

NO: R009

COUNCIL DATE: January 10, 2011

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **January 4, 2011**

FROM: **General Manager, Parks, Recreation
and Culture** FILE: **3900 – 20/F**

SUBJECT: **Amendments to Pesticide Use Control By-law to Include Multiple Residential
Developments**

RECOMMENDATION

The Parks, Recreation and Culture Department recommends that Council:

1. Receive this report as information;
2. Approve amendments as documented in Appendix “A” of this report to the Pesticide Use Control By-law, 2010, No. 17160 that will act to restrict the use of pesticides on multiple residential development lands;
3. Authorize the City Clerk to bring forward the related amendment By-law for the required readings; and
4. Instruct the City Clerk to forward a copy of this report and the related Council resolution to the Environmental Advisory Committee as information.

INTENT

The purpose of this report is to seek Council approval to amend the Pesticide Use Control By-law No. 17160 in accordance with the recommendations of the Environmental Advisory Committee as previously approved by Council.

BACKGROUND

The Pesticide Use Control By-law No. 17160 (the “By-law”) was enacted in May 2010. A copy of the By-law is attached as Appendix “B” to this report. It sets out conditions and regulations related to the use of pesticides within the City of Surrey. The By-law restricts the application of pesticides on outdoor trees, shrubs, flowers and other ornamental plants and turf on City Lands and on private single family residential lots.

In October 2010 the Environmental Advisory Committee (the “Committee”) carried out a review of the By-Law. Based on the review, and feed-back received from the public, the Committee adopted the following resolution:

“That Council instruct staff to bring forward an amendment to the Pesticide Control By-law No. 17160 to include multiple housing units and that a proposed program to phase in the amendment be implemented, a copy of which is to be provided to the Environmental Advisory Committee.”

At its Regular meeting on November 29th 2010, Council adopted the recommendation of the Environmental Advisory Committee.

DISCUSSION

Pesticide Application on Multi-family Residential Development Lands

The current By-law restricts the use of pesticides on single family residential lots. In general, pesticides may not be applied to trees, ornamental landscape plants or turf. There are some exceptions where pesticides may be applied but such application may only be carried out by a provincially certified pesticide applicator. Low toxicity pesticides as defined by Provincial regulations may be applied without restriction. (see captioned section below)

The restrictions in the current By-law do not apply to multi-family residential developments or to manufactured home parks. The Environmental Advisory Committee has recommended that the same restrictions on the use of pesticides that are applicable to single family residential lots be made applicable to multi-family residential lands as well, including manufactured home parks.

The Committee recognized that many multi-family residential properties contract the maintenance of their grounds to local landscape companies and that the use of pesticides may be part of preventative maintenance programs offered under contract by some of these companies. The Committee held the view that an amendment to the By-law to restrict the application of pesticides on multi-family residential properties should be phased in, so as to allow grounds maintenance contracts to be amended between the parties before the busy spring gardening season. If Council adopts the recommendations of this report, multi-family residential developments will be subject to the same restrictions on pesticide use as are currently in place for single family residential lots.

List of Permitted Pesticides

Schedule ‘A’ of the By-law is a list of low toxicity pesticides for which the City does not have authority in relation to restricting their use. The list is based on a list of permitted pesticides contained in the BC Integrated Pest Management Regulations. The Province of British Columbia changes the list of permitted pesticides from time to time. On this basis, the Committee decided that it would be more efficient to simply reference specific provincial regulations within the By-law rather than to amend the By-law each time the Province changes the list of permitted pesticides. As it might be difficult for some residents to research the provincial regulations, a link to the provincial regulations will be established on the City’s web-site for the convenience of website users.

The amendments proposed to the By-law are documented in Appendix 'A'.

In addition to the recommendations of the Committee, the proposed amendments include a house-keeping change to the title block to reflect the addition of multiple residential lands to the By-law restrictions. The proposed amendments also include a change to the definition of the words "Private Lands" so as to include multiple family residential properties and manufactured home parks in the definition. The definition of the words "Permitted Pesticides" has been changed to reflect changes to the Provincial regulations and Schedule 'A' in the By-law that lists "Permitted Pesticides" has been deleted in view of the change to the definition of the words "Permitted Pesticides".

