

Ordinance in virtue of By-law concerning pesticide use (no. 04-041)

At the meeting of May 4, 2004, the Beaconsfield-Baie d'Urfé Council decrees:

1. The By-Law concerning pesticide use (no. 04-041) is applicable as of May 7, 2004.

In accordance with article 27 of by-law 04-041:

1. Paragraphs 1, 2, 3, 4, 6, and 7 of the first paragraph of article 4 of the By-law concerning pesticide use (no. 04-041) are not applicable to all of the territory of the Borough.
2. The use of a biological control agent, as designated by the Pest Management Regulatory Agency (PMRA), mineral oil or active ingredients authorized under schedule II of the Pesticides Management Code (2003, 135 G.O. II, 1653) is permitted except for the control of weeds.
3. The validity period of a temporary pesticide permit provided under article 7 of the By-law concerning pesticide use (04-041) is of 3 days from the date of issue.
4. Paragraph (1) of the first paragraph of article 24, section VIII, of the By-law concerning pesticide use (04-041) is replaced by the following:

”(1) between 9 a.m. and 3 p.m. on Monday, Tuesday, Wednesday and Thursday”
5. The last sentence of the last paragraph of article 26, section VIII, of the By-law concerning pesticide use (04-041) is replaced by the following:

“The signs must be those provided by the borough and must be in accordance with section 72 of the Pesticides Management Code (2003, 135 G.O. II, 1653), except that they must measure at least 21.5 cm x 28 cm with letters of at least 1.5 cm in height”.
6. The Borough Council authorizes the inspector to issue a permit despite the restrictions under this by-law, and under an obligation to report it at the next borough council meeting, to allow the use of pesticides in case of emergencies and health hazards, in all areas, including sensitive areas.
7. Despite the definition of the word “infestation” in article 2, the use and application of herbicides to destroy weeds are prohibited except for public health reasons.
8. The fee for the issuance of a temporary pesticide permit is \$15.

2. This ordinance will take effect as of May 7, 2004.

CITY OF MONTRÉAL
BY-LAW
04-041

BY-LAW CONCERNING PESTICIDE USE

In view of section 410 of the Cities and Towns Act (R.S.Q., chapter C-19);

In view of section 136.1 of the Charter of the City of Montréal (R.S.Q., chapter C-11.4);

At the city council meeting of April 26, 2004, it was enacted:

SECTION I
APPLICATION AND INTERPRETATION

1. This by-law applies to the entire city territory.

2. In this by-law, the following words mean:

“infestation”: the presence of insects, mildew or other toxic agents, except noxious weeds, on more than 50% of a lawn area or on more than 5 m² of a plant bed area. There is also infestation where the presence of noxious weeds, insects, mildew or other noxious agents, whatever their extent, constitutes a safety hazard, a health hazard, a tree or shrub hazard, or an animal health hazard;

“pesticide”: any substance, matter or micro-organism intended to directly or indirectly control, destroy, mitigate, attract or repel an organism that is injurious to or noxious or troublesome for humans, animal life, vegetation, crops or other goods, or intended for use as a plant growth regulator, except a drug product or a vaccine, as defined in the Pesticides Act (R.S.Q., chapter P-9.3);

“sensitive area”: child care centres, day care centres, drop-in day care centres, kindergartens or home childcare services governed by the Act respecting childcare centres and childcare services (R.S.Q., chapter C-8.2), institutions providing preschool education services or elementary or secondary school instructional services governed by the Education Act (R.S.Q., chapter I-13.3) or by the Act respecting private education (R.S.Q., chapter E-9.1), institutions providing instructional services at the college level governed by the Act respecting private education (R.S.Q., chapter E-9.1) or by the General and Vocational Colleges Act (R.S.Q., chapter C-29), educational institutions at the university level referred to in paragraphs 1 to 10 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1), health and social services institutions governed by the Act respecting health services and social services (R.S.Q., chapter S-4.2), places of worship, residences for senior citizens, playgrounds of municipal parks, sports fields of municipal parks used by children under 14, municipal parks covered by an ordinance adopted under paragraph 1 of the first paragraph of article 27, municipal parks covered by an ordinance adopted under the second paragraph of article 27, and a strip 5 m wide beyond the limit of each parcel of land.

