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**From:** Riley Titus

**Sent:** Thursday, August 02, 2018 10:08 AM

**To:** Pesticides <Pesticides@maine.gov>

**Subject:** July 13 BPC meeting follow up information on BPC Resolution request and IPM

Dear Maine Board of Pesticides Control,

As a follow up to your July 13 meeting and discussion on support for a Board of Pesticides Control (Board) Resolution and the state Integrated Pest Management (IPM) policy, please see the following information to support this request and highlight our concerns around IPM. I have provided the aforementioned resolution in an earlier email to the Board. I urge the Board to review this information as they consider the Resolution and upholding IPM as the policy of the state, as it exists in current statute.

Maine State IPM Statutes:

- §2401. (IPM) Definitions
  - <http://www.mainelegislature.org/legis/statutes/7/title7sec2401.html>
- §2405. Integrated Pest Management Fund
  - <http://www.mainelegislature.org/legis/statutes/7/title7sec2405.html>
- §2406. University of Maine Cooperative Extension IPM programs
  - <http://www.mainelegislature.org/legis/statutes/7/title7sec2406.html>
- §2404. Integrated Pest Management Council
  - <http://www.mainelegislature.org/legis/statutes/7/title7sec2404.html>
- §607. Registration
  - 6. Registration fee; programs funded.
    - <http://www.mainelegislature.org/legis/statutes/7/title7sec607.html>

EPA IPM Information and Resources:

- <https://www.epa.gov/safepestcontrol/integrated-pest-management-ipm-principles>

Example of the erosion of IPM:

Portland, Pesticide Ordinance (link to ordinance for reference to the below:

<http://portlandmaine.gov/DocumentCenter/View/18696/Order-110-1718?bidId=>)

The last municipal pesticide ordinance to pass was in Portland, Maine, and does not recognize IPM.

Sec. 34-3. Definitions

Instead, reflected in the definitions of this ordinance is Organic Pest Management. Defined as: Organic pest management means the act of managing or controlling pests through the use of mechanical, cultural, or, biological processes, or through the use of natural, organic, or non-synthetic substances.

Sec. 34-5. Permitted, Prohibited, and Exempt pesticides

This definition and concept is then used to prohibit the use of any “synthetic,” or “non-organic” pesticide, as detailed in *Sec. 34-5. Permitted, prohibited, and exempt pesticides, (a) & (b)* of the law, therein removing any users ability to choose how they maintain their land or treat a pest problem following nationally and state recognized IPM protocols and methodology.

**Sec. 34-6. Pest Management Advisory Committee**

Under subsection (a) of this section, the Pest Management Advisory Committee members, are all required to have experience in organic land care, or be licensed by the Northeast Organic Farming Association, a special-interest group.

**Sec. 34-11. Outreach and Education**

Under this section, the city disregards any recognition or education of the IPM policy of the state, and seeks to promote organic pest management and its principles.

This is all notwithstanding that Section 34-8, Reporting by State of Maine Licensed Applicators, and 34-10, Public Notification, go beyond what is required by the State of Maine.

Again, I would urge the Board to reaffirm its duties and responsibilities as the pesticide authority of Maine, upholding the IPM policy of the state through the approval of the resolution provided on July 10, and by reviewing the appropriations and programs set forth by the state IPM statutes above, to strengthen, promote, expand and enhance IPM in the state.

Thank you,

Riley Titus  
RISE

**Maine Revised Statutes**  
**Title 7: AGRICULTURE AND ANIMALS**  
**Chapter 413: INTEGRATED PEST MANAGEMENT**

**§2401. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 609, §2 (NEW).]

**1. Integrated pest management.** "Integrated pest management" means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including:

- A. Understanding the system in which the pest exists; [1991, c. 609, §2 (NEW).]
- B. Establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control; [1991, c. 609, §2 (NEW).]
- C. Monitoring pests and natural enemies; [1991, c. 609, §2 (NEW).]
- D. When needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression; and [1991, c. 609, §2 (NEW).]
- E. Systematically evaluating the pest management approaches utilized. [1991, c. 609, §2 (NEW).]

