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## THE COUNCIL

# COMMITTEE REPORT OF THE HUMAN SERVICES Division

*Jeffrey Baker, Legislative Director*

**COMMITTEE ON HEALTH**

*Hon. Mark Levine, Chair*

#### April 22, 2021

**Proposed Int. No. 1524-A:** By Council Members Kallos, Rivera, Rosenthal, Cornegy, Powers, Cabrera, Brannan, Cumbo, Richards, Reynoso, Rodriguez, Perkins, Holden, Levine, Constantinides, Grodenchik, Levin, Adams, Barron, Espinal, Ayala, Lander, Chin, Rose, Van Bramer, Treyger, Menchaca, Ampry-Samuel, Moya, Koslowitz, Gibson, Torres, Dromm, Borelli, and the Public Advocate (Mr. Williams)

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the use of pesticides by City agencies.

**Administrative Code:** Amends sections 17-1201, 17-1202, 17-1203, 17-1205 and 17-1206

**I.** **Introduction**

 On April 22, 2021, the Committee on Health, chaired by Council Member Mark Levine, will hold a vote on Proposed Int. No. 1524-A, a local law to amend the administrative code of the city of New York, in relation to the use of pesticides by City agencies. The legislation was previously heard on January 29, 2019, at which the Committee received testimony from the New York City Department of Health and Mental Hygiene (DOHMH), the New York City Parks Department (NYC Parks), advocates, and other interested parties.

**II. Background**

Pesticides are chemical or biological substances designed to destroy, control or repel a variety of living organisms, and include substances such as insecticides (insect control), herbicides (weed control), fungicides (mold or fungus control) and rodenticides (rodent control). Because pesticides are considered poisons, their use is regulated by federal[[1]](#footnote-2) and State law,[[2]](#footnote-3) through the Environmental Protection Agency (EPA) and the New York State Department of Environmental Conservation (DEC), respectively.[[3]](#footnote-4) While pesticides are useful to society because they can kill potential disease-causing organisms, insects, weeds and other pests, they also pose significant risks to humans, animals and the environment if not properly used and regulated.[[4]](#footnote-5)

Serious concerns regarding the potential health risks of pesticide use and exposure exist. Typical pesticide exposure may result from occupational exposure, from residues that have contaminated food and drinking water for the general population, and substantial exposure that may occur in or around the home.[[5]](#footnote-6) Negative environmental effects, including water, soil and air contamination from leaching and runoff, and detrimental effects on wildlife, fish and plant life can also occur, depending on the toxicity and dosage of the pesticide that was applied.[[6]](#footnote-7)

Primarily, the effects of a pesticide vary with the duration of exposure, which can be acute (a single exposure or multiple exposures within a short period of time); sub-chronic (repeated exposure over a longer period of time); or chronic (repeated exposure over a very long period of time).[[7]](#footnote-8) Acute effects in humans may result from accidents or the misuse of a pesticide product and can often include eye irritation, skin irritation, skin sensitization and neurotoxicity. [[8]](#footnote-9) Sub-chronic effects can take weeks or months of frequently repeated exposure to smaller doses to manifest themselves, and can include oral, dermal, inhalation or nervous system damage.[[9]](#footnote-10) For chronic exposure, pesticides have cumulative effects on the body that might not appear in the short or medium term, but can eventually manifest themselves as a chronic effect with permanent damage, such as the development of cancer or birth defects in the children of pregnant women.[[10]](#footnote-11)

In 2005, the Council passed Local Law 37 (LL37), which set forth requirements related to the use of pesticides on City property by City agencies, with the overall goal of reducing the City’s use of hazardous pesticides.[[11]](#footnote-12) At the time, the City was the largest municipality in the nation to regulate the use of pesticides on city-owned and leased property. LL 37 prohibited the use of pesticides on city owned or leased property meeting any of three criteria:

1. Pesticides classified as Toxicity Category 1 by the United States Environmental Protection Agency (EPA);
2. Pesticides classified as known, likely, probable or possible human carcinogens by the Office of Pesticide Programs of the EPA as of April 1, 2005; and
3. Pesticides classified as developmental toxins by the California Office of Environmental Health Hazard Assessment (COEHHS) as of April 1, 2005.

