

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2007 - 26

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4
5 AN ORDINANCE

6 AMENDING ARTICLE 10-7 SFCC 1987; REPEALING THE INTEGRATED PEST
7 MANAGEMENT BOARD AS DIRECTED BY THE GOVERNING BODY THROUGH
8 RESOLUTION NO. 2007-33; AND MAKING SUCH OTHER CHANGES AS ARE
9 NECESSARY.

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11 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

12 Section 1. Section 10-7.4 SFCC 1987 (being Ord. #2001-10, §4) is amended to
13 read:

14 10-7.4 Definitions. Whenever used in this section, the following terms shall
15 have the meanings set forth below.

16 *Antimicrobial agent* means any substance or mixture of substances intended for inhibiting
17 the growth of, or destroying any bacteria, fungi, viruses, or other microorganism pathogenic to
18 humans and other animals other than those in or on other living organisms. These agents include
19 disinfectants, sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to inanimate
20 surfaces and used in swimming pools.

21 *City integrated pest management coordinator* means the integrated pest management
22 coordinator designated in subsection 10-7.15 to implement the city IPM policy as set forth in
23 subsections 10-7.2 through 10-7.12 of this section, herein referred to as the IPM coordinator.

24 *Contractor* means a person, firm, corporation or other entity, including a governmental
25 entity, that enters into a professional services agreement with the city to apply pesticides or

1 perform other pest management activities on property that is owned, controlled or operated by the
2 city.

3 *Department director* means the director of the department designated by the city manager
4 to administer the integrated pest management program.

5 *Division director* means the director of the division designated by the city manager to
6 administer the integrated pest management program.

7 *Emergency* means any unforeseen combination of circumstances or a resulting state that
8 calls for an immediate action such as major economic impact over one thousand dollars (\$1000).

9 *Integrated pest management* means a decision-making process for managing pests that
10 uses monitoring to determine pest injury levels and primarily uses cultural, mechanical, physical,
11 and biological tools to minimize health, environmental, and financial risks. The method uses
12 extensive knowledge about pests, such as infestation thresholds, life histories, environmental
13 requirements and natural enemies to complement and facilitate biological and other natural
14 control of pests. The method uses the least toxic synthetic pesticides only as a last resort to
15 manage pests.

16 *Lease agreement* means a binding written agreement, including but not limited to a
17 contract, lease, permit, license or easement between a person, firm, corporation or other entity,
18 including a governmental entity, and the city, which grants a right to use or occupy property of
19 the city of Santa Fe for a specified purpose or purposes.

20 *Lessee* means a person, firm, corporation or other entity, including a government entity
21 that enters into a lease agreement with the city as lessor.

22 *Pest* means any living organism except humans and viruses, bacteria or other
23 microorganisms that reside in or on other living non-plant organisms which are injurious to other
24 living organisms or property. Pests may include but are not limited to insects, weeds, rodents and
25 fungi.

1 *Pesticide* means any substance or mixture of substances intended for preventing,
2 destroying, repelling or mitigating any pest as defined in Section 76-4-3 of the New Mexico
3 Pesticide Control Act. The term pesticide includes, but is not limited to, herbicide, insecticide,
4 fungicide, and rodenticide.

5 *Toxicity Category I Pesticide Product* means any pesticide product that meets United
6 States Environmental Protection Agency criteria for Toxicity Category I under Section 156.10 of
7 Part 156 of Title 40 of the Code of Federal Regulations. These products have the toxicity signal
8 word "Danger" on the label.

9 ~~*Toxicity Category II Pesticide Product* means any pesticide product that meets United~~
10 States Environmental Protection Agency criteria for Toxicity Category II under Section 156.10 of
11 Part 156 of Title 40 of the Code of Federal Regulations. These products have the toxicity signal
12 word "Warning" on the label.

