

**THE CORPORATION OF THE CITY OF NORTH VANCOUVER**

**BYLAW NO. 8381**

**A Bylaw to delegate certain powers, duties and functions relating to the provision of recreation and arts services in the City of North Vancouver to the North Vancouver Recreation and Culture Commission**

**WHEREAS** pursuant to section 154 of the *Community Charter*, SBC c. 26, 2003, Council may, by bylaw, delegate its powers, duties and functions to a body established by Council;

**AND WHEREAS** Council, by “North Vancouver Recreation and Culture Commission Delegation Bylaw, 2014, No. 8381”, has established, jointly with the District of North Vancouver, the North Vancouver Recreation and Culture Commission, for the intermunicipal provision of recreation and arts services, and, for that purpose, has entered into the North Vancouver Recreation and Culture Commission Agreement with the District of North Vancouver;

**NOW THEREFORE** the Council for The Corporation of the City of North Vancouver enacts the following:

**Title**

1. This bylaw may be cited as "**North Vancouver Recreation and Culture Commission Delegation Bylaw, 2014, No. 8381**".

**Definitions**

2. In this Bylaw, the following definitions apply:

- (a) “Annual Service Plan” means the service plan under section 4 herein;
- (b) “Appointed Financial Officer” means either the Chief Financial Officer for the District or the Director of Finance for the City, whichever one has been appointed to act in this capacity by the District and the City by mutual agreement in writing, and on the reference date of this Agreement means the District’s Chief Financial Officer;
- (c) “Arts Grants” means municipal grants to not-for-profit organizations involved in arts, and cultural activities in North Vancouver as set out in a formal written grants policy approved by the City Council and the District Council from time to time, subject to annual funding limits set out in the City and District budgets;
- (d) “Arts Services” means those arts and culture activities, programs and services that may be engaged in or offered by the Commission as provided in the approved Commission budget from time to time, but does not include capital costs of the City and District public art programs;
- (e) “Budget Submission” means the draft capital plan and draft operating financial plan prepared by the Director of Recreation and Culture based on the Annual Service Plan and approved by the Commission in accordance with sub-section 5(h) and section 11;
- (f) “Capital Plan” means the annual capital plan approved by the Councils of the District and the City;
- (g) “City” means the City of North Vancouver;
- (h) “City CAO” means the City’s chief administrative officer;
- (i) “Commission” means the North Vancouver Recreation and Culture Commission;

- (j) “Community Programs” means any community-oriented programs and services that are not included in the Recreation Services or the Arts Services, and that are or may be offered by a Service Provider through any Facility, and are not funded through Commission joint funding but rather are funded by the Facility Owner or by way of other funding sources;
- (k) “Core Facility” means any Facility, owned by the District or the City, that serves the residents of both the District and the City;
- (l) “Director of Recreation and Culture” means the person hired by the Commission as director of the Commission under this Bylaw;
- (m) “District” means the District of North Vancouver;
- (n) “District CAO” means the District chief administrative officer;
- (o) “Facility” or “Facilities” means any facility in which Recreation Services, Arts Services, and Community Programs (if any), are provided to the residents of the District and/or the City;
- (p) “Facility Owner” means the District or City with respect to any Facility owned by, and located in, the District or the City, respectively;
- (q) “North Vancouver Recreation and Culture Commission Agreement” means the agreement between the District and the City dated for reference May 31<sup>st</sup>, 2014;
- (r) “Operating Financial Plan” means the annual operating financial plan approved by the Councils of the District and the City;
- (s) “Partnering Agreement” has the meaning given to it under the *Community Charter*, SBC c. 26, 2003;
- (t) “Recreation Services” means those fitness, sport, social recreation, aquatic, arena and outdoor activities and other recreation programs and services that may be engaged in or offered by the Commission as provided in the approved Commission budget from time to time;
- (u) “Schedule of Facilities” means the list of Core Facilities, as amended from time to time by the District and the City;
- (v) “Service Provider” means any public, not-for profit, or private organization responsible for delivering Community Programs at any Facility, and, if applicable, responsible for delivering Recreation Services or Arts Services at any Facility; and
- (w) “User Statistics Program” means the program, as approved by the District and City, used by the Commission to measure and calculate the use by residents of the District and residents of the City, respectively, of the Recreation Services and Arts Services in any Facility in any budget year.