LL 37 also exempts certain pesticides from its requirements and created a waiver process where a City agency could apply to the commissioner of DOHMH for a waiver from any of the LL 37 requirements.[[12]](#footnote-13) Additionally, LL 37 (i) created an Interagency Pest Management Committee, composed of various agencies and headed by DOHMH, to meet semi-annually and share pest management information and strategies and to plan future reductions in pesticide use by issuing an updated annual plan on pesticide reduction; (ii) requires that, by February 1 of each year, DOHMH issue a report to the Council listing changes made to the list of pesticides classified as human carcinogens, likely to be carcinogenic to humans, known/likely carcinogens, probable human carcinogens or possible human carcinogens by the office of pesticide programs of the EPA; (iii) requires any City agency or contractor applying pesticides on City-owned or leased property to post a notice at publicly accessible locations on such site at least twenty-four hours prior to any such application, except where applications require immediate action for public health reasons; and (iv) requires City agencies that use pesticides to keep records, for a minimum of three years, of each pesticide application by such agency, or by a contractor.[[13]](#footnote-14)

In the most recent Integrated Pest Management update submitted to the Council, DOHMH noted that the Pest Management Committee continues to meet twice a year, and DOHMH offers several programs and trainings to promote best practices.[[14]](#footnote-15) DOHMH offers free Integrated Pest Management training to city agencies and to the public. In 2015, over 300 people participated in 21 half-day training events.[[15]](#footnote-16) DOHMH also held two Rodent Academy seminars in 2015, with 97 participants from several City agencies and two separate seminars for NYCHA staff.[[16]](#footnote-17)

The Council also passed Local Law 54 of 2007 (LL 54), which amended LL 37 to require City agencies to report their pesticide use to DOHMH by February 1 of each year, and for DOHMH to issue a summary report to the Council and the Mayor by May 1 of each year. The report must summarize the information reported to DOHMH, disaggregated by agency, regarding the “number of times each pesticide was used, the total amount of each pesticide used, and the Toxicity Category for each pesticide as determined by the United States environmental protection agency.”[[17]](#footnote-18)

 According to the latest report DOHMH submitted pursuant to LL 54:[[18]](#footnote-19)

* In 2016, 36 municipal agencies reported their pesticide use to DOHMH in a format that enabled summarization within and across agencies.
* Pesticides were applied a total of 284,248 times by City agencies in 2018, a total of 7,228 gallons and 156,540 pounds of solid pesticides being used.
* As in previous years, cockroaches were the most commonly targeted pests in 2018, with rats, mice, bed bugs and mosquitos making up the top 5 pests by number of total applications.
* Most liquid pesticide products used by City agencies were fungicides (51% by volume), while most solid products (41% by weight) were insecticides. Excluding DOHMH mosquito larviciding that was conducted to prevent the spread of West Nile Virus and other mosquito-borne diseases, most solid pesticides products (63% by weight) were rodenticides.
* Insecticides were the most frequently applied type of pesticide, accounting for nearly 67% of all applications.
* The volume of all liquid insecticides decreased 10% in 2018, compared with 2017. This decline was due to a reduction in the number and volume of pyrethroids applications targeting roaches and bedbugs mostly from declines in use at NYCHA.
* Liquid pyrethroid products targeting cockroaches decreased 11% from 2017 to 2018, reversing increases since 2015. Treatments targeting bedbugs also decreased slightly.
* The use of solid mosquito larvicide by weight increased by 5% compared with 2017 after a steep increase in 2016 in response to Zika virus. Based on extensive mosquito surveillance in 2016 and 2017, the Health Department does not expect local Zika transmission.
* “Best Management Practices” (BMP) insecticide products include gel and bait insecticides with little potential for human exposure. They accounted for 36% of insecticide applications in 2018. BMP applications to treat cockroaches declined slightly in 2018 after more than doubling in 2017.
* Liquid herbicide product use continued to decline in 2018. Volume declined 22%, mostly due to reduced use of glyphosate products.
* The use of solid herbicide products in 2018 was similar to 2017, due to continued use of outdoor granular turf formulations, mainly on golf courses and large institutional lawns.
* The Parks Department no longer applies pre-emergent herbicides near roadways and along walkways and perimeters of city parks.
* Use of solid rodenticide products increased 23% by weight 6% in the number of applications citywide compared with 2017. The DOHMH continue high levels of use for neighborhood rat ‘indexing’ and control.
* City agencies are not the only users of pesticides in New York City. The State summarizes pesticide use by commercial and private applicators. Comparing City agencies’ use in 2013 (the last year New York State released its data), local government use accounts for an estimated 3% of the total volume of liquid pesticides, and 19% of the total weight of solid pesticides applied within the five boroughs of the City.

