



BALTIMORE CITY COUNCIL HEALTH COMMITTEE

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Health Committee is to study, examine and propose regulations concerning health and environmental issues; and to make recommendations and propose legislation for improving the overall health and welfare of all residents of Baltimore City.

**The Honorable Kristerfer Burnett
Chairman**

PUBLIC HEARING

**THURSDAY, MAY 7, 2020
5:00 pm**

VIRTUAL WEBEX MEETING/HEARING

TO BE TELEVISED ON CHARM TV 25

Council Bill #20-0495– Pesticide Control and Regulation

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Edward Reisinger
Robert Stokes
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- Larry Greene (*pension
only*)

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BILL SYNOPSIS

Committee: Health

Council Bill: 20-0495

Pesticide Control and Regulation

Sponsor: Councilmember Clarke, et al

Introduced: February 10, 2020

Purpose:

For the purpose of regulating the use and application of pesticides in Baltimore City; defining certain terms; requiring certain notices at the time of pesticide purchase; requiring certain notices prior to and after pesticide application; requiring marker placement after certain pesticide applications; prohibiting the use of certain pesticides in specified areas; prohibiting the use and application of glyphosate and chlorpyrifos; prohibiting neonicotinoid pesticide use on City-owned property; establishing certain penalties; and providing for a special effective date.

Effective: Section 3 of this Ordinance takes effect on the date it is enacted.

Except as provided in Section 3 of this Ordinance, this Ordinance takes effect 180 days after the date it is enacted.

Agency Reports

Law Department	Favorable with Amendments
Health Department	
Department of Transportation	
Department of Recreation and Parks	Favorable with Amendments
Department of Public Works	Comments/Defers to Health Dept.
Department of Housing and Community Development	No Objection if Amended
Environmental Control Board	No Objection
Office of Sustainability	Favorable
Department of General Services	Favorable
Baltimore City Public School System	Favorable
Department of Finance	

Analysis

Current Law

The mandates pertaining to Pesticide Control and Regulation are in:

- Baltimore City Code
 - Article – Health
 - Article 1 – Mayor, City Council, and Municipal Agencies
- Under Maryland law, a pesticide may be sold, distributed or used if it is registered by both the Department of Agriculture and the United States Environmental Protection Agency (EPA)¹

Baltimore City's 2019 Sustainability Plan addresses the importance of reducing the use of pesticides.²

The current Building, Fire and Related Codes of Baltimore City, 2015 edition, outlines rodenticide procedures.³

Background

Per the primary sponsor of the legislation, "This legislation will limit the city's use of pesticide on both private and public land. It will prohibit the use but not the sale of products. The goal is to use as minimum pesticide as possible. We want what is used to not hurt birds, bees, babies or next store neighborhoods, she said."

As of this writing, eight (8) agency reports are in and attached hereto; none in opposition, however, three (3) agencies are recommending amendments.


1. The Law Department (*proposed amendment attached to the report*)
2. Department of Housing and Community Development (*see fifth [5th] paragraph in agency report*)
3. The Department of Recreation and Parks (*see attached report*)

Baltimore City Public Schools and properties are owned by the Mayor and City Council but are pre-empted by State law from the city's local pesticide legislation. The primary sponsor of the legislation, Councilwoman Clarke, will offer an amendment to address this issue.⁴

Additional Information

Fiscal Note: None

Information Source(s): Baltimore City Code, State law, Council Bill 20-0495 and all agency reports received as of this writing.

Analysis by: 
Direct Inquiries to: 443-984-3485

Analysis Date: May 5, 2020

¹ Department of Public Works agency report dated March 13, 2020

² Department of Planning agency report dated March 12, 2020

³ Department of Housing and Community Development agency report dated March 16, 2020

⁴ Conversations with the Honorable Mary Pat Clarke, primary sponsor of Council Bill 20-0495

BALTIMORE CITY COUNCIL



MARY PAT CLARKE

14th District

City Hall, Room 550

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Baltimore, Md 21202

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Pesticide Control and Regulation

(based on Montgomery County law which successfully overcame court appeals)

Background

REGISTERED PESTICIDES are ALL pesticides EPA-approved for sale/use in the USA.

LISTED PESTICIDES are an EPA- subset of REGISTERED PESTICIDES deemed "minimal risk."

THIS LEGISLATION

PROHIBITS the use of GLYPHOSATE (RoundUp) and CHLORPYRIFOS in Baltimore City; and,
PROHIBITS the use of NEONICOTINOID on City-owned properties.

- Proposes **COMPLETE PROHIBITION** on use of GLYPHOSATE (Round-Up) because of Glyphosate's inherent risks as "a probable carcinogen" per the Agency for Research on Cancer, a program of the World Health Organization (report of 2015);
-
- Proposes **COMPLETE PROHIBITION** on CHLORPYRIFOS pesticides because toxic to birds, fish, bees, and harmful to people, especially affecting children with development delays and disorders.
- Proposes **CITY-PROPERTY PROHIBITION** on NEONICOTINOID use because chemically related to nicotine and harmful to bees and certain wildlife.
- Limits pesticide applications on lawns, playgrounds, athletic fields, mulched recreation areas, and child facilities to **ONLY "LISTED"** (minimal risk) pesticides.

Requires Baltimore's pesticide outlets to post notice approved by Baltimore City Health Department informing customers of Baltimore City's pesticide use prohibitions.

Provides exceptions in environmental emergencies to use Registered (not Listed) pesticides but prohibits use of Glyphosate, Chlorpyrifos, and Neonicotinoid in even these emergency situations.

January 31, 2020

City Council Bill DRAFT Pesticides.doc

Council Bill 20-0495

AGENCY REPORTS

- Law Department – **Favorable with Amendments**
- Health Department
- Department of Transportation
- Department of Recreation and Parks – **Favorable with Amendments**
- Department of Public Works – **Comments/Defers to Health Department**
- Department of Housing and Community Development – **No Objection if Amended**
- Environmental Control Board – **No Objection**
- Office of Sustainability – **Favorable**
- Department of General Services - **Favorable**
- Baltimore City Public School System - **Favorable**
- Department of Finance

CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG
Mayor



DEPARTMENT OF LAW
DANA P. MOORE, ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

April 30, 2020

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 20-0495 – Pesticide Control and Regulation

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 20-0495 for form and legal sufficiency. The bill would require certain notices at the time of purchase of a pesticide, before and after pesticide application, require marker placement after certain pesticide application, prohibit the use of certain pesticides in specified areas, prohibit the use and application of glyphosate and chlorpyrifos, prohibit neonicotinoid pesticide use on City property, establish certain penalties and provide for a special effective date.

The Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. §§ 136-136y, provides the federal regulatory scheme for pesticide control and charges the EPA with the responsibility of determining the safety of pesticide products. Generally speaking, all pesticides sold in the United States must be registered with the EPA. FIFRA does not, however, preempt state or local control of pesticides. *Wisconsin Public Intervenor v. Mortier*, 501 U.S. 597, 607 (1991).

Maryland's Pesticide Registration and Labeling Law and Pesticide Applicator's Law provide the state's regulatory scheme. Md. Code, Agric., § 5-101 *et seq.*; §§ 5-201-5-211. State law does not expressly preempt local pesticide control. In a recent case involving a Montgomery County ordinance that is very similar to this bill, although different in some respects, the Maryland Court of Special Appeals upheld the law against a preemption challenge. *Montgomery Co. v. Complete Lawn Care, Inc.*, 240 Md. App. 664, 688-89 (2019), *cert. denied*, *Goodman v. Montgomery County*, 464 Md. 585 (2019). The court held that the local law was not preempted by Maryland's pesticide laws, because although it prohibited activities that are permitted under State law, the County's prohibitions were not expressly permitted under Maryland law allowing the County to go further in its restrictions.

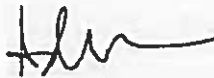
City Council Bill 20-0495 is similar in many respects to the Montgomery County law examined in that case and is, therefore, likely not preempted. Sections 19-303 and 304 of the Bill prohibit, in addition to Neonicotinoid that is prohibited by Montgomery County, the use of

Glyphosate and Chlorpyrifos, unless authorized by the Commissioner. Neither of these pesticides are expressly permitted under Maryland law and the City would likely not be preempted by these additional prohibitions. The bill also provides less time to report an emergency application to the Department (24 hours) than the Montgomery law's counterpart (7 days after private application). This difference would not subject the law to preemption, as it is within the City's authority to enact stricter laws in this area. *Complete Lawn Care, Inc.*, 240 Md. App. at 710 (holding that the state's regulations set a floor, not a ceiling, and local laws can go further in their restrictions (citing *Mayor and City Council of Baltimore v. Hart*, 395 Md. 394, 396-97 (2006) (upholding the City's more stringent standard for emergency vehicles)).

