

SUMMARY:

The City of Nelson's Pesticide Regulation Bylaw is to regulate the cosmetic use of pesticides. This bylaw outlines the exempt pesticides and includes the pesticide permit application form.

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THE CORPORATION OF THE CITY OF NELSON

BYLAW NO. 3081

A BYLAW TO REGULATE THE COSMETIC USE OF PESTICIDES

WHEREAS environmental protection has emerged as a fundamental value in Canadian society and the common future of every Canadian community depends on a healthy environment;

AND WHEREAS avoiding unnecessary exposure to pesticides conforms to the precautionary principle as it applies to the use of pesticides;

AND WHEREAS minimizing the use of pesticides will promote the health of the inhabitants of the City of Nelson;

NOW THEREFORE the Council of the City of Nelson in open meeting assembled hereby enacts as follows:

1. Definitions

In this Bylaw:

“Biological Control” means the use of natural agents such as insects, nematodes, fungi, viruses, fish or animals to control pests;

“Cosmetic Purposes” means the use of pesticides for non essential use, that is where the application is purely for an aesthetic pursuit;

“Health Hazard” means a pest that has or is likely to have an adverse effect on the health of any person;

“Infestation” means the presence of pests in numbers or under conditions that involve an immediate or potential risk of substantial loss or damage;

“Licensed Applicator” means a person who holds a valid license, permit or certificate issued by the British Columbia Ministry of Environment Lands and Parks;

“Permitted Pesticide” means a pesticide listed in Schedule “A” of this Bylaw;

“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 but is not limited to:

- (a) herbicides, that are 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 any lands owned in fee-simple by any party other than Her Majesty the Queen in Right of Canada, Her Majesty the Queen in right of the Province of British Columbia, a local government entity or an agent of the foregoing;

“Public Lands” means lands owned by Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of the Province of British Columbia, the City of Nelson, any other local government entity or an agent of the foregoing;

“Treated Property” means the parcel upon a portion of which a pesticide has been or will be applied;

“Utility Operator” means a public or private utility such as electricity, gas, oil, cellular and may include Federal or Provincial agencies such as transportation authorities.

2. Application

This Bylaw shall apply to both Public and Private Lands.

3. General Prohibition

Unless permitted or exempted in accordance with this Bylaw, no person shall apply or cause or permit the application of a pesticide within the boundaries of the City of Nelson.

4. Exemptions

- 1) This Bylaw shall not apply in respect of:
 - (a) Public Lands owned by Her Majesty the Queen in Right of Canada or in the Right of the Province of British Columbia unless such governmental authorities voluntarily consent to and agree to the application of the Bylaw;
 - (b) The use or application of Pesticides listed in Schedule A;
 - (c) Disinfecting swimming pools, whirlpools, spas or wading pools;
 - (d) Purifying water intended for use by humans or animals;
 - (e) Onto or inside buildings;

- (f) The use of a biological control to exterminate or repel pests, including rats and mice;
- (g) Controlling ants and termites;
- (h) Controlling or destroying insects which have infested property (The infestation must be positively confirmed, in writing, by a qualified individual.);
- (i) Controlling or destroying a health hazard;
- (j) An insect repellent for personal use;
- (k) Eradication of noxious and invasive species in accordance with the *Weed Control Act* (only where biological and mechanical controls either do not exist or have proven ineffective);
- (l) Golf courses, only where the principals of Integrated pest management have been applied by a certified IPM practitioner with a valid pesticide applicators certificate, and a pesticide application is a last resort to avoid the loss of use of the facility.
- (m) Injected treatments for trees, stumps, wooden poles.

5. Permit

- 1) Issuance of a pesticide permit is solely at the discretion of the City of Nelson and may be withheld if the City of Nelson considers the use of a pesticide in a particular situation unnecessary.
- 2) The application fee is hereby set at \$20.00.

