



Legislation Details (With Text)

File #: 20-0495 **Version:** 0 **Name:** Pesticide Control and Regulation
Type: Ordinance **Status:** Enacted
File created: 2/10/2020 **In control:** City Council
On agenda: **Final action:** 11/16/2020
Enactment date: **Enactment #:** 20-430

Title: Pesticide Control and Regulation
 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.

Sponsors: Mary Pat Clarke, Ryan Dorsey, Zeke Cohen, Sharon Green Middleton, Kristerfer Burnett, Shannon Sneed, Bill Henry, John T. Bullock, Edward Reisinger, Mayor Brandon M. Scott

Indexes: Control, Pesticides, Regulation

Code sections:

Attachments: 1. ECB 20-0495, 2. DGS 20-0495, 3. Office of Sustainability 20-0495, 4. 20-0495~1st Reader, 5. Law 20-0495, 6. DOT 20-0495, 7. DPW 20-0495, 8. Health 20-0495, 9. FINAL COPY 20-0495, 10. Multiple Written Testimony 1, 11. BCPS report, 12. Planning report, 13. Rec and Parks report, 14. Rec and Parks handout, 15. Finance Report, 16. DHCD report, 17. Multiple Written Testimony 2, 18. Hearing Notes 20-0495 5 7 20 for LEGISTAR.docx, 19. Synopsis 20-0495 WORK SESSION 9 15 20, 20. Finance 20-0495 - Late report - Not part of official file record, 21. Hearing Notes for 20-0495 WORKSESSION, 22. 2nd Reader Amendments 20-0495, 23. 20-0495~3rd Reader, 24. Signed Ordinance 20-0495

Date	Ver.	Action By	Action	Result
11/16/2020	0	Mayor	Signed by Mayor	
10/5/2020	0	City Council	Approved and Sent to the Mayor	
9/21/2020	0	City Council	3rd Reader, for final passage	
9/21/2020	0	Health	Recommended Favorably with Amendment	
9/15/2020	0	Health	Recommended Favorably with Amendment	Pass
8/17/2020	0	Health	Worksession	
5/7/2020	0	Health		
4/27/2020	0	Health	Scheduled for a Public Hearing	
2/24/2020	0	Health	Scheduled for a Public Hearing	
2/13/2020	0	The City Council	Refer to Office of Sustainability	
2/13/2020	0	The City Council	Refer to Environmental Control Board	
2/13/2020	0	The City Council	Refer to Dept. of Public Works	
2/13/2020	0	The City Council	Refer to Dept. of Housing and Community Development	

2/13/2020	0	The City Council	Refer to Dept. of Recreation and Parks
2/13/2020	0	The City Council	Refer to Dept. of Transportation
2/13/2020	0	The City Council	Refer to City Solicitor
2/13/2020	0	The City Council	Refer to Dept. of Health
2/13/2020	0	The City Council	Refer to Baltimore City Public School System
2/13/2020	0	The City Council	Refer to Dept. of Finance
2/13/2020	0	The City Council	Refer to Dept. of General Services
2/10/2020	0	City Council	Assigned
2/10/2020	0	City Council	Introduced

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: Councilmember Clarke

A Bill Entitled

An Ordinance concerning

Pesticide Control and Regulation

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.

By repealing and re-ordaining, without amendments

Article - Health

Sections 1-101, 1-104, and 1-105

Baltimore City Revised Code
(Edition 2000)

By adding

Article - Health

Sections 19-101 through 19-402, to be under the new title,
“Title 19. Pesticides”

Baltimore City Revised Code
(Edition 2000)

By adding

Article 1 - Mayor, City Council, and Municipal Agencies

Section(s) 40-14(e)(7) (“Title 19: Pesticides”) and 41-14(6) (“Title 19: Pesticides”)
Baltimore City Code

(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article - Health

Title 1. Definitions; General Provisions

Subtitle 1. Definitions

§ 1-101. In general.

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

§ 1-104. Commissioner.

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

§ 1-105. Department.

“Department” means the Baltimore City Department of Health.

Title 19. Pesticides

Subtitle 1. General Provisions

§ 19-101. Definitions.

(a) *In general.*

In this title, the following terms have the meanings indicated.

