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HEALTH--  
PESTICIDE ORDINANCE REWRITE

That Chapter 17, HEALTH, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sec. 17-9 thereof to read as follows:

Sec. 17-9. Notification and posting of turf grass and landscape pesticide/herbicide applications.

(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 or herbicides 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 and herbicides to be detrimental to human health unless until proven otherwise. In order to eliminate or reduce use; prevent unnecessary exposure; eliminate potential risks to people and the environment and ultimately to protect public health, ~~to such chemicals;~~ the ~~e~~City ~~e~~Council, upon recommendation from the board of health, has enacted the following provisions. In doing so, the City Council has given authority to the Burlington Board of Health to determine specific approvals for pesticide/herbicide applications on behalf of the city.

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

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

*Commercial applicator:* Any person, certified or not, who uses or applies pesticides/herbicides 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/Herbicide:* Any substance or mixture, including fertilizer mixtures, containing haerbicides, insecticides, fungicides, acaricides, nematocides or rodenticides produced or distributed ~~for to preventing,~~ destroying or repelling any insects, weeds, rodents, fungi, nematodes, mites, spiders and viruses, ~~or other forms of plant or animal life or viruses (i.e., any herbicide, insecticide, fungicide, acaricide, nematocide or~~



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mans or other animals. ~~This includes any fertilizer mixture~~

manages property which is private, commercial or public the ed.

*Tributaries of Lake Champlain:* Those rivers, streams and/or drainage systems located in or near Burlington that flow perpetually and seasonally during the spring and early summer and as a result of storm runoffs, 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.
- (9) All citywide storm water drains depositing untreated into Lake Champlain.

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

Useable Chemicals and Compounds List:

<u>Corn gluten meal</u>	<u>Weeds in lawn or garden</u>
<u>Acetic acid; herbicidal soap/fatty acids</u>	<u>Weeds in sidewalk, patio stones, driveways</u>
<u>Nematodes</u>	<u>Grubs in lawn</u>
<u>Insecticidal soap/fatty acids</u>	<u>Aphids on plants</u>
<u>Pyrethrum/pyrethrins</u>	<u>Aphids on plants</u>
<u>Sulphur</u>	<u>Black spot, powdery mildew on plants/flowers</u>
<u>Silicon dioxide/diatomaceous earth</u>	<u>Ants, earwigs, cockroaches</u>
<u>Borax/boric acid</u>	<u>Ants, earwigs, cockroaches</u>
<u>Mineral/horticultural oil</u>	<u>Scale on plants</u>
<u>Bacillus thuringiensis (Bt)</u>	<u>Caterpillars</u>
<u>Silicon dioxide/diatomaceous earth</u>	<u>Slugs in garden</u>
<u>Ferric phosphate</u>	<u>Slugs in garden</u>

A Board of Health approved list is maintained at the Code Enforcement Office.

(c) Commercial and private applicators: contract, posting and notification requirements. No chemicals may be applied outdoors nor will they ever be applied directly into Lake Champlain or any of its tributaries without approval from the Burlington Board of Health when the following exist:

within five hundred (500) feet of Lake Champlain or any of its

ed (200) square feet in the span of one year;

ed care center, registered day care home, preschool, primary or  
y, hospital, assisted living, residential care or nursing home;

\*. A 3 year transition period has ended from the date of enactment of the ordinance.

