

## COMMITTEE OF THE WHOLE - MAY 28, 2007

### PESTICIDE FREE PRIVATE PROPERTY

#### Recommendation

The Commissioner of Legal and Administrative Services, in consultation with the Commissioner of Community Services and the Director of Corporate Communications, recommends:

1. That a Public and Stakeholder Consultation process be established and conducted over the next several months;
2. That staff bring forward to the Environment Committee in the Fall a draft By-law and implementation strategy on the elimination of non-essential use of chemical pesticides in Vaughan; and
3. That the report of the Commissioner of Legal and Administrative Services dated May 14, 2007, be received (Attachment #2).

#### Economic Impact

The economic impact of this initiative is within budget.

#### Communications Plan

Staff from the appropriate departments will conduct consultations with residents and representatives of the landscape and forestry industry. Subsequent to that, a communication and education plan will be developed and presented to Council.

#### Purpose

This report is to provide information relating to banning the use of pesticides on private property.

#### Background - Analysis and Options

At the May 14, 2007 meeting of the Environmental Task Force, this report was presented. The Environmental Task Force recommended as follows:

1. That a Public and Stakeholder Consultation process be established and conducted over the next several months;
2. That staff bring forward to the Environment Committee in the Fall a draft By-law and implementation strategy on the elimination of non-essential use of chemical pesticides in Vaughan; and
3. That the report of the Commissioner of Legal and Administrative Services dated May 14, 2007, be received.

The prohibition of using pesticides has continued to grow across the Region, Province and Country since the Supreme Court upheld the By-law from the Town of Hudson (Quebec) in 2001.

In York Region, the only municipalities that have addressed this issue are the Towns of Newmarket and Georgina. They have By-laws banning the non-essential use of pesticides. However, Georgina's does not come into effect until 2008. Other GTA municipalities that have restrictions are Toronto that allows noxious weeds to be sprayed and Caledon that allows some

# THE CITY OF VAUGHAN

# BY-LAW

**BY-LAW NUMBER - 2007**

**A By-law to regulate pesticide use and to provide healthy horticultural landscapes in the City of Vaughan.**

**WHEREAS** section 2 of the *Municipal Act*, 2001, S.O. 2001 c.25, as amended, provides that municipalities are created to be responsible and accountable governments for matters within their jurisdiction and are given powers and duties by statute for purposes which include fostering the current and future environmental well being of the municipality;

**AND WHEREAS** section 130 of the *Municipal Act*, 2001, S.O. 2001 c.25, as amended, enables a municipality to regulate matters not specifically provided for in the *Municipal Act* or any other act for purposes related to the health, safety and well being of the inhabitants of the municipality;

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

**AND WHEREAS** the *Pest Control Products Act* (Canada) requires that pest control products used or manufactured in Canada be tested and registered with the Federal Government;

**AND WHEREAS** the regulation of pesticide use would be consistent with the principles of international law and policy;

**AND WHEREAS** under the *Pesticides Act* R.S.O. 1990, c.P11, the Ministry of the Environment regulates the storage, display, transportation, disposal, safe handling, and sale of pesticides and licences certain pesticides applicators;

**AND WHEREAS** the proposed regulation of pesticide use by by-law will enhance and will not conflict with the *Pesticides Act*; and the *Pest Control Products Act* (Canada);

**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;

**NOW THEREFORE** the Council of The Corporation of the City of Vaughan **ENACTS AS FOLLOWS:**

**1. TITLE OF BY-LAW**

1.1 This by-law may be referred to as the "Healthy Horticultural Landscapes By-law".

**2. DEFINITIONS**

2.1 In this by-law,

**"application area"** means land or ornamental plantings on land on which a pesticide is discharged or intended to be discharged;

**"Audubon Cooperative Sanctuary" or "ACS"** means certification as an Audubon Cooperative Sanctuary within the Audubon Cooperative Sanctuary Program for Golf Courses by the Audubon Cooperative Sanctuary System of Canada;

**"commercial applicator"** means any person who applies pesticides for compensation;

**"Corporation"** means The Corporation of the City of Vaughan;

**"Director"** means the Director of Parks and Forestry;

**"horticultural landscape"** means maintained turf, or ornamental plantings, but does not include a golf course;

**"Integrated Pest Management Accreditation" or "I.P.M. Accreditation"** means a standard of recognition given to persons who demonstrate a commitment to Integrated Pest Management and Plant Health Care principles by commitment to Integrated Pest Management and Plant Health Care principles by successfully completing the I.P.M. Accreditation course and examination administered by the I.P.M. Council of Ontario and by successfully passing an annual audit;

