

**CONTINUING CONSOLIDATION
PARKS AND RECREATION BY-LAW NO. 5268/37/84**

AS AMENDED BY BY-LAW NOS. 5295/05/85, 6005/42/92, AND 6383/29/96.

A BY-LAW of the City of Brandon relating to the operation and control of parks and recreational facilities owned by or under the jurisdiction of the City of Brandon.

WHEREAS Section 381 of The Municipal Act provides authority for a municipality to pass by-laws for the use, regulation, protection, government and operation of the park and recreation facilities fixing the charges or the admission thereto or use thereof;

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

SHORT TITLE

- 1. This By-law shall be referred to as “The City of Brandon Parks and Recreation By-law”.**

DEFINITIONS

- 2.1 “ANIMAL” means any creature not human.**
- 2.2 “CITY” means The City of Brandon.**
- 2.3 “CONCESSIONS” shall include the offering and exposing of food and other goods for sale, the soliciting for rental by passengers, or the offering of rides by animal drawn vehicles, the offering to rent bicycles, trains or other modes of recreational conveyance or the sharpening of skates and other similar business carries on in a public park or recreational facility but shall not include lessees or licensees under a lease or license duly granted by the City of Brandon nor canteens operated for the purpose of a Community Centre.**
- 2.4 “COUNCIL” means the council of the City of Brandon or such committee as Council may delegate.**
- 2.5 “DESIGNATED” means designated by a sign or notice posted for the purpose under the authority of the City of Brandon or such committee or officer of the City as Council may delegate.**
- 2.6 “FIREARM” means any barreled weapon from which any shot, bullet or other missile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm.**
- 2.7 “PARK” or “PUBLIC PARK” means an area or grounds owned or controlled wholly by the City or jointly with another body and used either for the purposes of recreation or sports or both or maintained as a green area or passive park, together with the buildings and other structures and facilities if any situated thereon or therein but does not include a Community Centre operated by a Citizen’s Committee.**
- 2.8 “PERSON” means any individual and includes corporation, firm, partnership and association of company.**
- 2.9 “PRESCRIBED” means prescribed by resolution of Council.**
- 2.10 “VEGETATION” means trees, shrubs, decorative plants, flowers and grass.**

- 2.11 **“VEHICLE”**, unless the context otherwise requires, includes an automobile, motorcycle, bicycle, traction engine, truck, tractor, trailer, snowmobile, go-cart, and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include vehicles running only upon rails; lawn mowers, or maintenance or any other power driven machines owned or operated by the City; sleighs, wagons, or carriages, and other modes of conveyance intended primarily for children’s play or transportation.
- 2.12 Unless otherwise expressly provided or unless the context otherwise requires, words and expression in this By-law have the same meaning as the same words and expressions in The Highway Traffic Act of the Province of Manitoba and/or The Municipal Act of the province of Manitoba.

APPLICATION OF BY-LAW

3. Unless the contrary is expressly stated, the provisions of this By-law apply to parks and recreational facilities in the City of Brandon owned, leased or otherwise or under the jurisdiction of the City of Brandon.

FIRES AND CUMBUSTIBLES

4. No person shall:
- (a) throw or place upon the ground or floor of any structure any lighted match, cigar, cigarette ember or other burning substance, within any public park; or
 - (b) light a fire in a public park except in such places and in such containers as may be provided for the purpose by the City of Brandon.
 - (c) light, set off or throw cracker, squid or serpent or other noisy or dangerous substance or fireworks within a public park.

POSSESSION OF FIREARMS

5. Unless such possession is otherwise lawful, no person shall possess a firearm in a public park.

THROWING STONES

6. No person shall throw a stone or other missile or have in his possession or use any slingshot, catapult or other similar weapon within any public park.