The Law Department recommends further elaboration on several of the bill's terms to avoid a vagueness challenge. See, e.g., *A.B. Small Co. v. American Sugar Refining Co.*, 267 U.S. 233, 238-239 (1925) (courts have held a civil "provision invalid as contravening the due process of law clause of the Fifth Amendment, among others, because it required that the transactions named should conform to a rule or standard which was so vague and indefinite that no one could know what it was") (citations omitted); see also *Johnson v. U.S.*, 135 S.Ct. 2551, 2570 (2015) (Thomas, J., concurring). The terms that need clarification are: "lawn" and "playing field." Specifically, the term "lawn" should be defined to exclude a "playing field," which should itself be clarified to exclude artificial surfaces that would not require pesticides (like turf fields or concrete basketball courts). Suggested amendments are attached to this report, but any further definition that makes these words less vague would suffice.

Subject to these amendments, the Law Department can approve the bill for form and legal sufficiency.

Very truly yours,



Ashlea Brown
Hilary Ruley

cc: Dana P. Moore, Acting City Solicitor
Matthew Stegman, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor

AMENDMENTS TO COUNCIL BILL 20-0495
(1st Reader Copy)



Proposed by: Law Dep't
{To be offered to the Health Committee}

Amendment No. 1 to clarify "lawn"

On page 3, after line 13, insert " "LAWN" DOES NOT INCLUDE: A PLAYING FIELD, GOLF COURSE, GARDEN, TREE OR SHRUB."

Amendment No. 2 to clarify "playing field"

On page 10, after line 25, insert ""PLAYING FIELD" DOES NOT INCLUDE ANY ARTIFICIAL SURFACE SUCH AS ASTRO TURF OR CONCRETE""

F R O M	Name & Title	Reginald Moore, <i>Executive Director</i> 	CITY OF BALTIMORE	
	Agency Name & Address	City of Baltimore, Department of Recreation and Parks 3001 East Drive, Baltimore, Maryland (MD) 21217	MEMO	
	Subject:	City Council Bill 20-0495: For the purpose of regulating the use and application of pesticides in Baltimore City.		

TO: The Honorable Council President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE: 4 May 2020

BCRP Position: Baltimore City Recreation and Parks hopes that any pesticide restrictions are aligned with the current state and federal regulations on signage, labeling, notice to property owners and schools. Current regulations are quite strong and most problems are from misuse or misapplication, and can be corrected by enforcement or regulation not additional legislation.

For these reasons, Baltimore City Recreation and Parks would like to work with Council to further revise this legislation and would then, conditionally support with amendments, the approval of City Council Bill 20-0495.

Baltimore City Recreation and Parks (BCRP) has been asked to comment on City Council Bill 20-0495 for the purpose of regulating the use and application of pesticides in Baltimore City; defining certain terms; requiring certain notices at the time of pesticide purchase; requiring certain notices prior to and after pesticide application; requiring marker placement after certain pesticide applications; prohibiting the use of certain pesticides in specified areas; prohibiting the use and application of glyphosate and chlorpyrifos; prohibiting neonicotinoid pesticide use on City-owned property; establishing certain penalties; and providing for a special effective date.

Pesticide regulation is just that, a regulatory process. Pesticides are reviewed and approved by the Environmental Protection Agency (EPA) through an extensive scientific process and at the state level in Maryland by the Maryland Department of Agricultural (MDA). Here in Maryland, the MDA has put forth a robust regulatory phase out of chlorpyrifos upon request of the agricultural community in order to maintain the integrity of the regulatory process. The expertise of health experts, scientists working in the field, and other subject matter experts should lead the discussion.

Recreation and Parks supports a ban on chlorpyrifos.

Recreation and Parks supports the regulatory process led by the EPA and the MDA to determine the fate of neonicotinoids and glyphosate.

Absent the regulatory process, we support a ban on neonicotinoids, however we request an exception for their use in the Howard Peters Rawlings Conservatory and limited use on the grounds of the Cylburn Arboretum. This request will be explained below. Neonicotinoids are used very sparingly in the Cylburn greenhouses as this falls under agricultural use permitted in this bill.

Absent the regulatory process, we do not support a total ban on Glyphosate and request its continued use in limited situations to control invasive plants in our natural areas and forests, and to control weeds in cracks on

basketball courts, tennis courts, and curb lines and sidewalks. Out of an abundance of caution we would not use it on playgrounds and near vegetable gardens.

The bill states that certain pesticides, especially those containing the chemical glyphosate, have been linked to cancer. Many governments have published risk assessments about glyphosate, finding it is unlikely to cause cancer in humans when used according to label directions as required.

- US Environmental Protection Agency, December 18, 2018
- European Food Safety Authority, November 12, 2015
- Australian Pesticides and Veterinary Medicine Authority, March 15, 2017
- New Zealand Environmental Protection Authority, August 2016
- Health Canada, 2015
- International assembly of experts: FAO/WHO May 16, 2016

The bill references the International Agency for Research on Cancer (IARC), a division of the World Health Organization and their conclusion that glyphosate is a probable carcinogen. To put the IARC determination in context, IARC put the following items in the same category as glyphosate, group 2A "probable human carcinogens."

- Red meat
- Indoor emissions from burning wood
- High temperature frying
- Late night work shifts

IARC placed the following items in a stronger evidence category, "Known human carcinogens."

- Processed meats
- All alcoholic beverages
- Sunlight
- Engine exhaust
- Outdoor air pollution

Recreation and Parks understands the intentions of this bill, but recommend that it address homeowner usage and prohibition separately from professional usage, regulation, and prohibition. This would allow each bill to align with the state and federal regulations more easily. BCRP is willing to coordinate with the City Council and the MDA to craft the language more clearly.

Use of these pesticides at Baltimore City Recreation and Parks divisions is deliberate and critical to our work, particularly within the Forestry and Horticulture divisions for Integrated Pest Management (IPM) and Integrated Vegetation Management (IVM) conservation practices.

To specifically articulate how pesticides are used within the agency, these unabridged testimonials from the Divisions of Horticulture and Forestry for pesticide applications are included as detailed illustrations:

APPLICATIONS IN BCRP HORTICULTURE DIVISION

Pesticides in the Neonicotinoid class are a vital part of a robust IPM (integrated pest management) program at both the Cylburn Arboretum and the Rawlings Conservatory. A good IPM program uses all control methods including good plant health care, cultural or mechanical controls and when necessary, pesticides. Pesticides are selected with consideration of the safety of the applicator, the efficacy of the product, targeting the right pest at the right life stage and chemical class. Using pesticides in different chemical classes reduces or eliminates the chance of a pest developing resistance.

Neonicotinoids were introduced as a 'new' class of chemical that helped reduce and now eliminate most of the use of organophosphates. Many organophosphates were dangerous for the applicator and fatal to ALL insects, whether they were targeted or not. Neonicotinoids that are used all have 'caution label', the safest labeling of any pesticide and they are used to treat piercing/sucking insect problems only.

While we have eliminated using neonicotinoids on many crops already, they were a game changer for poinsettia production. Instead of weekly spray applications that had to cover every surface of the leaves, the neonicotinoids are applied as a drench or a small amount of granules on the soil surface. They are systemic which means they are taken up by the roots and move through the plants providing thorough effectiveness with a much safer application method. Additionally, they are effective for 8 or more weeks, reducing the number of applications. Neonicotinoids are also only permitted to applied once per crop cycle so a different class of chemical is used, if needed, for subsequent applications.

Cylburn Greenhouses fall into the 'agriculture' category and should be permitted to continue to use neonicotinoids as part of a healthy IPM program. The greenhouse manager is a certified pesticide applicator that receives continuing annual education on proper applications. Additionally, neonicotinoids have been used on the Cylburn Arboretum grounds as part of an IPM program. We have specimen plants that receive particular care to maintain the quality in the gardens and occasionally that means the careful application of pesticides. To date, there is no evidence of injury to bees, and there are two healthy colonies at Cylburn that we know about, one of which swarms annually.

