

Legislation Text

File #: 200425-A, **Version:** 2

Amending Title 6 of The Philadelphia Code, entitled “Health Code,” by creating a new Chapter 6-1300 entitled “Healthy Outdoor Public Spaces,” to promote a healthy environment that protects the public from the risks of toxic herbicides by prohibiting their use on all city-owned or used public grounds including but not limited to parks, trails, recreation centers, and playgrounds; establishing reporting requirements; and establishing a private right of action, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Council makes the following findings.

- (1) As a result of the COVID-19 pandemic and in an effort to avoid spreading the virus as city residents shelter in place, unprecedented numbers of people of all ages are seeking exercise, recreation, and access to natural beauty in the over 10,400 acres that comprise city parks and public grounds. It is imperative that parks be free of toxic substances, which have been shown in scientific studies to cause disease and compromise immune systems.
- (2) Healthy, sustainably, and organically managed soils increase organic nutrients and soil microorganisms, allowing grasses and other desirable plants to out-compete other plant species over time, ultimately resulting in a reduction of weeds and pests. Implementation of organic land management practices complements important goals established by the City in “Greenworks: A Vision for a Sustainable Philadelphia, 2016” that affirm the right of all Philadelphians to have access to healthy food and clean water, in addition to greenspace and healthy waterways.
- (3) Philadelphia currently uses synthetic herbicides, including glyphosate and 2,4-D, throughout its park system, trails, recreation centers, playgrounds, and other publicly owned land.
- (4) Scientific studies conducted by the World Health Organization, the National Academy of Sciences and the National Research Council, among others, have linked exposure to certain toxic chemicals with asthma, cancer, developmental and learning disabilities, nerve and immune system damage, liver and kidney damage, reproductive impairment, birth defects, and disruption of the endocrine system and the microbiome.

SECTION 2. Title 6 of The Philadelphia Code is hereby amended to read as follows:

TITLE 6. HEALTH CODE

* * *

CHAPTER 6-1300. HEALTHY OUTDOOR PUBLIC SPACES

§ 6-1301. Definitions.

In this Chapter, the following definitions shall apply:

- (1) “Grounds” means property or land owned by the City of Philadelphia, including any and all parks, open space, trails, lawns, playgrounds, recreation centers, sports fields, land, and real property. “Grounds” does not include the interior spaces of buildings, parking lots, nor any land or other real estate that is not open for use by the general public.*
- (2) “Organic Land Management” means a problem-solving strategy that prioritizes a natural, organic approach to turfgrass and landscape management, and care of trees and shrubs without the use of pesticides. It mandates the use of natural, organic practices that promote healthy soil and plant life as a preventative measure against the onset of turf and landscape pest problems.*
- (3) “Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any plant, insect, or fungal pest. This includes any herbicide, insecticide, or fungicide.*
- (4) “Synthetic” means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.*
- (5) “Synthetic herbicide” means any herbicide containing a Synthetic substance, including any material or agent containing a Synthetic substance that harms, adversely affects, or kills any plant, except synthetic herbicides that are allowed on the National List of Allowed Substances under the Organic Foods Production Act (OFPA), as published by the National Organic Standards Board (7 C.F.R. § 205.601 [2020 edition]).*

§ 6-1302. Prohibited Use of Synthetic Herbicides.

(1) Except as provided in subsection (2), no person shall use or apply synthetic herbicides on any City Grounds. This prohibition shall be effective thirty-six (36) months after the ordinance adding this Section 6-1302 to the Code becomes law for golf courses and athletic fields and effective eighteen (18) months after the ordinance adding this Section 6-1302 to the Code becomes law with respect to all other City Grounds.

(2) Upon constitution of the advisory committee authorized under subsection (3), and upon request for a waiver by an applicant, the Department of Public Health may authorize the use or application of a synthetic herbicide on any City Grounds after receiving a recommendation from the advisory committee, if the Department determines the following criteria are met with respect to such use or application:

(a) Such use or application is appropriate to address an emergency that threatens the public health, safety, or welfare of persons; or involves an invasive species that threatens the overall health of the ecosystem and is necessary after organic methods prove insufficient;

(b) The applicant has carefully evaluated all alternative methods and materials, including but not limited to, non-herbicide management tactics and non-synthetic herbicides, and is requesting to use the minimum amount of the least toxic, most effective herbicide necessary;

(c) *The person or entity using or applying the synthetic herbicide will, to the greatest extent practical, minimize the impact of the application on abutting properties; and*

(d) *The authorized use or application of the synthetic herbicide will not be detrimental to the public's health, safety, or welfare.*

(3) *The City is authorized to create an advisory committee to evaluate and make recommendations to the Department of Public Health concerning waivers requested under subsection (2).*

§ 6-1303. *Advance Posting of Notice of Anticipated Pesticide Use.*

City Council recognizes that the Department of Parks and Recreation has committed to post signs prominently providing notice in advance of applying pesticides including (a) the date application will be occurring; and (b) a contact number for questions. The signage will be posted 48 hours prior to pesticide application and remain for 72 hours after pesticide application.

§ 6-1304. *Organic Land Management*

City Council recognizes that the Department of Parks and Recreation will develop an organic land management plan. Organic land management practices shall be the method of choice to understand, prevent, and control actual and potential plants considered to be noxious weeds. The essential practices of organic pest land management include, but are not limited to:

- (1) Regular soil testing;*
- (2) Addition of approved soil amendments as necessitated by soil test results, following, but not limited to, the recommendations of the Northeast Organic Farming Association;*
- (3) Selection of plantings using criteria of hardiness, suitability to native conditions; drought, disease and pest-resistance; and ease of maintenance;*
- (4) Modification of outdoor management practices to comply with organic horticultural science, including scouting, monitoring, watering, mowing, pruning, proper spacing, and mulching;*
- (5) The use of physical controls, including hand-weeding and over-seeding;*
- (6) The use of biological controls, including the introduction of natural predators, and enhancement of the environment of a pest's natural enemies;*
- (7) Through observation, determining the most effective treatment time, based on pest biology and other variables, such as weather and local conditions; and*
- (8) Eliminating pest habitats and conditions supportive of pest population increases.*

§ 6-1305. *Reporting and Record Keeping on Pesticide Usage.*

- (1) Effective July 1, 2021, usage of any kind of pesticide shall be reported at least annually to the City Council and to the general public on the City's website.*

- (2) *The required report under this subsection must include the following information: (a) the common name of the pesticide; (b) the trade name of the pesticide; (c) the registration number designated by the United States Environmental Protection Agency; (d) the amount of pesticide applied; (e) the method of application; (f) the location where the pesticide was applied; (g) the square footage of area where the pesticide was applied; (h) the name of the person applying the pesticide; (i) the name of the entity employing or directing the person applying the pesticide; and (j) whether the person applying the pesticide posted any notices informing the public that the pesticide was applied.*
- (3) *The Departments of Parks and Recreation, Streets, and all other departments that apply pesticides on city Grounds are required to make this report based on applications by their staff, contractors, and sub-contractors. Such reports shall be maintained centrally by the Department of Records as well as by individual departments.*
- (4) *The Department of Records shall preserve and maintain the records reported to Council pursuant to this Section on Council's behalf for no less than three years after the last date of application of the pesticide identified in any such report..*

Explanation:

Italics indicate new matter added.