

2.0 PURPOSE:

The purpose of this report is to revisit the options and implications of restricting the cosmetic use of pesticides in the City of Burlington. It is recommended that staff proceed with the development of a proposed by-law to restrict the use of pesticides and undertake public consultation on the proposed by-law.

3.0 BACKGROUND AND RELATIONSHIP TO STRATEGIC PLAN:

In 2002, Council provided direction to staff to revisit options for regulating the use of pesticides based on certain situations (refer to Appendix A). There has been a change in circumstances since staff previously reported on the issue of regulating the use of pesticides in 2005. Ontario municipalities' ability to adopt by-laws has been clarified in a decision by the Supreme Court of Canada. On November 17, 2005, the Court denied an appeal by Crop Life of a decision of the Ontario Court of Appeal, which earlier upheld Toronto's pesticide by-law.

Furthermore, Halton Region's Medical Officer of Health has recently stated his support for municipal by-laws as an option for municipalities to reduce the use of pesticides on private property. In May 2007, Dr. Nosal made the following statement in response to a request from local interest groups on his position on regulating the use of pesticides:

"... Given the limitations of current provincial and federal regulations, the Medical Officer of Health supports initiatives and measures taken by municipalities to reduce the use of pesticides for lawn care including by-laws that restrict pesticide use on private property."

The Halton Health Department provided the following data from the Rapid Risk Factor Surveillance System, a monthly random poll of Halton residents. In 2007, between January and May, 62% of Halton residents surveyed indicated that they would support banning the use of pesticides on private property (residential lawns and gardens). Data extrapolated for Burlington respondents showed a similar response. In 2006, 50% of Halton respondents indicated that pesticides had been applied on their property (includes both do-it-yourself and those who hire a commercial lawn care business).

The most recent edition of the *State of the Environment Report (III)* prepared by the Sustainable Development Committee includes the following recommendation: *That the City and Region work to raise awareness of the importance of reducing the use of pesticides and/or adopt a by-law to restrict the use of pesticides.*

Since 1992 the City has been working to reduce the use of pesticides on city property, including Tyandaga Golf Course, by implementing integrated pest management principles. Pesticide products were re-introduced at one point to address some problem areas. In response to concerns raised by residents, Council issued a suspension of their use. In 2003 the City of Burlington essentially eliminated the use of pesticides on municipal property, with the exception of limited use at the Lawn Bowling Green, Greenwood Cemetery, and Tyandaga Municipal Golf Course and infestations or there is a risk to health (see Report CC-49-02).

City staff have also participated on an inter-regional working group since 2001 to deliver an outreach and awareness program, known as Partners for Naturally Green, on the importance of

reducing the use of pesticides. This group includes representation from all local municipalities, the Region, Landscape Ontario and the Organic Landscape Alliance.

Lawn care industry members have also been active in the area of encouraging the proper use and reduction of pesticides through integrated pest management actions. One significant action has been to develop the Integrated Pest Management (IPM) Accreditation program for lawn care companies, administered through Ridgetown College, Guelph University.

4.0 DISCUSSION:

By-law Options to Restrict the Cosmetic Use of Pesticides

Approximately 22 municipalities in Ontario (including one regional municipality) have opted to adopt a by-law to restrict the cosmetic use of pesticides (refer to Appendix B for list). Although they are often referred to as bans, most by-laws include a number of exemptions. The level of enforcement and restrictions varies between municipalities. To ensure effectiveness, however, resources are required to deliver a full public outreach and awareness program to educate the public on how to maintain turf and gardens with limited use of pesticide products.

By-law options

The following is a summary of by-law options that are available.

a. Exemptions/Restrictions:

As noted, all pesticide by-laws include a list of exemptions where pesticide products are permitted for use. Examples of exemptions include: disinfection of swimming pools and spas; water purification; use within an enclosed building to deal with pests; control of termites and carpenter ants; to exterminate or repel rodents; wood preservatives; insecticide bait traps; and, personal use of insect repellent. Some by-laws permit application for trees through injection only and some exempt the use to comply with the *Weed Control Act*.