13 **Section 2. Section 10-7.7 SFCC 1987 (being Ord. #2001-10, §7) is amended to**
14 **read:**

15 **10-7.7 Notice of Pesticide Use.**

16 A. Within thirty (30) days of the effective date of this section, the city shall comply
17 with the following notification procedures, unless the pesticide is an antimicrobial agent or is
18 exempted from this requirement pursuant to paragraphs C. through E. hereof.

19 (1) Signs shall be posted at least one day before application of the pesticide
20 product and remain posted at least five but no longer than seven days after application of
21 the pesticide.

22 (2) Signs shall be posted at every entry point where pesticide is applied if the
23 pesticide is applied in an enclosed area and in highly visible locations around the
24 perimeter of the area where pesticide is applied if the pesticide is applied in an open area.

25 (3) Signs shall be of a standardized design that is readily visible and easily

1 recognizable, readable, and understandable to the public and workers.

2 (4) Signs shall be orange, wholly or in part, with black lettering and contain
3 the signal word "caution/precaution" unless otherwise specified by the city safety
4 director.

5 (5) Signs shall contain the name and active ingredient of the pesticide
6 product, the target pest, the date and time of pesticide application, the phone number of
7 the IPM coordinator, and the hotline phone number as set forth in paragraph B. herein.

8 B. Within thirty (30) days of the effective date of this section, the IPM coordinator
9 shall develop and maintain a twenty-four (24) hour pesticide hotline to inform the public about
10 the city's pesticide applications, with the exception of applications of antimicrobial agents and
11 pesticides exempted according to paragraphs C. through E. hereof. The following information
12 shall be readily available by calling the hotline and shall include for any pesticide that will be
13 applied within the next three days, unless exempted by paragraph E. hereof, or has been applied
14 within the last ten days:

15 (1) A description of the area of the pesticide application with sufficient
16 specificity to reasonably assure the identification of the intended area of pesticide
17 application or the area which has been treated,

18 (2) Name and active ingredient of the pesticide product,

19 (3) The target pest,

20 (4) The date and time of pesticide application,

21 (5) The name and phone number of the IPM coordinator.

22 Information about the pesticide hotline number shall be posted in public locations in city
23 buildings, listed in the phone book, and advertised with other city telephone numbers.

24 C. The department director and/or division director may grant exemptions from or
25 modifications of the signage and hotline notification requirements on a case-by-case basis or

1 authorize alternative or no requirements for notification of the use of certain pesticides used in
2 specific types of circumstances, upon a finding that a good cause exists to allow an exemption to
3 be made. The city may use modified notification requirements if the department director and/or
4 division director has previously granted such an exemption or modification for the specific
5 product and circumstances of the pesticide application. If the department director and/or division
6 director has not previously granted such an exemption or modification, the IPM coordinator or
7 other city staff may request one from the department director and/or division director. The request
8 shall include the identification of the specific situations in which it is not possible or practical to
9 comply with the notification requirements and propose alternative notification procedures. The
10 department director and/or division director shall decide whether to deny the request, grant an
11 exemption, or approve alternative notification procedures. Exemptions or modifications are in
12 effect until rescinded by the department director and/or division director.

13 D. The department director and/or division director may approve under paragraph C.
14 herein that permanent signs be posted for the regular application of contained baits or other least
15 toxic pesticides. Posting of signs may be required:

16 (1) In each building or city-owned bus or other vehicle where certain
17 pesticides are used, stored, or transported,

18 (2) At the main office or a similar location where the public obtains
19 information regarding the building or vehicle,

20 (3) When such pesticides are used outdoors to control rodents and other
21 pests, in a conspicuous location outside of the area where they are used.

22 The sign may be required to indicate the name and active ingredient of the pesticides
23 used outdoors or in and around the building or vehicle, the target pests, the area or areas where
24 the pesticides are commonly placed or applied, and the phone number of the IPM coordinator.

