary interested by reasons of being a shareholder in an incorporated company having dealings or contracts with the "Commission" unless he/she holds a beneficial interest, direct or indirect, of fifty percent (50%) or more of the issued capital stock of the incorporated company.

CONDUCT

- 16.0 Every member previous to his speaking shall address the Chairperson.

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- 16.1 When two or more members address the Chairperson at the same time, the Chairperson shall name the member who is to speak first.
- 16.2 There are four standing committees of the "Commission", namely Finance, Facilities, Fundraising, and Personnel Committee. All committees shall meet on a monthly basis at a time and location agreed on by the committee members.
- 16.3 Committee meetings shall be limited to a maximum of 1 ½ hour.
- 16.4 In the event that a special committee meeting needs to be held, the Chairperson of the said committee shall notify the Recreation Director of the need and together they shall determine a date for the special committee meeting. Committee members must be notified a minimum of 24 hours prior to the special committee meeting.
- 16.5 When the Chairperson is called on to decide a point of order or practise, the Chairperson shall do so without comment unless requested to do so.
- 16.6 When the Chairperson is putting a question, no member shall leave his/her chair.
- 16.7 If the Chairperson desires to present or second a motion, he/she must leave the chair, and call upon one of the members to fill his/her place until he/she resumes the chair.
- 16.8 Discussion shall be limited to the question in debate.
- 16.9 No member shall speak to the question or in reply for longer than five minutes without approval of the members.
- 16.10 A motion to adjourn takes precedence over all others and may be moved at any time, but the question cannot be received after another question put and while members are engaged in voting.
- 16.11 Immediately before putting the question, the Chairperson shall have the privilege of summarizing the debate, but no new matter shall be introduced.
- 16.12 Where at a meeting, any person other than a member of the "Commission" is, in the opinion of the Chairperson, conducting oneself in a disorderly or improper manner; the Chairperson may require that person to leave the meeting and if that person fails to do so, may cause that person to be removed.
- 16.13 Where at a meeting, a member of the "Commission" is conducting oneself in a disorderly or improper manner, the "Commission" may, by a resolution passed by the majority of the other members present, require the member to leave the meeting and if the member fails to do so, may cause the member to be removed.
- 16.14 Persons in the Board Room are not permitted to display signs or placards, to applaud participants in debate or to engage in conversation or other behaviours which may disrupt the meeting.
- 16.15 The "Commission" may limit the number of persons allowed in the Board Room.

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- 16.16 A member must keep in confidence a matter that is discussed at a meeting closed to the public until the matter is discussed at a meeting conducted in public.
- 16.17 A member who breaches the requirement of confidentiality under clause 16.13 becomes disqualified from the "Commission".
- 16.18 All points of order and procedure not resolved by rules provided in this by-law shall be resolved by the majority decision of the "Commission".