Many by-laws permit the use to control or destroy a health hazard (eg. poison ivy) and/or to control or destroy a pest infestation (eg. grubs). The by-law may or may not include pest infestation thresholds. Some municipalities administer applications for infestations through a permitting process. Many by-laws exempt the use at golf courses with a requirement that they be IPM accredited. Most by-laws exempt normal farm practices as regulated under the *Farming and Food Production Protection Act, 1998*. As well, many by-laws prescribe a list of products that are acceptable for use.

b. Seasonal By-law (eg. Caledon, Waterloo)

The application of pesticides is restricted during July & August to reduce the use of products during summer vacation when children are not in school.

c. By-law to Provide Notice of Use (eg. Waterloo)

Some municipal by-laws include notification provisions for residents applying pesticides. Currently, only licensed professionals must provide notice under the Ministry of the Environment's requirements whereas do-it-yourself homeowners are not required to post notice of their use.

d. Phased-in Approach (eg. Toronto, Oakville):

The by-law becomes effective at a later date after the by-law is adopted. This provides time for the municipality to raise public awareness regarding the by-law restrictions and practices that are acceptable for use. The initial emphasis is usually on education, not enforcement.

e. Graduated Phase-in (eg. Halifax)

Restrictions are gradually imposed throughout the community. The Halifax by-law was adopted in 2000 and in 2001, the by-law prohibited the use of pesticides within 50 metres of a sensitive land use. As well, residents with a medical sensitivity to pesticides could register with the municipality to prohibit pesticides being used in proximity to their property. In 2003, the by-law restricted the use of pesticides city-wide and the registry was discontinued.

f. Regional By-law (eg. Waterloo)

By-law restrictions are implemented at a regional level, however, the City cannot require that the Region adopt a by-law.

g. IPM Requirements

This option would require that residents and businesses hire an IPM accredited professional to apply pesticides (if needed to deal with an infestation) instead of doing it on their own.

The following options are presented for consideration to deal with the issue of restricting the use of pesticides (a hybrid of options can be considered):

- 1. Adopt a City By-law** - to restrict the use of pesticides in Burlington. Some municipalities have opted to phase-in enforcement at a later date by focusing on education and awareness in the first phase of a by-law. Various levels of restrictions can be considered as noted above.
- 2. Public Consultation** - on the implementation of a by-law to restrict the use of pesticides, such as a public meeting with a panel of experts on both sides of the issue.
- 3. Regional By-law** – restricting the use of pesticides region-wide. Although the City cannot require the Region to adopt a pesticide by-law, Council could request the Region to consider the implementation of a regional pesticide by-law.
- 4. Advocate to Senior Levels of Government** - to implement further restrictions at a federal or provincial level. For instance, in 2003, the Province of Quebec adopted a *Pesticides Management Code*, setting standards to control the use and sale of pesticides province-wide. It includes a number of rules guiding pesticide usage, such as restricting the use of pesticides on public and private lawns (except for golf courses); and, prohibiting commercial users from applying pesticides on lawns that are mixed with a fertilizer, unless the products are stored in separate containers.¹
- 5. Continue on with Existing Programs** – where staff will continue to work with Partners for Naturally Green and the Sustainable Development Committee to deliver an outreach & awareness program to educate members of the public on healthy lawn practices to reduce their use of pesticides. This will be accomplished through displays, handouts, and

¹ www.mddep.gouv.qc.ca/pesticides/permis-en/code-gestion-en/index.htm

information workshops. Staff will also continue to improve upon the turf programs for city property, to employ cultural preventative practices where possible, resulting in limited use of pesticides where permitted.

There is no clear direction on dealing with this issue, which varies between municipal jurisdictions in Ontario and across the country. To date, there has been limited involvement from the Ontario government in this area. In comparison, the implementation of a code of management by the Quebec government appears to have reduced the need for local municipalities to adopt individual pesticide restriction by-laws. The federal government has significantly improved their website and the content of information regarding the process to approve the use of pesticides and low risk products available.

As noted previously, the Region's Medical Officer of Health recently indicated that he supports municipal measures such as by-laws to reduce the use of pesticides. And the statutory authority for Ontario municipalities to adopt a pesticide by-law appears to have been clarified by the Supreme Court's decision not to allow an appeal of the decision of the Ontario Court of Appeal regarding the Toronto by-law.

A by-law can enable a municipality to show leadership in this area and take pesticide reductions to another level, but staff and funding resources are necessary to ensure its effectiveness. It is noted that a regional by-law would be beneficial in that the requirements would be consistent across the four local municipalities. Also, enforcement could be delivered by health inspectors, as is done in Toronto. Since Toronto deemed the issue to be a core area of service, it qualifies for provincial funding to assist with pesticide outreach, education and enforcement. However, this funding is only available to public health units and further, the City cannot require a regional by-law.

Staff are recommending proceeding with the development of a draft local by-law to restrict the cosmetic use of pesticides. Staff also recommend that a public consultation meeting be conducted with a facilitator to help determine the nature of the by-law. It is proposed that an outline of restrictions and permitted uses/exemptions being contemplated be presented to the public for feedback (see Appendix C). The City's website can also be used to obtain further public comments.

