

CONTINUING CONSOLIDATION
NUISANCE BY-LAW NO. 5806/81/90

AS AMENDED BY BY-LAW NOS. 6165/14/94, 6775, 6886, 7189, 7210 and 7224.

BEING A BY-LAW of The City of Brandon to provide for the regulation of public order and noises, suppression of nuisances, and controlling parking and storing of vehicles on private property, to be known as the "Nuisance By-law".

WHEREAS The City of Brandon is empowered under The Municipal Act, R.S.M. 1996, c.M225, to provide for regulating public order and noises, suppressing nuisances, and controlling the parking and storing of vehicles on private property;

AND WHEREAS it is deemed expedient and in the public interest to make provisions for the maintenance of public order, regulating noises, suppressing nuisances, and controlling parking and storing of vehicles on private property so as to not create or become a nuisance within the City of Brandon, in the opinion of City Council;
[AM. B/L 7189]

NOW THEREFORE, the Council of The City of Brandon, duly assembled, enacts as follows:

PART I: DEFINITIONS

1. DEFINITIONS

- (a) Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions in The Municipal Act.
- (b) All reference herein to "he" shall include "she" unless the context thereof requires otherwise.
- (c) In this by-law:
 - (1) "CHIEF OF POLICE" means the Chief of Police for the City and anyone acting or authorized to act on his behalf.
 - (2) "CITY" means The City of Brandon or the area contained within the boundaries thereof.
 - (3) "COUNCIL" means the Council of the City.
 - (4) "FIRE CHIEF" means the Fire Chief for the City and anyone acting or authorized to act on his behalf.
 - (4.1) "HUNT" means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, shooting at, stalking or lying in wait for a wild animal, whether or not the wild animal is then or subsequently captured, killed, taken or wounded, but does not include stalking, attracting, searching for or lying in wait for wild animals by an unarmed person solely for the purpose of watching or taking pictures of wild animals.
[EN. B/L 6886]
 - (5) "NOISE" means any loud or harsh sound.

1. (c) (6) "NUISANCE" means an activity or condition which interferes with the reasonable use or enjoyment of public or private property by any individual entitled to use such property."
[AM. B/L 7189]
- (6.1) "OFFICER" means a peace officer, police officer or constable working for the Brandon Police Service or any person appointed as a by-law enforcement officer unless the context thereof requires otherwise.
[EN. B/L 6775]
- (7) "PARKS DEPARTMENT" means the Parks Department for the City.
- (8) "PERSON" means any individual and includes firm, partnership, association, corporation, company, or group of persons.
- (9) "RESIDENTIAL AREA" means any area where persons maintain a residence, including all areas zoned as Residential pursuant to the City's Zoning By-law and all other areas where residences are maintained.
- (10) "STREET" means any public right of way, including a highway, providing primary access to abutting property, used as a public thoroughfare for vehicles and pedestrians including streets under construction or repair, and where the context so requires, includes any square, park, commons, driveway, or parkway, and includes lanes and alleys.
- (10.1) "TRAP" means taking, capturing or killing or attempting to take, capture or kill wild animals by any means or device designed to enclose, capture, hold, ensnare or otherwise restrain a wild animal whether than means or device kills the animal or not.
[EN. B/L 6886]
- (11) "VEHICLE" shall include any carriage, cart, wagon, sled, sleigh, motorcycle, motor vehicle, trailer, truck, bus, traction engine, bicycle, and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include the cars of electric, steam or diesel electric railways running only on rails.
- (12) "WILD ANIMAL" means an animal or bird of a species or type listed in Schedule "A" of *The Wildlife Act, RSM 1987, c. W130*, or declared by the regulations to be a wild animal.
[EN. B/L 6886]
- (13) "YARD" means the land, other than publicly owned land, around and appurtenant to the whole or any part of a dwelling or other building and used or capable of being used in connection with such building, and includes vacant lots."
[EN. B/L 7189]

PART II: PROHIBITED NOISES

2. Except where otherwise permitted by this By-law, no person shall make, continue or cause, or allow to be made or continued, by whatever means, any noise which does, or is likely to, annoy, disturb, injure, endanger or detract from the peace, health or safety of any other person.

