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## Chapter 14.28

### RESTRICTED LAWN CARE PESTICIDES Revised 9/13

#### Sections:

- 14.28.010 Declaration of policy.
- 14.28.020 Definitions.
- 14.28.030 Outreach and education.
- 14.28.040 Register of restricted pesticides.
- 14.28.050 Prohibited applications.
- 14.28.060 Exceptions.
- 14.28.070 Waiver.
- 14.28.080 Administration.

#### **14.28.010 Declaration of policy.**

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The application of certain pesticides, including the use of certain pesticides approved for use by the Federal, State, or County governments, in manners and by persons allowed by those governments to apply them, nonetheless present an unacceptable risk of harm to public and animal health, the environment, and the region's watershed.

The City of Takoma Park prioritizes education of property owners and the businesses that serve them on the demonstrated and potential dangers posed by the use of certain pesticides for lawn care purposes, and on alternative, effective, safe means of promoting healthy lawns.

Education is important, but education alone is insufficient to protect the health of Takoma Park residents and visitors and the integrity of our environment and the region's watershed from the harm posed by the use of certain pesticides for the purposes of maintaining the cosmetic appearance of lawns. Certain pesticides are harmless to humans and non-pest species, and certain applications of potentially harmful pesticides may be justified by the need to eradicate invasive species and restore the environment. However, the desire to control purported pests such as clover, grubs, and black spot to maintain a homogenous lawn does not merit the use of harmful pesticides.

This chapter accordingly establishes public education requirements and phases in restrictions on the use of harmful pesticides for lawn care on public and private property within the City. It establishes an administrative framework for the implementation of educational steps, restrictions, and enforcement. (Ord. 2013-28 § 1, 2013)

#### **14.28.020 Definitions.**

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As used in this chapter:

"Commercial pesticide applicator" means any person that performs pesticide application for hire.

"Infestation" means the presence of a pest in numbers or quantities large enough to be harmful.

"Lawn" means an area of grass or other vegetation of at least 25 square feet that is kept mowed.

“Pest” means any undesirable insect, animal, plant, fungi, bacteria, virus, or microorganism.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, including insecticides, herbicides, and fungicides.

“Restricted pesticide” means a pesticide identified in the register of restricted pesticides developed under Section 14.28.040. (Ord. 2013-28 § 1, 2013)

#### **14.28.030 Outreach and education.**

A. The City shall identify or prepare, and then periodically disseminate, materials designed to educate the community about the role of pesticides in our local environment, compliance with restrictions imposed by the **Safe Grow** Act, and earth-friendly practices and alternatives to the use of harmful pesticides.

1. Education may take the form of pamphlets and brochures, whether produced and distributed on paper or electronically, and classes and seminars, involving City staff, non-City governmental agencies, community and advocacy groups, and other resources.
2. Materials shall include information about and links to the U.S. Environmental Protection Agency’s list of minimum risk pesticides. The City Manager shall publish the EPA’s list of minimum risk pesticides on or before March 1st of each year and ensure that the publication reflects any changes to the EPA’s list during the preceding 12 months.

B. The City Manager shall publish notice of this chapter and a list of restricted pesticides and alternative, less environmentally damaging, products and cultural practices or methods of pest control and provide periodic notice regarding this chapter to local lawn and garden retailers and contractors, and businesses, churches, schools, and other institutions located in the City, upon adoption of administrative regulations pursuant to Section 14.28.080 and subsequently every two years or more frequently. (Ord. 2013-28 § 1, 2013)

#### **14.28.040 Register of restricted pesticides.**

A. The City Manager shall create and issue, by March 1, 2014, a register of restricted pesticides.

1. The register shall identify restricted pesticides.
2. Persons applying pesticide products are responsible for determining whether the product contains a restricted pesticide.

B. The register of restricted pesticides shall include the following pesticides:

1. Any pesticide classified as “Carcinogenic to Humans” or “Likely to Be Carcinogenic to Humans” by the U.S. Environmental Protection Agency;
2. Any pesticide classified by the U.S. Environmental Protection Agency as a “Restricted Use Product”;
3. Any pesticide classified as a “Class 9” pesticide by the Ontario, Canada, Ministry of the Environment; and

4. Any pesticide classified as a “Category 1 Endocrine Disruptor” by the European Commission.

C. The City Manager shall publish an updated version of the register of restricted pesticides that reflects any changes to the classifications in subsection (B) of this section on or before March 1st of each year that will remain in effect for one year. (Ord. 2013-28 § 1, 2013)

#### **14.28.050 Prohibited applications.**

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A. Use by City Agents and Employees. City agents or employees shall not use restricted pesticides for lawn care in the performance of their duties unless the City Manager determines, after considering the pertinent criteria developed for waiver decisions pursuant to Section 14.28.070, that the restricted use of a pesticide is necessary to promote the public interest.

B. Use by Other Government Entities. The City of Takoma Park shall inform governmental entities that own or control land within the City of its policy regarding restricted pesticides and encourage voluntary compliance with the pesticide use restrictions and notice requirements.

C. Use on Private Property and Public Rights-of-Way.

1. Commercial Pesticide Applicators.

- a. Commencing March 1, 2014, it shall be illegal for a commercial pesticide applicator to apply restricted pesticides for lawn care purposes on private property or public rights-of-way in the City.

