

# CITY OF PORT ALBERNI

## BYLAW NO. 4720

### PESTICIDE REDUCTION BYLAW

The purpose of this Bylaw is to protect the natural environment by regulating and reducing the non-essential use of pesticides, based on the following principles:

- (a) the application of pesticides contributes to the cumulative load absorbed by the natural environment;
- (b) pesticides cannot always be confined to a single location but move through the environment in the air, land, and water, and may impact on non-targeted organisms and plants;
- (c) there are non-pesticide alternative means of controlling weeds and other pests;
- (d) it is desirable, as a precautionary principle, to anticipate and prevent threats of harm to the natural environment even if cause and effect relationships are not fully established scientifically.

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Under its statutory powers, including sections 8(3)(j) and 9 of the *Community Charter*, and B.C. Regulation 144/2004 (Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation) Council for the City of Port Alberni enacts the following provisions:

### Part 1 – Introduction

#### 1. Title

This Bylaw may be cited as the “**Pesticide Reduction Bylaw 2009, No. 4720**”

#### 2. Definitions

In this Bylaw,

**“Director”**

means the City’s Director of Parks and Recreation including a person lawfully acting under that Director’s authority;

**“ecosystem”**

means a community of organisms and their physical environment;

**“farm”**

means land classified as farm land by an assessor appointed under the *Assessment Authority Act*;

**“infestation”**

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

**“I.P.M. Accredited Groundskeeper”**

Means a person who:

- a) Obtains and maintains accreditation in a recognized Integrated Pest Management program from the Audubon Cooperative Sanctuary Society of Canada, or equivalent, as determined by the City; and
- b) Provides proof of I.P.M. accreditation to the City Clerk on or before January 31 of each year.

**“Integrated Pest Management”**

means a decision-making process that uses a combination of techniques to suppress pests, and that includes but is not limited to the following processes:

- (a) planning and managing ecosystems to prevent organisms from becoming pests;
- (b) identifying potential pest problems;
- (c) monitoring populations of pests and beneficial organisms, pest damage, and environmental conditions;
- (d) using injury thresholds in making treatment decisions;
- (e) giving first preference to available non-pesticide alternatives;

- to permitted
- (f) reducing pest populations of acceptable levels using strategies that may include a combination of biological, physical, cultural, mechanical, behavioural, and chemical controls giving first preference pesticides; and
  - (g) evaluating the effectiveness of treatments;

**“invasive species”**

means an alien species whose introduction does or is likely to cause environmental or economic harm, or harm to human health;

**“non-essential use”**

means the application of a pesticide in either of the following circumstances:

- (a) for the purpose of improving the appearance of a plant or for another aesthetic purpose; and
- (b) without following the principles of integrated pest management defined in this Bylaw;

**“permit”**

means pesticide use permit under this Bylaw;

**“permitted pesticide”**

means a pesticide listed in Schedule 1 of this document as listed in Schedule 2 of B.C. Regulation 604/2004 [*Integrated Pest Management Regulations*] as amended or replaced from time to time;

**“pest”**

- (a) means an injurious, noxious, or troublesome living organism;
- (b) does not include a virus, bacteria, fungus or internal parasite that exists on or in humans or animals;

**“pesticide”**

means a substance or material that is represented, sold, used, or intended to prevent, destroy, repel, or mitigate a pest, including:

- (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)*;
- (c) a substance that is classified as a pesticide by the *Integrated Pest Management Act*;

**“private land”**

means a parcel of land, or part of a parcel of land, that is used for residential purposes;

**“public land”**

means land vested in the City of Port Alberni;

**“sensitive ecosystem”**

means public land or private land that has any of the following characteristics:

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

**3. Application of Bylaw**

- (1) This Bylaw applies to public land and private land.
- (2) This Bylaw does not apply to
  - (a) the use of a permitted pesticide as identified in Schedule 1;
  - (b) the management of pests that transmit human disease or impact agriculture or forestry, including urban forestry;
  - (c) the management of pests that have been designated as invasive species;
  - (d) the application of pesticides on the residential areas of farms;
  - (e) the application of pesticides on or inside buildings;
  - (f) the application of pesticides on land that is used for agriculture, forestry, or transportation;
  - (g) the application of pesticides on land that is used for pipelines, or public utilities by a Licensed Applicator under the direction of an I.P.M accredited groundskeeper, unless the pipeline or public utility is owned by the City;
  - (h) the application of pesticides on commercial, institutional, or industrial properties;
  - (i) the application of pesticides on a golf course or lawn bowling green by a Licensed Applicator under the direction of an I.P.M accredited groundskeeper; and

**Part 2 – Regulations**

**4. Applying non-essential pesticides prohibited**

A person must not apply or otherwise use pesticides on public land or private land, for the purpose of maintaining outdoor trees, shrubs, flowers, or other ornamental plants and turf, if the application or use is non-essential use.