[ 1991, c. 609, §2 (NEW) .]

SECTION HISTORY

1991, c. 609, §2 (NEW).

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**Maine Revised Statutes**  
**Title 7: AGRICULTURE AND ANIMALS**  
**Chapter 413: INTEGRATED PEST MANAGEMENT**

**§2405. INTEGRATED PEST MANAGEMENT FUND**

There is created a dedicated, nonlapsing Integrated Pest Management Fund. The commissioner shall credit funds from any source to the Integrated Pest Management Fund for the purpose of developing and implementing integrated pest management programs. Appropriations from the General Fund may not be credited to the Integrated Pest Management Fund. [2001, c. 497, §3 (NEW).]

SECTION HISTORY

2001, c. 497, §3 (NEW).

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**Maine Revised Statutes**  
**Title 7: AGRICULTURE AND ANIMALS**  
**Chapter 413: INTEGRATED PEST MANAGEMENT**

**§2406. UNIVERSITY OF MAINE COOPERATIVE EXTENSION INTEGRATED PEST MANAGEMENT PROGRAMS**

The University of Maine Cooperative Extension shall develop and implement integrated pest management programs. The extension may seek the advice of the Integrated Pest Management Council established in section 2404 in establishing the programs. The extension shall use the funds deposited pursuant to section 607 for the purposes of this section. The extension shall administer the grant pursuant to section 607, subsection 6, paragraph A. [2013, c. 290, §2 (NEW); 2013, c. 290, §4 (AFF).]

**SECTION HISTORY**

2013, c. 290, §2 (NEW). 2013, c. 290, §4 (AFF).

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**Maine Revised Statutes**  
**Title 7: AGRICULTURE AND ANIMALS**  
**Chapter 413: INTEGRATED PEST MANAGEMENT**

**§2404. INTEGRATED PEST MANAGEMENT COUNCIL**

**1. Establishment; meetings.** The Integrated Pest Management Council, referred to in this section as the "council," as established in Title 5, section 12004-G, subsection 3-C, is created within the department and is administered jointly by the department and the University of Maine Cooperative Extension Pest Management Office. Members of the council must be jointly appointed by the commissioner and the Director of the University of Maine Cooperative Extension. The council must meet at least 2 times a year. Members are entitled to reimbursement for expenses only in accordance with Title 5, chapter 379.

[ 2001, c. 667, Pt. B, §4 (AMD); 2001, c. 667, Pt. B, §5 (AFF) . ]

**2. Membership.** The council consists of the following 11 members:

A. Three members representing agricultural pest management; [ 2001, c. 497, §3 (NEW) . ]

B. One member representing a citizen interest organization; [ 2001, c. 497, §3 (NEW) . ]

C. One member representing the interest of forestry; [ 2001, c. 497, §3 (NEW) . ]

D. One member representing organic growers and producers; [ 2001, c. 497, §3 (NEW) . ]

E. One member representing structural pest management; [ 2001, c. 497, §3 (NEW) . ]

F. One member representing rights-of-way vegetation management; [ 2001, c. 497, §3 (NEW) . ]

G. One member representing turf or landscape management; [ 2001, c. 497, §3 (NEW) . ]

H. One member representing a nonprofit environmental organization; and [ 2001, c. 497, §3 (NEW) . ]

I. One member representing integrated pest management research. [ 2001, c. 497, §3 (NEW) . ]

[ 2001, c. 497, §3 (NEW) . ]

**3. Term of office.** The term of office for members is 3 years except that, of the original members appointed, the appointing authority shall appoint members to serve one-year, 2-year and 3-year terms to establish staggered terms.

[ 2001, c. 497, §3 (NEW) . ]

**4. Coordinators.** The commissioner and the Director of the University of Maine Cooperative Extension shall each appoint one member of the council to serve as a cocoordinator of the council.

