

County of Albany

Harold L. Joyce
Albany County Office Building
112 State Street - Albany, NY 12207



Meeting Agenda

Tuesday, May 25, 2021

6:15 PM

Held Remotely

Conservation, Sustainability and Green Initiatives **Committee**

PREVIOUS BUSINESS:

1. APPROVING PREVIOUS MEETING MINUTES
2. PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "F" FOR 2021: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, AMENDING LOCAL LAW NO. 1 FOR 2001, AS AMENDED, TO PROVIDE THAT PESTICIDE APPLICATION SIGNS MADE AVAILABLE AT THE POINT OF SALE BE AVAILABLE IN MULTIPLE LANGUAGES AS REQUIRED BY ENVIRONMENTAL CONSERVATION LAW SECTION 33-1005(1)
3. A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, AMENDING LOCAL LAW NO. 1 FOR 2001, AS AMENDED, TO PROVIDE THAT PESTICIDE APPLICATION SIGNS MADE AVAILABLE AT THE POINT OF SALE BE AVAILABLE IN MULTIPLE LANGUAGES AS REQUIRED BY ENVIRONMENTAL CONSERVATION LAW SECTION 33-1005(1)

County of Albany

Harold L. Joyce
Albany County Office Building
112 State Street - Albany, NY 12207



Meeting Minutes

Tuesday, April 27, 2021

6:15 PM

Held Remotely

Conservation, Sustainability and Green Initiatives
Committee

PREVIOUS BUSINESS:

Present: William Reinhardt, Beroro T. Efekoro, Matthew J. Miller, Merton D. Simpson, Victoria Plotsky, Samuel I. Fein, Patrice Lockart, Peter B. Tunny and Frank J. Commisso

1. APPROVING PREVIOUS MEETING MINUTES

A motion was made that the previous meeting minutes be approved. The motion carried by a unanimous vote.

CURRENT BUSINESS:

2. PUBLIC HEARING ON PROPOSED MODIFICATIONS TO AGRICULTURAL DISTRICT NOS. 1 AND 3

A motion was made to move the proposal forward with a positive recommendation. The motion carried by a unanimous vote.

RESOLUTION NO. 169

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “F” FOR 2021: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, AMENDING LOCAL LAW NO. 1 FOR 2001, AS AMENDED, TO PROVIDE THAT PESTICIDE APPLICATION SIGNS MADE AVAILABLE AT THE POINT OF SALE BE AVAILABLE IN MULTIPLE LANGUAGES AS REQUIRED BY ENVIRONMENTAL CONSERVATION LAW SECTION 33-1005(1)

Introduced: 5/10/21
By Mr. Domalewicz:

RESOLVED, By the County Legislature of the County of Albany that a public hearing on proposed Local Law No. “F” for 2021, “A Local Law of the County of Albany, New York, Amending Local Law No. 1 for 2001, as Amended, to Provide that Pesticide Application Signs Made Available at the Point of Sale be Available in Multiple Languages as Required by Environmental Conservation Law Section 33-1005(1)” be held by the County Legislature remotely, with information available on the County website, at 7:15 p.m. on Tuesday, June 29, 2021, and the Clerk of the County Legislature is directed to cause notice of such hearing to be published containing the necessary information in accordance with the applicable provisions of law.

Referred to Conservation, Sustainability and Green Initiatives and Law Committees – 5/10/21

LOCAL LAW NO. "F"

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, AMENDING LOCAL LAW NO. 1 FOR 2001, AS AMENDED, TO PROVIDE THAT PESTICIDE APPLICATION SIGNS MADE AVAILABLE AT THE POINT OF SALE BE AVAILABLE IN MULTIPLE LANGUAGES AS REQUIRED BY ENVIRONMENTAL CONSERVATION LAW SECTION 33-1005(1)

Introduced: 5/10/21

By Messrs. Domalewicz and A. Joyce:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

SECTION 1.

Section 3(c)(i) of Local Law 1 for 2001 is amended to read as follows:

c.(i) All persons, including, but not limited to, commercial entities and property owners, performing residential lawn applications treating an area more than one hundred square feet shall affix markers to be placed within or along the perimeter of the area where pesticides will be applied. Markers are to be placed so as to be clearly visible to persons outside the perimeter of such property. Such markers shall be posted at least twelve inches above the ground and shall be at least four inches by five inches in size. Such markers shall be in both the English and Spanish languages, and any other languages as the Commissioner of the New York State Department of Environmental Conservation deems it necessary pursuant to rules and regulations.

