

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

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:

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

3 § 17-1201 Application. This chapter shall apply to all pest control activities on property
4 owned or leased by the city, whether such activities are performed by city employees, contractors,
5 subcontractors or any person acting under the direction of such city agency or contractor.

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

8 § 17-1202 Definitions. For the purposes of this chapter only, the following terms shall have
9 the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

4 [(5) "Pest" shall mean] Pest. The term "pest" means:

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

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

9 [(6) "Pesticide" shall mean] Pesticide. The term "pesticide" means:

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

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

14 "Synthetic substance" shall mean any substance other than those naturally occurring in a
15 plant, animal or mineral that is formulated or manufactured by a chemical process.

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

18 § 17-1203 Reduction of pesticide use. a. Effective six months after the enactment of the
19 local law that added this section, no city agency or contractor shall apply to any property owned
20 or leased by the city any pesticide classified as Toxicity Category I by the United States
21 environmental protection agency as of April 1, 2005, provided that for any pesticide classified as
22 Toxicity Category I by the United States environmental protection agency after April 1, 2005, no

1 such agency or contractor shall apply such pesticide after six months of its having been so
2 classified, except as provided for in sections 17-1205 or 17-1206 of this chapter.

3 b. Effective twelve months after the enactment of the local law that added this section, no
4 city agency or contractor shall apply to any property owned or leased by the city any pesticide
5 classified as a human carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen,
6 a probable human carcinogen, or a possible human carcinogen by the office of pesticide programs
7 of the United States environmental protection agency as of April 1, 2005, except as provided for
8 in sections 17-1205 or 17-1206 of this chapter.

9 c. Effective eighteen months after enactment of the local law that added this section, no
10 city agency or contractor shall apply to any property owned or leased by the city any pesticide
11 classified by the California office of environmental health hazard assessment as a developmental
12 toxin as of April 1, 2005, or any pesticide containing active ingredients listed as known,
13 probably or possibly carcinogenic to humans by the international agency for research on
14 cancer of the world health organization, except as provided for in sections 17-1205 or 17-1206
15 of this chapter.

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

21 [d]e. On February 1, 2007, and every February 1 thereafter, the department shall submit to
22 the City Council a report listing changes made to [the] any list of pesticides classified as a human
23 carcinogen, likely to be carcinogenic to humans, a known/likely carcinogen, a probable human

1 carcinogen, or a possible human carcinogen by[the office of pesticide programs of the United
2 States environmental protection agency,] the international agency for research on cancer of the
3 world health organization [and the list of pesticides classified as developmental toxins by the
4 California office of environmental health hazard assessment after April 1, 2005]. Such reports shall
5 also include, for each pesticide added to or removed from such classifications, whether and to what
6 extent such pesticide is used by city agencies or contractors in the city of New York.

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

9 § 17-1205 Exemptions. a. The restrictions established pursuant to section 17-1203 of this
10 chapter shall not apply to the following:

11 [(1)] 1. Pesticides otherwise lawfully used for the purpose of maintaining a safe drinking
12 water supply at drinking water treatment plants, wastewater treatment plants, reservoirs, and
13 related collection, distribution and treatment facilities;

14 [(2)] 2. Anti-microbial pesticides;

15 [(3)] 3. Pesticides applied to professional sports playing fields, golf courses or used to
16 maintain water quality in swimming pools;

17 [(4)] 4. Pesticides used for the purpose of maintaining heating, ventilation and air
18 conditioning systems, cooling towers and other industrial cooling and heating systems;

19 [(5)] 5. Pesticides used for the purpose of rodent control in containerized baits or placed
20 directly into rodent burrows or placed in areas inaccessible to children or pets;

21 [(6)] 6. Pesticides or classes of pesticides classified by the United States environmental
22 protection agency as not requiring regulation under the federal insecticide, fungicide and

1 rodenticide act, and therefore exempt from such regulation when intended for use, and used only
2 in the manner specified;

3 7. biological pesticides; and

4 8. Boric acid and disodium tetrahydrate, silica gels, diatomaceous earth, and nonvolatile
5 insect bait in tamper resistant containers.

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

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

10 11. Pesticides used to control invasive plant species listed on the New York state invasive
11 plant list in non-public access areas;

12 12. Pesticides used to control harmful plant species, as defined by the New York state
13 department of environmental conservation, found growing on City property when the
14 agency responsible for the property determines alternative treatments to be a worker
15 safety hazard.

16 13. Pesticides used to comply with a state or federal mandate or permit requirement.

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

19 § 17-1206 Waiver. Any city agency, including the department, is authorized to apply to the
20 commissioner for a waiver of the restrictions established pursuant to section 17-1203 of this
21 chapter. Such application shall be in a form and manner prescribed by the commissioner and shall
22 contain such information as the commissioner deems reasonable and necessary to determine
23 whether such waiver should be granted. Upon submitting an application for a waiver, the agency

1 requesting the waiver shall notify by email the president of the borough in which pesticides may
2 be applied pursuant to such waiver, the council member in whose district pesticides may be applied
3 pursuant to such waiver, and the community board for the community district in which pesticides
4 may be applied pursuant to such waiver, and publish notification of such waiverrequest in the City
5 Record. In determining whether to grant or deny a request for a waiver, the commissioner shall
6 consider whether the application of 17-1203 would be, in the absence of the waiver, unreasonable
7 with respect to (i) the magnitude of the infestation, (ii) the threat to public health, (iii) the
8 availability of effective alternatives and (iv) the likelihood of exposure of humans to the pesticide.
9 Such waiver may be issued with respect to one or multiple applications and may be granted for a
10 term deemed appropriate by the commissioner, provided, however, that such term shall not exceed
11 one year. Within thirty days of granting a waiver, the department shall post the waiver application
12 in its entirety to the department's website, and the agency receiving the waiver shall notify by
13 email the president of the borough in which pesticides will be applied pursuant to such waiver, the
14 council member in whose district pesticides will be applied pursuant to such waiver, and the
15 community board for the community district in which pesticides will be applied pursuant to such
16 waiver, and provide the pest management committee, as established by section 1204 of this
17 chapter, with a copy of such waiver.

18 § 6. This local law takes effect immediately.

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