SECTION II

PRESCRIPTIVE PROVISION

3. No pesticides may be used or applied outside buildings.

SECTION III

EXCEPTIONS

4. Despite article 3, pesticides may be used in the following cases:

- (1) if it is a biological control agent, as designated by the Pest Management Regulatory Agency (PMRA), mineral oil or active ingredients authorized under schedule II to the Pesticides Management Code (2003, 135 G.O. II, 1653);
- (2) for an infestation, unless it is a sensitive area, provided a permit is issued under article 5;
- (3) in pools and decorative ponds or self-contained artificial basins;
- (4) for the maintenance of golf courses and bowling greens, and a property used for agricultural or horticultural purposes, in accordance with this by-law;
- (5) within a radius of 5 m of warehouses and plants of food companies to ensure vermin control, subject to the issue of a permit under article 5;
- (6) around and on the door and window frames of a building for spider control, subject to the issue of a permit under article 5;
- (7) on the base of a building and on a 30 cm strip around it, for ant control, subject to the issue of a permit under article 5.

But no products referred to in paragraph 1 may be used if they have been fortified with another active antiparasitic agent.

SECTION IV

TEMPORARY PESTICIDE PERMIT

5. Every person wishing to use a pesticide for one of the exceptions referred to in paragraph 2, 5, 6 or 7 of the first paragraph of article 4, must first be granted a permit for that purpose.

6. A temporary pesticide permit is issued to the owner, to the occupant in agreement with the owner, or to the user in agreement with the owner, on the following conditions:

- (1) on payment of fees in the annual by-law concerning fees;
- (2) if it is an application referred to in paragraph 2, 5, 6 or 7 of the first paragraph of article 4;
- (3) where the area to be treated is not in a sensitive area;
- (4) where the area to be treated is more than 100 m from a water intake.

Every person who, for the benefit of others and for valuable consideration, performs work involving the use of pesticides, must, to be granted a temporary permit, in addition to meeting the conditions in the first paragraph, hold any permit or certificate required under a law or a provincial

or a federal regulation.

To determine whether it is an infestation in accordance with paragraph 2 of the first paragraph of article 4, the city may have one of its employees conduct a site inventory before issuing a permit. The percentage of the total grassy area and the plant bed area are established by adding the parts of the infested area.

7. A temporary pesticide permit issued under this section is valid for 10 days from the date of issue.

SECTION V

GOLF COURSES AND BOWLING GREENS

8. Pesticides for the maintenance of golf courses and bowling greens may be used under the conditions in this section.

9. Every operator of a golf club or a bowling green must register, under a written declaration to the city, the products stored or to be stored, and that he intends to use during the year.

The declaration required under the first paragraph must be filed with the borough office where the course is located, between March 1 and 31 of every year.

10. Pesticides must be stored in a fireproof location, with embankment, ventilation, and steel shelves. A flameproof sign must be put up at the entrance to the storage area. The sign must indicate the presence of chemical pesticides.

11. Every operator of a golf club or a bowling green must post, immediately after a pesticide application, at the course entrance, a sign specifying the date and time of application, the active ingredient, the brand name and qualification number, the name and telephone number of the person who performed the work, the certificate number of the applicator, as the case may be, and the telephone number of Poison Control Centre Quebec.

The sign must be posted for 72 hours after an application.

12. The conditions relating to the use of pesticides referred to in section VIII apply to the application of pesticides on golf courses and bowling greens.

A strip of 5 m must separate the area of application of pesticides from properties adjoining the golf courses and bowling greens.

Despite the first paragraph, the condition under paragraph 1 of the first paragraph of article 24, and the condition under the fifth paragraph of article 26, do not apply to the application of pesticides on golf courses and bowling greens.

13. Every operator of a golf club or bowling green must keep a register showing the date and reason for application, a description of the areas treated, the quantity and the name of the pesticide used, as

well as the type and registration number, per hectare, per application.

A copy of the register must be filed with the borough office where the course is located, between November 1 and 30 of every year.

14. Every operator of a golf club or a bowling green must, from the year after the adoption of this by-law and every 3 years thereafter, submit to the borough office where it is located a pesticide reduction plan containing the information referred to in section 73 of the Pesticides Management Code (2003, 135 G.O. II, 1653).

Every operator must also submit, every year, a progress report to the borough on its pesticide reduction plan.

SECTION VI

AGRICULTURAL AND HORTICULTURAL PRODUCTION

15. Pesticides may be used on a property operated for agricultural or horticultural purposes, under the conditions in this section.