SECTION 2.

This Local Law shall take effect immediately filing with the Secretary of State.

Referred to Conservation, Sustainability and Green Initiatives and Law Committees – 5/10/21

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

7

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
DEC 04 2001

County
~~City~~ of ALBANY
~~Town~~
Village

Local Law No. 5 of the year 2001.

MISCELLANEOUS
& STATE RECORDS

A local law *(Insert Title)* OF THE COUNTY OF ALBANY, NEW YORK ADOPTING COUNTY-WIDE
NOTIFICATION REQUIREMENTS FOR COMMERCIAL AND
RESIDENTIAL LAWN PESTICIDE APPLICATIONS

Be it enacted by the COUNTY LEGISLATURE of the
(Name of Legislative Body)

County
~~City~~ of ALBANY as follows:
~~Town~~
Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW NO. 5 FOR 2001

**A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ADOPTING
COUNTYWIDE NOTIFICATION REQUIREMENTS FOR COMMERCIAL
AND RESIDENTIAL LAWN PESTICIDE APPLICATIONS**

Introduced: 10/9/01

By Messrs. Richardson, Reilly, Mss. Wiley, McKnight, Messrs. Maikels,
Monjeau, Messercola, Ms. Willingham and Mr. Domalewicz:

BE IT ENACTED AS FOLLOWS:

SECTION 1: Legislative Intent.

This Legislature finds that individuals and their personal property are, or can be, unwittingly exposed to pesticides applied on their neighbor's property. This Legislature further finds and declares that pesticides may pose serious health and safety risks to people, particularly children, pregnant women, the elderly and infirm, and that citizens have the right to know about pesticides to which they may be exposed from applications to neighboring properties so that they can take steps to minimize such exposure to themselves, their families, pets, crops, livestock, backyard wildlife and property.

Recognizing the increasing public awareness and concern about pesticide exposure hazards, the State Legislature recently amended the New York Environmental Conservation Law to allow counties to adopt certain advance notification requirements for commercial and residential lawn pesticide applications. This Legislature declares that the people of Albany County deserve the greatest protection allowable by law. Therefore, this Legislature hereby adopts the special requirements for commercial and residential lawn applications as set forth in Section 33-1004 of the New York Environmental Conservation Law.

SECTION 2: Definitions.

All terms used herein shall be as defined in Section 33-0101 of the Environmental Conservation Law as amended.

SECTION 3: Special Requirements for Commercial and Residential Lawn Applications.

a. All retail establishments that sell general use pesticides for commercial or residential lawn application shall display a sign meeting standards, established by the Commissioner of Environmental Conservation pursuant to subdivision 1 of Section 33-1005 of the Environmental Conservation Law, in a conspicuous place, and such sign shall be placed as close as possible to the place where such pesticides are displayed.

b. (i) At least forty-eight hours prior to any commercial lawn application of a pesticide, the person or business making such application shall supply written notice, as defined in subdivision 3 of Section 33-1005 of the Environmental Conservation Law, to occupants of all dwellings, as defined in paragraph d of subdivision 5 of Section 33-0905 of the Environmental Conservation Law, on abutting property with a boundary that is within one hundred fifty feet of the site of such application; and to owners, owners' agents, or other persons in a position of authority for all other types of premises, as defined in paragraph d of subdivision 5 of Section 33-0905 of the Environmental Conservation Law, that are on abutting property with a boundary that is within one hundred fifty feet of the site of such application. Owners or owners' agents of multiple family dwellings shall supply such written notice to the occupants of such multiple family dwellings and for all other types of premises, owners, owners' agents or other persons in a position of authority shall post such written notice in a manner specified by the State Commissioner of Environmental Conservation.

