

**CONTINUING CONSOLIDATION
BY-LAW NO. 6825**

AS AMENDED BY BY-LAW NOS. 6838, 6960 AND 6970.

BEING A BY-LAW of The City of Brandon for the purpose of regulating the use of pesticides in the City of Brandon.

WHEREAS Section 232(1)(a) of The Municipal Act provides authority for a municipality to pass by-laws for the safety, health, protection and well-being of people, and the safety and protection of property;

AND WHEREAS the City of Brandon recognizes that there are individual citizens that have medically recognizable chemical sensitivities, and segments of the population that are at a higher risk of being affected by pesticide contact;

AND WHEREAS such pesticides are primarily used for cosmetic purposes;

AND WHEREAS it is deemed expedient and in the public interest to regulate and control the use of pesticides in the City of Brandon;

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

SHORT TITLE

1. This By-law shall be referred to as “The Pesticide Management By-law”.

DEFINITIONS

2. In this by-law,
 - (a) “**AFFECTED PROPERTY**” means a property all or part of which lies within the spraying prohibition radius of a property registered on the Brandon Pesticide Notification Registry.
 - (b) “**COMMERCIAL APPLICATOR**” means any person, firm or corporation any part of whose business involves the application and use of pesticides for a fee, charge or other valuable consideration, as defined in the Manitoba Pesticide and Fertilizers Control Act.
 - (c) “**ENCLOSED**” means bounded by a roof or ceiling and walls with an appropriate opening or openings for access in and out, whereby such openings are equipped with doors which are kept closed except when actually in use for entry or exit.
 - (d) “**INFESTATION**” means the presence of pests in numbers or under conditions which involve an immediate or potential risk to human health or conditions which involve an immediate or potential risk of substantial loss or damage to property.
 - (e) “**IPM ADVISORY COMMITTEE**” means the Integrated Pest Management Plan Advisory Committee and shall be comprised of six individuals and a chairperson. The chairperson shall be the Director of Public Works or his designate. The committee will have representation from the community-at-large (2 members), the commercial sector (2 members), the Provincial Department of Conservation (1 member), and the utility companies (1 member). The IPM Advisory Committee will be responsible for reviewing the IPM Plan annually and make recommendations as required.

2. (f) **“IPM PLAN”** means the Integrated Pest Management Plan for the City of Brandon which establishes an ecological approach to vegetative and pest management, emphasizing the reduction of pesticide use by implementing preventive measures and alternative control measures with minimal risk to human health and the environment.
- (g) **“OWNER”** means a person who is assessed as the owner of a property on the Real Property Assessment Roll of the City of Brandon.
- (h) **“PEST”** means any injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, animal, or other plant or animal pest which is injurious, noxious or a public health threat.
- (i) **“PESTICIDE”** means a substance that
- (i) is intended, sold, or represented for use in preventing, destroying, repelling or mitigating, directly or indirectly, any pest;
 - (ii) is a pest control product within the meaning of The Pest Control Products Act (Canada) and is granted federal registration by the Pest Management Regulatory Agency, Health Canada, such as herbicides, insecticides, fungicides, rodenticides, and miticides;
 - (iii) is a plant growth regulator, a defoliant or a plant desiccant;
 - (iv) is a fertilizer within the meaning of The Fertilizers Act (Canada) that contains a substance referred to in subclause (i), (ii) or (iii);
- or any other substance designated as a pesticide in the regulations to The Environment Act, but does not include a substance that is intended, sold or represented for use in potable water to prevent or destroy bacteria, parasites or viruses if the substance is not a pest control product within the meaning of The Pest Control Products Act (Canada).
- (j) **“PESTICIDE APPLICATION”** means the application and use of pesticides for the maintenance of outdoor trees, shrubs, flowers, other ornamental plants and turf on the part of a property used for residential or business purposes or on city property;
- (k) **“REGISTRY”** means the Brandon Pesticide Notification Registry as created in this by-law.
- (l) **“TREATED PROPERTY”** means a property upon which pesticide application has taken place.

PROHIBITION AROUND PUBLIC AREAS

3. Commencing April 1st, 2006, no person shall carry out or permit or suffer to be carried out, any pesticide application on property containing a school, licensed day care center, park, playground, licensed senior citizens' nursing homes, university, college or hospital.
4. (a) Notwithstanding any provisions of this by-law, the pesticide applications of those pesticides which are identified as “Permitted Pesticides” in the IPM Plan enacted by the City of Brandon IPM Advisory Committee are permitted and the provisions of this by-law does not apply to these exceptions.

4. (b) Notwithstanding any provisions of this by-law, a pesticide application may be carried out if the pest constitutes danger for human beings or have become an infestation, if such pesticide application is specifically permitted by the City of Brandon IPM Advisory Committee and the pesticide(s) application is carried out subject to such terms and conditions as prescribed by the Committee.

PERMITTED PESTICIDE USES

5. Notwithstanding Section 3, the following pesticide applications shall be permitted:
 - (a) to disinfect swimming pools, whirlpools, spas or wading pools;
 - (b) to purify water intended for the use of humans or animals;
 - (c) within an enclosed building;
 - (d) as a wood preservative;
 - (e) to control a pest that the Brandon Regional Health Authority Public Health Officer has declared a threat to the health of Brandon residents;
 - (f) as an insect repellent for personal use;
 - (g) on lands used for agricultural purposes.