[ 2001, c. 497, §3 (NEW) . ]

**5. Duties; responsibilities.** The council shall facilitate, promote, expand and enhance integrated pest management adoption in all sectors of pesticide use and pest management within the State. Specifically, the council shall:

A. Identify long-term and short-term priorities for integrated pest management research, education, demonstration and implementation; [ 2001, c. 497, §3 (NEW) . ]

B. Serve as a communication link for the development of coordinated multidisciplinary partnerships among researchers, educators, regulators, policymakers and integrated pest management users; [ 2001 , c. 497, §3 (NEW) . ]

C. Identify funding sources and cooperate on obtaining new funding for on-site trials, education and training programs and other efforts to meet identified goals for expanding, advancing and implementing integrated pest management; [ 2001, c. 497, §3 (NEW) . ]

D. Establish measurable goals for expansion of integrated pest management into new sectors and advancing the level of integrated pest management adoption in sectors where integrated pest management is already practiced; and [ 2001, c. 497, §3 (NEW) . ]

E. Cooperate with appropriate organizations to establish protocols for measuring and documenting integrated pest management adoption in the State. [ 2001, c. 497, §3 (NEW) . ]

[ 2001, c. 497, §3 (NEW) . ]

**6. Report.** The council shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters annually on all of the council's activities during the year.

[ 2001, c. 497, §3 (NEW) . ]

#### SECTION HISTORY

2001, c. 497, §3 (NEW). 2001, c. 667, §B4 (AMD). 2001, c. 667, §B5 (AFF) .

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**Maine Revised Statutes**  
**Title 7: AGRICULTURE AND ANIMALS**  
**Chapter 103: PRODUCTS CONTROLLED**

**§607. REGISTRATION**

**1. Conditions requiring registration.** A pesticide may not be distributed in this State unless it is registered with the board in accordance with the provisions of this subchapter, except that registration is not required if:

A. A pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and is used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under the provisions of this subchapter; or [2005, c. 620, §6 (NEW).]

B. A pesticide is distributed under the provisions of an experimental use permit issued by EPA. [2005, c. 620, §6 (NEW).]

[ 2005, c. 620, §6 (AMD) . ]

**2. Contents of statement made by applicant.** The applicant for registration shall file a statement with the board, which must include:

A. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than applicant's; [1975, c. 382, §3 (NEW).]

B. The name of the pesticide; [1975, c. 382, §3 (NEW).]

C. Other necessary information required by the board; and [2005, c. 620, §6 (AMD).]

D. A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA. [1975, c. 382, §3 (NEW).]

[ 2005, c. 620, §6 (AMD) . ]

**3. Submission of formula.** The board, when it determines it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

[ 2005, c. 620, §6 (AMD) . ]

**4. Test results.** The board may require a full description of all tests made and the results of those tests on any pesticide not registered pursuant to FIFRA, Section 3 or on any pesticide on which restrictions are being considered by the board. In the case of renewal of registration, the board may require a statement only with respect to test result information that is different from that furnished when the pesticide was registered or last reregistered.

[ 2005, c. 620, §6 (AMD) . ]

**5. Power to require other information.** The board may by rules adopted under section 610 require the submission of other necessary information.

[ 2005, c. 620, §6 (AMD) . ]

**5-A. Confidentiality.** Notwithstanding Title 1, section 402, data submitted pursuant to subsections 3, 4 and 5 that have been determined confidential by the Administrator of the United States Environmental Protection Agency in accordance with 7 United States Code, Section 136h (2007) are confidential and may not be available for public inspection.

[ 2007, c. 597, §8 (AMD) . ]

**6. Registration fee; programs funded.** The applicant desiring to register a pesticide must pay an annual registration fee of \$160 for each pesticide registered for that applicant. Annual registration periods expire on December 31st or in a manner consistent with Title 5, section 10002, whichever is later.