PROHIBITED RECREATIONAL ACTIVITIES

- 7.1 No person shall:
- i) engage in any recreational activity except in an area or areas of a park and at a time or times expressly designated by the Council as suitable for use for such a recreational activity.
 - ii) make use of a park or a portion of a park designated for a particular recreational activity so as to interfere with such designated use.

USE OF GOLF COURSE

- 7.2 No person shall:
- i) be upon any golf course controlled or operated by the City unless and until such person shall have paid in full the admission fee prescribed;

- ii) be present on any golf course for any purpose other than for the playing of a game of golf or other designated activity. This subsection shall not apply to employees of the City of Brandon who enter upon the golf course in that capacity.
- iii) search for, take or remove from a golf course any golf ball or accessory to the game of golf left or lost upon the course
- iv) for purposes of this section, the Superintendent of Recreation is empowered to designate, from time to time, activities, other than the playing of a game of golf that shall be permitted upon a golf course. Any such activity may be restricted as to hours, occasion, seasons or portions of a golf course and shall be consistent with this by-law and with the safe and orderly operation of a golf course. Any such designation shall be deemed a rule and regulation prescribed under section 22.1 hereof.

FAILURE TO PAY CHARGES

- 7.3 Where a fee for entry to a public park or portion thereof or for a recreational activity or for use of a facility in a public park has been prescribed, no person shall engage or be present in such public park or portion thereof, or engage in such recreational activity or use such facility unless and until that person shall have paid in full such fee or have entered into an agreement with Council or its delegate for the use of the facility without fee or for the paying of fees on an individual or group basis at some later date.

PUBLIC GATHERINGS

- 8.1 No person shall hold, or take part in a public meeting or other similar gathering in any public park except with prior permission in writing of the Council or its delegate.

PARADES

- 8.2 No person shall hold, take part in, or be a member of a parade off a highway in a park except with the prior permission in writing of the Council.

- 8.3 [EN. 6005/42/92]
[REP. 6383/29/96]

BUSINESS ACTIVITIES

9. Unless authorized by law, or under this or any other By-law of the City of Brandon, no person shall operate, conduct, carry on or attempt to operate, conduct or carry on any concession in any public park, unless he does so under the authority of Council.

DISTURBING ANIMALS

- 10.1 Except as authorized herein, no person:
- (a) shall, or shall allow, the teasing, annoying, disturbing or interfering with any animal in any park;
 - (b) shall strike, injure, maim or kill an animal in any park;
 - (c) shall disturb, rob, injure or destroy any habitat of any animal in any park.
- 10.2 Notwithstanding paragraph 10.1 the Council may designate areas in which fishing may take place in a park.

PROHIBITED ANIMALS

- 11.1 Except in areas designated for the use or presence of a particular animal, no person shall bring into a park or have in his possession any snake, spider, insect, lion, tiger, or other animal which is not a usual domestic pet and which disturbs or might be reasonably expected to disturb the comfort or safety of other persons using the park, or cause or might reasonably be expected to cause damage to turf.

PROHIBITED DOMESTIC ANIMALS

- 11.2 No person shall have in his possession any animal which is a usual domestic pet in an area designated as forbidden to such an animal.

REMOVAL OF ANIMALS

- 11.3 Where any person:
- (a) who has brought into a park or has in his possession any animal described in paragraph 11.1 or 11.2, or
 - (b) who has in his possession or control a dog, on a leash, which disturbs or has disturbed the comfort or safety of other persons using the park or which causes or might reasonably be expected to cause damage to turf, and
 - (c) who refuses upon reasonable request to remove such animal from the park, any person charged with the enforcement of this By-law may lawfully remove or cause to be removed from the park any such animal.

DAMAGE TO TREES, TURF AND FACILITIES

12. Unless he is an authorized employee of the City of Brandon, or operating under license from or contract with the City, no person shall:
- (a) disturb, remove, damage or destroy any rock, gravel, sand or soil;
 - (b) disturb, damage, trim or pick any vegetation;
 - (c) break, injure, remove, or in any way physically interfere with any building, structure, fence, seat, bench, ornament, or other man-made structure;
 - (d) pollute, foul or deposit any substance in any fountain, lake, stream, pool, pond, well, spring, or other body of water;
- within a park.