- b. Commencing March 1, 2014, a commercial pesticide applicator applying a pesticide for lawn care purposes must post a written notice, readable and visible from the public right-of-way at the point closest to the area of application, providing information as specified in administrative regulations. The notice shall remain in place for at least two days following application.

- c. Penalties.

- i. From March 1, 2014, through June 30, 2014, the City shall issue a written warning to a commercial pesticide applicator that violates subsection (C)(1)(a) or (b) of this section.

- ii. Commencing July 1, 2014, each prohibited application of a restricted pesticide for lawn care purposes is a violation and shall be a Class D municipal infraction for the initial offense and shall be a Class B municipal infraction for the second offense. The third and any subsequent offenses shall be repeat Class B offenses.

- iii. Commencing July 1, 2014, failure to post and maintain the written notice required under subsection (C)(1)(b) of this section is a violation and shall be a Class G municipal infraction.

2. Property Owners and Tenants.

- a. After July 1, 2014, the City shall distribute educational materials developed under Section 14.28.030 to all landlords, single-family homes, duplexes, and townhouses in the City.

- b. Commencing January 1, 2015, it shall be illegal for a property owner or tenant to apply

restricted pesticides for lawn care purposes on private property or public rights-of-way in the City.

c. Commencing January 1, 2015, a property owner or tenant applying a pesticide for lawn care purposes must post written notice. The notice shall be readable and visible from the public right-of-way at the point closest to the area of application, providing information as specified in administrative regulations. The property owner or tenant shall maintain the notice for at least two days following application.

d. Penalties.

i. From January 1, 2015, to June 30, 2015, the City shall issue a written warning to a property owner or tenant that violates the pesticide application restrictions and posting requirements of subsections (C)(2)(b) and (c) of this section.

ii. Commencing July 1, 2015, each prohibited application of a restricted pesticide for lawn care purposes is a violation and shall be a Class D municipal infraction for an initial offense and shall be a Class B municipal infraction for the second offense. The third and any subsequent offenses shall be repeat Class B offenses.

iii. Commencing July 1, 2015, failure to post and maintain a written notice as required by subsection (C)(2)(c) of this section is a violation and shall be a Class G municipal infraction. (Ord. 2013-28 § 1, 2013)

#### **14.28.060 Exceptions.**

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A. The City encourages the use of cultural, physical, biological, and mechanical methods of pest control, instead of restricted pesticide use, but this chapter does not prohibit the use of restricted pesticides for the purposes set forth in subsection (C) of this section.

B. Any person using a restricted pesticide for lawn care purposes pursuant to an exception set forth below must post a written notice readable and visible from the public right-of-way at the point closest to the area of application that states the address of the pesticide application, substance applied, and date of application, and the exception under which the pesticide is being applied. The property owner or tenant shall maintain the notice for at least two days following application.

C. Restricted pesticides may be applied for the following purposes:

1. Noxious Growths. The control of plants identified in Section 12.08.040, Noxious growths, including poison ivy (*Rhus radicans* or *Toxicodendron radicans*), poison oak (*Rhus toxicodendron* or *Toxicodendron quercifolium*), poison sumac (*Rhus vernix* or *Toxicodendron vernix*), ragweed (*Ambrosia artemisiifolia*), bamboo, kudzu-vine (*Pueraria lobata*), non-native honeysuckle, wisteria, and multiflora rose (*Rosa multiflora*).

2. Noxious Weeds. The control of noxious weeds as defined in Section 9-401 of the Agriculture Article of the Maryland Code, including thistles belonging to the asteraceae or compositae family, such as Canada, musk, nodding, plumeless, and bull thistle, johnsongrass (*Sorghum halepense*) or hybrids that contain johnsongrass as a parent, and shatter cane and wild cane (*Sorghum bicolor*).

3. Invasive Species. The control of invasive species that may be detrimental to the environment, in accordance with a license issued by the City of Takoma Park or Montgomery County.
4. Mandatory Applications. Use of pesticides mandated by State or Federal law.
5. Health and Safety. The control of insects that are venomous or disease carrying. (Ord. 2013-28 § 1, 2013)

#### **14.28.070 Waiver.**

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A. Persons that have exhausted all reasonable alternatives to the use of restricted pesticides for lawn care may request a waiver from the City Manager allowing the use of one or more of the restricted pesticides under this chapter. In deciding waiver requests, the City Manager shall balance the need for the use of restricted pesticides against the risks of such use.

B. Posting Requirements. Persons granted a waiver must post a written notice readable and visible from the public right-of-way at the point closest to the area of application, providing information specified in administration regulations. The property owner or tenant shall maintain the notice for at least two days following application. (Ord. 2013-28 § 1, 2013)

#### **14.28.080 Administration.**

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A. The City Manager shall promulgate regulations for the implementation and enforcement of this chapter. The regulations shall include the following:

1. Procedures and criteria for notices; and
2. Procedures and criteria for waiver applications.

B. The City Manager may recommend to the Council one or more methods of assessing the effectiveness of this chapter, which may include the development of metrics on volume and types of use of pesticides in the City or testing of local waters for pesticide contamination. (Ord. 2013-28 § 1, 2013)

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**The Takoma Park Municipal Code is current through Ordinance 2013-36, passed July 22, 2013.**

Disclaimer: The City Clerk's Office has the official version of the Takoma Park Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.