

# Anchorage Municipal Code of Ordinances

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## CHAPTER 15.75 – PESTICIDE CONTROL

### 15.75.010 - Purpose of chapter.

The purposes of this chapter are to ensure to the public the benefits derived from the safe, scientific and proper use of pesticides, to safeguard the public health, safety and welfare, and to protect the public interest in the soil, waters, forests, wildlife, agriculture and other natural resources of the municipality through regulation of the application of insecticides and other pesticides.

(GAAB 16.75.020)

### 15.75.020 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Active ingredient(s) in pesticide formulations* mean(s) the portion of the formulation that will prevent, destroy, repel or mitigate a pest.

*Allowed pesticides* are those pesticides listed as "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25 (f)(1) or (2), as amended; or listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed Substances.

*Antimicrobial pesticide* means a pesticide that is intended to disinfect, sanitize reduce or mitigate growth or development of microbial organisms; or protect inanimate objects, industrial processes or systems, surfaces, water or other chemical substances from contamination, fouling or deterioration caused by bacteria, viruses, fungi, protozoa, algae or slime.

*Application* means the placement for effect of any pesticide or herbicide at or on the site where pest control or other response is desired.

*Broadcast application* or *broadcast spray* means applying the pesticide in a way that brings it into contact with more than one targeted pest organism at a time.

*Broadcast chemicals* means any chemical or biological agent intended for preventing, destroying, repelling or mitigating plant or animal life and any substance intended for use as a plant regulator, defoliant or desiccant, including but not limited to insecticides, fungicides, rodenticides, herbicides, nematocides and biocides.

*Department* means the Municipality of Anchorage Health Department or designee.

*Herbicide* means a pesticide designed to control or kill plants, weeds, or grasses.

*Inert ingredient(s) in pesticide formulations* mean(s) any substance or group of substances in the pesticide formulation, other than the active ingredient(s), that serve as surfactants, solvents, preservatives, among many other functions. An inert ingredient "may have biological activity of its own, it may be toxic to humans, and it may be chemically active (U.S. Environmental Protection Agency)."

*Invasive species* are plants or animals that are not native to a particular ecosystem and whose introduction is likely to cause environmental harm and/or harm to human health.

*Non-allowed pesticides* are any pesticides not on the allowed pesticide list as defined above and subject to restrictions on use in the municipality.

*Notice and/or notification* means a written announcement of pesticide or broadcast chemical spraying which includes specific information required in this chapter. This may include door-hangers, a mailing, or other methods that convey the required information and are approved by the department.

*Pesticides* are any chemical or biological agents that are released into the air or onto land or water for the purpose of preventing, destroying, defoliating, regulating, repelling, retarding, or mitigating plant or animal life, including insecticides, fungicides, rodenticides, herbicides, nematocides, and biocides.

*Post and/or posting* means affixing a notice to a structure, area, property or vegetation to be sprayed and maintaining such notice as specified in this chapter.

*Signal word* means the word or words that designate a degree or level of product hazard seriousness assigned to registered pesticides by the U.S. Environmental Protection Agency and are: Danger (Category 1), highly toxic; Warning (Category II), moderately toxic; Caution (Category III), slightly toxic; and None Required (Category IV), not acutely toxic.

*Structure* means that which is built or constructed, an edifice or building of any kind, or any piece of artificially built up or composed of parts joined together in some definite manner.

(GAAB 16.75.010; AO No. 2004-100(S-1), §§ 1, 2, 1-1-05; AO No. 2005-38(S-3), § 1, 5-17-05; AO No. [2017-59](#), § 1, 4-11-17; AO No. [2018-118](#), § 2, 1-1-19)

**Cross reference—** Definitions and rules of construction generally, § 1.05.020.

**15.75.025 - Pesticide-free program restrictions for municipal parks, public lands and properties.**

No person or entity shall apply pesticides within municipal parks, public lands, greenbelts, municipal properties that are open to the public, or rights of way, except in compliance with this section. The Municipality of Anchorage shall follow the precautionary approach to the use of toxic pesticides in order to prevent harm to human health and the environment.

