

Chapter 690 PESTICIDE REDUCTION*

***Editor's note:** Local Law No. 17-2000, enacted Oct. 17, 2000, amended Ch. 690 in its entirety, in effect repealing and reenacting said chapter to read as herein set out. The former Ch. 690 pertained to pest management and derived from L.L. No. 16-1995; L.L. No. 7-1998; and L.L. No. 23-1998.

Cross references: Pesticide notification, Ch. 691.

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Sec. 690.01. Purpose.

In consideration of the potential hazards involved in the use of chemical pesticides, the County of Westchester deems it prudent to employ pest control strategies which are the least hazardous to human health and the environment and adopt an integrated pest management program which places first priority on the prevention of pest problems and uses chemical pesticides as a last resort only. In accordance with this purpose, the Westchester County government finds and declares that pesticides are linked to a number of acute and chronic health problems and that it is therefore the policy of the county to phase out pesticide use by county government for many pest control purposes, and to adopt a pest control policy that substantially relies on non-chemical pest control strategies.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.02. Definitions.

1. "Anti-microbial pesticide" shall mean:
 - a. Disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surface or inanimate objects;
 - b. Sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air;
 - c. Bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;
 - d. Sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores, or inanimate surfaces;

- e. Fungicides and fungistates intended to inhibit the growth or destroy, fungi (including yeasts), pathogenic to man or other animals on inanimate surfaces; and
 - f. Commodity preservatives and protestants to inhibit the growth of, or destroy bacteria in or on raw materials (such as adhesives and plastics) used in manufacturing, or manufactured procedures (such as fuel, textiles, lubricants, and paints) but not in the pulp and paper process or cooling towers.
2. "Integrated pest management" shall mean the use of a variety of strategies to prevent and to control pests. These strategies shall employ nontoxic or the least toxic means available. These strategies shall include, but shall not be limited to, preventive maintenance, regular monitoring and evaluation, so as to enable early detection, mechanical controls such as manual removal, barriers and traps, biological controls and least toxic chemical controls where pesticides are deemed necessary. These strategies shall be applied to affected areas only in a site-specific manner.
3. "Pest" shall mean:
- a. Any insect, rodent, fungus or weed; or
 - b. Any other form of terrestrial or aquatic or animal life or virus, bacteria, or other microorganism (except, viruses, bacteria or other microorganisms on or in living man or other living animals) which the Commissioner of the New York State Department of Environmental Conservation declares to be a pest; or
 - c. Any other meaning included under Section 33-0101 of the New York State Environmental Conservation Law.
4. "Pesticide" shall mean and include:
- a. Any substance or mixture of substances intended for preventing destroying, repelling, or mitigating any pest; and
 - b. Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and
 - c. Any other meaning included under Section 33-0101 of the New York State Environmental Conservation Law; and
 - d. All pesticides products registered by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation and all products for which experimental use permits and conditional registrations, special local needs registrations and emergency exemptions have been granted by the United States Environmental Protection Agency or the New York State Department of Environmental Conservation.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.03. Pest Management Committee.

1. A Pest Management Committee shall be appointed by the County Board of

Legislators to develop and implement pest management policies, rules, and regulations.

2. The Pest Management Committee shall consist of seven citizens appointed by the County Board of Legislators, for staggered terms of two years. Two of said citizen members so appointed hereunder must have experience or training in integrated pest control management. The County Board of Legislators shall also appoint to the Pest Management Committee, the Commissioner of the Department of Parks, Recreation, and Conservation, the Commissioner of the Department of Public Works, the Commissioner of the Department of Health, the Commissioner of the Department of Environmental Facilities, and any other relevant commissioner, department head or county official of any other county department or agency involved in matters relevant to pest management who shall be ex-officio members of the Pest Management Committee and shall have a voice but not a vote. The ex-officio members of the Pest Management Committee shall be empowered to designate a duly authorized representative to serve in his or her stead when necessary. A designated member of the County Board of Legislators shall act as an advisor and liaison to the committee.
3. All members shall serve without compensation but shall be entitled to receive all reasonable expenses actually incurred in the performance of their duties.
4. The Pest Management Committee shall establish a pest management decision-making process using the principles of integrated pest management as defined herein.
5. The Pest Management Committee shall meet at a minimum on a monthly basis or more frequently, if needed, shall adopt rules and procedures for its meetings, keep accurate records of its meetings and make an annual report to the County Executive and the County Board of Legislators.
6. The County Board of Legislators may, on its own motion or upon the recommendation of the Pest Management Committee, remove a member from the Pest Management Committee for being absent from three consecutive meetings without excusal or for any other just cause, in accordance with applicable provisions of law. When a vacancy on the Pest Management Committee occurs, either by removal, disqualification, death or resignation, the Pest Management Committee may submit recommendations to the County Board of Legislators regarding new appointments.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.04. Functions and powers.

The Pest Management Committee shall be authorized to do the following:

1. Identification of all County of Westchester programs, departments, individuals, employees, contractors or subcontractors directly or indirectly implementing pest management methods or strategies by obtaining documents including, but not limited to, purchasing contracts, invoices, certification, applications, material safety data sheets, labels, accident reports, incident reports or records, workers' grievances and inventory storage sheets properly maintained by the county, its programs, departments, employees, contractors or subcontractors, and any other

documents required to be filed by the federal government, State of New York or County of Westchester relative to pest management.

2. With the specific goal of removing, modifying or replacing any county programs or strategies which are not consonant and consistent with the declaration of policy enunciated hereunder, the Pest Management Committee shall evaluate and monitor all present pest management programs utilized by, contracted for or engaged in, by any county department, including, but not limited to, reviewing pesticide application records and requests for pesticide purchases.
3. Develop procedures and guidelines for decision-making, consistent with the declaration of policy referred to above.
4. Develop programs for evaluating and monitoring pest problems in the county.
5. Develop guidelines for county staff in handling of typical pest problems; these guidelines to be reviewed and updated periodically.
6. Develop educational materials to increase public awareness and understanding of the availability of safe alternative methods of pest control and of the hazards associated with the use of chemical pesticides.
7. Offer assistance to citizens with pest or other related problems.
8. Work with and invite active citizen participation in monitoring pest control programs.
9. Consult with the various department heads of the county who are involved with, contract for or are engaged in pest management programs and methods.
10. Submit recommendations to county departments or agencies as appropriate.
11. Develop a mechanism for record keeping and monitoring all pest management programs authorized by the county or authorized by any board, commission, department, employee, contractor or subcontractor of this county.
12. Develop and maintain an accessible, interactive database for all county departments, agencies and employees relative to integrated, least toxic pest management to be fully operational no later than January 1, 2002.
13. Develop, distribute and conduct outreach and educational programs, including but not limited to, materials such as warning notices, pamphlets, brochures and any other materials and programs deemed necessary and consistent with the declaration of policy herein.
14. Conduct or recommend studies, surveys or inventories in accord with the general purposes of this chapter, and to do so with appropriate coordination with existing or prospective work of a similar nature performed by the federal, state, county, municipal or private agencies and organizations.
15. Cooperate with and assist such other governmental or nongovernmental

boards or organizations in the preparation of plans or reports and in the review of proposal applications related to pest management as the County Executive or the Board of Legislators may direct.

16. Report findings related to pest management to the County Board of Legislators, County Executive and interested citizens or organizations.
17. Recommend to the County Executive and Board of Legislators changes to the exceptions authorized by section 690.07 of this chapter based upon research and studies published subsequent to the adoption of this chapter.
18. Act as a resource on matters concerning pest management issues upon the request of any county department or agency.
19. Promote the consideration of and compliance with existing laws, rules and regulations by the responsible county departments or agencies.
20. Suggest, where warranted, that appropriate governmental entities and/or county departments take legal and/or enforcement action pursuant to their authority.
21. Develop criteria for the selection of pesticides consistent with the declaration of policy. The committee shall take into consideration the following: availability of data on the effects on human health and the environment; acute and chronic toxicity; impacts to nontarget organisms; persistence; ability of the compound to bioaccumulate; the toxicity of inert ingredients; leachability; volatilization; selectivity; and potential for drift. In drafting the criteria, the board should consider policies adopted by the United States and New York State.
22. Issue a one-time use emergency waiver in accordance with section 690.07 below.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.05. Pesticide use--Sunset provisions.

