

CITY OF NANAIMO

BYLAW NO. 7102

A BYLAW TO REGULATE THE USE OF PESTICIDES IN THE CITY OF NANAIMO

WHEREAS the residents of the City of Nanaimo are concerned about the nonessential use of pesticides and the risk that pesticides may pose to the natural environment;

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 moved 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 exists;

AND WHEREAS municipalities have jurisdiction to pass bylaws regulating the application of pesticides pursuant to sections 8(3)(j) and 9 of the Community Charter and B.C. Reg. 144/2004 (Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation);

AND WHEREAS Council of the City of Nanaimo wishes to regulate the use of pesticides for non-essential purposes within Nanaimo;

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

1. Title

This Bylaw may be cited for all purposes as “PESTICIDE USE BYLAW 2010 NO. 7102”.

2. Definitions

In this bylaw:

“ALIEN INVASIVE SPECIES”

means the species of plants listed in sections 1 and 2 of the schedule to BC Reg. 144/2004 (The Spheres of Concurrent Jurisdiction – *Environment and Wildlife Act*).

“CERTIFIED PESTICIDE APPLICATOR”	means a person who maintains a valid Pesticide Applicator Certificate issued pursuant to the <i>Integrated Pest Management Act (British Columbia)</i> and the <i>Integrated Pest Management Regulation No. 604-2004</i> , as amended from time to time and a valid and current Pest Management Accreditation with Plant Health BC.
“CITY”	Means the City of Nanaimo.
“EXCLUDED PESTICIDE”	means a pesticide listed in Schedule 2 of the Integrated Pest Management Regulation, BC Reg. No. 604/2004, as amended from time to time.
“FARM”	means land classified as farm land under the <i>Assessment Act (British Columbia)</i> , as amended from time to time.
“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: <ol style="list-style-type: none">(1) a pest control product as defined in the <i>Pest Control Products Act (Canada)</i>, as amended from time to time;(2) a substance that is classified as a pesticide under the <i>Integrated Pest Management Act (British Columbia)</i>, as amended from time to time; and,(3) a plant growth regulator, plant defoliator or plant desiccant.
“PRIVATE LAND”	means a parcel or part of a parcel, in the City, that is used for residential purposes.
“PUBLIC LAND”	means land vested in the City.

3. Prohibitions

Subject to section 4, no person, owner or occupier of land, shall use or apply a pesticide or grant permission or authority to use or apply a pesticide for the non-essential purpose of maintaining outdoor trees, shrubs, flowers, other ornamental plants or turf on Private Land or on Public Land. In this section “maintaining”, includes the control, suppression or eradication of a pest.

4. Exceptions

This Bylaw does not apply to a Pesticide that is:

- (1) an Excluded Pesticide;
- (2) applied for the management of pests that transmit human diseases;
- (3) applied for the management of pests that impact agriculture or forestry;
- (4) applied to the inside or outside of a building or greenhouse;
- (5) applied on a residential area of a Farm;
- (6) applied on lands used for the purposes of agriculture, farms, forestry, transportation, public utilities or pipelines unless the public utility or pipeline is vested in the City;
- (7) applied to public or private swimming pools; or,
- (8) applied for the control of or eradication of an alien invasive species of plant;

5. Offences and Penalties

A person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 and not less than the fines prescribed in Schedule "A" of this Bylaw , the cost of prosecution and any other penalty or order imposed pursuant to the Community Charter (British Columbia) or the Offence Act (British Columbia), as amended from time to time. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.

6. Schedules

- (1) The schedule in this Bylaw forms a part of this Bylaw and is enforceable in the same manner as this Bylaw;
- (2) Council authorizes that Schedule "A" may be established by Resolution.

7. Severability

If any section or provision of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the Bylaw shall not be affected.

8. Effective Date

This Bylaw comes into force and effect on 2011-APR-04.

PASSED FIRST READING 2010-APR-12
PASSED SECOND READING 2010-APR-12
PASSED THIRD READING 2010-APR-12
ADOPTED 2010-APR-26

J. R. RUTTAN
MAYOR

I. HOWAT
DIRECTOR
LEGISLATIVE SERVICES

SCHEDULE "A"

OFFENCE	SECTION	MINIMUM FINE
Apply Pesticide Contrary to Bylaw	3.0	\$250.00