

South Portland City Council
Position Paper of the City Manager

Subject:

ORDINANCE #9-15/16 – Amending the Code of Ordinances establishing Chapter 32, “Pesticide Use Ordinance”. First reading. Passage requires majority vote.

Position:

At the June 8, 2015 workshop, the Council heard a presentation put together by Protect South Portland around the use of pesticides. Protect South Portland was joined by Jay Feldman, from Beyond Pesticides in Washington DC; Chip Osborne, of Osborne Organics LLC in Marblehead, MA; and Mary Cerullo, Associate Director, of the Friends of Casco Bay. Each talked about the harmful effects of pesticide use and the negative impacts to the environment. Alternative methods were presented as a means of providing another way for lawn care/vegetation maintenance.

The City Council voiced support for pursuing a pesticide ordinance and various types of ordinances were presented and discussed at the July 13, 2015 workshop. A pesticide ordinance committee consisting of Sustainability Coordinator Julie Rosenbach, Parks Superintendent Sarah Neuts and Stormwater Coordinator Fred Dillon was created and proposed ordinance language was developed, which was presented and discussed at the February 29, 2016 workshop. Since the February Council workshop, staff have continued to work on the Pesticide Use Ordinance in preparation for first reading on Monday.

The following documents are attached to this Position Paper. Please refer to these document for a full understanding of the process and what is included within the Ordinance.

- 1) Summary of Ordinance for First Reading
- 2) Memorandum of Changes and Clarifications since Workshop
- 3) Expert's letters pertaining to Golf Course
- 4) Proposed Pesticides Use Ordinance
- 5) Process Memorandum

Requested Action:

Council passage of first reading and set April 20, 2016 for second reading and action.


City Manager

South Portland Draft Pesticide Use Ordinance Summary

PURPOSE

There is an increasing body of research both nationally and internationally that synthetic pesticides are having detrimental effects on human health and the environment. The draft Pesticide Use Ordinance addresses these concerns by greatly restricting the use of synthetic pesticides and promoting a transition to organic land care practices. In so doing, the ordinance will protect people, pets and the environment.

PEST MANAGEMENT ADVISORY COMMITTEE

A Pest Management Advisory Committee (PMAC) will be established to oversee the implementation of the ordinance and advise the City Council and the Sustainability Coordinator regarding its efficacy.

The PMAC will be a seven-member committee comprised of:

- The City's Stormwater Program Coordinator
- The City's Parks Superintendent or designee
- Two Maine Board of Pesticides Control-licensed landscape professionals, at least one of whom has experience in organic land care management (appointed by the City Council)
- Three resident or taxpayer representatives (appointed by the City Council)

The PMAC will review waiver applications, work with the Sustainability Coordinator to develop outreach and education, issue annual reports, and conduct an evaluation of the ordinance every three years.

PROVISIONS

The ordinance applies to turf, landscape and outdoor pest management activities. The ordinance provisions emphasize and promote natural and organic practices. Following the U.S. Department of Agriculture's National Organic Program (NOP), organic products are permitted unless specifically prohibited, and synthetic pesticides are prohibited unless specifically permitted.

Allowed

The use of natural, organic land care products that:

- (a) may be used on Maine Organic Farmers and Gardeners Association (MOFGA) Certified Farms;
- (b) are certified by the Organic Materials Review Institute (OMRI)
- (c) are certified by the Washington State Department of Agriculture

These organizations review and publish product lists that are permitted by the NOP and therefore by the ordinance. The Northeast Organic Farming Association (NOFA) has also established

[Standards for Organic Land Care](#) which specifically extend the principles of organic agriculture to land care. Landscapers can be accredited under this program.

Not Allowed

The use or application of synthetic pesticides will be prohibited on City-owned and private property (effective 1 year after adoption of the ordinance for public land, 2 years after adoption of the ordinance for private property, and 3 years after adoption for golf courses).

Exemptions

The ordinance has three types of exemptions.

1. Synthetic pesticides classified by the EPA as exempt under 40 C.F.R. § 152.25 are allowed. These are reviewed by OMRI and the Washington State Department of Agriculture and included in their approved product lists.
2. Synthetic pesticides used for the following applications fall outside the scope of this ordinance and are therefore allowed:
 - (a) Commercial agricultural products;
 - (b) Pet supplies, such as shampoos and tick and flea treatments;
 - (c) Disinfectants, germicides, bactericides, miticides and virucides;
 - (d) Insect repellents;
 - (e) Rat and rodent control supplies;
 - (f) Swimming pool supplies;
 - (g) Aerosol products; and
 - (h) General use paints, stains and wood preservatives and sealants.
3. Synthetic pesticides used for the following applications are specifically exempted and are therefore allowed:
 - (a) Health and safety – synthetic pesticides may be used to control plants that are poisonous to the touch, such as poison ivy; pests that bite, sting, are venomous or are disease carrying, like mosquitoes; and animals or insects that may cause damage to a structure, such as carpenter ants or termites.
 - (b) Golf courses – for private courses playing areas including tees, fairways, roughs and greens are exempt; for the municipal course only tees and greens are exempt.
 - (c) Invasive insects – synthetic pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth, and other insects identified as invasive by the Maine Forest Service.

WAIVER PROCESS

In situations that threaten the public health and safety by creating a toxic situation, and for the control of invasive species that pose a threat to the environment, persons may apply for a waiver. In order to grant a waiver application, the Pesticides Management Advisory Committee must first find that all of the following criteria are met:

- (1) Natural and organic methods of pesticide control have proven unsuccessful;
- (2) The applicant has carefully evaluated all alternative methods and materials;
- (3) Application of synthetic pesticides will not occur within seventy-five (75) feet of a tributary, creek, stream, river, lake, or drainage ditch;
- (4) The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties; and
- (5) The grant of the waiver will not be detrimental to the public health, safety or welfare.

PUBLIC NOTIFICATION & SIGNAGE

For instances when synthetic pesticides are allowed (through an exemption or the waiver process), the ordinance includes a detailed section that requires both licensed applicators and private citizens to post signs notifying people of the use of synthetic pesticides.

REPORTING REQUIREMENT FOR LICENSED APPLICATORS

All licensed applicators will be required to submit an annual report to the City summarizing the type and quantity of synthetic pesticides used.

