



Report to: General Committee

Report Date May 25, 2009

---

**SUBJECT:** New Provincial Regulations Respecting the Use and Sale of  
Cosmetic Pesticides

**PREPARED BY:** Mavis Urquhart, Manager, Environmental Leadership  
W. Wiles, Manager, By-law Enforcement & Licensing

---

**RECOMMENDATIONS:**

1. That Markham Staff Report on New Provincial Regulations Respecting the Use and Sale of Cosmetic Pesticides dated May 25, 2009, be received; and
2. That the Town of Markham send a letter of support to the Minister of Environment, commending the Provincial Government for implementing a ban on the use and sale of pesticides; and,
3. That the Ministry of the Environment be requested to provide municipalities with a detailed overview of its pesticide education and enforcement program; details of its plan for the review of golf course audit information; and a designated telephone number for use by Municipal Law Enforcement Officers to report suspected or observed violations of the Act; and,
4. That the Region of York be requested to undertake a Region-wide communication program targeting pesticide disposal across York Region to encourage the public to properly dispose of banned pesticides; and
5. That By-laws 2007-146 (Pesticide By-law), 2008-17 (Pesticide Applicators By-law), and 2008-18 (Pesticide Free Yard Care Applicators Licensing By-law) be repealed; and,
6. That the proposed 2009 Pesticide Education/Outreach Program for the Town of Markham as described in this report be endorsed; and,
7. That staff be requested to report back in May, 2010, with an assessment of the effectiveness of the Provincial Education and Enforcement Plan relative to the Act; and,
8. That a copy of this Report be circulated to local municipalities in the GTA and the Association of Municipalities of Ontario; and further,
9. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

To report back on the impact of the Cosmetic Pesticides Ban Act (Bill 64) - new pesticide regulations that came into effect April 22, 2009; to provide the results of Markham's Education and Enforcement Program for the Pesticide By-law in 2008; and to propose recommendations for the Town's 2009 Pesticide Education/Outreach Program.

---

**BACKGROUND:**

In February of 2008, staff reported on implementation of Markham's Pesticide By-law through education, enforcement and licensing. At that time, General Committee requested staff report back on the Program results at the end of 2008. The Province subsequently introduced legislation to ban pesticides in Ontario in June 2008. Staff provided interim updates on this legislation to Council in the Fall of 2008, advising a full update would be provided once the regulations were published.

On April 22, 2009, the Cosmetic Pesticides Ban Act (Bill 64) – an act to amend the Pesticides Act, was proclaimed and regulations implementing the ban came into effect. This legislation supercedes municipal pesticides by-laws, (including Markham's), to create a single set of rules across Ontario. The scope of the new legislation is significantly broader than Markham's Pesticide By-law as it extends a ban on cosmetic pesticide use across the Province and imposes a ban on the sale of many pesticides. As a result, Markham staff is very supportive of this legislation.

**OPTIONS/ DISCUSSION:****Details and Impact of New Legislation**

A detailed summary of the legislation is included in *Appendix 1*. The general impact of the legislation is as follows:

- **Homeowners:** can still buy and use of some pesticides to control insects (like wasps and mosquitoes); eliminate plants that pose health and safety risks when touched (such as poison ivy, or giant hogweed); protect the health of pets (flea collars); and avoid structural damage to homes (such as termites). There is no clause that permits pesticide use for infestations such as for grubs and chinch bugs);
- **Retailers:** will be more restricted in the products they can sell (no banned pesticides). On a phased basis, other pesticides will no longer be as readily accessible to the public as they were previously (i.e. they will be kept behind glass) and some retailers will no longer be able to sell the range of products they used to sell;
- **Lawn and garden service providers:** prohibits the use of pesticides to treat infestations for insects, weeds or fungi. Lower risk and less toxic products will replace the conventional pesticides that are now banned, or restricted. Posting of signage to notify the public of pesticide use is still required. The Province is introducing a new "Green Sign" to be used with lower risk pesticides, similar to the yellow sign the Town successfully introduced last year.

**Results of Town's 2008 Pesticide By-law Education/ Enforcement Program**

An overview of the Town's 2008 Pesticide By-law Education/Enforcement Program (and results of same) is provided in *Appendices 2 and 3* to this Report.

