

Chapter 259. PESTICIDES

[HISTORY: Adopted by the Common Council of the City of Albany 12-7-1998 by Ord. No. 38.71.98; amended in its entirety 6-6-2011 by Ord. No. 34.51.11(MC). Subsequent amendments noted where applicable.]

§ 259-1. Legislative intent.

The Common Council declares it to be the policy of the City to phase out pesticide use for many pest-control purposes and to adopt a control policy that substantially reduces chemical controls. The Common Council further finds that, because of continual developments in alternatives to pesticides, City departments must carry out an ongoing review of pesticide use and continually seek to reduce or eliminate pesticide use.

§ 259-2. Definitions.

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

ANTIMICROBIAL PESTICIDES

A pesticide as defined by 7 U.S.C. § 136(mm).

PEST

Any insect, rodent, weed or any other form of terrestrial or aquatic or animal life or virus, bacteria or other microorganism (except viruses, bacteria or other microorganisms on or in living man or other living animals) which the Commissioner of the New York State Department of Environmental Conservation declares to be a pest.

PESTICIDE

Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliator or desiccant. It shall include all pesticide products registered as such by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation and all products for which experimental use permits and provisional registrations have been granted by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation.

§ 259-3. Pest Management Board.

A.

There is hereby created a Pest Management Board under this chapter composed of seven members as follows: the Commissioner of the Department of General Services or his or her designee; the Commissioner of the Department of Recreation or his or her designee; the Director of the Office of Sustainability or his or her designee; and four citizens appointed by the Common Council, one of whom shall be a health care-practitioner, one of whom shall be actively involved in a local environmental organization; one of whom shall have a background in organic pest management, and one of whom shall have a background in landscaping or property management. The members shall serve at the pleasure of the Common Council. The Committee shall annually choose a chair.

B.

The Pest Management Board shall publicly notice and hold meetings at least four times per year, or more often if necessary. The Board shall allow for a public comment period at each meeting, the length and placement to be determined by the Committee. The Mayor shall have the authority to call a special meeting of the Pest Management Board in the event of an emergency regarding property, health and safety.

C.

The Pest Management Board shall review and make recommendations to the City departments regarding pest management, monitor efforts of the City to reduce pesticide use, have the authority to research and report on programs used successfully by other municipalities or private industry, and shall be responsible for granting waivers as provided in § 259-6.

§ 259-4. Pesticide use on City property; notice.

A.

A. Each City department in carrying out its duties shall assume that pesticides are potentially hazardous to humans and the environment and shall give preference to reasonably available nonpesticide alternatives when addressing pest problems on City property. No pesticides classified as Toxicity Category I by the United States Environmental Protection Agency, or any pesticide classified as a known, likely or probable human carcinogen or "carcinogenic to humans," "likely to be carcinogenic to humans," or "suggestive evidence of carcinogenic potential," by the United States Environmental Protection Agency, pesticides classified as Toxicity Category II by the United States Environmental Agency, or any pesticide classified as restricted use by the United States Environmental Protection Agency or the New York State Department of Environmental Conservation, or pesticides classified as Toxicity Category III by the United States Environmental Protection Agency, shall be applied on any property owned by the City of Albany. This prohibition on applying pesticides shall apply to all City departments and entities, contractors and subcontractors and entities leasing City property.

B.

Each City department that has used pesticides during the past year shall at least annually develop a plan for reducing pesticide use, substituting for less toxic, nontoxic and nonchemical alternatives to pesticides. In developing its plan, each department shall consult with persons and organizations with expertise in pesticide use, reduction and substitution, giving preference to nontoxic and nonchemical alternatives.

C.

On or before January 1 of every year, each City department that has used any pesticide during the previous year shall submit a plan to the City Clerk that details how it will reduce pesticide use and substitute less toxic, nontoxic and nonchemical alternatives to pesticides in the coming year. The report shall specify any pesticide use thought to be necessary in the coming year, and alternatives to its use, and the potential for eliminating or reducing its use for substituting less toxic, nontoxic and nonchemical means of pest control. The Pest Management Board, in consultation with organizations with expertise in pesticides and alternatives to pesticides, shall assist the departments in reducing and, where feasible, eliminating pesticide use. The Board shall submit these reports to the General Service, Health and Environment Committee of the Common Council, the Chair of which shall be responsible for making the reports available to members of the Common Council.

D.

Notice to the public shall be provided of each application of pesticides on City property by the posting of signs at the site for at least a twenty-four-hour period prior to the application of pesticides and a forty-eight-hour period after the application.

§ 259-5. Exceptions.

Notwithstanding any other provisions of this chapter to the contrary, this chapter shall not apply to the following:

A.

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.

B.

Antimicrobial pesticides.

C.

Pesticides in contained baits for the purposes of rodent and insect control.

D.

Pesticides classified by the United States Environmental Protection Agency as exempt materials under CFR 152.25.^u

[1]:

Editor's Note: See 40 CFR 152.25.

E.

City-owned property managed by a federal or state agency, or any city property where pesticide use must be included as part of a property management plan that is subject to federal or state approval.

§ 259-6. Waivers.

A.

The Pest Management Board may grant a temporary waiver of up to one year to allow the use of pesticides on City-owned property. The determination of the waiver shall specify the property and the purpose of the pesticides. The specific pesticides to be used may be determined by the Pest Management Board.

B.

In the event that the Mayor determines that a threat to human health or other threatening condition warrants the use of pesticides that would otherwise not be allowed under this chapter, the Mayor, in consultation with the Pest Management Board, shall determine if such a waiver is warranted and may issue a waiver from the provisions of this chapter based on the following criteria:

(1)

The pest situation poses an immediate or imminent threat to human health or that other threatening conditions exist; and

(2)

Viable alternatives consistent with this chapter do not exist. In making such determination, the Mayor shall outline the means for addressing the underlying causes of the pest outbreak in order to prevent future outbreaks.