3. Without restricting the generality of Section 2 hereof, the following shall be deemed likely to annoy, disturb, injure, endanger or detract from the peace, health or safety of any other person:
- (a) the sound caused by the discharge of a gun or other firearm, grenade, or any other explosive or noise making device, including a firecracker or other fireworks, unless specifically authorized by the Chief of Police, Fire Chief or Council;
 - (b) the sounding of any auditory warning device, including but not limited to a bell, burglar alarm, horn or siren, except when required by law or in order to give warning of the existence of a present or impending dangerous situation;
 - (c) the sound emanating from any musical instrument or loud speaker, when audible from a distance of thirty metres (97.5 feet) or more, unless authorized by the Chief of Police or Council;
 - (d) the sound emanating from an improperly operated or maintained vehicle, including the squealing of tires, the operation of a vehicle with an improperly maintained or otherwise deficient exhaust system and those noises which emanate from a vehicle by reason of its state of disrepair;
 - (e) the sound resulting from the operation of an internal combustion engine, whether situated within a vehicle or otherwise, except where used in conjunction with an exhaust system and muffler which effectively prevents the emanating of loud or unusual noises;
 - (f) the sound emanating from excavation or construction work of any nature between 2200 hours of any day and 0700 hours of the next following day (10:00 p.m. - 7:00 a.m.), except in such locations where such conduct is permitted by applicable land use provisions, or where authorized by the Chief of Police;
 - (g) the sound resulting from the operation of any motorized lawn mower, snow clearing device, chain saw, motorized garden tiller or motorized toy in any residential area between 2200 hours of any day and 0700 hours of the next following day (10:00 p.m. - 7:00 a.m.). This provision shall apply notwithstanding Section 4 hereof;
 - (h) the sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device or sound-producing, sound-reproducing, or sound transmitting instrument or apparatus for the purposes of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or which projects noise or sound into any street or other public place;
 - (i) any loud, blasphemous, abusive, obscene, or insulting language or singing or shouting in a boisterous manner;
 - (j) Any loud, excessive, or continual barking, howling, wailing, caterwauling or other sound caused by any domestic animal.

PART III: PERMITTED NOISES

4. None of the provisions of this by-law shall apply to:
- (a) sound resulting from an activity which is being carried on and is not in breach of any applicable land use provisions, and it is shown, to the satisfaction of the Chief of Police, that:
 - i) the sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provisions; and
 - ii) all reasonable steps have been taken by the owner of the property from which the sound is emanating in order to reduce the intensity;
 - (b) sound emanating from any parade authorized by the Chief of Police, and including all military parades;
 - (c) the use of any bell, whistle or similar sound in conjunction with the operation of the railway locomotive, engine or other rolling stock when used in accordance with other applicable laws and in particular The Railway Act of Canada;
 - (d) snow clearing and road maintenance vehicles operated by the City or the Province of Manitoba Department of Highways, or their designates;
 - (e) sound emanating from the Fire Hall alarms, or the sirens of any emergency vehicle while engaged in providing public service to the residents of, or visitors to the City, or during testing of the Emergency Measures Organization civil defense siren;
 - (f) sound generated by emergency work of any nature when such work is authorized by the Chief of Police or Fire Chief;
 - (g) the use of any bell, chime, or similar sound for the purpose of calling persons to church and/or school services.

PART IV: NUISANCES

5. No person shall be allowed to stand in groups or to sit or lounge on chairs, benches or other things or to loiter in front of any business establishment or residence or in a street so as to cause any obstruction to the free use of said street or, by any manner of conduct, commit any public nuisance by collecting, loitering or standing as an idler on any of the streets or sidewalks of the City, or in any public place within the City, or on the step of or approach to a house or other premises open to a street whereby a member or members of the public are liable to be subjected to disturbance or annoyance provided that nothing contained in this Section shall be construed to extend to any person taking part in any lawful procession or gathering.
6. No person shall advertise any sale of merchandise, furniture or any other article, matter or thing by the ringing of any bell, blowing of any horn, crying, or creating any other discordant noise in any of the streets of the City.
7. No person shall climb, bark, break, peel, cut, deface, injure or destroy the whole or any part of any tree, sapling, or shrub now growing or which may hereafter be planted by any person or by the Parks Department in any street or public place of the City, nor may any such tree be removed or cut down unless by permission of the Parks Department.
8. No person shall cast, project or throw any stones or balls of snow or ice or other missiles dangerous to the public in any of the streets or public places of the City.
[AM. B/L 6886]

