

**THE CORPORATION OF THE CITY OF FERNIE  
BYLAW NO. 2093**

**A Bylaw to regulate the use of pesticides for non-essential purposes  
with the City of Fernie**

---

**WHEREAS:**

- A. the residents of the City of Fernie are concerned about the non-essential use of pesticides and the risk that pesticides may pose to the natural environment;
- B. the application of pesticides contributes to the cumulative chemical load absorbed by the natural environment;
- C. pesticides cannot be necessarily confined to a single location but move through the environment in the air, land and water and may have an impact on non-target organisms and plants;
- D. alternatives to the application of pesticides exist;
- E. the Precautionary Principle supports local governments anticipating and preventing threats of harm to the environment, even if some cause-and-effect relationships are not fully established scientifically;
- F. municipalities have jurisdiction to pass bylaws regulating the application of pesticides pursuant to sections 8(3)(j) and 9 of the *Community Charter* and BC Reg. 144/2004 (*Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation*);
- G. the City of Fernie deems it expedient to provide for regulating the use of pesticides for non-essential purposes within the City of Fernie;

**NOW THEREFORE**, the Municipal Council of the Corporation of the City of Fernie in open meeting assembled **ENACTS AS FOLLOWS:**

**PART 1 – GENERAL PROVISIONS**

**Title**

- 1. This Bylaw may be cited for all purposes as “*Pesticide Use Control Bylaw No. 2093, 2010.*”

**Schedules**

- 2. The following Schedule attached to this bylaw forms an integral part of this bylaw and is enforceable in the same manner as this bylaw:
  - a) Schedule A – Permitted Pesticides.

**PART 2 – DEFINITIONS**

**Definitions**

- 3. In this Bylaw:
  - “**Council**” means the Council of the City of Fernie.
  - “**Farm**” means land classified as farm land by an assessor appointed under the *Assessment Authority Act*.

“**Land Used For Agriculture**” means land designated as agricultural land under the *Agricultural Land Commission Act* and includes agricultural land under a former Act.

“**Permitted Pesticide**” means a Pesticide listed in Schedule “A”

“**Pest**” means an injurious, noxious or troublesome living organism, but does not include a virus, bacteria, fungus or internal parasite that exists on or in humans or animals.

“**Pesticide**” means a micro-organism or material that is represented, sold, used or intended to be used to prevent, destroy, repel or mitigate a Pest, and includes:

- (a) a plant growth regulator, plant defoliator or plant desiccant;
- (b) a control product as defined in the *Pest Control Products Act* (Canada); and
- (c) a substance that is classified as a Pesticide by the *Integrated Pest Management Act* (British Columbia).

“**Private Lands**” means a parcel or part of a parcel if the parcel or part is used for residential purposes.

“**Public Lands**” means lands vested in the City of Fernie.

“**Sensitive Ecosystem**” means Private or Public Lands with one or more of the following characteristics:

- (a) areas or landscape features identified in a municipal plan, map or zoning bylaw as environmentally sensitive, environmentally significant, environmental protection area, development permit area for protection of the environment, or other similar purpose that is compatible with the conservation of ecological features and functions of the site; or
- (b) local government parks or other protected areas designated or managed for the conservation of ecological features and functions of the site.

### **PART 3 – REGULATION**

4. Except as permitted in this Bylaw, no person may apply or otherwise use Pesticides for the purpose of maintaining outdoor trees, shrubs, flowers, turf or other ornamental plants on a parcel if the parcel or part of the parcel is Private Land or Public Land. In this section “maintain” includes the control, suppression or eradication of a Pest.
5. Section 4 does not apply to the application of Pesticides:
  - (a) that are Permitted Pesticides as listed in Schedule “A”;
  - (b) for the management of Pests that transmit human diseases or impact agriculture or forestry;
  - (c) on the residential areas of Farms;
  - (d) to buildings or inside buildings;
  - (e) Lands that are not Private or Public Lands, or
  - (f) on Land Used For Agriculture, forestry, transportation, public utilities or pipelines unless the public utility or pipeline is vested in the municipality.
6. (1) A person may apply to Council for an exemption from section 4 for the use of Pesticides for Pest infestations that threaten the integrity of sensitive ecosystems or for use on Private or Public Lands.

An application for exemption under section 6(1) may be made by an applicant using the form attached to this bylaw as Appendix 1.

