COUNCIL REPORT

Date: October 14, 2015
File: 11.2100.01.2015

From: Andrew Banks, Senior Manager of Parks
       Corinne Ambor, Manager of Parks Planning and Community Stewardship

Subject: Proposed “Pesticide Use Control Bylaw No. 4377, 2004, Amendment
         Bylaw No. 4859, 2015”

RECOMMENDED THAT:

   4859, 2015” be read a first, second and third time; and

   No. 4862, 2015” be read a first, second and third time.

Purpose

The purpose of this report is to amend the Pesticide Use Control Bylaw No. 4377,
2004 to permit chemical treatment of knotweed on public and private property, and
to undertake housekeeping amendments to the bylaw for clarity.

An amendment to the Bylaw Notice Enforcement Bylaw No. 4368, 2004 is also
proposed, to add bylaw contraventions and penalties in relation to the Pesticide Use

1.0 Background

1.1 Prior Resolutions

   At the January 24, 2005 regular meeting, Council passed the following motions:

   THAT

   1. Pesticide Use Control Bylaw No. 4377, 2004 be introduced and read a first
      and second time.
2. Council direct the Parks and Community Services Division to draft a formal “Pesticide Use” Policy with respect to internal operations within both Departments.

3. Council direct staff to prepare a public education and awareness strategy and budget.

At the February 14, 2005 regular meeting, Council passed the following motion:

THAT

Pesticide Use Control Bylaw, No. 4377, 2004 be adopted.

At the June 16, 2014 regular meeting, Council passed the following motions:

THAT

1. The Invasive Plants Strategy, attached to the report dated May 26, 2014, as Appendix A, be approved; and that

2. The Invasive Plants Strategy be incorporated into District work plans, and into the budget process for 2015 and for subsequent years.

1.2 History

In 2004, comprehensive community consultation was undertaken on the use of cosmetic pesticides in the District. Through this consultation, strong community support was demonstrated for the adoption of a bylaw that would restrict the use of pesticides for cosmetic purposes in West Vancouver. Consequently, the Pesticide Use Control Bylaw No. 4377, 2004 was adopted in June 2004. Cosmetic pesticide bans were under discussion by many municipalities at the time, including Port Moody and City of Vancouver, which brought in pesticide bylaws in early 2006.

2.0 Policy

2.1 Policy

2012 Parks Master Plan states in its goals:

Embed environment best practices within all Park Department activities.

2014 Invasive Plants Strategy
Recommendation 4.1.2 states: Amend the Pesticide Use Control Bylaw to allow for the use of pesticides following Best Management Practices for control of invasive plants when necessary.

The District’s current and long standing practice is not to use pesticides for cosmetic purposes on sport fields, lawn areas, flowerbeds and street trees. This practice is in alignment with the 2012 Parks Master Plan and the 2014 District Invasive Plants Strategy. The Gleneagles and Par 3 Golf Courses use pesticides only when necessary and on a limited basis to control fungal disease on greens and tees. The golf courses continue to pursue best practices through Integrated Pest Management (IPM) techniques to limit pesticide use on greens and tees.

2.2 Bylaw

Pesticide Use Control Bylaw No. 4377, 2004 restricts the use of pesticides for cosmetic purposes in West Vancouver.

3.0 Analysis

3.1 Discussion

Proposed Amendments to Pesticide Use Control Bylaw No. 4377, 2004 for Knotweed Control

The Invasive Plants Strategy recognizes that in certain situations the use of pesticides is required to address invasive plants. Recommendation 3.1.2 of the Invasive Plants Strategy states the following:

On public lands, the use of pesticides to control invasive plants should only be used when Best Management Practices indicate that a) the invasive plant is more harmful to the environment than the use of pesticides or b) other control methods are not effective, feasible or are considered to be more harmful to the environment than the use of pesticides.

Current research shows that the Best Management Practice for the control of knotweed is through chemical control either using stem injection or wiping of leaves. The Pesticide Use Control Bylaw No. 4377, 2004 did not anticipate that the Best Management Practice for control of invasive plants could be with chemical treatment.
The proposed Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015 will permit the use of chemical means to control the four varieties of knotweed plants, following the Best Management Practices as outlined in the Invasive Plants Strategy. This is accomplished through the addition of paragraph 5.2.8 and the addition of Schedule C to the Bylaw.