No outdoor application of pesticides/herbicides to turf grass or landscape plants shall be made on single-or multifamily, public, private or commercial residential properties, nor on public or private or commercial nonresidential properties, including, but not limited to, church properties, athletic fields, schoolyards, university greens, corporate lawns, and 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.~~

~~(A) The date(s) of application(s);~~

~~(B) The number of applications; and~~

~~(C) The type of posted warning(s) required by this section.~~

(2) With the commercial, written contract, the applicator or her/his employer must provide the customer with the following information, in writing:

~~a. (A) A list of the specific pesticide(s)/herbicides to be applied, including brand and chemical names;~~

~~b. (B) Label warnings from all the listed pesticides/herbicides;~~

~~e. (C) Name, address and phone number of the company or non-commercial facility persons providing service;~~

~~d. (D) EPA registration number(s) and if applicable applicator(s) certification number(s);~~

~~e. (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.~~

(3) Before applying any pesticide(s)/herbicides(s), the applicator(s) shall give the property owner(s), customer(s), all occupants of the property to be treated and all occupants of adjacent property(ies) a written notice approved by the Burlington Board of Health. This notice shall include the same information described in subsections (c) (1) and (2) above. The notice may be distributed up to ten (10) days but not less than forty-eight (48) hours in advance of chemical application(s). The notice shall indicate that the chemical(s) will be applied within a five-business-day time frame. In the case of private or commercial, non-residential property(ies) such as a golf course, a written notice shall be posted in all visitor reception areas, at all employee entrances and on all clubhouse bulletin boards. The posting will be done by the property or course manager or his/her designee. In the case of a golf course, the notice shall include the specific location(s) and number(s) of each fairway, green, tee, driving area, etc., where pesticides/herbicides will be applied. The notices shall be posted at least forty-eight (48) hours before application(s) and shall remain in place for at least 48 hours after application(s). 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 devising an alternative notification plan in lieu of individual notification. The alternative notification plan must be submitted by the applicator to the Burlington Board of Health for approval. It may be submitted during the initial application-request hearing or at a subsequent hearing, properly warned by, and at the discretion of the Board of Health.

~~(d) Posting and notification:-~~

The applicator(s) shall post signs on the treated property to be posted (100) feet along all public and private rights-of-way. All signs shall consist of a minimum of two (2) signs at conspicuous points of the property. The specifications of the sign shall be as follows:  
(5) x seven (7) inches, of sturdy, weather-resistant material;

- b. B. Shall be printed with contrasting colors using the indicated point type size;
- e. C. Shall be posted at least twelve (12) inches above the ground;
- D. Shall display the following warning on the front of the sign:

The international slash in a circle superimposed upon representational figures of an adult, child and dog along with:

CAUTION  
PESTICIDE/HERBICIDE APPLICATION  
CAUTION  
KEEP OFF  
WHILE POSTED  
  
CUSTOMER:  
PLEASE MAY REMOVE SIGNS ONLY  
AFTER 24 HOURS.

E. Shall display the following information on the back of the sign:

- the date and time of application;
- the brand and chemical name(s) and concentration(s) of the pesticide/herbicide(s);
- the emergency numbers for poison control and 911;
- the city health officer's number for complaints;
- the name of the applicator and a company name if applicable, with phone numbers for each.

(5) This regulation requires that those responsible for rights-of-way and utility applications of pesticides/herbicides shall follow the preceding criteria or submit alternative application plans to the board of health for its approval.

(6) Each applicator shall keep written records of:

(A) customer names, addresses and contact information;

(B) occupants notified and notices posted with locations for each;

(C) date and method of notification;

(D) location(s) of application(s);

(E) date(s) and time(s) of application(s);

(F) brand, name, type and quantity of chemical(s) used for application(s).

Such records shall be made available upon request to the Burlington Board of Health, the Burlington Code Enforcement Office, or the City Attorney's Office.

~~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;~~

emergency numbers for poison control and 911, the city health  
chemical name and concentration, and the name of the

ators and all private outdoor applicators applying pesticides on  
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) *(d) 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)~~ (c) ~~(4)~~ of this section.

~~(3) a.~~

(e) Enforcement.

(1) 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.~~ (2) 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).

~~e.~~ (3) 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.~~ (4) Any law enforcement or code enforcement officer may issue a municipal complaint ticket or criminal citation for offenses of this section.

\* Material stricken out deleted.

\*\* Material underlined added.