



# BEYOND PESTICIDES

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## Model Public Pesticide-Free Policy/Ordinance

### Section 1. Purpose.

The [enacting entity] hereby finds and declares that it shall be the policy of the [locality name] to eliminate toxic pesticide use in and on public and private property in order to promote a healthy environment and protect the public from the hazards of pesticides, and for implementation of sustainable land and building management practices 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 Sustainability 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**, sustainable land and building management practices that emphasize non-chemical methods of pest prevention and management and least-toxic pesticide use as a last resort will eliminate the use of and exposure to pesticides while controlling pest populations;

**WHEREAS**, sustainable land and building management practices complements other important goals of [locality name] maintenance and administration, such as energy conservation and security; and

**WHEREAS**, [locality name] embraces 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.**

**Allowed Materials List.** The Executive must include in the regulations adopted under this section a list of acceptable pesticides, known as the Allowed Materials List. The list is limited to:

- (A) All nonsynthetic (natural) materials, with the exception of prohibited nonsynthetic materials under 7 CFR 205.602;
- (B) Any synthetic material listed at 7 CFR 205.601 that is labeled for turf uses, subject to discretionary authority to require disclosure of inert ingredients; and
- (C) 25b listed pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

**Agricultural Land** – means land that lies in an agricultural zoning district.

**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.

**Garden** – means a plot of land, except agricultural land, consisting of a majority of annual plants.

**Grounds** – means the area outside of a building, including lawns, playgrounds, sports fields, and any other property or facility controlled, managed, leased or owned by [locality name].

**Inert ingredient** – Any substance (or group of substances with similar chemical structures if designated by the Environmental Protection Agency) (EPA) other than an active ingredient which is intentionally included in any pesticide product (40 CFR 152.3(m)) [7 CFR 205.2 Terms defined.], and are not classified by the Administrator of EPA as inerts of toxicological concern. [7 U.S.C. 6502(21) Definitions]

**Lawn** – means an area of land, except agricultural land, that is: (i) mostly covered by grass, grass, other similar herbaceous plants, shrubs, or trees; and (ii) kept trim by mowing or cutting.

**Nonsynthetic (natural) materials** – A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Organic Foods Production Act (7 U.S.C. 6502(21)). For the purposes of this part, nonsynthetic is used as a synonym for natural as the term is used in the ordinance. [7 CFR 205.2 Terms defined.]

**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.

**Sustainability Coordinator** – means an individual who is designated by the City of [locality name] to oversee implementation of the sustainable land and building management practices for the City.

**Sustainable Land and Building Management Practices** – 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 pesticide on the allowed materials list; and

(C) minimizes— (i) the use of pesticides; and (ii) the hazards to human health and the environment associated with pesticide applications.

**Synthetic materials** – The term “synthetic” means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes. [7 U.S.C. 6502(21) Definitions]

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

#### **Sec. 4. Sustainable Land and Building Management Practices Components.**

**(1) In General.**—Each City department shall implement sustainable land and building management practices, that at a minimum—

(A) Applies to [locality name] controlled, managed, or owned buildings and grounds;

(B) Establishes a Sustainability Coordinator within the [City Department] responsible for carrying out sustainable land and building management practices; and

(C) Follows sustainable land and building management practices for addressing pest problems.

**(2) Duties of the Sustainability Coordinator.**—The Sustainability Coordinator shall—

(A) Oversee the implementation of sustainable land and building management practices;

(B) Act as a contact for inquiries about the sustainable land and building management practices;

(C) Maintain and make publicly available material safety data sheets, labels, and fact sheets or other official health and safety information for all pesticides on the allowed materials list;

(D) Maintain a make publicly available the allowed materials list of pesticides that may be used in emergencies that are not classified as allowed under this law;

(D) Have the authority to determine whether to add or remove a pesticide from a designation on the allowed materials list, based on essentiality in pest control or harm to human health or the environmental which is not captured by the current allowed materials list.

- (E) Be informed of Federal and State chemical health and safety information and contact information;
- (F) Maintain scheduling of all pesticide use by [locality name];
- (G) Maintain contact with Federal and State sustainable land and building management experts;
- (H) Obtain periodic updates and training from State sustainable land and building management experts;
- (I) Pre-approve any public health emergency pesticide applications;
- (J) 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; and,
- (K) Oversee the implementation of a public outreach and education campaign before and during implementation of the provisions of this Article. This campaign should include:
  - (i) informational mailers to [locality name] households;
  - (ii) distribution of information through [locality name] internet and web-based resources;
  - (iii) radio and television public service announcements
  - (iv) news releases and news events;
  - (v) information translated into Spanish, French, Chinese, Korean, Vietnamese, and other languages, as needed;
  - (vi) extensive use of local public access channels funded by the [locality name]; and,
  - (vii) posters and brochures made available at [locality name] events, publicly owned transportation, libraries, recreation facilities, senior centers, public schools, colleges, health care providers, hospitals, clinics, and other venues.

**(3) Property Owners and Tenants.**

- (A) Property owners and tenants are encouraged to follow sustainable land and building management practices and employ pesticides on the allowed materials list only as a last resort.

**(4) Use of Pesticides.** — [Name of locality] shall only use pesticides on the allowed materials list as part of sustainable land and building management practices. A pesticide on the allowed materials list 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.

**(5) Use of Fertilizers.**— [Name of locality] shall only use natural organic fertilizers. The use of a synthetic fertilizer is prohibited.

**(6) Public Health Emergency.**—

**(A) In General.**—If the Sustainability Coordinator determines that a pest in a [jurisdiction] building or on the grounds cannot be controlled after having used sustainable land and building management practices and least toxic pesticides and it is a public health emergency, [locality name] may use a pesticide in accordance with this subsection.

**(B) Sustainability Coordinator Approval Required.**—The Sustainability 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 an allowed materials list, 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 Sustainability 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;
- (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 Sustainability 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 [jurisdiction] will take in the future to avoid emergency application of a pesticide under this paragraph.

(F) **Method Of Universal Notification.**— The Sustainability Coordinator shall 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 Sustainability 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 Sustainable Land and Building Management Practices.**— If the [Locality name] applies a pesticide under this paragraph, the Sustainability Coordinator shall modify the sustainable land and building management practices 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 [locality name'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 1/2" 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.

(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.**

(A) [Locality name] shall be responsible for the enforcement of this act and its agents shall be authorized to issue statements of offense;

(B) Officials of [locality name] may visit and examine any property to ascertain whether there has been compliance with the provisions of this act.

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

(D) Any citizen may commence a civil action on his own behalf— (i) 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 [local jurisdiction] with respect to such a standard or limitation, or (ii ) 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.

(E) Each application of a pesticide violates the restrictions of this code shall be considered a municipal infraction, with penalties determined by the City.

**Section 7. And Be It Further Enacted** that this Act shall take effect as of the date of the [insert number] months from its passage.