- A. *Allowed pesticides* may be used with no prior consultation or approval from the department director or designee.
- B. *Non-allowed pesticides* may be used only under the following circumstances in the determination of the department director or designee, and then only as a last resort after non-pesticide means of control are deemed inadequate: (1) when pests present a health or safety hazard; (2) to treat invasive species that have potential for causing environmental harm; or (3) for a specific research purpose. The department director or designee will respond to a completed request for the use of a non-allowed pesticide within ten working days using these criteria:
  1. Non-allowed pesticides shall not be used for aesthetic purposes.
  2. If non-allowed pesticides are necessary to meet a health or safety pest hazard, an invasive species problem, or for research purposes, the department director or

designee will make a written determination of exception approving the application and identifying the circumstances and failure of the non-pesticide means of control. For use of single application aerosol cans against biting or stinging insects when applied according to label directions, a written determination from the department director is not required.

3. Any approved application will use the least toxic formulation at the recommended effective amount based on the product label and environmental conditions with the least potential for human exposure.
4. A non-allowed pesticide may not be applied within 150 feet of an anadromous or resident fish habitat or within 600 feet of a public or private water source that is used for human consumption unless:
  - (a) Conditions of sections 15.75.025 and 15.75.065 are met; and
  - (b) The department director or designee determines that the application will not harm anadromous or resident fish habitat and will not harm a public or private water source that is used for human consumption.

C. *Preventative methods will be to address pest problems.* Pest infestation and pest problems on municipal property shall be managed with an ecosystem-based integrated pest management strategy that focuses on long-term prevention of pests and their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and resistant varieties. Pesticides will only be used after monitoring indicates they are needed according to guidelines set forth in this section that meet pest management objectives and minimize environmental disturbances, exposure to pesticides, pesticide residues, human health and safety risks, and the health and safety of wildlife. It is the policy of the Municipality of Anchorage to take the following preventive measures to eliminate pest-conducive conditions and provide pest control on municipal public land, including but not limited to:

1. Lawn, turf, and landscape practices will foster healthy conditions that minimize pest problems. These can include lawn aeration, de-thatching practices that keep the grass less susceptible to insects, disease and weather stress, and maintaining a proper pH for the soils.
  - a. Use of invasive plant species is prohibited in all planting projects on municipal properties. Well-adapted, pest-resistant, and non-invasive grass and landscape plant varieties, identified as suitable for the Anchorage climate, will be used for future plantings to support pest mitigation.
  - b. Soil sampling and analysis will be conducted to evaluate and assess the level of care needed to maintain healthy soil for a municipal facility's lawn, turf, or landscape.
  - c. Use certified materials such as straw, gravel, and topsoil that are free of weeds, pests, and disease.
  - d. Inspect all live plant materials in potting medium. If invasive plants, undesirable weeds, plant diseases, or insect pests are present, do not allow the planting of those plants.
2. When a pest population is discovered, the population will be monitored to assess the population size, habitat, and whether or not a natural enemy population is nearby.

- a. Practices and decisions that could affect and deter pest populations will be identified using integrated pest management methods.
- b. Records will be maintained of monitoring, practices, and decisions.
3. The methods to prevent, control, and meet pest problems include but are not limited to:
  - a. *Cultural methods*: Cultural methods include, but are not limited to, selective pruning, appropriate watering, application of fertilizers free of non-allowed pesticides, and plant selection. Cultural methods of vegetation and pest control are preferred for prevention and will be employed first.
  - b. *Mechanical methods*: Mechanical methods include, but are not limited to, hand removal of pests and disease-infected plants, use of barriers and traps, hydro-axing and steaming. Mechanical methods of vegetation and pest control shall be employed to augment cultural methods when and where practicable.
  - c. *Biological methods*: Biological controls include, but are not limited to, the augmentation of insect predators, inoculation of bacterial agents, and conservation of naturally occurring predators. Biological methods of vegetation and pest control shall be employed to support cultural and mechanical methods when and where practicable.

(AO No. [2017-59](#), § 2, 4-11-17)

#### 15.75.030 - Permits and insurance required for commercial applicators.

- A. A person who engages in the business of applying pesticides or broadcast chemicals must have a valid permit issued pursuant to this chapter.
- B. A person who engages in the business of applying pesticides or broadcast chemicals may not use any pesticide, broadcast chemical or method of application of any pesticide or broadcast chemical unless such pesticide, broadcast chemical and method of application is set forth in a valid permit.
- C. A person who engages in the business of applying pesticides or broadcast chemicals must have liability insurance in the minimum amount of \$100,000.00 per individual and \$300,000.00 per accident, casualty insurance in a minimum amount of \$25,000.00, and other insurance required by law. The director may require certificates or other evidence of insurance.