The board shall monitor fee revenue and expenditures under this subsection to ensure that adequate funds are available to fund board and related department programs and, to the extent funds are available, to provide grants to support stewardship programs. The board shall use funds received under this subsection to provide:

A. An annual grant of no less than \$135,000 to the University of Maine Cooperative Extension, on or about April 1st, for development and implementation of integrated pest management programs. The University of Maine may not charge overhead costs against this grant; and [ 2013, c. 290, §1 (NEW); 2013, c. 290, §4 (AFF) . ]

B. Funding for public health-related mosquito monitoring programs or other pesticide stewardship and integrated pest management programs, if designated at the discretion of the board, as funds allow after expenditures under paragraph A. The board shall seek the advice of the Integrated Pest Management Council established in section 2404 in determining the most beneficial use of the funds, if available, under this subsection. [ 2013, c. 290, §1 (NEW); 2013, c. 290, §4 (AFF) . ]

By February 15th annually, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters detailing the grants funded by the fee under this subsection. The annual report must include a recommendation by the board as to whether the amount of the fee is adequate to fund the programs described in this subsection. The joint standing committee may report out a bill to the Legislature based on the board's recommendations.

[ 2013, c. 290, §1 (AMD); 2013, c. 290, §4 (AFF) . ]

**7. Renewal of registration.** Registrations must be renewed annually prior to January 1st. The board shall mail forms for reregistration to registrants at least 30 days prior to the due date.

[ 2005, c. 620, §6 (AMD) . ]

**8. Approval of application for registration.**

[ 2005, c. 620, §6 (RP) . ]

**8-A. Approval of application for registration.** The processing of an application for registration is governed by this subsection.

A. The board shall consider the required information set forth under subsections 2, 3, 4 and 5 and shall register a pesticide if it determines that:

- (1) Its composition warrants the proposed claims for it;
- (2) Its labeling and other material required to be submitted comply with the requirements of this subchapter;
- (3) It will perform its intended function without unreasonable adverse effects on the environment;
- (4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and
- (5) A need for the pesticide exists. [ 2005, c. 620, §6 (NEW) . ]

B. If, within 180 days from the date the completed application for registration is submitted, the board fails to act upon an application for registration of a pesticide that has been certified by EPA, the pesticide is deemed registered under this chapter unless the board issues a written statement containing the reasons for the failure to act upon the application. The statement of the board is deemed a refusal to register pursuant to section 609. [2005, c. 620, §6 (NEW).]

C. Paragraphs A and B do not apply if the registrant fails to provide any information required to be submitted under this subchapter or does not provide other information requested by the board in order to determine whether the pesticide should be registered.

Nothing in this paragraph affects the rights of the board to make further inquiry regarding the registration of a pesticide or to refuse reregistration, to suspend or revoke registration or to otherwise restrict or condition the use of pesticides in order to protect public health and the environment. [2005, c. 620, §6 (NEW).]

D. Prior to registering a pesticide for a special local need, the board shall classify the uses of the pesticide for general or restricted use in conformity with FIFRA, Section 3(d). The board may not make any lack of essentiality a criterion for denying registration of any pesticide. When 2 pesticides meet the requirements of this paragraph, the board may not register one in preference to the other. [2005, c. 620, §6 (NEW).]

E. The board may establish such other requirements by rule in accordance with section 610 as are necessary to carry out the provisions of this subsection. [2005, c. 620, §6 (NEW).]

[ 2005, c. 620, §6 (NEW) .]

**9. Adverse environmental effects.** If, at any time after the registration of a pesticide, the registrant has additional factual information regarding unreasonable adverse effects of a pesticide on the environment, the registrant shall submit that information to the board.

[ 2005, c. 620, §6 (AMD) .]

#### SECTION HISTORY

1975, c. 382, §3 (NEW). 1977, c. 694, §§52-55 (AMD). 1979, c. 644, §1 (AMD). 1981, c. 9, (AMD). 1983, c. 568, §1 (AMD). 1985, c. 592, (AMD). 1985, c. 627, §1 (AMD). 1987, c. 310, §1 (AMD). 1987, c. 723, §1 (AMD). 1989, c. 878, §E5 (AMD). 1993, c. 410, §S1 (AMD). 2001, c. 498, §1 (AMD). 2003, c. 282, §1 (AMD). 2005, c. 585, §1 (AMD). 2005, c. 620, §6 (AMD). 2007, c. 466, Pt. A, §25 (AMD). 2007, c. 597, §8 (AMD). 2013, c. 290, §1 (AMD). 2013, c. 290, §4 (AFF).

