

# THE CORPORATION OF THE TOWN OF CALEDON

## BY-LAW No. 2003-81

### Being a by-law to regulate pesticide use and to provide healthy horticultural landscapes in the Town of Caledon

WHEREAS section 2 of the *Municipal Act*, 2001, S.O. 2001 c.25, as amended, provides that municipalities are created to be responsible and accountable governments for matters within their jurisdiction and are given powers and duties by statute for purposes which include fostering the current and future environmental well being of the municipality;

AND WHEREAS section 130 of the *Municipal Act*, 2001 S.O. 2001 c.25, as amended, enables a municipality to regulate matters not specifically provided for in the *Municipal Act* or any other Act for purposes related to the health, safety and well being of the inhabitants of the municipality;

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

AND WHEREAS the *Pest Control Products Act* (Canada) requires that pest control products used or manufactured in Canada be tested and registered with the Federal Government;

AND WHEREAS the regulation of pesticide use would be consistent with the principles of international law and policy;

AND WHEREAS under the *Pesticides Act* R.S.O. 1990, c. P11, the Ministry of the Environment regulates the storage, display, transportation, disposal, safe handling, and sale of pesticides and licences certain pesticides applicators;

AND WHEREAS the proposed regulation of pesticide use by by-law will enhance and will not conflict with the *Pesticides Act*; and the *Pest Control Products Act* (Canada);

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 Council of the Corporation of the Town of Caledon enacts as follows:

#### 1. TITLE OF BY-LAW

1.1 This by-law may be referred to as the "Healthy Horticultural Landscapes By-law."

#### 2. DEFINITIONS

2.1 In this by-law,

**"application area"** means land or ornamental plantings on land on which a pesticide is discharged or intended to be discharged;

**"Audubon Cooperative Sanctuary"** or **"ACS"** means certification as an Audubon Cooperative Sanctuary within the Audubon Cooperative Sanctuary Program for Golf Courses by the Audubon Cooperative Sanctuary System of Canada;

**"commercial applicator"** means any person who applies pesticides for compensation;

**"Corporation"** means the Corporation of the Town of Caledon;

**"Council"** means the council of the Corporation of the Town of Caledon;

**"Director"** means the director of Planning and Development for the Corporation of the Town of Caledon;

**"horticultural landscape"** means maintained turf, or ornamental plantings, but does not include a golf course;

**“Integrated Pest Management Accreditation”** or **“I.P.M. Accreditation”** means a standard of recognition given to persons who demonstrate a commitment to Integrated Pest Management and Plant Health Care principles by successfully completing the I.P.M. Accreditation course and examination administered by the I.P.M. Council of Ontario and, by successfully passing an annual audit;

**“infestation”** means the presence of insects in numbers or under conditions, which involve an immediate or potential risk of substantial loss or damage;

**“Integrated Pest Management”** or **“I.P.M.”** means a decision making process for pest control that uses all available techniques in an environmentally sound manner to sustain healthy horticultural landscapes;

**“person”** includes a municipality or corporation and any agent thereof;

**“pest”** means any injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, rodent or other plant or animal pest and includes any injurious, noxious or troublesome organic function of a plant or animal;

**“pesticide”** means a product, an organism or a substance that is a registered control product 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;

**“public use land”** includes a horticultural landscape located on land which is owned or under the control of the Corporation, the Regional Municipality of Peel or a public utility including a right-of way or road allowance, or a horticultural landscape which is part of a church, nursing home, hospital, daycare facility, nursery school, primary school, high school, private school, cemetery or a campground;

**“qualified person”** means a person who holds a degree in horticultural science, I.P.M. Accreditation or similar qualification;

**“Town”** means the geographical area of the Town of Caledon;

**“Warning Notice”** means a freestanding rectangular sign made of rain resistant materials sturdy enough to be reused as shown by example on Schedule A and B hereto that:

On the Front

- (1) has the word “WARNING” at the top in red capital letters,
- (2) below has a pictogram showing a black silhouette of an adult person on a white background within a red circle crossed by an oblique red bar,
- (3) below the pictogram has the words “PESTICIDE USE” in red capital letters,
- (4) indicates that pesticide use is to take place on the premises at a specified time,
- (5) below “PESTICIDE USE” the words “FOR INFORMATION CONTACT” in capital letters with the name and telephone number of the person responsible, who can provide more information,
- (6) below “PESTICIDE USE” the words “DATE POSTED” in capital letters and the date the sign is posted,
- (7) below “DATE POSTED” the words “DATE SPRAYED” and the date the pesticide use commenced,

On the Back

- (1) the word “PESTICIDE” at the top in capital letters followed by the name of the pesticide intended to be used,
- (2) below “PESTICIDE” the words “REGISTRATION NUMBER” in capital letters followed by the number assigned to the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizer Act* (Canada),

- (3) below the words "REGISTRATION NUMBER" the words "TO CONTROL" in capital letters followed by the name of the pest to be controlled,
- (4) "WARNING SIGN" means a freestanding rectangular sign with a yellow background as shown by example on Schedule C.