RESTRICTED USE OF CERTAIN AREAS

- 13.1 No person shall climb, walk or sit upon any building, wall, fence, or other structure excepting only play apparatus, pedestrian walkways and seating specifically provided to be climbed, walked or sat upon in a park.

WALKING, ETC., ON GRASS

- 13.2 No person shall walk on, cross, travel on or use or sit upon any grass, plot or land where signs have been posted forbidding any such use.

CAMPING AND TENTING

- 14.1 No person shall make use of a public park for the purpose of a trailer park, tenting or camp site or recreational vehicle site except in areas designated for such a purpose.

OPERATING VEHICLES, ETC., OFF ROAD

15. No person shall operate a vehicle or take a horse or other animal used or capable of being employed to transport persons directly or by drawing a conveyance other than on a highway in a public park except:
- (a) as required or authorized by law or permitted under this or any By-law of the City of Brandon; or
 - (b) except in areas designated for the use or presence of a particular animal or vehicle.

USE OF BICYCLE PATHS

16. No person shall use a path designated as a bicycle path in a park for a purpose other than the following:
- (a) the use of vehicles propelled solely by human muscular power;
 - (b) roller skating, skateboards, and similar means of human locomotion;
 - (c) pedestrian traffic;
 - (d) cross-country skiing and snowshoeing;
 - (e) motorized wheelchairs;
 - (f) lawnmowers, maintenance and other motor driven machines owned and operated by the City of Brandon;
 - (g) emergency vehicles.

BATHING PROHIBITED

17. No person shall:
- (a) bathe or wade in or enter the waters of any park except at pools designated for this purpose; or
 - (b) ride, drive, send, permit, allow or bring any animal into the waters of any park.
 - (c) enter the waters of the Assiniboine River from a shoreline within a park for purposes of bathing or wading.

INTOXICATING LIQUORS

18. No person shall take into any public park or consume therein any intoxicating liquor. This provision shall not extend to prohibit the transportation to and consumption of alcohol in either:
- (a) an area for which a license has been granted to the City or a license thereof, pursuant to the Liquor Control Act; or

- (b) any area designated by the Council as an approved location for an occasional permit pursuant to "The Liquor Control Act" and for which such an occasional permit has been issued; or
- (c) a campsite within a park provided that this exception applies only to the paying occupants of any such campsite, together with a maximum of 4 guests thereof and further provided that all rules and regulations passed under and pursuant to Section 22.1 hereof are complied with.

REMOVAL OF PERSONS

19. Any person who:

- (a) disturbs or threatens to disturb the orderly and peaceful enjoyment of a public park by other persons; or
- (b) is found in the act of violating any provision of this or any other by-law applicable to parks, may be removed there from by any person authorized to enforce any provision of this or any other by-law of the City if such person refuses to leave the public park within a reasonable time after being requested to do so.

CLOSED OR RESTRICTED AREAS

- 20.1 (a) City Council may, from time to time, designate any park or portion thereof restricted or closed to the public for any interval of time, either temporarily or at regularly stated intervals or entirely or for certain use only as shall be reasonably necessary for any of all of the following reasons:**
- (1) public health or safety;
 - (2) public nuisance;
 - (3) park improvements;
 - (4) use of park for permitted recreational or related activity necessitating restricted access.
- (b) The Director of Parks and Recreation, when conditions warrant, may designate any park or portion thereof restricted or closed to the public for the same reasons stated in subsection (a) for an interval of time not exceeding thirty (30) days. Where such interim action is taken, the Director of Parks and Recreation must report to City Council and, if required, request Council to consider a more long term closure or restriction.
- (c) The Director of Parks and Recreation, upon notification of Council's decision or his own action under the authority conferred by subsections (a) or (b), will:
- (1) cause the entrances to the affected park or parks to be posted with a sign indicating the times of such closure or restriction;
 - (2) cause notice to be given to the general public of such closure or restriction; and
 - (3) notify the Police Service in order that they may proceed to patrol the affected park or parks on a routine basis.