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An official website of the United States government.

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

Close



## Integrated Pest Management (IPM) Principles

On this page:

- [What is IPM?](#)
- [How do IPM programs work?](#)
- [Do most growers use IPM?](#)
- [How do you know if the food you buy is grown using IPM?](#)
- [If I grow my own fruits and vegetables, can I practice IPM in my garden?](#)
- [For more information](#)

### What is IPM?

Integrated Pest Management (IPM) is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment.

The IPM approach can be applied to both agricultural and non-agricultural settings, such as the home, garden, and workplace. IPM takes advantage of all appropriate pest management options including, but not limited to, the judicious use of pesticides. In contrast, *organic* food production applies many of the same concepts as IPM but limits the use of pesticides to those that are produced from natural sources, as opposed to synthetic chemicals.

### How do IPM programs work?

IPM is not a single pest control method but, rather, a series of pest management evaluations, decisions and controls. In practicing IPM, growers who are aware of the potential for pest infestation follow a four-tiered approach. The four steps include:

- **Set Action Thresholds**  
Before taking any pest control action, IPM first sets an action threshold, a point at which pest populations or environmental conditions indicate that pest control action must be taken. Sighting a single pest does not always mean control is needed. The level at which pests will either become an economic threat is critical to guide future pest control decisions.

- **Monitor and Identify Pests**

Not all insects, weeds, and other living organisms require control. Many organisms are innocuous, and some are even beneficial. IPM programs work to monitor for pests and identify them accurately, so that appropriate control decisions can be made in conjunction with action thresholds. This monitoring and identification removes the possibility that pesticides will be used when they are not really needed or that the wrong kind of pesticide will be used.

- **Prevention**

As a first line of pest control, IPM programs work to manage the crop, lawn, or indoor space to prevent pests from becoming a threat. In an agricultural crop, this may mean using cultural methods, such as rotating between different crops, selecting pest-resistant varieties, and planting pest-free rootstock. These control methods can be very effective and cost-efficient and present little to no risk to people or the environment.

- **Control**

Once monitoring, identification, and action thresholds indicate that pest control is required, and preventive methods are no longer effective or available, IPM programs then evaluate the proper control method both for effectiveness and risk. Effective, less risky pest controls are chosen first, including highly targeted chemicals, such as pheromones to disrupt pest mating, or mechanical control, such as trapping or weeding. If further monitoring, identifications and action thresholds indicate that less *risky* controls are not working, then additional pest control methods would be employed, such as targeted spraying of pesticides. Broadcast spraying of non-specific pesticides is a last resort.

## Do most growers use IPM?

With these steps, IPM is best described as a continuum. Many, if not most, agricultural growers identify their pests before spraying. A smaller subset of growers use less risky pesticides such as pheromones. All of these growers are on the IPM continuum. The goal is to move growers further along the continuum to using all appropriate IPM techniques.

## How do you know if the food you buy is grown using IPM?

In most cases, food grown using IPM practices is not identified in the marketplace like *organic* food. There is no national certification for growers using IPM, as the United States Department of Agriculture has developed for organic foods. Since IPM is a complex pest control process, not merely a series of practices, it is impossible to use one IPM definition for all foods and all areas of the country. Many individual commodity growers, for such crop as potatoes and strawberries, are working to define what IPM means for their crop and region, and IPM-labeled foods are available in limited areas. With definitions, growers could begin to market more of their products as *IPM-Grown*, giving consumers another choice in their food purchases.

## If I grow my own fruits and vegetables, can I practice IPM in my garden?

Yes, the same principles used by large farms can be applied to your own garden by following the four-tiered approach outlined above. For more specific information on practicing IPM in your garden, you can contact your state Extension Services for the services of a Master Gardener.

