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.

"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" as defined in Schedule 2 of *B.C. Regulation 604/2004 (Integrated Pest Management Regulation)* as amended from time to time.

"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).

"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 for the use of pesticides not exempt under Section 5 for: pest infestations that threaten the integrity of sensitive ecosystems or pose a serious economic loss to an owner or occupier of land; or to control the spread of invasive species or noxious weeds; and is permitted pursuant to the *Integrated Pest Management Act* (British Columbia) and the *Integrated Pest Management Regulation BC Reg. No. 604/2004.*

An application for a permit may be made by an applicant using the form attached to this bylaw as Appendix 1. A permit may be issued or refused.

7. A permit may impose one or more conditions relating to:

(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.

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.

PART 7 - SCHEDULE "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 allethrin (DOMESTIC)
15. deodorizers (DOMESTIC and COMMERCIAL)
16. fatty acids (DOMESTIC)
17. ferric phosphate (DOMESTIC and COMMERCIAL)
18. ferrous sulphate (DOMESTIC and COMMERCIAL)
19. hard surface disinfectants (DOMESTIC and COMMERCIAL)
20. insect bait stations (DOMESTIC)
21. insect pheromones (DOMESTIC and COMMERCIAL)
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 bicycloheptene dicarboximide (DOMESTIC)
28. naphthalene for fabric protection (DOMESTIC)
29. paradichlorobenzene for fabric protection (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. plant 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)
44. swimming pool algicides and bactericides (DOMESTIC and COMMERCIAL)
45. tetramethrin (DOMESTIC)
46. wood preservatives (DOMESTIC)

APPENDIX 1 – PERMIT APPLICATION

Name and address of applicant:
Phone number:
Email address:
Address where pesticide will be applied:
Area (m^2) of proposed application:
Name(s) and consenting signature of landowner(s):
Name of pesticide to be used:
Name of pest or plant targeted:
Name of certified pesticide applicator:
Reason for Application for Permit based on the principles of integrated pest management as defined in this bylaw (or attach an IPM plan) :
Is the author of the IPM plan accredited? Yes____ No _____ Signature:
Attachments (evidence of ecosystem harm, such as a professional report):
DATE:
For Staff Use:
Comments:
Conditions:
Species of plant or pest to which the pesticide may be applied:
Area of land on which the pesticide may be applied:
Period of time in which the pesticide may be applied