

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 88-2008

A By-law to regulate the use of pesticides on public and private property in the City of Vaughan.

WHEREAS pursuant to Section 8(1) of the *Municipal Act*, S.O. 2001, c.25, as amended (the "*Municipal Act*") the powers granted to a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS pursuant to subsection 11(2), of the *Municipal Act*, municipalities may pass by-laws respecting the environmental well-being of the municipality;

AND WHEREAS pursuant to subsection 11(2) (6) of the *Municipal Act*, municipalities may enact by-laws for purposes related to the health, safety and wellbeing of its inhabitants;

AND WHEREAS Council has determined through the consultation and review of third party research that pesticide use has potential negative health and environmental effects on the well-being of its inhabitants and that the use of pesticides should be regulated to mitigate the injurious impacts of pesticides on health and the environment;

AND WHEREAS regulating the non-essential use of pesticides will help to promote and protect the physical environment and the health of the City's residents;

AND WHEREAS regulating the non-essential use of pesticides respects the "precautionary principle" of international law which provides that to achieve sustainable development, environmental policy must anticipate, prevent and attack the causes of environmental degradation and that lack of scientific certainty should not be used as a reason for postponing measures that would prevent environmental degradation;

AND WHEREAS the regulation of pesticide use by this By-law will enhance and will not conflict with existing federal or provincial legislation;

AND WHEREAS Council intends to undertake public education programs on the safe use of pesticides and alternative methods to control pests and to reduce pesticide use as part of its pesticide use regulatory scheme;

NOW THEREFORE the Corporation of the City of Vaughan (the "City") hereby enacts as follows:

1. DEFINITIONS

In this by-law, the following terms shall have the meanings indicated:

"Accredited I.P.M. Agent" shall mean a person who:

- (a) obtains and maintains accreditation in a recognized integrated pest management program from IPM-PHC Council of Ontario, or equivalent, as determined by the City; and

(b) who provides proof of current I.P.M. accreditation to the Director on or before April 30th of each year;

“**City**” means the geographical area of the City of Vaughan.

“**Commercial applicator**” means any person who applies pesticides for compensation;

“**Corporation**” means the Corporation of the City of Vaughan;

“**Council**” means the Council of the Corporation of the City of Vaughan;

“**Director**” means the Director of Enforcement Services;

“**Enclosed**” shall mean closed in by a roof or ceiling and walls with an opening or openings for ingress or egress, which openings are equipped with doors which are kept closed except when actually in use for egress or ingress;

“**Health Hazard**” shall mean a Pest (as hereinafter defined) which has or is likely to have an adverse effect on the health of any person;

“**Pest**” shall mean an animal, a plant or other organism that is injurious, noxious or troublesome, whether directly or indirectly, or an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism;

“**Person**” includes an individual, owner or owners, lessees or occupants, firm, corporation, association, partnership, and includes the owner of a vehicle, including Commercial Vehicles, as defined in the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended.

“**Pesticide**” shall include any product, organism or 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, except that products listed on Schedule “A to this By-law shall not be considered pesticides for the purposes of this By-law..

2. RESTRICTIONS

2.1 No person shall apply, cause, or permit the application of any Pesticide within the boundaries of the City of Vaughan.

2.2 The prohibition set out in Subsection 2(1) does not apply when pesticides are used in the following situations:

- a) to disinfect swimming pools, whirlpools, spas or wading pools;
- b) to purify water intended for the use of humans or animals;
- c) within an enclosed building;
- d) to control termites and carpenter ants;
- e) to control or destroy a health hazard;
- f) to exterminate or repel rodents;
- g) as a wood preservative;

- h) for injection into tree stumps or wooden poles;
- i) to comply with the *Weed Control Act* R.S.O. 1990 c. W. 5, as amended and the regulations made thereunder;
- j) as an insect repellent for personal use;
- k) on lawn bowling green, cemetery, or recreational areas of Canada's Wonderland, provided any such use or application is conducted only under the direction of an I.P.M. Accredited Agent, and the application does not exceed 35% of the horticultural landscape calculated within a 30 day period; and that copies of all records submitted to the I.P.M. Auditor annually for accreditation under the I.P.M. program be submitted to the Director on or before January 31st of each year; and that lawn bowling greens, cemeteries, Canada's Wonderland submit a plan by which it will reduce the use of pesticides.
- l) on a golf course provided any such use or application is conducted only under the direction of an I.P.M. Accredited Agent; that copies of all records submitted to the I.P.M. Auditor annually for accreditation under the I.P.M. program be submitted to the Director on or before January 31st of each year; and that the golf course submit a plan by which it will reduce the use of pesticides.
- m) at a hydro substation, utility distribution station, or Hydro Right of Way; only after specific information relating to the policies and practices regarding the use of pesticides by the applicable agencies is on file with the Director; and submit a plan by which it will reduce the use of pesticides.
- n) In furtherance of a normal farm practice carried on as part of an agricultural operation as defined by and pursuant to the *Farming and Farm Production Protection Act*, 1998, S.O. 1998, c. 1, as amended;

2.3 The provisions of Section 2.1 do not apply where Council, has determined that the pesticide application is necessary, and the application is conducted by a commercial applicator licensed under the *Pesticide Act*, in accordance with all applicable legislation.

2.4 All exemptions listed in Section 2.2 are to be reviewed within 60 months of the enactment of this by-law.

3. OFFENCES

3.1 The provisions of this By-law shall be enforced by municipal enforcement officers duly appointed by the City and may also be enforced by members of York Regional Police and the Ontario Provincial Police.

3.2 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided in the *Municipal Act*.

3.3 Any person who contravenes any provision of this By-law or an order issued pursuant to Section 4.1 of this By-law is guilty of an offence. Pursuant to Subsection 429(2)(a) of the

Municipal Act, all contraventions of this By-law or notice issued under Section 4.1 of this By-law are designated as multiple offences and continuing offences. A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of a by-law.

4. FINES

4.1 On conviction of an offence under this By-law a person is liable to a fine in accordance with Section 429 of the *Municipal Act* as follows:

- (a) the minimum fine for any offence is \$400.00;
- (b) the maximum fine for an offence as set out in Subsections (c) and (d) below does not apply to special fines as provided for in Section 5.1 of this By-law;
- (c) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$400.00 and the maximum fine shall be \$10,000.00. The total of all daily fines for the offence is not limited to \$100,000.00; and
- (d) In the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$400.00 and the maximum fine shall be \$10,000.00. The total of all fines for each included offence is not limited to \$100,000.00.

5. SPECIAL FINES - NO MAXIMUM

5.1 On conviction of an offence under this By-law a person is liable to a special fine in accordance with subsection 429(2)(d) of the *Municipal Act*. The amount of the special fine will be the minimum fine as provided for in Section 4.1 of this By-law to which may be added the amount of economic advantage or gain that the person has obtained or can obtain from the contravention of the By-law and/or order issued pursuant to Section 4.1 of this By-law. Pursuant to subsection 429(3)(1) of the *Municipal Act* a special fine may exceed \$100,000.00.

6. EFFECTIVE DATE

This By-law shall come into force and effect on April 14, 2008.

READ a FIRST, SECOND and THIRD time and finally passed this 14th day of April, 2008.

Linda D. Jackson, Mayor

Sybil Fernandes, Deputy City Clerk

SCHEDULE 'A'

For the purposes of this by-law the following products are not considered to be pesticides:

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 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.