

ORDINANCE NO. 3521

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF MARIN AMENDING CHAPTER 23.19 OF  
THE MARIN COUNTY CODE IN ITS ENTIRETY PERTAINING TO THE  
MARIN COUNTY INTEGRATED PEST MANAGEMENT PROGRAM

The Board of Supervisors of the County of Marin does hereby ordain as follows:

**SECTION I.**

Chapter 23.19 of the Marin County Code is hereby amended in its entirety, to read as follows:

Chapter 23.19

Sections:

|           |                                                                                   |
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23.19.100 PURPOSE AND FINDINGS

Whereas, the County of Marin recognizes there is an ongoing need to manage pests to protect public health and safety, wildlife, our environment and County assets; and

Whereas, the County of Marin recognizes that pesticides may be toxic and must be managed appropriately.

Therefore, it is the purpose and intent of this chapter to ensure that County Departments and all those who deal with these pest problems and apply pesticides to property owned, leased or managed by the County (per the Ordinance and IPM Policy):

- (1) Utilize Integrated Pest Management (IPM) practices;
- (2) The Board of Supervisor shall annually approve a list of pesticides allowed for use in the County based on criteria in this section and as outlined in the IPM Policy;
- (3) Eliminate Category I and II pesticide applications and restrict Category III and IV pesticide applications;
- (4) Eliminate pesticides which are classified by government agencies, as identified in the IPM Policy Section VII (B 1-6) as known, probable, or possible carcinogens,

- reproductive toxicants (teratogens, mutagens), endocrine disruptors, carbamates, organophosphates or ground water contaminants;
- (5) Take all reasonable measures to ensure that pest control activities do not threaten environmental, wildlife and human health;
  - (6) Expand our IPM and Best Management Practices with the goal of eliminating the use of pesticides.

#### 23.19.110 DEFINITIONS

- A. "Antimicrobial agent" means any substance or mixture of substances intended for prohibiting the growth of, or destroying, any bacteria, fungi pathogenic to humans or other animals, or viruses declared to be pests under the California Food and Agricultural Code Section 12754.5, except slime control agents, substances intended for use in or on humans or other animals, and use in or on processed food, beverages, or pharmaceuticals. Antimicrobial agents include, but are not limited to, disinfectants, sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to inanimate surfaces, and commodity preservatives and protectants applied to raw materials or manufactured products. Antimicrobial agents used as defined herein are exempt from this policy.
- B. "Best Management Practices" or "BMP" means actions based on current science and technology that have been proven to be effective in the control and management of the site or pests to prevent or reduce the incidence of pest problems, with careful consideration given to protect public health and safety, wildlife and the environment. Pest Specific Plans will be developed to address common and widely spread pests such as rodents, yellow jackets and cockroaches.
- C. "Best Management Practice Sheet" means a document that outlines employees' responsibilities for maintaining a pest free environment, identifies the Department's IPM Liaison, identifies pests likely to be encountered, indicates who to contact when pests are found and outlines immediate steps to mitigate the problem until pest management professionals arrive.
- D. "Board" means the Marin County Board of Supervisors and "Supervisor" means a member of the Board of Supervisors.
- E. "Contract" means a binding written agreement, including but not limited to a contract, lease, permit, license or easement, between a person, firm, corporation or other entity, including a governmental entity, and a County Department; which grants a right to use, lease or occupy property of the County of Marin for a specified purpose or purposes, or requires that the pesticides be applied.
- F. "Contractor" means a person, firm, or corporation or other entity, including a governmental entity that enters into a contract with the County of Marin; this may include pest management services.
- G. "County Department" means any department of the County of Marin and may include pesticide applicators hired by a County Department to apply pesticides on County property. County Department does not include any other local agency or any federal or state agency.