**General Mandate**

3. Pursuant to the North Vancouver Recreation and Culture Commission Agreement, Council delegates to the Commission the authority, on behalf of the District and the City, to:

- (a) plan, develop, evaluate, and jointly and seamlessly deliver, within the approved funding of any budget year, and in accordance with the terms, limitations and conditions set out in this Bylaw, an appropriate array of quality Recreation Services and Arts Services in the District of North Vancouver and City of North Vancouver to meet the needs of District and City residents regardless of age, ability, gender or economic status. In carrying out this mandate, the Commission will act in the best interest of the District and the City and in the best interests of residents of both municipalities;
- (b) implement the North Vancouver Cultural Plan adopted by the City and the District in 2002 (or subsequent plans related to arts and culture approved by the District Council and the City Council) and to undertake periodic reviews of the said North Vancouver Cultural Plan; and
- (c) administer the Arts Grants.

**Annual Service Plan**

- 4. The Commission will on an annual basis formulate a service plan for meeting its mandate, which plan will be used as the basis for the preparation of the draft Operating Financial Plan and the draft Capital Plan for the next budget year.

**Specific Powers, Duties and Functions of Commission**

- 5. Council delegates to the Commission the following powers, duties and functions for the purpose of carrying out its general mandate:
  - (a) hiring, remuneration and termination of persons in the capacity of Director of Recreation and Culture and Acting Director of Recreation and Culture (during periods of extended absence by the Director of Recreation and Culture), provided that all decisions relating to hiring, remuneration and termination of the Director of Recreation and Culture and an acting director shall be made through a process, acceptable to the District and the City, that involves the District's CAO and the City CAO.
  - (b) making recommendations to the District Council and the City Council with respect to:
    - (i) requirements for additional grounds, Facilities or services associated with the provision of the Recreation Services and Arts Services;
    - (ii) requirements for capital expenditures in respect of existing recreation grounds, Facilities or services associated with the provision of the Recreation Services and Arts Services;
    - (iii) strategic direction and policy changes to meet recreation and arts needs of both District and City residents;
    - (iv) fees and charges for Recreation Services and Arts Services;
    - (v) opportunities for partnering arrangements; and
    - (vi) the Arts Grants.
  - (c) making decisions for:
    - (i) delivery of Recreation Services and Arts Services, either directly or through one or more Service Providers;
    - (ii) implementation of the recreation and arts policies of the District and the City;

- (iii) coordination of the delivery of Recreation Services and Arts Services and Community Programs at each Facility;
  - (iv) cooperation with the Parks Departments of the District and the City in the joint provision of Recreation and Arts Services at any playground, park, beach or other facility or grounds owned by or in the possession of the City or the District; and
  - (v) administration of the Arts Grants.
- (d) instructing the Director of Recreation and Culture to conduct surveys of participants or users of Facilities, parks, Recreation Services, Arts Services and other services as required;
  - (e) setting policies under which Recreation Services and Arts Services will operate and rules under which the Facilities will be used for Recreation Services and Arts Services, subject to:
    - (i) any directions from the Facility Owner regarding any Facility; and
    - (ii) coordination with any rules established by the Facility Owner for the delivery of Community Programs in any Facility.
  - (f) making recommendations to the City and the District regarding Partnering Agreements with Service Providers for the provision of Recreation Services and Arts Services at any Facility;
  - (g) reporting to the Council of both the District and the City on any matter within the general mandate or specific powers, duties and functions of the Commission when requested to do so by either or both Councils, or when the Commission deems it necessary or advisable to report, and in any event at least once in every calendar year;
  - (h) approve the Budget Submission as set out section 11;
  - (i) ensuring effective communication among the Director of Recreation and Culture and the District's CAO and the City CAO respectively;
  - (j) liaising with community sports and recreation groups and organizations, and with North Vancouver artists, and with arts and cultural organizations in North Vancouver; and
  - (k) administering the Arts Grants.

