

## **LOCAL LAW 3 OF 2022**

### **LOCAL LAW 3 OF 2022 OF THE CITY OF KINGSTON, NEW YORK, AUTHORIZING THE NON-TOXIC LANDSCAPE MAINTENANCE ACT OF 2022, REQUIRING NON-TOXIC LANDSCAPE MAINTENANCE ALL LAND OWNED OR LEASED BY THE CITY OF KINGSTON, WITH EXCEPTIONS AND WAIVERS IN APPROPRIATE CIRCUMSTANCES**

Sponsored By:

Laws & Rules Committee: Alderman Worthington,  
Scott-Childress, Frankel, Olivieri, Hill

#### **SECTION 1. LOCAL LAW 3 OF 2022**

This law shall be known as “The City of Kingston Non-Toxic Landscape Maintenance Act.”

#### **SECTION 2. DEFINITIONS.**

For the purpose of this local law the following are defined as follows:

“Natural, Non-Toxic, Least Toxic or Biological Pesticide” shall mean a pesticide that is a naturally occurring substance or microorganism that controls pests in a non-toxic manner, or, if approved by the Conservation Advisory Council, the least toxic method possible.

“Integrated Pest Management” shall mean technique for agricultural disease and pest control in which as many pest control methods as possible are used in an ecologically harmonious manner to keep infestation within manageable limits.

“Non-toxic Pest Management (“NPM”)” shall mean a problem-solving strategy that prioritizes a natural, non-toxic approach to turf grass and landscape management without the use of toxic and synthetic pesticides. It mandates the use of natural, non-toxic, or, as a last resort with the Conservation Advisory Council approval, least toxic cultural practices that promote healthy soil and plant life as a preventative measure against the onset of turf and landscape pest problems.

Essential NPM practices include, but are not limited to:

- regular soil testing;
- addition of approved soil amendments as necessitated by soil test results, following, but not limited to, the recommendations of the Northeast Organic Farmers' Association (NOFA) New York Chapter's Organic Land Care Program as listed in [NOFA's Standards for Organic Land Care](#)<sup>1</sup> guidance documents and/or the [USDA National Organics Program](#)<sup>2</sup> and any updates thereof;
- selection of plantings using criteria of hardiness; suitability to native conditions; drought, disease and pest-resistance; and ease of maintenance;
- using, with the Conservation Advisory Council approval, the least toxic organic, or nontoxic non-organic, products as some organic products are toxic;
- modification of outdoor management practices to comply with organic horticultural science, including scouting, monitoring, watering, mowing, pruning, proper spacing, and mulching;
- the use of physical controls, including hand-weeding and over-seeding;
- the use of biological controls, including the introduction of natural predators, and
- enhancement of the environment of a pest's natural enemies;
- through observation, determining the most effective treatment time, based on pest biology and other variables, such as weather and local conditions; and
- eliminating pest habitats and conditions supportive of pest population increases.

"Pest" shall mean (1) any insect, rodent, fungus, weed or (2) any other form of terrestrial or aquatic or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms ordinarily present on or in humans or living animals) which the commissioner of the New York State Department of Environmental Conservation declares to be a pest.

"Pesticide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliator or desiccant. It shall include all pesticide products registered as such 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 provisional registrations have been granted by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation.

---

“Sidewalk” shall mean the portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for use of pedestrians.

“Toxic” shall mean any substance that is harmful to human health and the environment. It is recognized that, by their very nature, pesticides and herbicides are toxic to those pests they are designed to eliminate. The concern of this local law is to limit pesticides’ toxicity to humans and environmental assets including, but not limited to, water quality, soil quality, and air quality, while preventing pests from multiplying and thereby endangering such protected entities. A pesticides’ relative toxicity to humans, water, soil, and air, shall be the standard that should govern the determination as to which pesticides should be utilized.