(GAAB 16.75.030, 16.75.050; AO No. 86-112)

#### 15.75.035 - Failure of director to exercise authority not to constitute waiver.

The director does not waive any authority granted under this chapter by not exercising the authority.

(AO No. 86-112)

#### 15.75.040 - Issuance of applicator's permit; display; transfer.

- A. *Application.* An application for a permit under this chapter must state the name, address and telephone number of the applicant, each type of equipment to be used by the applicant, a complete list of every pesticide, broadcast chemical and method of application which the applicant intends to use, a description of the area in which the applicant wishes to conduct business, and such other information as the director reasonably requires.
- B. *Amendments.* A permit or an application for a permit may be amended without charge to include additional pesticides, broadcast chemicals or methods of application. The application to amend must be made to the director in the same manner as the original application and at least 30 days before the use of the pesticide, broadcast chemical or method of application.
- C. *Denial or revocation.* The director may refuse to issue or amend a permit or revoke a permit in part or in its entirety if the director is aware of any fact which reasonably indicates that the applicant has not or will not conduct business in a safe, scientific and proper manner, that one or more of the pesticides, broadcast chemicals or methods of application listed on the application is, or in the director's opinion is reasonably expected to be, hazardous to the public, including plant or animal life, or that other risk of harm is threatened.
- D. *Authority to impose restrictions.* The director may issue a permit subject to reasonable restrictions or may impose reasonable restrictions on an existing permit to reasonably limit the risk of harm to the public, including plants and animals.
- E. *Investigation of applicant.* The director may conduct a reasonable investigation before acting on any permit or application, including investigation of the applicant's training and the applicant's past, present or intended methods of conducting business.
- F. *Display.* The permit holder must prominently display the permit at the place of business or, if the permit holder does not have a place of business, at the permit holder's residence.
- G. *Transfer.* A permit may not be transferred.
- H. *Expiration.* The director shall issue permits on an annual basis and all permits shall expire on December 31 of the year of issuance.
- I. *Fee.* The director may set a permit fee.

(GAAB 16.75.030—16.75.050, 16.75.070; AO No. 86-112)

#### 15.75.050 - Commercial application prohibited during certain wind conditions.

A person who engages in the business of applying pesticides or broadcast chemicals may not apply by spraying any pesticide or broadcast chemicals out of doors in a manner that results in pesticide drift or if the wind speed exceeds at the site of application the maximum wind speed stated in the labeling, or seven miles per hour, if no wind speed is stated in the labeling.

(AO No. 86-112; AO No. 2004-100(S-1), § 3, 1-1-05; AO No. 2005-38(S-3), § 2, 5-17-05)

#### 15.75.060 - Notice of application by commercial applicators.

- A. A person who engages in the business of applying pesticides or broadcast chemicals shall give written notice as provided by this chapter every time they plan to apply by spraying a

pesticide or broadcast chemical out of doors. School use and notification shall be exempt for this chapter and meet all requirements of State of Alaska regulations 18 AAC 90.625.

- B. Unless otherwise provided for in this section, notice must be given at least 48 hours before application and not more than 120 hours before application. Notices posted on a treated property shall be situated so as to remain in place for at least 48 hours following pesticide or broadcast chemical spraying.
- C. The person shall post one or more copies of the notice on the property to be sprayed and provide at least one copy of the notice to each residential and commercial building located on the property which is contiguous or adjacent to the treated property. For the purposes of this section contiguous shall refer to those properties having a common boundary or edge. Adjacent shall refer to properties near or close but not necessarily touching (properties separated by a residential street, residential alley or a stream).
- D. Prior notice shall not be required if the pesticide or broadcast chemicals will be sprayed only on the exterior surface of a structure greater than 30 feet from a contiguous or adjacent property boundary and to the ground within three horizontal feet of the structure being treated. Regardless of distance, a notice shall be posted on the property where the spraying is to occur immediately prior to spraying and shall remain in place for at least 48 hours following spraying.
- E. Notice for any multi-unit dwellings or multi-tenant commercial properties:

Notwithstanding other provisions of the section, if the spraying service is procured by other than the tenants or occupants of a single unit office or dwelling, notice as specified shall be provided 48 hours and not more than 120 hours prior to spraying to all tenants and/or occupants. The owner of the property retains the responsibility for providing such notice. The commercial operator shall provide copies of the required notice to the owner or manager in sufficient time as to reasonably allow for copying/distribution prior to the required 48 hours' notice period.