#### **Maintenance and Repair Duties**

- 6. Subject to section 7, the Commission will maintain all Core Facilities, including all buildings, plant, equipment, fixtures, fittings, off-street parking areas, walkways and landscaped grounds, including capital upgrading, repair and cleaning costs and as required to ensure that all Core Facilities are appropriately maintained and safe for their intended purpose.

#### **Use of Funds**

- 7. The Commission may not make any expenditure that is not included for that year in the then-current Operating Financial Plan or Capital Plan approved by the District Council and the City Council, except that
  - (a) the Commission may make a further expenditure so long as the expenditure is not expressly prohibited by or under the *Community Charter* or another Act and provided that the expenditure is approved in advance by the District Council and the City Council;

- (b) where revenues exceed the amount budgeted in respect of an item in the Operating Financial Plan or where expenditures are less than budgeted in respect of an item in the Operating Financial Plan the Commission may re-allocate the excess revenue or the savings, as the case may be, to another item in the Operating Financial Plan as reasonably required so long as the reallocated funds are used for an authorized expenditure under the then-current Operating Financial Plan and so long as the reallocation is not prohibited by or under the *Community Charter* or another Act. For greater certainty, funds shall not be reallocated for the purpose of funding new services, initiatives, studies, reviews, capital assets or other expenditures that have not been approved by the Councils of both the District and the City, and funds shall not be reallocated for the purpose of significantly enhancing existing Recreation Services, Arts Services, or Arts Grants unless the enhancement has been approved by the Councils of both the District and the City;
- (c) the Director of Recreation and Culture may make an expenditure for the emergency replacement of a capital item essential for the continued operation of all or a part of any Facility from an emergency capital replacement fund established for that purpose; and
- (d) surpluses are to be returned to the District and the City in proportion to the funding contribution of each.

#### **Liabilities**

- 8. Except as set out in sub-section 12(g), the Commission will not incur or cause to be incurred liabilities or indebtedness without the prior written consent of the District and City Directors of Finance. The Commission will not grant or cause to be granted any indemnities or releases without the prior written consent of the District and City Directors of Finance.

#### **Budget Year**

- 9. The budget year of the Commission is that of the District and the City.

#### **Remuneration and Reimbursement**

- 10. Commissioners and committee members will serve without remuneration, it being understood that
  - (a) the admission of Commissioners to Facilities or Commission programs or services at a discount rate will not be considered a form of remuneration; and
  - (b) by resolution of the Commission or pursuant to Commission policy, a Commissioner or committee member may be reimbursed for expenses properly incurred on behalf of or in respect to the business of the Commission or committee.

#### **Annual Budget**

- 11. The Commission's annual budget for each calendar year shall be determined in accordance with the following procedure:
  - (a) the Commission will formulate the Annual Service Plan as set out in section 4;
  - (b) the Director of Recreation and Culture will prepare, in accordance with sub-section 12(d), the Budget Submission based on the Annual Service Plan formulated by the Commission;
  - (c) the Commission will review the Budget Submission and will approve it if it is consistent with the Annual Service Plan;
  - (d) the Budget Submission, once approved by the Commission, will be submitted into the District's and the City's financial planning processes in accordance with sub-section 12(d); and

- (e) the annual budget for each calendar year shall be the Budget Submission after it has been adjusted as required by District and the City in accordance with their financial planning processes and after it has been approved by the Councils for the District and the City.

The annual budget will include an amount for Arts Grants and Arts Services, but will not include any amount for the City public art program or the District public art program, both of which programs will remain independent, and are to be funding separately by the City and the District respectively.