This proposed amendment to the Pesticide Use Control Bylaw No. 4377, 2004 will fulfill the Invasive Plants Strategy Recommendation 4.1.2.

Proposed Housekeeping Amendments to Pesticide Use Control Bylaw No. 4377, 2004

The proposed Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015 includes housekeeping amendments for clarity as follows:

- removing language from the Definitions section that does not appear elsewhere in the Bylaw;
- correcting a formatting error in the section defining “Pesticide”;
- correcting a reference to the Community Charter in Section 4.1;
- improving language in Section 5.1;
- correcting formatting and improving language in Sections 5.2.5 and 5.2.6;
- updating the language in the Offense and Penalty Section;
- adding “Golf courses” to Schedule B; and
- renaming “Appendix 1” as “Schedule D”.

Proposed Amendment to Bylaw Notice Enforcement Bylaw No. 4368, 2004

An amendment to the Bylaw Notice Enforcement Bylaw No. 4368, 2004 is also proposed to add bylaw contraventions and penalties in relation to the proposed Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015.

3.2 Sustainability

The management of pesticides for cosmetic purposes is an important measure in achieving environmental sustainability. Amending the Pesticide Use Control Bylaw No. 4377, 2004 to allow the use of chemicals to control knotweed will assist in the management of this invasive plant.
3.3 Consultation

During the development of the Invasive Plants Strategy in 2013/2014, comprehensive community consultation took place. This proposed amendment to the Pesticide Use Control Bylaw was considered a “very high priority” by the Invasive Plants Working Group and the community.

3.4 Communications Process

The Invasive Plants Strategy had a robust communications process during its development. The recommendation to amend the Pesticide Use Control Bylaw was discussed with the community through this communications process.

3.5 Options

Council may:

- Approve the proposed Bylaw amendments as presented;
- Request further information about the proposed Bylaw amendments;
- Not proceed with the proposed Bylaw amendments.

Author: [Signature]
Andrew Banks
Senior Manager of Parks

Author: [Signature]
Corinne Ambor
Manager of Parks Planning & Community Stewardship

Concurrence: [Signature]
Sarah Almas
Manager of Bylaw & Licensing Services

Appendices:


Appendix B: Proposed Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 4862, 2015
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Pesticide Use Control Bylaw
Bylaw No. 4377, 2004,
Amendment Bylaw No. 4859, 2015

Effective Date:
District of West Vancouver

Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015

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District of West Vancouver

Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015

A bylaw to amend the Pesticide Use Control Bylaw No. 4377, 2004, to address the use of pesticides on certain invasive species within the District of West Vancouver.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to provide for an amendment to the Pesticide Use Control Bylaw No. 4377, 2004;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

1.1 This bylaw may be cited as Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015.

Part 2 Severability

2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 General Regulations

3.1 Pesticide Use Control Bylaw No. 4377, 2004 is amended by:

(a) deleting the following from section 3.1:

"Cosmetic Purposes" means the use of pesticides for non-essential use in certain situations where the application is purely for an aesthetic pursuit.
“Hard Landscapes” means any constructed surface typically used for landscaping such as asphalt, concrete, rocks, gravel, treated wood or brick pavers.

“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.

(b) replacing definition of “Pesticide” in section 3.1 in its entirety with the following:

“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 but is not limited to:

(a) a plant growth regulator, plant defoliator or plant desiccant,

(b) a control product as defined in the Pest Control Products Act (Canada), and

(c) a substance that is classified as a pesticide by the Integrated Pest Management Act (British Columbia).

(c) replacing the text of section 4.1 in its entirety with the following:

Municipalities have jurisdiction to pass pesticide regulation bylaws pursuant to s.8(3)(j) of the Community Charter.

(d) replacing the text of section 5.1 in its entirety with the following:

No person may apply or otherwise use pesticides, except Permitted Pesticides, for the purpose of maintaining outdoor trees, shrubs, flowers, other ornamental plants and turf on Private Lands or Public Lands, except on those lands listed in Schedule “B”.

