

PESTICIDE BYLAW, 2010, NO. 9054

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Includes Bylaw Amendments:

No. 9495

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 9054

A BYLAW TO REGULATE THE USE OF PESTICIDES ON RESIDENTIAL AND
MUNICIPAL PROPERTIES WITHIN THE DISTRICT OF SAANICH

WHEREAS:

- A. the residents of the District of Saanich 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)*.
- G. the District of Saanich deems it expedient to provide for regulating the use of pesticides for non-essential purposes within the District of Saanich;

NOW THEREFORE the Council of the District of Saanich, in open meeting assembled, enacts as follows:

PART 1 – GENERAL PROVISIONS

Title

- 1. This Bylaw may be cited for all purposes as “PESTICIDE BYLAW, 2010, NO. 9054”.

Schedules

- 2. The following Schedule attached to this bylaw forms an integral part of this bylaw and is enforceable in the same manner as this bylaw.
 - a) Schedule “A” – Permitted Pesticides

PART 2 – DEFINITIONS

Definitions

3. In this bylaw:

“District” means the District of Saanich.

“Farm” means land classified as farm land by an assessor appointed under the *Assessment Authority Act*.

“Infestation” means the presence of pests in numbers, or under conditions, that involve an immediate or potential risk of substantial loss or damage.

“Integrated pest management”, as defined in the *Integrated Pest Management Act (SBC 2003)*, means a process for managing pest populations that includes the following elements:

- (a) planning and managing ecosystems to prevent organisms from becoming pests;
- (b) identifying pest problems and potential pest problems;
- (c) monitoring populations of pests and beneficial organisms, damage caused by pests and environmental conditions;
- (d) using injury thresholds in making treatment decisions;
- (e) suppressing pest populations to acceptable levels using strategies based on considerations of biological, physical, cultural, mechanical, behavioural and chemical controls in appropriate combinations, and environmental and human health protection;
- (f) chemical pesticides will be used only when other options are not available, feasible, or effective. The least toxic pesticide that effectively controls the pest will be used;
- (g) evaluating the effectiveness of pest management treatments.

“Invasive species” means an alien species whose introduction does or is likely to cause environmental or economic harm, or harm to human health.

“Land Used For Agriculture” means land designated as agricultural land under the *Agricultural Land Commission Act* and includes agricultural land under a former Act.

“Manager of Environmental Services” means the Manager of Environmental Services employed by the District and includes any employee authorized to act on his or her behalf.

“Noxious Weeds” means plant species that are capable of inflicting agricultural loss or ill health on people; or are subject to the “Noxious Weeds Bylaw, 2000, No. 8080”, or any successor bylaw.

“Permitted Pesticide” means a pesticide listed in Schedule “A” of this bylaw

“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.

“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:

- (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).

“Pesticide Permit” has the meaning assigned in section 6.

“Precautionary Principle” means that the absence of full scientific certainty shall not be used as a reason to postpone decisions where there is a risk of serious or irreversible harm.

“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 District of Saanich.

“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*, or species and ecosystems listed by the *Conservation Data Centre*, both of the 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.

PART 3 – REGULATION

4. 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 if the parcel or part of the parcel is private land or public land. In this section “maintain” includes the control, suppression or eradication of a pest.

5. Section 4 does not apply to the application of pesticides:
 - (a) that are permitted pesticides as listed in Schedule “A”;
 - (b) for the management of pests that transmit human diseases or impact agriculture or forestry;
 - (c) on the residential areas of farms;
 - (d) to buildings or inside buildings; or
 - (e) on land used for agriculture, forestry, transportation, public utilities or pipelines unless the public utility or pipeline is vested in the municipality; or
 - (f) on land zoned commercial, institutional, or industrial; or
 - (g) by the District, on public land owned or held by the District of Saanich, when in accordance with Council’s Integrated Pest Management Policy (10/CNCL, or successor policy).

