THE CITY OF WINNIPEG

BY-LAW NO. 85/2009

A By-law of THE CITY OF WINNIPEG to regulate the operation and use of parks.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1 This By-law may be cited as the Parks By-law.

PART 1 – GENERAL

Definitions

2 In this By-law

"Chief Administrative Officer" means the Chief Administrative Officer of the City of Winnipeg and any employee of the City of Winnipeg to whom he or she has delegated a power or responsibility under this By-law;

"Council" means the Council of the City of Winnipeg or a committee of Council which has been delegated authority to exercise Council's powers under this By-law;

"designated", in reference to an area of a park, means an area designated by the Chief Administrative Officer pursuant to section 6;

"enforcement officer" means a City of Winnipeg employee or special constable who has been authorized to enforce all or part of this By-law, and a member of the Winnipeg Police Service;

"firearm" includes a gun or rifle that fires projectiles through the use of compressed air or gas;

"garbage" has the same meaning as in the Neighbourhood Liveability By-law except that, for the purposes of this By-law, it includes derelict vehicles;

"motorized mobility aid" means a device which is specifically manufactured or modified for operation by a physically handicapped person and which has

(a) a maximum speed capability of not more than 15 kilometres per hour,
(b) a maximum width of not more than 81.2 centimetres, and
(c) a maximum mass of not more than 226 kilograms,

and includes a motorized wheel chair;

"motor vehicle" means a vehicle that is propelled by a motor and includes an off-road vehicle but does not include a motorized mobility aid;

"park" means real property, other than a golf course, that is

(a) owned or leased by the City of Winnipeg or jointly operated by the City of Winnipeg and a school division or some other person or organization; and

(b) either

(i) zoned PR1, PR2 or PR3 in the area governed by the Winnipeg Zoning By-law No 200/2006 and zoned “park” or “park use” in the Downtown Winnipeg Zoning By-law No 100/2004; or

(ii) used principally for recreation, sports or as a nature preserve and designated as a park for the purposes of this By-law by the Chief Administrative Officer.

Purpose of By-law

3 The purpose of this By-law is to:

(a) maximize the opportunity of members of the public to enjoy a wide range of recreational and leisure activities within City parks safely, comfortably and conveniently;

(b) minimize the risks of any activity in a park, including:

(i) risks to public health, safety and security;

(ii) risks of damage or harm to parks, including animals, animal habitat and flora within parks; and

(iii) risks of harm to the environment generally; and

(c) ensure to the greatest extent possible that any damage or harm to parks is remedied and appropriate compensation is provided to the City of Winnipeg.

Application of By-law

4 This By-law applies to all parks within or outside the City of Winnipeg and may be enforced by common law and statutory remedies in parks that are owned by the City of Winnipeg outside the City boundaries.

PART 2 - ADMINISTRATION AND ENFORCEMENT

General powers of administration and enforcement

5(1) The Chief Administrative Officer, his or her delegates, and any enforcement officer may conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law in accordance with *The City of Winnipeg Charter* and, for these purposes, have the powers of a designated employee under *The City of Winnipeg Charter*.

5(2) The Chief Administrative Officer may appoint employees of the City of Winnipeg to administer or enforce this By-law.

Power to designate areas

6 In order to achieve the purposes of this By-law, the Chief Administrative Officer is authorized

to designate parks or areas of parks:

(a) to be exclusively reserved for specific uses or activities at all times or at specified 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;

(d) in which certain animals or categories of animals are permitted or prohibited.

Authorizations

7(1) Where this or another By-law provides that an activity in a park is permitted only if authorized by the Chief Administrative Officer, the Chief Administrative Officer may authorize the activity if

(a) the activity does not violate this or another By-law or statute;

(b) the applicant has paid any applicable fee relating to the activity; and

(c) the activity supports the purposes of this By-law.

7(2) The Chief Administrative Officer is authorized to establish the form and required information in an application for an authorization under subsection (1) as well as appropriate deadlines for submitting applications.

7(3) In authorizing activities under subsection (1), the Chief Administrative Officer may impose conditions on the authorization that are designed to ensure that the purposes of this By-law are met.

7(4) A violation of a condition imposed under subsection (3) constitutes an offence under this By-law.