- H. "County Property" means property owned, leased or managed by the County of Marin.
- I. "Designee" means any person designated by a Department head to represent the Department as a member of the IPM Commission; these include Parks and Open Space, Public Works, and the position of the Marin County Public Health Officer (Health and Human Services).
- J. "Eco-Exempt" means pesticides designated by U.S. EPA as minimum risk pesticides by Federal Insecticide, Fungicide, Rodenticide Act Section 25(b) and California Code of Regulations Section 6147, or products approved for organic production systems by the National Organic Program.
- K. "Integrated Pest Management" or "IPM" means a decision-making, record-keeping process for managing pests that uses monitoring to determine pest injury levels, and combines biological, cultural, mechanical, physical, and chemical tools and other management practices to control pests in a safe, cost effective, and environmentally sound manner that contributes to the protection of public health and sustainability. This method uses extensive knowledge about pests, such as infestations, thresholds, life histories, environmental requirements, and natural enemies to complement and facilitate biological and other natural control of pests. The method involves the use of non-chemical pest control methods and the careful use of least-toxic chemical methods when non-chemical methods have been exhausted or are not feasible.
- L. "IPM Coordinator" means the designated agent or employee experienced in IPM field and office work and is responsible for IPM program coordination for the County of Marin.
- M. "IPM Liaison" means the person designated by the Department to facilitate application of the County's IPM Ordinance and Policy and to serve as the Department's IPM contact.
- N. "IPM Ordinance" means the County of Marin's Integrated Pest Management Ordinance which is to be followed in conjunction with the County of Marin's Integrated Pest Management Policy.
- O. "IPM Policy" means this Integrated Pest Management Policy which is to be followed in conjunction with the County of Marin's Integrated Pest Management Ordinance.
- P. "IPM Program Manager" means the person designated by the Department authorized to perform pest management, to work with the IPM Coordinator in the implementation and management of the IPM program within the Department.
- Q. "National Organic Program" or "NOP" means a U.S. Department of Agriculture organic accreditation program that outlines organic certification standards, including a list of allowed and prohibited substances for organic production and processing.

- R. "Organic Materials Research Institute" or "OMRI" means an organization that determines which input products are allowed for use in organic production and processing.
- S. "Pest" means any pest as defined in Section 12754.5 of Chapter 2 of Division 7 of the California Food and Agricultural Code. Pest includes any of the following that is or is liable to become, dangerous or detrimental to the public health or the agricultural or nonagricultural environment of the state:
- (1) Any insect, predatory animal, rodent, nematode or weed;
  - (2) Any form of terrestrial, aquatic, or aerial plant or animal, virus, fungus, bacteria or other microorganism (except viruses, fungi, bacteria or other microorganisms on or in living man or other living animals);
  - (3) Anything that the Secretary of the California Department of Food and Agriculture or the Director of Pesticide Regulation for the California Department of Food and Agriculture by regulation declares to be a pest.
- T. "Pest Control Adviser" or "PCA" means any person possessing a current pest control adviser license issued by the California Department of Pesticide Regulation. The PCA license is required for making pest control recommendations in the landscape setting.
- U. "Pest Control Operator" or "PCO" means any person possessing a current pest control operator license issued by the California Department of Pesticide Regulation. The PCO license is required when performing structural pest control.
- V. "Pest Specific Plan" means a written plan addressing the management and control of a particular pest. Components of Pest Specific Plans should include pest biology, impacts, pest thresholds, recommended treatments, monitoring frequency, cultural practices, and site modifications to prevent or reduce the incidence of pest problems, with careful consideration given to protect public health and safety, wildlife and the environment.
- W. "Pesticide" means pesticide as defined in Section 12753 of Chapter 2 of Division 7 of the California Food and Agricultural Code. Pesticide includes any of the following:
- (1) Any substance or combination of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling or mitigating any pest which may infest or be detrimental to vegetation, man, animals or households or be present in any agricultural or nonagricultural environment whatsoever;
  - (2) Any spray adjuvant.
- X. "Pesticide applicator" means any person or company hired by a County Department who applies pesticides, as defined in this section, to property owned, leased or managed by the County of Marin.
- Y. "Pesticide List" and "List of Pesticides" is used interchangeably.