(b) *Agriculture.*

“Agriculture” means the commercial production, storage, processing, marketing, distribution, or export of an agronomic, aquacultural, equine, floricultural, horticultural, ornamental, silvicultural, or viticultural crop, including:

- (1) a farm product;
- (2) livestock or a livestock product;
- (3) poultry or a poultry product;
- (4) milk or a dairy product;

- (5) timber or a forest product;
- (6) fruit or a horticultural product; and
- (7) seafood or an aquacultural product.

(c) *Custom applicator*.

“Custom applicator” means a person engaged in the business of applying pesticides.

(d) *Glyphosate*.

“Glyphosate” means a synthetic compound that is a non-selective systemic herbicide, also known as N-(phosphonomethyl) glycine with a chemical formula of C₃H₈NO₅P.

(e) *Lawn*.

“Lawn” means an area of land, not used for agriculture, that is:

- (1) mostly covered by grass, other similar herbaceous plants; and
- (2) kept trim by mowing or cutting.

(f) *Neonicotinoid*.

(1) *In general*.

“Neonicotinoid” means a class of neuro-active pesticides chemically related to nicotine.

(2) *Inclusions*.

“Neonicotinoid” includes:

- (i) acetamiprid;
- (ii) clothianidin;
- (iii) dinotefuran;
- (iv) imidacloprid;
- (v) nitenpyram;
- (vi) nithiazine;
- (vii) thiacloprid; and
- (viii) thiamethoxam.

(g) *Person*.

“Person” means:

- (1) an individual;
- (2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind;
- (3) a partnership, firm, association, corporation, or other entity of any kind; or
- (4) a governmental entity or an instrumentality or unit of a governmental entity.

(h) *Pest.*

“Pest” means an insect, snail, slug, rodent, nematode, fungus, weed, or other form of plant or animal life or microorganism (except a microorganism on or in a living human or animal) that is normally considered to be a pest or defined as a pest by applicable State regulations.

(i) *Pesticide.*

(1) *In general.*

“Pesticide” means a substance or mixture of substances intended or used:

- (i) to prevent, destroy, repel, or mitigate any pest;
- (ii) as a herbicide, plant regulator, defoliant, or desiccant; or
- (iii) as a spray adjuvant, such as a wetting agent or adhesive.

(2) *Exclusion.*

“Pesticide” does not include an antimicrobial agent, such as a disinfectant, sanitizer, or deodorizer, that is used for cleaning and is not considered a pesticide under any federal or state law or regulation.

(j) *Playground.*

(1) *In general.*

“Playground” has the meaning stated in § 12-801(c) of this article {“Definitions: Playground”}.

(2) *Inclusion.*

“Playground” includes a mulched path that is used to enter a playground.

(k) *Registered pesticide.*

“Registered pesticide” means a pesticide registered by the United States Environmental Protection Agency and labeled pursuant to the Federal Insecticide, Fungicide and Rodenticide Act for use in lawn, garden, and ornamental sites or areas.

§ 19-102. Findings and purpose.

(a) *In general.*

The Mayor and City Council finds as follows:

- (1) Pesticides have value when they are used to protect the public health, the environment, and our food and water supply.
- (2) Pesticides, by definition, contain toxic substances, many of which may have a detrimental effect on human health, pet health, and the environment.
- (3) Certain pesticides have been linked to a host of serious conditions in children including pediatric cancers, decreased cognitive function, and behavioral problems.
- (4) Certain pesticides have been linked to a myriad of adult conditions such as Parkinson's disease, diabetes, lupus, rheumatoid arthritis, dementia, reproductive dysfunction, Alzheimer's disease, and a variety of cancers including leukemia, lymphoma, breast cancer, colorectal cancer, prostate cancer, and lung cancer.
- (5) Certain pesticides, especially those containing the chemical glyphosate, have been linked to cancer. For example, in 2015, the International Agency for Research on Cancer, a division of the World Health Organization and the world's leading authority on cancer, unanimously concluded that glyphosate is a probable carcinogen. The International Agency for Research on Cancer's determination was based on a rigorous assessment that concluded that there is sufficient evidence of carcinogenicity in experimental animals.
- (6) Clean water is essential to human life, wildlife and the environment, and the unnecessary use of pesticides contributes to the deterioration of water quality, as substantiated by several studies including a 2014 USGS study that found 90% of urban waterways have pesticide levels high enough to harm aquatic life.
 - (7) Bees and other pollinators are crucial to our ecosystem, and the use of neonicotinoid insecticides, which have been repeatedly and strongly linked with the collapse of honey bee colonies, as well as harm to aquatic insects and birds, pose an unacceptable risk to beneficial organisms.
- (8) The use of pesticides is not necessary for the management of lawns, especially in light of the risks associated with their use. There are non- and less-toxic alternatives and methods of cultivating a healthy, green lawn that do not pose a threat to public health.
- (9) Regulations at the federal and State level, and the risk assessments that inform them, do not mimic real world exposure scenarios and fail to account for synergistic or cumulative effects of multiple chemicals acting on the same pathway; they do not include sufficient evaluation of a pesticide's "inert" ingredients and the pesticide formulations that are sold to consumers; and they often fail to take sensitive populations like children and pollinators into account.
- (10) In the absence of adequate regulation at the federal or State level, Baltimore City is compelled to act to protect the health of children, families, pets, and the environment.