The following regulations shall control the use of pesticides by county officers and employees and by persons under contract to the county:

1. Effective immediately, no person shall apply any pesticide classified as Toxicity Category I by the United States Environmental Protection Agency, or any pesticide classified as a known, likely, or possible carcinogen by the United States Environmental Protection Agency on county property (as owner or tenant), except as provided for in sections 690.06 and 690.07 of this chapter.
2. Effective January 1, 2001, no person shall apply any pesticide classified as Toxicity Category II by the United States Environmental Protection Agency, or any pesticide classified as restricted use by the United States Environmental Protection Agency or the New York State Department of Environmental Conservation on county property (as owner or tenant), except as provided for in sections 690.06 and 690.07 of this chapter.

3. Effective January 1, 2002, no person shall apply any pesticide on county property (as owner or tenant), except as provided for in sections 690.06 and 690.07 of this chapter.
4. All federal, state and local laws must be complied with prospectively.
5. Whenever pesticide use is authorized herein, any chemical pesticide used must have the least acute and chronic toxic effects of possible choices available.
6. All county officers and employees engaged in the application of chemical pesticides shall be trained and certified in conformity with county, state and federal regulations; competent supervision shall be provided by the head of the acting department; and all necessary safety equipment shall be used.
7. In all plans for designing or redesigning public parks, landscaping and buildings, there shall be provision for the prevention of pest problems by means such as the use of pest resistant vegetation, maintenance and planting practices, and appropriate structural design.
8. This chapter shall apply to all pest control activities on county property, whether by county employees or persons under contract to the county, subcontractors performing work on county property, by businesses or by governmental agencies. All persons under contract with the county, and their subcontractors, shall receive a copy of this chapter and shall be required to comply with the provisions contained herein, including but not limited to, applying for waivers and filing reports with the Pest Management Committee regarding any and all pesticide applications.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.06. Exemptions.

1. Notwithstanding any other provisions of this chapter to the contrary, the restrictions imposed by section 690.05 shall not apply to the following:
 - a. Pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants, wastewater treatment plants, reservoirs, and related collection, distribution and treatment facilities;
 - b. Anti-microbial pesticides;
 - c. Microbial pesticides, such as bacillus thuringiensis and milky spore;
 - c. Pesticides in contained baits for the purpose of rodent, cockroaches, and/or ant control;
 - d. Pesticides classified by the United States Environmental Protection Agency as exempt materials under 40 CFR 152.25;
 - e. Low-toxicity pesticides when used according to label and as determined by the Pest Management Committee, including, but not limited to, boric acid and disodium tetrahydrate; silica gels; diatomaceous earth; nonvolatile insect bait in tamper resistant containers;

- f. Pesticides prescribed by a licensed veterinarian for the control of parasites of wild, domestic or exotic animals;
- g. In a situation in which a written declaration has been issued by the New York State or County Commissioner of Health, or by the County Board of Health, that a public health emergency exists requiring the temporary use of a particular pesticide during the period of such public health emergency. The County Commissioner of Health must, in such an emergency, determine to use the least toxic pesticide that he or she believes is adequate to address the emergency. After taking such action, the County Commissioner of Health shall document in a report to the Board of Legislators, within 30 days of the declaration of the emergency and within 30 days after the resolution of the emergency, the nature of the emergency, the cause and effect of this emergency, and how and why pesticides were applied. The County Commissioner of Health shall also report to the Board of Legislators how the problem causing the health emergency arose and what steps and procedures the county is taking to ensure that a similar problem will not recur.
- h. County-owned property leased to another party as of the effective date of this law, said exemption to apply until the expiration of such lease (exclusive of renewal periods);
- i. On property leased by the county where such pesticide application is not within the county's control;
- j. Insect repellents personally applied by county employees in the course of performing county duties and/or responsibilities at county facilities; and
- k. Fungal turfgrass diseases, such as Pythium on golf courses, which develop swiftly, and can wipe out whole greens in a matter of hours; however, a plan shall be filed within a reasonable time with the Pest Management Committee outlining steps to be taken to reduce the numbers and severity of future fungal outbreaks.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.07. Exceptions.

