

CITY OF MARTENSVILLE
ACCESS TO PRIVATE PROPERTY THROUGH OPEN SPACES BYLAW
BYLAW NO. 2-2016

A BYLAW OF THE CITY OF MARTENSVILLE TO PROVIDE FOR PUBLIC ACCESS TO OPEN SPACES AND DEDICATED LANDS

The Council of the City of Martensville in the Province of Saskatchewan enacts as follows:

Short Title:

1. This Bylaw may be cited as The Open Space Access Bylaw.

Purpose

2. The purpose of this Bylaw is to regulate temporary public vehicular access to private property via open space areas located within the City of Martensville.

Authority

3. The authority for this Bylaw is section 8 of *The Cities Act*.

Definitions

4. In this Bylaw:

“**City**” means the municipal corporation of the City of Martensville

“**encroachment**” means any object, natural or manmade, including but not limited to: plant material or an item or structure of personal property which is left or installed on property designated as an open space area.

“**open space area**” includes, pathways and walkways, floodplains, roadway medians, buffer strips, boulevards, public walkways, traffic islands, public squares, dedicated lands, non-dedicated park lands and utility parcels that are owned, operated, leased or by agreement, controlled by the City;

“**damage**” means the act of altering or changing any aspect within the open space, including but not limited to any pavement, sidewalk, curb, and gutter, park amenities, plant material or soil, whether on purpose or by accident or by natural or manmade means, as a result of accessing the open space with or without permission;

“**dedicated land**” means lands owned, operated or controlled by the City or made available City and dedicated pursuant to Part IX of the *Planning and Development Act 2007* as buffer strips, environmental reserves, municipal reserves, and walkways;

“park” means property owned, operated, leased or by agreement, or controlled by the City, whether dedicated or not, that is made available for use as a public park, garden, outdoor rink, athletic field or playground;

“pathway” means a multi-purpose path that is located in an open space area and includes sidewalks or portions of sidewalks that are part of the multi-purpose pathway system or are connectors between parks or dedicated lands;

“permit” means a valid and subsisting permit issued by the City pursuant to this Bylaw;

“person” includes a corporation, a partnership, and any association or other body;

“plant material” includes all trees, shrubs, plants, flowers, natural grass, and ground cover;

“public square” means land owned, operated or controlled by the City of Martensville and intended for public gatherings, display or events and includes City Hall Square;

Restricted access

5. (1) The City may prohibit persons from entering an open space area or portion of an open space area where:
 - (a) the City or an agent of the City is conducting any maintenance, repair or replacement, including park maintenance and sewer or water line construction, repair or improvements, moving any building, structure, machine or other object; or constructing, repairing or demolishing a building, structure, athletic field or other object;
- (2) Where the City restricts access to an open space area pursuant to subsection (1), the City shall ensure that notices are posted at the entrances of the open space area setting out the dates that access is restricted.
- (3) The notices in subsection (2) shall be posted during the time that access is restricted.

Permit required

6. (1) Provided an event, use or performance does not create any extra maintenance problem or extra expense to the City and the event does not jeopardize public safety, access to open spaces may be permitted subject to subsections (2) or (3);
- (2) No person shall carry on the following activities in an open space area without a permit:
 - (a) leave or store personal property;
 - (b) set up a temporary shelter, tarp, canopy or other such device;

(c) drive or arrange for a vehicle or equipment to be driven through an open space area;

(3) Notwithstanding subsection (2), no permit shall be required:

(a) for an activity carried on by the City or at a location operated by an official or employee of the City acting on behalf of the City in his or her capacity as such official or employee;

(b) to operate an in service emergency vehicle in an open space, including a Martensville Fire Department vehicle, a RCMP Police Service vehicle, an ambulance, or a vehicle registered and licensed and in the service of the City for the purpose of responding to an emergency; and

(d) to operate a utility company vehicle where the particular utility has lawful authority to enter the specific area within an open space, either through an easement or other agreement, or as owner of the property.

Prohibited activities

7. (1) No person in an open space area shall:

(a) damage, deface, destroy or remove any structure, fixture, improvement, sign or other property;

(b) use a park, park property or open space area other than for its intended use or restrict public access to an open space;

(c) destroy, damage, cut prune, mow or remove any plant material, rock, soil, water or minerals;

(d) install irrigation lines, dig holes, trenches or other excavations or change the grade of an open space;

(e) plant any plant material;

(f) use or apply a pesticide or herbicide or drain or dump any chemically treated water or chemical product;

(g) build a structure including but not limited to a fence, fire pit, planter box, compost bin, storage shed, stair, flag pole, deck or ramp;

(h) use equipment that could damage park turf or other park property;

(i) drive any vehicle, including but not limited to a licensed or unlicensed motorized or motor-less vehicle, trailer, or recreation vehicle outside of any areas designated for vehicles such as parking lots;

(j) park, or store any vehicle, including but not limited to a licensed or unlicensed motorized or motor-less vehicle, trailer, or recreation vehicle;

(k) dump, discard or place garbage, plant material or grass clippings on public property designated as an open space.

(2) Clause 11(1)(h) does not apply to a person who uses equipment or footwear at an athletic field or designated area where the equipment or footwear is used for the purpose of engaging in an organized sport.

Exemptions

8. (1) Nothing in this Bylaw shall prevent police officers, City employees or agents of the City from performing their duties.

(2) The provisions of this Bylaw shall not apply to:

(a) any emergency vehicle or emergency watercraft; or

(b) any municipal or provincial utility vehicle.

