

**DRAFT
FOR DISCUSSION PURPOSES ONLY**

Authority: Community Council/Committee Item No., as adopted by City of Toronto Council
on

Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. -

To adopt a new Municipal Code Chapter 423, Environmental Reporting and Disclosure.

WHEREAS the use of a toxic substance may result in its direct or unintended release to the environment; and

WHEREAS toxic substances in the workplace and the environment can have an adverse impact on the health, safety and well-being of persons, and on the economic, social and environmental well-being of the City of Toronto; and

WHEREAS the Medical Officer of Health for the City of Toronto Health Unit has determined that health and environmental risks from pollution can be reduced by enhanced reporting of toxic substances by Toronto businesses, and improved access to environmental information on toxic substances; and

WHEREAS the citizens of Toronto should know the identity and amounts of toxic chemicals that are released in to the workplace and in to the environment through chemical releases to the air, water and land in their community; and

WHEREAS the *City of Toronto Act, 2006* (the “Act”) provides that Council may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City; and

WHEREAS the Act further provides that Council may pass by-laws to establish a system of escalating fines;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Schedule A to this by-law is enacted as Chapter 243, Environmental Reporting and Disclosure, of the City of Toronto Municipal Code.

ENACTED AND PASSED this day of , A.D. 2008.

SANDRA BUSSIN,
Speaker
(Corporate Seal)

ULLI S. WATKISS
City Clerk

SCHEDULE A TO BY-LAW No. -2008

Chapter 243

ENVIRONMENTAL REPORTING AND DISCLOSURE**ARTICLE I
Interpretation****§ 243-1. Definitions.**

As used in this chapter, the following terms shall have the meaning indicated:

ACCOMMODATION SERVICES — Includes hotels and motels.

ARTICLE — A manufactured item that does not release a priority substance when it undergoes processing or other use.

BY-PRODUCT — A priority substance which is incidentally manufactured, processed or otherwise used at the facility at any concentration and released on site to the environment.

CONCENTRATION THRESHOLD — The concentration of a priority substance expressed as a weight to weight ratio set out in column 3 of Schedule A.

DWELLING UNIT — Real property used or designated for use as a home or as a place in which one or more persons may sleep.

ENVIRONMENT — The air, land or water of the City of Toronto.

FACILITY — A building, equipment, structure, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned and are operated by the same person, or by a person who controls, is controlled by, or is under common control with such person, but does not include a dwelling unit.

INSPECTOR — Any person undertaking an inspection required for the purposes of the enforcement of this chapter, and shall include a by-law enforcement officer, or officer, employee or agent of the City of Toronto or a local board of the City of Toronto, or any member of the Toronto Police Service.

MANUFACTURE — To produce, prepare or compound a priority substance and includes the coincidental production of a priority substance as a by-product.

MASS REPORTING THRESHOLD — The threshold value for each priority substance set out in column 2 of Schedule A.

MEDICAL OFFICER OF HEALTH — The Medical Officer of Health for the City of Toronto Health Unit or his or her delegate.

NATIONAL POLLUTANT RELEASE INVENTORY — The most current National Pollutant Release Inventory Canada Gazette Notice.

OTHER USE AND OTHERWISE USED — Any use, disposal or release of a priority substance at a facility that does not fall under the definitions of manufacture or process. This includes the use of the priority substance as a chemical processing aid, manufacturing aid or some other use.

PERSON — Includes a corporation, partnership or any other business association, as well as an individual.

PARTICULATE MATTER 2.5 (PM_{2.5}) — Particulate matter with a diameter less than or equal to 2.5 micrometres.

POLYCYCLIC AROMATIC HYDROCARBONS (PAHs) — One or more substances listed in Schedule 1, Part 2 of the National Pollutant Release Inventory, as may be amended from time to time.

PRIORITY SUBSTANCE — A substance or group of substances identified in Schedule A, but does not include a substance that is:

- A. Present in an article;
- B. Used as a structural component of a facility;
- C. Present in a product used for routine janitorial, facility building or grounds maintenance;
- D. Present in personal items used by persons at a facility;
- E. Present in emissions from vehicles;
- F. Present in intake water or air;
- G. Present in road dust;
- H. Present in emissions from building heating systems or hot water heaters but does not include emissions from process equipment;
- I. Present in materials used for the purpose of maintaining motor vehicles operated by the facility.

PRIORITY SUBSTANCE USER — A person who owns or operates a facility that releases, manufactures, processes or otherwise uses any priority substance.

PROCESS — The preparation of a priority substance, after its manufacture, for commercial distribution and includes the preparation of a substance in the same physical state or chemical form as that received by the facility, or preparation which produces a change in physical state or chemical form.

RELEASE — The emission or discharge of a priority substance, whether intentional, accidental or coincidental, from a facility into the environment.

REPORT — A report to the Medical Officer of Health submitted in a form and in a manner prescribed by the Medical Officer of Health.

STATEMENT OF CERTIFICATION — A statement made by a person reporting information pursuant to this chapter or on behalf of a person required to report, stating that the information in the report is true, accurate and complete.

TRANSFER — Sending a priority substance off site for recycling or treatment including treatment in a municipal water treatment facility.

TREATMENT — Subjecting the priority substance to physical, chemical, biological or thermal processes at a location off the facility site prior to final disposal.

VOLATILE ORGANIC COMPOUNDS (VOCs) — Volatile organic compounds as defined in item 65 in the List of Toxic Substances in Schedule 1 of the *Canadian Environmental Protection Act, 1999*, as may be amended from time to time.

ARTICLE II Duty to Report

§ 243 -2. Duty to report.

- A. A priority substance user for each facility shall submit a report in relation to a priority substance listed in Group A of Schedule A that is released, manufactured, processed or otherwise used at that facility,
 - (1) If the priority substance was manufactured, processed or otherwise used in a quantity equal to or greater than the mass reporting threshold for the substance; and
 - (2) The concentration by weight of the substance was equal to or greater than the concentration threshold for the substance, unless the substance is a by-product or there is no corresponding value set out in Schedule A for the substance.
 - (3) For the purposes of Subsection A(2), by-products shall be included in the calculation of the mass reporting threshold of the priority substance, regardless of concentration.

- B. A priority substance user for each facility shall submit a report in relation to Polycyclic Aromatic Hydrocarbons (Group B of Schedule A) when,
- (1) There is a release, disposal and/or transfer for recycling of one or more Polycyclic Aromatic Hydrocarbons from a facility if the sum total of the Polycyclic Aromatic Hydrocarbons released on site, disposed of, and/or transferred off site for recycling as a result of manufacturing, processing or other use is 10 kg or more; or
 - (2) There is a release, disposal and/or transfer for recycling of any quantity of Polycyclic Aromatic Hydrocarbons from a facility if:
 - (a) The priority substance user carried out at any time wood preservation using creosote at that facility; and
 - (b) The Polycyclic Aromatic Hydrocarbons were released on site, disposed of and/or transferred off site for recycling as a result of wood preservation using creosote.
- C. A priority substance user for each facility shall submit a report in relation to a priority substance listed in Group C of Schedule A when there is a release to air of the substance from a facility in a quantity equal to or greater than the mass reporting threshold for that substance.
- D. The reports referred to in Subsections A, B and C shall be submitted annually and shall be submitted to the Medical Officer of Health by June 30 of the year following the calendar year covered by the reporting in a form and in a manner prescribed by the Medical Officer of Health.

§ 243-3. Exemptions from reporting requirement.

The duty to report in § 2 does not apply to the following facilities:

- A. Facilities engaged solely in retail sales;
- B. Medical or dental offices;
- C. Construction and building maintenance sites;
- D. Accommodation services, but applies to laundry and dry cleaning facilities located within such facilities;
- E. Food services;
- F. Facilities for the distribution, storage or retail sale of fuels; or

- G. Facilities for the maintenance and repair of vehicles, such as automobiles, trucks, locomotives, ships or aircraft, but applies where painting or stripping of vehicles or their components, or the rebuilding or remanufacturing of vehicle components is conducted at the facility.

§ 243-4. Content of report.

In addition to information prescribed by the Medical Officer of Health, a report required under this chapter shall be true, accurate and complete, and shall include:

- A. The name and location of the facility;
- B. Contact information regarding the person at the facility responsible for the report;
- C. A statement of certification in a form prescribed by the Medical Officer of Health;
- D. The quantity of each priority substance manufactured, processed or otherwise used;
- E. The quantity of each priority substance released to the environment; and
- F. The methods used to calculate the quantity of each priority substance.

§ 243-5. Record-keeping.

The information upon which reports referred to in this chapter are based shall be retained for a minimum of five years from the date the report is submitted and, upon request, shall be provided to the Medical Officer of Health for audit purposes.

ARTICLE III Inspections

§ 243-6. Inspections

- A. Subject to compliance with section 377 of the *City of Toronto Act, 2006*, an inspector may enter in or upon the property of a facility at any reasonable time for the purposes of inspecting the facility and determining whether this chapter is being complied with, and may for that purpose:
 - (1) Require the production for inspection of documents of things relevant to the inspection;
 - (2) Inspect and remove documents and things relevant to the inspection for the purpose of making copies or extracts;
 - (3) Require information from any person concerning a matter related to the inspection; and

- (4) Alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

ARTICLE IV Access to Information

§ 243-7. Access to information.

- A. All information submitted to and collected by the City in a report will, except as otherwise provided in this section, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).
- B. Where information submitted to the City or to the Medical Officer of Health in any form, as required under this chapter, is confidential or proprietary or may otherwise be exempt from disclosure under MFIPPA, the person submitting the information shall identify that information upon its submission to the City or to the Medical Officer of Health and shall provide sufficient details as to the reason for its purported exemption from disclosure.
- C. Public access to information reported pursuant to this chapter, unless such access is restricted by MFIPPA, shall be provided on the basis that the City of Toronto makes no representation or warranty as to the accuracy or completeness of the information so provided.

ARTICLE V Penalty

§ 243-8. Offence.

Every person who contravenes the provisions of this chapter and every director or officer of a corporation who knowingly concurs in a contravention of the provisions of this chapter by the corporation, is guilty of an offence and is liable to a fine of not more than:

- A. \$5,000 for a first offence;
- B. \$25,000 for a second offence; or
- C. \$100,000 for a third or subsequent offence.

§ 243-9. Implementation.

This by-law comes into force on January 1, 2010.

SCHEDULE A TO CHAPTER 243
Priority Substances, Mass Reporting Thresholds and Concentration Thresholds

Chemical Name	CAS No. ^{b.}	Mass Reporting Threshold kg/yr	Concentration Threshold % w/w
<i>GROUP A</i>			
Acetaldehyde	75-07-0	100	1.0
Acrolein	107-02-8	100	1.0
Benzene	71-43-2	100	1.0
1,3-Butadiene	106-99-0	100	1.0
Cadmium ^a	7440-43-9	1.0	0.1
Carbon tetrachloride	56-23-5	100	1.0
Chloroform (Trichloromethane)	67-66-3	100	1.0
Chromium, Hexavalent ^a	7440-47-3	10	0.1
Chromium, Non-hexavalent ^a	-	100	1.0
1,2-Dibromo ethane (Ethylene dibromide)	106-93-4	100	1.0
1,4-Dichlorobenzene	106-46-7	100	1.0
1,2-Dichloroethane (Ethylene dichloride)	107-06-2	100	1.0
Dichloromethane (Methylene chloride)	75-09-2	100	1.0
Formaldehyde	50-00-0	100	1.0
Lead ^a	7439-92-1	10	0.1
Manganese ^a	7439-96-5	10	1.0
Mercury ^a	7439-97-6	1.0	0.0
Nickel ^a	7440-02-0	100	1.0
Tetrachloroethylene (Perchloroethylene)	127-18-4	100	1.0
Trichloroethylene	079-01-6	100	1.0
Vinyl chloride	75-01-4	100	1.0
<i>GROUP B</i>			
Polycyclic Aromatic Hydrocarbons (PAHs)	-	10 ^d	n/a ^e
<i>GROUP C</i>			
Nitrogen Oxides ^c (NO _x)	11104-93-1	200	n/a
Particulate Matter 2.5 (PM _{2.5})	-	30	n/a
Volatile Organic Compounds (VOCs) total	-	100	n/a

a. and its compounds, expressed as the metal

b. Chemical Abstracts Service Registry Number

c. NO + NO₂, expressed as NO₂

d. PAHs released as a result of wood preservation using creosote must be reported even if below the mass reporting threshold

e. n/a = not applicable