

Request for Decision

Recreational Program Accommodation Policy

Presented To: Community Services Committee

Presented: Monday, May 13, 2019

Report Date: Monday, Apr 29, 2019

Type: Managers' Reports

Resolution

THAT the City of Greater Sudbury approves the Recreational Program Accommodation Policy substantially as outlined the report entitled "Recreational Program Accommodation Policy" from the interim General Manager of Community Development, presented at the Community Services Committee meeting on May 13, 2019;

AND THAT the necessary by-law be prepared.

Relationship to the Strategic Plan / Health Impact Assessment

This report supports the Strategic Plan adopted by the City of Greater Sudbury as it aligns with the Quality of Life and Place pillar.

Report Summary

This report outlines the Draft Recreational Program Accommodation Policy to be implemented with respect to all programs and activities offered through Recreation Section and ensure compliance with Accessibility for Ontarians with Disabilities Act ("AODA").

Financial Implications

There are direct, but currently unquantifiable financial implications if this policy is approved, as each case will be determined on its own merits. Since this policy establishes directions that will impact spending it is reasonable to anticipate a change in spending for the current and future years. For 2019, any costs are anticipated to be within the Council approved operating budget. Whether this policy leads to increased costs in future years will be subject to Council's review and approval via annual budgets.

Signed By

Report Prepared By

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Digitally Signed Apr 29, 19

Health Impact Review

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Division Review

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Financial Implications

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Recommended by the Department

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Interim General Manager of Community Development
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Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
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OVERVIEW

In June 2005, the Ontario government passed the *Accessibility for Ontarians with Disabilities Act* (the “AODA”) with a view to developing, implementing and enforcing standards of accessibility for all Ontarians.

Recreation Services Section of Leisure Services of the City of Greater Sudbury is committed to the development of an inclusive, healthy and safe community, and to providing an environment that is inclusive and barrier-free.

To that end, Recreation Services Section, in collaboration with Legal Services, has drafted a Recreational Program Accommodation Policy (the “Policy”) to formalize its current processes as well as establish new guidelines for accessibility and accommodation.

POLICY

In short, the Policy details Recreation Services Section’s obligations in relation to:

- the identification and removal of barriers to access for people with disabilities;
- staff training; and
- accommodation plans to remove barriers to access and to equality.

REVIEW

Recreation Services Section and Legal Services staff presented the Policy to the City’s Accessibility Advisory Panel on April 11, 2019. The Panel discussed the Policy at length and subsequently provided written comments on the Policy to staff via email.

Staff has carefully considered the Panel’s input and revised the Policy as necessary to reflect the Panel’s comments, the Ontario Human Rights Code, the AODA and all other applicable legislation.

CONCLUSION

Leisure Services recommends the approval of the Recreational Program Accommodation Policy substantially in the form attached hereto.

Recreational Program Accommodation Policy

City of Greater Sudbury

1.0 Overview

In June 2005, the Ontario government passed the *Accessibility for Ontarians with Disabilities Act* (the “AODA”) to make Ontario accessible by 2025.

Accessibility standards have been created as part of the AODA, specifically customer service, employment, information and communications, transportation, and the design of public. These standards are rules that organizations in Ontario need to follow to identify, remove and prevent barriers so that people with disabilities have more opportunities to participate in everyday life.

The accessibility standards do not replace or affect existing legal obligations under the Ontario Human Rights Code (the “Code”) and other laws in respect of accommodation of people with disabilities. Organizations must comply with the accessibility standards and the Code.

2.0 Policy Statement

The Recreation Section of the City is committed to the development of an inclusive, healthy and safe community by providing accessible programs, services and facilities for everyone to enjoy, and to preventing, identifying and removing barriers that impede the ability of people with disabilities from accessing those programs, services and facilities.

It is one of the Recreation Section’s objectives to ensure that people of all ages and abilities enjoy the same opportunities as they live, work, and play within the City.