7. Council may grant an exemption under section 6 where the need for the use of the Pesticide is urgent and no effective non-Pesticide alternative is available.
8. When granting an exemption under section 6 Council may impose one or more conditions relating to:

- (a) the species of plant or Pest to which the Pesticide may be applied;
  - (b) the area of land on which the Pesticide may be applied; and
  - (c) the period of time in which the Pesticide may be applied.
9. A person who has obtained an exemption from Council to use a Pesticide pursuant to section 6 must provide written notice of the use of the Pesticide in accordance with sections 10 and 11.
10. Written notice must be posted on public or private land where the Pesticide will be used and must comply with the following requirements:
- (a) The notice must be posted on the public or private land at least 48 hours before the Pesticide will be used;
  - (b) The notice must remain on the public or private land until the later of 72 hours after the application of the Pesticide or the time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
  - (c) Notices must be posted in locations that are clearly visible from each highway or public pathway adjoining the public or private land, and
    - (i) within three metres of each of the property lines intersecting each highway or public pathway; and
    - (ii) at driveways, walkways, and other usual entrances to the public or private land;
  - (d) The notice must be made of material that is weather resistant;
  - (e) The notice must measure at least 12 centimetres by 17 centimetres;
  - (f) The notice must include the following information:
    - (i) the location, date and approximate time of the Pesticide use;
    - (ii) in the event of inclement weather, an alternate date or dates on which the Pesticide use may occur;
    - (iii) the brand name and registration number of the Pesticide that will be used;
    - (iv) the Pest for which the Pesticide is being used;
    - (v) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application; and
    - (vi) the following phrase: “Permission to undertake this activity was obtained from the City of Fernie. Further details may be viewed at the municipal hall, 501 3<sup>rd</sup> Avenue, Fernie, BC.”
11. Written notice must be delivered to residents of lots that are adjacent to the public or private land where the Pesticide will be used and must contain the information set out in section 10(f).
12. In section 11, “lots that are adjacent” include lands separated by a highway or public pathway.

#### **PART 4 – OFFENCE AND PENALTY**

13. A person commits an offence who:
- (a) violates a provision of this Bylaw;
  - (b) consents, allows or permits an act or thing to be done in violation of a provision of this Bylaw;
  - (c) neglects to or refrains from doing anything required to be done by a provision of this Bylaw.
14. A person is guilty of a separate offence each day that a violation occurs or continues to exist.
15. A person who commits an offence is liable on prosecution in accordance with the Offence Act to a minimum fine of \$250 and a maximum fine of \$10,000, and if prosecuted pursuant to Division 3 of Part 8 of the Community Charter, a maximum fine of \$1,000.00.

## **PART 5 – SEVERABILITY**

16. If a section, subsection, sentence, clause or phrase of this bylaw is held to be invalid, by the decision of a Court of competent jurisdiction, the invalid portion shall be severed and the decision shall not affect the validity of the remaining portions of this bylaw.

17. This Bylaw comes into full force and effect on January 1, 2011.

READ A FIRST TIME THE 22<sup>ND</sup> DAY OF FEBRUARY, 2010.

READ A SECOND TIME THE 22<sup>ND</sup> DAY OF FEBRUARY, 2010.

READ A THIRD TIME THE 22<sup>ND</sup> DAY OF FEBRUARY, 2010.

First three readings passed by a majority vote of Members of City Council present and eligible to vote.

THIRD READING RECONSIDERED THE 8<sup>TH</sup> DAY OF MARCH, 2010.

Reconsideration of third reading passed by a majority vote of Members of City Council present and eligible to vote.

AMENDED AT THIRD READING THE 8<sup>TH</sup> DAY OF MARCH, 2010.

The amendment at third reading passed by a majority vote of Members of City Council present and eligible to vote.

READ A THIRD TIME AS AMENDED THE 8<sup>TH</sup> DAY OF MARCH, 2010.

Third reading as amended passed by a majority vote of Members of City Council present and eligible to vote.

ADOPTED THE 22<sup>ND</sup> DAY OF MARCH, 2010 BY A MAJORITY VOTE OF MEMBERS OF CITY COUNCIL PRESENT AND ELIGIBLE TO VOTE.