7(5) Where a condition imposed under subsection (3) includes the provision of a deposit, upon application by the person who provided the deposit, the Chief Administrative Officer must refund the deposit if the activity has not resulted in harm or damage to the park and has otherwise been conducted in compliance with this By-law and the conditions imposed on the authorization.

Authority to close or restrict access

8(1) The Chief Administrative Officer is authorized to prohibit or restrict access to a park or an area of a park for any period of time, whether on an occasional or regularly scheduled basis, consistent with the purposes of this By-law.

8(2) A person must not enter or be in a park or an area of a park in violation of a closure or restriction imposed under subsection (1).

Authority to make rules

9(1) The Chief Administrative Officer may make rules that are not inconsistent with this By-law in order to further the purposes of this By-law and to ensure the proper administration of parks.

9(2) The authority to make rules referred to in subsection (1) includes the authority to prohibit

particular activities in a park or all parks.

Authority to post signs
10(1) The Chief Administrative Officer may post signs or notices within parks bearing the seal or logo of the City of Winnipeg.

10(2) A person must observe and comply with the prohibitions, restrictions or rules set out on a sign or notice posted in a park that bears the seal or logo of the City of Winnipeg unless it can be shown that the sign or notice was not posted under the authority granted in subsection (1).

PART 3 - PROHIBITED AND REGULATED ACTIVITIES IN PARKS

Rules not applicable to enforcement officers or City employees
11 This Part does not apply to:

(a) enforcement officers;

(b) employees of the City of Winnipeg while carrying out their duties; or

(c) individuals or employees of businesses authorized by the City of Winnipeg to carry out work in a park, to the extent that contraventions of this By-law are necessary in order to carry out the work.

Possession and use of weapons prohibited
12(1) A person must not have a firearm in his or her possession within a park other than in an area and at a time designated by the Chief Administrative Officer for this purpose.

12(2) A person must not have a slingshot, bow or similar weapon in his or her possession within a park.

12(3) A person must not throw a stone, fire a firearm or use any other weapon within a park other than in an area and at a time designated by the Chief Administrative Officer for this purpose.

Fires regulated
13 Unless authorized by the Chief Administrative Officer, a person must not, within a park:

(a) light a fire except in a container provided for this purpose;

(b) throw or place a lighted match, cigarette, cigar or any other burning substance on the ground or on the floor of any structure without ensuring that it is immediately extinguished.

Littering prohibited
14 A person must not throw, discard, drip, deposit or leave litter or garbage in a park except in a container provided or an area designated for that purpose.

Dumping prohibited

15 Unless authorized by the Chief Administrative Officer, a person must not leave or deposit grass clippings, tree branches, garden or yard waste, soil, concrete, building materials, snow or any other similar substance within a park.

Encroachment by adjacent property owners

16 Unless authorized by the Chief Administrative Officer, the owner or occupant of property adjacent to a park must not

(a) erect a fence, hedge, building or any other structure in a park or allow any structure to encroach into a park;

(b) remove or plant vegetation in a park;

(c) change the grade of land in a park;

(d) drive a vehicle on land that is not a roadway; or

(e) park a vehicle on land that is not designated for vehicle parking.

Damage to park

17 Unless authorized by the Chief Administrative Officer, a person must not

(a) disturb, remove or damage a tree, branch, flower, plant or other vegetation in a park;

(b) disturb, remove or damage soil or turf in a park, including embedding stakes in soil or turf;

(c) release or deposit any substance or thing into, or otherwise pollute or foul a fountain, lake, stream, pool, pond, well, spring or other body of water within a park; or

(d) cause harm or damage to any building or structure in a park.

Disturbing animals prohibited

18(1) Subject to subsection (2), a person must not, the parent, guardian or person in charge of a minor must not permit the minor to, and, subject to the Pound By-law, the owner or person in charge of a dog must not permit the dog to:

(a) tease, annoy, disturb or interfere with an animal;

(b) strike, injure, maim or kill an animal;

(c) disturb, harm or destroy the habitat of an animal, including the nests of birds.

18(2) Notwithstanding subsection (1), a person may fish in areas of parks designated for this purpose.

Animals in parks

19(1) A person may bring a cat or dog into a park except in a designated area in which that animal

is prohibited.