Below are figures from the latest report submitted by DOHMH showing trends from 2008 through 2018 in the use of pesticides by city agencies and by type of pesticide, with solid and liquid products reported by weight and volume, respectively.[[19]](#footnote-20)



\*WNV (West Nile Virus) Larvacides: mosquito control program larvicides are charted separately from other insecticides because they represent a large proportion of city insecticide use, and because their year-to-year use varies more with weather than other insecticides.



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**III. Analysis of Proposed Int. No. 1524-A**

Proposed Int. No. 1524-A would expand the list of prohibited pesticides to also include pesticides classified as a human carcinogen (or likely or probable to be) by the Office of Pesticides Programs of the United States Environmental Protection Agency, pesticides classified by the California Office of Environmental Health Hazard Assessment as a developmental toxin, and pesticides containing active ingredients listed as known, probable or possible carcinogenic to humans by the International Agency for Research on Cancer of the World Health Organization as of the effective date of this portion of this local law.

The bill would also ban the use of any pesticide other than a biological pesticide on any playground or park, as well any other property under the jurisdiction of the Department of Parks and Recreation, except for limited exceptions, including: pesticides used to control invasive species listed on the New York state invasive plant list, harmful plant species as defined by the New York State Department of Environmental Conservation, pesticides used when the use of an alternative would be a worker safety hazard related to vehicular traffic, and others. DOHMH would be required to report on any efforts city agencies have undertaken to reduce or eliminate the use of pesticides used for these exceptions.

Finally, Proposed Int. No. 1524-A would also require relevant agencies to notify the relevant Borough President, Council Member and Community Board about any waiver request for the application of pesticides that they have submitted to DOHMH.

Since its initial hearing, the bill created an additional notice and reporting requirement for any agency that requests a waiver. Additionally, the list of prohibited pesticides was expanded.

Proposed Int. No. 1524-A

By Council Members Kallos, Rivera, Rosenthal, Cornegy, Powers, Cabrera, Brannan, Cumbo, Richards, Reynoso, Rodriguez, Perkins, Holden, Levine, Constantinides, Grodenchik, Levin, Adams, Barron, Espinal, Ayala, Lander, Chin, Rose, Van Bramer, Treyger, Menchaca, Ampry-Samuel, Moya, Koslowitz, Gibson, Torres, Dromm, Borelli, and the Public Advocate (Mr. Williams)

A LOCAL LAW..Title

To amend the administrative code of the city of New York, in relation to the use of pesticides by city agencies

..Body

Be it enacted by the Council as follows:

Section 1. Section 17-1201 of chapter 12 of title 17 of the administrative code of the city of New York, as added by local law number 37 for the year 2005, is amended to read as follows:

§ 17-1201 Application. This chapter shall apply to all pest control activities on property owned or leased by the city, whether such activities are performed by city employees, contractors, [or] subcontractors or any person acting under the direction of such city agency or contractor.

§ 2. Section 17-1202 of chapter 12 of title 17 of the administrative code of the city of New York, as added by local law number 37 for the year 2005, is amended to read as follows:

§ 17-1202 Definitions. For the purposes of this chapter only, the following terms [shall] have the following meanings:

[(1) “Anti-microbial pesticide” shall mean] Anti-microbial pesticide. The term “anti-microbial pesticide” means:

[i]1. disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects;

[ii]2. sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air;

[iii]3. bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

[iv]4. sterilizers intended to destroy viruses and all living bacteria, fungi and their spores, on inanimate surfaces;

[v]5. fungicides and fungistats intended to inhibit the growth of, or destroy, fungi (including yeasts), pathogenic to humans or other animals on inanimate surfaces; and

[vi]6. commodity preservatives and protectants intended to inhibit the growth of, or destroy bacteria in or on raw materials (such as adhesives and plastics) used in manufacturing, or manufactured products (such as fuel, textiles, lubricants, and paints), but not those utilized in the pulp and paper process or cooling towers.

[(2) “Biological pesticide” shall mean] Biological pesticide. The term “biological pesticide” means a pesticide which is a naturally occurring substance that controls pests and microorganisms.

