

BY-LAW NO. 201
TOWN OF SACKVILLE
A BY-LAW RESPECTING THE USE OF PESTICIDES

WHEREAS environmental protection has emerged as a fundamental value in Canadian society and the common future of every Canadian community depends on a healthy environment;

AND WHEREAS the Council of the Town of Sackville wishes to respond to the concerns expressed by Town residents about the environmental and health risks associated with the use of pesticides within the Town of Sackville;

AND WHEREAS avoiding unnecessary exposure to pesticides will promote the health of the inhabitants of the Town of Sackville;

AND WHEREAS Council has authority under Section 7(1) of the *Municipalities Act* to enact by-laws deemed by Council to be expedient for promoting the health, safety and welfare of the inhabitants of the municipality;

NOW THEREFORE the Council of the Town of Sackville enacts as follows:

SECTION 1 – DEFINITIONS

1(1) In this by-law:

“pesticide” means any substance, matter, or micro-organism, intended to control, destroy, reduce, attract or repel, directly or indirectly, an organism, which is noxious, harmful, or annoying for a human being, fauna, vegetation, crops or other goods, or intended to regulate the growth of vegetation, excluding medicine or vaccine;

“farmer” means a commercial food or fibre producer or horticulturist;

“retailer” means any establishment licensed to sell horticultural products;

“licensed applicator” means any person, firm or corporation of whose business involves the application and use of pesticides for compensation;

“inspector” means any person appointed by the municipality to enforce the by-law;

“municipality” means the Town of Sackville;

“infestation” means the presence of pests in numbers or under conditions which involve an immediate or potential risk of substantial loss or damage;

SECTION 2 – PERMITTED PESTICIDES

- 2(1) The following are deemed to be permitted pesticides and shall be excluded from the provisions of this by-law;
- (a) A product that uses pheromones to lure pests, sticky media to trap pests or quick-kill traps for vertebrate species considered pests such as mice and rats.
 - (b) A product that is or contains any of the following active ingredients:
 - (i) A soap (herbicidal or insecticidal);
 - (ii) A mineral oil, also called dormant or horticultural oil;
 - (iii) Silicon dioxide, also called diatomaceous earth;
 - (iv) Bt (*Bacillus thuringiensis*), nematodes and other biological control organisms;
 - (v) Borax, also called boric acid or boracic acid;
 - (vi) Ferric phosphate;
 - (vii) Acetic acid;
 - (viii) Pyrethrum or pyrethrins;
 - (ix) Fatty acids; or
 - (x) Bordeaux mixture and other sulphur compounds (i.e. Lime sulphur);
 - (xi) Ferric phosphate;
 - (xii) Pruning paint;
 - (xiii) Rodenticides
 - (c) Fertilizers which do not contain chemical or synthetic pesticides.
 - (d) Any other substance approved through the Canadian General Standards Board for Organic Agriculture.

SECTION 3 – SCOPE

- 3(1) This by-law regulates and controls the application of a pesticide on public and private property throughout the Municipality.
- 3(2) Except as provided in Section 4, the application of a pesticide is prohibited throughout the Municipality.

- 3(3) This by-law shall apply to the Municipality, its employees and any other person carrying out work at its request.

SECTION 4 – EXCEPTIONS

- 4(1) The provision set out in Section 3(2) does not apply when a pesticide is used:
- (a) To disinfect swimming pools, whirlpools, spas or wading pools;
 - (b) To purify water intended for the use of humans or animals;
 - (c) Within an enclosed building;
 - (d) To control termites;
 - (e) To control or destroy a health hazard;
 - (f) To control or destroy pests which have caused infestation to property;
 - (g) To exterminate or repel rodents;
 - (h) As a wood preservative;
 - (i) As an insecticide bait which is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimized access to the bait by humans and pets;
 - (j) For injecting into trees, stumps or wooden poles;
 - (k) By a farmer on an immovable tract which is exploited for the purposes of agriculture or horticulture, in a hot house or in the open; and
 - (l) As an insect repellent for personal use.

SECTION 5 – GOLF COURSES AND UTILITY/RAILROAD CORRIDORS

- 5.1 Notwithstanding Section 3(2), it is permitted to use a pesticide on a golf course, hydro corridor, or railway right of way as long as the following conditions are met;
- (a) The use of pesticides be done by a licensed applicator only;
 - (b) The property owner must maintain an up-to-date inventory list which must be available to the Municipality upon request;
 - (c) The applicator must have and comply with material safety sheets available for each product they might apply;
 - (d) That there be no application of pesticides within two meters of the property lines;
 - (e) That there be no applications of pesticides within ten meters of any open watercourses or wells;
 - (f) That there be no application of pesticides when the wind velocity exceeds fifteen (15) km/hr;
 - (g) Each year in the month of January, the owner must submit to the Municipality a detailed inventory of all chemicals used and applied during the year; and

- (h) That this inventory be examined by the Municipality to establish that the activities enumerated demonstrate a continuing effort to minimize the use of pesticides.