**Bill 64 – Pesticide Act Implications**

In accordance with the Bill, Regulations contained in Bill 64 (Pesticide Act) supersede the Town's Pesticide By-law. Enforcement of pesticide regulations is now a Provincial responsibility. This means municipalities no longer have authority to pass and enforce

---

by-laws regulating the use of pesticides. As such, staff is recommending By-laws 207-146, 2008-17, and 2008-18, be repealed. In announcing the implementation of the new Act, the Province committed to delivery of a pesticide education and enforcement program, using many of the same tools the Town employed in 2008. The Ministry of the Environment (MOE) will have oversight responsibility for this program. On the compliance side, it will include field inspections - on both a proactive and reactive basis. On the education side, the Ministry has prepared an information brochure for distribution via retail stores and has developed a comprehensive website. The Ministry has also announced plans to host information seminars throughout Ontario. Markham staff has offered to host such a seminar within the Town.

### **Proposed 2009 Markham Pesticide Program**

Given the legislation is quite new, the Province has yet to communicate the specific details of its pesticide education and enforcement program to municipalities. As such, staff is recommending the Town undertake the following modified version of its 2008 program to support Provincial efforts and provide assistance to Markham residents in this important transition year:

#### **1. Education Program**

Staff recommends the Town undertake a modified Pesticide Educational Program in 2009 with special emphasis on natural lawn and garden care and on the proper disposal of newly banned products at the hazardous waste depot. This Program will help residents transition to new lawn and garden practices and to build upon last year's successes by using and modifying existing communications materials as much as possible. Markham staff will continue to promote sustainable landscapes in the community (natural lawn and garden care, native species, low maintenance, drought tolerant plants and alternatives to lawns). In fact, six workshops on these topics are planned over the next few months with the assistance of the Conservation Authority. Additional sessions can be added if there is demand to do so. As previously noted, the MOE has also agreed to hold a natural lawn and garden workshop in mid-May in the Markham Council Chambers which will be delivered by Communities in Bloom, Master Gardeners and other horticultural experts. Information materials about natural lawn and garden care will continue to be provided to the community through outreach and through Markham's comprehensive pesticide-free website which is linked to the Provincial website. Markham's website will be updated as needed. Questions regarding legislative requirements and interpretation will be referred to the MOE.

#### **2. Enforcement Program**

Markham staff will now have limited involvement in enforcement of pesticide regulations. Although Town staff cannot enforce the Act, any found or suspected violations will be reported to the MOE. This is consistent with the Town's practices with other complaints received for matters of Provincial jurisdiction. Contact Centre staff will also be briefed on the MOE's protocol for reporting matters and would direct resident inquiries/complaints accordingly. By-law staff will be trained on the general regulations of the Pesticide Act and, along with the Town's Environmental/Wildlife Officer, will expeditiously report any potential violations to the MOE.

---

**ENVIRONMENTAL CONSIDERATIONS:**

The proposed 2009 Program meets the Town's Environmental Focus and Council environmental objectives for 2009. The benefits of this project are reduction of toxins in environment which results in cleaner air, water and better health for the community.

**FINANCIAL TEMPLATE:**

Funding in the amount of \$30,000 is available for the pesticide-free operating account #790 998 4238.

**CONCLUSION**

The new Provincial pesticide regulations establish a regulatory framework for the sale and use of cosmetic pesticides in Ontario. This is a significant step towards reducing pesticide use across the Province as the availability and use of many products and ingredients will be restricted. Copies of the proposed regulations and pesticide product list are available by contacting Mavis Urquhart, Manager, Environmental Leadership at extension 7502.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Aligns with Environmental Strategic Focus.

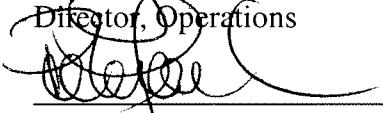
**DEPARTMENTS CONSULTED AND AFFECTED:**

Legal Department, Fire Department, Communications and Community Relations Department and Parks Department were consulted in the preparation of this report.