- Z. "Request for Proposal" or "RFP" means an invitation for suppliers to submit a proposal on specific supplies or services. The Request process brings structure to the procurement decision. The RFP may dictate to varying degrees the exact structure and format of the supplier's response.
- AA. "Request for Qualification" or "RFQ" requires a contractor submitting a Request for Proposal to submit a summary of relevant pest management experience and pest management practices in order to ensure that the contractor's qualifications meet the standards set forth in the IPM Ordinance and Policy.
- BB. "Site Specific Pest Management Plan" means a written plan identifying the use and management of a particular location or location types to minimize pest impacts and the use of pesticides. Site plans describe the site characteristics and site-specific management needs to address pests. These include, but are not limited to, pest biology, economic thresholds, recommended treatments, monitoring frequency, cultural practices, and site modifications.
- CC. "Site Treatment History Sheet" means a document that records pesticide use or other treatment practices within and associated with County owned, managed or leased structures.
- DD. "Special Use Pesticides" means materials that do not meet the Ordinance criteria for use, but are considered critical to the protection of public health and safety, the environment, wildlife, or the preservation of County property.
- EE. "Toxicity Category I, II, III, IV product" means any pesticide, as defined in this section, meeting the appropriate toxicity categories and bearing on the front label panel the word Danger, Warning, or Caution, as specified in Section 156.10 of Title 40 of the Code of Federal Regulations.

#### 23.19.120 APPLICABILITY

The provisions of this Ordinance shall to the fullest extent possible apply to all County of Marin Departments and properties controlled by the County, including those that are leased, except for leases already in effect prior to the date of enactment of this Ordinance. All property managers will be provided with a copy of this Ordinance and a request to comply with posting requirements. In negotiating future leases, requests will be made for compliance with the IPM Ordinance and Policy. The County of Marin IPM Policy specifies how pest management will be performed on County properties, as well as outlining how pest management records are to be kept.

Notwithstanding any other provision of this chapter, this chapter shall not apply to the use of pesticides for the purpose of improving or maintaining water quality at drinking water treatment plants, wastewater treatment plants, reservoirs, and related collection, distribution, and treatment facilities.

Notwithstanding any other provision of this chapter, this chapter shall not apply to the use of antimicrobial agents.

#### 23.19.130 IMPLEMENTATION OF COUNTY INTEGRATED PEST MANAGEMENT (IPM) POLICY AND ORDINANCE

- (a) The Marin County Board of Supervisors will adopt and implement the IPM Policy along with this Ordinance, and both will have the same force and effect.
- (b) Any recommended changes to the Ordinance or Policy will go to the Board of Supervisors following public notification and a review and comment opportunity by the IPM Commission at regularly scheduled meetings.

#### 23.19.140 DESIGNATION OF IPM COORDINATOR

The Board of Supervisors shall designate an IPM Coordinator to coordinate implementation of the IPM Ordinance and Policy and to provide administrative support to the IPM Commission.

#### 23.19.150 IPM COMMISSION

(a) The Marin County Board of Supervisors shall convene an IPM Commission to oversee implementation of the County of Marin IPM Ordinance, Policy and County Department IPM Site Specific Pest Management Plans. The IPM Commission may advise and make recommendations to the IPM Coordinator and the Board of Supervisors as needed.

(b) In the event that a Commission member misses two consecutive meetings, the Commission may request a review by the Board of Supervisors of the Commission member's appointment status.

(c) The Board of Supervisors will reconsider the continuation of the Commission every four years from the effective date of this Ordinance.

#### 23.19.160 NOTIFICATION OF PESTICIDE USE

Public notice as outlined in the County IPM Policy shall be provided whenever pesticides are used.

#### 23.19.170 RECORDKEEPING OF PESTICIDE APPLICATIONS

(a) Each County Department that uses pesticides shall keep records of each pesticide application, and provide a monthly report to the IPM Coordinator, following the specific guidelines established in the County's IPM Policy.