(ii) The prior notification provisions of this paragraph shall not apply to the following:

A. the application of anti-microbial pesticides and anti-microbial products as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 7 U.S.C. Section 136 (mm) and 136 q (h) (2);

B. the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets. This section shall not exempt from notification the use of any fogger product or aerosol product that discharges to a wide area;

C. the use of non-volatile insect or rodent bait in a tamper resistant container;

D. the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25;

E. the application of a pesticide which the United States Environmental Protection Agency has determined satisfies its reduced risk criteria, including a biopesticide;

F. the use of boric acid and disodium octaborate tetrahydrate;

G. the use of horticultural soap and oils that do not contain synthetic pesticides or synergists;

H. the application of a granular pesticide, where granular pesticide means any ground applied solid pesticide that is not a dust or powder;

I. the application of a pesticide by direct injection into a plant or the ground;

J. the spot application of a pesticide, where spot application means the application of pesticide in a manually pressurized or non-pressurized container of thirty-two fluid ounces or less to an area of ground less than nine square feet;

K. the application of a pesticide to the ground or turf of any cemetery; and

L. an emergency application of a pesticide when necessary to protect against an imminent threat to human health, provided, however, that prior to any such emergency application, the person providing such application shall make a good faith effort to supply the written notice required pursuant to this local law. Upon making an emergency application, the person making such application shall notify the State Commissioner of Health, using a form developed by such commissioner for such purposes that shall include minimally the name of the person making such application, the pesticide business registration number or certified applicator number of the person making such application, the location of such application, the date of such application, the product name and United States Environmental Protection Agency registration number of the pesticide applied and the reason for such application.

c. (i) All persons performing residential lawn applications treating an area more than one hundred square feet shall affix markers to be placed within or along the perimeter of the area where pesticides will be applied. Markers are to be placed so as to be clearly visible to persons immediately outside the perimeter of such property. Such markers shall be posted at least twelve inches above the ground and shall be at least four inches by five inches in size.

(ii) The markers required pursuant to this paragraph shall be in place on the day during which the pesticide is being applied and shall instruct persons not to enter the property and not to remove the signs for a period of at least twenty-four hours. Such instruction shall be printed boldly in letters at least three-eighths of an inch in height.

SECTION 4: Enforcement.

The County Department of Health and the New York State Department of Environmental Conservation shall have concurrent authority to enforce this law pursuant to subdivision 2 of Section 33-1004 of the Environmental Conservation Law. All sanctions, which shall be assessed after providing a hearing and an opportunity to be heard, shall be as specified in Section 71-2907 of the Environmental Conservation Law.

SECTION 5: Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be

invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 6: Effective Date.

This local law shall take effect January 1, 2002.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ 5 _____ of 20⁰¹ of the (County)(City)(Town)(Village) of ALBANY was duly passed by the LEGISLATURE on 1.1/1.3/01. ~~20~~, and was (approved)(not approved)(repassed after disapproval) by the COUNTY EXECUTIVE and was deemed duly adopted on 1.2/3 20.01, *(Elective Chief Executive Officer*)* in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted *(Elective Chief Executive Officer*)* to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to *(Elective Chief Executive Officer*)* permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

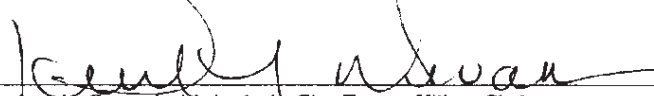
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 2____, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

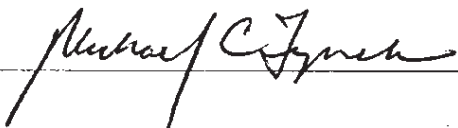
(Seal)

Date: December 3, 2001

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature
COUNTY ATTORNEY

Title

County _____
~~City~~ of ALBANY
~~Town~~ _____
~~Village~~ _____

Date: December 3, 2001

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of ALBANY

FILED
STATE RECORDS

OCT 26 2017

DEPARTMENT OF STATE

Local Law No. 9 of the year 2017

A local law Amending Local Law No. 1 for 2001 Entitled "A Local Law of the County of Albany, NY
(Insert Title)
Adopting Countywide Notification Requirments for Commercial & Residential Lawn Pesti-
cide Applications" to Provide that the Signs Giving Notice of Pesticide Applications required
by Environmental Conservation Law Section 33-1005(1) made available at the point of sale

Be it enacted by the ALBANY COUNTY LEGISLATURE of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of ALBANY

as follows:

PLEASE SEE ATTACHED PAGE 1

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 9 of 20¹⁷ of the (County)(City)(Town)(Village) of ALBANY was duly passed by the ALBANY COUNTY LEGISLATURE on NOVEMBER 14 20¹⁶, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the COUNTY EXECUTIVE and was deemed duly adopted on DECEMBER 14 20¹⁶, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means, or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

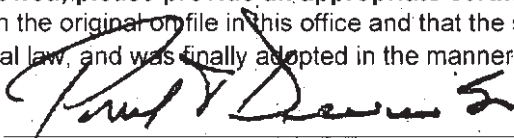
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