Following the public consultation process, staff will report back on a proposed by-law, and financial and staff resource requirements for implementation, as well as public education and awareness issues.

5.0 FINANCIAL MATTERS:

The cost of the public consultation meeting will be covered in the 2007 current operating budget for the Environment section. The cost is expected to be less than \$5,000.

With respect to the costs of implementing a by-law, the costs for enforcement is dependent on the level of restrictions imposed. Additional costs for a public education campaign would likely be incurred as well. These costs will be outlined in a future implementation report.

6.0 ENVIRONMENTAL MATTERS:

There are many cultural and preventative practices that can and should be employed to care for gardens, lawns and trees, without relying on pesticide products. Reducing the use of pesticides can be beneficial for our local environment.

7.0 COMMUNICATION MATTERS:

Further background information to this report is available on the Environment web page at www.burlington.ca, including examples of other municipal by-laws.

Currently the City's environment staff and horticultural technician work closely with Halton's Partners for Naturally Green program to deliver a public outreach and education program to encourage a reduction in the use of pesticides. Staff also support the endeavours by the Sustainable Development Committee. If Council determines that a by-law should be adopted or considered through a public consultation process, then staff will work closely with corporate communications to develop a more detailed communications plan. Community partners would also be sought to educate the public, particularly with the lawn care industry who has been active in this area through Landscape Ontario, as well as local retailers.

8.0 CONCLUSION:

In an effort to further reduce the cosmetic use of pesticides, staff are recommending proceeding with the development of a draft pesticide by-law and that a public consultation meeting be held to help determine the scope of the by-law. Staff will then report back on the results of the consultation, recommended restrictions, the financial resource implications, and steps necessary to implement a by-law.

Respectfully submitted,

Lynn Robichaud
Sr. Environmental Co-ordinator

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Appendices:

APPENDIX A – 2002 Staff Direction APPENDIX B - Municipal Pesticide By-law Summary APPENDIX C – Proposed Pesticide By-law Restrictions

Staff / Others Consulted:

Name	Telephone
Healthy Green Spaces Committee	
Environmental Management Team	
Sustainable Development Committee	
Management Team	
Sean O’Brady, Communications	x7531
George Kotsifas, Bldg.	x7617
Angela Morgan, Bldg.	x7628
Beckie Jas, Halton Health Dept.	905-825-6000 x7678
Cindy Toth, Oakville	905-845-6601 x3299
Mavis Urqhart, Markham	905-415-7502
Alan Barber, Peterborough	
Orangeville Enforcement Staff	
Waterloo Region Enforcement Staff	

Notifications:

Name	Mailing or E-mail Address
Send notification letter to list of residents who have expressed an interest in this issue.	

Special Instructions:

Regular Agenda

APPENDIX A

On October 8, 2002, staff reported to committee with options to regulate the use of pesticides on private property (refer to report CC-199-02). The following staff direction was adopted by Council:

THAT the General Manager of Community Services and the Healthy Green Spaces Committee be directed to revisit and report back on the regulatory options for reducing the use of pesticides on private lands based on the occurrence of any of the specific situations outlined in the conclusion of Community Services Division Report COMSERV-5/02, dated September 27, 2002;

The situations outlined in the subject report included:

- *Changes in provincial legislation providing a specific and clear legislative framework for municipal regulation of non-essential use of pesticides on private property; or,*
- *Support by the Region of Halton's Medical Officer of Health for a local regulatory approach; or,*
- *Passage of time (ie. three years to reflect a council cycle in keeping with the previous recommendation approved by Regional Council).*

Furthermore, any future report on regulatory options should address the requirement for full public consultation on the issue including the need for a comprehensive community wide survey.