**Other Powers, Duties and Functions of Director of Recreation and Culture**

12. Subject always to the reporting requirements set out in section 14, the powers, duties and functions of the Director of Recreation and Culture are as follows:

- (a) supervise and manage the operation of the Recreation Services and Arts Services within the general mandate given to the Commission;
- (b) implement, over-see, administer and manage the Commission's decisions under sub-section 5(c) and its policies under sub-section 5(e);
- (c) implement and enforce the Commission's rules and regulations relating to the provision of Recreation Services and Arts Services;
- (d) each year when required by the District and the City prepare and submit into the District's and the City's financial planning processes the Budget Submission consisting of:
  - (i) a draft Operating Financial Plan for the following budget year based on the Commission's Annual Service Plan in a form and in such detail as required and directed by the District and City Directors of Finance; and
  - (ii) a draft Capital Plan for the following budget year based on the Commission's Annual Service Plan in a form and in such detail as required and directed by the District and City Directors of Finance.
- (e) make such adjustments to the Operating Financial Plan and Capital Plan as required by District and the City in accordance with their financial planning processes and in accordance with the North Vancouver Recreation and Culture Commission Agreement;
- (f) prepare annually, a five year operating financial model and a ten year capital financial model;
- (g) enter into agreements or contracts with third parties provided that:
  - (i) all expenditures associated with the agreement or contract are included in the approved budget;
  - (ii) the agreement complies with all requirements and limitations set out in the *Community Charter* or in the *Local Government Act*;
  - (iii) the prior approval of the District and City Directors of Finance is obtained for any contract where the annual cost of the contract exceeds or will exceed 2% of the Commission's gross operating budget in any budget year;
  - (iv) the agreement is not for more than 5 years or for a period that could exceed 5 years by exercising rights of renewal or extension; subject to compliance with all requirements and limitations set out in the *Community Charter* or in the *Local Government Act*;

- (v) where applicable, the activity or program is supported by the current cultural plan; and
- (vi) all required permits and insurance requirements are met.
- (h) negotiate, supervise and manage the agreements and contracts set out in sub-section 12(g);
- (i) accept and review applications for other Arts Grants (if any), and make recommendations to the District Council or the City Council, as applicable, regarding such Arts Grants (if any) according to criteria approved by the District Council or the City Council, as the case may be, and otherwise supervise and oversee the administration of the Arts Grants;
- (j) administer the District's public art program through a joint community committee and under direction from the District CAO and administer the City's public art program through a joint community committee under direction from the City CAO;
- (k) conduct surveys of participants or users of Facilities, parks, Recreation Services and Arts Services and other services as required;
- (l) hire, direct, determine compensation of, discipline and discharge such employees as are necessary for the administration, operation, maintenance and supervision of the Facilities and Recreation Services and Arts Services delivered therein and for effectively carrying out the powers duties and functions of the Director of Recreation and Culture;
- (m) collect and receive fees and charges as set by the District Council and the City Council and to receive any other monies paid to the Commission or for Recreation Services or Arts Services from any source;
- (n) comply with directions of the Appointed Financial Officer with respect to matters relating to financial administration;
- (o) ensure, in respect of the provision of the Recreation Services and Arts Services and the fulfillment of all powers, duties and functions set out in this Bylaw, that:
  - (i) proper policies and procedures are in place to safeguard assets;
  - (ii) accounting functions are performed by qualified personnel;
  - (iii) all financial transactions comply with the requirements and conditions set out in this Bylaw; and
  - (iv) complete and accurate records are kept and are available at all times for review by the City and District Directors of Finance or by authorized third parties such as external auditors.
- (p) co-operate with the Appointed Financial Officer in the administration of the User Statistics Program in accordance with the requirements set out in the North Vancouver Recreation and Culture Commission Agreement;
- (q) maintain an inventory itemizing the District's and the City's capital assets utilized by the Commission as directed by the District and the City from time to time;
- (r) provide the Chief Financial Officers of the District and the City with a detailed summary of expenditures from the emergency capital replacement fund at the end of each budget year;

- (s) negotiate, as and when required, a collective agreement with the bargaining unit representing employees of the Commission and execute such agreements;
- (t) act as a general professional and administrative resource for the District and the City; and
- (u) communicate and consult with the District CAO and the City CAO on all matters relating to the exercise of the powers, duties and functions of the Director of Recreation and Culture in accordance with procedures established by the District and the City from time to time.

