

1. Agenda 10/11/2016

Documents:

[AGENDA 10_11_2016.PDF](#)

[PESTICIDE TASK FORCE WORKING DRAFT.1.PDF](#)

City of Portland
Pesticide and Fertilizer Task Force

October 11, 2016

6:15 PM

Council Chambers

AGENDA

1. Welcome and Introductions (5 minutes)
2. Review and approve minutes (5 minutes)
3. Presentation of Draft Ordinance (15 minutes each)
4. Discuss Draft Ordinance (85 minutes)
5. Discuss Agenda for Next Meeting (10 minutes)
6. Adjourn

Please refer to the committee web page for background documents:

<http://www.portlandmaine.gov/1774/Pesticide-and-Fertilizer-Task-Force>

WORKING DRAFT

Pesticide and Fertilizer Task Force

An ordinance to limit the use of pesticides

I. Purpose

The purpose of this chapter is to safeguard the health and welfare of the residents of the City of Portland and to conserve and protect the City's waterways and natural resources by curtailing the use of pesticides for turf, landscape, and outdoor pest management.

II. Definitions

Application: The spraying, pouring, spreading and applying of any and all substance or mixture of substances intended or aimed at preventing, destroying, repelling, or mitigating any pests or plants.

Defoliant: Any substance or mixture of substances intended for causing leaves of foliage to drop from a plant, with or without causing abscission.

Desiccant: Any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

Highly Toxic Pesticide: Any pesticide determined to be highly a high toxic pesticide under FIFRA, Section 25(c)(2) or by the board under section 610, subsection 1, paragraph B.

FIFRA: The Federal insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136.

Integrated Pest Management: The selection, integration, and/or implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences including, but not limited to the following:

- Understanding the system in which pests exist;
- Establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control;
- Monitoring pests and natural enemies;
- When needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression, and;
- Systematically evaluating the pest management approaches utilized.

Invasive Insect: an insect that is not native to a particular eco system and whose introduction does or is likely to cause economic or environmental harm or harm to human health.

Natural, Organic, or Non-synthetic: A substance or mixture of substances that are derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in the Organic Foods Production Act, 7 U.S.C. §6502(21).

OMRI: Organic Materials review Institute.

Pest: Any insects, rodents, nematodes, fungi, weeds, and other forms of terrestrial or aquatic plant or animal life or viruses, bacteria, or other microorganisms, except this definition specifically excludes viruses, bacteria or other microorganisms on or in living human beings or other living animals, that have been declared to be a pest under 7 M.R.S. §610(1)(A).

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for used as a plant regulator, defoliant, or desiccant; and any nitrogen stabilizer.

Privately Owned Land: All land, water areas, including airspace and all plants, animals, structures, and/or buildings, within the city limits of the City of Portland that is owned by private individuals or entities.

Publicly Owned Land: All land within the city limits of the City of Portland which is also owned by the City of Portland.

Retailer: Any and all persons, entities, stores, shops, sales outlet or other establishment, located within the City limits of the City of Portland that offers pesticides, among other things, for sale.

Retail store: Any retailer or establishment located within the City limits of the City of Portland that are full-line, self-service market located in a permanent building, operating year-round, and which sells pesticides for at home or other use.

Synthetic: A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources

III. Education.

The City Manager or his or her designee shall do the following:

1. Create, communicate and provide documents to retailers and the public which describe and educate them about safe pesticide application and use, as well as the harms of pesticides and the existing alternatives that are available for use; and
2. Provide the City Council with an annual report documenting the outcomes of the educational outreach and the pest management plan, the outcomes of each and any and all recommendations for modifications to this ordinance and/or the pest management plan in order to ensure that the City uses the best practices available.

IV. Applicability

The provisions of this Article are applicable to any and all outdoor pest management activities, conducted within the city limits of the City of Portland as follows:

(a) Publicly Owned Land.

1. Application of any pesticides on public property must be performed by a licensed applicator.
2. The use or application of synthetic pesticides is prohibited unless the chemical is permitted by the Organic Materials Review Institute (OMRI);
3. Non-synthetic pesticides may be used unless the pesticide is listed as prohibited on the U.S. Department of Agriculture's national list of prohibited substances;
4. Pesticides determined to be minimum risk pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) may be used; and
5. The City shall use integrated pest management practices and techniques prior to the use of any pesticide in combating pests.