---

**MAYOR**

---

**DIRECTOR OF CORPORATE ADMINISTRATION SERVICES**

**I hereby certify the foregoing to be the original Bylaw No. 2093**

### **Schedule “A”**

The following substances are Permitted Pesticides and shall be excluded from the provisions of this Bylaw (Source: Integrated Pest Management Regulation, B.C. Reg. No. 604/2004, Schedule 2 – Excluded Pesticides):

- 1 acetic acid (DOMESTIC)
- 2 animal repellents (DOMESTIC and COMMERCIAL) except thiram
- 3 anti-fouling paints (DOMESTIC and COMMERCIAL)
- 4 antisapstain wood preservatives used on private, industrial land owned by the company or person responsible for the application (COMMERCIAL)
- 5 asphalt solids (pruning paints) (DOMESTIC and COMMERCIAL)
- 6 bacillus thuringiensis kurstaki (Btk) (DOMESTIC)
- 7 bactericides used in petroleum products (DOMESTIC and COMMERCIAL)
- 8 boron compounds (DOMESTIC)
- 9 boron compounds with up to 5% copper for insect control and wood preservation (COMMERCIAL)
- 10capsaicin (DOMESTIC, COMMERCIAL and RESTRICTED)
- 11cleansers (DOMESTIC and COMMERCIAL)
- 12corn gluten meal (DOMESTIC and COMMERCIAL)
- 13d-phenothryn (DOMESTIC)
- 14d-trans-allethrin, also referred to as d-cis, trans allethrin (DOMESTIC)
- 15deodorizers (DOMESTIC and COMMERCIAL)
- 16fatty acids (DOMESTIC)
- 17ferric phosphate (DOMESTIC and COMMERCIAL)
- 18ferrous sulphate (DOMESTIC and COMMERCIAL)
- 19hard surface disinfectants (DOMESTIC and COMMERCIAL)
- 20insect bait stations (DOMESTIC)
- 21insect pheromones (DOMESTIC and COMMERCIAL)
- 22insect repellents (DOMESTIC)
- 23laundry additives (DOMESTIC and COMMERCIAL)
- 24material preservatives (DOMESTIC and COMMERCIAL)
- 25methoprene (DOMESTIC)
- 26mineral oils for insect and mite control (DOMESTIC)
- 27n-octyl bicycloheptene dicarboximide (DOMESTIC)
- 28naphthalene for fabric protection (DOMESTIC)
- 29paradichlorobenzene for fabric protection (DOMESTIC)

### **Schedule "A"** (continued)

- 30pesticides in aerosol containers (DOMESTIC)
- 31pesticides registered under the federal Act for application to pets (DOMESTIC and COMMERCIAL)
- 32piperonyl butoxide (DOMESTIC)
- 33plant growth regulators (DOMESTIC)
- 34polybutene bird repellents (DOMESTIC and COMMERCIAL)
- 35pyrethrins (DOMESTIC)
- 36resmethrin (DOMESTIC)
- 37rotenone (DOMESTIC)
- 38silica aerogel, also referred to as silica gel, amorphous silica and amorphous silica gel (DOMESTIC and COMMERCIAL)
- 39silicon dioxide, also referred to as "diatomaceous earth" (DOMESTIC and COMMERCIAL)
- 40slimicides (COMMERCIAL)

- 41soaps (DOMESTIC and COMMERCIAL)
- 42sulphur, including lime sulphur, sulphide sulphur and calcium polysulphide (DOMES-TIC)
- 43surfactants (DOMESTIC and COMMERCIAL)
- 44swimming pool algicides and bactericides (DOMESTIC and COMMERCIAL)
- 45tetramethrin (DOMESTIC)
- 46wood preservatives (DOMESTIC)

## **Appendix “1” – Application for Exemption**

**Name of Applicant:**

**Address:**

**Phone Number:**

**Address where Pesticide will be applied:**

**Contact Person:**

**Name of Pesticide to be used:**

**Name of Pest or plant targeted:**

**Reason for Application for Exemption (why is the need for the use of the Pesticide urgent and reason why non-Pesticide alternatives are insufficient):**

**Attachments (evidence of ecosystem harm, such as a professional report):**

**DATE:**

---

---

For Staff Use (completed by):

Considered by Council on:

Conditions:

Species of plant or Pest to which the Pesticide may be applied:

Area of land on which the Pesticide may be applied:

Period of time in which the Pesticide may be applied: