




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	November 19, 2024
<b>SUBJECT/REPORT NO:</b>	Repealing the Pesticide Use By-law No. 07-282 (PED24152) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Gillian Barkovich (905) 546-2424 Ext. 2348
<b>SUBMITTED BY:</b>	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

That the draft by-law attached as Appendix "A" to Report PED24152 to repeal the City of Hamilton's Pesticide Use By-law No. 07-282, which has been prepared in a form satisfactory to the City Solicitor, be approved.

### EXECUTIVE SUMMARY

The purpose of this report is to recommend the repeal of the Pesticide Use By-law No. 07-282 limiting the use of pesticides in the City of Hamilton, as a result of the introduction of provincial legislation and an enforcement framework that is administered through the Province of Ontario's Ministry of the Environment, Conservation and Parks (MECP) to regulate the sale, use, transportation, storage and disposal of pesticides in Ontario.

Historically, cosmetic pesticide use, which includes any non-essential application of pesticides, was not well regulated by either provincial or federal levels of government through the mid-2000s. To address the gap in regulation, in September 2007 the City passed the Pesticide Use By-law to limit the use of pesticides. The Pesticide Use By-law prescribed new requirements and set limitations for the application of pesticides. The Pesticide Use By-law No. 07-282 came into force and effect in September 2008.

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Repealing the Pesticide Use By-law No. 07-282 (PED24152) (City Wide) - Page 2 of 6**

---

However, the Province of Ontario responded concurrently to the gaps in regulation of cosmetic pesticides and passed the *Cosmetic Pesticides Ban Act, 2008, S.O. 2008, c. 11* in June 2008, which amended Ontario's *Pesticides Act, RSO 1990, c P.11* to introduce new requirements to prohibit the use and sale of pesticides that may be used for cosmetic purposes. The *Cosmetic Pesticides Ban Act, 2008, S.O. 2008, c. 11* came into force in April 2009.

After the introduction of provincial regulations banning the use of cosmetic pesticides, the Pesticide Use By-law No. 07-282 was never enforced by the Licensing and By-law Services Division due to the duplicative nature of the regulations and the development of an enforcement and complaint framework via the Ministry of Environment, Conservation and Parks. The By-law is now outdated, in addition to being duplicative of provincial regulations.

Through best practices review of by-laws requiring update, staff in Licensing and By-law Services have identified the need to repeal the Pesticide Use By-law. The amending by-law to repeal the Pesticide Use By-law No. 07-282 is attached as Appendix "A" to Report PED24152.

**Alternatives for Consideration – Not applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** As staff in Licensing and By-law Services do not enforce the Pesticide Use By-law No. 07-282, revenues are not generated through fines or enforcement activities. As such, there is no predicted financial impact that would occur as a result of repealing the By-law.

**Staffing:** Not applicable.

**Legal:** Legal Services assisted with the preparation of the appended draft amending by-law attached as Appendix "A" to Report PED24152.

**HISTORICAL BACKGROUND**

In September 2007, through Report BOH07008 – the Pesticide Use By-law No. 07-282 was approved to introduce limitations on pesticide use in the City of Hamilton. The Pesticide Use By-law came into force in September 2008, but enforcement of the By-law was intended to begin in September 2009, following a yearlong education phase administered by Public Health Services. However, both the education phase and enforcement of the By-law were paused, due to the development of legislation by the Province of Ontario.

In April 2008, through Report BOH07005(b) – The Pesticide By-Law Communication Plan was cancelled, after an announcement by the Provincial Government that their proposal to reduce pesticide use would include banning the sale and cosmetic use of pesticides. The Communication Plan was cancelled pending forthcoming information about the Provincial Legislation, as staff indicated that legislation may virtually duplicate the local by-law and that local enforcement of the Hamilton Pesticide By-law may not be required after the Provincial legislation comes into effect.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Staff's review considered the following applicable Municipal and Provincial legislation:

- *Municipal Act, 2001, S.O. 2001, c 25;*
- *Cosmetic Pesticides Ban Act, 2008, S.O. 2008, c. 11*
- *Pesticides Act, RSO 1990, c P.11*
- Municipal By-laws including; Pesticide Use, Property Standards, Safe Apartment Buildings and Administrative Penalty By-laws

## **Montreal Pledge and the Biodiversity Action Plan**

Staff's review also considered possible impacts to the Montreal Pledge and Biodiversity Action Plan. In June 2023, the City of Hamilton became a signatory to the Montreal Pledge – Cities United in Action for Biodiversity. The Montreal Pledge identifies 15 concrete actions that the City of Hamilton has committed to in order to protect biodiversity. Specifically, commitment 8 speaks to the “aim to reduce pesticide use by two thirds”. The Biodiversity Action Plan is a multi-partner, 5-year plan of actions to protect, enhance, explore and restore biodiversity in Hamilton.

As the Pesticide Use By-law No. 07-282 is duplicative of existing provincial legislation and has never been enforced, repealing the By-law will not have a negative impact on the City of Hamilton's commitment to the Montreal Pledge, the Biodiversity Action Plan more generally or restrict future initiatives that may grow from either project.

## **RELEVANT CONSULTATION**

In preparing the draft By-law appended to this report and crafting the recommendation highlighted herein, the following internal divisions were consulted:

- Corporate Services Department, Legal and Risk Management Services Division, Legal Services Section;
- Planning and Economic Development Department, Licensing & By-law Services Division.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

### **Background – Pesticide Regulation in the City of Hamilton**

Prior to 2007, the City of Hamilton did not regulate the application of cosmetic pesticides. Cosmetic pesticide use includes any non-essential application of pesticides. Following a public consultation process in 2005, the Pesticide Sub-Committee committed to an education campaign as part of an overall pesticide reduction strategy in the City of Hamilton. It was further identified through Report BOH07005 that should Council pass a municipal by-law with respect to the use of pesticides, that the goal of the education campaign should focus on public awareness of the by-law, including details about implementation and compliance.

In 2007, the Pesticide Use By-law No. 07-282 was approved by City Council to regulate the use of pesticides. The key components of the By-law include, but are not limited to:

- Prohibition of the application of pesticides within the City of Hamilton;
- Exemptions to the prohibition, including; purposes outside the scope of the by-law, for destruction of poison ivy, activities pursuant to the Property Standards By-law, in order to comply with provincial or federal regulations, in order to control/destroy pest infestation of horticultural landscape, for purpose of marking a field for sport activities, on a golf course or bowling green, or for farmland use or in the application of normal farming practices under pursuant to the *Farming and Food Production Protection Act, 1998, S.O. 1998. c. 1*;
- Defined penalties and enforcement procedures; and,
- Prescribed review of the By-law every five years.

When the Pesticide Use By-law came into force in September 2008 City Council indicated an intention to provide for the phasing in of requirements and intended that the By-law be combined with public education on pesticide reduction strategies. The penalty/enforcement phase of the By-law was staggered and was set to begin in September 2009 (following a yearlong education phase administered by Public Health Services). However, both the education and enforcement phases were paused due to the development of duplicative legislation by the Province of Ontario.

### **Provincial Legislation - Cosmetic Pesticides Ban Act and Subsequent Changes**

In June 2008, the *Cosmetic Pesticides Ban Act, 2008, S.O. 2008, c. 11* was passed by the Province of Ontario. The legislation amended *Pesticides Act, RSO 1990, c P. 11* and established new provincial regulations that banned cosmetic pesticides and took effect in April 2009. The provincial ban superseded local municipal pesticides by-laws to create one consistent set of rules across the province. Generally, the *Cosmetic*

**SUBJECT: Repealing the Pesticide Use By-law No. 07-282 (PED24152) (City Wide) - Page 5 of 6**

---

*Pesticides Ban Act, 2008, S.O. 2008, c. 11* introduced a framework of regulations with respect to the cosmetic use of pesticides, including;

- Prohibitions for cosmetic use of pesticides on lawns, vegetable and ornamental gardens, patios, driveways, cemeteries and pin parks and school yards (without exceptions for pest infestations in these areas);
- Banned for sale more than 250 pesticide products over 95 pesticide ingredients are banned for cosmetic uses;
- Provided exceptions to prohibitions, including for; public health safety, Ministry of Natural Resources to control invasive species or to protect a native plant, golf courses, sports fields which host national or international level sports competitions, specialty turf for lawn bowling, cricket, lawn tennis and croque, tree protection and forestry practices, agriculture and for the maintenance of security and access to public works;
- Introduced signage/notification requirements for pesticide use by licensed exterminators;
- Harmonized requirements for pesticide storage and Fire Department notification; and,
- Introduced a pesticide classification system to support the ban.

In May 2020, the Government of Ontario further amended the *Pesticides Act* to “reduce complexity and modernize pesticide management in Ontario while ensuring strong protection for human health and environment”. Generally, and in keeping with the approach utilized by other provinces, the amendments allowed for a list of pesticides that are permitted for cosmetic purposes (in place of using a class system for this purpose) and eliminated the Ontario Pesticide Advisory Committee (OPAC) whose main role was to support classification of pesticides. The ban on cosmetic pesticide use was retained, and cemeteries were added as an excepted use.

## **Enforcement**

Licensing and By-law Services has never investigated complaints with respect to pesticide use or enforced regulations under the Pesticide Use By-law No. 07-282. Since passing the *Cosmetic Pesticides Ban Act, 2008, S.O. 2008, c. 11*, complaints received by Licensing and By-law Services have been directed to the Ministry of the Environment, Conservation and Parks for investigation and action.

The Ministry of the Environment, Conservation and Parks is responsible for overseeing the regulatory regime, and receives and investigates complaints through the Spills Action Centre, Pollution Hotline and through an online complaints portal located at

**SUBJECT: Repealing the Pesticide Use By-law No. 07-282 (PED24152) (City Wide) - Page 6 of 6**

---

<https://report-pollution.ene.gov.on.ca/>. Complaints received by the municipality will continue to be redirected to the Ministry of the Environment, Conservation and Parks for response/investigation.

**ALTERNATIVES FOR CONSIDERATION**

Not applicable

**APPENDICES**

Appendix "A" to Report PED24152 – Draft Amending By-law to repeal the Pesticide Use By-law No. 07-282