Unless otherwise directed by Council, although the amendment By-law will be brought forward for three readings by Council in January, adoption of the amendment By-law will be delayed until the last Regular Council meeting in March 2011 so as to give landscape contractors sufficient time to amend their contracts in relation to multi-family residential developments to reflect the new provisions of the By-law. Once the amendment By-law has been introduced and been given three readings, staff will undertake a communication campaign to educate landscape contractors, owners of multi-family residential developments and other stakeholders regarding the requirements of the new by-law amendments.

Communication of Pending By-law Amendments

Staff will undertake a communication/education program to inform those that will be affected by the proposed amendments about the amendments so that they can take any necessary actions in advance of the adoption of the amendments so as to be compliant.

Legal Services Review

Legal Services has reviewed this report and the related by-law amendments and has no concerns.

SUSTAINABILITY CONSIDERATIONS

The proposed amendments to the Pesticide Use Control By-law support the Sustainability Charter's objective No. EN16 (5), which states "Reduce the use of harmful pesticides, particularly for cosmetic uses."

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Approve amendments as documented in Appendix “A” of this report to the Pesticide Use Control By-law, 2010, No. 17160 that will act to restrict the use of pesticides on multiple residential developments;
- Authorize the City Clerk to bring forward the related amendment By-law for the required readings; and
- Instruct the City Clerk to forward a copy of this report and the related Council resolution to the Environmental Advisory Committee as information.

Laurie Cavan
General Manager
Parks, Recreation and Culture

Attachments: Appendix ‘A’ - Proposed Amendments to Surrey Pesticide Use Control By-law
Appendix ‘B’ – Pesticide Use Control By-law 17160

APPENDIX 'A'

Proposed Amendments to Surrey Pesticide Use Control By-law, 2010, No. 17160 (the "By-law")

That the By-law be further amended as follows:

1. By deleting the words "Private Single Family" from the by-law description immediately following the heading "BY-LAW NO. 17160".
2. By deleting the existing definition of "**Permitted Pesticide**" from Section 1 and replacing it with the following new definition:

"Permitted Pesticide" means a Pesticide listed in Schedule 2 of the Integrated Pest Management Regulation of the *Integrated Pest Management Act*, S.B.C. 2003, c 58;

3. By deleting the existing definition of "**Private Lands**" from Section 1 and replacing it with the following new definition:

"Private Lands" means lands designated as a separate and distinct parcel on a legally recorded subdivision plan or deed filed in the records of the Land Title Office that:

- (a) are zoned single family or multiple family residential under Surrey Zoning By-law, 1993, No. 12000 and contain one (1) or more dwelling units; or
- (b) contain one (1) or more dwelling units located in a manufactured home park, and in this definition the terms "dwelling unit" and "manufactured home park" shall have the same meaning as in Surrey Zoning By-law, 1993, No. 12000, as may be amended from time to time;

4. By deleting Schedule "A" in its entirety.

APPENDIX ‘B’

CITY OF SURREY

BY-LAW NO. 17160

A by-law to control the use of pesticides on City Lands and on Private Single Family Residential Lands.
.....

WHEREAS the Council of the City of Surrey deems it expedient to regulate the use of pesticides for non-essential purposes within the City of Surrey; and

WHEREAS the *Community Charter*, S.B.C. 2003, c. 26, as amended, provides that a municipality may subject to certain limitations pass a by-law regulating the use of pesticides;

NOW, THEREFORE, the Council of the City of Surrey, in open meeting assembled, HEREBY ENACTS AS FOLLOWS:

1. In this By-law:

“**Agricultural Land**” means land that is classified as a farm under the *Assessment Act*, R.S.B.C. 1996, c.20;

“**Agriculture**” means any activity carried out on Agricultural Land that falls within the definition of “farm operation” in the *Farm Practices Protection (Right to Farm) Act*, R.S.B.C. 1996, c.131;

“**Certified Applicator**” means a person who holds a valid pesticide applicator certificate issued by the Province of British Columbia.