- F. Notice need not be provided nor posted for:
  - 1. For use of single application aerosol cans against biting or stinging insects when applied according to label directions; or
  - 2. For insect or rodent baits in tamper-resistant containers; or
  - 3. For antimicrobial pesticides being used in commercial food establishments and drinking water wells; or
  - 4. In emergency situations; or
  - 5. If application is being made to a specific area on a property, and no property boundary is within one-hundred fifty (150) feet of that area.
- G. The person must distribute notices in a manner which is reasonably calculated to provide actual notice of pesticide or broadcast chemical spraying.
- H. The notice shall include a large font header "pesticide application" and be at least eight and one-half inches by 11 inches. It shall include the trade name of each pesticide or broadcast chemical; the active ingredient(s) in each pesticide or broadcast chemical; the signal word if one exists; the exact date and approximate time that the pesticide or broadcast chemical is planned to be or will be applied; the area to be treated; the rate, mode and concentration of application; the manufacturer's recommended re-entry time; the name, address, and telephone number of the permit holder and indication that the permit

holder is the person from whom copies of the Material Safety Data Sheet (MSDS) may be obtained; a warning that the pesticide or broadcast chemical is or may be harmful; a statement of recommended precautions; and the statement "If you have concerns, please contact your health care provider". Legibility of posted notices shall be assured for at least 48 hours after application of pesticide or broadcast chemical. The department shall provide samples of such notices and substantial compliance with such notices shall constitute compliance with this chapter.

- I. The required notices provided to residents and commercial establishments prior to spraying or application may be in the form of door-hangers, a mailing, or other methods that convey the same information and are approved by the department.

(GAAB 16.75.120; AO No. 85-8; AO No. 86-112; AO No. 2004-100(S-1), § 4, 1-1-05; AO No. 2005-38(S-3), § 3, 5-17-05)

#### 15.75.065 - Notice of pesticide application by municipality.

- A. The municipality shall provide notice in the manner set forth in section 15.75.060 and this section before it applies in any manner any pesticide out of doors.
- B. If the department director or designee determines in writing that a non-allowed pesticide must be used as a last resort to meet a health and safety hazard or to treat an invasive species on municipal property, the municipality shall post notices to the public in the following manner:
  1. Signs of a standard design and size, easily recognizable by the public and workers, shall be posted at the targeted area, at the public access points to the targeted area, and at intervals not fewer than 100 feet along a perimeter of any targeted sports playing field area if perimeter length exceeds 100 feet. In park or greenbelt entrances within 1,000 feet of the treated area will be posted and notification will be provided to each residential and commercial building located within 1,000 feet of the treatment area. For pest control projects that may require multiple treatments per year, contiguous or adjacent properties only need to receive one notice per year as long as the possibility of multiple pesticide applications is explained and the treated area is posted each time as required by this section.
    - a. Signs shall be posted 48 hours in advance of the application and remain in place for 72 hours following the application, or for the restricted entry interval specified on the product label, whichever is greater. The signs shall be displayed in a manner which is reasonably calculated to provide actual public awareness of pesticide application.
    - b. Signs shall contain the following information: Pesticide product name; active ingredient(s); inert ingredients if known; target pest; dates of anticipated pesticide application; the signal word that is used to describe the toxicity level of the product as indicated on the pesticide product label; name and contact information for the designated person.
  - C. The department will publish a list of any approved application of non-allowed pesticides within municipal parks, public lands, greenbelts, or rights-of-ways during the previous year. The list will be made publicly available through the municipal open data portal and/or municipal website.

(AO No. 86-112; AO No. 2004-100(S-1), § 5, 1-1-05; AO No. 2005-38(S-3), § 4, 5-17-05; AO No. [2017-59](#), § 3, 4-11-17)

**Editor's note—** Section 4 of AO No. [2017-59](#) states, "For purposes of this ordinance, municipal property includes all property under the control and maintenance of a municipal department or authority, or the Anchorage School District, including any municipal agency management designation under AMC 25.10.050."

**15.75.070 - Applicability of other laws.**

Except where the provisions of this chapter and any regulations promulgated pursuant to this chapter are more restrictive, the provisions of this chapter are supplemental to all other laws related to pesticide practices and shall not be construed to limit, modify, repeal or in any way affect any provisions of any other law.

(GAAB 16.75.130)