

1. Agenda

Documents: [E AND S AGENDA 1_21_2016.PDF](#)

2. Draft Work Plan For 2016

Documents: [DRAFT WORKPLAN FOR EANDS COMMITTEE.PDF](#)

3. Draft Ordinance Governing Pesticide Use On City Property

Documents: [PESTICIDE ORDINANCE AS OF 11-13-15.PDF](#)



Energy and Sustainability Committee

Agenda

January 21, 2016

5:30 PM

1. Pesticide Use
 - a. Review and discuss ordinance addressing pesticide use on City property.
2. Update on Solar Power Project
 - a. Progress report from staff regarding solar power installation
3. Work Plan
 - a. Discuss potential goals and priorities for the upcoming year.
Members of the public are invited to present ideas for consideration
4. Adjourn



To: Energy and Sustainability Committee
From: Troy Moon, Environmental Programs Manager
Date: 1/15/2016
RE: Committee Work Plan – Potential Areas To Address

In consultation with Councilor Hinck, staff has identified several areas the committee may choose to work on during the upcoming year.

1. Establish Long Term Sustainability Goals

In the past, the City has established goals and commitments to reduce green house gas emissions. The Committee may wish to review them and determine whether they still make sense. In addition, the Committee may wish to establish goals in specific areas. Some suggestions from Councilor Hinck and members of the public include:

- Use 100% renewable electricity by 2035. (for the city's usage or for the city and all residents.)
- Cut vehicle trips in designated transit areas by 20% within next five years and by 50% within two decades.
- Boost the urban tree canopy by 15% in five years and by 35% within 20 years
- Recycle or compost 75% of all solid waste within five years and by 90% within two decades.
- Increase zero-emission vehicles in city government's fleet to 50% in five years and 90% within two decades.

2. Building Energy Efficiency.

Energy use related to operating buildings is a major source of green house gas emissions and is a major cost center. Both the City and private building owners have opportunities to increase the efficiency of the building stock in the City of Portland. Possible initiatives include:

A. Public Buildings.

- a. Update energy audits in all its buildings.
- b. Benchmark energy use in public buildings using the EPA's Portfolio Manager software.
- c. Develop funding strategies to capitalize energy efficiency upgrades with future energy savings.



- d. Implement a policy requiring that new buildings use renewable energy sources or be designed to take advantage of efficient technologies as they become more cost effective.

B. Privately Owned Commercial Buildings.

- a. Require building owners to benchmark energy use in their buildings and disclose energy use.
- b. Incentivize private building owners to increase the energy efficiency of their buildings by including efficiency upgrades in existing business development and support programs offered by the City.
- c. Help building owners connect with state and federal programs that support energy efficiency.
- d. Develop a recognition program for building owners who achieve high efficiency standards.

C. Multi-Family Apartment Buildings.

- a. Incentivize energy efficiency upgrades in multi-unit buildings using existing business assistance programs.
- b. Explore ways to disclose energy use in apartment buildings to allow tenants to make informed decisions about the full cost of rental.

3. Energy Efficient LED Street Lighting

Recent rule changes by the Maine Public Utilities Commission make now allow municipalities to own lighting fixtures on CMP poles and to meter the electricity used. Based on preliminary analysis and experiences in communities in other states, it may make sense to take advantage of this opportunity to convert City street lights to LED technology

4. Promote Transit and Non-Automotive Forms of Transportation

Helping residents reduce their reliance on cars for basic transportation reduces CO2 emissions and benefits the air quality in Portland while improving the quality of life. Some areas to build on current initiatives include:

- a. Support continued METRO expansion including possible merger with the South Portland system and with Zoom Shuttle Bus.
- b. Improve transportation demand management programs internally and in the private sector by incentivizing employees who choose to commute using transit, on bike or foot, or by carpooling.
- c. Provide guidance to Portland members of PACTS.

**Chemical Pesticide/herbicide ordinance.**

Many Portland residents are concerned about the use of chemical pesticides on public and private property. The Committee may choose to continue work begun by the former Transportation, Sustainability and Energy Committee to identify measures to address concerns while ensuring proper management of grounds, landscapes and athletic facilities. Possible steps include:

- a. New rules for city use of pesticides and herbicides.
- b. Continue to review the proposal submitted by the Portland Protectors.
- c. Monitor the South Portland process and adopt or build on their language.

5. Solar Energy

Solar energy continues to become more economically feasible. The Committee can look at ways to support development of solar facilities on public and private property:

- a. Identify and amend impediments to solar deployment including those in zoning regulations and historic preservation rules.
- b. Advocate at the state and federal level to ensure the viability of small scale solar deployments by the City, residents, and businesses

6. Electric Vehicle Infrastructure.

Build on efforts to promote electric vehicles.

- a. Establish more public charging points.
- b. Incentivize developers to include EV charge points in their projects.

7. Regional Collaboration.

Look for ways to collaborate regionally to support sustainable projects.

PESTICIDE AND HERBICIDE USAGE ON CITY OWNED PROPERTY

1) *Purpose.* The purpose of this Section is to safeguard the health and welfare of the residents of the City of Portland and to conserve and protect the City's ground water, estuarine, marine and other natural resources, while ensuring preservation and enhancement of city owned land.

2) *Provisions.* The following provisions shall be applicable to all turf, landscape and outdoor pest management activities on city owned land.

(a) *Permitted:*

- i) Use or application of natural, organic land care protocols;
- ii) All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program;
- iii) Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act 38 M.R.S. §§1301-1319-Y, the Protection of Natural Resources Act 38 M.R.S. §§ 480-A-480-Z, the Site Location of Development Act 38 M.R.S. §§481-490, and any rules related thereto, as amended from time to time.