The Rawlings Conservatory should also be permitted to continue to use neonicotinoids as part of a healthy IPM program. This facility relies on manual 'washing' of foliage, good plant health care, good pruning and use of low-risk products as the first line of defense for all pests. However, there are pests that live deep in the plant material, or high above in the canopy where manual removal is either ineffective or impossible. The neonicotinoids, as indicated before, are systemic, meaning they move throughout the plant getting to all the surfaces that we cannot reach. It is often impossible to get good application on plant canopies that are overhead and applying any type of spray overhead, no matter how safe, puts the applicator at risk of excessive exposure. Additionally, the facilities at the Rawlings are open to the public; products that can be put on one-time and provide long-term systemic protection reduces the exposure to the public. Most of the neonicotinoids can only be applied once per year in this situation. The same rule (1x/year), applies to some of the other classes of chemical as well; if you can only apply a product once per year but you may need 3-4 applications per year, you need to have a varieties of chemicals available – multiple tools in the toolbox. The greenhouse manager and the Conservatory director will be certified pesticide applicators before the end of the year, they are currently under supervision of certified applicators (it was not required in their previous job titles).

And finally, a closed environment, such as a greenhouse or display greenhouse, is an exceptionally hospitable environment for pests but due to the closed nature of the facilities natural predators and weather fluctuations do not contribute to pest control.

APPLICATIONS IN BCRP FORESTRY DIVISION

The Forestry Division largely values and understands the concerns behind ordinance 20-0495, though components of the ordinance could severely inhibit our efforts to manage non-native invasive vegetation in Baltimore City forested natural areas. We would like to amend the legislation to permit the use of Glyphosate as it relates to Integrated Vegetation Management (IVM) conservation practices.

Glyphosate is Essential for Non-Native Invasive Herbaceous Plants & Grasses in Conservation

Glyphosate is an essential chemical for the treatment of particular non-native invasive plant species. This systemic herbicide inhibits an important enzyme needed for plant processes, and is thus used for treatments requiring absorption through plant foliage. We rely on the chemical for certain herbaceous plants and grasses.

Brand-specific Glyphosate categorized as “aquatic-safe” is essential for the treatment and management of the prolific, invasive grass, *Phragmites spp.* (or Common Reed). This plant is found along waterways and increasingly around many of our City lakes and reservoirs. *Phragmites* requires decades of repetitive cutting to control it—or alternatively, aquatic-safe treatments of glyphosate over the course of several seasons. The use of Glyphosate is essential if we want to inhibit the spread of this aggressive, 10-20’ tall invasive.

Another grass, Japanese Stiltgrass, has overtaken some MD state parks like Elk Neck State Park, and it is present in large quantities in the forests surrounding DPW-controlled Loch Raven reservoir. BCRP can prevent the spread of this plant by hand pulling small patches and chemically treating large patches of the grass. This plant should be treated in summer, before it sets seed—and Glyphosate is the only chemical compound currently available that can systematically treat this plant during the heat of summer.

Preventing Herbicide Resilience Requires Diversified Chemical Use


Lastly, when using IVM, it is important to have a diversity of tools to treat problematic vegetation. Regarding herbicide use, we must occasionally alternate chemical compounds and Brands to prevent the build-up of resistance to certain chemicals and treatments. If the Forestry Division’s access is limited to fewer chemical compounds, we will eventually face stronger, more resilient non-native invasive plants.

Messaging Around Agriculture vs. Environmental Conservation

In 2014, over 90% of total Glyphosate use in the U.S. was for Agricultural purposes (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5044953/>). Thus, we would like to stress that the primary industry of concern for the overuse of Glyphosate is Agriculture, as opposed to Environmental Conservation. As currently written, the use of Glyphosate is specifically permitted for Agricultural purposes—which we believe may send a confusing message regarding the City’s concerns for the overuse or potential hazards of this chemical.

Baltimore City Recreation and Parks hopes that any pesticide restrictions are aligned with the current state and federal regulations on signage, labeling, notice to property owners and schools. Current regulations are quite strong and most problems are from misuse or misapplication, and can be corrected by enforcement or regulation not additional legislation.

For these reasons, Baltimore City Recreation and Parks would like to work with Council to further revise this legislation and would then, conditionally support with amendments, the approval of City Council Bill 20-0495.

FROM	NAME & TITLE	Matthew W. Garbark, Acting Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	City Council Bill 20-0495		

March 13, 2020

TO:

Health Committee

INTRODUCTION

I am herein reporting on City Council Bill 20-0495 introduced by Council Members Clarke, Dorsey, Cohen, Middleton, Reisinger, Henry, Burnett, President Scott, Council Members Sneed and Bullock.

PURPOSE

The purpose of the Bill is to regulate the use and application of pesticides in Baltimore City; define certain terms; require certain notices at the time of pesticide purchase; require certain notices prior to and after pesticide application; require marker placement after certain pesticide applications; prohibit the use of certain pesticides in specified areas; prohibit the use and application of glyphosate and chlorpyrifos; prohibit neonicotinoid pesticide use on City-owned property; establish certain penalties; and provide for a special effective date.

BRIEF HISTORY

Under current law in Maryland, a pesticide may be sold, distributed or used if it is registered by both the Maryland Department of Agriculture and the U.S. Environmental Protection Agency (EPA). There are pesticide products containing chlorpyrifos that are registered by both entities and therefore are available for use in Maryland, including Baltimore City. Because products containing chlorpyrifos can be used on food and feed crops, the EPA established maximum limits, or tolerances, for the amount of pesticide residue that can safely remain on these types of commodities. In 2007 a petition was filed with EPA requesting that these tolerances be revoked, which would mean that no residue would be allowed on food and feed crops. The EPA eventually sought comment on some of its data, but in 2017 concluded that further scientific research was needed, and anticipated it would complete its review by October 2022. In addition, in August 2018 the U.S. Court of Appeals for the Ninth Circuit vacated the EPA's 2017 order and directed EPA to revoke all tolerances and cancel all chlorpyrifos registrations within 60 days. EPA requested that the case be reheard, which was granted.

The Honorable President and Members
of the Baltimore City Council
March 13, 2020
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During the 2018 and 2019 Maryland General Assembly sessions, companion House and Senate Bills were introduced to prohibit the use of chlorpyrifos in the State, including insecticides containing chlorpyrifos and seeds treated with chlorpyrifos. The legislation would have require the Department of Agriculture to provide farmers, certified crop advisors, and pesticide applicators education and assistance concerning integrated pest management. These bills were not successful. The 2020 General Assembly is currently considering House and Senate Bills which would prohibit the use of chlorpyrifos in Maryland. City Council Bill 20-0495 would prohibit the use or application of chlorpyrifos or a product containing chlorpyrifos in Baltimore City unless authorized by the Health Commissioner (§ 19-304).

Glyphosate, best known as the key chemical in the herbicide known commercially as Roundup, is applied to the leaves of plants to inhibit or kill unwanted broadleaf plants and grasses. It is widely used in agriculture, forestry, on lawns and gardens, and weeds growing in industrial areas. Regulatory agencies in the U.S. and other countries, including Canada, European Union, and Japan, conducted human and animal studies to determine if there was a correlation between exposure or use of glyphosate and cancer rates. The Joint Meeting on Pesticide Residues of the United Nations and World Health Organization (WHO) also looked at these studies. Based on the studies' review, it was determined that glyphosate was not a likely carcinogen. A committee of scientists working for the International Agency for Research on Cancer, a WHO committee, evaluated a smaller grouping of the studies and concluded that glyphosate was a probable carcinogen. Several lawsuits have been filed by persons, or on behalf of persons, who have used or been exposed to glyphosate and have developed certain cancers. City Council Bill 20-0495 would prohibit the use or application of glyphosate or a product containing glyphosate in Baltimore City unless authorized by the Health Commissioner (§ 19-303).

Neonicotinoid is an insecticide that is chemically related to nicotine. As a group, these insecticides are more toxic to invertebrates like insects, than to organisms like mammals or birds. Neonicotinoids can be sprayed on plants or added to water and applied to soils, which allows the pesticide to be taken up by the plant. These insecticides are especially successful in combating sap-feeding insects. While originally considered to have a low toxicity effect on beneficial insects, newer research indicates that while low level exposure mat not kill pollinators directly, it may lead to loss of bumble bee queens or impact the ability of honey bees to find nectar or to navigate and find their hive. City Council Bill 20-0495 would prohibit City employees or City contractors to use or apply neonicotinoids or a product containing neonicotinoids on City-owned property unless controlling pests while engaged in agriculture (§ 19-305).

DEPARTMENT PRACTICES

The Department of Public Works' Bureau of Solid Waste routinely performs proactive and responsive rat abatement by inserting bait laced with rodenticide into rat burrows. The Department also performs this same service to the exterior portions of some HABC properties through the HEAL program. No chemicals are applied to surface areas. The list of potential chemicals to be used is as follows: ZP Rodent Bait (active ingredient Zinc Phosphide), Contrac Rat/Mouse Bait (active ingredient Bromadiolone), DiTrac Tracking Powder (active ingredient Diaphacinone), and Contrac All-Weather Blox (active ingredient Bromadiolone).

The Bureau of Solid Waste also contracts with Regional Pest Management on an as-needed basis to maintain control over rodent and insect pests at Solid Waste facilities. Pesticides are only used when the presence of pests are identified upon visual inspection or monitoring devices, and only after non-toxic methods have proven unsuccessful. To control rodents, the company may use Generation Mini Block (active ingredient Difethialone) or Contrac All Weather Blox (active ingredient Bromadiolone). To control insects, the company may use Phantom (active ingredient Chlorfenapyr) or Optiguard Gel Bait (active ingredient Emamectin Benzoate).

The Bureau of Solid Waste performs cleaning and mowing services for City-owned lots and for private nuisance properties referred to the Bureau by DHCD. No herbicides are used to control the growth of weeds. Any discovered rodent burrows on City-owned properties would be treated through the rat abatement program.

FISCAL IMPACT

No fiscal impact is anticipated as a result of the provisions in this legislation, as the Department does not employ the use of chlorpyrifos, glyphosate, or neonicotinoids.

AGENCY/DEPARTMENT POSITION

The Department of Public Works defers to the Department of Health on City Council Bill 20-0495.



Matthew W. Garbark
Acting Director

MWG:MMC



BALTIMORE CITY
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT

MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Michael Braverman, Housing Commissioner *MB*

Date: March 16, 2020

Re: **City Council Bill 20-0495 Pesticide Control and Regulation**

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 20-0495 for the purpose of regulating the use and application of pesticides in Baltimore City; defining certain terms; requiring certain notices at the time of pesticide purchase; requiring certain notices prior to and after pesticide application; requiring marker placement after certain pesticide applications; prohibiting the use of certain pesticides in specified areas; prohibiting the use and application of glyphosate and chlorpyrifos; prohibiting neonicotinoid pesticide use on City-owned property; establishing certain penalties; and providing for a special effective date.

If enacted, the legislation would require the Health Commissioner to adopt rules and regulations to carry out pesticide regulation and control.

The current Building, Fire and Related Codes of Baltimore City, 2015 edition, outlines rodenticide procedure in Sections 3314.1 "Certification Required" and 3314.2 "Treatment Required."

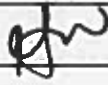

Before any structure may be demolished, moved to another site, or substantially rehabilitated, the applicant for a permit must provide certification from a pesticide applicator licensed by the State of Maryland that all areas of the structure and its lot are free from rodent infestation. A certification of treatment and abatement of all infestation must accompany the permit application. Structures or lots found to be infested must be treated by a licensed pesticide applicator before demolition, moving, or rehabilitation.

DHCD recommends Section 19-302 (B) "Permitted Applications" be amended to allow for rodenticide procedures currently required by the Building, Fire and Related Codes of Baltimore City.

If amended, DHCD would have **no objection** to the passage of City Council Bill 20-0495.

MB:sm

cc: Mr. Blenny, Nicholas, Mayor's Office of Government Relations

FROM	NAME & TITLE	Rebecca Woods, Esq., Executive Director 	CITY OF BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Environmental Control Board 1 North Charles Street, 13 th Floor, Baltimore, Maryland 21201		
	SUBJECT	City Council Bill # 20-0495 Pesticide Control and Regulation		

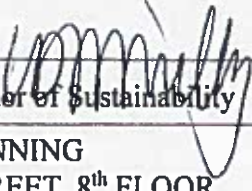

TO

The Honorable President and Members
of the Baltimore City Council

DATE: February 20, 2020

The Baltimore City Environmental Control Board (ECB) has been requested to review City Council Bill # 20-0495, Pesticide Control and Regulation. The purpose of the bill is to regulate the use and application of pesticides in Baltimore City, define certain terms, require certain notices at the time of pesticide purchase, require certain notices prior to and after pesticide application, require marker placement after certain pesticide applications, prohibit the use of certain pesticides in specified areas, prohibit the use and application of glyphosate and chlorpyrifos, prohibit neonicotinoid pesticide use on City-owned property, establish certain penalties, and provide for a special effective date.

It is anticipated that the number of citations that will be issued for violations of the relevant provision(s) will have no significant impact on ECB operations. For this reason, ECB has no objection to the passage of this bill.

FROM	NAME & TITLE	LISA MCNEILLY, Director of Sustainability 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 th FLOOR		
	SUBJECT	CITY COUNCIL BILL #20-0495 – Pesticide Control and Regulation		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

March 12, 2020

The Office of Sustainability is in receipt of City Council Bill #20-0495 for the purpose of regulating the use and application of pesticides in Baltimore City; defining certain terms; requiring certain notices at the time of pesticide purchase; requiring certain notices prior to and after pesticide application; requiring marker placement after certain pesticide applications; prohibiting the use of certain pesticides in specified areas; prohibiting the use and application of glyphosate and chlorpyrifos; prohibiting neonicotinoid pesticide use on City-owned property; establishing certain penalties; and providing for a special effective date.

The 2019 Sustainability Plan (formally adopted on April 22, 2019) addresses the importance of reducing the use of pesticides in five separate chapters. The development of so many related actions reflects the human health impacts of pesticides as well as their negative effect on aquatic habitats and biodiversity. The specific excerpts from the Plan are:

Healthy School Environments

Strategy #1. Create a healthy physical environments in every school.

Action 1: Improve indoor air quality in all schools by eliminating pesticide usage, increasing use of approved green cleaning products.

Water in the Environment

Strategy #2. Improve aquatic habitats by increasing riparian restoration and water quality monitoring, and creating policies to eliminate sources of pollution.

Action 4: Develop and promote legislation and policy at the City and State level to reduce pollution of our waterways, including restricting the use of pesticides and herbicides and reducing the use of single-use plastics (such as plastic bags and beverage bottles).

Clean Air

Strategy #2. Assess and monitor how air quality varies across the city to identify neighborhoods in greatest need of improvement, and increase community awareness of

how air quality impacts the health of children, the elderly, low income communities, and communities of color.

Action 3: Adopt a policy or plan for eliminating use of pesticides and other toxic chemicals on public properties. Encourage integrated pest management and organic land care at hospitals, older adult facilities, restaurants and hotels, daycares, and other hospitality facilities.

People and Nature

Strategy #1. Increase community connections to nature. Ensure it is done in culturally competent ways with early and frequent engagement.

Action 3: Connect with residents on ways to take action to support a diversity of species while healing ourselves and the nature around us. Examples include installing bat houses, removing grass and planting native gardens in yards, eliminating herbicide and pesticide use, preventing window strikes by birds, and safely disposing of home garden products containing neonicotinoids (a class of insecticide which is highly toxic to bees, and which is now illegal).

Nature for Nature's Sake


Strategy #2. Encourage and increase sustainable land management policies and practices on public and private land, taking into account the context of surrounding neighborhoods and the impacts to residents.

Action 3: Develop and implement organic land care policies and/or plans, requiring the use of safer, non-chemical alternatives to chemical fertilizers, pesticides, and herbicides, and increasing use of organic land care. Adopt and follow the Precautionary Principle.

The Office of Sustainability looks forward to working with the Department of Health and others on an outreach and education campaign, similar to what has occurred with Council Bill #17-0117 Polystyrene Foam Products and will occur with Council Bill #19-0401 Comprehensive Bag Reduction. Effective community outreach and engagement with vendors and those who apply pesticides will be an important way to ensure compliance. The Office would use existing resources for such a campaign, but would need additional funding in order to undertake some of the actions mentioned in the bill.

For these reasons, the Office of Sustainability recommends approval of City Council Bill # 20-0495.

cc: Mr. Nicholas Blendy, Mayor's Office
Mr. Matthew Stegman, Mayor's Office
Ms. Nina Themelis, Mayor's Office
Ms. Natawna Austin, Council Services
Mr. Dominic McAlily, Council Services
Mr. Chris Ryer, Department of Planning

FROM	NAME & TITLE	Chichi Nyagah-Nash, Director CNN	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of General Services 800 Abel Wolman Municipal Building		
	SUBJECT	Report on City Council Bill 20-0495		

DATE: March 2, 2020

TO The Honorable President and Members
of the Baltimore City Council
Attn: Marguerite Currin, Staff, Health Committee
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 20-0495

Dear President and City Council Members:

The Department of General Services has reviewed City Council Bill 20-0495 – Pesticide Control and Regulation as introduced by Council President Scott and Councilmembers Clarke, Dorsey, Cohen, Middleton, Reisinger, Henry, Burnett, Sneed and Bullock.