EDUCATION & OUTREACH

The ordinance includes a robust education and outreach section in recognition that any meaningful reduction of synthetic pesticide use depends on the cooperation of residents and local businesses.

The PMAC will work with the Sustainability Coordinator to educate the community about organic pest management practices through:

- a community-based social marketing campaign targeting City households and businesses
- promotion of professional education and training on organic land care practices for licensed applicators
- distribution of information and news about City practices
- SPC-TV public service announcements
- news releases and news events
- tax bill inserts
- posters and brochures made available at City events and applicable locations
- trainings, and demonstration projects
- targeted outreach to schools
- any additional methods deemed appropriate by the PMAC

The PMAC will also work directly with retailers that sell synthetic pesticides to:

- Provide educational training for all retail store employees

- Implement a toolkit of educational materials and signage in stores to help consumers understand alternatives to synthetic pesticides.

EFFECTIVE DATES

Phase One: Commencing May 1, 2017, for City-owned property (but not to any golf course).

Phase Two: Commencing May 1, 2018, for private property (but not to any golf course).

Phase Three: Commencing May 1, 2019, for golf courses.



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JULIE A. ROSENBACH
Sustainability Coordinator

To: James H. Gailey, City Manager

From: Julie Rosenbach, South Portland Sustainability Coordinator
Fred Dillon, South Portland Stormwater Program Coordinator
Sarah Neuts, Parks Superintendent and City Arborist

Date: March 31, 2016

Subject: Recommendations for draft Pesticide Use Ordinance following 2/29/16 Council workshop

In response to questions and concerns raised by the City Council at the February 29, 2016 City Council Workshop to review the draft Pesticide Use Ordinance and subsequent stakeholder comments, staff developed this memo to clarify and as necessary, suggest changes to the proposed ordinance. We believe these clarifications and changes will result in a stronger ordinance.

1. GOLF COURSE EXEMPTION

RECOMMENDATION: maintain exemption for playing surfaces on private golf courses; exempt tees and greens on the municipal golf course effective 3 years after adoption.

Several Councilors expressed concern about exempting the municipal golf course from the ordinance while prohibiting synthetic pesticide application on all other publicly-owned (and eventually private) properties. Staff consulted with various experts who believe an exemption for golf courses is warranted. Therefore, we recommend maintaining an exemption for playing surfaces on private golf courses, and funding pilot projects on the municipal golf course to test the feasibility of phasing in organic practices. Because the maintenance of tees and greens is especially critical for the sport, we recommend including an exemption for these two areas on the municipal course while organic pilot projects are phased in.

Additional Context

- a. No other ordinances require golf courses to be pesticide-free. The two most restrictive ordinances we referenced (Takoma Park, MD and Ogunquit, ME) do not include golf courses. Ontario Canada's by-laws, which are the most stringent, allow exemptions for golf course playing surfaces only – tees, fairways, greens and roughs – and focus on education and reporting. We used this model to guide our language.
- b. Golf courses playing surfaces are entirely different from lawns, parks and turf. The game of golf requires specific management practices to maintain adequate playing surfaces.

Consequently, organic practices that can be used on other greenspaces (e.g. planting different grass types and mowing at higher levels) are not effective for golf courses. Playing surfaces are uniquely susceptible to different issues such as fungi that may require infrastructure replacement in the absence of synthetic pesticides.

- c. There are very few successful examples of organic golf courses and none for small municipal courses. The few courses employing organic programs have significantly larger budgets and staff. Even the model organic golf course on Martha's Vineyard, which was specifically designed and built to be organic, is not problem-free. Insect and fungal issues are addressed through course renovation with new sod instead of pesticide application.
- d. The City faces an ongoing challenge in attracting golfers to the municipal 9-hole course. Until the industry develops proven organic methods and products, prohibiting synthetic pesticides on the municipal course will likely damage the playing surfaces irreparably. We simply do not have the capacity to develop a full-scale experimental maintenance plan. Failed attempts to develop and accomplish a successful organic golf turf program would likely result in further financial strain on an already fiscally challenged enterprise operation.
- e. The Municipal Course staff are and have always been very cautious in the quantity and use of pesticides. Conditions are monitored daily to minimize pesticide use while maintaining adequate playability. Staff currently treat a very limited amount of playing surface. Fungicides are used on greens only (~33,000 square feet of a 25 acre facility). Insecticides are currently used to spot treat only the most devastating insects.

2. REVIEW PERIOD

RECOMMENDATION: conduct the ordinance review in year three following full implementation for public and private properties.

Some Councilors suggested evaluating the ordinance prior to year three to determine the success of organic practices on municipal land before applying the provisions to private property. Staff recommend conducting the review in year three after the ordinance has been in full effect to allow for a comprehensive evaluation of its efficacy. The review in year three should focus on making any needed adjustments to the ordinance to assist with the transition to organic practices.

Additional Context

- a. Management and maintenance of City-owned property is significantly different from private property because the intensity of use for playing fields, parks, and other lands necessitates more intensive management practices than those for private lawns. Staff believe the



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JULIE A. ROSENBACH
Sustainability Coordinator

current phase-in will allow the City to lead by example and provide homeowners with adequate time to learn and adjust their practices.

- b. Staff recommend beginning education and outreach immediately upon adoption of the ordinance (and well before it goes into effect for private properties) to provide ample time for homeowners and local businesses to become familiar with products that can and cannot be used.
- c. Transitioning to alternative management practices requires a strong focus on building soil health and viability within the microbial biomass. Successful land care management without synthetic pesticides requires the sustained implementation of organic practices. A multi-year phase-in will provide staff and community members with enough time to understand and successfully apply organic land care practices, but a long-term review is required to assess the overall health and vitality of the turf.

3. NEONICOTINOIDS IN PLANTS

RECOMMENDATION: this ordinance does not address the sale of pesticides, therefore plants pre-treated with neonicotinoids are outside the scope of the ordinance.

Some Councilors asked if the ordinance will address the sale of plants pre-treated with neonicotinoids. The ordinance only addresses the use of synthetic pesticides and not their sale. Therefore, staff recommends not including specific ordinance provisions for neonicotinoids in plants, and instead proposes to address this issue through education and outreach. Additionally, major retail stores are now requiring labeling and voluntarily phasing out the use of these products.

The following additional items were brought to the attention of staff through comments and meetings with stakeholders subsequent to the 2/29/16 Council Workshop.