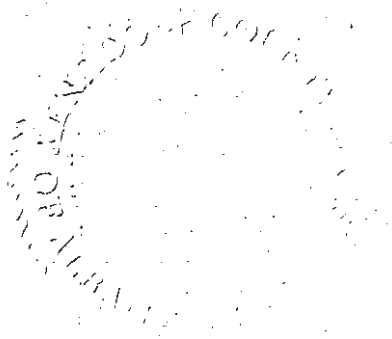
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 10/19/17

(Seal)



LOCAL LAW NO. 9 FOR 2017

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, AMENDING LOCAL LAW NO. 1 FOR 2001 ENTITLED "A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ADOPTING COUNTYWIDE NOTIFICATION REQUIREMENTS FOR COMMERCIAL AND RESIDENTIAL LAWN PESTICIDE APPLICATIONS" TO PROVIDE THAT THE SIGNS GIVING NOTICE OF PESTICIDE APPLICATIONS REQUIRED BY ENVIRONMENTAL CONSERVATION LAW SECTION 33-1005(1) MADE AVAILABLE AT THE POINT OF SALE

Introduced: 07/11/16

By Messrs. Domalewicz, Beston, Bullock, Ms. Chapman, Messrs. Clenahan, Comisso, Ms. Cunningham, Messrs. Ethier, Fein, Ms. Lekakis, Mr. Mackey, Ms. McKnight, Messrs. Signoracci, Simpson, Touchette, Ms. Willingham, Messrs. Feehey, Reinhardt, Clay, Crouse, Dawson, Drake, Higgins, Hogan, A. Joyce, Ms. Lockart, Mr. Mauriello, Ms. McLean Lane, Messrs. Mendick, Miller, Stevens and Tunny:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

SECTION 1.

Section 3(a) of Local Law 1 for 2001 is amended to read as follows:

a. All retail establishments that sell general use pesticides for commercial and residential lawn application shall display a sign meeting standards established by the Commissioner of Environmental Conservation pursuant to subdivision 1 of Section 33-1005 of the Environmental Conservation Law, in a conspicuous place, and such sign shall be placed as close as possible to the place where such pesticides are displayed. The signs by required by Section 3 giving notice of such pesticide application shall be made available at the point of sale to the purchasers of general use pesticides at the retail establishments which sell such general use pesticides for commercial and residential lawn application and shall be placed as close as possible to the place where such pesticides are displayed for sale.

SECTION 2.

Section 3(c)(i) of Local Law 1 for 2001 is amended to read as follows:

c.(i) All persons, including, but not limited to, commercial entities and property owners, performing residential lawn applications treating an area more than one hundred square feet shall affix markers to be placed within or along the perimeter of the area where pesticides will be applied. Markers are to be placed so as to be clearly visible to persons outside the perimeter of such property. Such markers shall be posted at least twelve inches above the ground and shall be at least four inches by five inches in size.

SECTION 3.

This Local Law shall take effect immediately filing with the Secretary of State

State of New York

County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 14th day of November, 2016, a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.



IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 15th day of November, 2016.

A handwritten signature in cursive script, appearing to read "Paul V. Deane", is written over a horizontal line.

Clerk, Albany County Legislature

Showing differences between versions effective February 9, 2011 to December 21, 2020 and December 22, 2020 [current]

Key: ~~deleted text~~ **added text**

1 deletion · 3 additions

McKinney's ECL § 33-1004

§ 33-1004. Lawn applications; certain municipalities

1. Notwithstanding any other provision of law to the contrary, any county not contained entirely within a city, and any city with a population of one million or more, may, after public hearing, adopt a local law comprised of the following provisions in their entirety and without exception including all applicable definitions as provided in this article:

a. All retail establishments that sell general use pesticides for commercial or residential lawn application shall display a sign meeting standards, established by the commissioner pursuant to subdivision one of section 33-1005 of this article, in a conspicuous place, and such sign shall be placed as close as possible to the place where such pesticides are displayed.

b. (i) At least forty-eight hours prior to any commercial lawn application of a pesticide, the person or business making such application shall supply written notice, as defined in subdivision three of section 33-1005 of this article to:

A. occupants of all dwellings, as defined in paragraph d of subdivision five of section 33-0905 of this article, on abutting property with a boundary that is within one hundred fifty feet of the site of such application; and to owners, owners' agents, or other persons in a position of authority for all other types of premises, as defined in paragraph d of subdivision five of section 33-0905 of this article, that are on abutting property with a boundary that is within one hundred fifty feet of the site of such application. Owners or owners' agents of multiple family dwellings shall supply such written notice to the occupants of such multiple family dwellings and for all other types of premises, owners, owners' agents or other persons in a position of authority shall post such written notice in a manner specified by the commissioner; and

B. owners, owners' agents or other persons in positions of authority for multiple family dwellings, the property of which is the site of such application. Owners, or owners' agents of multiple family dwellings shall supply such written notice to the occupants of such multiple family dwellings in a manner specified by the commissioner.