**"infestation"** means the presence of insects in numbers or under conditions which involve an immediate or potential risk of substantial loss or damage;

**"Integrated Pest Management" or "I.P.M."** means a decision making process for pest control that uses all available techniques in an environmentally sound manner to sustain healthy horticultural landscapes;

**"person"** includes a municipality or corporation and any agent thereof;

**"pest"** means any injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, rodent or other plant or animal pest and includes any injurious, noxious or troublesome organic function of a plant or animal;

**"pesticide"** means 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;

**"qualified person"** means a person who holds a degree in horticultural science, I.P.M. Accreditation or similar qualification;

**"City"** means the geographical area of the City of Vaughan;

**"Warning Notice"** means a freestanding rectangular sign made of rain resistant materials sturdy enough to be reused as shown by example on Schedule A hereto that:

On the Front

- (1) has the word "WARNING" at the top in red capital letters;
- (2) below has a pictogram showing a black silhouette of an adult person on a white background within a red circle crossed by an oblique red bar;

- (3) below the pictogram has the words 'PESTICIDE USE' in red capital letters;
- (4) indicates that pesticide use is to take place on the premises at a specified time;
- (5) below 'PESTICIDE USE' the words 'FOR INFORMATION CONTACT' in capital letters with the name and telephone number of the person responsible, who can provide more information;
- (6) below "PESTICIDE USE" the words 'DATE POSTED' in capital letters and the date the sign is posted;
- (7) below 'DATE POSTED' the words 'DATE SPRAYED' and the date the pesticide use commenced.

#### On the Back

- (1) the word 'PESTICIDE' at the top in capital letters followed by the name of the pesticide intended to be used;
- (2) below "PESTICIDE" the words 'REGISTRATION NUMBER' in capital letters followed by the number assigned to the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizer Act* (Canada);
- (3) below the words 'REGISTRATION NUMBER' the words 'TO CONTROL' in capital letters followed by the name of the pest to be controlled;
- (4) 'WARNING SIGN' means a freestanding rectangular sign with a yellow background.

### 3. SCOPE OF BY-LAW

#### 3.1 Residential, Commercial & Industrial Use Lands

3.1.1 No person shall discharge or cause or permit the discharge of a pesticide or any substance or thing containing a pesticide on a horticultural landscape on residential, commercial or industrial use lands in the City unless the following conditions have been satisfied:

- (a) a Warning Notice at least 29 centimetres high and 22 centimetres wide with the words "WARNING" and "PESTICIDE USE" at least 5 centimetres high has been conspicuously posted prior to the time of the discharge of the pesticide on the perimeter of the application area at all ordinary points of access to the application area; and
- (b) the Warning Notice remains at the posted location for at least 48 hours after the pesticide application and is removed between 3 and 10 days after the pesticide application unless otherwise directed under the *Pesticides Act*; and
- (c) the pesticide is discharged at a time other than during the months of July and August; and
- (d) the pesticide is not generally discharged over the entire horticultural landscape, but is applied to the horticultural landscape on a spot basis covering no more than 20% of the horticultural landscape calculated within a 30 day period; and
- (e) at the time and place of the discharge of the pesticide the wind velocity does not exceed 10 kilometres per hour, or lower velocity if set out in the pesticide application instructions, or a horticulturally recognized device is used to curtail the spray drift;

and

- (f) at the time and place of the discharge of the pesticide the ambient temperature does not exceed 25 degrees or lower maximum temperature if set out in the pesticide application instructions; and
- (g) no part of the application area is closer than 10 metres to natural open water, a wetland or well, or greater distance if set out in the pesticide application instructions; and,
- (h) the person, if a commercial applicator, is properly licensed under the *Pesticides Act* and has current I.P.M. Accreditation.

3.1.2 A person may discharge or cause or permit the discharge of a pesticide on a horticultural landscape on a residential, commercial or industrial use lands without complying with the conditions of subsection 3.1.1 (c), (d) if a commercial applicator qualified under subsection 3.1.1(h) or other qualified person determines and provides documentation to the Director to demonstrate that a discharge not in compliance with these conditions is necessary to diminish an infestation of the horticultural landscape and after a Warning Sign has been posted 24 hours before the time of the discharge at all ordinary points of access to the application area.