### **3. SCOPE OF BY-LAW**

#### **3.1 Residential, Commercial & Industrial Use Lands**

- 3.1.1 No person shall discharge or cause or permit the discharge of a pesticide or any substance or thing containing a pesticide on a horticultural landscape on residential, commercial or industrial use lands in the Town unless the following conditions have been satisfied;
  - (a) a Warning Notice at least 28 centimetres high and 22 centimetres with the words "WARNING" and "PESTICIDE USE" at least 5 centimetres high has been conspicuously posted prior to the time of the discharge of the pesticide on the perimeter of the application area at all ordinary points of access to the application area; and
  - (b) the Warning Notice remains at the posted location for at least 48 hours after the pesticide application and is removed between 3 and 10 days after the pesticide application unless otherwise directed under the *Pesticides Act*; and
  - (c) the pesticide is discharged at a time other than during the months of July and August; and
  - (d) the pesticide is not generally discharged over the entire horticultural landscape, but is applied to the horticultural landscape on a spot basis covering no more than 20% of the horticultural landscape calculated within a 30 day period; and
  - (e) at the time and place of the discharge of the pesticide the wind velocity does not exceed 10 kilometres per hour, or lower velocity if set out in the pesticide application instructions, or a horticulturally recognised device is used to curtail the spray drift; and
  - (f) at the time and place of the discharge of the pesticide the ambient temperature does not exceed 25° or lower maximum temperature if set out in the pesticide application instructions; and
  - (g) no part of the application area is closer than 10 metres to natural open water, a wetland or well, or greater distance if set out in the pesticide application instructions; and
  - (h) the person, if a commercial applicator, is properly licensed under the *Pesticides Act* and has current I.P.M. Accreditation.
- 3.1.2 A person may discharge or cause or permit the discharge of a pesticide on a horticultural landscape on a residential, commercial or industrial use lands without complying with the conditions of subsection 3.1.1 (c), (d) if a commercial applicator qualified under subsection 3.1.1(h) or other qualified person determines and provides documentation to the Director to demonstrate that a discharge not in compliance with these conditions is necessary to diminish an infestation of the horticultural landscape and after a Warning Sign has been posted 24 hours before the time of the discharge at all ordinary points of access to the application area.
- 3.1.3 Documentation is not required by the Director under subsection 3.1.2 where verbal notification is provided by the commercial applicator or other qualified person who is listed on the Public Information Record under subsection 5.2.

#### **3.2 Public Use Lands**

- 3.2.1 No person shall discharge or cause or permit the discharge of a pesticide or any substance or thing containing a pesticide on a horticultural landscape on public use lands in the Town.

- 3.2.2. Notwithstanding subsection 3.2.1 a person may discharge or cause or permit the discharge of a pesticide on a horticultural landscape within public use land if the following conditions have been satisfied;
- (a) a commercial applicator qualified under subsection 3.1.1(h) or other qualified person determines and provides documentation to the Director to demonstrate that an application not in compliance with the section is necessary to diminish an infestation of the horticultural landscape; and
  - (b) the provisions of subsections 3.1.1(a)(b)(e)(f)(g) and (h) are satisfied; and
  - (c) A Warning sign has been posted 24 hours before the time of the discharge at all ordinary points of access to the application area.
- 3.2.3 Documentation is not required by the Director under subsection 3.2.2 where verbal notification is provided by the commercial applicator or a qualified person who is listed on the Public Information Record under subsection 5.2;

### **3.3 Public Safety and Agriculture Exemption**

- 3.3.1 If the Director determines that the public safety on public land necessitates pesticide application or that good agriculture practice necessitate the pesticide application, the application may occur provided the provision of subsection 3.1.1 (a), (b), (d), (e), (f), (g) and (h) are first satisfied.

### **3.4 Public Health Exemption**

- 3.4.1 The provisions of subsection 3.1, and 3.2 do not apply where the pesticide discharge is necessary in the opinion of the Medical Officer of the Health for the Regional Municipality of Peel.

### **3.5 Council Exemption**

- 3.5.1 The provisions of section 3.2 do not apply where Council on the advice of a qualified person determines that the pesticide discharge is necessary and the application is by a commercial applicator licenced under the *Pesticides Act* in accordance with the applicable regulations under the *Pesticides Act* including signage.

## **4. GOLF COURSES**

- 4.1.1 Effective May 1, 2005, the owner or operator of a golf course in the Town shall not discharge or cause or permit the discharge of a pesticide or any substance or thing containing a pesticide on a golf course unless it is applied by a commercial applicator licensed under the *Pesticides Act*, with I.P.M. Accreditation who has successfully completed the Environmental Plan and holds a Certificate in Integrated Pest Management under the Audubon Cooperative Sanctuary for Golf Courses and provides proof thereof satisfying the Director.

## **5. ADMINISTRATION AND ENFORCEMENT**

### **5.1 Administration**

- 5.1.1 The Director shall be responsible for the administration of this by-law.

### **5.2 Public Information Record**

- 5.2.1 Effective the 1st day of May 2005 the Director shall maintain a Public Information Record of commercial applicators operating in the Town.
- 5.2.2 The Public Information Record shall include:
- (a) the name, business address, telephone and fax number of the commercial pesticide applicator,
  - (b) the date of Integrated Pest Control Accreditation,
  - (c) the licence number under the *Pesticides Act*,

(d) the name and licence number of all persons licensed by the business under the *Pesticides Act* to apply pesticides.

5.2.3 The Director shall remove from the Public Information Record the name of any commercial applicator who discontinues business, ceases to have I.P.M. Accreditation or, is not licensed under the *Pesticides Act*.

5.2.4 No fee shall be charged for the use of or entry on the Public Information Record.

**6. PENALTY**

6.1 Effective May 1, 2004 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 *Provincial Offences Act*.

**7. GENERAL**

7.1 The provisions of this By-law are intended to compliment the provisions of the *Pest Control Products Act* (Canada), and the *Pesticides Act* and shall be enforced consistent with this intention.

**8. SEVERABILITY**

8.1 Where a court of competence jurisdiction declares any section or part of a section of this by-law invalid the remainder of the by-law shall continue in force.

Read a first, time this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

Read a second and third time and finalized this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

---

Carol Seglins, Mayor

---

Cheri Cowan, Clerk