

On Cosmetic Pesticides

About municipal pesticide by-laws

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Municipalities have the legal authority to implement by-laws restricting the use of pesticides in specific situations. But that authority is limited by other federal and provincial legislations. Most commonly, a municipal by-law will target pesticide use for lawns and ornamental plants on residential properties. These by-laws can include exemptions for specific situations; for example, a pesticide

application to manage a severe pest infestation after confirmation by a certified professional or accredited company may be exempt.

What **can** be restricted by a by-law

Municipalities can restrict the “non-essential” use of pesticides. The most common non-essential uses are:

- Weeds growing in a lawn,

- Weeds growing in shrub beds and flower plantings,
- Aphids found on trees,
- Leaf spot diseases on shrubs.

What **cannot** be restricted by a by-law

Municipalities do not have the authority to restrict or make a determination about the pesticide-related questions noted below.

QUESTION	JUSTIFICATION
Is the pesticide safe or not safe?	Determined under authority of Health Canada
Can the pesticide be sold?	Determined under authority of BC Ministry of Environment
Can the pesticide be used in agriculture?	An “essential” use according to the Supreme Court of Canada
Can the pesticide be used to control rodents or in swimming pools?	Two “essential uses” for the protection of human health
Can the pesticide be used on commercial and industrial sites?	Municipalities do not have authority under the provincial Community Charter Act
Can the pesticide be used in forestry or on Crown land?	Municipalities do not have the authority under the provincial Community Charter Act
Can the pesticide be used to control noxious weeds?	Noxious weed control is mandatory under the provincial Weed Control Act
Can the pesticide be used to control regional pests?	Regional pest control is mandatory under Regional District by-laws

What is **optional** in a pesticide by-law

A city council can decide to add exemptions into a by-law for situations where a pesticide application would be allowed.

EXEMPTION	JUSTIFICATION	FREQUENCY
Specific pesticide products	The by-law includes a list of “allowed pesticides” or defers to the provincial “excluded” list	Found in all by-laws
Roads and sidewalks	For the protection of hard landscapes from roots of perennial weeds	Found in some by-laws
Severe pest infestations	This process allows a specialist to recommend a pesticide application	Found in most by-laws
City lands	For the maintenance of professional sports fields	Found in some by-laws
Golf courses	Operators make extensive use of IPM practices	Found in some by-laws
Fruit trees and vegetable gardens	For the protection of commercial agriculture found within city limits	Common in Okanagan Valley

Exemptions for severe pest infestations

A severe pest infestation could be a newly found regulated pest (for example Emerald Ash Borer), or a pest threatening to kill a tree (pine beetles), or a pest creating a major nuisance (a severe aphid outbreak on a maple tree over a parking lot).

PROCESS FOR SEVERE PEST PROBLEMS	JUSTIFICATION	FREQUENCY
Municipal spray permit	Issued by City Hall on a case-by-case basis	Common in Eastern Canada
PlantHealthBC accreditation	An industry program based on use of IPM and independent annual audits	Many municipalities in British Columbia
Certified pesticide applicator	A provincial government program based on safe use of pesticides	A few municipalities in British Columbia
ISA certified arborist	An industry program (International Society of Arboriculture) with world-wide recognition	Provincial legislation in Ontario

Supreme Court of Canada Decision

In 2001, the Supreme Court of Canada upheld a by-law from Town of Hudson, Québec. The by-law prohibited the use of cosmetic pesticides on public property. Lawn care companies contested it. The Supreme Court dismissed the appeal.

In its judgement, the Supreme Court said in part:
“Based on the distinction between essential and non-essential uses of pesticides, it is reasonable to conclude that the Town by-law’s purpose is to minimize the use of allegedly harmful pesticides

in order to promote the health of its inhabitants”.
 The word “essential” is not clearly defined, but is contrasted to non-essential, *“... where the use of pesticides is not purely an aesthetic pursuit (e.g. for the production of crops)”.*

The Supreme Court did not discuss whether pesticides are “safe” or “not safe”. Rather, it made an analogy to cigarettes, approved for sale by the Federal Government, but for which municipalities can implement further restriction. The Court also mentioned the international law “precautionary principle”

“Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.”

Since 2001, over 150 municipalities across Canada have approved a pesticide by-law, including 22 in British Columbia. In December 2009, the B.C. Ministry of Environment initiated a public consultation on possible province-wide legislation. The consultation document can be viewed on the Ministry website. For more information on the consultation, see page 15.

Cosmetic pesticide position cont’d from page 11

levels, environmental groups, First Nations, educators, researchers, and other stakeholders, while helping members meet the needs and expectations of the public. Through extensive consultation with all these groups, BCLNA has cooperatively established PlantHealthBC and placed it in the administrative hands of an independent third-party: the Institute for Sustainable Horticulture. In doing so, BCLNA is better able to maintain its role as a trustworthy association within the broader community.