PROPERTY REGISTRATION

6. There is hereby established a Brandon Pesticide Notification Registry.
7. The Registry shall be administered by the City of Brandon Department of Public Works.
8. An owner of a real property or a tenant of a rented property wishing to have that property listed on the Registry shall provide the City the following information:
 - (a) name of owner/tenant;
 - (b) mailing address of owner/tenant;
 - (c) daytime and evening telephone number(s), one of which is designated as the primary contact number; and
 - (d) a letter from a physician licensed to practice medicine in Manitoba expressing that a named resident of the property to be registered is hypersensitive to and suffers adverse medical reactions as a result of exposure to pesticides.
9. On receipt of the information prescribed in Section 8, the City shall include the identified property in the Registry.
10. The registration period shall be from April 1st to March 31st each year.
11. A separate registration application shall be made for each property.
12. The registration of a property shall cease:
 - (a) when the owner/tenant who applied to register the property files with the Department of Public Works a written notice to the effect that the owner/tenant no longer wishes the property to be registered;
 - (b) when the owner/tenant who applied to register the property or a new owner files with the Department of Public Works a written notice that the registered property has changed ownership and they no longer live there;
 - (c) on April 1st of each year.

13. The City shall forthwith notify the owners of all properties previously affected by the registration that their properties are no longer subject to the notification requirements of Section 16 of this by-law.

PESTICIDE APPLICATIONS PROHIBITED ON CERTAIN AFFECTED PROPERTIES

14. No person shall carry out or permit or suffer to be carried out any pesticide application on an affected property all or part of which lies within 30 meters of the boundary of the registered or prohibited property. Persons that require a buffer extended beyond the 30 meters will submit their request with sufficient medical information from their medical physician as confirmation. The IPM Advisory Committee will review the request and reserve final decision.
15. Individuals registered with the Brandon Pesticide Notification Registry will have the option of indicating at the time of registration whether or not they are receptive to being contacted by the Parks Department, if at some time during the year, a resident who resides within the 30 metre buffer zone, is wanting to reach a mutually acceptable agreement with the registrant on a specific pesticide application.
[AM. B/L 6838]

NOTICE TO OWNER OF AFFECTED PROPERTIES

16. Within ten (10) days of the entry of a property on the Registry, the Department of Public Works shall mail to the owner of each affected property, as identified in Section 14, a letter addressed to the mailing address of the owner of the affected property as contained in the City's Assessment Roll, informing the landowner of:
 - (a) the existence of the Registry; and
 - (b) the effect of this by-law on affected properties.[AM. B/L 6838]
17. If the affected property is not occupied by the owner of the property, the owner shall forthwith notify the occupant of the information contained in the letter sent to the owner pursuant to Section 16.
18. A copy of the letter defined in Section 16 shall be forwarded to the individual registered on the Registry.

NOTICE TO COMMERCIAL APPLICATORS OF PESTICIDES

19. On or before the last day of March in each year, the City shall mail to each commercial applicator of pesticides operating in the City and known to the Department of Public Works, a printed list of all registered and affected properties and the restrictions that apply to each property.
20. At least monthly during the period from April to October of each year, the Department of Public Works shall mail to each commercial applicator of pesticides operating in the City and known to the Department, a printed, updated list containing all registered and affected properties added to the Registry within the preceding month and the restrictions that apply to each property.
21. The requirements of Sections 19 and 20 do not relieve any commercial applicator of pesticides from the responsibility of determining the restrictions that apply to a pesticide application on any property in the City.

RULES RESPECTING PESTICIDE APPLICATIONS

- 22. When a pesticide application has taken place on a property with uncontrolled access by a commercial applicator, signs shall be posted in a prominent place on the property and remain for a minimum of two (2) days after the pesticide application.
- 23. The signs prescribed by Section 22 shall:
 - (a) be square or rectangular, measuring not less than 30 centimeters by 30 centimeters;
 - (b) be bright in colour;
 - (c) be made of a weather resistant material;
 - (d) bear the words: "Pesticide in Use – Avoid Direct Contact"; company name; product name; active ingredient; registration number; and
 - (e) bear a contact telephone number of the applicator."

[AM. B/L 6960]

PENALTIES

- 24. Any person who contravenes, neglects, omits or fails to obey or observe any provision of this By-law is guilty of an offence and is liable on summary conviction to a fine of not less than Fifty Dollars (\$50.00) for a first offence and not less than One Hundred Dollars (\$100.00) for a second or subsequent offence and not exceeding One Thousand Dollars (\$1,000.00) in either case, and costs on conviction, or to imprisonment for a period not exceeding thirty (30) days or to both such fine and imprisonment.
- 25. Where the contravention, refusal, neglect, omission, or failure continues for more than one (1) day, the offender is guilty of a separate offense for each day it continues.

ENACTMENT

26. This by-law shall come into full force and effect April 1st, 2006.

DONE AND PASSED by the Council of the City of Brandon duly assembled this 28th day of March A.D. 2006.

"D. K. Burgess"

MAYOR

"J. Swidnicki"

A/CITY CLERK

Read a first time this	6 th	day of	March	A.D. 2006
Read a second time this	28 th	day of	March	A.D. 2006
Read a third time this	28 th	day of	March	A.D. 2006