### For More Information on IPM

- [Pesticides and Food: What "Integrated Pest Management" Means](#)
- EPA is encouraging the innovation of biological pesticides, also known as biopesticides.
- Find [your state's Extension Service](#)
- Pesticide Environmental Stewardship Program (PESP)
- Radcliffe's [IPM World Textbook](#) EXIT
- [IPMNet](#) EXIT

LAST UPDATED ON JUNE 27, 2017

Order 110-17/18

Motion to postpone to December 18, 2017: 8-0 on 11/20/2017

Motion to postpone to January 3, 2018: 9-0 on 12/18/2017

Motion to amend Section 34-16 to make July 1, 2018 the start date for city-owned property except for athletic fields and golf courses: 8-1 (Strimling) on 1/3/2018

Motion to amend to add invasive plant applications as an exemption in Section 34-5(d): 8-1 (Batson) on 1/3/2018

Passage as amended: 9-0 on 1/3/2018

Effective 2/2/2018

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE**  
**NEW CHAPTER 34 PESTICIDE USE**

**WHEREAS**, the City of Portland wishes to protect the quality of Casco Bay and other waterways that support the economic vitality of local fisheries and the working waterfront; and

**WHEREAS**, the City of Portland recognizes that healthy soils serve as the foundation for vibrant ecosystems and pest-resistant plant life; and

**WHEREAS**, the City of Portland wishes to promote land care practices that promote the development of healthy soils to minimize the need to apply pesticides to control unwanted pests; and

**WHEREAS**, the City of Portland also recognizes that there may still be a need to manage pests to protect public health and safety, wildlife, our environment and City assets; and

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

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

**WHEREAS**, the use of pesticides has been known or suspected to cause serious health problems is not necessary to grow and maintain green lawns and ornamental landscapes,

given the availability of viable alternative practices and products; and

**WHEREAS**, a growing number of communities and municipalities including the City of Portland are embracing a precautionary approach to the use of pesticides in order to adequately protect people and the environment from their harmful effects; and

**WHEREAS**, the State of Maine allows municipalities, through their home rule authority, to enact ordinances dealing with municipal affairs pursuant to 30-A M.R.S. §3001;

**NOW THEREFORE** BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND *That the Portland City Code is hereby amended by adding a Chapter, to be numbered Chapter 34, Sections 34-1 to 34-16, which said Sections read as follows:*

### **Chapter 34**

#### **PESTICIDE USE**

##### **Sec. 34-1. Title.**

This chapter shall be known as the City of Portland Pesticide Use Ordinance (hereinafter, the "Ordinance").

##### **Sec. 34-2. Purpose.**

The purpose of this ordinance is to safeguard the health, safety and welfare of the residents of the City 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.

##### **Sec. 34-3. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

**Aggrieved party** means an individual or entity that applies for but is denied a waiver from provisions of this ordinance as described in Section 34-6.

**Broadcast application** means the spreading of pesticides over an entire area.

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

**Emergency** means a serious, unexpected, and often dangerous situation requiring immediate action.

**EPA** means the United States Environmental Protection Agency.

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

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

**High Use Athletic Facilities** means the following playing fields located in the following parks as listed in Chapter 18, section 18-11: Fox Field, Quinn Field and Deering Oaks Baseball Field at Deering Oaks Park; Back Cove Park; and Payson A Field in Payson Park. It shall also include Presumpscot Field at Deering High School.

**Repellant** means a substance that deters insects or other pests from approaching or settling.

**Invasive Species** means 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"** means 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** means the act of managing or controlling pests through the use of mechanical, cultural, or, biological processes, or through the use of natural, organic, or non-synthetic substances.

**Person** means 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** 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.

**Pest Management** means the act of managing or controlling pests through the use of chemical, mechanical, cultural, biological, or genetic measures.

**Pesticide** means 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.

**Pests of significant public health importance** means the pests listed by the EPA, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

**Preemptive application** means the application of pesticides as a measure against something possible, anticipated or feared, i.e., as a preventive or deterrent measure.