[AM. B/L 6383/29/86]

ENTERING RESTRICTED OR CLOSED AREAS

- 20.2 No person shall enter into or on any park or portion thereof which is designated as closed or into any park or portion thereof contrary to any designated restriction imposed pursuant to paragraph 20.1.**

APPLICATION FOR PERMISSION

21.1 Where any act or activity is expressed to be prohibited unless permitted by Council any person seeking such permission shall apply to the City of Brandon, through the Recreation Department or Parks Department, or any successor thereto, whichever department has delegated jurisdiction over the park or facility in question. Such application shall be in writing and shall provide the following information:

- (1) the name, address and telephone number of the applicant;
- (2) the provision of the by-law in relation to which permission is requested;
- (3) particulars of:
 - (a) the size and character, or groups of persons;
 - (b) the nature of the activity;
 - (c) proposed location or locations for which permission is requested;
 - (d) the period of time for which permission is sought;
 - (e) such other information as the Department of Parks and Recreation may reasonably require.

CONDITIONS

21.2 Upon receipt of an application under paragraph 21.1 the Council shall give its permission if all of the following conditions are met:

- (a) the activity for which permission is sought does not contravene or appear to contravene any law of this or any other by-law of the City of Brandon;
- (b) adequate provisions are made for the control and supervision of the persons likely to attend such activity as to ensure that the safety, health and convenience of such persons and other persons using or likely to use the public park are safeguarded;
- (c) the location and time of the activity for which permission is sought is appropriate for such activity and does not or would not reasonably conflict with designated uses, park improvements or other requests for the permission of the Council for use of the relevant park;
- (d) adequate provision is made for the restoration of the areas of the park reasonably affected by the activity.

TIME AND LOCATION

21.3 Permission may be given for the period of time and location requested in the applicable mentioned in paragraph 21.1 or may be for such other period of time or location as Council shall think reasonable.

RULES AND REGULATIONS

22.1 (a) The City of Brandon's Superintendent of Recreation and its Superintendent of Parks, or any successor to either, may prescribe rules and regulations governing the safe and orderly use of parks and recreational facilities falling within their area of responsibility and jurisdiction, provided that same are consistent with this by-law. Without limiting the generality of this provision, the Recreation Superintendent is specifically empowered to prescribe rules and regulations governing the use of the following facilities:

- (1) the Sportsplex Complex and adjacent track and field areas;
 - (2) the U.C.T. track and field complex;
 - (3) the Curran Park campground;
 - (4) the Curran Park recreational areas;
 - (5) the Brandon Recreation Centre golf course;
 - (6) the Brandon Recreation Centre curling rink;
 - (7) all indoor or outdoor swimming pools operated by the City;
 - (8) fastball and baseball diamonds;
 - (9) soccer fields;
 - (10) tennis courts;
 - (11) playgrounds and paddle pools;
 - (12) U.C.T. Arena;
 - (13) school grounds, facilities and buildings owned by the Brandon School Division No. 40 and used, by agreement, by the City of Brandon.
- (b) For purposes of implementation of such rules and regulations the Departments of Parks and Recreation for the City of Brandon shall, wherever practicable, erect signs in conspicuous places listing such rules and regulations and designating the area of application of such rules and regulations.
- (c) All such rules and regulations shall be submitted annually to City Council for purposes of review and revision. They shall remain in full force and effect unless and until revoked or amended by City Council by way of resolution. Notwithstanding the foregoing, authority is hereby granted to the City Manager to allow deviations to the said rules and regulations, which in the opinion of the City Manager are minor in nature and will result in optimizing the usage of the City's parks and recreational facilities.

