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Item No. 3
Halifax Regional Council
January 11, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by Director
Phillip Townsend, Director, Infrastructure and Asset Management

DATE: December 17, 2010

SUBJECT: Provincial Pesticide Regulations

INFORMATION REPORT

ORIGIN

This report originates from Staff.

BACKGROUND

On December 3, 2010, the Province of Nova Scotia announced the new Non-essential Pesticides Regulations and List of Allowable Pesticides. The Non-essential Pesticides Control Act was passed in May 2010. The legislation and regulations applies to lawn care and ornamental plants on residential, commercial, government and institutional properties, as well as parks and other recreational facilities. The legislation is also accompanied by a List of Allowable Pesticides. The sale and use of pesticides, which do not appear on the Allowable list, will be prohibited on lawns as of April 1, 2011. The legislation will be extended to ornamental shrubs, flowers and trees as of April 1, 2012.

The Exceptions to Prohibitions on Non-essential Pesticides Regulations, outline the circumstances when pesticides which are not on the Allowable list, can be used on lawns and ornamental gardens. The regulations also place restrictions on the sale of pesticides for these exceptions.

The Non-essential Pesticides Control Act can be found at the following URL:
<http://nslegislature.ca/legc/sol.htm>.

The Exceptions to Prohibitions on Non-essential Pesticides Regulations and the List of Allowable Pesticides Regulations can be found at: <http://www.gov.ns.ca/just/regulations/rxam-z.htm#non>.

DISCUSSION

The legislation and regulations passed by the Province of Nova Scotia are helpful as they address the gap that the current Halifax Regional Municipality's (HRM) Pesticide By-Law, P-800, could not address: (<http://www.halifax.ca/legislation/bylaws/hrm/blp-800.pdf>). The focus of the HRM By-Law is on the usage of the pesticide, whereas the Provincial Legislation scopes additionally on the sale of non-allowable pesticides in stores.

A brief and simplified summary of key staff notes of the new regulations are as follows:

1. There is no longer any exception for the spraying of chinch bugs with non-allowable chemicals (i.e. Carbaryl). This restriction is environmentally stronger than our By-Law;
2. Non-allowable products would only be offered through Commercially Licenced Class 1 retailers;
3. FeHEDTA and Glyphosate (Round Up) are allowed in 2011 on the Nova Scotia Environment (NSE) list, but not on the HRM allowable list; and
4. Glyphosate (Round Up) is restricted in 2012 (with the shrubs, flowers and trees piece), FeHEDTA is allowed.

Glyphosate has been the primary product of discrepancy during the administration of the HRM By-Law.

A couple of items that the new legislation and regulations do not address, which are addressed in the HRM By-Law, are:

1. Signage;
2. Buffer areas; and
3. Restricted areas.

The Provincial regulations do not usurp the HRM By-Law.

Staff needs to work with the Environment and Sustainability Committee to review direction related to:

1. Adoption/or not of the NSE List of Allowable Products; and
2. Maintenance of the HRM By-Law and possible administrative clean up.

Changes to the by-law will require a public hearing. As such, and knowing the public interest in the topic, this by-law will not be changed prior to Spring 2011. With the phased-in regulations, it is staff's intent to work with the Committee to:

1. Re-examine the acceptability of FeHEDTA - Spring 2011;
2. Determine whether the existing By-Law is still required (which at this point, staff would recommend a tidied up By-Law) - Spring/ Summer 2011;
3. Examine and review how the Provincial Regulations are working - Summer/ Fall 2011;

4. Determine whether and how to tidy up the By-Law - Fall 2011; and
5. Hold Public Hearings related to the By-Law changes - Fall/ Winter 2011.

In 2010, staff brought forward a recommendation to consider FeHEDTA for inclusion on HRM's Permitted Pesticides List, Administrative Order #23. This recommendation was based on Regional Council's previous motion to recommend that the Union of Nova Scotia Municipalities (UNSM) advocate that the Province adopt the Ontario standards for pesticides. FeHEDTA is on the Ontario Class 11 list. Regional Council did not accept staff's recommendation. Local environmental academics have recommended against the inclusion of FeHEDTA, therefore, staff will need to re-examine this and provide a recommendation to the Committee.

Currently, it is staff's vision to discontinue the permitting process in 2011 and onwards, based on our understanding of the new provincial regulations – there will be nothing to permit. It is envisioned that there will be a need for some education/advertisements relating to signage and buffer zones, possibly for this year only, due to public expectation. This will be reviewed with the Environment and Sustainability Committee.

BUDGET IMPLICATIONS

There are no budget implications to this specific information report. Administration of the Pesticide permitting and education by the Sustainable Environment Management Office (SEMO), cost approximately \$110,000 in 2009/ 2010, was reduced to \$60,000 in 2010/ 2011 (by eliminating the education component), and is currently targeted as a cost savings opportunity for 2011/ 2012.

Expected recommendations from the Environment and Sustainability Committee will provide succinct budget implications.

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 has been ongoing engagement with the Province of Nova Scotia, the local Environmental NGO community, and members of industry. Deferring this to the Committee will enable further engagement.

ATTACHMENTS

None

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

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