**Public utility** means any transmission and distribution utility, telephone utility, water utility, gas utility, or natural gas pipeline utility that is subject to the jurisdiction of the Maine Public Utilities Commission.

**Restricted Entry Interval**, also known as the re-entry interval or re-entry time, means the minimum amount of time that must pass after a pesticide is applied to an area before people or pets can safely go into that area. The labels on pesticides provide information about an individual pesticide's REI.

**Synthetic** means 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.

**Water body** means any great pond, river, stream or tidal area as those terms are defined in Chapter 14 of the Portland Code of Ordinances.

**Wetland** means a coastal or shoreland freshwater wetland as those terms are defined in the City's Zoning Ordinance, Chapter 14 of the Code of Ordinances.

#### **Sec. 34-4. Applicability**

The following provisions shall apply to all outdoor pest management activities conducted within the boundaries of the City of Portland (hereinafter, the "City"), on both public and private land.

#### **Sec. 34-5 Permitted, prohibited, and exempt pesticides**

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

1. Organic Pest Management, except as provided in (b)2 below;
2. Use or application of Synthetic substances specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List"); and/or
3. Use or application of Pesticides determined to be "minimum risk pesticides" pursuant to the FIFRA and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.

(b) Prohibited Pest Management Activities and/or Materials:

1. Use or application of Synthetic substances other than those described in (a)(2) above;
2. Use or application of Non-synthetic substances specifically listed as "prohibited" on the National List; and/or
3. The use or application of pesticides (whether natural, organic, "non-synthetic," synthetic or otherwise) within seventy five feet of a water body or wetland.

(c) Exempt Pest Management Activities and/or Materials. The following are exempt from the provisions of this ordinance (and therefore are allowed):

1. Use or application of Pest Management Activities and/or Materials in connection with Commercial agriculture;
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; and/or
7. General use paints, stains, and wood preservatives, and sealants when used in the manner recommended by the manufacturer.

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;

2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
3. Hadlock Field applications;
4. Treatments for Heritage Elms;
5. Applications on fields at High Use Athletic facilities (until January, 2021, unless this date is extended by the City Council);
6. Prohibited 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;
7. Right-of-way applications. Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City; and/or
8. Invasive plant applications on city property. Applications to control plants categorized as currently considered invasive in Maine by the Maine Department of Agriculture, Conservation, and Forestry.

For any exempt applications by the City, disclosure shall be made in the annual report described in Section 34-9 of this ordinance.

(e) Exempt Uses. The following uses are exempt from the provisions of this ordinance (and therefore are allowed):

1. Any use of pesticides mandated by state or federal law or required by an order or decision from a court or state or federal board or agency.

#### **Sec. 34-6. Pest Management Advisory Committee.**

(a) The Pest Management Advisory Committee ("PMAC") is hereby established. The PMAC shall consist of seven (7) members as follows:

1. One (1) member of city staff, designated by the City Manager, who shall be accredited by the Northeast Organic Farming Association in Organic Land Care or shall receive such accreditation within a reasonable time frame;

2. One (1) practicing agronomist appointed by the City Council;
3. Two (2) Maine Board of Pesticides Control-licensed landscape professionals, at least one (1) of whom has experience in organic land care management and is accredited by the Northeast Organic Farming Association in Organic Land Care, each appointed by the City Council; and
4. Three resident or taxpayer representatives appointed by the City Council at least one of whom has experience in organic land care management.

(b) The terms of office of the six (6) 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 (2) members shall expire in any single year. The term of office for the City employee PMAC member shall be for as long as the employee holds said employment position.