[(3) “City agency” shall mean] City agency. The term “city agency” means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

[(4) “Contractor” shall mean] Contractor. The term “contractor” means any person or entity that enters into a contract with a city agency, or any person or entity that enters into an agreement with such person or entity to perform work or provide labor or services related to such contract.

Park or other property under the jurisdiction of the department of parks and recreation. The term “park or other property under the jurisdiction of the department of parks and recreation" means public parks, beaches, waters and land under water, pools, boardwalks, marinas, playgrounds, recreation centers and all other property under the jurisdiction, charge or control of the department of parks and recreation.

[(5) “Pest” shall mean] Pest. The term “pest” means:

[i]1. any insect, rodent, fungus, or weed; or

[ii]2. any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism (except viruses, bacteria or other microorganisms on or in living human or other living animals) which the commissioner of environmental conservation declares to be a pest.

[(6) “Pesticide” shall mean] Pesticide. The term “pesticide” means:

[i]1. any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

[ii]2. any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Playground. The term "playground" means an outdoor area open to the public where children play, which contains play equipment such as a sliding board, swing, jungle gym, sandbox, or see-saw, or which is designated as a play area.

Synthetic substance. The term "synthetic substance" means any substance, other than those naturally occurring in a plant, animal or mineral, that is formulated or manufactured by a chemical process.

§ 3. Section 17-1203 of chapter 12 of title 17 of the administrative code of the city of New York, as added by local law number 37 for the year 2005, is amended to read as follows:

 § 17-1203 Reduction of pesticide use. a. Effective six months after the enactment of the local law that added this section, no city agency or contractor shall apply to any property owned or leased by the city any pesticide classified as Toxicity Category I by the United States environmental protection agency as of April 1, 2005, provided that for any pesticide classified as Toxicity Category I by the United States environmental protection agency after April 1, 2005, no such agency or contractor shall apply such pesticide after six months of its having been so classified, except as provided for in sections 17-1205 or 17-1206 of this chapter.

b. [Effective twelve months after the enactment of the local law that added this section,] Except as provided for in sections 17-1205 or 17-1206 of this chapter, no city agency or contractor shall apply to any property owned or leased by the city:

1. any pesticide classified as a human carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen, a probable human carcinogen, or a possible human carcinogen by the office of pesticide programs of the United States environmental protection agency as of April 1, 2005;

2. any pesticide classified as a human carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen, a probable human carcinogen, or a possible human carcinogen by the office of pesticides programs of the United States environmental protection agency as of the effective date of this clause[except as provided for in sections 17-1205 or 17-1206 of this chapter].

 c. [Effective eighteen months after enactment of the local law that added this section,] Except as provided for in sections 17-1205 or 17-1206 of this chapter, no city agency or contractor shall apply to any property owned or leased by the city:

1. any pesticide classified by the California office of environmental health hazard assessment as a developmental toxin as of April 1, 2005[,];

2. any pesticide classified by the California office of environmental health hazard assessment as a developmental toxin as of the effective date of this clause; or

3. any pesticide containing active ingredients listed as known, probably or possibly carcinogenic to humans by the international agency for research on cancer of the world health organization as of the effective date of this clause [except as provided for in sections 17-1205 or 17-1206 of this chapter].

d. Effective eighteen months after the enactment of the local law that added this subdivision, no city agency, contractor or any person acting under the direction of such city agency or contractor shall apply to any playground, or park or other property under the jurisdiction of the department of parks and recreation any pesticide other than a biological pesticide except as provided for in sections 17-1205 and 17-1206 of this chapter.

e. The commissioner may promulgate regulations designating additional pesticides that pose risks to the public health similar to those posed by the pesticides regulated under this section, and providing that the use of such additional pesticides by city agencies and their contractors shall be subject to limitations set forth in such regulations.

[d] f. On [February] June 1, [2007] 2022, and every [February] June 1 thereafter, the department shall submit to the City Council a report listing changes made to the [list] lists of pesticides [classified as a human carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen, a probable human carcinogen, or a possible human carcinogen by the office of pesticide programs of the United States environmental protection agency and the list of pesticides classified as developmental toxins by the California office of environmental health hazard assessment after April 1, 2005] named in subdivisions b and c since the date of the last report submitted pursuant to this section. Such reports shall also include, for each pesticide added to or removed from such classifications, whether and to what extent such pesticide is used by city agencies or contractors in the city of New York, as well as any efforts city agencies have undertaken to reduce or eliminate the use of pesticides pursuant to paragraphs 11, 12, 13 and 14 in section 17-1205.