4. PESTICIDE MANAGEMENT ADVISORY COMMITTEE (PMAC)

RECOMMENDATION: add one resident or taxpayer representative to establish a 7-member (and odd-numbered) advisory committee.

The initially proposed structure for Pesticide Management Advisory Committee (PMAC) consisted of an even number of members. Even though the intent of the ordinance is for the committee to make decisions by consensus, there may be occasions when a “tie-breaker” vote is needed.

5. MITICIDES

RECOMMENDATION: add an exemption for miticides that will allow synthetic treatments to manage mites in bee-keeping.

There is a well-established and strong empirical link between parasitic Varroa mites and honeybee mortality. According to a [recent USDA report](#), the Varroa mite is “the single most detrimental pest of honey bees and is closely associated with overwintering colony declines.” Consequently, virtually all western honeybee colonies need to be treated with miticides (synthetic pesticides) to prevent significant mortality.

6. SET-BACK DISTANCE FROM SURFACE WATERS

RECOMMENDATION: prohibit pesticide application within seventy five (75) feet of surface waters.

Staff initially proposed a prohibition on the application of pesticides within 250’ of adjacent surface water resources. However, upon more careful consideration and [further research](#) we reduced the setback distance to balance water resource protection with the interests of private landowners. While there are a wide variety of factors affecting the likelihood that synthetic pesticides will reach nearby surface waters (e.g., slope, soil type, ground surface roughness, extent and type of vegetative cover, weather, etc.), we believe that a 75’ setback distance will provide adequate environmental protection. This distance is also consistent with most of the City's Shoreland Overlay Districts, which are intended to “prevent and control water pollution; (and) to protect fish spawning grounds, aquatic life, bird and other wildlife habitat (Sec. 27-1301),” among other things. Maine’s Shoreland Zoning Act also establishes 75’ as a protective buffer distance for most streams.

7. THE WAIVER PROCESS VS. EXEMPTION

RECOMMENDATION: add an exemption for invasive insects such as the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth, and other invasive pests [identified by the Maine Forest Service](#).

Feedback from multiple sources suggested that this one change would make implementation of the ordinance more manageable and successful. When the Town of Harpswell enacted its pesticides ordinance in March 2015 to ban the use of neonicotinoids, the Conservation Commission received forty (40) waiver applications in the first week related to the management of Browntail Moths. Additionally, industry and land management experts including Chip



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JULIE A. ROSENBACH
Sustainability Coordinator

Osborne agree that successfully combating invasive pest species such as the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, and Browntail Moth, requires a rapid and proactive approach because invasive insect species pose an immediate threat. The waiver process in our draft ordinance is designed to be deliberative for non-urgent issues that cannot be addressed with organic practices. Consequently, we think it is prudent to provide a mechanism in the form of an exemption for invasive insect issues that pose an immediate threat to public health and safety.

Respectfully, and on behalf of the draft pesticide ordinance committee,

A handwritten signature in black ink, appearing to read "Julie Rosenbach".

Julie Rosenbach
Sustainability Coordinator



March 30, 2016

South Portland City Council
South Portland, ME

Dear Councilors,

It is my opinion that an approach that involves an exemption for golf course greens and tees for a period of three years after implementation of the ordinance is an appropriate compromise.

We can move towards a complete organic approach and a reduction in pesticide use with this defined exemption process. Exemption does not preclude the move towards organic management. We will achieve that move by teaching and introducing new products and protocols through a pilot project. It is always best to begin modestly and pick one hole to start to learn.

Once the level of education and the comfort with the new management strategy falls into place, the information that was learned in the pilot can gradually be moved to other holes on the course. The goal should always be to move forward with the creation of a systems-based approach to management that will ultimately allow the elimination of synthetic pesticides.

When this ordinance goes into effect for golf courses three years after adoption, the fairways will need to be managed organically, as they are not included in the exemption, as the exemption is for greens and tees. Three years will give us enough time to get staff up to speed to manage the fairways after implementation.

I have found it helpful in transition projects to include language that might allow for a rescue treatment at some point in time if it becomes necessary. This would be granted by waiver and reserved for golf courses only. A rescue treatment document can be created.

Sincerely,

Chip Osborne, President
Osborne Organics, Inc.

11 Laurel Street, Marblehead, MA 01945
781-631-2468 co@osborneorganics.com



March 30, 2016

South Portland City Councilors:

I am writing in regards to the proposed ordinance that calls for the ban of synthetic pesticides within the city of South Portland, and more specifically the impacts the ordinance will have on the municipal golf course. I strongly support exempting at least green and tee playing areas on the golf course from the pesticide ban for the following reasons.

1. Eliminating the use of synthetic pesticides will lead to a significant deterioration of the playing surfaces. The decline in surface conditions will be evident across the golf course, but especially so on putting greens and teeing areas which are composed of shorter cut annual bluegrass and creeping bentgrass. These surfaces receive higher levels of traffic and golfers hold much higher expectations for these playing areas as compared to fairway turf and other surfaces.
2. Green and tee areas make up a very small percentage of the total area of the golf course. The limited treatments that are required to maintain those surfaces are small.
3. There is one golf course that I am aware of that is managed organically or without pesticide inputs. I have been fortunate to be able to work with that course during the initial planning stages and have witnessed the positive and negative aspects of managing without pesticides. There are several points that have to be considered with this unique golf course:
 - a. The golf course was built to be managed without synthetic pesticides. That includes specialized USGA sand based green systems, and well-drained tees and fairways.
 - b. Turf varieties with high resistance to disease were selected for the golf course.
 - c. Management programs are very labor intensive and require specialized knowledge..
 - d. Weed encroachment and turf damage resulting from disease or insect feeding forces some renovation of deteriorated surfaces at significant cost.
4. Older golf courses cannot immediately transition from conventional management programs to zero-pesticide programs and still provide turf conditions acceptable to those who play the golf course. However, it would be possible to encourage a more gradual transition to a reduced pesticide program and still keep the golf course in acceptable condition for its customers. Annual pesticide reduction of 40-60 percent has been obtained through implementing intensive cultural practices and utilizing intensive integrated pest management concepts (Bethpage GC study). This approach is a more practical and sustainable option for the golf course.
5. Similar ordinances have been passed in the Canadian Provinces. Golf courses are exempt from those ordinances. Golf courses in Quebec are required to develop and



submit an annual Integrated Pest Management (IPM) plan that has to be approved by a certified agronomist. The golf facilities have been able to reduce chemical inputs and still provide acceptable playing conditions and remain economically viable.

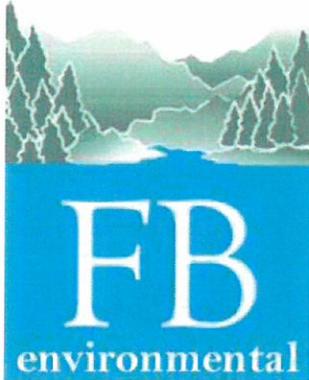
6. Golf course superintendents are professionals are trained and licensed to purchase and apply pesticide products. They are also trained to monitor for and correctly identify pests and to apply pesticides in a safe manner when it is necessary to do so. Furthermore, golf courses provide valuable and effective green space that provides unique recreational opportunities while at the same time providing habitat and a food source for plants and wildlife. Golf courses that are managed judiciously with some pesticide inputs can produce satisfactory playing conditions and coexist within natural ecosystems.

I strongly urge the Council to exempt golf courses from the pesticide ordinance while encouraging pesticide reduction programs that can be implemented over a period of transition. During that period, the golf course can pursue the necessary cultural programs and use more intensive IPM practices to further minimize their reliance of pesticides. The golf course can be further enhanced by providing resources that will enable the staff to further enhance out-of-play areas to create habitat for native plants and wildlife. I am happy to offer my experience to help the golf course staff develop and implement these practices.

Jim Skorulski
Agronomist



United States Golf Association
1500 N. Main Street
Palmer, MA 01069



97A Exchange St, Ste. 305
Portland, ME 04101

170 West Rd, Ste. 6
Portsmouth, NH 03801

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www.fbenvironmental.com

Julie Rosenbach, Sustainability Coordinator
South Portland Sustainability Office
25 Cottage Road
South Portland, 04106

March 30, 2016

Dear Julie,

I am writing to you in support of the exemption for golf courses under the proposed pesticide ordinance for the City of South Portland.

I own a small business with ten employees that is dedicated to working with organizations, individuals, and businesses that are committed to protecting natural resources and improving environmental conditions. My company, FB Environmental Associates, has led several water resources/stormwater projects under contract with the City of South Portland. We have also worked with numerous golf courses in southern Maine over the past 15 years on environmental improvements and stewardship initiatives. Some of our golf course projects have included utilizing a compost tea brewer at Falmouth Country Club in place of fungicides, enhancing thousands of feet of riparian buffer at Riverside Golf Course, and helping Sable Oaks Golf Club in South Portland to become a certified Audubon Sanctuary.

I have also learned to appreciate the time and care that superintendents put into turf management. In particular the tees, fairways, and greens need a tremendous amount of care as these surfaces require very low grass heights. When applied properly the treatments used on these areas are safe and will ensure that the course can experience good turf health which is the keystone of the business.

My experiences to date with Maine golf courses have been positive and I've come to appreciate the dedication to stewardship that the majority of golf course superintendents have to protecting the environment given the proper guidance. I sincerely hope that the City will appreciate the exemption to the proposed pesticide ordinance.

If you have any questions, I can easily be reached on my cell phone at (207) 650-7597, or via email at info@fbenvironmental.com.

Sincerely Yours,

Forrest Bell, Principal, FB Environmental Associates



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE
Mayor

JAMES H. GAILEY
City Manager

EMILY F. CARRINGTON
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

IN CITY COUNCIL

ORDINANCE #9-15/16

THE COUNCIL of the City of South Portland hereby ordains as follows:

Section 1. Findings.

WHEREAS, the State of Maine is one of only seven states, and the District of Columbia, that allows local governments to restrict the use of pesticides, and so this is an opportunity for the City to affect positive change;

WHEREAS, the United States Environmental Protection Agency (EPA), the Committee on Environmental Health of the American Academy of Pediatrics, the National Academy of Sciences, and the President’s Cancer Panel have all concluded that synthetic pesticide exposure is linked to reproductive disorders, birth defects, learning disabilities, neurological disease, endocrine disorders, and cancer;

WHEREAS, the EPA acknowledges, along with the esteemed Mt. Sinai Children’s Environmental Health Center, that children, with their still-developing bodies and brains, are especially vulnerable to the harmful effects of lawn and garden pesticides; and children’s behavior (e.g., hand to mouth interactions, proximity to the ground, walking or running through lawns instead of paved sidewalks, especially where there are none), exposes children to far more contact with lawn pesticides than adults;

WHEREAS, synthetic pesticides are harmful to pets, wildlife, including threatened and endangered species, soil microbiology, plants, and natural ecosystems;

WHEREAS, the City has five streams designated by the Maine Department of Environmental Protection (MEDEP) as “urban impaired” for failing to meet state water quality standards primarily due to adverse impacts from surrounding development;

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

WHEREAS, all of these “urban impaired” streams drain to Casco Bay, which is widely recognized as a natural asset of significant ecological and economic value;

WHEREAS, Casco Bay faces long-term threats from stormwater runoff, and the use of synthetic pesticides has the potential to exacerbate these threats;

WHEREAS, the use of synthetic pesticides is not necessary to create and maintain green lawns and landscapes, given the availability of viable non-synthetic alternative practices and products;

WHEREAS, many citizens desire to be protected from exposure to synthetic pesticides in the air, water or soil that inevitably results from chemical drift and contaminated runoff; and

WHEREAS, a growing number of communities and municipalities are embracing a precautionary approach to the use of synthetic pesticides in order to adequately protect people and the environment from their harmful effects.

Section 2. The text of Chapter 32, “Pesticide Use Ordinance,” of the “Code of Ordinances of the City of South Portland, Maine” be and hereby is enacted as shown below (additions are underlined):

Chapter 32

PESTICIDE USE ORDINANCE

Sec. 32-1. Title.

This ordinance shall be known as the “City of South Portland Pesticide Use Ordinance.”

Sec. 32-2. Purpose.

The purpose of this ordinance is to safeguard the health and welfare of the residents of the City and to conserve and protect the City’s waterways and natural resources. The City strives to make organic turf, landscape and pest management the primary management tool in the community for turf, landscape and outdoor pest management activities so that synthetic pesticide use and its damaging effects on the health and welfare of residents and the environment are significantly curtailed.

Sec. 32-3. Definitions.

