

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 22-17
INTRODUCED BY: Goodman
REQUESTED BY: Gelfand

September 11, 2017
As amended in Committee on December 11, 2017

AN ORDINANCE

PROHIBITING THE USE OF PESTICIDES IN SOUTH EUCLID PARKS, OPEN SPACE PARCELS AND PUBLIC RIGHTS OF WAY.

WHEREAS, the Council of the City of South Euclid recognizes that there is an ongoing need to protect public health, safety, welfare, and the environment; and

WHEREAS, Council also acknowledges that there is an ongoing need **in order** to manage pests to protect public health, safety, and welfare; and

WHEREAS, Council further acknowledges that the current state of pest control technology still requires limited use of chemical pesticides under certain ~~known~~ circumstances to control the spread of disease **and invasive plants**; and

WHEREAS, Council recognizes that many chemical pesticides are toxic to **humans, animals, and beneficial organisms**, and that the use of pesticides containing known carcinogens is a threat to the health, safety, and welfare of South Euclid residents, ~~neighbors~~, and others who use South Euclid parks, recreational assets, **and** opens spaces. ~~schools and schoolyards, libraries, and other public-spaces; and~~

WHEREAS, as a ~~practical~~ matter of **policy**, South Euclid does not currently use toxic chemical pesticides on ~~public~~ **city-owned** property within the its municipal jurisdiction; and

WHEREAS, the Council of the City of South Euclid desires to formalize South Euclid's ~~own~~ **official** policy of not using pesticides on City property **and to prevent by prohibiting** the use of pesticides on City parks, open space parcels and public rights of way **by other parties, whether by including both aerial spraying and or ground applications**; and,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOUTH EUCLID, OHIO

Section 1: Definitions.

As used in this chapter certain terms are defined as follows:

(a) "Pesticide" means any substance produced or distributed for preventing, destroying or repelling any insects, weeds, rodents, fungi, nematodes, mites, spiders or other forms of plant or animal life or viruses (such as any herbicide, insecticide, acaricide, nematocide, rodenticide or fungicide), except viruses on or in living humans or other animals. This includes any fertilizer mixture which contains pesticides within it.

(b) "Application of a pesticide" means the placement for effect of any pesticide at or on the exterior site where pest control or other response is desired.

(c) "Pest" means any organism, **plant or animal**, targeted for elimination or control by a pesticide.

~~(d) "School" means any preschool, nursery school, kindergarten, elementary school, or high school.~~

~~(e) "Child day care" means administering to the needs of infants, toddlers, pre-school children and school children outside of school hours for consideration by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any part of the twenty-four hour day in a place or residence other than a child's own home.~~

~~(f) "Child day-care center" means any place in which child day-care is provided, excluding child day-care provided in the permanent residence of the provider if provided to no more than six children at one time, including any children of the provider who are under six years of age and on the premises, and no more than three of the children on the premises at any one time are under two years of age.~~

(d g) "Public property" means any land owned by the City, or by any other governmental entity, including, without limitation, school districts, libraries, public parks and public playgrounds.

(e) "Private property" means land owned by a private individual or business, and includes tree lawns adjacent to public rights-of-way.

Section 2: Prohibition On of Pesticide Use.

Except as provided in Section 3, no person shall apply any pesticide on the gardens, lawns, lands, grounds or other exterior premises of any of the following facilities: ~~schools, child day-care centers, public properties or libraries~~ **city-owned properties.**

Section 3: Exceptions

(a) **Private property is exempt from this code.**

(b) The **ground-level** application of larvicides, **adulticides**, and rodenticides is permitted as a public health measure necessary to reduce the spread of disease vectors pursuant to recommendations and guidance provided by the Centers for Disease Control and Prevention, the U.S. Environmental Protection Agency, and the Ohio Department of Agriculture. Any rodenticides used shall be placed in tamper-proof products, unless designed and registered for specific environments inaccessible to humans and pets. **Under no circumstances shall aerial spraying or roadside spraying be permitted.**

(c) The use of larvicides or rodenticides, if administered by Cuyahoga County, shall be approved by the County under provisions of County Ordinance No. O2011-0047. ~~Emergency notice shall be provided to the Environmental Review Board within 72 hours of application.~~

(d) **Prior to the approval of a request for pesticide application, the Board shall conduct a review of the applicant's consideration of Organic Pest Management (OPM) and Integrated Pest Management (IPM) strategies.**

Section 4: Environmental Review Board (ERB)

(a) **An Environmental Review Board (ERB) is hereby created to hear and determine decide upon requests for permission to apply pesticides in specific cases. The Board shall consist of 1.) the Service Director, 2.) Director of Community Services, Council Safety Committee Chairperson & 3.) Council Recreation Committee Chairperson or other Council member or city department representative appointed by Council. 4.) a member of the public with knowledge of pesticide use and organic and integrated pest management strategies, which person is to be appointed by Council, and 5.) a representative of the Cuyahoga County Board of Health, to be appointed by that agency. A majority vote of those present, in person or via remote conference connection, is required to approve a request for pesticide application.**

~~(b) An Environmental Review Board (ERB) is hereby created to hear and determine decide upon requests for permission to apply pesticides in specific cases. The Board shall consist of 1.) the Service Director, 2.) Director of Community Services, Council Safety Committee Chairperson & 3.) Council Recreation Committee Chairperson or other Council member or city department representative appointed by Council. 4.) a member of the public with knowledge of pesticide use and organic and integrated pest management strategies, which person is to be appointed by Council, and 5.) a representative of the Cuyahoga County Board of Health, to be appointed by that agency. A majority vote of those present, in person or via remote conference connection, is required to approve a request for pesticide application.~~

(b) **The Environmental Review Board shall meet as needed in response to requests for permission to apply chemical pesticides on public property. The body shall elect its Chair, who shall serve as the primary contact for the Board and to whom requests shall be given.**

(c) **The ERB shall determine what form a request may take and what documentation is required.**

(d) The Board may grant permission for the application of pesticides under controlled and limited conditions when the Board determines that such application is necessary for the public health and safety, **the control of invasive plants**, or the preservation of property, and will not pose a danger to City residents.

Section 4: Organic Pest Management and Integrated Pest Management

~~The Environmental Review Board, prior to the approval of any request for the application of pesticides, shall conduct a review of applicant's consideration and use of Organic Pest Management (OPM) to prevent pest problems through application of natural, organic horticulture and maintenance practices. OPM shall incorporate the principles of Integrated Pest Management (IPM) in its program.~~

~~IPM is an ecologically sound approach to suppressing and eliminating pest populations to keep them from causing health, economic, or aesthetic injury. IPM utilizes site-specific information about pest biology and behavior, environmental conditions, and the dynamics of human characteristics and activities in dealing with the prevention and control of pests that interfere with the purpose and use of a particular site.~~

~~The following steps outline the basic approach used in an IPM program:~~

- ~~(1) Monitoring and scouting the turf of landscape in question;~~
- ~~(2) Accurate record-keeping documenting any potential pest problems;~~
- ~~(3) Evaluation of the site with regard to any injury caused by a pest in question and a determination made on which course of treatment to follow;~~
- ~~(4) Chosen treatment to be the least damaging to the general environment and one that best preserves the natural ecosystem;~~
- ~~(5) Chosen treatment to be most likely to produce long-term reductions in pest control requirements. The effective implementation must be operationally feasible, and must be cost-effective in the short and long term;~~
- ~~(6) Chosen treatment must minimize negative impact to non-target organisms;~~
- ~~(7) Chosen treatment must be the least disruptive of natural controls available;~~
- ~~(8) Chosen treatment must be the least hazardous to human health;~~
- ~~(9) All non-chemical and organic treatments available for the targeted pest shall be exhausted prior to the use of synthetic chemical treatments.~~

Section 5: Penalty.

A violation of this chapter shall be a minor misdemeanor on the first offense, and a fourth degree misdemeanor on a second or subsequent offense.

Section 6: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2017

Jane Goodman, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law