(ii) The prior notification provisions of this paragraph shall not apply to the following:

A. the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. Section 136 (mm) and 136 q (h) (2);

B. the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets. This section shall not exempt from notification the use of any fogger product or aerosol product that discharges to a wide area;

C. the use of non-volatile insect or rodent bait in a tamper resistant container;

D. the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25;

E. the application of a pesticide which the United States Environmental Protection Agency has determined satisfies its reduced risk criteria, including a biopesticide;

- F. the use of boric acid and disodium octaborate tetrahydrate;
- G. the use of horticultural soap and oils that do not contain synthetic pesticides or synergists;
- H. the application of a granular pesticide, where granular pesticide means any ground applied solid pesticide that is not a dust or powder;
- I. the application of a pesticide by direct injection into a plant or the ground;
- J. the spot application of a pesticide, where spot application means the application of pesticide in a manually pressurized or non-pressurized container of thirty-two fluid ounces or less to an area of ground less than nine square feet;
- K. the application of a pesticide to the ground or turf of any cemetery; and
- L. an emergency application of a pesticide when necessary to protect against an imminent threat to human health, provided, however, that prior to any such emergency application, the person providing such application shall make a good faith effort to supply the written notice required pursuant to this title. Upon making an emergency application, the person making such application shall notify the commissioner of health, using a form developed by such commissioner for such purposes that shall include minimally the name of the person making such application, the pesticide business registration number or certified applicator number of the person making such application, the location of such application, the date of such application, the product name and United States Environmental Protection Agency registration number of the pesticide applied and the reason for such application.
- c. (i) All persons performing residential lawn applications treating an area more than one hundred square feet shall affix markers to be placed within or along the perimeter of the area where pesticides will be applied. Markers are to be placed so as to be clearly visible to persons immediately outside the perimeter of such property. ~~Such markers~~ **Markers** shall be posted at least twelve inches above the ground and shall be at least four inches by five inches in size. **Such markers shall be in both the English and Spanish languages, and any other languages if the commissioner deems it necessary pursuant to rules and regulations.**
- (ii) The markers required pursuant to this paragraph shall be in place on the day during which the pesticide is being applied and shall instruct persons not to enter the property and not to remove the signs for a period of at least twenty-four hours. Such instruction shall be printed boldly in letters at least three-eighths of an inch in height.
2. Any county not contained entirely within a city or any city with a population of one million or more that adopts a local law pursuant to the provisions of this section, shall, in addition to any authority otherwise conferred in this chapter, have concurrent authority to enforce such local law administratively, provided however that all sanctions, which shall be assessed after providing a hearing or opportunity to be heard, shall be as specified in section 71-2907 of this chapter and shall be payable to and deposited with the enforcing municipality.
- 2-a. Within twenty days after the adoption of a local law pursuant to this section, the clerk or other officer designated by the legislative body shall forward one certified copy thereof to the commissioner and one to the attorney general.
- 2-b. Any local law adopted pursuant to this section shall take effect on the first day of January after it shall have been adopted.
3. The commissioner of health shall review any emergency form submitted pursuant to this section to ensure that the circumstance did warrant such emergency application. Such forms shall be kept on file at the department of health for three years from the date of application and shall be made available to any person upon request.

Credits

(Added L.2000, c. 285, § 3, eff. March 1, 2001. Amended L.2010, c. 324, § 1, eff. Feb. 9, 2011 ; **L.2020, c. 145, § 1, eff. Dec. 22, 2020** .)