6. Utility Corridors

- 1) Notwithstanding Section 4(1), a Utility Operator may use a Pesticide on a utility corridor or highway right-of way providing the following conditions are met:
 - (a) The use of a Pesticide shall be done by a Licensed Applicator;
 - (b) The Pesticide shall be stored in a fireproof storage area with containment, ventilation, steel shelving, and appropriate signage and the owner shall maintain an up-to-date inventory that shall be available to the City of Nelson upon request;
 - (c) The applicator must have, and comply with, material safety data sheets available for each Pesticide they apply and they must provide the sheet to any abutter of the property on which the Pesticide is being applied;
 - (d) There shall be no application of a Pesticide within two (2) metres of a property line;

- (e) There shall be no application of a Pesticide within five (5) metres of a bus stop, schoolyard, licensed day care facility, senior's facility, hospital, medical clinic, playground or park;
- (f) There shall be no application of a Pesticide within twenty (20) metres of an open watercourse, weir or wetland;
- (g) There shall be no application of a Pesticide when the wind velocity exceeds eight (8) km/hr. or during any rainfall event;
- (h) Each year in the month of January, the owner of Treated Properties which have utilized Pesticide application under the terms and conditions of this section shall submit to the City of Nelson a written report outlining all Pesticides used and applied during the year and the meteorological conditions under which they were applied in accordance with this section.

7. Application of a Pesticide

- 1) Any person who applies a Pesticide that is not otherwise exempted under Section 4 of this Bylaw shall:
 - (a) prior to commencing the application of a Pesticide, obtain a permit in accordance with Section 5 of this Bylaw;
 - (b) post signs clearly visible from any road or public pathway abutting the Treated Property which shall:
 - (i) measure at least 12 centimetres by 17 centimetres, be made of a material that is weather resistant and be placed on a support that is weather resistant;
 - (ii) indicate clearly that a Pesticide shall be or has been applied on the Treated Property, shall indicate clearly the commercial name of the Pesticide which shall be or has been applied; and,
 - (iii) be placed on the Treated Property, as follows:
 - (a) on the frontage of a Treated Property which is not located on a corner, one (1) Sign shall be placed within three (3) meters of each of the property lines separating the Treated Property from the adjacent property; and thereafter one (1) Sign every sixteen (16) meters;
 - (b) on each frontage of a Treated Property located on a corner, one (1) Sign within three (3) meters of the property line separating the property where the Application has been made from the property adjacent to it, and thereafter one (1) Sign every sixteen (16) meters;

- (iv) shall be erected on the Treated Property for a period of not less than seventy-two (72) hours preceding the day the Application of the Pesticide is to commence and shall remain in place for a period of at least seventy-two (72) hours following the completion of the Application of the Pesticide;
- (c) not apply a Pesticide within two (2) meters of any property line unless the written permission of the adjoining property owner has been obtained;
- (d) not apply a Pesticide within five (5) meters of a bus stop, schoolyard or park;
- (e) not apply Pesticide within a distance of fifteen (15) meters from a surface well or of three (3) meters from an artesian well;
- (f) not apply a Pesticide within twenty (20) meters of any of the following:
 - (i) a river, lake, stream, or open water;
 - (ii) an enclosed depression with definable banks capable of containing water;
 - (iii) any channel having definable beds and banks capable of conducting confined runoff from adjacent lands;
 - (iv) a wetlands;
- (g) apply the Pesticide in accordance with the written instructions of the manufacturer and/or the label on the container but where those written instructions contradict any provision of this Bylaw the greater distance, lesser wind speed, greater time after/before rainfall, or the lesser air temperature shall apply;
- (h) not apply a pesticide by means of spraying or fogging on trees or shrubs when the wind velocity exceeds eight (8) km/hr;
- (i) not apply a Pesticide when it is raining or the forecast of rain within the period indicated on the Pesticide packaging material as necessary to ensure the efficient application of the Pesticide unless otherwise indicated on the Pesticide's label;
- (j) not apply a Pesticide when the temperature exceeds 27 degrees Celsius unless otherwise indicated on the Pesticide's label; and,
- (k) not apply an insecticide on trees during their blooming period.

8. Severability

If any section or lesser portion of this Bylaw is held invalid, it shall be severed and the validity of the remaining provisions of this shall not be affected.

9. Offence and Penalty

- 1) Any person who commits an offence under this Bylaw in addition to being subject to any remedies or penalties specifically provided for in this bylaw is also subject to prosecution and upon summary conviction be subject to a fine not exceeding the maximum penalty specified in the Offence Act from time to time for each and every offence.

(2) Each day a violation of the provisions of this Bylaw exist or is permitted to exist shall constitute a separate offence.

10. Title

This Bylaw may be cited for all purposes as "City of Nelson's Pesticide Regulation Bylaw No. 3081, 2007".

READ a first time this the 22nd day of January, 2007
READ a second time this the 22nd day of January, 2007
READ a third time this the 9th day of July, 2007
FINALLY CONSIDERED AND ADOPTED this the 23rd day
of July, 2007 and Numbered 3081.