Sending a message

In supporting cosmetic pesticide bans,

BCLNA sends a message that our members are active and conscientious stewards of the environment and the environmental horticulture industry. Members can put this message into action by:

- Obtaining PlantHealthBC pest management accreditation.
- Getting educated on what IPM is, working to dispel pervasive myths surrounding IPM, and in turn educating your customers, clients, colleagues, and community.
- Advocating that pesticides should only be used by qualified and knowledgeable professionals, as a last resort,

in combating pests and invasive alien species that threaten human health, delicate ecosystems, urban forests, and agricultural and horticulture crops.

- Pursuing knowledge and training on the preventative measures, monitoring, and control methods required when practicing horticulture without the use of pesticides.
- Understanding that restrictions and protocols that may seem unwieldy at first can become valuable and marketable steps in assuring the sustainability of your business in an increasingly environmentally-aware society.

On Cosmetic Pesticides

BCLNA's position on the banning of cosmetic pesticide use in British Columbia

In February 2009, BCLNA's Board of Directors moved to support the ban of cosmetic use of pesticides in the urban landscape, according to the guidelines of PlantHealthBC and the IPM model. In light of current dialogue regarding a province-wide ban, this statement intends to clarify BCLNA's position with regard to cosmetic pesticide use, the definition of "cosmetic" to which BCLNA subscribes, the basic principle of IPM, and the alignment of this position with BCLNA's mandate as the voice for the BC landscape horticulture industry.

Definitions

Cosmetic pesticides, as interpreted by the BCLNA, are defined as any pest control products used to improve appearance or aesthetics of a landscape. Cosmetic pesticide application does not include those products used to control pests or weeds that have significant detrimental effects on human health, the health of an ecosystem, the overall well-being of a constructed landscape, or on agricultural or environmental horticultural crops.

Integrated Pest Management (IPM) is a knowledge-based pest management approach requiring an understanding of the landscape ecosystem including, most notably, the relationships and interactions of organisms, especially pests and their natural enemies. It is a flexible, adaptive approach that seeks not to eliminate pests, but to manage their populations in environmentally sound ways, economically, and at acceptable levels in landscapes and public use lands. IPM uses the full range of pest management tools and tactics including cultural, physical, mechanical, biological, behavioral and chemical. Pesticides are used only as appropriate, sparingly and as a last resort. Management of pests is the goal, not control.

PlantHealthBC is a pilot project designed to encourage widespread responsible pest management in British Columbia by holding

lawn care, arboriculture and landscape maintenance companies, golf courses and parks accountable to a high standard of practices for weed, disease and insect control and by facilitating industry access to IPM/ Plant Health training. PlantHealthBC aims to create and implement a program which is open and transparent, self-sustaining and built on strong partnerships with key stakeholder groups. PlantHealthBC also aims to provide the public with a simple, reliable method for identifying companies and organizations that use responsible pest management practices.

BCLNA's position on Cosmetic Pesticide Bans

BCLNA supports the ban of cosmetic use of pesticides in the urban landscape, according to the guidelines of PlantHealthBC and the IPM model.

Congruency with BCLNA's Mission

Key to BCLNA's mission is the progressive engagement of relevant issues, to the benefit of the environmental horticulture industry.

- The banning of cosmetic pesticide use has a wide-reaching effect on landscape practitioners. It signals new social and industry knowledge of the harmful effects of pesticide misuse. It also signals a recreation of the way horticulture professionals will do business in an increasingly environmentally aware world.
- By supporting cosmetic pesticide bans, and endorsing pest management accreditation via PlantHealthBC, BCLNA is taking a progressive stance that will assist accredited companies in gaining the knowledge and skills required to reduce and/or eliminate pesticide use in their day-to-day operations.
- Much like the way BCLNA members mobilized to mitigate the spread of *P. ramorum* through nurseries, landscapes, and our broader ecosystem, a pre-emptive program to voluntarily

reduce the use of pesticides is required.

- By assuring industry expertise and input contributes to pesticide bylaws and legislation, BCLNA can assure control measures – delivered by only the most qualified and knowledgeable of applicators – remain available to safeguard human health, delicate ecosystems, urban forests, agricultural and horticultural crops from the detrimental ecologic and economic effects caused by infestations of pests, including invasive alien species.

Congruency with BCLNA objectives

BCLNA's objectives are:

- The promotion of high standards of horticulture practices throughout the Province of British Columbia.
- The provision of skilled services to the public by members of the Association.
- The promotion of the relevance of horticulture in fostering the healthy stewardship and beautification of urban and rural environments.
- The furtherance of the interests of members of the Association; and
- To do all such things as are incidental or conducive to the attainment of the above principles.

It is the position of BCLNA that supporting not simply cosmetic pesticide bans, but also subscribing to the guidelines and principals established by PlantHealthBC and IPM, ensures that BCLNA members remain leaders in advancing a skilled workforce that meets and exceeds standards of care, environmental stewardship, and the long-term industry sustainability.

Participation with the broader community

Just as BCLNA asserts the expertise of its member professionals, the association also relies heavily on the expertise offered by affiliates, industry allies, governments at all >>

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