

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2686

A Bylaw to regulate the Use of Pesticides for non-Essential Purposes within the Municipality of Esquimalt

WHEREAS

- A. The residents of the Township of Esquimalt are concerned about the non-essential use of pesticides and the risk that pesticides may pose to the natural environment;
- B. the application of pesticides contributes to the cumulative chemical load absorbed by the natural environment;
- C. pesticides cannot be necessarily confined to a single location but move through the environment in the air, land and water and may have an impact on non-target organisms and plants;
- D. alternatives to the application of pesticides exist;
- E. the precautionary principle supports local governments anticipating and preventing threats of harm to the environment, even if some cause-and-effect relationships are not fully established scientifically;
- F. municipalities have jurisdiction to pass bylaws regulating the application of pesticides pursuant to sections 8(3)(j) and 9 of the *Community Charter and BC Reg. 144/2004 (Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation)*.

AND WHEREAS the Township of Esquimalt deems it expedient to provide for regulating the use of pesticides for non-essential purposes within the Township of Esquimalt.

NOW THEREFORE, The Council of the Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

1. TITLE

This Bylaw may be cited as the "*PESTICIDE USE REDUCTION BYLAW, 2008, NO. 2686.*"

2. DEFINITIONS

In this Bylaw;

COUNCIL - means the Council of the Corporation of the Township of Esquimalt.

DIRECTOR – means the Township of Esquimalt’s Director of Development Services and includes any person lawfully acting under the Director’s authority.

INSPECTOR – means the Bylaw Enforcement Officer

LAND USE FOR AGRICULTURE - means land designated as agricultural land under the Agriculture Land Commission Act and the Gorge Vale golf course which is included in the Agricultural Land Reserve.

PERMITTED PESTICIDE - means a pesticide listed in the Integrated Pest Management Regulation, B.C. Reg. 604/2004, Schedule 2 as amended or replaced from time to time. A list of these pesticides that is current to this bylaw date can be referred to in Appendix “A” of this Bylaw.

PEST – means any injurious, noxious or troublesome living organism, including weeds, insects, rodents, etc., which by the location or size of its population, adversely interferes with the health, environmental, functional or economic goals of humans.

PESTICIDE, herbicide, insecticide or fungicide means any pesticide or material that is represented, sold, used or intended to prevent, destroy, repel, or mitigate a Pest and includes:

- (a) Herbicides, that are 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)*

PRIVATE LANDS - means a parcel or part of a parcel if the parcel or part is used for residential purposes.

PUBLIC LANDS - means lands vested in the Township of Esquimalt.

SENSITIVE ECOSYSTEM - means Private or Public Lands with one or more of the following characteristics:

- (a) areas or landscape features identified in the *Sensitive Ecosystems Inventory for Eastern Vancouver Island and the Gulf Islands*, BC Ministry of Environment.
- (b) areas or landscape features identified in a municipal plan, map or zoning bylaw as environmentally sensitive, environmentally significant, environmental protection area, development permit area for protection of the environment, or other similar purpose that is compatible with the conservation of ecological features and functions of the site; or

- (c) local government parks or other protected areas designated or managed for the conservation of ecological features and functions of the site.

3. REGULATION

- 3.1 Except as permitted in this Bylaw, no person may apply or otherwise use Pesticides for the purpose of maintaining outdoor trees, shrubs, flowers, other ornamental plants and turf on a parcel or part of a parcel if the parcel is Private Land or Public Land. In this section “maintain” includes the control, suppression or eradication of a Pest.
- 3.2 Section 3.1 does not apply to the application of Pesticides:
 - 3.2.1. that are Permitted Pesticides as listed in Schedule “A” and originated from the *Integrated Pest Management Regulations BC Regs No. 604/2004 Schedule 2*.
 - 3.2.2. for the management of Pests that transmit human diseases or impact agriculture or forestry;
 - 3.2.3. to buildings or inside buildings, or
 - 3.2.4. on Land Used for Agriculture, forestry, transportation, public utilities or pipelines unless the public utility or pipeline is vested in the municipality.

4. APPLICATION

- 4.1 A person may apply to the Director for an exemption from section 3 for the use of Pesticides for Pest Infestations that threaten the integrity of sensitive ecosystems.
- 4.2 An application for exemption under Section 4(1) may be made by an applicant using the form prescribed by the Director.
- 4.3 The application fee is hereby set at \$25.00.

5. PERMITS

- 5.1 The Director may grant an exemption under section 4 where the need for the use of the Pesticide is urgent and no effective non-Pesticide alternative is available.
- 5.2 When granting an exemption under section 5.1 the Director may impose one or more conditions restricting:
 - 5.2.1 the Pest to which the Pesticide may be applied;

- 5.2.2 the area of land on which the Pesticide may be applied; and
- 5.2.3 the period of time in which the Pesticide may be applied.
- 5.3 A person who has obtained an exemption from the Director to use a Pesticide pursuant to section 5.1 must provide written notice of the use of the Pesticide in accordance with sections 5.4 and 5.5.
- 5.4 Written notice must be posted on public or private land where the Pesticide will be used and must comply with the following requirements.
 - 5.4.1 the notice must be posted on the Public or Private Land at least 48 hours before the Pesticide will be used;
 - 5.4.2 the notice must remain on the Public or Private Land until the later of 72 hours after the application of the Pesticide or the time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
 - 5.4.3 Notices must be posted in locations that are clearly visible from each roadway or public pathway adjoining the Public or Private Land, and
 - (i) within three metres of each of the property lines, intersection, each roadway, or public pathway; and
 - (ii) at driveways, walkways, and other usual entrances to the Public or Private Land;
 - 5.4.4. the notice must be made of material that is weather resistant;
 - 5.4.5 the notice must measure at least 12 centimetres by 17 centimetres;
 - 5.4.6 the notice must include the following information:
 - (i) the location, date and approximate time of the Pesticide use;
 - (ii) in the event of inclement weather, an alternate date or dates on which the Pesticide use may occur;
 - (iii) the brand name and registration number of the Pesticide that will be used;
 - (iv) the Pest for which the Pesticide is being used;
 - (v) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application; and

(vi) the following phrase "Permission to undertake this activity was obtained from the Township of Esquimalt. Further details may be viewed at the Municipal Hall".

