

## Burlington, Vermont, Code of Ordinances

### Sec. 17-9. - Notification and posting of turf grass and landscape pesticide application.

(a) *Policy.* It is the policy of the city to take note of and respond to continuing concerns about health effects from toxic chemicals. Toxic chemicals classified as pesticides are designed to kill a variety of plants and animals; relatively little is known about their long-term effects upon humans and the environment. In light of this uncertainty, the city considers all pesticides detrimental to human health unless proven otherwise. In order to prevent unnecessary exposure to such chemicals, the city council, upon recommendation from the board of health, has enacted the following provisions.

(b) *Definitions.* As used in this section, the following terms are defined below:

*Application of a pesticide:* The placement for effect of any pesticide at or on the site where pest control or other response is desired.

*Commercial applicator:* Any person, certified or not, who uses or applies pesticides in the course of employment.

*Landscape plants:* Any ornamental and flowering shrubs and plants, shade trees, or plants designed and/or considered to add to the aesthetic environment.

*Pesticide:* Any substance produced or distributed for preventing, destroying or repelling any insects, weeds, rodents, fungi, nematodes, mites, spiders or other forms of plant or animal life or viruses (i.e., any herbicide, insecticide, fungicide, acaricide, nematicide or rodenticide) except viruses on or in living humans or other animals. This includes any fertilizer mixture which contains pesticides within it.

*Resident:* Any person who owns or manages the private property on which pesticides are applied.

*Tributaries of Lake Champlain:* Those streams and/or drainage systems that flow during the spring and early summer including the following:

1. Winooski River;
2. Centennial (Muddy Brook): being three (3) branches running north and east from the area of Bilodeau Court and the border with South Burlington, joining below UVM's retention pond, and then under Grove Street to the Winooski River;
3. Englesby Ravine: beginning east of UVM's Redstone Campus and running south and west through the "Hill Section," and then under Shelburne and Pine Streets to Lake Champlain;
4. The stream running westerly from North Avenue, bordered on the south by Little Eagle Bay and on the north by Lakewood Estates, and into Lake Champlain;
5. Appletree Point Stream: being two (2) branches running south from Appletree Point Lane into Lake Champlain;

6. North Beach Stream: beginning south of Institute Road running south to Lake Champlain;
7. Intervale: being the area bounded by the "Northern Connector," the Winooski River and the railroad right-of-way;
8. Reeves Brook: beginning at Trinity College running north to Reeves Pond (at Riverwatch) then under Riverside Ave. to the Winooski River.

*Turf grass:* A covering of mowed vegetation growing together with an upper soil stratum of intermingled roots and stems.

(c) *Commercial applicators contract requirements.* No outdoor application of pesticides to turf grass or landscape plants shall be made on single-or multifamily residential properties, nor on public or private nonresidential properties, including, but not limited to, athletic fields, schoolyards, university greens, corporate lawns, parks and cemeteries, without the following provisions having been met:

- (1) Prior to initial application by a commercial applicator, the applicator or her/his employer must enter into a written contract with the customer specifying the approximate date(s) of application(s), the number of applications and the posting required by this section.
- (2) With the written contract, the applicator or her/his employer must provide the customer with the following information, in writing:
  - a. A list of the pesticide(s) to be applied, including brand and chemical names;
  - b. Label warnings from all the listed pesticides;
  - c. Name, address and phone number of the company or non-commercial facility providing service;
  - d. EPA registration number(s) and if applicable applicator(s) certification number(s);
  - e. Current fact sheets approved by the Burlington Board of Health that include relevant information from the Environmental Protection Agency (EPA) and/or the Government Accounting Office (GAO) and/or Material Safety Data Sheet(s) (MSDS) that identify potential health and environmental hazards.

(d) *Posting and notification:*

- (1) Before beginning each application, the applicator(s) shall post signs on the treated property at intervals no greater than one hundred (100) feet along all public and private rights-of-way. All properties, regardless of size, must post a minimum of two (2) signs at conspicuous points of access to the property. The specifications of the sign shall be as follows:
  - a. Shall be at least four (4) X five (5) inches, of sturdy, weather-resistant material;
  - b. Shall be with contrasting colors using the indicated point type size;
  - c. Shall display the following warning on the front of the sign:

CAUTION  
PESTICIDE APPLICATION  
CAUTION  
KEEP OFF  
WHILE POSTED  
CUSTOMER:  
PLEASE REMOVE  
AFTER 24 HOURS.