**RECOMMENDED BY:**



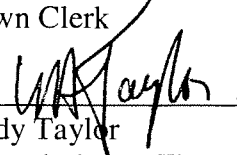
Peter Loukes,  
Director, Operations



Brenda Librecz  
Commissioner, Community and Fire Services



Kimberley Kitteringham  
Town Clerk



Andy Taylor  
Commissioner, Finance

**ATTACHMENTS:**

- |                |  |
|----------------|--|
| Attachment 1 - | Overview of the Cosmetic Pesticide Ban Act                                       |
| Attachment 2 - | 2008 Education Program for the Markham Pesticide By-law - Overview and Results   |
| Attachment 3 - | 2008 Enforcement Program for the Markham Pesticide By-law - Overview and Results |

### **OVERVIEW OF PROVINCIAL REGULATIONS**

The Cosmetic Pesticides Ban Act (Bill 64) took effect on April 22, 2009. Over 250 pesticide products are banned for sale and over 80 pesticide ingredients are banned for cosmetic use. Exceptions to the ban are provided for the following:

- Public health or safety
- Natural resources
- Golf Courses
- Sportsfields
- Specialty Turf
- Trees
- Agriculture
- Forestry
- Public Works

There are no general exceptions for pest infestations, including insects, fungi, and weeds. The legislation also introduces new sign requirements so if licensed lawn, tree and garden providers use the lower risk pesticides or a biopesticide, they must now post a green-coloured notice sign. The existing red-coloured warning signs will continue to be used for other pesticides applied under excepted uses. Homeowners are not required to post signs.

This legislative represents a significant step forward in Ontario in terms of further restricting the use of pesticides and limiting their sale to the public, by removing many products from the shelves and making other products less accessible. The regulations are very complicated so only highlights are provided for this report.

### **KEY FEATURES OF PROVINCIAL REGULATIONS:**

- Revises pesticide classification system to create 11 new classes of pesticides – including products for manufacturing use, commercial use, domestic use, banned for sale, subject to sales restrictions and pesticide ingredients and biopesticides;
- Identifies banned cosmetic pesticides that cannot be used such as Weedout, Killex and Weed and Feed;
- Identifies dual purpose products that may be used for both cosmetic and non-cosmetic uses that are subject to restricted sale. Retailers must provide information to purchasers about what these pesticides are permitted to be used for (e.g., a non-cosmetic pesticide intended to control poison ivy cannot be used on patios to control weeds). After April 2011, consumers will not have ready access to these products (i.e. retailers may locate them behind glass);
- Phases out sales of pesticides by vendors – Vendors are licenced based upon the class of pesticides they sell. Commencing January 2010, some vendors will be able to sell fewer classes of pesticides;

- Allows exceptions for the following:
  1. **Public Health and Safety** – Pesticide application is permitted to control pests that pose a risk including:
    - Animals and insects that bite, sting, are venomous, carry disease (such as wasps, bees, mosquitoes and ticks)
    - Plants that are poisonous to touch or ingest (such as poison ivy, poison sumac, and giant hogweed)
    - Plants, fungi or animals that may affect buildings or structures (such as carpenter ants and termites)
  2. **Natural Resources** – Pesticides may be used to control invasive species; protect a species of plant or animal native to Ontario; protect or restore a rare ecosystem subject to Ministry of Natural Resources approval.
  3. **Golf Courses** - Golf courses will be able to use pesticides only on the playing surfaces that includes tees, fairways, greens and rough and not on lawns, gardens, patios and other outdoor areas associated with the course. Mini-golf or mini-putt courses are not considered golf courses. To use pesticides, golf courses must be fully accredited in integrated pest management (IPM). This requires training of grounds-keeping staff, maintaining detailed records of pesticide use, employing alternative methods of controlling pests prior to pesticide use, and participating in an annual audit process. Owner/operators must prepare an annual report identifying the locations/amounts of pesticides used on the golf course. This report must be made public on a website and a copy provided to the public on request. Public notification and a public meeting to present this report is required before December 1<sup>st</sup> annually.
  4. **Sport fields** - An exception under the ban allows pesticides to be used on a sports field for a national or international sporting event. The person applying the pesticide must enter into a written agreement with the Minister of the Environment respecting the use of pesticides for the event. Areas around the sports field including lawns and gardens are not exempt under the ban.
  5. **Specialty Turf** - An exception under the ban is provided for specialty turf used for lawn bowling, cricket, lawn tennis or croquet and only if it is the same kind of turf that is used on golf course greens (i.e. creeping bent grass). Areas around the specialty turf, including lawns and gardens are not exempted. Pesticides may be applied to specialty turf by a licensed exterminator who is IPM certified. The owner or operator of the specialty turf is responsible for ensuring an annual report is prepared that summarizes all pesticide use on specialty turf. A copy of this report must be kept on the property for at least five years after it has been prepared, and must be made available to any member of the public upon request.

