



BEYOND PESTICIDES

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Model Public and Private Pesticide-Free Policy/Ordinance

Section 1. Purpose.

The [enacting entity] hereby finds and declares that it shall be the policy of the City of [locality name] to eliminate toxic pesticides use in and on public and private property in order to promote a healthy environment and protects the public from the risks of pesticides; and for implementation of an integrated pest management (IPM) program on all public and private property.

Section 2. Findings.

WHEREAS, scientific studies associate exposure to pesticides with asthma, cancer, developmental and learning disabilities, nerve and immune system damage, liver or kidney damage, reproductive impairment, birth defects, and disruption of the endocrine system;

WHEREAS, infants, children, pregnant women, the elderly, people with compromised immune systems and chemical sensitivities are especially vulnerable to pesticide effects and exposure;

WHEREAS, pesticides are harmful to pets, wildlife including threatened and endangered species, soil microbiology, plants, and natural ecosystems;

WHEREAS, toxic runoff from chemical fertilizers and pesticides pollute streams and lakes and drinking water sources;

WHEREAS, the use of hazardous pesticides is not necessary to create and maintain green lawns and landscapes given the availability of viable alternatives practices and products;

WHEREAS, people have a right not to be involuntarily exposed to pesticides in the air, water or soil that inevitably result from chemical drift and contaminated runoff;

WHEREAS, recognizing that if an emergency public health situation warrants the use of pesticides, which would otherwise not be permitted under this policy, the IPM Coordinator shall have the authority to grant a temporary waiver on a case by case basis after an evaluation of all alternative methods and materials.

WHEREAS, the use of an Integrated Pest Management (IPM) program that emphasizes non-chemical methods of pest prevention and management and the use of the least-toxic

pesticide as a last resort, will eliminate the use of and exposure to pesticides while controlling pest populations;

WHEREAS, IPM complements other important goals of City maintenance and administration such as energy conservation and security; and

WHEREAS, numerous communities and municipalities are embracing a precautionary approach to the use of toxic pesticides in order to adequately protect people and the environment from pesticides' harmful effects.

Section 3. Definitions.

Crack and Crevice Treatment — means the application of small quantities of a pesticide into openings in a building such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

Emergency — means an urgent need to mitigate or eliminate a pest that threatens public health or safety.

Integrated Pest Management — means a managed pest control program that:

- (A) eliminates or mitigates economic and health damage caused by pests;
- (B) uses— (i) integrated methods; (ii) site or pest inspections; (iii) pest population monitoring and prevention strategies; (iv) an evaluation of the need for pest control; and, (v) 1 or more pest prevention and management methods, such as habitat modifications, sanitation practices, entryway closures, structural repair, mechanical and biological controls, effective mowing, watering and fertilizing practices that provide a healthy soil, other nonchemical methods, and if nontoxic options are unreasonable or have been exhausted, a least-toxic pesticide; and
- (C) minimizes— (i) the use of pesticides; and (ii) the hazards to human health and the environment associated with pesticide applications.

IPM Coordinator — means an individual who is designated by the City of [locality name] to oversee implementation of the integrated pest management plan for the City.

Least-Toxic Pesticide — means any pesticide product or ingredient that, at a minimum, has not been classified as, or found to have, any of the following characteristics or ingredients:

- (A) **Toxicity Category I or II** by the EPA (pesticides identified by the words 'DANGER' or 'WARNING' on the label);
- (B) A **developmental or reproductive toxicant** as defined by the State of California Proposition 65 Chemicals Known to Cause Developmental or Reproductive Harm;

(C) A **carcinogen**, as designated by (i) EPA's List of Chemicals Evaluated for Carcinogenic Potential (chemicals classified as a human carcinogen, likely to be carcinogenic to humans, a known or likely carcinogen, a probable human carcinogen, suggestive evidence or a possible human carcinogen); (ii) the International Agency for Research on Cancer (IARC) (chemicals classified as carcinogenic to humans or probably or possibly carcinogenic to humans); (iii) the United States National Toxicology Program (NTP) (chemicals classified as known or reasonably anticipated to be human carcinogens); or (iv) the State of California's Proposition 65;

(D) **Neurologic cholinesterase inhibitors**, as designated by California Department of Pesticide Regulation or the Materials Safety Data Sheet (MSDS) for the particular chemical;

(E) **Known groundwater contaminants**, as designated by the state of California (for actively registered pesticides);

(F) Pesticides formulated or applied as **dusts, powder or aerosols**, unless used in a way that virtually eliminates inhalation hazard, such as when applied to cracks or crevices and sealed after the application, or used as a directed spray into the entrance of an insect nest;