3.0 Purpose

The purpose of this policy is to outline the practices and procedures in relation to accommodating people with disabilities in place in the Recreation Section at the City as well as the Recreation Section’s goals for the development of programs that are open to all and promote inclusion.

4.0 Accessibility Advisory Panel

The City’s Accessibility Advisory Panel’s mandate is to provide advice on the accessibility of municipal services, programs and facilities as required under the *Ontarians with Disabilities Act, 2001* and the AODA.

The panel, which includes up to eleven (11) members, the majority of whom are people with disabilities, will periodically review this policy and provide advice with respect to its implementation and continued effectiveness, as well as recommend any changes that may be required from time to time.

5.0 Definitions

“Accessible Formats” may include, but are not limited to, large print, recorded audio and electronic formats, Braille, and other formats usable by people with Disabilities.

“barrier” means anything that prevents a person with a Disability from fully participating in all aspects of society because of his or her Disability, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice.

“Communication Supports” may include, but are not limited to, captioning, alternative and augmentative communication supports, plain language, sign language, and other supports that facilitate effective communication.

“Disability” means:

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a Guide Dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

“Guide Dog” means “Guide Dog” as defined in Section 1 of the Blind Persons’ Rights Act. For the purposes of this policy, the definition includes guide dogs in training.

“Service Animal” means “Service Animal” as defined in Section 80.45(4) of the Accessibility for Ontarians with Disabilities Act.

“Support Person” means, in relation to a person with a Disability, another person who accompanies them in order to help with communication, mobility, personal care or medical needs or with access to goods, services or facilities.

6.0 Procedure

The Recreation Section will endeavor to identify and remove barriers to access for people with Disabilities by, among other things:

- (a) training staff about key principles and accessibility strategies and tools;

- (b) communicating with each person with a Disability in a manner that takes into account their Disability;
- (c) permitting people with Disabilities to bring their Guide Dog or Service Animal with them to areas open to the public;
- (d) permitting people with Disabilities who use a Support Person to be accompanied by the Support Person and ensuring that a person with a Disability has access to their Support Person while participating in programs and services;
- (e) encouraging people with Disabilities to use their own personal assistive devices to improve access to programs and services;
- (f) enabling people with Disabilities to access and utilize programs and services by offering assistive devices, measures and accommodation;
- (g) providing notice when facilities or services that people with Disabilities rely on to access programs and services are temporarily disrupted; and
- (h) establishing a process for people to provide feedback on how programs and services are delivered and explaining how the Recreation Section will respond to any feedback and what action will be taken.

7.0 Training

It is the responsibility of every staff member to be attentive to the concerns of participants and to resolve concerns related to accessibility.

The Recreation Section will provide ongoing training to its employees on the requirements of the AODA and its regulations, and on the Human Rights Code, as it pertains to people with Disabilities ("training").

The Recreation Section will maintain records of the training provided, including the name of the employee, the training program, and the date training was provided.

Training will be appropriate to the applicable duties of the employees and, where any changes are made to this policy or requirements, additional training will be provided.

8.0 Accommodation Plans

8.1 Appropriate Accommodations

The aim of accommodation is to remove barriers and to ensure equality.

An accommodation will be appropriate where it results in equal opportunity to enjoy the same benefits and privileges experienced by others, and where it respects the principles of dignity, inclusion and individualization. Appropriate accommodations may include,

- (a) allowing for less rigid timelines for participation in a recreational program (i.e. capacity to attend a full day program, attending only mornings);
- (b) staggered entry into a program;
- (c) pre-introduction arrangements with staff regarding the participant's involvement;
- (d) adaptations to the program delivery to suit the needs of particular participants; and/or
- (e) alternative activities for partial day programming.

This list is **not exhaustive**.