- 5.5 Written notice must be delivered to residents of lots that are adjacent to the Public or Private Land where the Pesticide will be used and must contain the information set out in section 5.4.6
- 5.6 In Section 5.5, "lots that are adjacent" include lands separated by a roadway or public pathway.

6. OFFENCE AND PENALTY

- 6.1 A person who contravenes a provision of the Bylaw commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw, and the *Offence Act*.
- 6.2 A person commits an offence who:
- 6.1.1. violates a provision of this Bylaw;
 - 6.1.2 consents, allows or permits an act or thing to be done in violation of a provision of this Bylaw; or
 - 6.1.3 neglects to, or refrains from doing anything required to be done by a provision of this Bylaw.
- 6.3 The minimum penalty for the unlawful application of a Pesticide is a fine of:
- 6.3.1 for a first offence, the inspector will issue a warning and provide a Pesticide Use Reduction Education package and a copy of the bylaw;
 - 6.3.2 \$100.00 for a second offence; and
 - 6.3.3 \$250.00 for a third or subsequent offence.
- 6.4 The minimum penalties established in 6.4.2 and 6.4.3 will not come into force and effect or be implemented or imposed for a period of one year following the adoption of the Bylaw.

7. SEVERABILITY

Any section, subsection, sentence, clause or phrase of this Bylaw which for any reason held to be invalid by the decision of any Court of competent jurisdiction, may be severed from the balance of this Bylaw without affecting the validity of the remaining portions of this Bylaw.

Read a first time by the Municipal Council on the 20th day of May, 2008.

Read a second time by the Municipal Council on the 20th day of May, 2008.

Read a third time by the Municipal Council on the 7th day of July, 2008.

ADOPTED by the Municipal Council on the 14th day of July, 2008.

CHRIS CLEMENT
MAYOR

TOM DAY
DEPUTY MUNICIPAL CLERK

APPENDIX "A"

The following substances are “**Permitted Pesticides**” and shall be excluded from the provisions of this Bylaw (Source: Integrated Pest Management Regulation, B.C. Reg. No. 204/2004/ Schedule 2 – Excluded Pesticides):

1. acetic acid (DOMESTIC)
2. animal repellents (DOMESTIC and COMMERCIAL) except thiram
3. anti-fouling paints (DOMESTIC and COMMERCIAL)
4. antisapstain wood preservatives used on private, industrial land owned by the company or person responsible for the application (COMMERCIAL)
5. asphalt solids (pruning paints) (DOMESTIC and COMMERCIAL)
6. bacillus thuringiensis kurstaki (Btk) (DOMESTIC)
7. bactericides used in petroleum products (DOMESTIC and COMMERCIAL)
8. boron compounds (DOMESTIC)
9. boron compounds with up to 5% copper for insect control and wood preservation (COMMERCIAL)
10. capsaicin (DOMESTIC, COMMERCIAL and RESTRICTED)
11. cleansers (DOMESTIC and COMMERCIAL)
12. corn gluten meal (DOMESTIC and COMMERCIAL)
13. d-phenothryn (DOMESTIC)
14. d-trans-allethrin, also referred to as d-cis, trans allethrim (DOMESTIC)
15. deodorizers (DOMESTIC and COMMERCIAL)
16. fatty acids (DOMESTIC)
17. ferric phosphate (DOMESTIC)
18. ferrous sulphate (DOMESTIC and COMMERCIAL)
19. hard surface disinfectants (DOMESTIC and COMMERCIAL)
20. insect bait stations (DOMESTIC)
21. insect pheromones (DOMESTIC and COMMERCIAL)

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22. insect repellents (DOMESTIC)
23. laundry additives (DOMESTIC and COMMERCIAL)
24. material preservatives (DOMESTIC and COMMERCIAL)
25. methoprene (DOMESTIC)
26. mineral oils for insect and mite control (DOMESTIC)
27. n-octyl bicyclohepten dicarboximide (DOMESTIC)
28. naphthalene (DOMESTIC)
29. paraidichlorobenzene (DOMESTIC)
30. pesticides in aerosol containers (DOMESTIC)
31. pesticides registered under the Federal Act for application to pets (DOMESTIC and COMMERCIAL)
32. piperonyl butoxide (DOMESTIC)
33. paint growth regulators (DOMESTIC)
34. polybutene bird repellents (DOMESTIC and COMMERCIAL)
35. pyrethrins (DOMESTIC)
36. resmethrin (DOMESTIC)
37. rotenone (DOMESTIC)
38. silica aerogel, also referred to as silica gel, amorphous silica and amorphous silica gel (DOMESTIC and COMMERCIAL)
39. silicon dioxide, also referred to as "diatomaceous earth" (DOMESTIC and COMMERCIAL)
40. slimicides (COMMERCIAL)
41. soaps (DOMESTIC and COMMERCIAL)
42. sulphur, including lime sulphur, sulphide sulphur and calcium polysulphide (DOMESTIC)
43. surfactants (DOMESTIC and COMMERCIAL)

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- 44. swimming pool algicides and bactericides (DOMESTIC and COMMERCIAL)
- 45. tetramethrin (DOMESTIC)
- 46. wood preservative (DOMESTIC)