[A.M. 5295/05/85]

COMPLIANCE WITH REGULATIONS

- 22.2 No person shall use, enter upon or into, or participate in any activities in parks or recreational facilities excepting compliance with such rules and regulations as shall be made pursuant to paragraph 22.1. Any person who contravenes, disobeys or neglects to obey any such rule or regulation shall be subject to expulsion or removal from the said park or recreational facility by persons appointed or authorized to enforce this by-law and where an admission fee was charged of any such individual, there shall be no entitlement to a refund upon such expulsion or removal. The superintendent of Recreation and the Superintendent of Parks, or any successor to either, is expressly authorized to expel or remove individuals who so contravene, disobey or neglect to obey such rules or regulations and each may delegate such authority to employees under their supervision.

DESIGNATION OF RECREATIONAL AREAS

- 23.1 For the purpose of this by-law and consistent herewith, Council may by resolution, designate or alter the designation of any park or recreational area as being available for a specific recreational activity or activities and the time of times, if any, during which any such area may be used for such specified recreational activity or activities so as to ensure the maximum use in keeping with the comfort, safety and convenience of all persons using or expected to use the said park or recreational facility.

AREAS PREVIOUSLY DESIGNATED

- 23.2 All areas designated for a particular recreational purpose or purposes in any public park or recreational facility at the date of the commencement of this by-law shall be deemed to have been designated under paragraph 23.1 until altered by Council pursuant thereto.

PRESUMPTION

- 23.3 In any legal proceeding a sign or notice designating a particular recreational purpose or purposes shall be presumed to have been placed under the authority of Council or persons duly authorized until the contrary is shown.

CONCESSIONS

24. Council may let to any person, in writing, and for any period not exceeding 3 years, the right of concession within a park or recreational facility and may delegate subject to the terms of any agreement therefore, for the right to cancel or modify by subsequent agreement any such contract of concession. The letting of any such facility for a period in excess of 3 years requires a resolution of Council and shall not be delegated by Council to any committee or individual.

BOATING REGULATIONS

25. No person shall employ in a park any watercraft other than that driven by sail or muscular power except by permission of the Council.

OPERATION OF WATERCRAFT

26. No person shall:
- (a) disturb any water fowl; or
 - (b) act in a noisy, disorderly, or unsafe manner on the waters in or partly in or adjacent to any park.

EXEMPTION OF EMPLOYERS, ETC.

27. The provisions of this by-law shall not apply to an employee, agent or other person authorized by the City of Brandon and acting in the course of his employment or authority, the onus of proof of which employment or authority shall be on the persons so alleging.

SPEED RESTRICTION

28. No person shall operate a vehicle in any public park at a rate of speed in excess of 30 kilometres per hour or such lesser speed as prescribed in the Rules and Regulations pursuant to Section 22.1 hereof.

PENALTY

29. Any person who contravenes or disobeys, or refuses or neglects to obey any provisions of this by-law is guilty of an offence and liable, on summary conviction, to a fine not exceeding One Thousand (\$1,000.00) Dollars in the case of an individual, or Five Thousand (\$5,000.00) Dollars in the case of a corporation, or, in the case of an individual, to imprisonment for a term not exceeding six (6) months or to both such a fine and an imprisonment.

REPEAL

30. All by-laws and by-law amendments of the City of Brandon and still in force respecting the use, regulation, protection and government of parks under the control of the City are hereby repealed to the extent that they are inconsistent with the terms and provisions of this by-law.

SEVERABILITY

31. If any provisions of this by-law are held to be invalid by any Court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

DONE AND PASSED in Council assembled this 16th day of July A.D. 1984.

K.Burgess
Mayor

I.L Thomson
City Clerk

Read a first time this	18 th	day of	June	A.D.	1984
Read a second time this	3 rd	day of	July	A.D.	1984
Read a third time this	16 th	day of	July	A.D.	1984