(b) *Purpose; Goal.*

- (1) The purpose of this title is to protect the public health and welfare and to minimize the potential pesticide hazard to people and the environment, consistent with the public interest in the benefits derived from the safe use and application of pesticides.
- (2) The goal is to inform the public about pesticide applications and minimize the use of pesticides, while not restricting the ability to use pesticides in agriculture, for the protection of public health, or for other public benefit.

§ 19-103. Rules and regulations.

(a) *In general.*

The Commissioner must adopt rules and regulations to carry out the provisions of this title.

(b) *Filing with Legislative Reference.*

A copy of all rules and regulations adopted under this section must be filed with the Department of Legislative Reference before they become effective.

§ 19-104. {Reserved}

Subtitle 2. Pesticide Sign and Notice Requirements

§ 19-201. Retail purchase of pesticide.

A person who sells at retail a pesticide or material that contains a pesticide must display a sign or signs in each area of the retail establishment where registered pesticides are available to consumers, with language approved by the Department, that:

- (1) informs buyers of the City law on:
 - (i) the limited use of registered pesticides on lawns within the City; and
 - (ii) the prohibition on glyphosate use and on chlorpyrifos use within the City.
- (2) identifies pest control options that are permissible for lawn application under the law.

§ 19-202. Notice to customers.

(a) *Customer defined.*

- (1) In this section, “customer” means a person who makes a contract with a custom applicator to have the custom applicator apply a pesticide to a lawn.
- (2) “Customer” includes a person renewing a contract with a custom applicator for pesticide application to a lawn.

(b) *In general.*

- (1) Before any pesticide application, a custom applicator must provide to a customer:
 - (i) a written notice about pesticides prepared by the Department as described in subsection (c) of this section; and
 - (ii) a list of:
 - (A) the trade name of each pesticide that might be used;
 - (B) the generic name of each pesticide that might be used; and

(C) specific customer safety precautions for each pesticide that might be used.

(2) After the pesticide application, a custom applicator must provide to a customer, a list of:

- (i) the trade name of each pesticide actually used; and
- (ii) the generic name of each pesticide actually used.

(c) *Department notice.*

(1) *In general.*

The Department must prepare, keep current, and provide to custom applicators a written notice about pesticides for them to provide to customers under subsection (b)(1)(i) of this section.

(2) *Notice inclusions.*

The notice prepared by the Department under this subsection must include:

- (i) government agency phone numbers to call to:
 - (A) make a consumer complaint;
 - (B) receive technical information on pesticides; and
 - (C) get assistance in the case of a medical emergency;
- (ii) a list of general safety precautions a customer should take when a lawn is treated with a pesticide;
 - (iii) a statement that a custom applicator must:
 - (A) be licensed by the Maryland Department of Agriculture; and
 - (B) follow safety precautions; and
 - (iv) a statement that the customer has the right to require the custom applicator to notify the customer before each treatment of the customer's lawn with a pesticide.

§ 19-203. Markers: Post-application by a property owner or tenant.

(a) *Private lawn application defined.*

(1) *In general.*

In this section, "private lawn application" means the application of a pesticide to a lawn on property owned by or leased to the person applying the pesticide.

(2) *Exclusions.*

"Private lawn application" does not include:

- (1) applying a pesticide for the purpose of engaging in agriculture; or

(2) applying a pesticide around or near the foundation of a building for the purpose of indoor pest control.

(b) *In general.*

A person who performs a private lawn application for an area more than 100 square feet, or an area of any size within 5 feet of a property line, must place markers within or along the perimeter of the area where pesticides have been applied.