#### **Insurance**

13. The Director of Recreation and Culture will obtain and maintain satisfactory levels of insurance for all liability perils, including

- (a) at a level recommended by the Municipal Insurance Association that is acceptable to the Directors of Finance for the District and City, but in any case not less than \$10,000,000 per event of public liability in respect of programs operated or sponsored by the Commission; and
- (b) replacement cost and property damage insurance for Facility physical plant and equipment, vehicles, goods, chattels, monies and securities in the care, custody and control of the Commission;

and copies of all insurance policies and changes thereto will be provided to the Directors of Finance of the District and the City.

#### **Reporting Requirements of the Director of Recreation and Culture**

14. The Director of Recreation and Culture shall report to and take direction from:

- (a) the Commission on all matters referred to in sub-sections 12(a) to (d) and sub-sections 12(f) to (m);
- (b) the Appointed Financial Officer on all matters referred to in sub-section 12(e) and sub-sections 12(n) to (r) and section 13; and
- (c) the District's CAO and the City CAO on all matters referred to in sub-sections 12(s), 12(t) and 12(u).

These reporting requirements do not in any way diminish the duty of the Director of Recreation and Culture to advise and keep informed the Commission of all appropriate matters regarding Recreation Services and Arts Services.

#### **North Vancouver Recreation and Culture Commission Agreement**

15. The Commission is subject always to the rules relating to composition, member qualifications, conflicts, organization, procedure and financial oversight set out in the North Vancouver Recreation and Culture Commission Agreement as may be amended from time to time by the District and the City. The North Vancouver Recreation and Culture Commission Agreement governs in the event of any inconsistency or perceived inconsistency between any provision in that Agreement and any provision in this Bylaw.

#### **Rules of Procedure**

16. In the conduct of its meetings the Commission will observe the rules of procedure set out in Schedule A.



**Audit**

- 17. The City and the District will be responsible for any and all audits involving the Commission. The Commission and the Director of Recreation and Culture will cooperate fully with any auditor appointed by the District and the City or by either of them or by the Appointed Financial Officer.

**Severability**

- 18. If any section or portion of this Bylaw is held to be invalid by a decision of a court of competent jurisdiction, such invalid section or portion shall be severed from the remainder of the Bylaw and shall not affect the validity of the remaining portions of the Bylaw.

**Repeal**

- 19. The North Vancouver Recreation Commission Delegation Bylaw, 2009, No. 8006, and amendments thereto, is hereby repealed in its entirety. The North Vancouver Recreation Commission Agreement, 2002, No. 7444, and amendments thereto, which was repealed by North Vancouver Recreation Commission Delegation Bylaw, 2009, No. 8006, remains repealed in its entirety.

READ a first time by the Council on the 9<sup>th</sup> day of June, 2014.

READ a second time by the Council on the 9<sup>th</sup> day of June, 2014.

READ a third time and passed by the Council on the 9<sup>th</sup> day of June, 2014.

RECONSIDERED and finally adopted by the Council, signed by the Mayor and City Clerk and sealed with the Corporate Seal on the 23<sup>rd</sup> day of June, 2014.

“Darrell R. Mussatto”

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MAYOR

“Karla D. Graham”

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CITY CLERK

**SCHEDULE "A"**  
**Rules of Procedure**

**Election of Chair and Vice-Chair**

1. The Director of Recreation and Culture will preside at the first meeting following the appointments of Commissioners, and the first order of business will be the election by the Commissioners of a Chair and Vice-Chair. Only non-elected Commissioners are eligible to be elected as Chair and Vice-Chair.