1. The Pest Management Committee may, upon written application, waive the requirements of section 690.05 for a single application of a pesticide in accordance with the procedure set forth below:
 - (a) In the event that a county board, commission, department, employee, contractor of the county or subcontractor of the county determines that an emergency warrants the use of a pesticide that would otherwise not be permitted under section 690.05, then such board, commission, department, employee, contractor or subcontractor may apply for a single-use waiver from the Pest Management Committee;
 - (b) The Pest Management Committee shall grant the application for a waiver upon a finding that all of the following four conditions are met:
 - (i) The Pest Management Committee determines that the pest situation poses an immediate threat to public resources; and

- (ii) The Pest Management Committee determines that viable alternatives consistent with this section do not exist; and
 - (iii) The Pest Management Committee, upon due consultation with a recognized expert in the integrated pest management field, determines the least toxic approach to resolving the pest situation and directs that the waiver shall be restricted to the use of such least toxic approach; and
 - (iv) The applicant for such a waiver shall provide the Pest Management Committee with a written plan to address the pest problem in order to prevent future outbreaks, which plan the Pest Management Committee determines to be satisfactory.
- (c) The Pest Management Committee shall make its determination to grant or deny a waiver in writing, setting forth the basis for such determination. The Pest Management Committee shall decide each application for a waiver at the time of its next regularly scheduled meeting, but in no event later than 30 days from the date the application is submitted. Whether a waiver is granted or denied, the Pest Management Committee shall, after its determination, continue to review the circumstances identified in the waiver application, evaluate the underlying causes for the pest situation and issue recommendations on how to prevent future recurrence. In the event that an application for a waiver is granted, the applicant shall provide the Pest Management Committee with written certification that it has complied with all of the conditions imposed in the waiver.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.08. Posting and proposed use.

1. Pesticide application by the county, or by persons or businesses under contract with the county, shall comply with the public notice requirements hereinafter set forth.
2. All county departments or agencies or persons or businesses under contract with the county shall notify the public at least 48 hours prior to discharging or causing to be discharged any pesticide on county property.
3. Warning notices must be visibly posted along all streets or areas to be treated at the approximate frequency of one notice per lot or all public accesses to the planned treatment area.
4. The Pest Management Committee, in conference with county staff, may make a few specific exemptions regarding 48-hour prior notification for limited, localized applications of small amounts of the least toxic chemical pesticides not inconsistent with the notification provisions of section 690.09 and any other applicable federal, state or county law.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.09. Notice of pesticide application.

1. The Pest Management Committee shall prepare a notice of pesticide application,

copies of which are to be completed and posted at least 48 hours prior, by the responsible department or person, to pesticide application, as specified in section 690.08.

2. The warning notice shall consist of a standard 8 1/2 by 11-inch international orange form posted at least 12 inches above the ground. Such notices shall be printed boldly in letters at least three-eighths of an inch in height and shall include:
 - a. Date of posting.
 - b. Address, date, approximate time, pest to be controlled, method of application and specific sites to be treated.
 - c. Common and trade names of the pesticide.
 - d. Acute and chronic toxicity of the pesticide, duration and toxicity and appropriate warnings.
 - e. Name and telephone number of department or person responsible for the application.
 - f. In the event of a waiver, the date the waiver is issued by the Pest Management Committee.
3. Such notices shall remain in place for the duration of the acute toxicity of the pesticide, shall advise of the date of safe reentry as is specified in the manufacturer's label accompanying the pesticide and shall be removed within five days thereafter.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.10. Recordkeeping.

If a waiver is granted pursuant to section 690.07, the applicant for such a waiver shall file a report within 30 days of the pesticide use with the Pest Management Committee detailing the reasons why the waiver was needed, the details of when and how the application was made, and the steps to be taken to address the underlying cause of the pest problem.

Detailed records of all pesticide applications, including exemptions, shall be kept by all county departments and agencies for a period of at least three years on pest control programs. Such records shall detail the type, date and location of the use of pesticides, and all department heads shall report quarterly on forms prescribed by the Pest Management Committee to the Pest Management Committee.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.11. Implementation plans.

County departments responsible for pest management shall prepare an annual implementation plan.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)

Sec. 690.12. 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.

(Added by L.L. No. 16-1995; amended by L.L. No. 17-2000)