6. **Trees** - There is an exemption under the ban to allow the use of pesticides to maintain trees. The written opinion from a professional arborist must be obtained before a commercial pesticide can be used as an injection into a tree, or applied directly to the tree trunk or leaves. The opinion must indicate that pesticide use is necessary to maintain tree health. The licensed exterminator using the pesticide must provide a written notice to the occupants of all properties in residential areas that abut the application area 1-7 days in advance.
7. **Agriculture** - Agricultural operations are exempt from the ban except for:
- agricultural production for owner/operator's household
  - growing crops in a park, on a property used primarily for residential purposes or in a garden located in a public space
  - growing plants for display in a park, cemetery, on a lawn or similar location lawns and gardens around the farm house, which are not part of an agricultural operation.

The regulation provides an exception when pesticide use is required under other pieces of legislation, such as the Weed Control Act, and the Plant Diseases Act. Community gardens are **not** exempt.

8. **Forestry** – Pesticides may be used for harvesting, protection, establishment and accessing of forests.
9. **Public Works** - Public works in the regulations means municipal and provincial buildings and public structures such as railways, highways, bridges, and property used for generation, transmission, distribution supply of electrical power, gas works, water works, public utility or other work, including sewers, telephone cables etc. Pesticides can be used to:
- prevent structural damage to a public work
  - allow essential maintenance of the public work
  - allow for emergency access to the public work
  - ensure the security of the public work
- This exception does not however allow pesticide use on portions of highways and areas that are regularly used for access by pedestrians or for picnicking etc. An annual report on pesticide use is required and can be requested.
10. **Infestations** - There is no general exception for pest infestations including insects, fungi, and weeds – (Markham's By-law had an exemption for infestations in 2008 only).
11. **Other legislative requirements** – allows for the use of pesticides subject to complying with federal or provincial acts, including the Weed Control Act and Plant Diseases Act.

- Regulates pesticide storage and fire department notification requirements – Manufacturers will be subject to new rules about sales, transfer and storage of pesticides. A notification form identifying pesticide storage, location and conditions of storage and person responsible for the pesticides must now be submitted to the local fire department on an annual basis; and,
- Provides new enhanced notice signs – As mentioned previously in this staff report, posting of green-coloured notice signs is required, providing public notice when low risk alternatives to conventional pesticides are used by licensed exterminators. For example, use of corn gluten meal. The existing red-coloured warning signs will continue to be used for other pesticides applied under excepted uses. Homeowners are not required to post signs.

## **TOWN OF MARKHAM PESTICIDE BY-LAW**

On January 1, 2008, Town of Markham's Pesticide By-law came into effect. By-laws were subsequently passed in February to enable the Town to license pesticide applicators and pesticide-free providers. An extensive public education and active enforcement program was undertaken in the community over the spring, summer and fall. Unlike the regulations, Markham's Pesticide By-law was simple. It identified only the low impact products/ingredients that could be used (it did not specify what pesticides could be used for the exempted applications like public health) and was based upon the City of Toronto's permitted product/ingredient list that was developed based upon health research.