### **SECTION 3. LEGISLATIVE INTENT.**

The City of Kingston agrees with the determination of the U.S. Environmental Protection Agency (EPA) that “all pesticides are toxic to some degree..., and the commonplace, widespread use of pesticides is both a major environmental problem and a public health issue.”

The City of Kingston recognizes that all residents, particularly children, as well as other inhabitants of our natural environment, have a right to protection from exposure to hazardous chemicals and pesticides in particular.

The City of Kingston recognizes that a balanced and healthy ecosystem is vital to the health of the town and its citizens; and as such is also in need of protection from exposure to hazardous chemicals and pesticides, in particular.

Furthermore, per § 358-10B(1) of the City of Kingston municipal code: “*Sidewalk Standards, Maintenance, Cleaning of Sidewalks*” the City of Kingston recognizes that it shall be the duty of any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks to maintain the sidewalks in front of such respective land “...free from all obstructions, including overgrown vegetation, accumulations of dirt, and from all matter and substances which will obstruct the same or make the same unsafe for pedestrians.”

Therefore, the City of Kingston seeks to implement non-toxic pest management (NPM) on City-owned and leased lands, and City sidewalks.

## **SECTION 4. DECLARATION OF PHILOSOPHY AND PRINCIPLES.**

The City of Kingston hereby adopts the precautionary principle (as defined by the Wingspread statement) as the basis for its non-toxic pest management (NPM) policy. The precautionary principle states:

“When an activity raises threats of harm to the environment or human health, precautionary measures should be taken, even if some cause and effect relationships are not yet fully established.”

## **SECTION 5. ENACTMENTS.**

**BE IT HEREBY RESOLVED**, the City of Kingston hereby adopts an NPM policy that mandates the following on all properties where the City and/or any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks is responsible to maintain the area of concern, including lawns, grassy areas, and sidewalks:

1. that the use and application of toxic chemical pesticides, either by City of Kingston employees or by private contractors, for the purpose of turf and landscape maintenance, is prohibited on all lands maintained by the City of Kingston;
2. that the use and application of toxic chemical pesticides by, or at the behest of, any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks is prohibited;
2. that, if toxic products must be used, based upon a waiver or exemption, then natural, least toxic turf and landscape cultural practices and maintenance shall be the method of choice to understand, prevent, and control potential pest problems;
3. that all control products used under the terms of this policy shall be in keeping with, but not limited to, those products on the approved list of the Northeast Organic Farming Association of New York or approved by the Conservation Advisory Council;
4. that City of Kingston employees who work with turf grass and the landscape receive education and training in natural, least toxic turf and landscape management to be coordinated by the Conservation Advisory Council, if, in its opinion and discretion, such training is necessary;
5. that a listing of all lands affected by this policy be made available to the public by posting a list on the City website.

**BE IT HEREBY RESOLVED** that Section § 358-10B of the City of Kingston municipal code: “Sidewalk Standards; Maintenance; Cleaning of Sidewalks” be amended to include the following under Subsection (6):

6. Each and every owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks is responsible to comply with Local Law No. XXXX Of 2022 *The City of Kingston Non-Toxic Landscape Maintenance Act*, a local law requiring non-toxic landscape maintenance on land owned or leased by the City of Kingston, with exceptions and waivers in appropriate circumstances.

## **SECTION 6. NON-COMPLIANCE**

Non-compliance to any clause, sentence, paragraph, subdivision, section or part of this local law shall be met with penalties in the order of \$25 for first offense, \$50 for second offense, and \$100 for third offense and beyond.

**BE IT HEREBY RESOLVED** that Section § 358-11 "Penalties for Offenses" of the City of Kingston municipal code, Subsection B be amended to include the following under Subsection (D).

- D. Non-compliance to any clause, sentence, paragraph, subdivision, section or part of Local Law No. XXXX Of 2022 *The City of Kingston Non-Toxic Landscape Maintenance Act*, a local law requiring non-toxic landscape maintenance on land owned or leased by the City of Kingston, with exceptions and waivers in appropriate circumstances, shall be met with penalties in the order of \$25 for first offense, \$50 for second offense, and \$100 for third offense and beyond.

