



THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17

BYLAW 2017 - 18

BEING A BYLAW OF THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17 TO RESTRICT THE USE OF PESTICIDES.

WHEREAS Section 7 & 8 of the *Municipal Government Act, RSA 2000 c M-26* provides that a Council of a municipality may pass a bylaw regulating the safety, health, and welfare of people and the protection of people and property;

WHEREAS Section 8 of the *Municipal Government Act, RSA 200 c M-26* provides that a Council of a municipality may impose a penalty for violation of a bylaw;

WHEREAS the Council of the Municipal District of Opportunity No. 17 deems it in the public interest to limit the use of pesticides within the Hamlet boundaries;

NOW THEREFORE the Council of the Municipal District of Opportunity No 17, duly assembled, enacts as follows:

1. This bylaw is divided into the following divisions:
 - Division One – Reference, Definitions and Severability
 - Division Two – Regulation
 - Division Three – Exception
 - Division Four – Temporary Pesticide Use Permit
 - Division Five – Sports Facilities and Cemeteries
 - Division Six – Pesticide Use Requirements
 - Division Seven – Offences and Penalties

DIVISION ONE – REFERENCE, DEFINITIONS AND SEVERABILITY

Reference

This Bylaw may be cited for all purposes as the “Pesticide Bylaw.”

Definitions

101. In this bylaw:

“CAO” means a person appointed by the MD as the Chief Administrative Officer pursuant to the *Municipal Government Act*.

“Control” means to inhibit the growth or spread, or to destroy;

“Council” means the Council of the Municipal District of Opportunity No. 17.

“Enforcement Officer” means the person or entity appointed by the MD to enforce the provisions of this Bylaw including but not limited to a Bylaw Enforcement Officer, a member of the RCMP, and a Provincial Special Constable or Peace Officer.

“Hamlet Boundary” means those boundaries as defined in the MD’s *Land Use Bylaw 2013-14* as amended;

“Infestation” means the presence of a pest on more than 50% of a lawn area, more than 5m² of a plant bed area, or to any extent if posing a hazard to the health or safety of people, animals, crops, trees or shrubs.

“MD” means the Municipal District of Opportunity No. 17.

“Noxious and prohibited weeds” means plants designated as such in the *Weed Control Act AR 19/2010* as amended, and associated regulation; or the municipal *Bylaw 99-13: Weed Control Bylaw*, and includes the plant’s seeds, rhizomes, and roots;

"Person" means any individual including the owner or occupier of land, and any organization with person powers bestowed by provincial or federal law such as a corporations, cooperatives, authorities, societies, board, etc.

"Pest" means an injurious or noxious living organism that harms or acts as a vector to harm people, plants, or animals, and includes insects, other vermin, noxious and prohibited weeds, mildew, fungus, and the like but excludes virus, bacteria, fungus and internal parasite that exist on or in humans or animals.

"Pesticide" means a micro-organism or chemical agent that is designed, sold, used, or intended to be used to prevent pest infestation or to destroy, repel, or mitigate a pest and includes insecticides, herbicides, rodenticides, fungicides, etc.

"Sensitive Area" means municipal parks, and lots containing child care centres, schools, health and social service institutions, senior citizen residences, playgrounds, sports facilities.

"Waterbody" has the same meaning as in the Province of Alberta *Water Act*, RSA 2000, Chapter W-3, specifically: any location where water flows or is present, whether or not the flow or the presence of water is continuous, intermittent, or occurs only during a flood, and includes but is not limited to wetlands and aquifers but does not include a 'water body' that is part of an irrigation works if the irrigation works is subject to a license and the irrigation works is owned by the licensee, unless the regulations specify that the location is included in the definition of water body.

"Watercourse" means a river, stream, creek, and brook and the like.

"Wetland" means land saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation, and various kinds of biological activity that are adapted to a wet environment as defined in the *Alberta Wetland Classification System Guide*, 13 April 2015.

Severability

102. If any portion 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.

DIVISION TWO – REGULATION

201. No person shall apply pesticides, or cause or permit pesticides to be applied on or in any outdoor location within a hamlet boundary except in accordance with and as expressly permitted by this bylaw.
202. No person may apply pesticides on, in or to a sensitive area.