Both the fluorescent green symbol commonly known as "Mr. Yuk" and the international slash in a circle superimposed upon representational figures of an adult, child and dog as well as instructions that signs must remain posted for at least twenty-four (24) hours;

- d. Shall be posted at least twelve (12) inches above the ground;
  - e. Shall contain the date and time of application on the back of the sign;
  - f. The back of the sign shall contain the emergency numbers for poison control and 911, the city health officer's number for complaints, the brand or chemical name and concentration, and the name of the applicator's company.
- (2) All commercial outdoor pesticide applicators and all private outdoor applicators applying pesticides on an area greater than two hundred (200) square feet per property within the span of one year must give occupants of treated property and occupants of any adjacent property notice of any pesticide application(s). The notice may be distributed up to ten (10) days but not less than twenty-four (24) hours in advance of the application. The notice shall indicate when the pesticide shall be applied, which shall be within a five-business-day timeframe set forth in the notice. This written notice, approved by the board of health, must include the same information described in subsection (c)(2). The two hundred (200) square foot exemption applies only to ground applications; any application to trees and shrubs requires both prenotification and posting as described. Any property with more than twenty (20) units, or any property required to notify residents of more than twenty (20) adjacent properties, has the option of proposing a notification plan, in lieu of individual notification, to the board of health for approval.
- (3) Fenced, private nonresidential properties shall post written notices as described below in visitor reception areas and at all employee entrances.
- a. The written notice shall contain information as specified under subsection (c)(2) as well as the specific location where each pesticide is to be applied.
  - b. The notices shall be posted at least twenty-four (24) hours prior to application and shall remain in place for at least twenty-four (24) hours after application.
  - c. Upon request, copies of any or all material listed under subsection (c)(2) shall be made available to any visitor or employee.
  - d. All adjacent property owners must be notified by the grounds superintendent or equivalent at least twenty-four (24) hours prior to pesticide application. Copies of all materials listed under subsection (c)(2) must be provided to all adjacent property owners.
- (4) Pesticide applications made on golf course turf grass or landscape plants shall require posting of a written notice on the clubhouse bulletin board, in all locker rooms, and on

the first and tenth tee. This notice shall be posted by the course superintendent or his/her designee.

- a. The written notice shall contain information specified in subsection (c)(2) and shall include the specific location and number of each fairway, green, tee, driving area, etc., where pesticide is to be applied.
  - b. The notice shall be posted at least twenty-four (24) hours prior to application and must remain posted at all designated places for at least twenty-four (24) hours after application. Copies of the posted material shall be made available to any individual using or employed by the facility.
  - c. The golf course superintendent shall notify all adjacent property owners of her/his intent to apply pesticides at least twenty-four (24) hours prior to application. The superintendent shall provide all materials listed in subsection (c)(2) to all adjacent property owners.
- (5) This regulation requires that those responsible for rights-of-way and utility applications of pesticides post described signs or submit an alternative posting plan to the board of health for its approval.
  - (6) No pesticides may be applied outdoors within five hundred (500) feet of Lake Champlain or any of its tributaries without specific approval from the board of health. Criteria for this approval are defined by the board of health's statutory authority to protect public health.
  - (7) No licensed child care center, registered day care home, preschool, primary or secondary school (K-12) may use any turf grass or landscape pesticide on its grounds without specific approval from the board of health.

(e) *Records.* Each applicator shall keep written records of the parties who have been notified pursuant to subsections (c) and (d) of this section. Such records shall be made available to the board of health upon request by the board or by the office of the city attorney.

(f) *Sign requirements and enforcement:*

- (1) The department of public works (DPW) shall have signs available to applicators that meet the notification and posting requirements of this section. DPW may charge a fee for the issuance of the signs to cover its administrative costs. No fee shall be assessed against any city department.
- (2) The applicator shall be the individual responsible for correctly posting the signs in accordance with the requirements of subsection (d) of this section.
- (3)
  - a. First offense. A first offense of any provision of this section during any twenty-four-month period shall be a civil ordinance violation punishable by a penalty of a minimum fine of two hundred dollars (\$200.00) to a maximum fine of five hundred dollars (\$500.00). The waiver penalty for a first offense shall be a fine of two hundred dollars (\$200.00).
  - b. Second offenses. A second offense during a twenty-four (24) month period shall be a civil offense and shall be punishable by a fine of five hundred dollars (\$500.00). The waiver penalty shall be a fine of three hundred dollars (\$300.00).

- c. The third and any subsequent offense within a twenty-four (24) month period shall be a criminal offense punishable by a fine of five hundred dollars (\$500.00).
- d. Any law enforcement or code enforcement officer may issue a municipal complaint ticket or criminal citation for offenses of this section.

*(Ord. of 6-22-92; Ord. of 2-20-96; Ord. of 2-19-08(2), eff. 4-9-08)*