**Vice-Chair**

2. In the absence or incapacity of the Chair, the Vice-Chair has all the powers and is subject to the same rules as the Chair.

**Regular Meetings**

3. The Commission will, by resolution, set a schedule of regular meetings, and the Commission will hold meetings in accordance with the approved schedule unless another date for a meeting is fixed by the Chair at the previous meeting or with 24 hours notice to the Commissioners.

**Quorum**

4. A quorum of the Commission is five Commissioners.
5. An elected Commissioner appointed by the District and an elected Commissioner appointed by the City must be present at each meeting.

**Inaugural Meeting Following Municipal Election**

6. The Director of Recreation and Culture will call for the first meeting of the Commission as soon as is practical following the inaugural meeting of the District and City Councils.

**Electronic Meetings**

7. A Commissioner who is unable to attend any meeting in person, may attend and participate by telephone conference, video conference, or similar means, if the Commissioners have been provided with notice, an agenda and background material for the meeting.
8. The following rules apply in relation to a meeting referred to in section (7):
  - (a) the electronic or other communication facilities must enable the meeting's participants to hear, or watch and hear, each other;
  - (b) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the participation of the member.

**Notice**

9. Notice of each regular meeting, together with an agenda for the meeting, will be delivered to each Commissioner with copies to the Clerks of the District and the City at least three days prior to each regular meeting. Notice of each special meeting, together with an agenda for the meeting, will be delivered to each Commissioner and to the Clerks of the District and the City at the earliest reasonable opportunity prior to the meeting.

## **Conduct of Meeting**

10. The Chair will preside at all meetings of the Commission and will be guided by the following rules:
  - (a) The order of business will be as set out in the agenda, except that an item may be added to or withdrawn from the agenda by the Chair, subject to a majority vote of the Commissioners present being required if a Commissioner objects;
  - (b) All decisions of the Commission will be made by resolution and a resolution will be considered adopted by a majority vote of the Commissioners present. Each Commissioner, including the Chair, has one vote. If the votes of Commissioners present at the meeting at the time of the vote are equal for or against the motion, the motion is defeated;
  - (c) All meetings of the Commission will be open to the public, except for resolutions and matters that may be considered in a closed meeting in accordance with the requirements in Part 4, Division 3 the *Community Charter*;
  - (d) When an item dealt with at a closed meeting is no longer confidential, as resolved by the Commission, the minutes for that item shall be received without debate in a subsequent meeting; and
  - (e) The Chair will maintain order by following these rules and any supplementary rules adopted by the Commission. In the absence of any rule or supplementary rule, the Chair may determine every other matter reserved to the presiding officer in accordance with *Roberts' Rules of Order*.

## **Supplementary Rules**

11. The Commission may adopt any supplementary rules of order that do not conflict with those contained in this Agreement.

## **Minutes**

12. Minutes of the proceedings of the Commission and any Commission committees must be
  - (a) legibly recorded;
  - (b) certified as correct by the secretary appointed by the Commission; and
  - (c) signed by the Chair or other member presiding at the meeting or at the next meeting at which the minutes are adopted.
13. Minutes of all meetings, whether open or closed to the public, must be distributed as soon as possible after the meeting and in any event before the next regular meeting to the Commissioners and to the Clerks of the District and City and to others as directed by the City CAO or the District CAO.

## **Standing Committees**

14. The Chair may appoint standing committees of Commissioners to review and make recommendations to the Commission on any matter. A standing committee will serve at the pleasure of the Commission, and the Director of Recreation and Culture, or the Director's delegate, may sit as a non-voting member. Minutes of the meetings of a standing committee will be kept and copies sent to all Commissioners. Standing committees may meet by telephone conference, video conference, or e-mail if convenient.