DIVISION THREE – EXCEPTIONS

301. Pesticides may applied in the hamlet boundary:
 - a) When it is applied for the management of pests that transmit human diseases or that pose a demonstrable hazard to the health and safety of people;
 - b) When it is applied for an infestation of pests subject to the issue of a permit under Division Four;
 - c) When it is applied on the base of a building and / or in a 30m strip around the building base for ant control, subject to the issue of a permit under Division Four;
 - d) When it is within a 5m radius of warehouses and other facilities of food companies or pharmaceutical manufacturing plants for vermin control, subject to the issue of a permit under Division Four;
 - e) When it is applied for the control of noxious and prohibited weeds;
 - f) When it is applied to control pests;

- g) When it is applied to lands vested in Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of the Province of Alberta, or any other governmental entity or an agent of the foregoing, in full accordance with the applicable federal, provincial and municipal regulation;
 - h) When it is applied for the maintenance of sports facilities and cemeteries subject to the issue of a permit under Division Four;
 - i) When it is used by the municipality to prevent or mitigate damage to municipal infrastructure such as sewer pipes, storm water facilities, concrete surfaces, etc.
302. Any owner or occupier of land may request that the municipal road allowance adjacent to their property be excluded from pesticide treatments, through the completion of an *Exemption from Municipal Road Allowance Herbicide Application* form attached as Schedule A.
303. Any owner or occupier of land gaining an exemption for the municipal road allowance adjacent to their property must assume responsibility for pest control in the exempted area, and upon failure to fulfill their responsibility must pay to the municipality a charge of \$150.00 per kilometer or part thereof for pest control subsequently applied by the municipality.

DIVISION FOUR – TEMPORARY PESTICIDE USE PERMIT

401. Persons wishing to use pesticides as described in sections 301 b, c, d, and h may obtain a Temporary Pesticide Use Permit by completing an application form attached to this bylaw as Schedule B, provided they meet all requirements therein.
402. A Temporary Pesticide Use Permit issued under this bylaw is valid for 14 days from date of issue.

DIVISION FIVE –SPORTS FACILITIES, CEMETERIES

501. By March 31 of every year, every operator of a sports facility or cemetery holding a Temporary Pesticide Use Permit must register with the municipality the type and maximum volume of pesticides that will be stored at the facility during the season, and the total volume of pesticide planned to be used in the year by type.
502. The room or building used for pesticide storage must have a sign on the entrance door indicating presence of hazardous substances.
503. Upon use of a pesticide in an area of the sports facility or cemetery, the operator must post signage at each public entrance to the area for 72 hours, specifying:
- I. the date of pesticide use
 - II. the active ingredient(s)
 - III. the brand name and qualifying number
 - IV. the name and telephone number of an emergency contact person, and
 - V. the phone number for the Poison Control Centre of Alberta.
504. All limits on the use of pesticides specified in Division Six apply to the use of pesticides in this section.

DIVISION SIX – PESTICIDE USE REQUIREMENTS

601. The pesticide use described in Divisions Three, Four and Five must be carried out in strict accordance with the following requirements:
- a) at least 30m from a waterbody, water course, or wetland;
 - b) at least 3m from a ditch;
 - c) during periods of no precipitation;
 - d) otherwise in full accordance with the manufacturer's specifications and with all applicable federal, provincial and municipal regulation.

DIVISION SEVEN – OFFENSES AND PENALTIES

701. Any person who contravenes any provision of this Bylaw is guilty of an offence.
702. A person who is guilty of an offence is liable to a fine in an amount not less than that established in Schedule "C" and not exceeding \$10,000.00.
703. Each day an offence continues constitutes a separate occurrence.
704. An Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any person whom the Officer has reasonable grounds to believe has contravened any provision of this Bylaw;
705. The Municipal Tag may be served:
- a. in the case of an individual,
 - I. personally to the individual;
 - II. by registered mail to the individual at their apparent place of residence or at any address for the individual on the tax roll of the MD or at the Land Titles registry;
 - III. or by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age.
 - b. in the case of a corporate entity,
 - I. personally to any director or officer of the corporate entity;
 - II. personally to a person apparently in charge of an office of the corporate entity at an address held out by the corporate entity to be its address;
 - III. or by registered mail addressed to the registered office of the corporate entity.
706. The Municipal Tag may be posted in a conspicuous place on the individual's or corporate entity's last known premises of record, if service cannot otherwise reasonably be effected.
707. The Municipal Tag shall be in a form approved by the CAO and shall state at minimum:
- a. the name of the person who allegedly committed the offence;
 - b. the location at which the offence was allegedly committed, if applicable;
 - c. the penalty imposed for the offence as specified in Schedule "C" of this Bylaw;
 - d. that the penalty must be paid within fourteen (14) clear days of the issuance of the Municipal Tag in order to avoid prosecution; and
 - e. any other information as may be required by the CAO.
708. Where a Municipal Tag has been issued pursuant to this Bylaw, the person to whom the Municipal Tag has been issued may, in lieu of being prosecuted for the offence, pay to the MD the monetary penalty specified on the Municipal Tag.
709. Where a contravention of this Bylaw is of a continuing nature, further Municipal Tags may be issued by an Enforcement Officer provided that no more than one (1) Municipal Tag is issued for each day that a contravention occurs or continues.
710. If a Municipal Tag has been issued and the penalty not paid within the prescribed time, an Enforcement Officer may issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedure Act* to the person to whom the Municipal Tag was issued.
711. Nothing in this Bylaw shall prevent an Enforcement Officer from immediately issuing a Violation Ticket to any person whom the Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
712. A Violation Ticket issued in respect of a contravention of this Bylaw shall be served upon the person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
713. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may specify a fine established by this Bylaw for the offence in Schedule "C" for voluntary payment.
714. A person to whom a Violation Ticket is issued may pay the fine amount specified to a Clerk of the Provincial Court on or before the initial appearance date indicated on the Violation Ticket.