(G) **Nervous system toxicants**, including chemicals such as cholinesterase inhibitors or chemicals associated with neurotoxicity by a mechanism other than cholinesterase inhibition, or listed or identified in or on any of the following lists: (i) Toxics Release Inventory (TRI), EPA EPCRA section 313; (ii) EPA Reregistration Eligibility Decisions (RED); (iii) Insecticide Resistance Action Committee (IRAC) Mode of Action Classification: Acetylcholine esterase inhibitors, GABA-gated chloride channel antagonists, Sodium channel modulators, Nicotinic Acetylcholine receptor agonists or antagonists, Nicotinic Acetylcholine receptor agonists, Chloride channel activators, Octopaminergic agonists, Voltage-dependent sodium channel blockers, or Neuronal inhibitors (unknown mode of action);

(H) **Endocrine disruptors**, which include chemicals that are known to or likely to interfere with the endocrine system in humans or wildlife, based on the European Commission (EC) List of 146 substances with endocrine disruption classifications, Annex 13 (and any subsequent lists issued as follow-up, revisions, or extensions or based on any list created by the EPA that identifies endocrine disruptors);

(I) Regarding outdoor use: **Adversely affects the environment or wildlife**, based on any of the following: (i) Label precautionary statements including 'toxic' or 'extremely toxic' to bees, birds, fish, aquatic invertebrates, wildlife or other nontarget organisms, unless environmental exposure can be virtually eliminated; (ii) Pesticides with ingredients with moderate or high mobility in soil, or with a soil half-life of 30 days or more (except for mineral products);

(J) Has data gaps or missing information in EPA registration documents, including pesticide fact sheets, or EPA reregistration eligibility decisions, which EPA is requiring the registrant to provide; and,

(K) **Contaminants and metabolites** recognized by EPA that violate any of the above criteria.

(L) **Cosmetic pesticides** banned by the Ontario Ministry of the Environment as Class 9 Chemicals, recognized as posing an unnecessary risk.

Natural Organic Fertilizer —means fertilizers that contain nutrients naturally derived solely from the remains or a by-product of an organism, or from a mineral. The term includes cottonseed meal, fish emulsion, compost, and composted manure. The term does not include any fertilizer containing biosolids or synthetic ingredients, natural minerals or substances that are reacted with acids or produced in a petrochemical process.

Pesticide —any substance or mixture of substances intended for—(i) preventing, destroying, repelling, or mitigating any pest; (ii) use as a plant regulator, defoliant, or desiccant; or (iii) use as a spray adjuvant such as a wetting agent or adhesive. The term ‘pesticide’ does not include cleaning products, other than those that contain pesticidal agents.

Grounds —means the area outside of a building controlled, managed, or owned by the City and includes a lawn, playground, sports field, and any other property or facility controlled, managed, leased or owned by the City.

Synthetic Fertilizer—means a substance containing a plant nutrient created by a synthetic, chemical process, including triple super phosphate made by treating rock phosphate with phosphoric acid, potassium chloride, urea quick release synthetic fertilizers, petroleum-based fertilizers. The term does not include natural organic fertilizers that are made from naturally occurring materials, such as fish or kelp, or manure based organic compost.

Universal Notification —means notice provided by the IPM Coordinator to all employees working at the facility where the pesticide will be applied.

Sec. 4 Integrated Pest Management Components.

(1) In General.—Each City department shall implement an integrated pest management program, that at a minimum—

(A) Applies to City controlled, managed, or owned buildings and grounds;

(B) Establishes an IPM coordinator within the [City Department] responsible for carrying out the integrated pest management plan; and

(C) Follows an integrated pest management plan for addressing pest problems.

(2) Duties of the IPM Coordinator.—The IPM coordinator shall—

- (A) Oversee the implementation of the integrated pest management plan;
- (B) Act as a contact for inquiries about the integrated pest management plan;
- (C) Maintain and make available to any person upon request material safety data sheets, labels, and fact sheets or other official information related to the pesticides, for all pesticides that may be used in the City buildings or grounds;
- (D) Be informed of Federal and State chemical health and safety information and contact information;
- (E) Maintain scheduling of all pesticide use;
- (F) Maintain contact with Federal and State integrated pest management system experts;
- (G) Obtain periodic updates and training from State integrated pest management system experts;
- (H) Pre-approve any public health emergency pesticide applications; and
- (I) Maintain all pesticide use data for each pesticide used at City buildings and grounds for at least 3 years after the date on which the pesticide is applied.

(3) Use Of Pesticides.—The City of [name of locality] shall only use a least-toxic pesticide as part of the integrated pest management program. The least-toxic pesticide may only be used as a last resort and only if the area or room treated is unoccupied or not in use by an employee or the public. Pesticides are only to be applied by certified commercial applicators.