- 8.1 No person shall use a bow and arrow, pellet or BB gun, fire or discharge any gun, fowling piece or firearms within the City unless prior written approval is granted by the Chief of Police.
[EN. B/L 6165/14/94, AM. B/L 6886]
- 8.2 No person shall hunt, trap, take, kill or capture, or attempt to trap, take, kill or capture a wild animal within the City of Brandon.
[EN. B/L 6886]
- 8.3 An officer, or an individual or business authorized to do so by the Chief of Police, may capture or kill a wild animal for the purpose of protecting the property or public safety, research or the management of wild animals.
[EN. B/L 6886]
- 8.4 An officer, or an individual or business authorized to do so by the Chief of Police, may discharge a firearm, or use a bow and arrow, pellet or BB gun in the execution of their duties.
[EN. B/L 6886]
9. No person shall bathe or swim in the Assiniboine River in sight or view of any street or house within the City at any time except if clad in a suitable and proper bathing suit, nor shall any person indecently expose himself in any of the streets or public places of the City, nor shall the plea of answering the call of Nature be considered a palliation of the offense.
10. No person shall post or put up any indecent placard, writing or picture or write any indecent or immoral words or make any indecent pictures or drawings, any of which may be morally offensive to modesty and delicacy, on any public or private building, wall, fence, sign, monument, post, sidewalk or pavement, in any of the streets or public places of the City.
11. Every person found drunk or disorderly or drunk and disorderly in any street or public place, shall be liable to the penalties of this by-law.
- 11.1 It shall be an offence for any person to use a skateboard on private or public property, including but not limited to parks, recreation centres, restaurants, facilities, retail stores and malls, on which there is erected and maintained signage indicating that skateboarding thereon is prohibited.
[EN. B/L 6775]
- 11.2 The owner or person in charge or control of private property who wishes to take advantage of the above regulation for the purpose of keeping persons from skateboarding on the property shall erect and maintain thereon clear and legible signs which indicate that, pursuant to the City's Nuisance By-law, skateboarding is prohibited.
[EN. B/L 6775]
- 11.3 Where any person in charge or control of a skateboard commits any infraction of the regulations contained herein respecting skateboards, a Police Officer or Constable working for the City Police Service or such other person authorized to act by the Chief of Police may, upon observing any such infraction, seize such skateboard and impound same for a period of thirty (30) days. The owner of any such skateboard so impounded, may recover same by:
- (a) providing sufficient proof of ownership to the Police Services; and
 - (b) paying a fine as established in the City's Annual Fee Schedule.
- [EN. B/L 6775]

- 11.4 (a) A yard shall be kept free and clean from:
- (1) Rubbish, garbage, dirt piles, loose concrete, and other debris; and
 - (2) Machinery or any parts thereof; and
 - (3) Derelict vehicles identified in PART IV-A herein.
- [AM. B/L 7224]
- (b) A yard shall be maintained such that grass and weeds are permitted to achieve a height no greater than 20 centimeters, and are kept neatly groomed and not permitted to achieve an unkempt appearance.
- (c) Noxious weeds must be controlled on all properties.
[EN. B/L 7189]
- (d) When violation(s) under this section are determined by an Officer, the owner and/or occupier may be issued a By-law Violation Notice (BVN) to correct the non-compliance and/or a Penalty Notice in accordance with the Compliance By-law. The following provisions establish the responsibilities and authorities delegated through this by-law as appropriate, and a BVN issued under this section shall reference this section of the by-law:
- (1) The timeline for compliance with the BVN would typically range from between 48 hours up to 15 calendar days depending on the circumstances and determined at the sole discretion of the Officer.
 - (2) If the owner and/or occupier fails to comply with the BVN within the stated timeline, the City shall be authorized to carry out or cause to be carried out such work as required without further notice to the owner and/or occupier.
 - (3) The total cost and expenses related to having the work carried out shall be the responsibility of the owner and/or occupier.
 - (4) In the event the owner and/or occupier does not pay the debt, or if the owner and/or occupier cannot be located to pay the debt, then all costs may be added to the real property taxes for the premises and collected in the same manner as ordinary municipal taxes.
 - (5) Any owner and/or occupier claiming to be injuriously affected by the requirements set out in the BVN to comply with this section may appeal to the Chief of Police in writing and within the timeline stipulated on the BVN for compliance. No extension of the appeal period will be granted.
 - (6) On receipt of a written notice for appeal hereunder, the Chief of Police shall forthwith consider the BVN in respect to which the appeal is made and shall make such enquiries as deemed necessary. The Chief of Police shall then, within his sole discretion, affirm, modify or revoke the BVN and cause a copy of the decision to be served upon the appellant.
 - (7) There is no appeal from the decision of the Chief of Police.
 - (8) Any owner and/or occupier who has not corrected all violations by the stated date is guilty of an offence and subject to penalty, in addition to the above requirements related to bringing the property into compliance. Such penalty shall follow the process established in the Compliance By-law for a Penalty Notice."

[EN. B/L 7210, AM B/L 7224]

PART IV-A: DERELICT VEHICLES

- 11.5 (a) “Abandoned” means if, for a period of at least thirty (30) days, the vehicle or object has, in the opinion of the Inspector,
- (1) been left in the open and not located in a building which keeps it from view; and,
 - (2) been deserted.
- (b) “By-law Compliance Clerk” means that City employee appointed to this role and assigned responsibilities under this Part, or delegate.
- (c) “Derelict Vehicle” means any automobile, tractor, truck, trailer or other vehicle that either:
- (1) has no valid license plates or derelict vehicle permit attached to it; or
 - (2) is not a vehicle used seasonally and plated annually for a period of time less than a full year; or
 - (3) is in a wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition; and

is located on private land, but that:

- (1) Is not within a structure erected in accordance with any By-law respecting the erection of buildings and structures in force within the City; and
- (2) Does not form part of a business enterprise lawfully being operated on that land.

