

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2504

A Bylaw to regulate the non-essential use of pesticides within the City of Courtenay

WHEREAS residents of the City of Courtenay are concerned about the non-essential use of pesticides and the risks that they may pose to the health and well-being of the environment and residents;

AND WHEREAS the application of pesticides contributes to the cumulative chemical load absorbed by the natural environment;

AND WHEREAS 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;

AND WHEREAS alternatives to the application of pesticides exist;

AND WHEREAS the Precautionary Principle of international law supports local governments anticipating and preventing threats of harm to the environment, even if some cause-and-effect relationships are not fully established scientifically;

AND WHEREAS, pursuant to the *Community Charter* and the *Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation* the Council of the City of Courtenay may pass bylaws regulating the application of pesticides;

NOW THEREFORE the Council of the City of Courtenay, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as “**Pesticide Use Bylaw No. 2504, 2007**”.

2. Definitions

(1) In this Bylaw,

- (a) “Bylaw Enforcement Officer” includes the Director of Regulatory and Property Services and Building Inspectors for the City of Courtenay or any other person designated by Council;
- (b) “Council” means the Council of the City of Courtenay;
- (c) “Permitted Pesticide” means a Pesticide as listed in Schedule 2 of the Integrated Pest Management Regulation (BC Reg. 604/2004);

- (d) “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;
- (e) “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:
 - (i) a plant growth regulator, plant defoliator or plant desiccant;
 - (ii) a control product as defined in the Pest Control Products Act (Canada); and
 - (iii) a substance that is classified as a Pesticide by the Integrated Pest Management Act (British Columbia).
- (f) “Private Land” means a parcel or a part of a parcel if the parcel or part is used for residential purposes in the City but does not include residential areas of farms;
- (g) “Public Land” means land vested in the City; and
- (h) “City” means the City of Courtenay.

3. Regulation

No person shall use or apply a Pesticide or grant the permission or authority, express or implied, to use or apply a pesticide for the purpose of maintaining outdoor trees, shrubs, flowers, other ornamental plants and turf on, in, under or upon any Private Land or Public Land.

4. Exception

- (1) Section 3 does not apply to the use or application of a Pesticide
 - (a) that is a Permitted Pesticide,
 - (b) to manage pests that transmit human diseases,
 - (c) to manage pests that impact agriculture or forestry,
 - (d) to buildings or inside buildings, or
 - (e) on land used for agriculture, forestry, transportation, public utilities or pipelines.

5. Implementation

- (1) This Bylaw shall apply to
 - (a) Public Lands as at the date of adoption; and
 - (b) Private Lands as at January 1, 2008.

6. Offences

- (1) Any person who contravenes any provision of this Bylaw shall be guilty of an offence and shall, upon summary conviction thereof, be liable to a minimum penalty of \$500.00 and a maximum fine of \$10,000.00.
- (2) Each day that an offence continues shall constitute a separate offence against this Bylaw.

7. Enforcement

- (1) This Bylaw is designated under the provisions of Section 264 of the *Community Charter* as a Bylaw that may be enforced by means of a ticket in the form prescribed, and in accordance with this Bylaw.
- (2) Bylaw Enforcement Officers, Director of Regulatory Services and Building Inspectors are designated to enforce this Bylaw pursuant to Section 264(1)(b) of the *Community Charter*.

8. Penalties

- (1) Pursuant to Section 264(1)(c) of the *Community Charter*, the words or expressions set forth below in Column 1 designate the offence committed under the Bylaw section numbers appearing in Column 2 opposite the respective words or expressions.
- (2) Pursuant to Section 265(1)(a) of the *Community Charter*, the fine amount set forth below in Column 3 is the fine amount that corresponds to the section number and words or expressions set out in Columns 1 and 2 opposite the fine amount.

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Use or application of a Pesticide within the City	3	\$100.00

9. Severability

The provisions of this Bylaw are severable and the invalidity of any part of this Bylaw shall not affect the validity of the remainder of this bylaw.

Read a first time this 11th day of June, 2007

Read a second time this 11th day of June, 2007

Read a third time this 11th day of June, 2007

Finally passed and adopted this 3rd day of July, 2007

Mayor

Manager of Corporate Administration

SUPPORTING INFORMATION FOR THE REGULATION OF THE USE OF PESTICIDES IN THE CITY OF COURTENAY

Municipalities have the authority to regulate the use of pesticides that are used to maintain grass, outdoor trees, shrubs, flowers and other ornamental plants. These guidelines are intended to clarify the requirements of the Pesticide Use Bylaw No. 2504, 2007 for homeowners, the garden care industry, local government staff and other stakeholders.

What is the purpose of the Pesticide Use Bylaw No. 2504, 2007?

Pesticides are chemicals that are regulated by both the federal and provincial governments. Their application in yards, on playing fields, and in parks contributes to the cumulative chemical impact on the natural environment. They cannot be 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.

