Agenda - Council - May 14, 2008

Report - Standing Policy Committee on Protection and Community Services - May 5, 2008

Item No. 1 Pesticide Management By-law
File E

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 7, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services with the following amendments:

- That the Pesticide Management By-law be amended by deleting Section 2.(d) in its entirety and replacing it with the following, namely:

  2.(d) "Pesticide" means any one or more of:

  (1) 2,4-D
  (2) Mecoprop
  (3) Dicamba
  (4) Glyphosate
  (5) Carbaryl

and submits the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 5, 2008, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service, as amended, and submits the following to Council:

1. That the Pesticide Management By-law as outlined in the report from the Chief Administrative Officer dated April 30, 2008, be amended by incorporating the following:

   A. The dimensions of the signs shall be a minimum of 8 inches by 10 inches and be made of a weatherproof material.

2. That the Pesticide Management By-law, which focuses on regulating the use of pesticides through the use of appropriate signage, as amended, be enacted and come into effect on January 1, 2009.

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3. That funding be considered for the 2009 Operating Budget to support public education activities with community partners.

4. That a buffer zone not be implemented at this time, but that the City of Winnipeg work with the Province of Manitoba towards province-wide controls on the use of non-essential pesticides.

5. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 7, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services with the following amendments, namely:

- That the Pesticide Management By-law be amended by deleting Section 2.(d) in its entirety and replacing it with the following, namely:

  2.(d) "Pesticide" means any one or more of:

  (1) 2,4-D
  (2) Mecoprop
  (3) Dicamba
  (4) Glyphosate
  (5) Carbaryl

and submitted the matter to Council.

STANDING POLICY COMMITTEE RECOMMENDATION:

On May 5, 2008, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service, with the following amendments, namely:

- Delete Recommendation 1 in its entirety and replace with the following:

  1. That the Pesticide Management By-law as outlined in the report from the Chief Administrative Officer dated April 30, 2008, be amended by incorporating the following:

     A. The dimensions of the signs shall be a minimum of 8 inches by 10 inches and be made of a weatherproof material.

  2. That the Pesticide Management By-law, which focuses on regulating the use of pesticides through the use of appropriate signage, as amended, be enacted and come into effect on January 1, 2009,

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DECISION MAKING HISTORY (continued):

and renumber the remaining Recommendations accordingly,

and submitted the matter to the Executive Policy Committee and Council.

Further on May 5, 2008, the Standing Policy Committee on Protection and Community Services received submissions with respect to the Pesticide Management By-law from the following:

- Ian Greaves, Chairperson, Campaign for Pesticide Reduction, submitted a communication dated May 5, 2008
- Joel Gosselin, Viceroy Distributors, submitted a communication dated May 5, 2008
- David Hinton submitted supporting documentation dated May 5, 2008.

COUNCIL DECISION:

On September 26, 2007, Council concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and adopted the following:

1. That the Administration be directed to prepare a draft by-law regulating the use of pesticides and that said by-law include the following:

   A. A requirement for the use of signage by commercial applicators to notify citizens of pesticide use; and

   B. To allow individuals who object to pesticide use the opportunity to request a buffer zone around their property.

2. That the Administration be directed to prepare an implementation plan for the by-law and a public education campaign, including associated costs.

3. That two years following the enactment of the by-law by Council, the Administration be directed to review the by-law and make recommendations with respect to future enhancements.

4. That the Proper Officers of the City be authorized to do all the things necessary to implement the intent of the foregoing.

REPORT

RE: Pesticide Management By-Law

FOR SUBMISSION TO: Standing Policy Committee on Protection and Community Services

ORIGINAL REPORT SIGNED BY: Glen Laubenstein, Chief Administrative Officer

REPORT DATE: April 30, 2008

RECOMMENDATION(S):

1. That the attached by-law, which focuses on regulating the use of pesticides through the use of appropriate signage be approved and come into effect on January 1, 2009.

2. That funding be considered for the 2009 operating budget to support public education activities with community partners.

3. That a buffer zone not be implemented at this time, but that the City of Winnipeg work with the Province of Manitoba towards province-wide controls on the use of non-essential pesticides.

REPORT SUMMARY:

Key Issues:

- The Public Service recommends phasing in the initiative, beginning with public education in 2008.