The purpose of this ordinance is to further regulate the use of pesticides in Baltimore City by City agencies and to initiate a process whereby if pesticides have been used and/or sold, the public will be notified. The ordinance also prohibits the use of Glyphosate and Chlorpyrifos within the City.

The Department of General Services maintains a contract with an outside vendor to apply pesticides where needed. The contract expressly states that non-pesticide methods should be used as a rule and pesticide chemicals be used only where no other alternative exists. Technicians on this contract are certified based on local, state and Federal regulations. The Department believes that these new prohibitions and notices will not have any adverse effects on Department operations nor have any marked fiscal impact.

After careful review, the Department of General Services recommends a favorable vote in regards to City Council Bill 20-0495.

Chichi Nyagah-Nash
Director

BALTIMORE CITY PUBLIC SCHOOLS

Bernard C. "Jack" Young
Mayor, City of Baltimore

Linda Chinnia
*Chair, Baltimore City Board of
School Commissioners*

Dr. Sonja Brookins Santelises
Chief Executive Officer

**Letter of Support
Baltimore City Council Ordinance 20-0495
Pesticide Control and Regulation**

April 27, 2020

As drafted, Council Ordinance 20-0495 proposes to regulate the use and application of pesticides in the City of Baltimore, define certain terms, require certain notices at the time of pesticide purchase, require certain notices prior to and after pesticide application, require marker placement after certain pesticide applications, prohibit the use of certain pesticides in specified areas, prohibit the use and application of glyphosate and chlorpyrifos, prohibit neonicotinoid pesticide use on City-owned property, establish certain penalties, and provide for a special effective date.

After careful review, Baltimore City Public Schools is pleased to express support for Council Ordinance 20-0495. The proposal supports the health and safety of our students and staff by prohibiting the use of harmful pesticides in and around school grounds, and by regulating the use of pesticides before and after application. It will also ensure that City Schools be provided notice prior to the application of pesticides.

Public notification and identification before and after pesticide application is a welcome piece of legislation which ultimately seeks to protect the public from illness. For these reasons, City Schools respectfully urges a favorable report of Council Ordinance 20-0495.

For additional information, please contact City Schools Government Affairs:

Melissa Broome
Director of Policy and Legislative Affairs
MCBroome@bcps.k12.md.us
(443) 525-3038

Dawana Sterrette
Director of Legislative and Government Affairs
DSterrette@bcps.k12.md.us
(443) 250-0190

**WRITTEN
TESTIMONY
RECEIVED
TO
DATE**

Currin, Marguerite

From: sawyer smith <swsmith1104@gmail.com>
Sent: Monday, May 4, 2020 10:21 PM
To: Kristerfer.Burnett@balltimorecity.gov; Currin, Marguerite; Clarke, MaryPat; Roberts, Miller; Curry, Taylor
Subject: Testimony: CB 20-0495

CAUTION: This email originated from outside of Baltimore City IT Network Systems.

Reminder: DO NOT click links or open attachments unless you recognize the sender and know that the content is safe. Report any suspicious activities to BCIT.ServiceDesk@baltimorecity.gov / 410-396-6648.

I support this bill! I support it because it not only benefits the bee population but many other animals as well as people. These chemicals that are put on plants are harmful and toxic. To protect the future of bees and the environment I hope this bill is passed!

**CITY OF BALTIMORE
COUNCIL BILL 20-0495
(First Reader)**

Introduced by: Councilmembers Clarke, Dorsey, Cohen, Middleton, Reisinger, Henry, Burnett,
President Scott, Councilmembers Sneed, Bullock

Introduced and read first time: February 10, 2020

Assigned to: Health Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Department of
Transportation, Department of Recreation and Parks, Department of Public Works, Department
of Housing and Community Development, Environmental Control Board, Office of
Sustainability, Department of General Services, Baltimore City Public School System,
Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Pesticide Control and Regulation**

3 FOR the purpose of regulating the use and application of pesticides in Baltimore City; defining
4 certain terms; requiring certain notices at the time of pesticide purchase; requiring certain
5 notices prior to and after pesticide application; requiring marker placement after certain
6 pesticide applications; prohibiting the use of certain pesticides in specified areas; prohibiting
7 the use and application of glyphosate and chlorpyrifos; prohibiting neonicotinoid pesticide
8 use on City-owned property; establishing certain penalties; and providing for a special
9 effective date.

10 BY repealing and re-ordaining, without amendments

11 Article - Health
12 Sections 1-101, 1-104, and 1-105
13 Baltimore City Revised Code
14 (Edition 2000)

15 BY adding

16 Article - Health
17 Sections 19-101 through 19-402, to be under the new title,
18 "Title 19. Pesticides"
19 Baltimore City Revised Code
20 (Edition 2000)

21 BY adding

22 Article 1 - Mayor, City Council, and Municipal Agencies
23 Section(s) 40-14(e)(7) ("Title 19: Pesticides") and 41-14(6) ("Title 19: Pesticides")
24 Baltimore City Code
25 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 20-0495

1 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the**
2 **Laws of Baltimore City read as follows:**

3 **Baltimore City Revised Code**

4 **Article – Health**

5 **Title 1. Definitions; General Provisions**

6 **Subtitle 1. Definitions**

7 **§ 1-101. In general.**

8 In this article, the following terms have the meanings indicated.

9 **§ 1-104. Commissioner.**

10 “Commissioner” means the Commissioner of Health or the Commissioner’s designee.

11 **§ 1-105. Department.**

12 “Department” means the Baltimore City Department of Health.

13 **TITLE 19. PESTICIDES**

14 ***SUBTITLE 1. GENERAL PROVISIONS***

15 **§ 19-101. DEFINITIONS.**

16 **(A) *IN GENERAL.***

17 **IN THIS TITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.**

18 **(B) *AGRICULTURE.***

19 “AGRICULTURE” MEANS THE COMMERCIAL PRODUCTION, STORAGE, PROCESSING,
20 MARKETING, DISTRIBUTION, OR EXPORT OF AN AGRONOMIC, AQUACULTURAL, EQUINE,
21 FLORICULTURAL, HORTICULTURAL, ORNAMENTAL, SILVICULTURAL, OR VITICULTURAL
22 CROP, INCLUDING:

- 23 (1) A FARM PRODUCT;
- 24 (2) LIVESTOCK OR A LIVESTOCK PRODUCT;
- 25 (3) POULTRY OR A POULTRY PRODUCT;
- 26 (4) MILK OR A DAIRY PRODUCT;
- 27 (5) TIMBER OR A FOREST PRODUCT;

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1 (6) FRUIT OR A HORTICULTURAL PRODUCT; AND

2 (7) SEAFOOD OR AN AQUACULTURAL PRODUCT.

3 (C) *CUSTOM APPLICATOR*.

4 "CUSTOM APPLICATOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF APPLYING
5 PESTICIDES.

6 (D) *GLYPHOSATE*.

7 "GLYPHOSATE" MEANS A SYNTHETIC COMPOUND THAT IS A NON-SELECTIVE SYSTEMIC
8 HERBICIDE, ALSO KNOWN AS N-(PHOSPHONOMETHYL) GLYCINE WITH A CHEMICAL
9 FORMULA OF C₃H₈NO₅P.

10 (E) *LAWN*.

11 "LAWN" MEANS AN AREA OF LAND, NOT USED FOR AGRICULTURE, THAT IS:

12 (1) MOSTLY COVERED BY GRASS, OTHER SIMILAR HERBACEOUS PLANTS; AND

13 (2) KEPT TRIM BY MOWING OR CUTTING.

14 (F) *NEONICOTINOID*.

15 (1) *IN GENERAL*.

16 "NEONICOTINOID" MEANS A CLASS OF NEURO-ACTIVE PESTICIDES CHEMICALLY
17 RELATED TO NICOTINE.

18 (2) *INCLUSIONS*.

19 "NEONICOTINOID" INCLUDES:

20 (I) ACETAMIPRID;

21 (II) CLOTHIANIDIN;

22 (III) DINOTEFURAN;

23 (IV) IMIDACLOPRID;

24 (V) NITENPYRAM;

25 (VI) NITHAZINE;

26 (VII) THIAACLOPRID; AND

27 (VIII) THIAMETHOXAM.

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1 (G) *PERSON*.