715. When a Clerk of the Provincial Court records receipt of a voluntary payment of a fine set out in a Violation Ticket, the act of recording receipt of that payment constitutes a guilty plea to the charge, a conviction, and imposition of a penalty following the conviction.

This Bylaw comes into effect upon the date of the final Reading thereof.

READ A FIRST TIME this 11th day of October, A.D. 2017.

READ A SECOND TIME this 7th day of November, A.D. 2017

READ A THIRD TIME AND PASSED this 7th day of November, A.D. 2017.



Marcel D. Auger, Reeve



Helen Alook, Chief Administrative Officer

Schedule A
**EXEMPTION FROM
MUNICIPAL ROAD ALLOWANCE PESTICIDE**

I, _____ of (civic address) _____

(Hamlet) _____ (Postal Code) _____ (phone) _____

as owner or occupant of the following land(s):

PLAN: _____ BLOCK: _____ LOT: _____

do hereby request that pesticides NOT be used to control vegetation on the Municipal District of Opportunity No. 17 (MD) road allowance adjacent to my property. I accept responsibility for control of noxious and prohibited weeds and woody plant species in the exempted area in accordance with the following standards:

1. Cut down or pull out weeds at sufficient intervals throughout the growing season to prevent proliferation or spread of weeds by "seed set" or root expansion; and
2. Cut down and remove woody plant species over 1m tall by June 30.

I, the undersigned, agree to pay \$150 per kilometer or part thereof to the MD for control by the municipality should I fail to effect the vegetation controls as specified above.

Site Diagram N ↑

(Owner/Occupant) _____ (Date) _____

(Print name)

(MD 17 Representative) (Date)

(Print name)

Schedule B

Application for a Temporary Pesticide Use Permit

APPLICANT INFORMATION:				LANDOWNER INFORMATION: (IF DIFFERENT):			
NAME OF APPLICANT				NAME OF REGISTERED LANDOWNER			
ADDRESS				ADDRESS			
POSTAL CODE	TELEPHONE (Res.)		(Bus.)	POSTAL CODE	TELEPHONE (Res.)		(Bus.)

LAND INFORMATION

Legal description of proposed pesticide use site:

QTR./L.S.	SEC.	TWP.	RG.	M.	OR	PLAN NO.	BLOCK	LOT
-----------	------	------	-----	----	----	----------	-------	-----

Has a permit been issued previously for this location?

☐ Yes ☐ No

Last Permit Number

Area of pesticide use

Acres - or - Hectares

Current use of property: _____

Reason for request to apply pesticide: _____

PESTICIDE INFORMATION:

Method of pesticide use / type of equipment: _____ _____ _____ _____	Pests to be controlled: _____ Pesticide to be applied (name active ingredients) _____ _____
--	---

Is the location of use adjacent to a Sensitive Area?

☐ Yes ☐ No

Is the location of use adjacent to a waterbody, watercourse, or wetland?

☐ Yes ☐ No

Requested date range for pesticide use:

Rate of pesticide application:

Total quantity of pesticide to be used:

DECLARATION

I/WE HEREBY DECLARE THAT THE ABOVE INFORMATION IS, TO THE BEST OF MY/OUR KNOWLEDGE, FACTUAL AND CORRECT:

NOTE:
Signature of land owner
required if different from applicant

DATE

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF REGISTERED LAND OWNER

Attach a completed site plan

SITE PLAN

LEGAL DESCRIPTION:_____

COMMENTS:_____

(Please indicate "North" on your site plan)

Schedule C
Pesticide Bylaw No. 2017-18

FINE SCHEDULE

Second, third and subsequent offences are those that occur within a 12 month period of the first offence.

Section	1 st Offence	2 nd Offence	3 rd & Subsequent Offences
201. Cause or permit pesticide use contrary to bylaw	\$100.00	\$150.00	\$200.00