

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2021**

No. 56

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

A LOCAL LAW

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

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.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 22, 2021 and returned unsigned by the Mayor on May 24, 2021.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 56 of 2021, Council Int. No. 1524-A of 2019) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.