16. Every operator must, by written declaration to the city, register the products stored or to be stored, and that he intends to use during the year.

The declaration required under the first paragraph must be filed with the borough office where the lot is located, between March 1 and 31 of every year.

17. Pesticides must be stored in a fireproof location, with embankment, ventilation, and steel shelves. A flameproof sign must be put up at the entrance to the storage area. The sign must indicate the presence of chemical pesticides.

18. Every operator must keep a register showing the date and reason for application, a description of the areas treated, the quantity and name of the pesticide used, as well as the type and registration number, per hectare, per application. A copy of the register must be filed with the borough office where the lot is located, between November 1 and 30 of every year.

19. The conditions relating to the use of pesticides referred to in section VIII apply to the application of pesticides on land operated for agricultural or horticultural purposes.

Despite the first paragraph, the condition under paragraph 1 of the first paragraph of article 24 does not apply to the application of pesticides on land operated for agricultural or horticultural purposes.

SECTION VII

SCIENTIFIC FACILITIES

20. Despite this by-law, the Direction des institutions scientifiques may use any pesticide required to preserve the physical and esthetic integrity of its collections, productions and layouts. But the use of products must be in accordance with a pesticide reduction plan. The lawns under the control of the Direction des institutions scientifiques are subject to this by-law.

Between 72 and 48 hours before the application of pesticides, the Direction des institutions scientifiques must post a sign at the entrance to the area to be treated. The sign must contain a description of the area treated and the time of application. In case of emergency where the survival of collections is threatened, no posting time period is required.

Where pesticides are applied, the Direction des institutions scientifiques must also post, immediately after their application, at each entrance leading to the area treated, a sign specifying the date and time of application, the active ingredient, the brand name and qualification number, the name and telephone number of the person who performed the work, the certificate number of the applicator, as the case may be, and the telephone number of Poison Control Centre Quebec. The sign must be posted for 72 hours after an application.

Biological control must be waged inside buildings open to the public, and integrated pest management is required for indoor and outdoor areas.

21. The playground of the Insectarium and of the Jardins jeunes du Jardin botanique are, for the purposes of this by-law, considered sensitive areas.

22. The Direction des institutions scientifiques must, from the year after the adoption of this by-law and every 3 years thereafter, table with the city council a pesticide reduction plan containing the information referred to in section 73 of the Pesticides Management Code (2003, 135 G.O. II, 1653).

23. The Direction des institutions scientifiques must keep an annual statement specifying the date and reason for every pesticide application, a description of the areas treated, the quantity and identification by name of the pesticide used, the type and registration number of each pesticide used, and the results of its pesticide reduction plan. A copy of the statement must be tabled with the city council before February 28 of every year.

SECTION VIII

PESTICIDE APPLICATION CONDITIONS

24. The pesticide application referred to in paragraph 2, 4, 5, 6 or 7 of article 4 must be carried out as follows:

- (1) between 9 a.m. and 4 p.m., Monday through Saturday;
- (2) more than 3 m from a watercourse or body of water where the land has a slope of less than 30%, and more than 15 m from a watercourse or water area where the land has a slope equal to or more than 30%;
- (3) more than 3 m from a ditch;
- (4) when it is not raining;
- (5) when the winds do not exceed 15 km/h, if spraying is involved;

- (6) when the temperature is less than 25°C, if spraying is involved;
- (7) when there is no smog forecast by the Meteorological Service of Canada of Environment Canada;
- (8) in accordance with the manufacturer's specifications.

The reference weather conditions for the purposes of paragraphs 4 to 6 of the first paragraph are those of the Meteorological Service of Canada of Environment Canada, for Montréal.

25. For any pesticide application referred to in paragraph 2, 4, 5, 6 or 7 of the first paragraph of article 4, every pesticide user must ensure that:

- (1) toys, bicycles, wading pools or other equipment used by children are removed;
- (2) vegetable gardens and polls are protected from contamination.

26. For any pesticide application referred to in paragraph 2, 4, 5, 6 or 7 of the first paragraph of article 4, a written notice must be sent, between 72 and 48 hours before an application, to the occupants of any building in the area to be treated, and to the occupants of neighboring buildings. The notice must specify the area to be treated, the date and time of pesticide application, the name and telephone number of the person performing the application, and the name, type and registration number of the pesticide used.