APPENDIX B

Ontario municipalities that have adopted pesticides restriction by-laws.		
1	Township of Archipelago	<ul style="list-style-type: none"> • Adopted pesticide restriction by-law in 2003 • Exemptions included for health hazards and weed control act • List of permitted uses included
2	Town of Caledon	<ul style="list-style-type: none"> • By-law approved April 28th, 2003 and effective May 1st, 2004 • Pesticide applications are not permitted in July & August with some exceptions • All other times, pesticides are restricted to spot applications covering no more than 20% of the horticultural landscape • Applicators for golf courses must be IPM accredited • A public information record of commercial applicators is maintained by the town
3	Town of Cobalt	<ul style="list-style-type: none"> • Adopted pesticide restriction by-law modelled on Hudson, Que. • Came into effect on Nov. 1, 2002
4	Town of Cobourg	<ul style="list-style-type: none"> • By-law adopted May 2006; effective July 1st 2006 • Restricts pesticide application to spot usage on no more than 20% of vegetative landscaped area in a 30 day period • Includes weather conditions for restrictions
5	Town of Deep River	<ul style="list-style-type: none"> • By-law adopted November 2006 • Requires a permit to apply pesticides – no fee for permit
6	Town of Gananoque	<ul style="list-style-type: none"> • By-law adopted 1998 – restricts pesticides only on Town owned and leased lands
7	Georgian Bay	<ul style="list-style-type: none"> • By-law adopted April 2007 • Prohibits the use of pesticides and fertilizers on those lots that abut a water body or shore
8	Georgina	<ul style="list-style-type: none"> • By-law becomes effective March 1, 2008 • List of permitted products provided • Exemptions include infestations, health hazards & agricultural uses, etc.
9	City of Guelph	<ul style="list-style-type: none"> • Adopted May 2007 • Restrictions for commercial applicators in 2008 and residents in 2009
10	City of London	<ul style="list-style-type: none"> • By-law adopted in 2006; to become effective in September 2008 • List of permitted products provided • Exemptions include infestations, health hazards & agricultural uses, etc.
11	Town of Markham	<ul style="list-style-type: none"> • Adopted June 2007; becomes effective in January 2008 • List of permitted products • Exemptions include infestations, health hazards & agricultural uses, etc.
12	Town of Newmarket	<ul style="list-style-type: none"> • By-law adopted in 2006; becomes effective September 2008 • List of permitted products provided • Exemptions include infestations, health hazards & agricultural uses, etc.

13	City of North Bay	<ul style="list-style-type: none"> • Pesticide restriction by-law adopted on Feb. 28/05 • Pesticide use is dependant on having certain “thresholds” of pests or weeds present before they can be used • City must be notified when certain pesticide products are used but no permit required
14	Town of Oakville	<ul style="list-style-type: none"> • Adopted by-law in February 2007; effective in 2008 • Modelled on Peterborough’s by-law • No exemption for infestations
15	Town of Orangeville	<ul style="list-style-type: none"> • Adopted in 2006; effective Jan. 1 2007 • Seasonal restrictions • Requires IPM Accreditation for lawn care companies
16	City of Peterborough	<ul style="list-style-type: none"> • Council adopted a pesticide restriction by-law May 2nd 2005 • By-law effective March 1st 2006 • Restricts the use of pesticides on private property but does not require a permit from the City
17	Town of Perth	<ul style="list-style-type: none"> • By-law adopted, effective April 1st, 2003 (similar to Cobalt’s) • Exempts golf courses with conditions • Penalties range from \$100 for first infraction to \$4000 for corporations or other legal entities
18	Township of Smith-Ennismore-Lakefield	<ul style="list-style-type: none"> • Adopted April 2007; effective March 1st, 2008 • Golf courses must be actively enrolled in an IPM certification program by Jan. 1st, 2008 and fully accredited by Mar. 1st, 2009
19	Town of Thorold	<ul style="list-style-type: none"> • Adopted a pesticide restriction by-law effective July 1st, 2004 requiring the Town to permit the application of pesticides on private property
20	City of Toronto	<ul style="list-style-type: none"> • Council adopted by-law May 22nd, 2003 restricting the non-essential use of pesticides with exceptions • Enforcement of lawn care operators began in 2005; enforcement of do-it-yourself homeowners begins Sept. 1, 2007 • Extensive public awareness/education program with media ads, fact sheets, brochures, technical guide, retail point of sale program, telephone info line, etc.
21	Region of Waterloo	<ul style="list-style-type: none"> • By-law adopted in 2006 (affects seven local municipalities). • Seasonal restrictions – July & August • Requires signs to be posted for notification of pesticide application
22	City of Windsor	<ul style="list-style-type: none"> • By-law adopted 2006 • Transitional provisions – during first 3 years, signs must be posted if pesticides applied; must be applied on a spot treatment basis; and commercial applicators must be IPM accredited • 2009 – by-law restrictions are fully implemented

APPENDIX C

A proposed by-law would restrict the use of pesticides within the boundaries of the City of Burlington.

A pesticide means a product, an organism or a substance that is a registered control product as defined 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.

The following is a list of **potential permitted uses (exemptions)**:

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 and carpenter ants;
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;
12. As an insect repellent for personal use;
13. On a golf course or lawn bowling green provided any such use or application is permitted only under the direction of an I.P.M. accredited agent;
14. In furtherance of a normal farm practice carried on as part of an agricultural operation as defined by and pursuant to the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1, as amended;
15. At a hydro substation, a utility distribution station, or within a hydro or utility corridor.

Products proposed to be permitted for use under the by-law:

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 wasps, 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.