## **SECTION 7. EXEMPTIONS.**

All turf and landscape pest management activities taking place on land maintained by the City of Kingston and/or City sidewalks shall be subject to this local law, except as follows:

1. Pesticides or classes of pesticides classified by the United States environmental protection agency as not requiring regulation under the federal insecticide, fungicide and rodenticide act under 40 CFR § 152.25, and therefore exempt from such regulation when intended for use, and used only in the manner specified.
2. Biological pesticides, such as bacillus thuringiensis or milky spore that are not genetically modified.
3. Pesticides in contained baits for the purpose of rodent control.
4. Control of poison ivy and poison oak that constitutes a health hazard.
5. Control of ticks.
6. Any property, or categories of properties, as recommended from time to time by the Conservation Advisory Council and approved by the Mayor of the City of Kingston.

## **SECTION 8. WAIVERS.**

1. Any City agency, contractor, and/or any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks may apply to the Conservation Advisory Council for a single-use waiver of the restrictions established pursuant to this local law. Such application shall be in a form and manner prescribed by the Conservation Advisory Council and shall contain such information as the committee deems reasonable and necessary to determine whether such waiver should be granted. The Conservation Advisory Council may grant such waivers by a majority vote of the voting membership, not merely a majority of those present and voting. In

determining whether to grant or deny a request for a waiver, the Conservation Advisory Council shall consider

- (i) the magnitude of the infestation,
- (ii) whether the pest situation poses an immediate threat to public health, property, or the environment
- (iii) the availability of effective alternatives consistent with this local law, and
- (iv) (iv) the likelihood of exposure of humans to the pesticide.

No waiver shall be approved unless the following conditions have been met:

- (i) Any pesticide used of all available choices must have the least acute and chronic toxic effect on human health or safety; and,
- (ii) The applicant must submit a plan demonstrating how underlying causes of the pest outbreak will be addressed in a manner consistent with this local law to prevent future outbreaks.

2. If a pest situation poses an immediate threat to human health and warrants the use of pesticides that would otherwise not be permitted under this local law, the Mayor shall have the authority to grant a temporary emergency waiver for a period of thirty days. Notice of the waiver request shall be given to the Conservation Advisory Council for advice on resolving the problem without the use of pesticides.

3. All waivers may be extended for one additional period not to exceed six months at the discretion of a majority vote by the voting membership of the Conservation Advisory Council and/or the Mayor of the City of Kingston. Nothing in this waiver provision prohibits the City of Kingston from adopting additional waivers via resolution for as long as the condition exists.

4. Any City Department, and/or any owner or owners, and/or occupant or occupants of land abutting any City street upon which there are City sidewalks, and or/any persons performing services for such entities using a pesticide under such a waiver must comply with all applicable federal and state laws regarding pesticide use and the Ulster County pesticide neighbor notification law.

## **9. SEVERABILITY.**

If any clause, sentence, paragraph, subdivision, section or part of this local 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, effect 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 10. EFFECTIVE DATE.**

This local law shall take effect immediately upon filing with the New York State Secretary of State.

Adopted by the City of Kingston Common Council: December 6, 2022

Submitted to the Mayor this \_\_\_\_ day of  
\_\_\_\_\_, 2022

Approved by the Mayor this \_\_\_\_ day of  
\_\_\_\_\_, 2022

\_\_\_\_\_  
Elisa Tinti, City Clerk

\_\_\_\_\_  
Steven T. Noble, Mayor

Adopted by Council on \_\_\_\_\_, 2022

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES  
COMMITTEE REPORT

DEPARTMENT: Parks and Recreation DATE: 9/27/2022  
10/19/2022

Description

Legislation to prohibit the use of toxic pesticides and herbicides on municipal property ~~and city sidewalks, in the City of Kingston.~~