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

Commercial Agriculture. The production of crops for sale, crops intended for widespread distribution to wholesalers or retail outlets and any non-food crops.

EPA. The United States Environmental Protection Agency.

FIFRA. The Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.

Golf course. An area of land laid out for playing the game of golf with a series of 9, 18 or more holes. Mini-golf courses are not considered golf courses.

Golf course playing surfaces. The tees, fairways, greens and roughs of a golf course.

Golf course non-playing areas. Areas of golf courses that are not golf course playing surfaces, such as lawns, driveways, paths, patios, trees, shrubs, ornamental plantings and gardens.

Inert ingredient. Any substance (or group of structurally similar substances if designated by the EPA), other than an active ingredient, that is intentionally included in a pesticide product.

Invasive Species. A plant or insect that is not native to a particular ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

Natural, organic or "non-synthetic." A substance that is 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), as the same may be amended from time to time.

Organic pest management. An extension of the principles and practices of organic agriculture to the care of turf and landscape.

Person. Any individual natural person, partnership, joint venture, society, association, company, club, trustee, trust or corporation; or any officer, agent, employee, or personal representative of any thereof, in any capacity acting either

for her or himself or for any other person under either personal appointment or pursuant to law.

Pest. This term shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

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. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the EPA. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

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, except that such term shall not apply to substances created by naturally occurring biological processes.

Sec. 32-4. Pest Management Advisory Committee (PMAC).

(A) Composition; appointment; terms of office.

The Pest Management Advisory Committee (PMAC) is hereby established. The PMAC shall consist of seven members as follows:

- (i) The City's Stormwater Program Coordinator;
- (ii) The City's Parks Superintendent or his/her designee;
- (iii) Two Maine Board of Pesticides Control-licensed landscape professionals, at least one of whom has experience in organic land care management, each appointed by the City Council; and
- (iv) Three resident or taxpayer representatives appointed by the City Council.

The terms of office of the five PMAC members appointed by the City Council shall be three year terms, except that the initial appointments after the establishment of the PMAC shall be such that the terms of office of no more than two members shall expire in any single year. The terms of office for the two City employee PMAC members shall be for as long as the employee holds said employment position.

(B) Duties.

The duties of the PMAC include serving in an advisory capacity to the City Council and the Sustainability Coordinator to oversee this ordinance through the following:

- (i) Advising the City Council and the Sustainability Coordinator of any problems encountered or amendments that may be required to achieve the full and successful implementation of this ordinance;
- (ii) Reviewing and acting upon waiver applications when applicable;
- (iii) In coordination with the Sustainability Coordinator, developing and implementing outreach and education as specified in this ordinance;
- (iv) Seeking the participation, advice and counsel of experts in the fields of organic turf and landscape management, maintenance of trees and shrubs, and organic pest protocol;
- (v) Encouraging broad community participation, from parents, schools, advocates, and local arboriculture and landscaping businesses, in the activities of the PMAC;
- (vi) Reviewing annual data and issuing a summary report annually to the City Council;
- (vii) On or before May 1, 2019, and every three years thereafter, conducting an evaluation of this ordinance, including a review of pilot project results and reporting data, and providing recommendations to the City Council and the Sustainability Coordinator for any ordinance amendments it deems appropriate; and
- (viii) Additional responsibilities as may be deemed necessary by the City Council.

(C) Officers, meetings and records.

- (i) The members shall annually elect a chair from their membership. If not provided to the PMAC by the City Manager, the members shall also annually elect a secretary for the purpose of taking minutes and related duties.
- (ii) All meetings of the PMAC shall be open to the public. Notice of each meeting shall comply with the City's notice policies and Maine's Freedom of Access Act.
- (iii) A quorum shall consist of four members.
- (iv) The PMAC shall meet regularly, and waiver applications shall be reviewed at scheduled committee meetings.
- (v) Minutes shall be kept of all meetings with a copy filed with the City Clerk. An annual report of the PMAC's activities shall be submitted to the City Council in March of each year.

Sec. 32-5. Turf, Landscape and Outdoor Pest Management Products and Applications.

(A) Allowed products/applications.

For turf, landscape and outdoor pest management activities, the use or application of the following natural, organic land care products and substances is allowed:

- (i) products that may be used on Maine Organic Farmers and Gardeners Association Certified Farms;
- (ii) products listed on the Organic Materials Review Institute Products List;
- (iii) products listed on the Washington State Department of Agriculture's Organic Program Brand Name Material List; and
- (iv) substances listed on the U.S. Department of Agriculture's National Organic Program National List of Allowed Substances.

(B) Prohibited products/applications; exemptions.

(i) Prohibited products/applications. Subject to the applicability dates set forth in Sec. 32-14 herein, the use or application of synthetic pesticides on City-owned and private property for turf, landscape and outdoor pest management activities is prohibited.

(ii) Product exemptions.

(a) Notwithstanding the general prohibition on the use or application of synthetic pesticides for turf, landscape and outdoor pest management activities, the following products that may be intended for such activities are exempt from the provisions of this ordinance (and so are allowed):

- (1) those pesticides classified by the EPA as exempt from all provisions of FIFRA under 40 C.F.R. § 152.25, as the same may be amended from time to time;
- (2) synthetic pesticides listed on the Organic Materials Review Institute Products List; and
- (3) synthetic pesticides listed on the Washington State Department of Agriculture's Organic Program Brand Name Material List.

(b) Notwithstanding the general prohibition on the use or application of synthetic pesticides for turf, landscape and outdoor pest management activities, the following products that are not usually intended for such activities are exempt from the provisions of this ordinance (and so are allowed):

- (1) Commercial agricultural products when used in the manner specified by the manufacturer;
- (2) Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
- (3) Disinfectants, germicides, bactericides, miticides and virucides, when used in the manner specified by the manufacturer;
- (4) Insect repellents when used in the manner specified by the manufacturer;
- (5) Rat and rodent control supplies when used in the manner specified by the manufacturer;
- (6) Swimming pool supplies when used in the manner specified by the manufacturer;
- (7) Aerosol products when used in the manner specified by the manufacturer; and
- (8) General use paints, stains and wood preservatives and sealants when used in the manner specified by the manufacturer.

