

TOWN OF ST. ANDREWS

BY-LAW NO. 06-03

A BY-LAW CONCERNING THE APPLICATION OF PESTICIDES IN THE TOWN OF SAINT ANDREWS

WHEREAS Municipalities Act, R.S.N.B., 1973 Chapter M-22,S 190 (2), First Schedule, authorizes a municipality to provide any service deemed by the council to be expedient for the peace, order and good government of the municipality and for promoting the health, safety and welfare of the inhabitants of the municipality;

AND WHEREAS the Supreme Court of Canada ruled in 114957 Canada Ltée (Spraytech, societe D'Arrosage) v. Hudson (Town), [2001] 2 S.C.R. 241 that a similar general welfare provision authorized municipalities to enact by-laws respecting pesticide use;

AND WHEREAS the purpose of this by-law is to restrict and control the use of pesticides for treatment of trees, lawns, turf and gardens so as to protect the health of people and the environment in Saint Andrews

DEFINITIONS:

1 in this by-law

“I.P.M. accredited groundskeeper” means a person who

(a) obtains and maintains accreditation in a recognized integrated pest management program or equivalent, as determined by the Municipality; and

(b) provides proof of I.P.M.A. accreditation to the Town Clerk on or before January 31st of each year.

“municipality”: means the Town of Saint Andrews

"pesticide" means

(a) a product, an organism or a substance, including a product, an organism or a substance derived through biotechnology, that consists of its active ingredient, formulants and contaminants, and that is manufactured, represented, distributed or used as a means for directly or indirectly controlling, destroying, attracting or repelling a pest or for mitigating or preventing its injurious, noxious or troublesome effects;

(b) an active ingredient that is used to manufacture anything described in paragraph (a);
or

(c) all substances listed in the Canadian Pest Control Act.

PROHIBITION

2 Effective October 1, 2006 spreading and use of pesticides in the Municipality will be prohibited throughout the territory of the Municipality.

EXCEPTIONS

3 Notwithstanding article 2, it is permitted to use a pesticide in the following cases:

(a) to treat water in a public or private swimming pool;

(b) to purify water intended for the use of human beings or animals;

(c) inside of a building;

(d) to control or destroy animals which constitute a danger for human beings;

(e) to control or destroy plants which constitute a danger for human beings.

4(1) Notwithstanding section 2, the use of pesticides for a golf course, a commercial garden or horticultural operation is permitted only on a certified Audubon Sanctuary as stipulated by the Audubon Sanctuaries standards and applied under the direction of an accredited Integrated Pest Management [I.P.M.] certified groundskeeper, and only after having considering all nontoxic alternatives where ever possible and feasible.

4(2) This conditional requirement for the use of pesticides referred to in subsection 1 will be in effect as of March 31, 2007.

4(3) The golf course, commercial garden or horticultural operation certified groundskeeper will be required to submit to the Town of St. Andrews the 31st of March of each year, commencing March 31, 2007, a list of the pesticides and amounts used for each of the preceding 5 years.

5(1) Notwithstanding Article 2, it is permitted to use a pesticide to control or destroy insects (or other pests) which constitute a human health or other emergency in the judgment of authorized representatives or officers of the municipality.

5(2) An application for a pesticide permit shall be made to the Chief Administrative Officer of the municipality on the application form prescribed in Schedule "B" hereto, pr on the said form as amended from time to time by resolution of council.

6 The pesticides listed in Schedule "A" hereto are permitted pesticides and shall be excluded from the provisions of this by-law.

SIGNS

7(1) If, according to Article 5, person is granted permission to use pesticides to deal with a human health hazard, before such application that person must place signs adjacent to the area where the application is to be made which are clearly visible from the street, road, path or public or private access on which such treated areas are fronting.

7(2) The signs required by Section 5 (a) must be weatherproof rigid and uncurling, and display visual symbol for non-reader and shall remain in place at least forty-eight (48) hours after the application of pesticides and no person may move or remove said signs during, that period.

7(3) signs shall:

(a) measure at least 20 centimeters (8 inches) by 20 centimeters (8 inches);

(b) contain the words 'Application of/de Pesticides' and identify the pesticides used in black lettering on a bright orange background;

(c) be erected not more than 24.5 metres (80 feet) apart; and

(d) be erected at a height of not less than 1 metre (3 feet).

ENFORCEMENT

8. The municipality shall appoint one or more persons to enforce this by-law.

PENALTY

9(1) A person who violates or fails to comply with a provision of this by-law and anyone who engages another person to contravene any provision of this by-law are guilty of an offence.

9(2) A person charged with an offence under this by-law may, on or before the date a charge pertaining to the offence has been laid in Provincial Court, make a voluntary payment of \$100.00 to the municipality at which time the ticket or ticket number shall be surrendered to the municipality and such payment shall be deemed payment in full.