**5. Permit required**

A person must not apply or otherwise use pesticides on public land or private land, for the purpose of maintaining outdoor trees, shrubs, flowers, or other ornamental plants and turf, unless that person first obtains a permit.

## 6. City permit requirement

A permit is required for the application or use of pesticides on public land by the City. The application must be made to City Council by the Director and include rationale for the application and must be listed in the City of Port Alberni Parks and Recreation Department's Annual Integrated Pest Management Plan.

## 7. Restrictions on applying pesticides under permit

The following restrictions apply to the application of a pesticide where authorized by a permit:

- (a) the application must be in accordance with conditions imposed by the Director under the permit;
- (b) the pesticide must not be applied within 2 m of the boundary of a parcel of land unless that is permitted by the terms of the permit;
- (c) the pesticide must not be applied within 5 m of a bus stop, schoolyard, or park, unless that is permitted by the terms of the permit;
- (d) the pesticide must not be applied within 30 m of a surface well;
- (e) the pesticide must not be applied within 3 m of an artesian well;
- (f) the pesticide must not be applied within 20 m of any of the following bodies of water and land areas:
  - (i) a river, lake, stream, pond, or open water;
  - (ii) an enclosed depression that has definable banks capable of containing water;
  - (iii) a channel that has definable beds and banks capable of confining and conducting run-off from adjacent lands; and
  - (iv) wetlands;
- (g) the pesticides must not be applied by spraying or fogging when the wind velocity exceeds 8 km/hr.;
- (h) the pesticide must not be applied during either of the following times:
  - (i) during rain;
  - (ii) when rain is forecast within the period indicated on the pesticide's packaging as necessary to ensure the efficient application of the pesticide, unless otherwise indicated on the pesticide's label;
- (i) the pesticide must not be applied when the temperature exceeds 27 degrees Celsius, unless otherwise indicated on the pesticide's label; and
- (j) insecticides must not be applied on trees during their blooming period.

## 8. Warning signs to be posted

- (1) The holder of a permit must post warning signs on the land to which a pesticide is applied.
- (2) Warning signs must be clearly visible from all roads and public pathways, and from other lands that adjoin the land to which a pesticide is to be applied.
- (3) Warning signs must comply with all of the following requirements:
  - (a) signs must be at least 12 cm x 17 cm in size;
  - (b) signs must be made of material that is weather resistant;

- not a
- (c) signs must be placed on support that is weather resistant;
  - (d) signs must be placed as follows along each boundary of the land that adjoins a road or public pathway, and that adjoins a parcel that is road or public pathway:
    - (i) each sign must be within 3 m of the boundary, and
    - (ii) one sign must be located every 16 m along the boundary
  - (e) signs must be placed at driveways, walkways, and other entrances to the land to which the pesticide is to be or has been applied;
  - (f) signs must be posted and maintained at least 48 hours before the application of the pesticide;
  - (g) signs must be maintained for the longer of the following times:
    - (i) 72 hours after the completion of the application of the pesticide; or
    - (ii) the time indicated, on the pesticide product's label, when the land can safely be re-entered after application.
  - (h) signs must contain the following information:
    - (i) the location, date, and approximate time of pesticide use;
    - (ii) an alternate date on which pesticide use may occur if there is inclement weather;
    - (iii) the time when the area can be safely re-entered after application, in accordance with paragraph (g);
    - (iv) the brand name and Pest Control Product number of the pesticide that will be used;
    - (v) the pest for which the pesticide is being used; and
    - (vi) the statement: "Permission to undertake this activity was obtained from the City of Port Alberni. Further details may be contacting the City's Parks and Recreation Department".

### Part 3 - Permits

#### 9. Pesticide use permit

- (1) A person may apply to the Director for a permit.
- (2) An applicant for a permit must provide all of the following information to the Director as outlined on Schedule 2.

#### 10. Permit fee

An applicant for a permit must pay to the City an application fee of \$25.00.

#### 11. Director's powers to issue or refuse permit

- (1) The Director may either:
  - (a) issue a permit for the use of a pesticide to manage pest infestation where the need for the use of the pesticide is urgent, effective non-alternatives are not available, and the infestation:
    - (i) threatens the integrity of sensitive ecosystems; or

- (ii) poses a serious environmental or economic loss to an owner or occupier of land; or
  - (b) refuse to issue a permit where the Director determines that the circumstances in subsections 11, (1)(a)(i) or (ii) do not apply.
- (2) The Director may issue a permit without conditions, or with conditions relating to any of the following:
- (i) the pest or the species of plant to which the pesticide may be applied;
  - (ii) the area of land on which the pesticide may be applied; or
  - (iii) the period of time in which the pesticide may be applied.

## 12. Right of appeal

- (1) The owner or occupier of real property that is subject to a decision of the Director to issue or refuse a permit, or to impose conditions on a permit, is entitled to apply to Council to have the decision reconsidered.
- (2) An application for reconsideration must be made in writing to the City Clerk within 30 days of receiving notice of the Director's decision.