SECTION 6 – RULES CONCERNING THE PERMITTED APPLICATION OF A PESTICIDE

- 6(1) That for the purpose of Sections 4(1)(e), 4(1)(f), 4(1)(k) and Section 5 above;
 - (a) A sign, visible from the street must be posted indicating the use of pesticides. This sign must be erected no less than 24 hours prior to pesticide application and stay continuously posted for a period of 48 hours after the pesticide application.
 - (b) Each sign shall be made of a material that is weather resistant and shall be placed on a support that is weather resistant.
 - (c) Each sign shall bear the words “Warning – Pesticide in Use” and the symbol of a skull and crossbones, and shall indicate the commercial name of the pesticide used or to be used in the pesticide application and shall further indicate that all contact with the portion of the treated property upon which the pesticide application has taken place must be avoided and shall bear a contact telephone number for the licensed applicator and the date of application.
 - (d) There shall be no application of a pesticide within two (2) meters of any property line unless permission of the adjoining lot owner has been obtained in writing.
 - (e) There shall be no application of a pesticide within fifteen (15) meters of a schoolyard, playground or park.
 - (f) There shall be no application of a pesticide within 10 meters of the following:
 - (i) A river, lake, stream, pond, open water or well;
 - (ii) An enclosed depression with definable banks capable of containing water;
 - (iii) Any channel having definable beds and banks capable of conducting confined runoff from adjacent lands; and
 - (iv) Wetlands.
- 6(2) The pesticide will be applied in accordance with the written instructions of the manufacturer and the label on the container.

SECTION 7 – ENFORCEMENT

- 7(1) The Municipality shall be responsible for the enforcement of this by-law.
- 7(2) Any Inspector of the Municipality may:
 - (a) Visit and examine any property to ascertain whether there has been compliance with the provisions of this by-law;

- (b) During or after the application of a pesticide, examine all products and equipment used in the application of the pesticide;
- (c) Take all reasonable steps to determine if the provisions of this by-law are being complied with.

SECTION 8 – PENALTIES

- 8(1) Any person who violates a provision of this by-law or who engages another person to violate a provision of this by-law commits an offence and following one year after the passage of this by-law is liable to the following fine,:
 - (a) For a first offence, a minimum of one hundred dollars (\$100) and a maximum of one thousand dollars (\$1,000) if the offender is a natural person or a minimum of two hundred dollars (\$200) and a maximum of two thousand dollars (\$2,000) if the offender is a corporation or other legal entity;
 - (b) For a repeat offence within a twelve month period from the date of the last offence, a minimum of two hundred dollars (\$200) and a maximum of two thousand dollars (\$2,000) if the offender is a natural person or a minimum of five hundred dollars (\$500) and a maximum of four thousand dollars (\$4,000) if the offender is a corporation or other legal entity.
- 8(2) All such fines shall be recoverable under the *Provincial Offences Procedures Act*, S.N.B. 1987, c.P-22.1.
- 8(3) The conviction of a person under this section does not operate as a bar to further prosecution for continued neglect or failure to comply with the provisions of this by-law and the Code.
- 8(4) A person who violates any provision of this by-law may, at the discretion of the Inspector, pay the minimum fine prescribed and, upon such payment, the person who committed the violation will not be further prosecuted for the violation.

SECTION 9 – GENERAL

- 9(1) Anyone offering for sale any pesticide for the purpose outlined in Section 4 shall:
 - (a) Post a copy of this by-law; and
 - (b) Make available an adequate number of warning signs indicating the information required under Section 6 of this by-law.
- 9(2) As of March 31, 2008, all licensed applicators carrying on business within the Municipality must receive Integrated Pest Management Accreditation as

designated by the IMP-HPC Council of Canada and the New Brunswick Horticultural Trades Association.

- 9(3) As of March 31, 2008, a requirement for tenders issued by the Municipality for pest control will be that licensed applicators have IPM Accreditation as outlined in Section 9(2).
- 9(4) The Municipality will make available for public distribution information on the use of alternative methods for the control of pests and conduct education programs to advise the community on the use of such methods.
- 10(1) This by-law comes into force on the date of final passing thereof.

Read a first time this 14th day of February, 2005.

Read a second time this 13th day of March, 2006.

Read a third time and passed Council this 13th day of March, 2006.

Mayor

Clerk