“**Hard Landscape**” means any constructed surface typically used for landscaping such as asphalt, concrete, rocks, gravel, treated wood or brick pavers;

“**Infestation**” means the presence of a Pest in numbers or under conditions that involves an immediate risk of damage to property or significant financial loss in respect of the use of property;

“**Non-essential**” means the use of a Pesticide for an aesthetic pursuit;

“**Noxious Weed**” means a weed that has been designated as Noxious under the *Weed Control Regulation of the Weed Control Act*, R.S.B.C. 1996, c 487;

“Permitted Pesticide” means a Pesticide listed in Schedule “A” of this By-law;

“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* R.S.C. 2002, c. 28;

“Public Lands” means lands vested in, owned by or controlled by the City of Surrey;

“Private Lands” means lands designated as a separate and distinct parcel on a legally recorded subdivision plan or deed filed in the records of the Lands Title Office, containing four (4) or less dwelling units used for residential purposes, and in this definition the term “dwelling unit” shall have the same meaning as in Surrey Zoning By-law, 1993, No. 12000, as may be amended from time to time;

“Sensitive Ecosystem” means Private Lands or Public Lands with one or more of the following characteristics:

- (a) areas or landscape features of Private Lands identified in a City of Surrey 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
- (b) portions for areas of Public Lands designated or managed by the City for the conservation of ecological features and functions.

- 2. Except as permitted in this By-law, no person shall apply a Pesticide on outdoor trees, shrubs, flowers, other ornamental plants, and turf on Public Lands or Private Lands within the City of Surrey.
- 3. Section 2 of this By-law shall not apply to the application of a Pesticide used for:
 - (a) Agriculture and any other form of crop production on Agricultural Land;

- (b) controlling a Pest on the residential portion of Agricultural Land;
 - (c) forestry operations;
 - (d) controlling or destroying a Noxious Weed;
 - (e) controlling a Pest on buildings or structures, or inside buildings or structures;
 - (f) low environmental and human health impact Pest control treatment with a Permitted Pesticide;
 - (g) managing of outbreaks of an introduced invasive exotic or foreign Pest;
 - (h) managing of Pests that threaten Sensitive Ecosystems;
 - (i) preventing the deterioration of hard landscapes;
 - (j) purifying water used for human or animal consumption; and
 - (k) responding to human or animal health issues.
4. Despite Section 2, a Pesticide may be applied to Private Lands or Public Lands for:
- (a) controlling or destroying a Pest which has caused an Infestation; or
 - (b) ensuring the safety of pedestrian surfaces or sport surfaces,
- provided that the application of the Pesticide is carried out by a Certified Applicator and by no other person.
5. Every person who violates any of the provisions of the By-law or who suffers or permits any act or thing to be done in contravention of this By-law or who neglects to do or refrains from doing any act or thing which violates any of the provision of this By-law shall be liable to the penalties hereby imposed and each day that such violation is permitted to exist shall constitute a separate offence.
6. Any person who violates any of the provisions of this By-law shall, upon summary conviction, be liable to a penalty of not less than \$100 and not more than \$10,000 plus the cost of the prosecution, or to a term of imprisonment not exceeding six (6) months, or both.
7. This By-law may be cited as "Surrey Pesticide Use Control By-law, 2010, No. 17160".

PASSED THREE READINGS on the 12th day of April, 2010.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 3rd day of May, 2010.

_____ MAYOR

_____ CLERK

SCHEDULE "A"
Permitted Pesticides

The following substances or devices are Permitted Pesticides for the purposes of this By-law:

1. Algicides and bacteriacides used in swimming pools, wading pools, whirlpools and ornamental fountains
2. Animal or bird repellents
3. Anti-fouling paints
4. Bacillus thuringiensis (Bt)
5. Bait insecticides, whereby the bait is enclosed by the manufacturer in a plastic or metal container made in a way that prevents or minimizes access to the bait by humans or animals;
6. Borax
7. Bordeaux mixture and other sulphur compounds
8. Capsaicin
9. Deodorizers
10. Diatomaceous earth
11. Ferric phosphate
12. Injected tree treatments
13. Insecticidal soaps
14. Mineral oils used for insect or mite control
15. Nematodes used for insect control
16. Pesticides used in aerosol containers
17. Pheromones used in conjunction with insect traps
18. Pruning paint
19. Pyrethrum and phethrin
20. Rodenticides
21. Rotenone
22. Sticky traps and other sticky media
23. Wood preservatives