(c) *Marker requirements*

A marker required by this section must:

- (1) be clearly visible to persons immediately outside the perimeter of the property;
- (2) be in a size, form, and color approved by the Department;
- (3) be made of material approved by the Department; and
- (4) have wording with content and dimensions approved by the Department; and
- (5) be in place on the day that the pesticide is applied.

§ 19-204. *{Reserved}*

Subtitle 3. Prohibited Conduct

§ 19-301. **Definitions.**

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Children's facility.*

(1) *In general.*

“Children’s facility” means a building or part of a building that, as part of its function, is

- (i) regularly occupied by children under the age of 18 years; and
- (ii) required to obtain an use and occupancy permit as a condition of performing that function.

(2) *Inclusions.*

“Children’s facility” includes a child day care center, family day care home, nursery school, recreational center, and classroom.

(c) *Disease vector.*

“Disease vector” means an animal, insect, or microorganism that carries and transmits an infectious pathogen into another organism.

(d) *Listed pesticide.*

“Listed pesticide” means:

- (i) a pesticide the active ingredients of which are recommended by the National Organic Standards Board (NOSB) pursuant to 7 U.S.C. § 6518, as amended, and published as the National List at 7 C.F.R. §§ 205.601 and 205.602; or
- (ii) a pesticide designated a “minimum risk pesticide” under the Federal Insecticide, Fungicide and Rodenticide Act § 25(b) and listed in 40 C.F.R. § 152.25(f).

(e) *Mulched recreation area.*

“Mulched recreation area” means an area of land covered with natural or synthetic mulch or wood chips that is open to the public for picnic or recreational use.

(f) *Playing field.*

“Playing field” means:

- (1) an athletic field owned or maintained by a department or unit of Baltimore City government; or
- (2) an area of land on private property maintained exclusively for athletic or sporting use.

§ 19-302. Prohibited applications.

(a) *In general.*

Except as provided in subsection (b) of this section, no person may apply any pesticide other than a listed pesticide to any:

- (1) lawn;
- (2) playground;
- (3) mulched recreation area;
- (4) children’s facility;
- (5) grounds of a children’s facility; or
- (6) playing field.

(b) *Permitted applications.*

Except as provided in § 19-303 {“Glyphosate use prohibited”}, § 19-304 {“Chlorpyrifos use prohibited”}, and § 19-305 {“Neonicotinoid pesticides on City-owned property”} of this title, a person may apply any registered pesticide to:

- (1) control weeds as required by Title 5, Subtitle 7, of this article;

- (2) control invasive species, as defined and listed in regulations adopted under this title;
- (3) control disease vectors;
- (4) control biting or stinging insects or stinging plants;
- (5) control organisms that threaten the health of trees or shrubs;
- (6) maintain property as part of efforts by a public utility to comply with applicable vegetation management provisions of any federal, state, or local law or regulation;
- (7) control indoor pests, if applied near or around the foundation of a building;
- (8) control pests while engaged in agriculture; or
- (9) control a pest outbreak that poses an imminent threat to human health or threatens significant economic damage if a registered pesticide is not used.

(c) *Emergency applications.*

If a pesticide is applied under subsection (b)(9) of this section, the person applying the pesticide must notify the Department of the application and articulate the reasons for the use of the pesticide within 24 hours after the application.

§ 19-303. Glyphosate use prohibited.

(a) *In general.*

Notwithstanding any other provision of this title, a person may not use or apply glyphosate or any product containing glyphosate except when authorized by the Commissioner under subsection (b) of this section.

(b) *Authorized use.*

The Commissioner may authorize the use or application of glyphosate on a determination that a threat exists that requires the use of glyphosate and no other pesticide or class of pesticide would be effective in addressing the threat.

§ 19-304. Chlorpyrifos use prohibited.

(a) *In general.*

Notwithstanding any other provision of this title, a person may not use or apply chlorpyrifos or any product containing chlorpyrifos except when authorized by the Commissioner under subsection (b) of this section.

(b) *Authorized use.*

The Commissioner may authorize the use or application of chlorpyrifos on a determination that a threat exists that requires the use of chlorpyrifos and no other pesticide or class of pesticide would be effective in addressing the threat.

§ 19-305. Neonicotinoid pesticides on City-owned property.

(a) *In general.*

Except as provided in subsection (b) of this section, a City employee or City contractor may not use a neonicotinoid pesticide on property owned by the City.

(b) *Agricultural use.*

A City employee or City contractor may use a neonicotinoid pesticide on City-owned property to control pests while engaged in agriculture.

§ 19-306. *{Reserved}*

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

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.