(iii) Application exemptions. Notwithstanding the general prohibition on the use or application of synthetic pesticides for turf, landscape and outdoor pest management activities, the following applications are exempt from the provisions of this ordinance (and so are allowed):

- (a) Specific health and safety application – Synthetic pesticides may be used to control plants that are poisonous to the touch, such as poison ivy; pests that bite, sting, are venomous or are disease carrying, like mosquitoes; and animals or insects that may cause damage to a structure, such as carpenter ants or termites.
- (b) Golf course playing surfaces application – Synthetic pesticides may be used on non-City owned golf course playing surfaces and on the tees and greens of City-owned golf courses *provided that* the owner or operator of the golf course submits an annual management plan to the PMAC. The plan shall include a map or plan of the golf course showing all application areas, all measures taken to minimize use of synthetic pesticides on playing surfaces (for non-City owned golf courses) and tees and greens (for City-owned golf courses) and their exposure to humans and waterways to date, and how the use of pesticide ingredients will be minimized in the next calendar year. The plan shall be publicized by the owner or operator's posting of a copy of the plan on the golf course's website and providing a copy to the PMAC.
- (c) Invasive insect application – Synthetic pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock

Woolly Adelgid, Browntail Moth and other insects identified as invasive by the Maine Forest Service.

Sec. 32-6. Waivers.

- (A) In situations that threaten the public health and safety or for the control of invasive species that pose a threat to the environment, persons may apply to the PMAC for a waiver from the provisions of this ordinance prior to the use of a prohibited product or prior to the conduct of a prohibited application.
- (B) The waiver application shall be filed with the PMAC, on a form prescribed by the PMAC, and shall include the following: the proposed location(s); details on the timing(s) of use, substance(s) and amounts to be applied; date(s) of application; and reason for requesting the use/application of a synthetic pesticide. In order to grant a waiver application, the PMAC must first find that all of the following criteria are met:
- (i) Natural and organic methods of pesticide control have proven unsuccessful;
 - (ii) The applicant has carefully evaluated all alternative methods and materials;
 - (iii) Application of synthetic pesticides will not occur within seventy-five (75) feet of a tributary, creek, stream, river, lake, or drainage ditch;
 - (iv) The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties;
 - (v) A situation exists that threatens the public health and safety and/or where invasive species pose a threat to the environment; and
 - (vi) The grant of the waiver will not be detrimental to the public health, safety or welfare.
- (C) Waiver applications must be submitted at least two (2) weeks prior to a scheduled PMAC meeting date in order to be reviewed at the next scheduled meeting.
- (D) In granting by majority vote any waiver application, the PMAC may prescribe conditions and safeguards as are appropriate to further the purposes of this ordinance.

Sec. 32-7. Public Notifications and Signage.

If synthetic pesticides are to be used/applied through an exemption pursuant to Sec. 32-5(B)(iii) or through an approved waiver application pursuant to Sec. 32-6, the following posting requirements shall be complied with by the property owner or applicator.

- (A) The owner or applicator shall post warning signs in compliance with this ordinance. These signs must be posted before application activities commence and left in place for at least 48 hours after actual application or until expiration of the restricted entry interval or reentry time indicated by the pesticide label, whichever is longer.
- (B) All signs shall be at least five inches high and four inches wide in size. Signs shall be attached to the upper portion of a dowel or other supporting device so that the bottom of the sign is not less than 12" and the top of the sign is not more than 48" above the ground. The signs shall be of rigid, weather resistant material substantial enough to be easily read for at least 48 hours when placed outdoors.
- (C) All notification signs must be light colored (white, beige, yellow or pink) with dark, bold letters (black, blue or green). They shall have lettering that is conspicuous and clearly legible.
- (D) The sign must include the following:
- (i) The word "CAUTION" in 72 point type;
 - (ii) The words "PESTICIDE APPLICATION" in 30 point type or larger;
 - (iii) The Maine Board of Pesticides Control designated symbol;
 - (iv) Any reentry precautions from the pesticide labeling;
 - (v) The name and telephone number of the entity making the pesticide application;
 - (vi) The date and time of the application; and
 - (vii) A date and/or time to remove the sign.
- (E) All notification signs shall state the chemical and trade name of the pesticide, the date to be applied, the length of time to remain off the treated area as indicated by the pesticide label, and a phone number of the responsible party for more information.

These requirements are in addition to any requirements that may also apply to State of Maine licensed applicators subject to the Maine Board of Pesticides Control rules regarding public notification.

Sec. 32-8. Reporting by State of Maine Licensed Applicators.

In addition to complying with the Maine Board of Pesticides Control rules regarding record keeping and reporting requirements outlined in Chapter 50 of the Code of Maine Rules, all State of Maine licensed applicators are required to submit to the City Clerk an annual summary report on or before February 1 relating to the preceding calendar year. The report shall contain the following information for each application performed in the City in the prior calendar year: date of application, street address, site and size of area treated, quantity and type of synthetic pesticide and diluents applied,

EPA #, application method, total undiluted pesticide, and an explanation of any differences in pesticide use or quantity used from the previous annual report submitted.

Sec. 32-9. Outreach and Education.

- (A) The Sustainability Coordinator or his/her designee shall publish notice of this ordinance in a newspaper of general circulation in the City upon adoption of this ordinance and shall provide periodic notice of this ordinance to identified retailers and lawn, garden, and tree-care providers serving South Portland as well as to churches, schools, and other institutions in South Portland.
- (B) The PMAC shall prepare and publish materials designed to educate the community about the role of pesticides in the local environment and the benefits of organic pest management. This outreach shall include: a community-based social marketing campaign targeting City households and businesses; promotion of professional education and training for State of Maine licensed applicators; distribution of information and news about City practices through South Portland internet and web-based resources; SPC-TV public service announcements; news releases and news events; tax bill inserts; posters and brochures made available at City events and applicable locations that serve the public; workshops, trainings, and demonstration projects; targeted outreach to schools; and any additional methods deemed appropriate by the PMAC.
- (C) The PMAC shall also develop a program to work directly with retailers that sell synthetic pesticides in South Portland to:
- (i) Provide educational training for all retail store employees who recommend and sell pesticides for use in the home and garden, highlighting the following:
 - (a) federal, state, and local pesticide regulations;
 - (b) principles of organic pest management;
 - (c) pesticide toxicity and health and environmental concerns;
 - (d) proper pesticide display and storage; and
 - (e) the role of personal protective equipment, pesticide poisoning symptoms, and emergency procedures in case of spills.
 - (ii) Implement a toolkit consisting of educational materials and signage (i.e., posters, signs, stickers) that can be customized, printed, and placed in stores to help consumers understand this ordinance and alternatives to prohibited products/synthetic pesticides.