The purpose of the Pesticide Use Bylaw is to address these issues by reducing the amount of pesticides used for non-essential purposes on outdoor plants and grass (the cosmetic use of pesticides).

What is a pest?

A pest is a living organism that causes damage to or is troublesome for ornamental garden plants, but does not include a virus, bacteria, fungus or internal parasite that exist on or in humans or animals.

What is a pesticide?

A pesticide is a micro-organism or material that is used to deal with pests, and includes herbicides.

How does the Bylaw limit the use of pesticides?

The Bylaw prohibits the application or use of pesticides on certain land within the City.

To whom does the Bylaw apply?

The Bylaw will apply to anyone who uses pesticides on public or private land, except as outlined in the Provincial Integrated Pest Management Regulation. Public land includes land owned by the City and its agents. Private land means land used for residential purposes. The Municipal Bylaw does not apply to a parcel of land that is used *solely* for purposes other than residential (i.e., residential or commercial).

Does the Bylaw apply to all uses of pesticides?

No, it does not apply to the pesticides listed in Schedule 2 of the Provincial Integrated Pest Management Regulation (see Appendix to this supporting information). These are substances that the Provincial Government has deemed exempt from regulation as pesticides. They include things like chemicals used in swimming pools and insect bait stations. It also does not apply to the use of pesticides to control pests that transmit human diseases or have an impact on agriculture or forestry.

What happens if someone does apply a pesticide?

It is an offence under the Bylaw to use or allow the use of pesticides, except as permitted by the Bylaw. For example, it would be an offence to apply a pesticide to a residential lawn. In addition, each day that a violation occurs or continues to exist would be a separate offence.

How the Bylaw be enforced?

A person who commits an offence may be issued a ticket in the amount of \$100. A bylaw enforcement officer must serve the ticket on the person who is alleged to have committed the offence. The person who is alleged to have committed the offence may pay the fine or may dispute the allegation by giving notice of the dispute.

What can complainants do?

Neighbours and others are encouraged report any applications or suspected applications of pesticides on private or public land.

APPENDIX

BC Regulation 604/2004 **Integrated Pest Management Regulation**

(as at February 8, 2005)

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)
- 10 capsaicin (DOMESTIC, COMMERCIAL and RESTRICTED)
- 11 cleansers (DOMESTIC and COMMERCIAL)
- 12 corn gluten meal (DOMESTIC and COMMERCIAL)
- 13 d-phenothryn (DOMESTIC)
- 14 d-trans-allethrin, also referred to as d-cis, trans allethrin (DOMESTIC)
- 15 deodorizers (DOMESTIC and COMMERCIAL)
- 16 fatty acids (DOMESTIC)
- 17 ferric phosphate (DOMESTIC and COMMERCIAL)
- 18 ferrous sulphate (DOMESTIC and COMMERCIAL)
- 19 hard surface disinfectants (DOMESTIC and COMMERCIAL)
- 20 insect bait stations (DOMESTIC)
- 21 insect pheromones (DOMESTIC and COMMERCIAL)
- 22 insect repellents (DOMESTIC)
- 23 laundry additives (DOMESTIC and COMMERCIAL)
- 24 material preservatives (DOMESTIC and COMMERCIAL)
- 25 methoprene (DOMESTIC)
- 26 mineral oils for insect and mite control (DOMESTIC)
- 27 n-octyl bicycloheptene dicarboximide (DOMESTIC)
- 28 naphthalene for fabric protection (DOMESTIC)
- 29 paradichlorobenzene for fabric protection (DOMESTIC)
- 30 pesticides in aerosol containers (DOMESTIC)

- 31 pesticides registered under the federal Act for application to pets (DOMESTIC and COMMERCIAL)
- 32 piperonyl butoxide (DOMESTIC)
- 33 plant growth regulators (DOMESTIC)
- 34 polybutene bird repellents (DOMESTIC and COMMERCIAL)
- 35 pyrethrins (DOMESTIC)
- 36 resmethrin (DOMESTIC)
- 37 rotenone (DOMESTIC)
- 38 silica aerogel, also referred to as silica gel, amorphous silica and amorphous silica gel (DOMESTIC and COMMERCIAL)
- 39 silicon dioxide, also referred to as "diatomaceous earth" (DOMESTIC and COMMERCIAL)
- 40 slimicides (COMMERCIAL)
- 41 soaps (DOMESTIC and COMMERCIAL)
- 42 sulphur, including lime sulphur, sulphide sulphur and calcium polysulphide (DOMESTIC)
- 43 surfactants (DOMESTIC and COMMERCIAL)
- 44 swimming pool algicides and bactericides (DOMESTIC and COMMERCIAL)
- 45 tetramethrin (DOMESTIC)
- 46 wood preservatives (DOMESTIC)