- Enforcement of the by-law would come into effect on January 1, 2009.

- The proposed by-law would require commercial applicators to post signs when pesticides are applied and to ensure that the signs remain posted for twenty-four hours**.**

- Commercial applicators would be encouraged to follow the signage component for the first year on a voluntary basis.

- The Public Service does not recommend proceeding with buffer zones at this time.

- The buffer zones outlined in the recommendations of the Ad-Hoc Committee on Non-Essential Pesticide Use would only affect commercial pesticide applicators. They would not control pesticide use by individual residents.

- The Public Service believes that a more effective means of controlling non-essential pesticide use would be to work with the Province of Manitoba towards province-wide controls on the use of non-essential pesticides.

- Other jurisdictions recommend starting with public education before a by-law comes into effect.

- A public education campaign in partnership with community organizations is recommended as the most economically effective means of increasing public awareness at this time.

Implications of the Recommendation(s):

General Implications

[ ] None
[ ] For the organization overall and/or for other departments
[X] For the community and/or organizations external to the City of Winnipeg
[ ] Involves a multi-year contract

Comment(s):

The draft by-law would regulate the use of pesticides by commercial applicators. It would require them to post signage when pesticides are applied.

Policy Implications

[X] No
[ ] Yes

Comment(s):

Regulatory Implications

[ ] None
[ ] Eliminates or reduces regulatory impact
[X] Proposes regulatory impact

Comment(s):

The draft by-law would regulate the activities of commercial pesticide applicators by requiring the use of signage.

Environmental Implications

[ ] No

[X] Yes

Comment(s):

The proposed by-law will advise residents when pesticides are applied by commercial applicators in order to reduce occurrences of accidental exposure.

Human Resource Implications

[X] No

[ ] Yes

Comment(s):

Financial Implications

[X] Within approved current and/or capital budget

[ ] Current and/or capital budget adjustment required

Comment(s):

The signage component can be enforced using existing resources. Funding has been identified for the public education component for 2008, but new funding would be required for 2009.

REASON:

On September 26, 2007, Council concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and adopted the following:

1. That the Public Service be directed to prepare a draft by-law regulating the use of pesticides and that said by-law include the following:

    a. A requirement for the use of signage by commercial applicators to notify citizens of pesticide use; and
    b. To allow individuals who object to pesticide use the opportunity to request a buffer zone around their property.

2. That the Public Service be directed to prepare an implementation plan for the by-law and a public education campaign, including associated costs.

3. That two years following the enactment of the by-law by Council, the Public Service be directed to review the by-law and make recommendations with respect to future enhancements.

HISTORY:

On November 20, 2006, the Standing Policy Committee on Protection and Community Services Reconstituted the Ad-Hoc Committee on Non-Essential Pesticide Reduction for the 2007 Council Year, comprised of Councillors Gerbasi and Pagtakhan. The mandate of the Ad-Hoc Committee is as follows:

1. To consult with Winnipeggers on strategies for reducing non-essential pesticide use.
2. To conduct background research and review policies and programs of other Canadian jurisdictions with respect to reducing non-essential pesticide use.
3. To make recommendations to the Standing Policy Committee on Protection and Community Services with respect to reducing non-essential pesticide use.

In order to arrive at these recommendations, the Ad-Hoc Committee consulted with Winnipeggers through two public meetings held on May 29 and May 30, 2007. Those individuals unable to attend the hearings were invited to submit their opinions directly to the Committee.

After reviewing the evidence and views presented in the public meetings, and information provided by the Public Service on City operations, the Ad-Hoc Committee delivered their recommendations to the Standing Policy Committee on Protection and Community Services. The Standing Policy Committee concurred with the recommendations, which then went on to the Executive Policy Committee and to Council.

DISCUSSION:

1. Implementation

Based on the experience in other jurisdictions, the Public Service recommends a phased approach to the by-law. For example, Toronto implemented their by-law with a public education campaign in the spring of 2004, but did not start applying penalties to commercial applicators until the fall of 2005 and did not extend the bylaw to residents until the fall of 2007. Halifax started with a ban on pesticide use for municipal operations and a public education campaign in the first year. Buffer zones were put in place in the second year and a full ban did not take effect until the fourth year after the by-law was enacted.