3.1.3 Documentation is not required by the Director under subsection 3.1.2 where verbal notification is provided by the commercial applicator or other qualified person who is listed on the Public Information Record under subsection 5.2.

#### **4. GOLF COURSES**

4.1.1 Upon the effective date, the owner or operator of a golf course in the City shall not discharge or cause or permit the discharge of a pesticide or any substance or thing containing a pesticide on a golf course unless it is applied by a commercial applicator licensed under the *Pesticides Act*, with I.P.M. Accreditation, or who has successfully completed the Environmental Plan and holds a Certificate in Integrated Pest Management under the Audubon Cooperative Sanctuary for Golf Courses and provides proof thereof satisfying the City.

#### **5. ADMINISTRATION AND ENFORCEMENT**

##### **5.1 Administration**

5.1.1 The Director shall be responsible for the administration of this By-law.

##### **5.2 Public Information Record**

5.2.1 Upon the effective date, the Director shall maintain a Public Information Record of commercial applicators operating in the City.

5.2.2 The Public Information Record shall include:

- (a) the name, business address, telephone and fax number of the commercial pesticide applicator;
- (b) the date of Integrated Pest Control Accreditation;
- (c) the licence number under the *Pesticides Act*, and

(d) the name and licence number of all persons licensed by the business under the *Pesticides Act* to apply pesticides.

5.2.3 The Director shall remove from the Public Information Record the name of any commercial applicator who discontinues business, ceases to have I.P.M. accreditation or, is not licensed under the *Pesticides Act*.

5.2.4 No fee shall be charged for the use of or entry on the Public Information Record.

**6. PENALTY**

6.1 Upon the effective date, any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided in the *Provincial Offences Act*.

**7. GENERAL**

7.1 The provisions of this By-law are intended to compliment the provisions of the *Pest Control Products Act (Canada)* and the *Pesticides Act* and shall be enforced consistent with this intention.

**8. SEVERABILITY**

8.1 Where a court of competent jurisdiction declares any section or part of a section of this By-law invalid the remainder of the by-law shall continue in force.

READ a FIRST, SECOND and THIRD time and finally passed this      day of      , 2007.

  
\_\_\_\_\_  
Linda D. Jackson, Mayor

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Sybil Fernandes, Deputy City Clerk

SCHEDULE "A"  
Example: Residential, Commercial & Industrial Use Lands -  
NOT TO SIZE

# WARNING



# PESTICIDE USE

FOR INFORMATION  
CONTACT.....  
CALL COLLECT.....  
DATE SPRAYED.....

## Residential Area Sign

Sign to be 28cm x 22cm  
(minimum) rain resistant,  
sturdy to be reused

→Capital Red letters  
2.5cm (minimum)

→Black single silhouette of  
an adult person on white  
background. Red circle  
(outer edge a minimum of  
12.5cm in diameter and  
width one tenth of the  
diameter) and oblique red  
bar

→Capital Red letters  
2.5cm (minimum)

→Capital Black letters 1cm  
(minimum) and  
telephone number of  
representative or person  
performing the land  
extermination; numbers to  
be 1cm in height  
(minimum)

→Capital Black letters 1cm  
(minimum) and long  
distance telephone  
number, if applicable;  
numbers to be 1cm in  
height (minimum)

→Capital Black letters 1cm  
(minimum) and  
day/month/year of pesticide  
application; numbers to be  
1cm in height (minimum)

→Words or markings that  
identify the employer of the  
person performing the land  
extermination or that  
identify the owner/ occupier  
or person in charge and  
that do not detract from the  
sign; not to occupy more  
than bottom 2.5cm of the  
sign

PESTICIDE.....  
REGISTRATION NUMBER

.....  
TO CONTROL.....

PESTICIDE.....  
REGISTRATION NUMBER

.....  
TO CONTROL .....