(b) Application records shall be maintained by the IPM Coordinator and made available to the public upon request in accordance with all applicable laws using the reporting guidelines established in State and County laws governing public access to information, and the Policy.

#### 23.19.180 LIST OF PESTICIDES

The IPM Coordinator will maintain a List of Pesticides allowed for use as part of the County's IPM Program. This list will be developed by the IPM Coordinator in cooperation with Departments and will be available for review and comment by the IPM Commission and adopted by the Board of Supervisors on an annual basis. Any proposed changes to

the List of Pesticides are to be reviewed by the IPM Commission before it is submitted to the Board of Supervisors for consideration for approval.

#### 23.19.190 EXEMPTIONS

A County Department may apply to the IPM Coordinator for a limited use exemption for a particular use of a pesticide that is not allowed under Sections 23.19.100. Upon the filing of a complete application per the requirements outlined in the IPM Policy, the IPM Coordinator may grant a limited use exemption authorizing the use of the pesticide for a specific and limited purpose and for a defined period of time.

- (a) The IPM Coordinator shall forward all exemptions to the IPM Commission quarterly, and shall include in reports required by section 23.19.170 the total number of limited use exemptions granted for County Departments or contractors.
- (b) The IPM Coordinator shall communicate in writing all exemptions granted during the year in the IPM Coordinator's annual report to the Board.

#### 23.19.200 IPM CONTRACTS

- (a) Contractors who utilize pesticides on County-owned, occupied and managed property shall be required to adhere to the guidelines established in the County's IPM Ordinance and Policy.
- (b) Any contractor found to be in violation of the intent of this chapter while doing business with the County will be given the appropriate warning in writing and thirty days to do corrective action. The contractor will be entitled to a hearing, at the contractor's request, with the County Administrator or designee. If compliance is not forthcoming then the contractor may be removed from the qualified contractors list and the current contract revoked. Such contractors shall be allowed to reapply for the qualified contractors list when it is refreshed, unless there have been three prior violations as set forth in their contract.
- (c) To the extent this section changes or violates the terms of any existing County contracts as of the date of enactment of this ordinance, it shall not apply.

#### 23.19.201 NO CRIMINAL PENALTIES OR SANCTIONS

The provisions of Sections 1.04.160, 1.04.170, 1.04.180, 1.04.210, 1.04.220, 1.04.230, 1.04.240, 1.04.250, 1.04.260, 1.04.270 and Chapter 1.05 of the Marin County Code shall not apply to this chapter; nor shall any person, or government official, board, commission or agency, be responsible for any criminal penalties for any violation of this chapter.

#### 23.19.202 NO CIVIL LIABILITY FOR VIOLATIONS OF THIS CHAPTER

This chapter and the provisions thereof are directory, and are intended to set forth goals for pesticide use reduction of the County of Marin and the methods by which the County of Marin intends to meet the goals set forth in this chapter, and are not intended to create standards of civil liability for the acts or failure to act of the County and/or its employees and contractors. No person, government official, board, commission or agency, shall be

liable in any civil action or proceeding for damages for violation of any of the provisions of this chapter.

### 23.19.203 SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of the IPM Ordinance is for any reason held to be void or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

The Board of Supervisors hereby declares that it would have passed each section, subsection, sentences, clause, phrase, or words thereof, irrespective of the fact that any one or other section, subsection, sentences, clause, phrase, or word hereof, be declared void or unconstitutional.

### SECTION II. PUBLICATION

This Ordinance shall be and is in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same in the INDEPENDENT JOURNAL, a newspaper of general circulation published in Marin County.

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors of the County of Marin, State of California, held on the 21<sup>st</sup> day of July, 2009, by the following vote:

AYES: SUPERVISORS Susan L. Adams, Steve Kinsey, Charles McGlashan,  
Judy Arnold, Harold C. Brown, Jr.

NOES: NONE

ABSENT: NONE

  
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PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
CLERK