The public education component could begin this spring if the request for additional funding is approved. The signage component would come into force at the beginning of 2009 and the review would begin in the fall of 2009.

June 1, 2008:	Public education campaign begins
June 1, 2008:	Signage component encouraged on a voluntary basis.
January 1, 2009:	Enforcement of by-law comes into effect
October 15, 2009:	Review of by-law begins
February 1, 2010:	Report on by-law submitted to Council

2. Public Education

The experience of other municipalities suggests that a by-law with no public education will not be as effective as the majority of pesticides are used by residents as opposed to commercial applicators. Therefore, if the goal is to reduce non-essential pesticide use, residents of Winnipeg need to be aware of options to minimize or eliminate pesticide use on their property.

A 2004 study by the Canadian Centre for Pollution Prevention suggests that effective outreach campaigns would cost approximately $0.13 to $0.24 per person per year. Although these numbers are out of date, this suggests that an effective campaign in Winnipeg would cost somewhere between $85,000 to $160,000 per year. In order to achieve this level of funding, Council would need to dedicate funding in the operating budget or identify alternative sources of funding.

There are many options for a public education campaign. As an example, the City of Toronto launched a large campaign which included billboards, posters, advertising in local media, point-of-purchase information in retail locations and both a dedicated website and a telephone information line. Other cities have chosen to do smaller campaigns.

Recognizing the City's fiscal capacity, the Public Service recommends working with community organizations with proven capacity in delivering environmental education. At the present time, this would be the most economically effective means of increasing public awareness. With direction from Council, staff could work to find community partners for a public education campaign.

For 2008, the Public Service has identified $10,000 in an existing budget. The WinSmart project has City funds set aside for administration and reporting, as required by the Federal government. The $10,000 proposed for 2008 can be funded through administrative efficiencies in the WinSmart budget, without affecting the administration and reporting requirements, or Federal contributions. The public education campaign can be reviewed with the by-law in 2010.

In addition, the City's Environmental Coordinator will develop and maintain an educational web page on the existing Greenspace site that will contain a wide range of relevant information, including technical material and related web links. Many cities with pesticide regulations have made good use of websites to help with their public education campaigns.

The Environmental Coordinator will also work with community partners to promote public education as widely as possible, through earned media and other means.

3. A By-Law Requiring Signage

The Ad-Hoc Committee recommended that commercial applicators use signs to notify citizens of pesticide use. The Committee noted that the City of Winnipeg's Weed Control Standards and Procedures currently sets out guidelines for the use of signs to notify residents when pesticides are used on public land.

These signs include information on the pesticide used and the registration number of the herbicide, what the pesticide is intended to control and a contact number to call in case of questions or concerns. In addition, the signs are dated.

The proposed by-law would require all commercial pesticide applicators operating on residential properties to meet the same standards that the City uses.

To ensure that citizens have the opportunity to avoid areas that have been treated with herbicides, signage will be required as follows:

1) Commercial applicators must post signs when they are applying pesticides

2) Commercial applicators will continue to use their own signs, but must include the following information;

    a. Date and time treated
    b. Pesticide used
    c. What the pesticide is intended to control
    d. A phone number to contact the applicator in case of any concerns

3) The signs must include a symbol encouraging caution.

4) Posting of signage will occur at the time the pesticide is applied and will remain posted for a twenty-four hour period after treatment. Signs must be posted on the normal access pathway(s) to the area being treated. If there is more than one normal access pathway to the property, signs must be posted on each one.

4. Buffer Zones

Following an extensive review of other jurisdictions, the Public Service does not recommend implementing a buffer zone at this time. The recommendation of the Ad-Hoc Committee was to implement a buffer zone which controls the activities of commercial applicators, but does not regulate pesticide use by residents. As proposed, the buffer zones would not protect residents

against pesticides that may be applied by their neighbours and thus would have limited effectiveness.

In addition, there are concerns that by limiting the use of commercial applicators, there is a risk that pesticide use could increase. Commercial applicators are trained and licenced, and will generally use just enough pesticides to do what is needed. Individuals who choose to apply their own pesticide may not be familiar with the products, and may apply them in an unsafe manner or they may apply more than is needed.

As demonstrated in the province of Quebec, the single most effective way to control the use of pesticides is to restrict their availability at the retail level. A recent report by the David Suzuki Foundation states that controlling the sale of pesticides is key and is the best way to deliver tangible results. Such regulations are far more effective at the provincial level, rather than the municipal level.