6. A person may apply to the Manager of Environmental Services for a permit to use a pesticide that is not exempt under section 5 of this bylaw (a “Pesticide Permit”) in any of the following circumstances:
 - (a) Where the pest infestation threatens the integrity of a sensitive ecosystem;
 - (b) Where the pest infestation consists of invasive species or noxious weeds; or
 - (c) Where:
 - (i) the cost to prevent, destroy, repel or mitigate the pest infestation by means not requiring a permit under this section would exceed the cost to prevent, destroy, repel or mitigate the pest infestation using a pesticide authorized by permit under this section by at least \$1,000.00; and
 - (ii) the financial harm likely to occur if measures are not taken to prevent, destroy, repel or mitigate the pest infestation would exceed \$1,000.00, taking into account the cost of replacing or restoring vegetation and landscaping damaged or destroyed, loss of amenity associated with damaged or destroyed vegetation and landscaping, and diminishment of property value.

- 6.1. No Pesticide Permit shall be issued unless the pesticide and its method of application are permitted pursuant to the Integrated Pest Management Act and the regulations thereunder.

- 6.2. An application for a Pesticide Permit shall be in the form attached to this bylaw as Appendix 1.

- 6.3. An application for a Pesticide Permit may be made by more than one (1) person, and may be for more than one (1) property, but only if the pesticide, its target plant or pest, and the pesticide applicator are identical for all such persons and properties.

7. Upon being satisfied that all requirements of this bylaw applicable to the issuance of a Pesticide Permit have fulfilled, the Manager of Environmental Services may issue a Pesticide Permit to a person to use a pesticide that is not exempt under section 5 of this bylaw, subject to such conditions as the Manager of Environmental Services may impose to better ensure compliance with this bylaw and the principles of integrated pest management, including the following:
 - (a) the species of plant or pest to which the pesticide may be applied;
 - (b) the area of land on which the pesticide may be applied; and
 - (c) the period of time in which the pesticide may be applied.
- 7.1. It is a condition of every Pesticide Permit issued under this bylaw, without the necessity of such condition being endorsed upon the permit or annexed thereto, that the pesticide applicator must be certified pursuant to the Integrated Pest Management Act and regulations thereunder, and that the pesticide applicator must, in applying a pesticide authorized by the Pesticide Permit, comply with the principles of integrated pest management.”
8. A person who has obtained a permit to use a pesticide pursuant to section 6 must provide written notice of the use of the pesticide in accordance with sections 9 and 10.
9. Written notice must be posted on public or private land where the pesticide will be used and must comply with the following requirements:
 - (a) The notice must be posted on the public or private land at least 48 hours before the pesticide will be used;
 - (b) 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;
 - (c) Notices must be posted in locations that are clearly visible from each highway or public pathway adjoining the public or private land, and
 - (i) within three metres of each of the property lines intersecting each highway or public pathway; and
 - (ii) at driveways, walkways, and other usual entrances to the public or private land;
 - (d) The notice must be made of material that is weather resistant;
 - (e) The notice must measure at least 12 centimetres by 17 centimetres;
 - (f) 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 District of Saanich. Further details may be viewed at the Municipal Hall, Planning Department, 770 Vernon Avenue".
10. 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 9 (f).
11. In section 10, "lots that are adjacent" include lands separated by a highway or public pathway.

PART 4 – OFFENCE AND PENALTY

12. A person commits an offence who:
- (a) violates a provision of this bylaw;
 - (b) consents, allows or permits an act or thing to be done in violation of a provision of this bylaw;
 - (c) neglects to or refrains from doing anything required to be done by a provision of this bylaw.
13. A person is guilty of a separate offence each day that a violation occurs or continues to exist.
14. A person who commits an offence is liable on summary conviction to a minimum fine of \$250 and a maximum fine not exceeding \$10,000.

PART 5 – SEVERABILITY

15. If a section, subsection, sentence, clause or phrase of this bylaw is held to be invalid, by the decision of a Court of competent jurisdiction, the invalid portion shall be severed and the decision shall not affect the validity of the remaining portions of this bylaw.