9(3) If the voluntary payment set out in subsection 9(2) has not been received on or before the hearing scheduled for entering of plea before the Provincial Court, the person charged with the offence is liable on conviction to a fine not less than \$100.00 and not more than the maximum fine that may be imposed for commission of an offence punishable under part II of the Provincial Offences Procedures Act as a category D offence.

9(4) On conviction a court may order an environmental assessment and remediation and the cost thereof may be ordered paid by a person convicted.

REPEAL PROVISION

10 By-law No. 97-06, being A By-law of the Town of Saint Andrews concerning the Application of Pesticides, is hereby repealed.

FIRST READING: April 03, 2006

SECOND READING: May 1, 2006

THIRD READING: June 5, 2006

Mayor

Town Clerk

SCHEDULE "A"
[Permitted Pesticides]

The following substances are permitted pesticides and shall be excluded from the provisions of this Bylaw:

1. Insecticidal soaps
2. Herbicidal soaps
3. Bt (*Bacillus thuringiensis*)
4. Nematodes
5. Other biological control organisms
6. Animal repellents
7. Rodenticides
8. Injected tree treatments
9. Sticky media
10. Borax
11. Dormant Oils
12. Horticultural Oils
13. Bordeaux mixture and other sulphur compounds
14. Lime Sulphur
15. Ferric phosphate
16. Pruning paint
17. Pheromone traps
18. Diatomaceous earth
- 19. Pyrethrum (or pyrethrins)**
- 20. Rotenone**

Other products permitted to spread or otherwise use materials and/or products for pest control are those listed as "Allowed" by the Canadian General Standards Board (CGSB) <http://www.pwgsc.gc.ca/cgsh/home/index-e.html> for organic agriculture or by the Organic Materials Review Institute (OMRI) <http://www.omri.org>. Please note that some materials listed as allowable by OMRI may not be available in Canada.

SCHEDULE "B"
APPLICATION FORM
Pesticide permit application form

PROPERTY INFORMATION:

CIVIC ADDRESS: _____

LEGAL DESCRIPTION: _____
 LOT BLOCK DL PLAN PID

OWNER INFORMATION:

NAME OF OWNER: _____

MAILING ADDRESS: _____

DAYTIME TELEPHONE: _____ EVENING TELEPHONE: _____

COMMERCIAL APPLICATION INFORMATION: (REQUIRED IF APPLICATOR IS NOT THE PROPERTY OWNER)

NAME OF COMMERCIAL APPLICATOR: _____

MAILING ADDRESS: _____

DAYTIME TELEPHONE: _____ EVENING TELEPHONE: _____

POTENTIAL RISKS ASSOCIATED WITH PESTICIDE USE AND ALTERNATIVE REMEDIES

(1) Are you aware that there may be health risks associated with general pesticide use?

YES NO

(2) Have you taken measures to research alternative methods of pest extermination?

Yes NO

(If no, please check online sources or visit the library for more information on alternative remedies to pesticide use).

DESCRIPTION OF INFESTATION: (PLEASE REFER TO BYLAW 06-XX, 2006 FOR FURTHER INFORMATION)

(1) Is this application for an insect infestation?

Yes NO

(2) Briefly describe infestation: _____

(3) Is the plant or insect a danger to human beings?

Yes NO

If yes, please specify the nature of the danger. _____

(4) What is the name of the company or individual who did the infestation assessment?

(5) What is the name of the pesticide manufacturer?

(6) What is the commercial brand name of the pesticide

(7) What is the PCP registration number? _____

(8) Please provide information from label instructions that indicates target pests, inert and active ingredients, ratio of application, formulation, etc. (If possible, attach a copy of the pesticide label). _____

(9) Describe how the pesticide is used/applied: _____

(10) Is this property within 50 meters of a public property, including but not limited to schools and parks?

(11) Have there been previous requests for pesticide use on this property?

What is the proposed date and time of day for this pesticide application? _____

I HEREBY MAKE APPLICATION TO APPLY PESTICIDE TO THE ABOVE NOTED PROPERTY AND SWEAR THAT THE INFORMATION PROVIDED HEREIN IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

PROPERTY OWNER'S SIGNATURE

DATE

The personal information collected on this form is done so pursuant to Community Charter and/or the Local Government Act and in accordance with the Freedom of Information and Protection of Privacy Act. The personal information collected w\herein will be used only for the purpose of processing this application or request and for no other purpose, unless its release is authorized by its owner, the information is part of a record series commonly available to the public, or is compiled by a Court or an agent duly authorized under another Act. Further information may be obtained by speaking with the Town Manager at (506) 529-5120 or at 212 Water Street, Saint Andrews, New Brunswick, Canada E5B 1B4

FOR OFFICIAL USE ONLY

Received by: _____

Application No: _____ Date: _____