The Province of Ontario has now brought forward legislation regulating the use of cosmetic pesticides. If passed, the legislation will come into effect in the spring of 2009. In addition, Prince Edward Island is considering province-wide bans on the use of cosmetic pesticides, and has held consultations on the issue. The most effective way of reducing pesticide use in Winnipeg would be for the Province of Manitoba to move in the same direction, and it is recommended that the City of Winnipeg work with the Manitoba to achieve this goal.

5. By-Law Enforcement:

As of January 1, 2009, residents with complaints regarding signage would call the 311 system. Upon receipt of a complaint, a letter will be sent out to the commercial applicator reminding them of the need to adhere to the terms of the by-law**.** If there are repeat offences of the signage component, an investigation would be carried out by the Consolidated By-Law Enforcement Unit.

6. By-Law Review and Recommendations

The by-law will be reviewed as outlined above, with a report to be delivered to Council by February of 2010. The Public Service will begin reviewing the effectiveness of the by-law in the fall of 2009, and will consult with stakeholder groups through this process. The review could include consideration of buffer zones.

Financial Impact Statement

Date: April 25, 2008

Project Name:

First Year of Program **2008**

Report of the Ad Hoc Committee on Non-Essential Pesticide Use

	2008	2009	2010	2011	2012
Capital					
Capital Expenditures Required	$ -				
Less: Existing Budgeted Costs	-				
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal					
Debt - External					
Grants (Enter Description Here)					
Reserves, Equity, Surplus					
Other - Enter Description Here					
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ 10,000
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ 10,000
Less: Existing Budget Amounts	10,000	-	-	-	-
Net Budget Adjustment Required	$ -	$ 10,000	$ 10,000	$ 10,000	$ 10,000

Additional Comments:

Funding for on-going public education have been identified from an existing budget for 2008. However, new funding is required beginning 2009.

Radhika Abeysekera
Manager of Finance & Administration
Internal Services Dept.

4032

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Public Works, Community Services

THIS REPORT SUBMITTED BY:

CAO Secretariat
Division: Strategic Management
Prepared by: Alec Stuart
File #:

Appendix 1: Draft By-Law

THE CITY OF WINNIPEG

BY-LAW NO. _____

A By-law of THE CITY OF WINNIPEG
to regulate the use of pesticides in
THE CITY OF WINNIPEG

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. Short Title:

This By-law may be referred to as the Pesticide Management By-law.

2. Definitions:

(a) "Commercial Applicator" means any person, firm or corporation any part of whose business involves the application and use of pesticides for a fee, charge or other valuable consideration, as defined in the Manitoba Pesticide and Fertilizers Control Act;

(b) "Enclosed" means bounded by a roof or ceiling and walls with an appropriate opening or openings for access in and out, whereby such opening are equipped with doors which are kept closed except when actually in use for entry or exit;

(c) "Pest" – An animal, a plant or other organism that is injurious, noxious or troublesome whether directly or indirectly, and an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism;

(d) "Pesticide" includes a product, an organism or a substance that is a registered control product under the federal Pest Control Products Act or The Fertilizers 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 but does not include:

(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 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
(h) Corn Glutten Meal.

3. Restrictions:

No commercial applicator shall apply or cause or permit the application of any pesticide unless:

(1) Signs are posted on all usual access pathways to the property at the time of application and remain posted for a 24 hour period thereafter;

(2) The signs contain the following information:

- date and time treated;
- pesticide used;
- what the pesticide is intended to control;
- the applicator's telephone number;
- a symbol encouraging caution.

4. Permitted Pesticide Uses:

Notwithstanding Section 3, signs are not required for the following pesticide applications:

(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) as a wood preservative;

5. Penalties:

Every commercial applicator who fails to comply with the provisions of this By-law is guilty of an offence and is liable on summary conviction to the penalties set forth in The City of Winnipeg Charter.

6. Coming Into Force:

This By-law comes into force on January 1, 2009.

DONE AND PASSED in Council assembled, this day of , A.D., 2008.

_____
Mayor

_____
City Clerk

Approved as to content and details:

_____
Chief Administrative Officer

Certified as to form:

_____
City Solicitor/Manager of Legal Services