Markham staff has reviewed the new Provincial legislation and have identified some key differences with Markham's by-law which are outlined below:

- **Provincial legislation allows use of more products by the public** - Markham's Pesticide By-law only permits products/ingredients similar to Class 11 on the Provincial list
- **Provincial legislation provides a broader range of exceptions to allow greater pesticide use** – this includes:
  - Forestry management applications (Markham's Pesticide By-law has no similar provisions)
  - Public Works definition is much broader (Markham's Pesticide By-law only permitted pesticide application in electrical substations)
  - Spraying of trees (not permitted in Markham's Pesticide By-law)
  - Applications for natural resource protection (not included in Markham's Pesticide By-law)
  - Sport fields for national and international events (not contemplated in Markham's Pesticide By-law)
  - Specialty Turf application, such as cricket, lawn bowling, lawn tennis or croquet (Markham's Pesticide By-law only permits lawn bowling)

There are no general exceptions for pest infestations in the legislation, including insects, fungi, and weeds. Markham's Pesticide By-law had an exemption to permit pesticide use on infestations in 2008 only.



The Provincial legislation is not as restrictive in many areas as Markham's Pesticide By-law - which was tailored specifically to suit the Town. ***Having said this, the legislation does bring about a key change in that it limits pesticide sales to the public by removing many pesticide products from store shelves and makes other products less accessible*** (municipalities do not have the authority to control the sale of pesticides).

## APPENDIX 2

### OVERVIEW OF MARKHAM'S PESTICIDE BY-LAW 2008 EDUCATION PROGRAM

#### 2008 EDUCATION PROGRAM SUMMARY:

After the enactment of Markham's Pesticide By-law, a Steering Committee was established to develop and implement a comprehensive education program advising stakeholders about the By-law requirements and natural lawn and garden techniques. Messages to the public by municipalities about pesticide use were significantly complicated by the sale of products prohibited under their by-laws at local retail stores as these products are regulated by the Province. To ensure a clear and positive message to residents, a comprehensive educational program that focused on learning new lawn and garden techniques was undertaken. Similarly, lawn care operators needed to be made aware of the new licensing and signage program that the Town adopted. Finally, retailers needed in store assistance in directing purchasers to products permitted by the by-law and providing natural lawn care information. As a result, the Program was focused on outreach to 3 key groups and delivered as follows:

- Residents – through Mission Green publications, 12 natural lawn care workshops, information booths at 30 community events, through print media, a comprehensive website, Hazardous Waste program for collection and proper disposal of pesticides and a knowledgeable by-law enforcement staff in the field
- Retailers – through a training workshop, print media, booths at their stores, outreach and in store assistance from Town staff
- Lawn Care industry – through correspondence, a comprehensive website, 2 information sessions and By-law Enforcement staff providing information on the by-law in the field

#### 2008 EDUCATION PROGRAM KEY COMPONENTS:

**A) Workshops** - workshops were held in the Spring and Fall of 2008 and offered to the following stakeholders:

- Bylaw Information session for Lawn/Tree Care Operators
- Retailer Training Workshop
- Workshop for Parks Department
- Spring and Fall "Lawn Care Without Pesticides" Workshops for residents

Spring Workshop Results - Six free spring workshops on pest and diseases, organic lawn care, and eco-friendly gardening were held. A total of 335 people attended (all workshops fully booked). Please see following workshop survey results:

<b>(scored out of 5)</b>	<b>overall average</b>
<b>Program met my expectations</b>	<b>4.42</b>
<b>Program content</b>	<b>4.46</b>
<b>Ability of Presenter to communicate content</b>	<b>4.59</b>
<b>Content and usefulness of handouts</b>	<b>4.35</b>
<b>Overall how would you rate this program</b>	<b>4.51</b>

Fall Workshop Results - Six free Fall workshops on pest and diseases, organic lawn care, and eco-friendly gardening were held. A total of 199 people attended (all workshops, but one, fully booked). Please see following workshop survey results:

<b>(scored out of 5)</b>	<b>overall average</b>
<b>Program met my expectations</b>	<b>4.37</b>
<b>Program content</b>	<b>4.36</b>
<b>Ability of Presenter to communicate content</b>	<b>4.49</b>
<b>Overall how would you rate this program</b>	<b>4.40</b>

B) **PRINTED MATERIALS** - Printed materials were developed and provided residents, retailers and Pesticide By-law Officers with various educational materials including:

- “Lawn Care that Won’t Cost the Earth” booklet
- Pesticide By-law cards (90,000 cards distributed)
- “Growing Naturally” pamphlet
- Natural Approach to Lawn Care” Pesticide Series #1 brochure (Chinese)
- ”Markham’s Pesticides By-law” Pesticide Series #2 brochure (Chinese)
- DVD video for retailers (to play in-store for customers information)
- “Natural Lawn Care” workshop DVD – recording of spring 2008 workshop and fact Sheets on various topics including: Grubs, Chinch Bugs, Over-seeding, Watering, Dandelions and Nematodes

C) **ADVERTISING** - Advertised the Town’s Pesticide By-law and workshops in various locations throughout the Markham:

- Eco Media Bins throughout Markham
- Mission Green (x3) brochures
- Town Page in Economist & Sun/Thornhill Liberal newspaper
- Recreation Guides (Spring/Summer/Fall)
- Living in Markham brochure

- About Markham magazine
- Town of Markham calendar
- EIBs
- SNAP magazine

D) WEBSITE - The pesticide website is comprehensive and includes video links and an interactive Question & Answer. Monthly hits are outlined below:

<b>Monthly Website Hits 2008</b>	
February	1
March	911
April	3,920
May	3,231
June (no info for first 10 days of month)	1,856
July	2,606
August	2,476
September	2,544

E) EVENTS - Staffed information booth featuring large display with interchangeable panels and/or presented material at some 30 events throughout Markham.

F) RETAIL OUTREACH PROGRAM - Offered in-store training and regularly supplied printed materials and information to 18 retailers in Markham, Thornhill and Unionville selling pesticides and/or gardening/lawn care products.

### **2008 EDUCATION PROGRAM ASSESSMENT**

Several informal surveys conducted towards the end of the 2008 Program indicated that over 90% of residents knew of Markham's Pesticide By-law. Furthermore, the survey showed there was a significant increase of those using natural lawn care practices – this was up from about ½ the residents before the Town's By-law was implemented.

## APPENDIX 3

### **2008 Enforcement Program for the Pesticide By-law - Overview and Results**

#### **Field Enforcement**

- ☐ 2 -six month contract staff in By-law Enforcement;
- ☐ Residents were provided education on natural lawn techniques on a first reported pesticide use; and,
- ☐ Commercial applicators found violating the by-law were immediately charged.

#### **Licensing of Pesticide Applicators & Pesticide-Free Applicators**

- ☐ Licensing of Pesticide Applicators and Pesticide-Free Applicators; and,
- ☐ Licensed companies were posted on Town Web Site for resident reference.

#### **Infestations**

- ☐ By-law allowed for use of pesticides for grub and chinch bug infestations in 2008;
  - ☐ Residents or Applicators were required to report infestation to Town prior to treating;
  - ☐ Enforcement Staff did sample field quality control inspections on reported infestations;
  - ☐ QC inspections found a number of incorrect assessments by residents and applicators, resulting in a denial of the treatment and a reduction in the use of pesticides; and,
- (Note: 2008 wet weather conditions contributed to fewer infestations than previous years)

#### **Signage**

- ☐ Applicators were required to post a Markham sign beside required provincial signs; and
- ☐ Signs indicated that product use complied with exemptions in the Pesticide By-law;

#### **Program Statistics**

<b>ENFORCEMENT</b>	
Complaints received from residents regarding pesticide use	188
Inquiries responded to from residents regarding pesticide use	227
Site inspections resulting for pesticide use complaints	387
Written Orders/ Cautions issued	43
Verbal Order/ /Cautions given	71
Charges and Convictions	5
<b>EDUCATION</b>	
Public Information or Industry Meetings attended by Enforcement Staff	11
Residential site visits	249
Pesticide Applicator site meetings	17
<b>LICENCING</b>	
Pesticide Applicators licensed	16
Pesticide Free Yard Care Applicators licensed	15
<b>APPLICATIONS FOR PESTICIDE INFESTATIONS</b>	
Applications for Cinch Bug infestation control received	178
Applications approved for Cinch Bug control (60%)	106
Applications for Grub infestation control received	344
Applications approved for Grub control (13%)	44
Applications to control a health hazard received	15
Applications approved to control a health hazard (46%)	7
<b>SIGNS- ISSUED</b>	
Red Signs- denoting application of pesticide in accordance with By-law	560
Yellow Signs- denoting application of permitted alternative to pesticides	8,000+