25 E. In the event of a public health emergency, to comply with worker safety,

1 economic requirements, or to take advantage of a vulnerable time in a pest's life cycle, the IPM
2 coordinator may authorize the application of a pesticide without providing a one-day advance
3 notification. Signs meeting the requirements of paragraph A. herein or otherwise established by
4 the department director and/or division director for that pesticide according to paragraph C. and
5 D. shall be posted at the time of application and remain posted for at least five but no longer than
6 seven days following the application.

7 **Section 3. Section 10-7.8 SFCC 1987 (being Ord. #2001-10, §8) is amended to**
8 **read:**

9 **10-7.8 Implementation of City Integrated Pest Management Policy.**

10 A. Within six months of the effective date of this section, the IPM coordinator shall
11 have a plan for implementing the city integrated pest management (IPM) policy pursuant to
12 subsection 10-7.3. The IPM coordinator shall provide periodic IPM plan updates. The IPM
13 implementation plans and periodic updates shall be consistent with the requirements of this
14 section and any guidelines developed by the department director and/or division director pursuant
15 to this section.

16 B. The city IPM implementation plan shall outline the ways in which the city shall
17 comply with the city IPM policy pursuant to subsection 10-7.3. The city IPM implementation
18 plan shall include pesticide applications performed by commercial pesticide applicators at the
19 request of the IPM coordinator or other city staff.

20 C. The IPM coordinator, with the assistance of appropriate city staff, shall:

21 (1) Identify the types of pest problems that the city has;

22 (2) Identify to the maximum extent possible the types and quantities of
23 pesticides used by the city and for which pests each pesticide was used in the past three
24 years;

25 (3) Identify alternative pest management techniques or products that have

1 been used and for which pests they were used in the past three years or are proposed to be
2 used;

3 (4) Assess the efficacy and cost of pesticide use and alternative interventions
4 in the past three years and regularly assess thereafter;

5 D. The department director and/or division director may determine that a city's IPM
6 implementation plan is not in conformity with the city IPM policy. Upon a determination of
7 nonconformity, the IPM coordinator shall submit a revised plan within 30 days or in accordance
8 with a schedule otherwise specified by the department director and/or division director or submit
9 the plan to the governing body.

10 E. No later than six months of the effective date of this section and quarterly
11 thereafter, the IPM coordinator shall report to the department director and/or division director on
12 the status of the city's implementation of the city IPM policy. Such report shall include a
13 summary of emergency exemptions granted by the IPM coordinator during the reporting period.
14 The IPM coordinator shall provide an annual report to the governing body of the city of Santa Fe
15 on the status of city's program.

16 **Section 4. Section 10-7.10 SFCC 1987 (being Ord. #2001-10, §10) is amended to**
17 **read:**

18 **10-7.10 Exemptions.**

19 A. Improving and maintaining water quality. Notwithstanding any other provision of
20 this section, this section shall not apply to the use of any pesticide for the purpose of improving or
21 maintaining water quality at:

- 22 (1) Drinking water treatment plants;
- 23 (2) Wastewater treatment plants;
- 24 (3) Reservoirs; and
- 25 (4) Related collection, distribution and treatment facilities.

1 B Reduced-risk pesticide. The department director and/or division director may
2 exempt a reduced-risk pesticide from the ban imposed by subsections 10-7.5 or 10-7.6 upon a
3 finding that the reduced-risk pesticide is compatible with an ecologically sound and least toxic
4 IPM strategy. Decisions on whether or not to exempt a reduced risk pesticide will use the
5 following criteria:

- 6 (1) Need for control of the pest or vegetation,
- 7 (2) The potential hazard to human, animal, and environmental health of
8 using the pesticide,
- 9 (3) The effectiveness of the pesticide,
- 10 (4) Whether the use of the pesticide is consistent with IPM principles and
11 will contribute to long term least toxic pest control.

12 The department director and/or division director shall maintain a list of reduced-risk
13 pesticides granted an exemption pursuant to this subsection. The department director and/or
14 division director shall review the list annually and make necessary changes. The may review and
15 revise the list more frequently.