19(2) A person must not bring an animal other than a dog or cat into a park except in a designated area in which that animal is permitted or with the authorization of the Chief Administrative Officer.

Camping
20 Unless authorized by the Chief Administrative Officer, a person must not set up a tent or a recreational vehicle in a park and a person must not sleep overnight in a park.

Noise restricted
21(1) In addition to complying with Part Five of the Neighbourhood Liveability By-law (Noise Control) and other by-laws restricting or controlling noise, a person in a park must not between the hours of 11:00 p.m. and 7:00 a.m. make, cause or permit to be made a noise which disturbs a reasonable individual of ordinary sensitivity occupying a property adjacent to or near the park.

21(2) Subsection (1) does not apply to noise created as a result of activities that have been authorized by the Chief Administrative Officer.

Posting signs
22(1) Unless authorized by the Chief Administrative Officer, a person must not post a sign or notice in a park.

22(2) Unless the Chief Administrative Officer has specifically authorized a sign to be posted for a longer period of time, a sign posted in a park must be removed within 24 hours by the person who posted it.

Traffic rules
23 Except to the extent that they are inconsistent with this By-law or with actions taken by the Chief Administrative Officer pursuant to authority granted by this By-law, the provisions of the Streets By-law, the Traffic By-law and *The Highway Traffic Act* apply to vehicular traffic and to roadways within parks, and a violation of a provision of those by-laws or that Act constitutes an offence under this By-law.

Speed limit
24 A person must not operate a vehicle at a speed exceeding 30 kilometres per hour in a park.

Off-road use of motor vehicles
25 unless specifically authorized by the Chief Administrative Officer to do so, a person must not operate a motor vehicle in a park except on a roadway or in an area designated for this purpose.

Non-motorized vehicles or equipment
26 A person may operate or use non-motorized vehicles or equipment, including a bicycle, roller-blades or a skateboard, on a roadway in a park unless use of the vehicle or equipment in a park or area of a park has been prohibited by the Chief Administrative Officer.

Multi-use paths
27 A person must not travel on a multi-use path in a park in or on a motorized vehicle except in or on a motorized mobility aid, as that term is defined in *The Highway Traffic Act*.

Swimming and bathing
28 A person must not swim, wade or bathe in or enter into a fountain, lake, stream, pool, pond,

well, spring, water retention pond or other body of water in a park except in a pool or body of water designated for this purpose or with the authorization of the Chief Administrative Officer.

Watercraft
29(1) Unless authorized by the Chief Administrative Officer, a person must not operate any watercraft in a park.

29(2) A person must not tie up, load or unload any motorized watercraft in a park except at a place designated for this purpose by the Chief Administrative Officer.

29(3) A person operating or riding watercraft in a park must not disturb any waterfowl or act in a noisy, disorderly or unsafe manner.

Business activities
30 Unless authorized by the Chief Administrative Officer to do so, a person must not

(a) use a park as a place of business; or

(b) carry on any commercial activities in a park;

Public meetings and parades
31 A person must not hold or take part in a public meeting or organize or take part in a parade within a park unless written authorization for the public meeting or parade has been granted by the Chief Administrative Officer.

Recreation in designated areas
32 A person must not engage in any activities that violate a designation imposed by the Chief Administrative Officer or that interfere or could interfere with activities permitted in a designated area.

Fee for use
33(1) Where a fee has been established under section 37 for entry to a park or an area of a park or engaging in a particular use of a park or an area of a park, a person must not enter the park or area of a park or engage in that use of the park or area of the park without having paid the fee.

33(2) Where a fee has been established under section 37 for the exclusive right to use a park or area of a park for a specified period of time a person is not entitled to the exclusive use of a park or an area of a park unless he or she pays the fee established under this By-law for the exclusive use of that park or park area.

Park hours
34(1) Unless authorized to do so by the Chief Administrative Officer, a person must not enter or be in a park when a park or part of a park is closed to the public.

34(2) A park or part of a park is closed to the public when the Chief Administrative Officer has established hours during which the park or part of the park is closed to the public and

(a) signs have been posted advising of the time when the park or part of the park is closed to the public; or

(b) gates at entrances to the park have been closed..