The Recreation Section understands that accommodation can take many forms, and what works for one participant may not work for another. Each participant's needs must be individually assessed. While the Recreation Section cannot guarantee every participant's preferred accommodation in every case, the Recreation Section will work with the participant and/or the participant's parent or guardian to implement the most appropriate individualized accommodation, subject to Section 12.0 ("Undue Hardship") of this Policy.

8.2 Requests for Accommodation

Requests for accommodation must be made, preferably in writing, to the Recreation Section. Accommodation requests should be made as soon as possible, and with sufficient time to allow the Recreation Section to determine what arrangements can and will be made. Accommodation requests that are received less than seven (7) days prior to the start of a program or service may impact the Recreation Section's ability to determine an appropriate accommodation in time for the start of the program.

Accommodation requests should indicate the following:

- (a) the reason why accommodation is required; and
- (b) the specific needs related to the participant's Disability.

All accommodation requests will be taken seriously. No person will be penalized for making an accommodation request.

The Recreation Section may require further information about the accommodation request in the following circumstances:

- (a) where further information related to the participant's limitations or restrictions is required in order to determine an appropriate accommodation; or
- (b) where there is a demonstrable objective reason to question the legitimacy of the participant's request for accommodation.

Cooperation between the Recreation Section and the participant is integral to the accommodation process. Participants are expected and encouraged to participate fully in the accommodation process.

8.3 Accommodation Planning

The Recreation Section will address accommodation requests promptly. When required and when possible, an interim accommodation may be provided while a long-term accommodation is developed.

The Recreation Section will work with the participant or, in the case of a minor, their parent or guardian, to develop an appropriate accommodation plan.

An accommodation plan, when agreed upon, will be in writing and signed by the participant, or their parent or guardian, where applicable, and a program coordinator from the Recreation Section. One (1) signed copy of the signed accommodation plan will be maintained by the Recreation Section and another signed copy will be provided to the participant or their parent or guardian, as applicable.

An accommodation plan should include, as applicable,

- (a) a statement of the accommodation seeker's relevant limitations and needs, including any necessary assessments and information from health practitioners, bearing in mind the need to protect the accommodation seeker's privacy;
- (b) arrangements for necessary assessments by health practitioners;
- (c) identification of the most appropriate accommodation;
- (d) timelines for the provision of identified accommodations; and
- (e) criteria for determining the success of the accommodation plan, together with a mechanism for review and re-assessment of the accommodation plan as necessary.

8.4 Support Persons

- (a) Persons with Disabilities may be accompanied by a Support Person in areas or premises that are open to the public, when accessing facilities, programs and services provided by the Recreation Section.
- (b) In certain cases, the Recreation Section may deem it necessary to require a person with a Disability to be accompanied by a Support Person. This will be required only if, after consultation with the person with a Disability, and considering all information, the Support Person is necessary to protect the health and/or safety of the person with a Disability or the health and safety of others who are accessing the program, service or facility and there is no other reasonable way to protect the health and safety of all participating individuals. Please also refer to Section 8.7 with respect to "Funding".

- (c) There will be no fee payable by the Support Person for any program, service or facility when such Support Person is accompanying a person with a Disability.

8.5 Guide Dogs and Service Animals

- (a) Persons with Disabilities are welcomed to be accompanied by their Guide Dog or Service Animal and keep that animal with them in areas that are open to the public, when accessing programs, services and facilities provided by the Recreation Section unless prohibited or limited by legislation.
- (b) In the event that a Guide Dog or Service Animal is prohibited by law from being on the premises, the City will ensure that other measures are available to enable the person with a Disability to obtain, use or benefit from the program, services and facilities provided by the Recreation Section.
- (c) It is the responsibility of the person using the Guide Dog or Service Animal to ensure that the Service Animal is kept in control at all times.

8.6 Assistive Devices

- (a) Persons with Disabilities are welcome to use their own assistive devices as required to access Recreation Section programs, services and facilities.
- (b) Where a person with a Disability is unable to access Recreation Section programs, services or facilities through the use of their own personal assistive device, Recreation Section staff will work with that person to determine an alternative means for access.
- (c) Where City-owned assistive devices are available for use with Recreation Section programs, services and facilities, designated staff will be knowledgeable of their presence and trained in their application and use.