## Part 4 – General

## 13. Inspections

- (1) The Director or a City employee authorized by the Director may enter, in accordance with section 16 of the Community Charter, at all reasonable times on this any property to make an assessment or inspection for any purpose under Bylaw.
- (2) A person must not prevent or obstruct, or attempt to prevent or obstruct, an entry authorized under subsection (1).

## 14. Offences and penalties

- (a) Every person who violates any of the provisions of this Bylaw, or who causes, suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, may be prosecuted under provisions of the *Offence Act* and is subject to a fine upon summary conviction of not less than \$1,000 and not more than \$10,000;
- (b) This Bylaw is designated, pursuant to section 264 of the *Community Charter*, S.B.C. 2003, c.26, as a Bylaw that may be enforced by means of a ticket in the prescribed form;
- (c) The words or expressions listed in Schedule 3 of this Bylaw in the "Designated Expression" column are authorized to be used on a ticket pursuant to section 264(1)(c) of the *Community Charter* to designate an offence against the respective section of this Bylaw appearing opposite in the "Section" column. The amounts appearing in the "Fine Amount" column are the fines set pursuant to

section 265 of the *Community Charter* for contravention of the respective section of this Bylaw appearing opposite in the "Section" column.

**15. Implementation**

- (1) Subject to section 3(2), this bylaw shall apply to:
  - (a) public and private lands as at January 1, 2010

**16. Severability**

If any section of this bylaw is held to be invalid by a Court of competent jurisdiction, then such invalid portion shall be severed and such decision shall not affect the validity of the remainder of the Bylaw.

**READ A FIRST TIME THIS 27<sup>TH</sup> DAY OF APRIL, 2009.**

**READ A SECOND TIME THIS 27<sup>TH</sup> DAY OF APRIL, 2009.**

**READ A THIRD TIME THIS 27<sup>TH</sup> DAY OF APRIL, 2009.**

**FINALLY ADOPTED THIS 11<sup>TH</sup> DAY OF MAY, 2009.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

## Schedule 1 – Permitted Pesticides

### *From the BC Integrated Pest Management Act*

#### INTEGRATED PEST MANAGEMENT REGULATION

[includes amendments up to B.C. Reg. 427/2008, December 18, 2008]

- 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)

**Schedule 2  
City of Port Alberni  
Pesticide Permit Application Form**

**PROPERTY INFORMATION:**

CIVIC ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

**OWNER INFORMATION:**

NAME OF OWNER: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

DAYTIME TELEPHONE: \_\_\_\_\_ EVENING TELEPHONE: \_\_\_\_\_

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

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:**

(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 Pest Control Product (PCP) registration number? \_\_\_\_\_

(8) Please provide information from label instructions that indicates target pests, inert and active ingredients, ratio of application, formulation etc.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(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 Port Alberni's Clerks Department at 250-720-2810 or 4850 Argyle Street, Port Alberni.

<b>FOR OFFICE USE ONLY</b>	
Received by: _____	
Application No.: _____	Date: _____

**Schedule 3 – Fines**

Designated Expression	Section	Fine Amount
Apply Without Permit	5	\$100
Apply Contrary to Permit Condition	7.(a)	\$100
Apply Within 2m of Boundary	7.(b)	\$100
Apply Within 5m of ____ (bus stop, school yard, or park)	7.(c)	\$100
Apply Within 30m of Surface Well	7.(d)	\$100
Apply Within 3m of Artesian Well	7.(e)	\$100
Apply Within 20m of Open Water	7.(f)(i)	\$100
Apply Within 20m of Containment Area	7.(f)(ii)	\$100
Apply Within 20m of Run-off Channel	7.(f)(iii)	\$100
Apply Within 20m of Wetlands	7.(f)(iv)	\$100
Apply in Wind	7.(g)	\$100
Apply in Rain	7.(h)(i)	\$100
Apply When Rain Forecast	7. (h)(ii)	\$100
Apply Over 27°C	7.(i)	\$100
Apply During Bloom	7. (j)	\$100
Fail to Post Warning Sign	8.(1)	\$100

Warning Sign Not Visible	8.(2)	\$100
Undersize Warning Sign	8.(3)(a)	\$100
Sign Not Weather Resistant	8.(3)(b)	\$100
Sign Support Not Weather Resistant	8.(3)(c)	\$100
Sign Not Within 3m of Boundary	8(3)(d)(i)	\$100
Insufficient Signage	8.(3)(d)(ii)	\$100
No Sign at Entrance	8.(3)(e)	\$100
Insufficient Warning Period	8.(3)(f)	\$100
Insufficient Post Application Warning	8.(3)(g)	\$100
Incomplete/Inaccurate Sign	8.(3)(h)	\$100
Obstruct Inspector	13.(2)	\$100