Sec. 32-10. Violations.

Any person violating any of the provisions of this ordinance or failing or neglecting or refusing to obey any order or notice of the Sustainability Coordinator and/or the PMAC issued hereunder shall be subject to enforcement action/civil penalties as provided herein.

Sec. 32-11. Enforcement and Civil Penalties.

It shall be the duty of the Sustainability Coordinator, for whom the Police Department and Code Enforcement Officer shall provide investigative assistance, to administer and enforce the provisions of this ordinance. Any person who is found to be in violation of any provision of this ordinance shall be initially subject to a letter of warning. A second violation shall be punishable by a civil penalty of two hundred dollars (\$200); a third violation shall be punishable by a civil penalty of five hundred dollars (\$500); and any subsequent violation shall be punishable by a civil penalty of one thousand dollars (\$1,000). Each violation of a separate provision of this ordinance, and each day of violation, shall constitute separate offenses. Violators may be subject to legal action brought by the City seeking any and all remedies to which it is entitled pursuant to State and local laws, including, without limitation, declaratory and injunctive relief and reasonable attorney's fees pursuant to 30 A M.R.S.A. § 4452, as the same may be amended from time to time. All civil penalties shall inure to the benefit of the City of South Portland.

Sec. 32-12. Severability.

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Sec. 32-13. Conflicts with Other Ordinances.

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

Sec. 32-14. Effective date; Applicability dates.

This ordinance shall become effective pursuant to Section 225 of the City Charter. In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or

applications (and the related public notification, signage and reporting requirements) shall be phased in as follows:

Phase One: Commencing May 1, 2017, the provisions set forth in Sec. 32-5 on the use or application of certain pesticides for turf, landscape and outdoor pest management activities shall apply to City-owned property (but not to any golf course).

Phase Two: Commencing May 1, 2018, the provisions set forth in Sec. 32-5 on the use or application of certain pesticides for turf, landscape and outdoor pest management activities shall apply to private property (but not to any golf course).

Phase Three: Commencing May 1, 2019, the provisions set forth in Sec. 32-5 on the use or application of certain pesticides on certain portions of golf courses for turf, landscape and outdoor pest management activities shall apply to all golf courses.

Fiscal Note: Less than \$1,000

Dated: April 4, 2016

South Portland Draft Pesticide Ordinance Process & Key Considerations

BACKGROUND

In early June of 2015, the nonprofit group Protect South Portland sponsored a presentation to the City Council by proponents for organic landscaping and lawn care practices. The goal of this initiative was to encourage the Council to consider establishing an ordinance that greatly restricts or eliminates the use of synthetic pesticides and fertilizers throughout most of the City in recognition of growing concerns about adverse impacts from the use of these materials on public health and the environment.

The Council held a subsequent meeting in July 2015 to allow for public comment. The majority of speakers favored the creation of an ordinance that would ban the use of synthetic pesticides in most cases. Individuals who expressed reservations with a pesticide ban generally represented commercial landscaping and lawn care interests and favored an Integrated Pest Management (IPM)¹ approach rather than an outright ban of synthetic pesticides. All of the Councilors supported the creation of an ordinance to regulate synthetic pesticide use with some strongly preferring an outright ban and others favoring a more moderate approach. Following extensive coverage in local newspapers, the City Manager subsequently received more balanced comments for and against a ban on synthetic pesticides.

Shortly after the July 2015 Council meeting, an intern for the City Manager developed an initial draft pesticide ordinance based on several similar documents developed by communities throughout the State and elsewhere in the country. The City Manager then appointed a committee consisting of the Sustainability Coordinator, the Parks & Recreation Department Superintendent and the Stormwater Program Coordinator to further develop and refine the draft ordinance based on more in-depth research.

Staff reviewed numerous documents and conducted several interviews with groups and individuals including policy makers, practitioners, local advocates and industry representatives to finalize the draft ordinance. The discussion below summarizes the rationale and most significant findings for the final draft document that the Council will consider in early 2016.

INTRODUCTION

Given the Council's consensus that synthetic pesticide use in South Portland should either be restricted or eliminated, staff relied on the ***precautionary principle*** to guide their efforts in developing the draft ordinance. The precautionary principle acknowledges that while there may be conflicting scientific claims about the relative risks associated the use of potentially harmful products, erring on the side of caution by reducing the use of these products is justified to protect public health and the environment – particularly when the costs to do so are not excessive. Staff considered the four central tenets of the precautionary principle² when drafting the ordinance:

- Taking preventative action in the face of uncertainty

¹ [Integrated Pest Management](#) consists of practices that emphasize quality production and health while minimizing reliance on pesticides.

² [The Precautionary Principle in Environmental Science](#) (Sept. 2001 Environmental Health Perspectives)

- Shifting the burden of proof to the proponents of an activity
- Exploring a wide range of alternatives to possibly harmful actions
- Increasing public participation in decision making

Even though monitoring for synthetic pesticides in South Portland has been limited, there is evidence that these chemicals are a potential cause for concern. There is also an increasing body of research both nationally and globally that synthetic pesticides are having detrimental effects on human health and the environment.

The draft ordinance addresses these concerns by greatly restricting synthetic pesticide use and promoting organic landscaping and lawn care practices to prevent pest problems. The ordinance also stresses the importance of education and outreach in recognition that any meaningful reduction of potentially harmful chemical use depends on the cooperation of residents and local businesses.

Thus, the overarching goal of the ordinance is to reduce toxics in our community by reducing the use of synthetic pesticides and promoting a transition to organic land care practices. In so doing, the ordinance will protect people, pets and the environment.