8.7 Funding

As part of its accommodation planning, the Recreation Section will consider any outside sources of funding it can obtain to make the accommodation. Participants are expected and encouraged to avail themselves of any available outside sources of funding to help cover expenses related to their own accommodation. Where such is the case, the Recreation Section may assist in identifying these funding sources.

9.0 Communications

9.1 Accessible Formats and Communication Supports

Communications that the Recreation Section produces, directly or indirectly through third parties, are available in Accessible Formats upon request.

When an Accessible Format or Communications Support is requested, the Recreation Section will consult with the requester to determine which format or support is required and provide the material in a reasonable amount of time and at no cost.

9.2 Emergency procedure, plans, or public safety information

If the Recreation Section prepares emergency procedures, plans or public safety information and makes that information available to the public, it will provide the information in an Accessible Format or with appropriate Communications Supports as soon as possible upon request.

10.0 Notice of Service Disruptions

In the event of a planned service disruption to services or facilities provided by the Recreation Section that are relied upon by people with Disabilities, notice of the disruption will be provided in advance.

Notice may be given by posting the information in a prominent place on the premises and/or posted on the City web site, through online subscription service, through social media and/or by such other method as is reasonable under the circumstances.

Notice will include information about the reason for the disruption, its anticipated duration and alternative facilities, services or systems that may be available.

In the event of an unexpected disruption, notice in a manner described in this Section 10.0 will be provided as soon as possible.

11.0 Feedback

The Recreation Section has a process in place for receiving and responding to feedback and will ensure that those processes are accessible for people with Disabilities by providing or arranging for the provision of Accessible Formats and/or Communication Supports upon request.

The Recreation Section's process allows for people to provide feedback on how programs and services are delivered and explains how the Recreation Section will respond to any feedback and what action will be taken.

12.0 Undue Hardship

The Code requires organizations to accommodate people with Disabilities to the point of undue hardship. Accommodation need not be provided if it causes undue or excessive hardship; however, some degree of hardship is acceptable.

The Code prescribes **only** three (3) considerations when assessing whether an accommodation would cause undue hardship:

- (a) cost;
- (b) outside sources of funding, if any; and
- (c) health and safety requirements, if any.

The Recreation Section will either:

- (a) take all measures that can be taken without causing undue hardship to accommodate a participant; or
- (b) demonstrate that it is unable to reasonably accommodate the participant's needs without undue hardship to the Recreation Section.

Where the Recreation Section determines that an accommodation would create undue hardship, the Recreation Section will:

- (a) provide written notice of such determination to the participant, including the reasons for the decision and the objective evidence relied upon; and
- (b) work with the participant to develop and implement the next best accommodation short of undue hardship, or will consider phasing in the requested accommodation, where applicable.

13.0 Fees

Persons with Disabilities who participate in Recreation Section programs, services and facilities in accordance with an individual accommodation plan will pay the same fees as people without Disabilities participating in such programs, services and facilities, as set out in the City's "User Fee By-law", as may be amended from time to time.

14.0 Privacy and Confidentiality

Personal information collected in relation to this policy and accommodation plans is collected pursuant to Section 10 of the *Municipal Act, 2001*, and Section 31 of the *Municipal Freedom of Information and Protection of Privacy Act*, and will only be used for the purpose of accommodation pursuant to this policy. Such personal information will be retained in accordance with the City of Greater Sudbury's Records Retention By-law (By-law 2015-226) and will only be disclosed in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*. Questions regarding the collection of this information may be directed to the Deputy City Clerk, City of Greater Sudbury, PO Box 5000, Stn A, 200 Brady Street, Sudbury, Ontario, P3A 5P3, clerks@greatersudbury.ca, or by calling 3-1-1.