PART 4 – PENALTIES AND REMEDIES

Penalties
35(1) Subject to this section, a person who contravenes a provision of this By-law is guilty of an offence is liable, upon summary conviction, to a fine of up to $10,000, in the case of an individual, and to a fine of up to $50,000 in the case of any other person.

35(2) A person who contravenes a provision of this By-law referred to in Schedule A, which is attached to and forms part of this By-law, is guilty of an offence and is liable, upon summary conviction, to not less than the minimum fine set out in Schedule A plus mandatory court costs as provided by *The Summary Convictions Act* for the contravention of that provision.

35(3) A person who contravenes section 24 of this By-law (exceeding speed limit) is guilty of an offence and is liable, upon summary conviction, to a fine as set out in Table 2 of Schedule B of the *Offence Notices Regulation*, Manitoba Regulation 210/2003.

Removal from park
36(1) A person who

(a) violates a provision of this By-law; or

(b) disturbs or threatens to disturb the enjoyment of a park by other users of the park;

is not authorized to be in the park and is trespassing. In addition to initiating a prosecution for a violation of this By-law, an enforcement officer is authorized to order such a person, verbally or in writing, to leave the park immediately.

36(2) A person who has been ordered to leave the park under subsection (1) but refuses to comply with the order is guilty of an offence.

36(3) An enforcement officer is hereby authorized to act under *The Petty Trespasses Act* to apprehend without a warrant a person who has been ordered to leave the park under subsection (1) but has failed to comply with the order. After apprehending such a person, an enforcement officer must take the person to the nearest justice as soon as reasonably practicable to be dealt with according to law.

PART 5 - FEES

Determination of fees
37(1) Council may by resolution establish and determine the amount of fees for

(a) entry to a park or an area of a park;

(b) engaging in a particular use of a park or an area of a park;

(c) the exclusive right to use a park or area of a park for a specified period of time;

(d) any service, facility, amenity, equipment, use or activity within a park;

or may delegate this authority to the Chief Administrative Officer.

37(2) Council may enter into agreements for the use or administration of all or part of a park.

PART 6 - TRANSITION AND REPEAL

Transition
38 Any power exercised and, in particular, any rules or regulations and any designations made, under the Parks and Recreation By-law No. 3219/82 are hereby continued and remain in effect until altered by the Chief Administrative Officer under this By-law.

Parks and Recreation By-law replaced
39 This By-law is a successor to the City of Winnipeg Parks and Recreation By-law No. 3219/82 and a reference in any by-law, policy, resolution or other document to the Parks and Recreation By-law No. 3219/82 is deemed to be a reference to this By-law.

Repeal of Parks and Recreation By-law
40 Subject to section 38 (Transition), and section 39 (Parks and Recreation By-law replaced), the Parks and Recreation By-law No. 3219/82 is repealed.

Coming into force
41 This By-law comes into force on June 1, 2009.

DONE AND PASSED, this day of , 2009.

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Mayor

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City Clerk

Approved as to content:

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Director of Public Works

Approved as to form:

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Acting City Solicitor/Manager of Legal Services

SCHEDULE A – MINIMUM FINES FOR BY-LAW VIOLATIONS*

BY-LAW PROVISION BEING CONTRAVENED	MINIMUM FINE
Section 7(4) – violate condition of authorization	$100.00
Section 12 - possession or use of weapons	$250.00
Section 13 – fires in park	$150.00
Section 14 – littering	$100.00
Section 15 - dumping	$250.00
Section 16 - encroachments	$250.00
Subsection 17 – damage to park	$150.00
Section 18 – disturbing animals	$150.00
Section 19 – animals in parks	$150.00
Section 20 – camping	$75.00
Section 21 – noise restriction	$100.00
Section 22 – posting signs	$75.00
Section 25 – off road vehicles	$150.00
Section 27 – multi-use paths	$150.00
Section 29 - watercraft	$150.00
Section 30 – business activities	$150.00
Section 31 – public meetings	$150.00
Section 32 – unauthorized activity in designated area or interfering with authorized activity in designated area	$150.00
Section 33 – fee for use of parks	$150.00
Section 34 – park hours	$150.00
Subsection 36(2) – failure to leave park when ordered	$400.00

*NOTE – Additional mandatory court costs imposed by *The Summary Convictions Act* are also applicable.