(b) *Prohibited:*

- i) Use or application of chemical pesticides, other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute.
- ii) Use or application of sludge or sludge-derived products not listed as permitted above.

3) *Definitions.* The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Natural, organic land care: An extension of the principles and practices of organic agriculture to the care of turf and landscape.

(b) Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

(c) Pesticide Application: means the use or application of any pesticide by any method, including, but not limited to, broadcasting, drop spreading, fumigation, misting, soil injection and spraying.

(d) Sludge: Defined in 38 M.R.S. § 1303-C (28-A), as amended from time to time.

(e) City Owned Land: All land owned or leased by the City of Portland and/or managed by the City of Portland.

(f) Pest: Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

4) *Exemptions.*

(a) The following products are exempt from the prohibitions in 2(b) this Ordinance:

- (i) Pet Supplies such as shampoos, tick and flea collars and dusts;
- (ii) Disinfectants, germicides, bactericides, and virucides;
- (iii) Insect repellants;
- (iv) Outdoor animal repellants;
- (v) Swimming pool supplies;
- (vi) Aerosol products; and
- (vii) General use paints, stains and wood preservatives and sealants.

(b) The following processes are exempt from the prohibitions in 2(b) of this Ordinance:

- (i) Utility, and other routine vegetation maintenance programs, on utility rights of way, that run through the City of Portland;
- (ii) Drinking water and wastewater treatment;
- (iii) Indoor pesticide use;
- (iv) Contained baits or traps for rodent control;
- (v) Treatment of Golf Courses consistent with State and Federal regulations and pursuant to the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control. However, products prohibited by (2)(b) above shall not be permitted to be used or applied as part of such treatment within twenty-five (25) feet of any coastal waters, rivers, tributaries, streams or wetlands ;
- (vi) Treatment of Athletic Fields consistent with State and Federal regulations and pursuant to the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control. However, products prohibited by (2)(b) above shall not be permitted to be used or applied as part of such treatment within twenty-five (25) feet of any coastal waters, rivers, tributaries, streams or wetlands;
- (vii) Treatment of City Infrastructure including without limitation curb lines, medians, traffic islands, and utility rights of way consistent with State and Federal regulations and pursuant to the *Best Management Practices for the Application of Turf Pesticides and*

Fertilizers of the Maine Board of Pesticide Control. However, products prohibited by (2)(b) above shall not be permitted to be used or applied as part of such treatment within twenty-five (25) feet of any coastal waters, rivers, tributaries, streams or wetlands ;

(viii) The control of noxious growth plants, including without limitation Poison Ivy, Poison Oak, and Poison Sumac;

(ix) Treatment of trees for Dutch Elm Disease as directed by the City Arborist;

(x) The control of invasive species that may be detrimental to the environment;

(xi) Use of pesticides mandated by state or federal law; and

(xii) The control of insects that are venomous or disease carrying.

- 5) *Emergency Waiver.* If an emergency situation warrants the use of non-exempt pesticides, the City Manager or his or her designee may grant a thirty (30) day temporary waiver. The waiver may be extended to a six (6) month total period. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency.

- 6) *Commercial Applicators Certificate.*

(a) No person shall apply, advertise to apply or supervise the application of a pesticide, on or around any premises without first applying for and obtaining a registration certificate from the Park Manager as a pesticide applicator.

(b) *Exemption.* This subsection shall not apply to:

(i) The owner or occupant of a single, 2-family or multifamily dwelling of 12 or less units, if a pesticide is applied by a non-commercial applicator.

(ii) City Employees duly licensed by the Maine Board of Pesticides Control.

(c) *Application.* Registration forms for commercial pesticide applicator certificates shall be obtained from and returned to the Park Manager and shall contain the following information:

(i) Full name, address, date of birth and phone number of applicant;

(ii) Valid proof of certification as a commercial pesticide applicator under Federal and State law.

(d) *Certificate Issued.* Upon full and proper completion of the registration form, the Park Manager shall issue a commercial pesticide applicator registration certificate to the applicant. No pesticide applicator certificate is transferable.

(e) *Change of address.* Any change in the address of a pesticide applicator permittee shall be reported to the department within 60 days of the change.

(f) *Accidental Spill or Discharge.* In the event any pesticide spills or discharges accidentally, the person responsible for the spill or discharge shall:

- (i) Notify the fire department immediately;
- (ii) Take action to control the spill or discharge in a safe and approved manner;
- (iii) Remove the spilled or discharged substance, as well as any tainted tools, utensils or equipment, to an approved location for disposal; and
- (iv) To the extent possible, restore the site to its original condition.

(g) *Annual Reporting.* Each Certified Commercial Applicator shall provide an annual report to the Park Manager of (i) the product names of all pesticides they used in the City of Portland; and (ii) the approximate amount of each undiluted pesticide used in the City of Portland.

(h) *Enforcement.* The City Manager or his or her designee shall enforce this section.

(i) Any person who violates any provisions of this section or who fails to obey an order of the City Manager or his or her designee related to this section to conform to these provisions shall be in violation of City Code and subject to penalties as outlined in § 1-15. Any person in violation of this section may also be subject to revocation or suspension of their Commercial Applicator Certificate and denial of subsequent applications for their Commercial Applicator Certificate consistent with the provisions of Chapter 15.

(ii) This Section may be enforced through the Uniform Summons and Complaint process or M.R. Civ. P. Rule 80K