(e) replacing the text of section 5.2 in its entirety with the following:

Section 5.1 does not apply to:

5.2.1 the application or other use of Permitted Pesticides as listed in Schedule “A”;

5.2.2 the application of pesticides where there is a danger to human or animal health;

5.2.3 the use of a biological control to destroy insects or noxious
animals, including rats and mice;

5.2.4 the use of pesticides in a public or private swimming pool;

5.2.5 the use of processes for the purification of water intended for the use of human beings or animals;

5.2.6 the use of pesticides on a building or inside of a building;

5.2.7 the use of pesticides to control or destroy plants which constitute a danger for human beings who are allergic to such plants;

5.2.8 the use of pesticides to treat or control the spread of those noxious weeds listed in Schedule “C” on Private Lands and Public Lands, provided the person utilizes the methods set out in Schedule “C”;

(f) replacing the text of Part 6 in its entirety with the following:

6.1 Every person who violates a provision of this bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this bylaw, or who neglects to or refrains from doing anything required to be done by a provision of this bylaw, is guilty of an offence and is liable to the penalties imposed under this bylaw, and is guilty of a separate offence each day that a violation continues to exist.

6.2 Every person who commits an offence is liable on summary conviction to a fine or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the Offence Act.

(g) deleting the following from Schedule “B”:

Application for Exemption is attached as Appendix 1

(h) adding to Schedule “B”:

Golf courses

(i) adding new Schedule “C” – Noxious Weeds:
Schedule C – Noxious Weeds

Pesticide Use Control Bylaw 4377, 2004

The following are “noxious weeds” for the purposes of section 5.2.8 and this Schedule:

Knotweed – bohemian  (Fallopia x bohemica)
Knotweed – giant    (Fallopia sachalinensis)
Knotweed – Japanese  (Fallopia japonica)
Knotweed – Himalayan (Polygonum polystachyum)

The following are permitted methods to treat or control the spread of noxious weeds listed in this Schedule:

- Chemical stem injection for knotweed, using current best practices as outlined by the District in the Invasive Plants Strategy
- Chemical leaf wiping, for knotweed plants too small to stem inject, using current best practices as outlined by the District in the Invasive Plants Strategy

Treatment must only be done by a professional holding currently valid BC Pesticide Certification credentials for the appropriate category for the location where the treatment is being applied.

(j) deleting Appendix 1 in its entirety and inserting the following as a new Schedule “D”:

Schedule D – Application for Exemption

Pesticide Use Control Bylaw 4377, 2004

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Attachments:

DATE TO COUNCIL:
READ A FIRST TIME on [Date]

READ A SECOND TIME on [Date]

READ A THIRD TIME on [Date]

ADOPTED by the Council on [Date].

________________________________________
Mayor

________________________________________
Municipal Clerk
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Bylaw Notice Enforcement Bylaw
Bylaw No. 4368, 2004,
Amendment Bylaw No. 4862, 2015

Effective Date:
District of West Vancouver

Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 4862, 2015

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District of West Vancouver

Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 4862, 2015

A bylaw to amend Bylaw Notice Enforcement Bylaw No. 4368, 2004 to add bylaw contraventions and penalties in relation to Pesticide Use Control Bylaw No. 4377, 2004, Amendment Bylaw No. 4859, 2015

Previous amendments: Amendment Bylaws 4416, 4429, 4448, 4481, 4482, 4501, 4521, 4536, 4559, 4583, 4681, 4700, 4718, 4725, 4762

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to provide for “Bylaw Notice Enforcement Bylaw No. 4368, 2004”;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

1.1 This bylaw may be cited as Bylaw Notice Enforcement Bylaw No. 4368, 2004, Amendment Bylaw No. 4862, 2015.

Part 2 Severability

2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.
Part 3  General Regulations

Bylaw Notice Enforcement Bylaw No 4368, 2004 is amended by inserting into Schedule A the following new designated bylaw contraventions and penalties:

(a) Pesticide Use Control Bylaw No. 4377, 2004:

<table>
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<th>Section</th>
<th>Description</th>
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<th>A2 Early Penalty</th>
<th>A3 Late Penalty</th>
<th>A4 Compliance Agreement Available</th>
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<td>Application or use of pesticides where not exempted</td>
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READ A FIRST TIME on [Date]

READ A SECOND TIME on [Date]

READ A THIRD TIME on [Date]

ADOPTED by the Council on [Date].

__________________________________________
Mayor

__________________________________________
Municipal Clerk