(b) Privately Owned Land.

1. The use and application of synthetic pesticides is prohibited unless the chemical is permitted by OMRI;
2. Non-synthetic pesticides that have been deemed a minimum risk by FIFRA may be used; and
3. Synthetic pesticides that have not been approved by OMRI or FIFRA may only be applied by a licensed applicator, pursuant to 22 M.R.S. §1471-D.

(c) Retail stores.

1. Retailers that sell pesticides of any kind at a retail store or otherwise shall post educational signs to be provided by the City of Portland where the pesticides are located.

V. Exemptions

The primary means of control will be mechanical, but certain conditions will warrant pesticide use, the following are exempt from the provisions of the Article:

(a) Materials.

1. Pet supplies; shampoos, tick and flea treatments;
2. Disinfectants, germicides, bactericides, miticides, and virucides;
3. Insect repellent;
4. Rat and rodent control supplies;
5. Swimming pool supplies; and
6. General use paints, stains, and wood preservatives and sealants.

(b) Applications.

1. Health and Safety Applications as follows:
 - a. Pesticides used to control plants that are poisonous to the touch (i.e. poison ivy);
 - b. Pesticides used to control plants that are invasive, as listed by the Maine Department of Agriculture, Conservation, and Forestry;

- c. Pesticides used to control invasive insects, as listed by the Maine Department of Agriculture, Conservation, and Forestry;
 - d. Pesticides used to control pests of significant health importance (i.e. ticks); and
 - e. Pesticides used to control animals and insects that may cause damage to a structure (i.e. termites);
2. Varsity and high use athletic fields as defined by the Parks Director.
 - a. In order to meet the standards of play and safety required for high-use and varsity level fields, The Parks Director has the authority to recommend the appropriate treatment of those fields. Appropriate treatment may include use of pesticides as part of Integrated Pest Management.
 - b. The City Manager or designee may authorize application of synthetic pesticides beyond the exemptions described above when such treatments will prevent significant damage to an athletic field. (For example, a grub infestation.)
 3. Riverside Golf Course
 - a. All greens are exempt from this ordinance.
 - b. Each year the golf course superintendent shall maintain 2/3 of the playing areas (with the exception of the greens) without the use of synthetic pesticides.
 - c. Each year the golf course superintendent shall be able to use synthetic pesticides on 1/3 of the playing surfaces.
 - d. The treated areas shall rotate annually so that 1/3 of the playing surfaces may be treated with synthetic pesticides once in a three year period.
 - e. Use of pesticides will be governed by the principles of Integrated Pest Management.
 - f. The City Manager or designee may authorize application of synthetic pesticides beyond the exemptions described above when such treatments will prevent significant damage to the playing surface of the course. (For example, a grub infestation.)
 4. Hadlock Field
 - a. In order to meet the standards of play required for professional baseball, all playing surfaces of Hadlock Field are exempt from this ordinance.
 5. Trees on publicly owned land
 - a. The City Arborist has the authority to recommend the treatment of trees that is deemed appropriate. Appropriate treatment may include use of pesticides.
 - b. Fumigation of and/or application of pesticides to trees is not permitted except when authorized by the City Manager or his or her designee, following a positive recommendation from the City Arborist.

VI. Enforcement and Remedies.

- (a) This Article shall be enforced by the City Manager or his or her designee;
- (b) To the extent that it is found that the proper enforcement authority for any alleged violation of this Article is the State of Maine Board of Pesticide Control, the City Manager or his or her designee shall provide the necessary contact information for the Board in order to address the alleged violation;

- (c) The City Manager or his or her designee shall have the authority to enact rules and regulations in order to implement the provisions of this Article;
- (d) A violation of this Article may constitute a civil violation and may be enforced pursuant to Chapter 1, section 1-15 of the Portland City Code and/or by providing additional education to an individual or entity that has been found in violation of the Article. Additional education will be provided to an individual that has been found to violate the provisions of the ordinance; and
- (e) This Article shall not be construed or interpreted to allow an activity otherwise prohibited by law.

VII. Severability.

To the extent any provision of this Article is deemed invalid by a court of competent jurisdiction, the balance of the Article that shall remain is valid.

VIII. Effective Date.

The provisions of this ordinance shall become effective one year after adoption, in order to allow time for residents and businesses to become familiar with the requirements of this ordinance.