→Capital Black letters  
1cm (minimum) and  
pesticide name; letters  
to be 1cm in height  
(minimum)

→Capital Black letters  
1cm (minimum) and  
*Pest Control Products  
Act No. (PCP No.) or  
Fertilizers Act No. (FA  
No.)*; numbers to be  
1cm in height  
(minimum)

→Capital Black letters  
1cm (minimum) and  
name of pest; letters to  
be 1cm in height  
(minimum)

→Words or markings  
that identify the  
employer of the  
person performing the  
land extermination or  
that identify the owner/  
occupier or person in  
charge and do not  
detract from the sign,  
or additional words or  
markings that have  
been approved in  
writing by the Director  
under the Act; not to  
occupy more than  
bottom 2.5cm of the  
sign



**ENVIRONMENTAL COMMITTEE – MAY 14, 2007**

**PESTICIDE FREE PRIVATE PROPERTY**

**Recommendation**

The Commissioner of Legal and Administrative Services in consultation with the Commissioner of Community Services and the Director of Corporate Communications recommend:

1. That a Public and Stakeholder Consultation process be established and conducted over the next several months; and
2. That staff report back to Council with the results

**Economic Impact**

The economic impact of this initiative is within budget.

**Communications Plan**

Staff from the appropriate departments will conduct consultations with residents and representatives of the landscape and forestry industry. Subsequent to that, a communication and education plan will be developed and presented to Council.

**Purpose**

This report is to provide information relating to banning the use of pesticides on private property.

**Background - Analysis and Options**

Council, at its meeting of February 2, 2007 (Item 1, Report 5), directed staff to provide a report recommending appropriate policies and a By-law that would serve to eliminate the non-essential use of chemical pesticides.

The prohibition of using pesticides has continued to grow across the Region, Province and Country since the Supreme Court upheld the By-law from the Town of Hudson (Quebec) in 2001.

In York Region, the only municipalities that have addressed this issue are the Towns of Newmarket and Georgina. They have By-laws banning the non-essential use of pesticides. However, Georgina's does not come into effect until 2008. Other GTA municipalities that have restrictions are Toronto that allows noxious weeds to be sprayed and Caledon that allows some pesticide application. There have been no legal challenges by violators to the Toronto By-law to date.

In discussions with staff from various municipalities, and the Senior Prosecutor for the Region of York, prosecution of the By-laws presents evidentiary challenges. Since enforcing this By-law will be difficult, a comprehensive communication strategy in attempts to foster voluntary compliance with the By-law through education has been the common focus for all municipalities.

As a result, staff are recommending a progressive, stepped approach to implementing the By-law.

In order to obtain feedback from the public and stakeholders, it is proposed that consultations be conducted during the summer and fall of 2007. It is suggested that Corporate Communications would take the lead in organizing such consultations, with the support and involvement of appropriate Enforcement Services and Parks staff. Information obtained during the consultations

will assist in the formulation of the By-law as well as the nature of education and information required for implementation.

Following consultation, staff will be in a position to report back in late fall 2007, with a proposed by-law and implementation plan. It is anticipated that implementation would entail a campaign of education and awareness; enactment of a by-law with a delayed effective date; and a strategy to achieve maximum compliance through education, persuasion, cautionary notices, and other voluntary measures.

Based on a review of comparable municipal pesticide by-laws, staff would likely be proposing a by-law to restrict, eliminate, or control the use of cosmetic pesticides. The attached draft By-law is provided for discussion purposes at the consultations as it reduces the amount of pesticide usage, while still allowing some usage of some restricted application.

Since 2001 the City of Vaughan has begun educational programs to help residents obtain a healthier, weed-free lawn without the use of pesticides.

The elimination on public lands began at this time in Wards 4 & 5, and since 2005, all lands on City of Vaughan public property are pesticide free.

### **Relationship to Vaughan Vision 2007**

This report is in keeping with the Vaughan Vision in that it speaks to the promotion of community safety, and safeguarding our environment. The necessary resources have yet to be approved or allocated.

### **Regional Implications**

Properties in the control of the Region would be impacted by this By-law as it is anticipated that the By-law would apply to all lands within the boundaries of the City of Vaughan. As such, the Region will be consulted in the public consultation.

### **Conclusion**

The public and stakeholder consultation recommended in this report will form the basis for bringing forward a draft By-law and implementation strategy to restrict, control, and eliminate the non essential use pesticides in Vaughan.

### **Attachments**

Draft Pesticide Management By-law

Report prepared by:

Tony Thompson  
Senior Manager, Enforcement Services

Respectfully submitted,

Janice Atwood-Petkovski  
Commissioner of Legal & Administrative Services