§ 4. Section 17-1205 of chapter 12 of title 17 of the administrative code of the city of New York, as added by local law number 37 for the year 2005, is amended to read as follows:

§ 17-1205 Exemptions. a. The restrictions established pursuant to section 17-1203 of this chapter shall not apply to the following:

[(1)] 1. pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants, wastewater treatment plants, reservoirs, and related collection, distribution and treatment facilities;

[(2)] 2. anti-microbial pesticides;

[(3)] 3. pesticides applied to professional sports playing fields, golf courses or used to maintain water quality in swimming pools;

[(4)] 4. pesticides used for the purpose of maintaining heating, ventilation and air conditioning systems, cooling towers and other industrial cooling and heating systems;

[(5)] 5. pesticides used for the purpose of rodent control in containerized baits or placed directly into rodent burrows or placed in areas inaccessible to children or pets;

[(6)] 6. pesticides or classes of pesticides classified by the United States environmental protection agency as not requiring regulation under the federal insecticide, fungicide and rodenticide act, and therefore exempt from such regulation when intended for use, and used only in the manner specified;

[(7)] 7. biological pesticides; [and]

[(8)] 8. boric acid and disodium tetrahydrate, silica gels, diatomaceous earth, and nonvolatile insect bait in tamper resistant containers[.];

9. synthetic substances listed as allowed on the United States department of agriculture national list of allowed and prohibited substances;

10. non-synthetic substances, unless listed as prohibited on the United States department of agriculture national list of allowed and prohibited substances;

11. pesticides used to control invasive plant species listed on the New York state invasive plant list in areas that the agency responsible for the property maintains for purposes other than public access;

12. pesticides used to control harmful plant species, as defined by the New York state department of environmental conservation, found growing on City property maintained for purposes of public access;

13. pesticides used when the agency responsible for the property determines alternative treatments to be a worker safety hazard related to vehicular traffic; and

14. pesticides used to comply with a state or federal mandate or permit requirement.

§ 5. Section 17-1206 of chapter 12 of title 17 of the administrative code of the city of New York, as added by local law number 37 for the year 2005, is amended to read as follows:

§ 17-1206 Waiver. Any city agency, including the department, is authorized to apply to the commissioner for a waiver of the restrictions established pursuant to section 17-1203 of this chapter. Such application shall be in a form and manner prescribed by the commissioner and shall contain such information as the commissioner deems reasonable and necessary to determine whether such waiver should be granted. Upon submitting an application for a waiver, the agency requesting the waiver shall notify by email the president of the borough in which pesticides may be applied pursuant to such waiver, the council member in whose district pesticides may be applied pursuant to such waiver, and the community board for the community district in which pesticides may be applied pursuant to such waiver, and publish notification of such waiver ​request in the City Record. In determining whether to grant or deny a request for a waiver, the commissioner shall consider whether the application of 17-1203 would be, in the absence of the waiver, unreasonable with respect to (i) the magnitude of the infestation, (ii) the threat to public health, (iii) the availability of effective alternatives and (iv) the likelihood of exposure of humans to the pesticide. Such waiver may be issued with respect to one or multiple applications and may be granted for a term deemed appropriate by the commissioner, provided, however, that such term shall not exceed one year. Within thirty days of granting a waiver, the department shall post the waiver application in its entirety to the department’s website, and the agency receiving the waiver shall notify by email the president of the borough in which pesticides will be applied pursuant to such waiver, the council member in whose district pesticides will be applied pursuant to such waiver, and the community board for the community district in which pesticides will be applied pursuant to such waiver, and provide the pest management committee, as established by section 1204 of this chapter, with a copy of such waiver.

§ 6. This local law takes effect immediately, provided that the prohibition on use of any pesticide the use of which was not prohibited prior to the enactment of this local law shall take effect 180 days after the effective date.