(4) Use Of Fertilizers.—The City of [name of locality] shall only use natural organic fertilizers. The use of a synthetic fertilizer is prohibited.

(5) Public Health Emergency.—

(A) In General.—If the IPM coordinator determines that a pest in a City building or on City grounds cannot be controlled after having used the integrated pest management program and least toxic pesticides and it is a public health emergency, the City may use a pesticide in accordance with this subsection.

(B) IPM Coordinator Approval Required.—The IPM Coordinator shall approve, after identifying the pesticide product ingredients and acute and chronic adverse health effects, the pesticide product before any public health emergency application can be made.

(C) Area Use Limitation.—The use of an area or room treated by an emergency pesticide, other than a least toxic pesticide, shall not be occupied or used at the time of application or during the 24-hour period beginning at the end of the application.

(D) Authorized Applicator.—The pesticide application shall only be made by a State certified pesticide applicator.

(E) Notification of Occupants and Users.—The IPM Coordinator shall provide to each employee of the facility/grounds where the application is to take place a notice of the application of the pesticide for emergency pest control. Notification will be provided at least 24 hours prior to the application. The notification shall include—

(i) the common name, trade name, and Environmental Protection Agency registration number of the pesticide; (ii) a description of the location of the application of the pesticide; (iii) a description of the date and time of application; and (iv) the statement ‘The EPA cannot guarantee that registered pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided’; (v) a description of potential adverse effects of the pesticide based on the material safety data sheet of the pesticide any additional warning information related to the pesticide; (vi) the name and telephone number of the IPM coordinator; (vii) a description of the problem and the factors that qualified the problem as an emergency that threatened public health; and (viii) a description of the steps the City will take in the future to avoid emergency application of a pesticide under this paragraph.

(F) Method Of Universal Notification.— The IPM Coordinator may provide the notice by— (i) written notice provided to each employee; (ii) a notice delivered electronically (such as through electronic mail or facsimile); (iii) a telephone call; or (iv) direct contact.

(G) Posting Of Signs.— If applying a pesticide under this paragraph, the IPM Coordinator shall post a sign warning of the application of the pesticide—in a prominent place that is in or adjacent to the location to be treated; and at each entrance to the building or ground to be treated. A sign required for the application of a pesticide shall remain posted for at least 72 hours after the end of the treatment; be at least 8 1/2 inches by 11 inches; and state the same information as that required for prior notification of the application under subparagraph (E).

(H) Modification Of Integrated Pest Management Plan.—If the City of [name of locality] applies a pesticide under this paragraph, the IPM Coordinator shall modify the integrated pest management plan to minimize the future applications of pesticides under this paragraph.

Section 5. Grounds Management Implementation Guidelines.

It is the policy of the City of [name of locality] to take the following preventive measures to eliminate pest-conducive conditions on public and private land:

- a. To maintain healthy soil, soil sampling and analysis will be conducted to evaluate and assess the level of care needed for the facility's turf and landscape.
- b. Well-adapted, pest-resistant grass varieties that are more suitable for the City's climate will be planted.
- c. Lawn aeration will be scheduled twice a year.
- d. De-thatching practices must keep the thatch layers less than ½" in order to keep the grass less susceptible to insects, disease and weather stress.
- e. A proper pH for the soils will be maintained. The soil should be tested in order to adjust the pH if needed.
- f. Annual fall fertilizer applications will be scheduled and carried out. Only slow-release fertilizer formulations will be used.
- g. Approved soil amendments will be applied as necessitated by soil test results. Following, but not limited to, the recommendations of the Northeast Organic Farmers' Association and/or the Organic Material Review Institute of Eugene, OR.
- h. Outdoor management practices will be modified to comply with organic horticultural science, including scouting, monitoring, watering, pruning, proper spacing and mulching.
- i. Practices will include the use of physical controls, including hand-weeding and over-seeding.
- j. Practices will also include the use of biological controls, including the introduction of natural predators, and enhancement of a favorable environment for a pest's natural enemies.

Section 6. Enforcement.

(1) The City of [locality name] shall be responsible for the enforcement of this act and its agents shall be authorized to issue statements of offense;

(2) Officials of the City may visit and examine any property to ascertain whether there has been compliance with the provisions of this act.

(3) The City can take any legal action before the appropriate court in order to obtain compliance with this act.

(4) Any citizen may commence a civil action on his own behalf-- (1) against any person who is alleged to be in violation of (A) a standard or limitation under this chapter or (B) an order issued by the City with respect to such a standard or limitation, or (2) against the State where there is alleged a failure of the State to perform any act or duty under this chapter which is not discretionary with the State in accordance with the deadlines established by this chapter.

Section 7. And Be It Further Enacted That this Act shall take effect as of the date of the three months from its passage.