16 C. One-year exemptions. The IPM coordinator may request from the department
17 director and/or division director up to a one-year exemption from the pesticide ban imposed by
18 subsections 10-7.5 or 10-7.6 for use of a particular pesticide for a particular use. The department
19 director and/or division director may grant the one-year exemption upon a finding that the IPM
20 coordinator has:

- 21 (1) Made a documented good-faith effort to find alternatives to the banned
22 pesticide;
- 23 (2) Demonstrated that effective, economic alternatives to the banned
24 pesticide do not exist for the particular use; and
- 25 (3) Developed a reasonable plan for investigating alternatives to the banned

1 pesticide during the exemption period.

2 D. Limited use exemption. IPM coordinator may apply to the department director
3 and/or division director for a limited use exemption for a particular pesticide banned pursuant to
4 subsection 10-7.5 or subsection 10-7.6 and not covered by a one-year exemption. The department
5 director and/or division director may grant a limited-use exemption provided that the department
6 director and/or division director finds that the pesticide will be used for a specific and limited
7 purpose for a short and defined period and the IPM coordinator has identified a compelling need
8 to use the pesticide, has not yet found cost-effective alternatives, and has developed a reasonable
9 plan for continuing to investigate alternatives for future use.

10 E. Emergency exemption. In the event that a pest outbreak poses an immediate
11 threat to public or staff health or safety, major property damage or major damage to plant life,
12 city staff shall contact the IPM coordinator or his/her designee whenever possible. The IPM
13 coordinator or his/her designee shall respond to the emergency in a timely manner. The IPM
14 coordinator and other city staff shall give preference to managing emergency pest non-chemical
15 means or the use of approved pesticides. Should it be necessary, the IPM coordinator may grant
16 an emergency exemption for the use of pesticides banned pursuant to subsection 10-7.5 or
17 subsection 10-7.6. Signs meeting the requirements of paragraph A. of subsection 10-7.7 or
18 otherwise specified by the department director and/or division director for that pesticide
19 according to paragraphs C. and D. of subsection 10-7.7 shall be posted at the time of application
20 and remain posted for at least five but no longer than seven days following the application.
21 Information of an emergency pesticide application will also be posted on the pesticide hotline at
22 the time of application.

23 **Section 5. Section 10-7.11 SFCC 1987 (being Ord. #2001-10, §11) is**
24 **amended to read:**

25 **10-7.11 Lease Agreements.**

1 A When the city enters into a new lease agreement or extends the term of an
2 existing lease agreement, the lease agreement shall obligate the lessee to comply with provisions
3 of this subsection 10-7.11A:

4 (1) Effective upon the effective date of this ordinance, the lessee shall
5 comply with subsection 10-7.5 (Ban on Use of Toxicity Category I Pesticide Products);

6 (2) Effective thirty (30) days after the effective date of this subsection, the
7 lessee shall comply with subsection 10-7.7 (Notice of Pesticide Use) and identify the
8 lessee's IPM contact person;

9 (3) Effective thirty (30) days from the effective date of this section, the
10 lessee shall comply with subsections 10-7.6 A.; and

11 (4) A lessee or IPM coordinator on behalf of a lessee may apply for any
12 exemption authorized under subsection 10-7.10 or use any reduced-risk pesticide for
13 purposes approved by the department director and/or division director.

14 **Section 6. Section 10-7.12 SFCC 1987 (being Ord. #2001-10, §12) is amended to**
15 **read:**

16 **10-7.12 Pest Management Contracts.**

17 A. Effective thirty (30) days from the effective date of this section, when the city
18 enters into a new pest management contract or extends the term of an existing pest management
19 contract, the IPM coordinator shall submit an IPM implementation plan update to the department
20 director and/or division director that incorporates the proposed pesticide usage of the contractor
21 into the city department's implementation plan.

