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Environment and Sustainability Committee
February 3, 2011

TO: Chair and Members of Environment and Sustainability Committee

SUBMITTED BY:

A handwritten signature in cursive script, appearing to read "P. Townsend".

Phillip Townsend, Director, Infrastructure and Asset Management

DATE: January 20, 2011

SUBJECT: Legislated Scope of HRM Pesticide By-Law P-800

INFORMATION REPORT

ORIGIN

This report originates from staff as supporting information for the upcoming deliberation on the fit of the Provincial Pesticide Regulations with the Halifax Regional Municipality (HRM) Pesticide By-Law.

BACKGROUND

The authority that Halifax Regional Municipality Regional Council has in respect to the Pesticide By-Law is as follows:

HRM Charter 2008, c.39

Section 188: Power to make by-laws

(1) The Council may make by-laws, for municipal purposes, respecting...

(j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes and on property of the Municipality and, without restricting the generality of the foregoing,

(i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,

(ii) establishing a registration scheme, that is open to the public, in which a resident may file with the clerk an objection to pesticides, herbicides and insecticides being so used in the vicinity of the property on which the person resides,

(iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice,

(iv) providing that pesticides, herbicides and insecticides may not be so used within the distance of a registered property established by the by-law, the requirements respecting notices to residents or owners of properties within the distance of a registered property established by the by-law and the effective date of the prohibition,

(v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply,

(vi) providing for all other matters necessary or incidental to the establishment of the registration scheme,

The By-Law, P-800, was approved in 2000 (Attachment One).

The original by-law dealt with a Registry system which ended in 2003. Property Registration sections 7, 8, 9, and 10 are redundant and their relevance expired with the 2003 by-law.

Essentially, the existing by-law covers:

- Prohibition to spray on HRM property;
- Prohibition on Public Areas;
- Permitting for products required to address infestations on lawn and plants;
- Signage Requirements for permitted products; and
- Application Requirements for permitted pesticides (to deal with infestations).

It is important to note that the scope of the HRM Charter and the Pesticide By-Law deals only with turf and plant pesticides and herbicides. Pesticides for ants, beetles, ticks, etc., are outside the scope of the By-Law and authority in the HRM Charter. This gap creates much confusion with staff, councillors and the public.

Very simply, the by-law restricts usage of product to kill weeds, with Glyphosate (Round Up) being the primary product of applicability. It also restricts the products that can be used to deal with chinch bugs (which ruins turf) to non-toxic alternatives, but allows permitting for chinch infestations (generally using a permethrin product). Since 2000, permitting has been almost 100% for chinch bugs (a few exceptions include grubs). HRM does not do any permitting around ants.

DISCUSSION

With the Provincial Regulations, the opportunities for deliberation within the HRM Charter and By-Law P-800 are as follows:

- Prohibition of use on HRM property;
- Prohibition of use on public spaces; and
- Registration Program.

The Provincial Regulations completely restrict any exceptions for chinch bugs, so there are no applications to functionally permit. This restriction fundamentally makes the HRM By-Law around signage, permitting and application constraints redundant. There are no products to permit and apply the conditions to, under the scope of our by-law.

HRM Regional Council does have the authority to consider a Registration Program related to restricting pesticides and herbicides for turf and plant purposes.

HRM does not have the authority to provide restrictions around applications of pesticides for ants, ticks, beetles, bees, wasps, etc.; should we wish that authority, we need to seek it.

A key piece of work that does need to be completed is the examination of the Provincial Allowable List and the HRM Permitted Pesticides List. There are some differences. The By-Law does give us the authority to impose restrictions on the usage related to turf and grass. The primary gap and difference is FeHEDTA. Staff's recommendations on the list and different products will follow scheduled presentations in March.

BUDGET IMPLICATIONS

This Information Report is for clarifying information only. Budget implications and alternatives relating to By-Law P-800, will be presented in a future report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

There was substantial community engagement on the pesticide by-law in the late 1990s and annual overview reports are provided to Regional Council.

ATTACHMENTS

HRM By-Law P-800

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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