McKinney's E. C. L. § 33-1004, NY ENVIR CONSER § 33-1004

End of Document

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Showing differences between versions effective February 9, 2011 to December 21, 2020 and December 22, 2020 [current]

Key: ~~deleted text~~ **added text**

0 deletions · 4 additions

McKinney's ECL § 33-1005

§ 33-1005. Commissioner's regulations

<[As added by L.2000, c. 285. Another Environmental Conservation Law § 33-1005 was added by another act.]>

For purposes of implementing section 33-1004 of this article in any county not contained entirely within a city or any city with a population of one million or more that has adopted a local law pursuant to such section:

1. The commissioner shall promulgate rules and regulations establishing uniform standards for a consumer pesticide use information sign which shall be placed in retail establishments that sell general use pesticides for commercial or residential lawn application. This sign shall **be in both the English and Spanish languages, and any other languages if the commissioner deems it necessary pursuant to rules and regulations, and shall** contain the following information:

a. a warning notice directing consumers to follow directions on labels;

b. a provision to inform the customer of the posting requirements set forth in paragraph c of subdivision one of section 33-1004 of this article; and

c. a recommendation that the customer notify neighbors prior to the application of pesticides so that such neighbors may take precautions to avoid pesticide exposure.

2. The commissioner shall prepare and publish, in consultation with the commissioner of health, educational materials, **in both the English and Spanish languages and any other languages if the commissioner deems it necessary,** explaining the requirements of paragraphs b and c of subdivision one of section 33-1004 of this article and section three hundred ninety-c of the social services law and the human and environmental health effects of lawn care pesticides.

3. a. The commissioner shall promulgate rules and regulations specifying the following: the content and form of the written notice required in paragraph b of subdivision one of section 33-1004 of this article, with the content consisting minimally of the following:

(i) the address of the premises where application is to be done;

(ii) the name and telephone number and pesticide business registration number or certified applicator number of the person providing the application;

(iii) the specific date of each pesticide application and two alternative dates to the proposed date of application when, due to weather conditions, the pesticide application on the proposed date is precluded;

(iv) the product name or names and the United States Environmental Protection Agency registration number or numbers of the pesticide or pesticides to be applied;

(v) a prominent statement that reads: “This notice is to inform you of a pending pesticide application to: 1. a neighboring property; or 2. this premise. You may wish to take precautions to minimize pesticide exposure to yourself, family members, pets or family possessions. Further information about the product or products being applied, including any warnings that appear on the labels of such pesticide or pesticides that are pertinent to the protection of humans, animals or the environment, can be obtained by calling the National Pesticides Telecommunications Network at 1-800-858-7378 or the New York State Department of Health Center for Environmental Health Info line at 1-800-458-1158”.

b. The commissioner shall review and revise as necessary the phone numbers required to appear in notices pursuant to this section and pursuant to section four hundred nine-h of the education law and section three hundred ninety-c of the social services law. Notwithstanding the provisions of the state administrative procedure act, such phone numbers shall be established as a rule by publication in the environmental notice bulletin.

c. The written notice required by paragraph b of subdivision one of section 33-1004 of this article shall be in both the English and Spanish languages, and any other languages if the commissioner deems it necessary pursuant to rules and regulations.

4. The commissioner shall promulgate rules and regulations specifying: the manner in which persons providing commercial lawn application shall supply written notice as required under paragraph b of subdivision one of section 33-1004 of this article including, but not limited to, mailing, or leaving with a responsible adult or in a conspicuous location on the premises or abutting property; the manner in which the owner or owner's agent of multiple family dwellings covered under paragraph b of subdivision one of section 33-1004 of this article shall supply such written notice to the occupants of such multiple family dwellings; and for all other premises covered under paragraph b of subdivision one of section 33-1004 of this article, the manner in which the owner, owner's agent or other person in a position of authority shall supply such written notice. Such rules and regulations shall specify a manner in which persons providing commercial lawn applications may provide an option to occupants of dwellings to decline further notices.

5. The commissioner is hereby authorized to promulgate rules and regulations, not inconsistent with any other provisions of law, specifying procedures for the department's investigation and processing of alleged violations of paragraph c of subdivision one of section 33-1004 of this article that pertain to persons performing residential lawn applications. Such uniform procedures may require complaints to be in the form of a sworn statement containing the facts upon which an alleged violation is based and may provide that the department is not required to perform any testing or sampling in relation to the investigation of any such alleged violations.

Credits

(Added L.2000, c. 285, § 4, eff. March 1, 2001. Amended L.2010, c. 324, § 2, eff. Feb. 9, 2011 ; **L.2020, c. 145, §§ 2 to 4, eff. Dec. 22, 2020** .)

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