Mayor

Corporate Officer

SCHEDULE "A"
Exempted Pesticides

The following substances are exempted from the provisions of this Bylaw:

- (1) a product that uses pheromones to lure Pests, sticky media to trap Pests or quick-kill traps for vertebrate species considered Pests such as mice and rats; and,
- (2) a product that is, or contains, any of the following active ingredients:
 - (a) a soap (insecticidal/herbicidal);
 - (b) a mineral oil, also called dormant or horticultural oil;
 - (c) Silicon dioxide, also called diatomaceous earth;
 - (d) Bt (*Bacillus thuringiensis*), nematodes and other biological control organisms;
 - (e) borax, also called boric acid or boracic acid;
 - (f) ferric phosphate;
 - (g) acetic acid;
 - (h) pyrethrum or pyrethrins;
 - (i) fatty acids;
 - (j) animal repellents;
 - (k) sulphur (ex: Bordeaux mixture and Lime Sulphur);
 - (l) fertilizers which do not contain chemical or synthetic pesticides within the meaning of the federal Pest Control Products Act;
 - (m) dormant or horticultural oils;
 - (n) pheromone traps;
 - (o) diatomaceous earth (silicon dioxide);
 - (p) pruning paint;
 - (q) non toxic sticky media; or
 - (r) any other substances approved through the Canadian General Standards Board for Organic Agriculture will be deemed permitted pesticides.

SCHEDULE B
CITY OF NELSON
APPLICATION FORM
PESTICIDE PERMIT APPLICATION FORM

PROPERTY INFORMATION:

CIVIC ADDRESS: _____

LEGAL DESCRIPTION: _____
LOT BLOCK DL PLAN PID

OWNER INFORMATION:

NAME OF OWNER: _____

MAILING ADDRESS: _____

DAYTIME TELEPHONE: _____ EVENING TELEPHONE: _____

COMMERCIAL APPLICATOR INFORMATION: (REQUIRED IF APPLICATOR IS NOT THE PROPERTY OWNER)

NAME OF COMMERCIAL APPLICATOR: _____

MAILING ADDRESS: _____

DAYTIME TELEPHONE: _____ EVENING TELEPHONE: _____

**POTENTIAL RISKS ASSOCIATED WITH PESTICIDE USE
AND ALTERNATIVE REMEDIES**

(1) Are you aware that there may be health risks associated with general pesticide use?

YES

NO

(2) Have you taken measures to research alternative methods of pesticide extermination?

YES

NO

(If no, please check online sources or visit the library for more information on alternative remedies to pesticide use).

DESCRIPTION OF INFESTATION: (PLEASE REFER TO BYLAW 3081, 2007 FOR FURTHER INFORMATION)

(1) Is this application for an insect infestation?

YES

NO

(2) Briefly describe infestation: _____

(3) Is the plant or insect a danger to human beings?

YES

NO

If yes please specify nature of the danger. _____

(4) What is the name of the company or individual who did the infestation assessment?

(5) What is the name of the pesticide manufacturer? _____

(6) What is the commercial brand name of the pesticide? _____

(7) What is the PCP registration number? _____

(8) Please provide information from label instructions that indicates target pests, inert and active ingredients, ratio of application, formulation etc. (If possible, attach a copy of the pesticides label). _____

(9) Describe how the pesticide is used/applied: _____

(10) Is this property within 50 metres of a public property, including but not limited to, schools and Parks?

YES

NO

(11) Have there been previous requests for pesticide use on this property?

YES

NO

(12) What is the proposed date and time of day for this pesticide application?

I HEREBY MAKE APPLICATION TO APPLY PESTICIDE TO THE ABOVE NOTED PROPERTY AND SWEAR THAT THE INFORMATION PROVIDED HEREIN IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

PROPERTY OWNER'S SIGNATURE

DATE

The personal information collected on this form is done so pursuant to the Community Charter and/or the Local Government Act and in accordance with the Freedom of Information and Protection of Privacy Act. The personal information collected herein will be used only for the purpose of processing this application or request and for no other purpose unless its release is authorized by its owner, the information is part of a record series commonly available to the public, or is compelled by a Court or an agent duly authorized under another Act. Further information may be obtained by speaking with the City of Nelson's Administration Department at 250 352-5511 or Suite 101, 310 Ward Street, Nelson.

FOR OFFICE USE ONLY

Received by: _____

Application No.: _____ Date: _____