2 "PERSON" MEANS:

- 3 (1) AN INDIVIDUAL;
- 4 (2) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
5 REPRESENTATIVE OF ANY KIND;
- 6 (3) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
7 KIND; OR
- 8 (4) A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A
9 GOVERNMENTAL ENTITY.

10 (H) *PEST*.

11 "PEST" MEANS AN INSECT, SNAIL, SLUG, RODENT, NEMATODE, FUNGUS, WEED, OR OTHER
12 FORM OF PLANT OR ANIMAL LIFE OR MICROORGANISM (EXCEPT A MICROORGANISM ON OR
13 IN A LIVING HUMAN OR ANIMAL) THAT IS NORMALLY CONSIDERED TO BE A PEST OR
14 DEFINED AS A PEST BY APPLICABLE STATE REGULATIONS.

15 (I) *PESTICIDE*.

16 (1) *IN GENERAL*.

17 "PESTICIDE" MEANS A SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED OR USED:

- 18 (I) TO PREVENT, DESTROY, REPEL, OR MITIGATE ANY PEST;
- 19 (II) AS A HERBICIDE, PLANT REGULATOR, DEFOLIANT, OR DESICCANT; OR
- 20 (III) AS A SPRAY ADJUVANT, SUCH AS A WETTING AGENT OR ADHESIVE.

21 (2) *EXCLUSION*.

22 "PESTICIDE" DOES NOT INCLUDE AN ANTIMICROBIAL AGENT, SUCH AS A DISINFECTANT,
23 SANITIZER, OR DEODORIZER, THAT IS USED FOR CLEANING AND IS NOT CONSIDERED A
24 PESTICIDE UNDER ANY FEDERAL OR STATE LAW OR REGULATION.

25 (J) *PLAYGROUND*.

26 (1) *IN GENERAL*.

27 "PLAYGROUND" HAS THE MEANING STATED IN § 12-801(C) OF THIS ARTICLE
28 {"DEFINITIONS: PLAYGROUND"}.

29 (2) *INCLUSION*.

30 "PLAYGROUND" INCLUDES A MULCHED PATH THAT IS USED TO ENTER A PLAYGROUND.

Council Bill 20-0495

1 (K) *REGISTERED PESTICIDE.*

2 "REGISTERED PESTICIDE" MEANS A PESTICIDE REGISTERED BY THE UNITED STATES
3 ENVIRONMENTAL PROTECTION AGENCY AND LABELED PURSUANT TO THE FEDERAL
4 INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT FOR USE IN LAWN, GARDEN, AND
5 ORNAMENTAL SITES OR AREAS.

6 § 19-102. FINDINGS AND PURPOSE.

7 (A) *IN GENERAL.*

8 THE MAYOR AND CITY COUNCIL FINDS AS FOLLOWS:

- 9 (1) PESTICIDES HAVE VALUE WHEN THEY ARE USED TO PROTECT THE PUBLIC HEALTH,
10 THE ENVIRONMENT, AND OUR FOOD AND WATER SUPPLY.
- 11 (2) PESTICIDES, BY DEFINITION, CONTAIN TOXIC SUBSTANCES, MANY OF WHICH MAY
12 HAVE A DETRIMENTAL EFFECT ON HUMAN HEALTH, PET HEALTH, AND THE
13 ENVIRONMENT.
- 14 (3) CERTAIN PESTICIDES HAVE BEEN LINKED TO A HOST OF SERIOUS CONDITIONS IN
15 CHILDREN INCLUDING PEDIATRIC CANCERS, DECREASED COGNITIVE FUNCTION,
16 AND BEHAVIORAL PROBLEMS.
- 17 (4) CERTAIN PESTICIDES HAVE BEEN LINKED TO A MYRIAD OF ADULT CONDITIONS
18 SUCH AS PARKINSON'S DISEASE, DIABETES, LUPUS, RHEUMATOID ARTHRITIS,
19 DEMENTIA, REPRODUCTIVE DYSFUNCTION, ALZHEIMER'S DISEASE, AND A VARIETY
20 OF CANCERS INCLUDING LEUKEMIA, LYMPHOMA, BREAST CANCER, COLORECTAL
21 CANCER, PROSTATE CANCER, AND LUNG CANCER.
- 22 (5) CERTAIN PESTICIDES, ESPECIALLY THOSE CONTAINING THE CHEMICAL
23 GLYPHOSATE, HAVE BEEN LINKED TO CANCER. FOR EXAMPLE, IN 2015, THE
24 INTERNATIONAL AGENCY FOR RESEARCH ON CANCER, A DIVISION OF THE WORLD
25 HEALTH ORGANIZATION AND THE WORLD'S LEADING AUTHORITY ON CANCER,
26 UNANIMOUSLY CONCLUDED THAT GLYPHOSATE IS A PROBABLE CARCINOGEN. THE
27 INTERNATIONAL AGENCY FOR RESEARCH ON CANCER'S DETERMINATION WAS
28 BASED ON A RIGOROUS ASSESSMENT THAT CONCLUDED THAT THERE IS SUFFICIENT
29 EVIDENCE OF CARCINOGENICITY IN EXPERIMENTAL ANIMALS.
- 30 (6) CLEAN WATER IS ESSENTIAL TO HUMAN LIFE, WILDLIFE AND THE ENVIRONMENT,
31 AND THE UNNECESSARY USE OF PESTICIDES CONTRIBUTES TO THE DETERIORATION
32 OF WATER QUALITY, AS SUBSTANTIATED BY SEVERAL STUDIES INCLUDING A 2014
33 USGS STUDY THAT FOUND 90% OF URBAN WATERWAYS HAVE PESTICIDE LEVELS
34 HIGH ENOUGH TO HARM AQUATIC LIFE.
- 35 (7) BEES AND OTHER POLLINATORS ARE CRUCIAL TO OUR ECOSYSTEM, AND THE USE
36 OF NEONICOTINOID INSECTICIDES, WHICH HAVE BEEN REPEATEDLY AND STRONGLY
37 LINKED WITH THE COLLAPSE OF HONEY BEE COLONIES, AS WELL AS HARM TO
38 AQUATIC INSECTS AND BIRDS, POSE AN UNACCEPTABLE RISK TO BENEFICIAL
39 ORGANISMS.

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1 (8) THE USE OF PESTICIDES IS NOT NECESSARY FOR THE MANAGEMENT OF LAWNS,
2 ESPECIALLY IN LIGHT OF THE RISKS ASSOCIATED WITH THEIR USE. THERE ARE NON-
3 AND LESS-TOXIC ALTERNATIVES AND METHODS OF CULTIVATING A HEALTHY,
4 GREEN LAWN THAT DO NOT POSE A THREAT TO PUBLIC HEALTH.

5 (9) REGULATIONS AT THE FEDERAL AND STATE LEVEL, AND THE RISK ASSESSMENTS
6 THAT INFORM THEM, DO NOT MIMIC REAL WORLD EXPOSURE SCENARIOS AND FAIL
7 TO ACCOUNT FOR SYNERGISTIC OR CUMULATIVE EFFECTS OF MULTIPLE CHEMICALS
8 ACTING ON THE SAME PATHWAY; THEY DO NOT INCLUDE SUFFICIENT EVALUATION
9 OF A PESTICIDE'S "INERT" INGREDIENTS AND THE PESTICIDE FORMULATIONS THAT
10 ARE SOLD TO CONSUMERS; AND THEY OFTEN FAIL TO TAKE SENSITIVE
11 POPULATIONS LIKE CHILDREN AND POLLINATORS INTO ACCOUNT.

12 (10) IN THE ABSENCE OF ADEQUATE REGULATION AT THE FEDERAL OR STATE LEVEL,
13 BALTIMORE CITY IS COMPELLED TO ACT TO PROTECT THE HEALTH OF CHILDREN,
14 FAMILIES, PETS, AND THE ENVIRONMENT.

15 (B) *PURPOSE; GOAL.*

16 (1) THE PURPOSE OF THIS TITLE IS TO PROTECT THE PUBLIC HEALTH AND WELFARE AND TO
17 MINIMIZE THE POTENTIAL PESTICIDE HAZARD TO PEOPLE AND THE ENVIRONMENT,
18 CONSISTENT WITH THE PUBLIC INTEREST IN THE BENEFITS DERIVED FROM THE SAFE
19 USE AND APPLICATION OF PESTICIDES.

20 (2) THE GOAL IS TO INFORM THE PUBLIC ABOUT PESTICIDE APPLICATIONS AND MINIMIZE
21 THE USE OF PESTICIDES, WHILE NOT RESTRICTING THE ABILITY TO USE PESTICIDES IN
22 AGRICULTURE, FOR THE PROTECTION OF PUBLIC HEALTH, OR FOR OTHER PUBLIC
23 BENEFIT.