PART 6 – EFFECTIVE DATES

16. This bylaw shall come into effect on May 1st, 2010.

Includes Bylaw Amendments: 9495

PART 7 - SCHEDULE "A"

The following substances are permitted pesticides and shall be excluded from the provisions of this bylaw.

1. acetic acid (DOMESTIC)
2. animal repellents (DOMESTIC and COMMERCIAL) except thiram
3. anti-fouling paints (DOMESTIC and COMMERCIAL)
4. asphalt solids used as pruning paints (DOMESTIC and COMMERCIAL)
5. *Bacillus sphaericus*, also referred to as Bs (DOMESTIC)
6. *Bacillus subtilis* (DOMESTIC)
7. *Bacillus thuringiensis* var. *israelensis*, also referred to as Bti (DOMESTIC)
8. *Bacillus thuringiensis* var. *kurstaki*, also referred to as Btk (DOMESTIC)
9. bactericides used in petroleum products (DOMESTIC and COMMERCIAL)
10. boron compounds (DOMESTIC)
11. boron compounds with up to 5% copper for insect control and wood preservation (DOMESTIC and COMMERCIAL)
12. capsaicin (DOMESTIC, COMMERCIAL and RESTRICTED)
13. citric acid (DOMESTIC)
14. cleansers (DOMESTIC and COMMERCIAL)
15. copper (oxychloride and tribasic only) (DOMESTIC)
16. corn cellulose (DOMESTIC AND COMMERCIAL)
17. corn gluten (DOMESTIC and COMMERCIAL)
18. deodorizers (DOMESTIC and COMMERCIAL)
19. d-phenothrin (DOMESTIC)
20. d-trans-allethrin, also referred to as d-cis, trans allethrin (DOMESTIC)
21. fatty acids (DOMESTIC and COMMERCIAL)
22. FeHEDTA (DOMESTIC)
23. ferric phosphate (DOMESTIC and COMMERCIAL)
24. ferric sodium EDTA (DOMESTIC)
25. ferrous sulphate (DOMESTIC and COMMERCIAL)
26. formic acid (DOMESTIC and COMMERCIAL)

27. garlic (DOMESTIC)
28. hard surface disinfectants (DOMESTIC and COMMERCIAL)
29. insect repellents (DOMESTIC)
30. insect semiochemicals, including pheromones, kairomones, attractants and repellents (DOMESTIC and COMMERCIAL)
31. insecticides sold and used in tamper-resistant bait stations (DOMESTIC)
32. kaolin (DOMESTIC and COMMERCIAL)
33. lactic acid (DOMESTIC)
34. laundry additives (DOMESTIC and COMMERCIAL)
35. material preservatives (DOMESTIC and COMMERCIAL)
36. methoprene (DOMESTIC)
37. mineral oils for insect and mite control (DOMESTIC)
38. naphthalene for fabric protection (DOMESTIC)
39. n-octyl bicycloheptene dicarboximide (DOMESTIC)
40. octenol (DOMESTIC and COMMERCIAL)
41. oxalic acid (DOMESTIC and COMMERCIAL)
42. paradichlorobenzene for fabric protection (DOMESTIC)
43. pesticides in aerosol containers (DOMESTIC)
44. pesticides registered under the federal Act for application to pets (DOMESTIC and COMMERCIAL)
45. *Phoma macrostoma* (DOMESTIC)
46. piperonyl butoxide (DOMESTIC)
47. plant growth regulators (DOMESTIC)
48. polybutene bird repellents (DOMESTIC and COMMERCIAL)
49. pyrethrins (DOMESTIC)
50. pyriproxyfen (DOMESTIC)
51. resmethrin (DOMESTIC)
52. *Sclerotinia minor* (DOMESTIC)
53. silica aerogel, also referred to as silica gel, amorphous silica and amorphous silica gel (DOMESTIC and COMMERCIAL)
54. silicon dioxide, also referred to as "diatomaceous earth" (DOMESTIC and COMMERCIAL)
55. slimicides (COMMERCIAL)