22 B. When the city enters into a new pest management contract or extends the term of
23 an existing contract, the contract shall obligate the contractor to comply with provisions of this
24 section 10-7.12B:

25 (1) Effective upon the effective date of this section, the contractor shall

1 comply with subsection 10-7.5 (Ban on Use of Toxicity Category I Pesticide Products);

2 (2) Effective thirty (30) days after the effective date of this section, the
3 contractor shall comply with subsection 10-7.7 (Notice of Pesticide Use);

4 (3) Effective thirty (30) days after the effective date of this section, the
5 contractor shall comply with subsection 10-7.6 A.

6 C. A contractor who is hired to apply pesticides or perform other pest management
7 activities, or city department, on behalf of a contractor, may apply for any exemption authorized
8 under subsection 10-7.10 or use any reduced-risk pesticide for purposes approved by the
9 department director and/or division director.

10 D. A contractor who is hired to apply pesticides or perform other pest management
11 activities shall have liability insurance in the amount required by the city of Santa Fe risk
12 management division.

13 **Section 7. [REPEAL.] Section 10-7.13 SFCC 1987 (being Ord. #2001-10,**
14 **§13) is repealed.**

15 **Section 8. [REPEAL.] Section 10-7.14 SFCC 1987 (being Ord. #2001-10,**
16 **§14) is repealed.**

17 **Section 9. Section 10-7.15 (being Ord. #2001-10, §15) is amended to read:**

18 **10-7.15 Designating a City Integrated Pest Management Coordinator.**

19 There is designated a city integrated pest management coordinator to fulfill the duties and
20 responsibilities as set forth in subsections 10-7.2 through 10-7.12 of this section, which will
21 include, but are not limited to the following:

22 A. Work with appropriate staff to help create, implement, and coordinate the city's
23 IPM plan;

24 B. Educate staff, contractors, businesses, other government entities, and the public
25 about IPM and the city's IPM policy;

1 C. Provide technical assistance on IPM to appropriate staff or arrange for the
2 provision of such assistance;

3 D. Maintain a database of the city IPM plan, pest problems, pesticides used, and
4 efficiency and costs of interventions;

5 E. Grant emergency exemptions to use banned pesticides or apply pesticides
6 without prior notification in the event that the exemption is required to protect the public or staff
7 health or safety, major property damage or major damage to plant life;

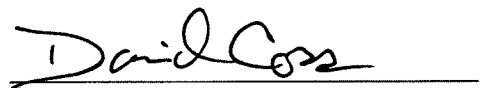
8 F. Provide at least a quarterly report to the department director and/or division
9 director on the status of the city's IPM policy, including a summary of emergency exemptions
10 granted by the IPM coordinator during the reporting period;

11 G. Assist capital improvements program division in developing criteria for new or
12 remodeled landscape and building designs which will minimize maintenance and pest
13 management requirements;

14 H. Determine the cost of maintaining the IPM program; and

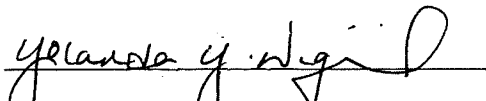
15 I. Submit an annual report to the governing body on the status of the city IPM
16 program.

17 **PASSED, APPROVED and ADOPTED this 25th day of July, 2007.**

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20 DAVID COSS, MAYOR

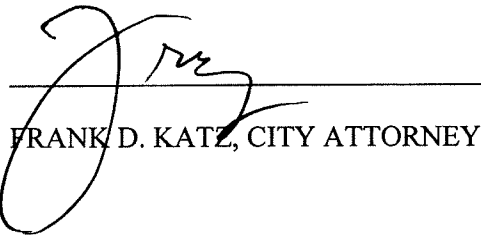
21 ATTEST:

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24 VOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:



FRANK D. KATZ, CITY ATTORNEY

mdb/N Ordinances/Integrated Pest Mgt. Bd.