Permits

9. (1) Every applicant for a permit shall apply to the Director of Recreation and Community Services in a form prescribed in Schedule "A".

(2) The Director of Recreation and Community Services or designate shall only issue a permit to a person making an application pursuant to subsection (1) when that person:

(a) agrees to all the terms and conditions included in the permit;

(b) executes the permit; and

(c) pays a deposit of \$1,000.00 to the City.

(3) The Director of Recreation and Community Services or the authorized designate shall have the authority to refuse or revoke a permit if:

(a) a person does not comply with clauses (2)(a) to (c); or

(b) the proposed activity is not compatible with the public use of an open space area.

Other bylaws, legislation and agreements applicable

10. A permit issued pursuant to this Bylaw does not exempt a person from compliance with any other bylaws, statutes or regulations that may be applicable.

Enforcement

11. (1) After the permit expires, the Director of Recreation and Community Services or the authorized designate shall inspect the open space for damages.
- (2) Follow up to the inspection shall result in either:
 - (a) return of deposit if no damages are found; or
 - (b) detailed cost estimate provided to applicant to return the open space to pre-access condition in the event that damages are found.
- (3) In the event should damage occur to the open space, and on the determination of the Director of Recreation and Community Services or the authorized designate, the applicant will either:
 - (a) repair damages to the satisfaction of the City; or
 - (b) reimburse City to repair the damages to the condition and quality of the open space prior to vehicular access to open space.
- (4) In the event that the event the applicant fails to complete the work requires per subsection (3) to the satisfaction of the Director of Recreation and Community Service or the authorized designate, the amount owing for repair of damages shall be deducted from the deposit provided by the applicant. The remainder of the deposit will be returned to the applicant, if applicable.
- (5) in the event that the amount owing for repairs exceeds the deposit amount or no deposit was received, the resulting amount owing to repair damages shall be added to and form part of the taxes of the property for which access via the damaged open space was sought.

Offences and Penalties

12. (1) Any person who contravenes any provision of this Bylaw is guilty of an offence punishable on summary conviction by a fine in an amount not exceeding:
 - (a) two thousand dollars (\$2,000) in the case of an individual;
 - (b) five thousand dollars (\$5,000) in the case of a corporation.

12. (2) No person shall:
- a) fail to comply with an order made pursuant to this Bylaw;

 - b) obstruct or interfere with any Designated Officer or any other person acting under the authority of this Bylaw; or

Severability

13. If a Court of Competent Jurisdiction should declare any section of this Bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced City Council to pass the remainder of the Bylaw and it is hereby declared that the remainder of the Bylaw shall be valid and shall remain in force and effect.

Coming Into Force:

14. This Bylaw shall come into force on the day of its final passing.

Read a first time this 19th day of January, 2016.

Read a second time this 19th day of January, 2016.

Read a third time and passed this 19th day of January, 2016.

Mayor

City Clerk

Schedule "A"



Open Space Access Application

Property Owners Name:	
Phone Number (s):	
Email Address:	
Mailing Address:	
Civic Address:	Same as above <input type="checkbox"/> or:

Contractor's Name:	
Business Name:	
Phone Number:	
Martensville Business Licence #	

Reason for request to access the open space: _____

Who will access the open space? _____

What equipment will be used (include license plate numbers)?

Date(s)/Duration of access necessary: _____

Address for which access to open space is necessary: _____

Open Space location: _____

Drawing showing access route attached: ___ Yes ___ No

I hereby agree to comply with the Open Space Access Bylaw of the City of Martensville and acknowledge that it is my responsibility to ensure compliance with these and any other applicable bylaws, provincial acts & regulations regardless of any plan review or inspections that may or may not be carried out by the City of Martensville or its authorized representative. I agree to do all construction work solely in accordance & compliance with the information & plans provided by me in this application, & will obtain all other work permits required in conjunction with my development. I hereby declare that the above information is true and correct.

Applicant Signature

Date



Open Space Access Agreement

This agreement is not official until the required deposit has been received by the City and this agreement has been authorized by the designated City representative and the applicant. Any access to the open space prior to authorization may result in fines as per Bylaw 2-2016.

I, the undersigned property owner, require access to the property located at

_____, Lot _____, Block _____, Plan _____, via the open
(civic address)

space located at _____.

I, the property owner(s) agree to the following:

- That any damage to the open space created during accessing the open space will be the sole responsibility of the property owner.
- The applicant must call the City before and after accessing the open space for a follow up inspection (306-931-2166)
- I will provide a \$1,000.00 deposit will to the City of Martinsville prior to accessing the open space. Once work has been completed, I will contact the representative of the City to inspect the open space accessed to determine if any damage has been done. The City agrees to return the deposit as outlined within Bylaw 2-2016.
- Damage to the open space shall be repaired by a City representative, or a person working on behalf of the City at the property owner’s expense.
- That access to the open space will be conducted as per the attached plan or map showing exact location and proposed access route and description of the work being completed including equipment to be used.
- I agree to save harmless and keep indemnified the City of Martinsville from all action, causes of actions and demands whatsoever, which may be made against the City in consequence of the granting of this permit or of anything done there under as a result of accessing the open space by the applicant, his employees or agents.
- That any repair costs exceeding the amount deposited with the City will be repaid to the City

Date:

Property Owner

Authorized _____ by _____
(Date) (Designate of the City of Martinsville)

Office Use Only	
Initial Inspection Date:	Photo: <input type="checkbox"/> Yes <input type="checkbox"/> No
Post-Permit Inspection Date:	Photo: <input type="checkbox"/> Yes <input type="checkbox"/> No