PROCESS FOR DEVELOPING DRAFT ORDINANCE

In the process of developing South Portland's draft ordinance, staff reviewed a wide variety of information sources including (but not limited to):

- ***Academic research studies and summaries:*** policy implementation evaluation of Toronto's municipal bylaw; study on state regulations, organic lawn management, and nutrient accumulation in soils; journal article on the precautionary principle and its applications; and Rutgers University paper on the management of turf grass using 'low-impact' pesticides.
- ***Local, state and federal regulations and guidance documents:*** Maine Board of Pesticide Control; Environmental Protection Agency; Canada Ministry of Environment; European Union; Washington State Dept. of Agriculture; and several municipal ordinances.
- ***Non-governmental organization interviews and reference documents:*** Beyond Pesticides; Friends of Casco Bay; Casco Bay Estuary Partnership; Maine Organic Farmers and Gardeners Association; and the Northeast Organic Farming Association.
- ***Interviews with local and state governmental officials:*** Takoma Park MD; Ogunquit ME; and the Cumberland County Soil and Water Conservation District.
- ***Interviews with private landscaping contractors:*** Ornamental Horticulture Council; Maine Landscape and Nursery Association; Down East Turf; Lucas Tree; Sable Oaks Golf Course; Scotts Lawn Care; Broadway Gardens; Osborne Organics; and Go Green Landscaping.

This in-depth process included detailed discussions by staff about which provisions to include in the draft ordinance. From mid-July until late December, staff met on a weekly (and occasionally biweekly) basis to carefully consider all elements in the draft ordinance. The most substantive discussion topics and resulting decisions – all of which were reached by consensus – are summarized below.

Fertilizers: after extensive research and careful consideration, staff decided that developing a comprehensive management strategy to protect water resources from nutrient runoff (esp. nitrogen) should be addressed through a separate stand-alone ordinance. Virtually all municipalities with fertilizer ordinances have also adopted this approach. Given [the increasing concerns about adverse impacts from excessive nitrogen inputs to Casco Bay](#), staff believe that developing a draft fertilizer ordinance would be a significant next step.

Provisions: Following the National Organic Program, the provisions of the ordinance are centered around natural and organic practices. In general, synthetic pesticides are prohibited unless specifically permitted and organic products are permitted unless specifically prohibited. It is also important to emphasize that "organic" is not synonymous with safe. There are risks associated the misuse and overuse of organic pesticides that can also result in adverse impacts to human health and the environment, although the risks are generally considered to be lower than those associated with synthetics.

Exemptions and Waivers: While the goal of the ordinance is to make organic pest management the primary management tool in our community, staff recognize that exemptions are necessary to ensure a successful transition. South Portland's draft ordinance allows for two exemption areas – which is less than most other municipal ordinances.

- **Public Health and Safety Protection:** there may be potential situations requiring the use of synthetic pesticides because there are currently no comparable organic alternatives available. The protection of public health and safety are paramount and there are numerous circumstances that potentially qualify for an exemption as described in the ordinance.
- **Golf Courses:** there are currently few (if any) examples of golf courses that are being managed successfully without some synthetic pesticide use. Consequently, golf course playing surfaces have also been exempted until organic turf management practices become better established and proven. The City may want to consider creating a pilot program to test various organic practices at the municipal course prior to requiring these practices on a more widespread basis.

Waiver applications will be required for situations involving the protection of public health and safety. A Pesticide Management Advisory Committee (PMAC) will review these applications to ensure that the waiver requests are justified based on a lack of viable alternatives. The PMAC must find that three conditions exist prior to granting and/or approving a waiver; these conditions align with Shoreland Overlay Districts (article XIII) standards in our zoning ordinance.

Staff decided against exempting athletic playing fields primarily because of the higher likelihood that young athletes could come into direct contact with pesticides. Additionally, there are several examples in other communities where these areas are being managed successfully using organic pest management practices. There may also be grant funds available to assist the City in implementing these practices for our fields.

Public Notification: For instances when synthetic pesticides are allowed (through the waiver review process), the ordinance includes a detailed notification section that applies to both licensed applicators and

private citizens. Staff believe this is an important provision because the public has a right to know when and where these chemicals are being applied.

Reporting: Even though the ordinance should greatly reduce synthetic pesticide use and potential exemptions will (hopefully) be few and infrequent, a reporting requirement is included to provide ongoing tracking data for the use of these chemicals. The City's Parks & Recreation Department already maintains detailed records for when, where, how much and what kind of synthetic pesticides are used on City properties. The ordinance will require landscaping contractors to annually report with the same level of detail for private properties.³ Staff also discussed requiring individual residents to provide synthetic pesticide usage data but recognized this would likely create an undue administrative burden.

Phasing: The phasing section allows for a transition period and begins with public properties to demonstrate the City's commitment to leading by example. There is a one year lag period so municipal departments can test new practices and products. Phase 2 applies to all private property and begins after two years. Golf courses were initially considered for a third phase but there are currently not enough proven organic management practices to ensure that course playing surfaces could be maintained adequately. Consequently, emphasis was placed on data collection and management practices to inform future provisions. Since the ordinance is intended to be a living document, Phase 3 instead focuses on evaluating the effectiveness of the pesticide regulations and revising them as needed based on the condition of public land, community feedback, new information and emerging science.

Outreach and Education: Education alone has not proven successful in reducing the use of synthetic pesticides. According to the [Maine Board of Pesticide Control](#), the use of pesticides for residential land care has increased nearly sevenfold over the past twenty years. However, other municipalities have demonstrated that ordinances combining education with enforcement can be successful tools for setting new community standards.

Because the ordinance will be a culture change as much as a policy change, staff believe a strong outreach and education section balances the challenges inherent to enforcement. The behavior change approach outlined in the ordinance targets different segments of the population through diverse means and includes education for and through retailers. This provision in particular targets private citizens who are the least likely to have any knowledge or training about the hazards associated with synthetic pesticide use.

Staff also considered including provisions to require training and certification on organic land care for landscaping contractors but decided against it given that state law already requires all applicators of synthetic pesticides to be certified. However, the City may want to consider lobbying the Maine Board of Pesticides Control to establish an Organic Pest Management (OPM) certification program.

Authority: The Pesticide Management Advisory Committee (PMAC) has a lofty charge. The committee's success will depend largely on the effectiveness of their outreach and education strategy, which will require funding to develop and implement.

³ Landscaping contractors we met with stated that they already keep this data so it would not be overly burdensome to report it.

CONCLUSION

Following the public meetings earlier this year, the City Council directed the Manager to establish an ordinance that greatly reduces and potentially eliminates the use of synthetic pesticides throughout most of the City. The draft ordinance completed in January 2016 represents an earnest attempt by staff to balance public health and environmental protection with aesthetic expectations for public and private landscape management. The Council's review of this document and subsequent public input will allow further refinement to create an ordinance that best reflects the overall intent and interests of the community.