For the purposes of the first paragraph, if it concerns a multiple-unit building provided with only one main entrance, a written notice may, instead of being sent to every occupant, be posted in the entrance in plain view of all occupants. The notice must contain the information listed in the first paragraph.

For any pesticide application referred to in paragraph 2, 4, 5, 6 or 7 of the first paragraph of article 4, a sign must also be put up between 72 and 48 hours before the time scheduled for the application in the surrounding area so as to be readily discernible. The sign must specify the proposed pesticide application and time of application.

Where a pesticide application cannot be performed at the time shown on the notice that is sent or posted, and where it is postponed, a new notice must be sent or posted in accordance with this article.

Immediately after the pesticide application and for the next 72 hours, at least 2 signs or one sign every 10 m must be put with around the area to be treated so as to be readily discernible without walking over the treated surface. The signs must be those provided by the borough and be in accordance with section 72 of the Pesticides Management Code (2003, 135 G.O. II, 1653).

SECTION IX ORDINANCES

27. A borough council may, by ordinance:

- (1) determine that certain parks within its jurisdiction under section 141 of the Charter of the City of Montréal (R.S.Q., chapter C-11.4) must be considered sensitive areas as defined in article 2;

- (2) provide that one or more of the paragraphs of the first paragraph of article 4 do not apply to certain parts of or to all its territory;
- (3) limit the application of exceptions under article 4 by imposing a maximum number of applications or by limiting applications to a specific period;
- (4) reduce the permit validity period under article 7;
- (5) impose stricter pesticide application conditions than those under section VIII;
- (6) authorize any person, despite the restrictions under this by-law, and without reporting to the borough council meeting after being granted an authorization, to use pesticides in a sensitive area in case of emergency and a health hazard, including sensitive areas;
- (7) set the date on which this by-law comes into force in a territory.

The executive committee may, by ordinance, determine that certain parks under the jurisdiction of the city council under section 94 of the Charter of the City of Montréal (R.S.Q., chapter C-11.4) must be considered sensitive areas under article 2.

An ordinance adopted under this article is considered part of this by-law.

SECTION X

PENAL PROVISIONS

28. Any person who contravenes this by-law or an ordinance adopted in accordance with article 27, or tolerates or allows a violation is guilty of an offence and is liable:

- (1) in the case of an individual:
 - (a) for a first offence, to a fine of \$100 to \$1000;
 - (b) for a second offence, to a fine of \$300 to \$2000;
 - (c) for a subsequent offence, to a fine of \$500 to \$2000;
- (2) in the case of a corporation:
 - (a) for a first offence, to a fine of \$300 to \$2000;
 - (b) for a second offence, to a fine of \$600 to \$4000;
 - (c) for a subsequent offence, to a fine of \$1000 to \$4000.

SECTION XI

APPLICATION

29. For the purposes of this by-law, city employees may visit and examine any real property or personal property, as well as the interior and exterior of houses, buildings or structures to determine whether they meet by-law requirements, to check any information or to note any fact relating to the exercise of the power to issue permits, to give an authorization, or any other type of permission under this by-law.

The owners or occupants of properties, buildings and structures referred to in the first paragraph must provide city employees with access to premises.

30. Every borough council wishing to apply this by-law on its territory in 2004 must adopt an

ordinance to that effect before May 15, 2004.

31. Despite paragraph 7 of the first paragraph of article 27, this by-law applies to a borough territory no later than one year after its adoption.

32. Any by-law concerning pesticide use adopted before December 31, 2001, by a municipality referred to in section 5 of the Charter of the City of Montréal (R.S.Q., chapter C-11.4) remains in force and continues to be have effect in the territory for which it was enacted until this by-law applies to that territory, in accordance with paragraph 7 of the first paragraph of article 27 or 30 of this by-law.

Once this by-law is in force, the borough council must, before February 28 of every year, table a report with the city council on the application of this by-law on its territory.

SECTION X11
CONCORDANT PROVISION

33. The By-law concerning fees (Fiscal 2004) (03-208) is amended by adding the following after article 4:

“**4.1.** For the purposes of the By-law concerning pesticide use (04- 041), the fees for the issue of a temporary pesticide permit are:

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| (1) | in the case of an individual | \$10 |
| (2) | in the case of a corporation | \$25.” |