[AM. B/L 7224]

- (c) “Inspector” means any Officer of the Brandon Police Service, or any By-law Enforcement Officer associated with the Brandon Police Service, or any other person authorized and entrusted to enforce this by-law.
- (d) [REP. B/L 7224]
- (e) [REP. B/L 7224]
- (f) [REP. B/L 7224]

- 11.6 (a) It shall be an offence for any person to park, abandon, or leave, a derelict vehicle on private property with or without the consent of the owner of the property.
- (b) It shall be an offence for any owner, occupant, or person in charge or control of private property to keep, or allow to be kept, any derelict vehicle on the property in such a way as to create a nuisance or an unsafe or unsightly situation.
[AM. B/L 7224]
- (c) [REP. B/L 7224]
- 11.7 Notwithstanding subsections 11.6 (b) an owner, occupant, or person in charge or control of private property may make application to the By-law Compliance Clerk for a permit to keep a derelict vehicle whereby such permit must be displayed on a prominent part of the derelict vehicle. Such permit is valid for no longer than nine (9) months and the fee is \$50.00 for each three month period, or part thereof, payable in advance. A request for an extension to the permit period may be made in writing to the By-law Compliance Clerk, whereby same shall be reviewed by the City Treasurer or his designate, and the Chief of Police prior to such request being granted.
[AM. B/L 7224]
- 11.8 (a) Any derelict vehicle parked, abandoned, or left on private property contrary to the provisions of this by-law may, upon direction from an Inspector, be removed and impounded for a period of forty-five (45) days.
- (b) The owner of the derelict vehicle or the property owner may recover the derelict vehicle by paying the costs for removal and impoundment.
- (c) In the event that the derelict vehicle is not claimed during the impoundment period the Inspector may destroy or otherwise dispose of the derelict vehicle. Where disposal of the vehicle generates more revenue than the outstanding costs owing to the City any excess monies will be released to the owner, if known. If the owner cannot be located any excess monies will be retained by the City and deposited to its general revenue account.
- (d) All costs for removal and impoundment are the responsibility of the property owner from which the derelict vehicle was removed and, if same are not paid in response to a registered bill, the City may add these costs to the property taxes.
- 11.9 The provisions of this Part shall not apply to any person engaged in operating a garage, auto wrecking business, used car lot, scrap business, or other similar use business providing they are operating in accordance with the provisions of the Zoning By-law and the Business Licensing By-law.”
[EN. B/L 7186]

PART V: PENALTIES

12. (a) Any person who contravenes, neglects, omits or fails to obey or observe any provision of this By-law is guilty of an offense and is liable on summary conviction to a fine not exceeding One Thousand Dollars (\$1,000.00) and costs on conviction or to imprisonment for a term not exceeding ninety (90) days or to both such a fine and such an imprisonment.
- (b) Where the contravention, refusal, neglect, omission or failure continues for more than one (1) day, the person is guilty of a separate offense for each day that it continues.

PART VI: REPEAL AND ENACTMENT

13. (a) By-law No. 3188 and amending By-law Nos. 3469, 3751, 5018/36/80, 5078/21/81, 5164/50/82 and 5205/40/83 are hereby repealed.

- (b) The repeal of the by-laws in the last preceding subsection mentioned shall not revive any By-law or any provision of any By-law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said by-laws or the application of any of the said by-laws or any other by-law or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.
- (c) The repeal of the said by-laws should not affect:
 - i) Any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same had, done, completed or pending at the time of such repeal; or
 - ii) Any action, suit, judgement, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal; or
 - iii) Any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter, or thing had, done, made, acquired, established, or existing at the time of such repeal; or
 - iv) Any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal; or
 - v) Any bond, note, debenture, debt, or other obligation made, executed, or entered into by the City at the time of such repeal.
- (d) The repeal of the said by-laws shall also not defeat, disturb, invalidate, or prejudicially affect any matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

14. This by-law shall come into full force and take effect upon the passage thereof.

DONE AND PASSED by the Council of The City of Brandon duly assembled this 26th day of August A.D. 1991.

"R. N. Borotsik"
MAYOR

"C. R. Arvisais"
ACTING CITY CLERK

Read a first time this 12th day of August A.D. 1991.
 Read a second time this 26th day of August A.D. 1991.
 Read a third time this 26th day of August A.D. 1991.

I, Heather Coreen Ewasiuk, Clerk of the municipality of The City of Brandon DO HEREBY CERTIFY the within to be a true and correct copy of Nuisance By-law No. 5806/81/90, as amended by By-law Nos. 6165/14/94, 6775, 6886, 7186, 7210, and 7224.

Original Signed By
H. Ewasiuk
H. Ewasiuk, City Clerk