24 **§ 19-103. RULES AND REGULATIONS.**

25 (A) *IN GENERAL.*

26 THE COMMISSIONER MUST ADOPT RULES AND REGULATIONS TO CARRY OUT THE
27 PROVISIONS OF THIS TITLE.

28 (B) *FILING WITH LEGISLATIVE REFERENCE.*

29 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED
30 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

31 **§ 19-104. {RESERVED}**

32 ***SUBTITLE 2. PESTICIDE SIGN AND NOTICE REQUIREMENTS***

33 **§ 19-201. RETAIL PURCHASE OF PESTICIDE.**

34 A PERSON WHO SELLS AT RETAIL A PESTICIDE OR MATERIAL THAT CONTAINS A PESTICIDE
35 MUST DISPLAY A SIGN OR SIGNS IN EACH AREA OF THE RETAIL ESTABLISHMENT WHERE

Council Bill 20-0495

1 REGISTERED PESTICIDES ARE AVAILABLE TO CONSUMERS, WITH LANGUAGE APPROVED BY THE
2 DEPARTMENT, THAT:

3 (1) INFORMS BUYERS OF THE CITY LAW ON:

4 (I) THE LIMITED USE OF REGISTERED PESTICIDES ON LAWNS WITHIN THE CITY; AND

5 (II) THE PROHIBITION ON GLYPHOSATE USE AND ON CHLORPYRIFOS USE WITHIN THE
6 CITY.

7 (2) IDENTIFIES PEST CONTROL OPTIONS THAT ARE PERMISSIBLE FOR LAWN APPLICATION
8 UNDER THE LAW.

9 **§ 19-202. NOTICE TO CUSTOMERS.**

10 (A) *CUSTOMER DEFINED.*

11 (1) IN THIS SECTION, "CUSTOMER" MEANS A PERSON WHO MAKES A CONTRACT WITH A
12 CUSTOM APPLICATOR TO HAVE THE CUSTOM APPLICATOR APPLY A PESTICIDE TO A
13 LAWN.

14 (2) "CUSTOMER" INCLUDES A PERSON RENEWING A CONTRACT WITH A CUSTOM
15 APPLICATOR FOR PESTICIDE APPLICATION TO A LAWN.

16 (B) *IN GENERAL.*

17 (1) BEFORE ANY PESTICIDE APPLICATION, A CUSTOM APPLICATOR MUST PROVIDE TO A
18 CUSTOMER:

19 (I) A WRITTEN NOTICE ABOUT PESTICIDES PREPARED BY THE DEPARTMENT AS
20 DESCRIBED IN SUBSECTION (C) OF THIS SECTION; AND

21 (II) A LIST OF:

22 (A) THE TRADE NAME OF EACH PESTICIDE THAT MIGHT BE USED;

23 (B) THE GENERIC NAME OF EACH PESTICIDE THAT MIGHT BE USED; AND

24 (C) SPECIFIC CUSTOMER SAFETY PRECAUTIONS FOR EACH PESTICIDE THAT
25 MIGHT BE USED.

26 (2) AFTER THE PESTICIDE APPLICATION, A CUSTOM APPLICATOR MUST PROVIDE TO A
27 CUSTOMER, A LIST OF:

28 (I) THE TRADE NAME OF EACH PESTICIDE ACTUALLY USED; AND

29 (II) THE GENERIC NAME OF EACH PESTICIDE ACTUALLY USED.

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1 (C) *DEPARTMENT NOTICE.*

2 (1) *IN GENERAL.*

3 THE DEPARTMENT MUST PREPARE, KEEP CURRENT, AND PROVIDE TO CUSTOM
4 APPLICATORS A WRITTEN NOTICE ABOUT PESTICIDES FOR THEM TO PROVIDE TO
5 CUSTOMERS UNDER SUBSECTION (B)(1)(I) OF THIS SECTION.

6 (2) *NOTICE INCLUSIONS.*

7 THE NOTICE PREPARED BY THE DEPARTMENT UNDER THIS SUBSECTION MUST INCLUDE:

8 (I) GOVERNMENT AGENCY PHONE NUMBERS TO CALL TO:

9 (A) MAKE A CONSUMER COMPLAINT;

10 (B) RECEIVE TECHNICAL INFORMATION ON PESTICIDES; AND

11 (C) GET ASSISTANCE IN THE CASE OF A MEDICAL EMERGENCY;

12 (II) A LIST OF GENERAL SAFETY PRECAUTIONS A CUSTOMER SHOULD TAKE WHEN A
13 LAWN IS TREATED WITH A PESTICIDE;

14 (III) A STATEMENT THAT A CUSTOM APPLICATOR MUST:

15 (A) BE LICENSED BY THE MARYLAND DEPARTMENT OF AGRICULTURE;
16 AND

17 (B) FOLLOW SAFETY PRECAUTIONS; AND

18 (IV) A STATEMENT THAT THE CUSTOMER HAS THE RIGHT TO REQUIRE THE CUSTOM
19 APPLICATOR TO NOTIFY THE CUSTOMER BEFORE EACH TREATMENT OF THE
20 CUSTOMER'S LAWN WITH A PESTICIDE.

21 **§ 19-203. MARKERS: POST-APPLICATION BY A PROPERTY OWNER OR TENANT.**

22 (A) *PRIVATE LAWN APPLICATION DEFINED.*

23 (1) *IN GENERAL.*

24 IN THIS SECTION, "PRIVATE LAWN APPLICATION" MEANS THE APPLICATION OF A
25 PESTICIDE TO A LAWN ON PROPERTY OWNED BY OR LEASED TO THE PERSON APPLYING
26 THE PESTICIDE.

27 (2) *EXCLUSIONS.*

28 "PRIVATE LAWN APPLICATION" DOES NOT INCLUDE:

29 (1) APPLYING A PESTICIDE FOR THE PURPOSE OF ENGAGING IN AGRICULTURE; OR

Council Bill 20-0495

1 (2) APPLYING A PESTICIDE AROUND OR NEAR THE FOUNDATION OF A BUILDING FOR
2 THE PURPOSE OF INDOOR PEST CONTROL.

3 (B) *IN GENERAL.*

4 A PERSON WHO PERFORMS A PRIVATE LAWN APPLICATION FOR AN AREA MORE THAN 100
5 SQUARE FEET, OR AN AREA OF ANY SIZE WITHIN 5 FEET OF A PROPERTY LINE, MUST PLACE
6 MARKERS WITHIN OR ALONG THE PERIMETER OF THE AREA WHERE PESTICIDES HAVE BEEN
7 APPLIED.

8 (C) *MARKER REQUIREMENTS*

9 A MARKER REQUIRED BY THIS SECTION MUST:

- 10 (1) BE CLEARLY VISIBLE TO PERSONS IMMEDIATELY OUTSIDE THE PERIMETER OF THE
11 PROPERTY;
- 12 (2) BE IN A SIZE, FORM, AND COLOR APPROVED BY THE DEPARTMENT;
- 13 (3) BE MADE OF MATERIAL APPROVED BY THE DEPARTMENT; AND
- 14 (4) HAVE WORDING WITH CONTENT AND DIMENSIONS APPROVED BY THE
15 DEPARTMENT; AND
- 16 (5) BE IN PLACE ON THE DAY THAT THE PESTICIDE IS APPLIED.

17 § 19-204. *{RESERVED}*

18 ***SUBTITLE 3. PROHIBITED CONDUCT***

19 § 19-301. **DEFINITIONS.**

20 (A) *IN GENERAL.*

21 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

22 (B) *CHILDREN'S FACILITY.*

23 (1) *IN GENERAL.*

24 "CHILDREN'S FACILITY" MEANS A BUILDING OR PART OF A BUILDING THAT, AS PART OF
25 ITS FUNCTION, IS

- 26 (I) REGULARLY OCCUPIED BY CHILDREN UNDER THE AGE OF 18 YEARS; AND
- 27 (II) REQUIRED TO OBTAIN AN USE AND OCCUPANCY PERMIT AS A CONDITION OF
28 PERFORMING THAT FUNCTION.

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1 (2) *INCLUSIONS.*

2 "CHILDREN'S FACILITY" INCLUDES A CHILD DAY CARE CENTER, FAMILY DAY CARE
3 HOME, NURSERY SCHOOL, RECREATIONAL CENTER, AND CLASSROOM.