56. soaps (DOMESTIC and COMMERCIAL)
57. sodium chloride (DOMESTIC)
58. spinosad (DOMESTIC)
59. sulphur, including lime sulphur, sulphide sulphur and calcium polysulphide (DOMESTIC)
60. surfactants (DOMESTIC and COMMERCIAL)
61. swimming pool algicides and bactericides (DOMESTIC and COMMERCIAL)
62. tetramethrin (DOMESTIC)
63. thymol (DOMESTIC and COMMERCIAL)
64. wood preservatives (DOMESTIC)
65. zinc strips (DOMESTIC)

APPENDIX 1 – PERMIT APPLICATION

DISTRICT OF SAANICH

PESTICIDE APPLICATION • NO FEE

Note: An application must meet one of the following requirements in order to be considered:

- a pest infestation that threatens the integrity of a sensitive ecosystem
- a pest infestation that poses a serious economic loss
- to control the spread of noxious weeds or invasive species

And all of the following:

- the use of the pesticide is permitted under the Integrated Pest Management Act
- the principles of Integrated Pest Management have been followed

Application Submission:

- Part 2 of Application Form (required) IPM Plan (required) sketch of property and relevant features (required)
- Photographs (optional) qualified professional report (if a sensitive ecosystem)

APPLICANT (Please Print)

Name					
Address				Postal Code	
Phone		Fax		E-mail	

OWNER (Please Print)

Name					
Address				Postal Code	
Phone		Fax		E-mail	

PROPERTY DESCRIPTION/ADDRESS

Legal Description:					
Address:					

- In making this application the owner agrees to permit access to the property at all reasonable times by Saanich staff, members of council or consultants authorized by Saanich, for purposes of conducting inspections of the property.
- The name, address and phone number of the applicant will be made available to the public on request.

CERTIFICATION

I hereby certify that the information is true to the best of my knowledge

SIGNATURE OF APPLICANT

DATE

AUTHORIZATION

Required if applicant is not the registered owner; strata titled developments require a written endorsement from strata council(s)

I hereby consent to the application herein

SIGNATURE OF OWNER

DATE

This collection of personal information is authorized under the Local Government Act, Community Charter and section 26(c) of the Freedom of Information and Protection of Privacy Act. The information will be used for processing this application. Questions can be directed to the District's Privacy Officer at: 770 Vernon Avenue, Victoria BC, V8X 2W7. t. 250-475-1775, e. foi@saanich.ca

STAFF USE ONLY

Project Name:

Project No:

Case No:

Details of Proposal

Area of Proposed Pesticide Application (m² or ha) : _____

Name of Pest or Plant Targeted: _____

Name of pesticide to be used: _____

Name of pesticide applicator and certification number: _____

Accreditation of the pesticide applicator (if applicable): _____

Briefly Describe Problem:

Briefly Describe Proposal:

Describe how the requirements in sections 8-11 of the Pesticide Bylaw will be met:

Proposed Date(s) for pesticide use:

Information Required for Submission

It is the responsibility of the applicant to consult with staff to determine the information required for a complete application. Processing begins only when an application is certified as complete. Additional information may be requested during application review.

Information	Details
Integrated Pest Management (IPM) Plan ▪ 3 copies	Author and credentials
	Description of Problem
	What other control methods have been used?
	How is the use of pesticides justified using the principles of IPM?
	Complete description of proposed solution.
	If serious economic loss is being claimed, please provide details of the cost if no pesticides are used, such as: replacement of vegetation; loss of maturity of vegetation; impact to the value of the property; the ecological goods and services provided by the effected vegetation; and the ability of the vegetation to recover without the on-going need for pesticides.
Sketch Plan: ▪ 3 copies metric scale only	Civic & legal address
	North arrow and scale
	Property lines, buildings, landmarks
	Area of pest problem
	Watercourses (on property or within 50m of property line)
Professional Report: ▪ 3 copies	Author and credentials
	Description of problem
	Verification of a sensitive ecosystem AND/OR Impact of noxious weed or invasive species