



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2006-116

A BY-LAW TO REGULATE THE COSMETIC USE OF PESTICIDES ON PUBLIC AND PRIVATE PROPERTY.

WHEREAS pursuant to Section 2 of the *Municipal Act*, S.O. 2001, c. 25, as amended, (the "*Municipal Act*") municipalities are recognized as responsible and accountable governments and are given powers and duties that include fostering the current and future environmental well-being of the municipality;

AND WHEREAS pursuant to Section 130 of the *Municipal Act*, municipalities may enact by-laws for purposes related to the health, safety and well-being of its inhabitants;

AND WHEREAS Council has determined through extensive consultation and other research that pesticide use has potential negative health and environmental effects on the well-being of its inhabitants and that the use of pesticides should be regulated to mitigate the injurious impacts of pesticides on health and the environment;

AND WHEREAS regulating the non-essential use of pesticides will help to promote and protect the physical environment and the health of the Town's residents;

AND WHEREAS regulating the non-essential use of pesticides respects the "precautionary principle" of international law which provides that to achieve sustainable development, environmental policy must anticipate, prevent and attack the causes of environmental degradation and that lack of scientific certainty should not be used as a reason for postponing measures that would prevent environmental degradation;

AND WHEREAS the regulation of pesticide use by by-law will enhance and will not conflict with existing federal or provincial legislation;

AND WHEREAS Council intends to undertake public education programs on the safe use of pesticides and alternative methods to control pests and to reduce pesticide use as part of its pesticide use regulatory scheme;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket (the "Town") as follows:

1. Definitions.

As used in this by-law, the following terms shall have the meanings indicated:

ENCLOSED — Closed in by a roof or ceiling and walls with an opening or openings for ingress or egress, which openings are equipped with doors which are kept closed except when actually in use for egress or ingress.

HEALTH HAZARD — A Pest (as hereinafter defined) which has or is likely to have an adverse effect on the health of any person.

INFESTATION — The presence of pests in numbers or under conditions which involve an immediate or potential risk of substantial loss or damage.

I.P.M. ACCREDITED GROUNDSKEEPER — a person who (a) obtains and maintains accreditation in a recognized integrated pest management program such as from the Audubon Cooperative Sanctuary system of Canada or Landscape Canada or equivalent, as determined by the Town; and (b) who provides proof of current I.P.M. accreditation upon request therefore by the Town;

PEST — An animal, a plant or other organism that is injurious, noxious or troublesome, whether directly or indirectly, and an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism.

PESTICIDE — Includes:

- A. A product, an organism or a substance that is a registered control product under the federal *Pest Control Products Act* which is 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. Despite Subsection A, a Pesticide does not include the products listed on Schedule "A"

TOWN PERMITTED PLAYING FIELD – is a playing field, whether or not it is owned by the Town, for which the Town issues a Permit for its use.

2. Restrictions.

- A. No person shall apply or cause or permit the application of any Pesticide within the boundaries of the Town of Newmarket.
- B. The provision set out in Subsection A does not apply when Pesticides are used:
 - (1) To disinfect swimming pools, whirlpools, spas or wading pools;
 - (2) To purify water intended for the use of humans or animals;
 - (3) Within an Enclosed Building;
 - (4) To control termites;
 - (5) To control or destroy a Health Hazard;
 - (6) To control or destroy Pests which have caused Infestation to property;
 - (7) To exterminate or repel rodents;
 - (8) As a wood preservative;
 - (9) 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 minimizes access to the bait by humans and pets;
 - (10) For injection into trees, stumps or wooden poles;
 - (11) To comply with the *Weed Control Act* R.S.O. 1990 c. W. 5, as amended and the regulations made thereunder; or
 - (12) As an insect repellent for personal use;
 - (13) On a golf course, Town owned or Town Permitted Playing Field or lawn bowling green provided any such use or application is permitted only under the direction of an I.P.M. Accredited Groundskeeper;
 - (14) In furtherance of a normal farm practice carried on as part of an agricultural operation pursuant to the *Farming and Farm Production Protection Act, 1998*, S.O. 1998, c. 1, as amended.

3. Offences.

Any person who contravenes any provision of this chapter is guilty of an offence and, upon conviction, is liable to a fine or penalty provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P33.

4. Effective Date

This by-law shall come into force on September 1, 2008.

ENACTED THIS 26TH DAY OF JUNE, 2006.

Tom Taylor, Mayor

Anita Moore, Town Clerk

SCHEDULE 'A'

1. 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.
2. A product that is or contains only the following active ingredients:
 - (a) A soap;
 - (b) A mineral oil, also called "dormant or horticultural oil";
 - (c) Silicon dioxide, also called "diatomaceous earth";
 - (d) Biological pesticides, including Bt (*Bacillus thuringiensis*) and nematodes;
 - (e) Borax, also called "boric acid" or "boracic acid";
 - (f) Ferric phosphate;
 - (g) Acetic acid;
 - (h) Pyrethrum or pyrethrins;
 - (i) Fatty acids;
 - (j) Sulphur; or
 - (k) Corn gluten meal.