4 (C) *DISEASE VECTOR.*

5 "DISEASE VECTOR" MEANS AN ANIMAL, INSECT, OR MICROORGANISM THAT CARRIES AND
6 TRANSMITS AN INFECTIOUS PATHOGEN INTO ANOTHER ORGANISM.

7 (D) *LISTED PESTICIDE.*

8 "LISTED PESTICIDE" MEANS:

9 (1) A PESTICIDE THE ACTIVE INGREDIENTS OF WHICH ARE RECOMMENDED BY THE
10 NATIONAL ORGANIC STANDARDS BOARD (NOSB) PURSUANT TO 7 U.S.C. § 6518,
11 AS AMENDED, AND PUBLISHED AS THE NATIONAL LIST AT 7 C.F.R. §§ 205.601 AND
12 205.602; OR

13 (II) A PESTICIDE DESIGNATED A "MINIMUM RISK PESTICIDE" UNDER THE FEDERAL
14 INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT § 25(B) AND LISTED IN 40 C.F.R.
15 § 152.25(F).

16 (E) *MULCHED RECREATION AREA.*

17 "MULCHED RECREATION AREA" MEANS AN AREA OF LAND COVERED WITH NATURAL OR
18 SYNTHETIC MULCH OR WOOD CHIPS THAT IS OPEN TO THE PUBLIC FOR PICNIC OR
19 RECREATIONAL USE.

20 (F) *PLAYING FIELD.*

21 "PLAYING FIELD" MEANS:

22 (1) AN ATHLETIC FIELD OWNED OR MAINTAINED BY A DEPARTMENT OR UNIT OF
23 BALTIMORE CITY GOVERNMENT; OR

24 (2) AN AREA OF LAND ON PRIVATE PROPERTY MAINTAINED EXCLUSIVELY FOR
25 ATHLETIC OR SPORTING USE.

26 **§ 19-302. PROHIBITED APPLICATIONS.**

27 (A) *IN GENERAL.*

28 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, NO PERSON MAY APPLY ANY
29 PESTICIDE OTHER THAN A LISTED PESTICIDE TO ANY:

30 (1) LAWN;

31 (2) PLAYGROUND;

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- 1 (3) MULCHED RECREATION AREA;
- 2 (4) CHILDREN'S FACILITY;
- 3 (5) GROUNDS OF A CHILDREN'S FACILITY; OR
- 4 (6) PLAYING FIELD.

5 (B) *PERMITTED APPLICATIONS.*

6 EXCEPT AS PROVIDED IN § 19-303 {"GLYPHOSATE USE PROHIBITED"}, § 19-304
7 {"CHLORPYRIFOS USE PROHIBITED"}, AND § 19-305 {"NEONICOTINOID PESTICIDES ON
8 CITY-OWNED PROPERTY"} OF THIS TITLE, A PERSON MAY APPLY ANY REGISTERED
9 PESTICIDE TO:

- 10 (1) CONTROL WEEDS AS REQUIRED BY TITLE 5, SUBTITLE 7, OF THIS ARTICLE;
- 11 (2) CONTROL INVASIVE SPECIES, AS DEFINED AND LISTED IN REGULATIONS ADOPTED
12 UNDER THIS TITLE;
- 13 (3) CONTROL DISEASE VECTORS;
- 14 (4) CONTROL BITING OR STINGING INSECTS OR STINGING PLANTS;
- 15 (5) CONTROL ORGANISMS THAT THREATEN THE HEALTH OF TREES OR SHRUBS;
- 16 (6) MAINTAIN PROPERTY AS PART OF EFFORTS BY A PUBLIC UTILITY TO COMPLY WITH
17 APPLICABLE VEGETATION MANAGEMENT PROVISIONS OF ANY FEDERAL, STATE, OR
18 LOCAL LAW OR REGULATION;
- 19 (7) CONTROL INDOOR PESTS, IF APPLIED NEAR OR AROUND THE FOUNDATION OF A
20 BUILDING;
- 21 (8) CONTROL PESTS WHILE ENGAGED IN AGRICULTURE; OR
- 22 (9) CONTROL A PEST OUTBREAK THAT POSES AN IMMINENT THREAT TO HUMAN
23 HEALTH OR THREATENS SIGNIFICANT ECONOMIC DAMAGE IF A REGISTERED
24 PESTICIDE IS NOT USED.

25 (C) *EMERGENCY APPLICATIONS.*

26 IF A PESTICIDE IS APPLIED UNDER SUBSECTION (B)(9) OF THIS SECTION, THE PERSON
27 APPLYING THE PESTICIDE MUST NOTIFY THE DEPARTMENT OF THE APPLICATION AND
28 ARTICULATE THE REASONS FOR THE USE OF THE PESTICIDE WITHIN 24 HOURS AFTER THE
29 APPLICATION.

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1 **§ 19-303. GLYPHOSATE USE PROHIBITED.**

2 (A) *IN GENERAL.*

3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A PERSON MAY NOT USE OR
4 APPLY GLYPHOSATE OR ANY PRODUCT CONTAINING GLYPHOSATE EXCEPT WHEN
5 AUTHORIZED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION.

6 (B) *AUTHORIZED USE.*

7 THE COMMISSIONER MAY AUTHORIZE THE USE OR APPLICATION OF GLYPHOSATE ON A
8 DETERMINATION THAT A THREAT EXISTS THAT REQUIRES THE USE OF GLYPHOSATE AND NO
9 OTHER PESTICIDE OR CLASS OF PESTICIDE WOULD BE EFFECTIVE IN ADDRESSING THE
10 THREAT.

11 **§ 19-304. CHLORPYRIFOS USE PROHIBITED.**

12 (A) *IN GENERAL.*

13 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A PERSON MAY NOT USE OR
14 APPLY CHLORPYRIFOS OR ANY PRODUCT CONTAINING CHLORPYRIFOS EXCEPT WHEN
15 AUTHORIZED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION.

16 (B) *AUTHORIZED USE.*

17 THE COMMISSIONER MAY AUTHORIZE THE USE OR APPLICATION OF CHLORPYRIFOS ON A
18 DETERMINATION THAT A THREAT EXISTS THAT REQUIRES THE USE OF CHLORPYRIFOS AND
19 NO OTHER PESTICIDE OR CLASS OF PESTICIDE WOULD BE EFFECTIVE IN ADDRESSING THE
20 THREAT.

21 **§ 19-305. NEONICOTINOID PESTICIDES ON CITY-OWNED PROPERTY.**

22 (A) *IN GENERAL.*

23 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CITY EMPLOYEE OR CITY
24 CONTRACTOR MAY NOT USE A NEONICOTINOID PESTICIDE ON PROPERTY OWNED BY THE
25 CITY.

26 (B) *AGRICULTURAL USE.*

27 A CITY EMPLOYEE OR CITY CONTRACTOR MAY USE A NEONICOTINOID PESTICIDE ON
28 CITY-OWNED PROPERTY TO CONTROL PESTS WHILE ENGAGED IN AGRICULTURE.

29 **§ 19-306. {RESERVED}**

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SUBTITLE 4. ENFORCEMENT; PENALTIES.

§ 19-401. ENFORCEMENT BY CITATION.

(A) *IN GENERAL.*

IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE,
THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF:

(1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40
{"ENVIRONMENTAL CONTROL BOARD"}; OR

(2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL
CITATIONS"}.

(B) *PROCESS NOT EXCLUSIVE.*

THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING
ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

(C) *EACH DAY A SEPARATE OFFENSE.*

EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

§ 19-402. CRIMINAL PENALTIES.

(A) *IN GENERAL.*

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE IS GUILTY OF A MISDEMEANOR
AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$250 FOR EACH OFFENSE.

(B) *EACH DAY A SEPARATE OFFENSE.*

EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Violations to which subtitle applies.

(e) *Provisions and penalties enumerated.*

(7) Health Code

TITLE 19: PESTICIDES

\$250

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Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(6) Health Code

TITLE 19: PESTICIDES \$250

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That the Baltimore City Department of Health in conjunction with the Baltimore City Office of Sustainability shall engage in an outreach and education campaign informing the public of the requirements, prohibitions, exemptions, and penalties set forth in Section 1 of this Ordinance. This campaign may include media buys and placements and public service announcements.

SECTION 4. AND BE IT FURTHER ORDAINED, That Section 3 of this Ordinance takes effect on the date of this Ordinance’s enactment.

SECTION 5. AND BE IT FURTHER ORDAINED, That, except as provided in Section 3 of this Ordinance, this Ordinance takes effect 180 days after the date it is enacted.