KS/SIL/HA

LS #2219/Int. 800/2015

LS 229

4/14/2021 11:00 pm

1. *See* Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 7 U.S.C. §136 et seq. Under FIFRA, all pesticides distributed or sold in the United States must be registered and licensed by the EPA. Before a pesticide is registered under FIFRA, the applicant must show, that using the pesticide according to specifications "will not generally cause unreasonable adverse effects on the environment.'' Under FIFRA, the term ''unreasonable adverse effects on the environment'' means: ''(1) any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or (2) a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 408 of the Federal Food, Drug, and Cosmetic Act.'' [↑](#footnote-ref-2)
2. *See* Article 33 of the New York State Environmental Conservation Law (ECL) Section 33-0101 - 33-1503. [↑](#footnote-ref-3)
3. *See* State of New York Office of the Attorney General, “Citizens’ Guide to Pesticide Notification Laws in New York State,” p. 1. [↑](#footnote-ref-4)
4. *See* Californians for Pesticide Reform, Pesticides and Human Health, <https://www.pesticidereform.org/pesticides-human-health/>; *see also* Beyond Pesticides, Impacts of Pesticides on Wildlife, <https://www.beyondpesticides.org/programs/wildlife>. [↑](#footnote-ref-5)
5. #  *Pesticide Exposure, Safety Issues, and Risk Assessment Indicators*, Christos A. Damalas and Ilias G. Eleftherohorinos, International Journal of Environmental Research and Public Health, May 2011.

 [↑](#footnote-ref-6)
6. *Id.* [↑](#footnote-ref-7)
7. *Pesticide Toxicology, Evaluating Safety and Risk,* Purdue University Cooperative Extension Services, available at [www.extension.purdue.edu/extmedia/PPP/PPP-40.pdf](http://www.extension.purdue.edu/extmedia/PPP/PPP-40.pdf) [↑](#footnote-ref-8)
8. *Id.* [↑](#footnote-ref-9)
9. *Id.* [↑](#footnote-ref-10)
10. *Id.* [↑](#footnote-ref-11)
11. Local Law 37/2005, <https://nyc.legistar.com/LegislationDetail.aspx?ID=442059&GUID=F7B4E5B7-6685-4EF8-B09C-8B4886723369&Options=ID|Text|&Search=37>. [↑](#footnote-ref-12)
12. Section 17-1205 of the New York City Administrative Code exempts the following:

pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants, wastewater treatment plants, reservoirs, and related collection, distribution and treatment facilities;

anti-microbial pesticides;

pesticides applied to professional sports playing fields, golf courses or used to maintain water quality in swimming pools;

pesticides used for the purpose of maintaining heating, ventilation and air conditioning systems, cooling towers and other industrial cooling and heating systems;

pesticides used for the purpose of rodent control in containerized baits or placed directly into rodent burrows or placed in areas inaccessible to children or pets;

pesticides or classes of pesticides classified by the United States environmental protection agency as not requiring regulation under the federal insecticide, fungicide and rodenticide act, and therefore exempt from such regulation when intended for use, and used only in the manner specified;

biological pesticides; and

boric acid and disodium tetrahydrate, silica gels, diatomaceous earth, and nonvolatile insect bait in tamper resistant containers.

In determining whether to grant or deny a request for a waiver, the commissioner must consider whether application of the requirements of LL 37 would, in the absence of the waiver, be unreasonable with respect to (i) the magnitude of the infestation, (ii) the threat to public health, (iii) the availability of effective alternatives and (iv) the likelihood of exposure of humans to the pesticide. The term of any waiver cannot exceed one year. [↑](#footnote-ref-13)
13. Local Law 37/2005, <https://nyc.legistar.com/LegislationDetail.aspx?ID=442059&GUID=F7B4E5B7-6685-4EF8-B09C-8B4886723369&Options=ID|Text|&Search=37>. [↑](#footnote-ref-14)
14. *See,* New York City Department of Health and Mental Hygiene, “An Update on Integrated Pest Management in New York City (2015),” July 2016. [↑](#footnote-ref-15)
15. *Id.* [↑](#footnote-ref-16)
16. *Id*. [↑](#footnote-ref-17)
17. Administrative Code §17-1208(b). [↑](#footnote-ref-18)
18. *See,* New York City Department of Health and Mental Hygiene, “Pesticide Use by New York City Agencies in 2018.” [↑](#footnote-ref-19)
19. *See,* New York City Department of Health and Mental Hygiene, “Pesticide Use by New York City Agencies in 2018”. [↑](#footnote-ref-20)