*Consistent with CC Current Policy.*

Signature: John L Noble

Motion by CF

Seconded by MO

Action Required: \_\_\_\_\_

SEQRA Decision:

Type I Action \_\_\_\_\_

Type II Action \_\_\_\_\_

Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
<i>Rita Worthington</i> Rita Worthington, Ward 4, Chairman	✓	
<i>Barbara Hill</i> Barbara Hill, Ward 1	✓	
<i>Carl Frankel</i> Carl Frankel, Ward 2	✓	
<i>Rennie Scott-Childress</i> Rennie Scott-Childress, Ward 3	✓	
<i>Michael Olivieri</i> Michael Olivieri, Ward 7		✓



**THE CITY OF KINGSTON COMMON COUNCIL**

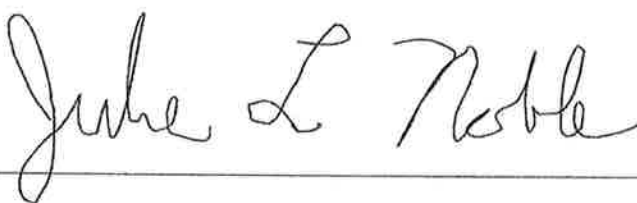
**LAWS & RULES  
COMMITTEE REPORT**

DEPARTMENT: Parks and Recreation

DATE: 9/27/2022

**Description**

Legislation to prohibit the use of toxic pesticides and herbicides on municipal property and city sidewalks, in the City of Kingston.

Signature: 

Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

Action Required:

SEQRA Decision:

Type I Action \_\_\_\_\_

Type II Action \_\_\_\_\_

Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Rita Worthington, Ward 4, Chairman		
Barbara Hill, Ward 1		
Carl Frankel, Ward 2		
Rennie Scott-Childress, Ward 3		
Michael Olivieri, Ward 7		

2

L+R

**City of Kingston**  
**Parks and Recreation Department**  
*ltimbrouck@kingston-ny.gov*

Steven T. Noble, Mayor



Lynsey Timbrouck, Director

September 27, 2022

Honorable Andrea Shaut  
President/Alderman- at-Large  
Kingston Common Council  
420 Broadway  
Kingston, NY 12401

Re: Non-Toxic Landscape Maintenance Plan

Dear President Shaut,

This is a request for placement on the agenda of the next appropriate committee to discuss the adoption of the City of Kingston Non-Toxic Landscape Maintenance Act as a proposed Local Law.

The draft Local Law, attached, is based exactly on Ulster County Local Law No. 4 of 2009, with this proposal pertaining to the City of Kingston, our jurisdiction. The premise of the Local Law is to prohibit the use of toxic pesticides and herbicides on City owned and leased properties. This Local Law outlines the definitions, intent, enactments, non-compliance, exemptions, waivers, and the designation of the Kingston Conservation Advisory Council as the review and approving body.

This Law deviates from the County law in only one facet, in that it goes further to include the scope of City sidewalks in the areas affected. As a ramification of this, the drafted law also then includes a non-compliance fee, as the Kingston law would then be applicable to not only city operations but also homeowners specifically for sidewalks only and thus a non-compliance fee could be issued.

The Kingston CAC has reviewed the legislation over several months and has provided concrete input into its development. Additionally, at the September 13<sup>th</sup> meeting of the Kingston CAC, the Council adopted a resolution in favor of the legislation and in agreement to serve as the approving body mentioned therein.

I have also reviewed this legislation with the Deputy Superintendent of DPW, who also provided input.

As this request is for legislation for a Local Law which also includes a fee schedule, please consider whether this will need to go before both Laws and Rules and Finance.

Thank you for your consideration. I look forward to speaking on behalf of this legislation.

Sincerely,

Julie L. Noble

Environmental Education and Sustainability Coordinator

Cc: Lynsey Timbrouck, John Tuey, Elisa Tinti, Reynolds Scott-Childress, Rita Worthington, Emilie Hauser, Ed Norman, Ryan Coon, Barbara Graves-Poller