(c) The PMAC shall advise the City Council and the City's Sustainability Coordinator with respect to the following:

1. Advising the Sustainability and Transportation Committee and the City's Sustainability Coordinator of any problems encountered or amendments that may be required to achieve the full and successful implementation of this ordinance;
2. Reviewing and acting upon waiver applications when applicable;
3. Developing and implementing outreach and education as specified in Sec. 34-11 of this ordinance (in coordination with the Sustainability Coordinator);
4. 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;
5. Encouraging broad community participation, from parents, schools, advocates, and local arboriculture and landscaping businesses, in the activities of the PMAC;
6. Reviewing annual data and issuing a summary report annually by March 31 to the Sustainability and Transportation Committee, or whatever committee is

assigned an oversight role by the City Council, which includes, among other things, a summary of its educational outreach; recommendations on any necessary amendments to this chapter; the number of waivers granted in the past year; and comprehensive data taken from the written documents provided by Applicators and/or Licensed Applicators about the use of pesticides within the City of Portland including, but not limited to:

- a. The amount of pesticides used on privately or publicly owned land in the City of Portland;
- b. The reasoning for such use of pesticides; and
- c. The specific pesticides that were used.

7. Any additional responsibilities as may be assigned and deemed necessary by the City Council.

(d) PMAC Officers, meetings and records.

1. The members shall annually elect a chair and a secretary from their membership;
2. All meetings of the PMAC shall be noticed and open to the public in accordance with the City's notice policies and Maine's Freedom of Access Act;
3. A quorum shall consist of four members;
4. The PMAC shall meet at least five (5) times annually;
5. Minutes shall be kept of all meetings and posted on the City web page; and
6. An annual report of the PMAC's activities shall be submitted to the Sustainability and Transportation Committee by March 31 of each year.

(e) Waiver Subcommittee:

1. A subcommittee of the PMAC shall be established annually and consist of the designated City staff member and one (1) other member of the PMAC designated by the Chair;
2. This subcommittee shall be authorized to review and decide waiver applications as described in section 34-7; and
3. The PMAC shall schedule meetings of the Waiver Subcommittee frequently enough to be responsive to

waiver requests. All meeting dates shall be posted in advance on the City calendar.

**Sec. 34-7. Waivers.**

(a) In situations that are an emergency, threaten the public health, safety or welfare, or for the control of invasive species that pose a threat to the environment, persons shall apply to the PMAC Waiver Committee for a waiver from the provisions of this ordinance prior to the use/application of a prohibited pesticide or prior to the conduct of a prohibited application.

(b) The waiver application shall be filed with the PMAC Waiver Committee, on a form prescribed by the Committee and shall include the following information: the reason for requesting the use/application of a prohibited pesticide; the proposed location(s) of the proposed application(s); details on the timing(s) of use, substance(s) and amounts to be applied; date(s) of application; management plan that excludes broadcast and preemptive applications; and a pest identification and threshold report. In order to approve a waiver application, the PMAC Waiver Committee must find that all of the following criteria are met:

1. A situation exists that: is an emergency; threatens the public health, safety and/or welfare; involves an invasive species;— that poses a threat to the environment; or requires a non-permitted pest management activity and/or material to protect buildings or structures from damage;
2. The applicant has carefully evaluated all alternative methods and materials including, but not limited to, non-pesticide management tactics, minimum risk pesticides, non-synthetic pesticides, and is choosing to use the minimum amount of the least toxic, most effective pesticide necessary;
3. The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties; and
4. To the maximum extent possible the grant of the waiver will not be detrimental to the public's health, safety or welfare.

(c) The Waiver Committee shall conduct a hearing on all complete waiver applications received within ten (10) business days of receipt of the complete application and shall seek to issue a written decision on the application within three (3) business days of reviewing an application.

(d) In approving any waiver application, the Waiver Committee may also prescribe conditions and safeguards as are appropriate to further the purposes of this ordinance. The waiver decision of the Waiver Committee shall be in writing, with copies provided to the applicant, the PMAC, and the Sustainability Coordinator, and the City Clerk.

(e) An Aggrieved Party may appeal a written decision of the PMAC Waiver Committee to the City Manager or his or her designee within five (5) business days of the issuance of the committee's decision. The appeal shall be in writing and shall state the basis for the appeal. The City Manager or his or her designee (who shall not be a member of the PMAC) shall act upon the appeal within five (5) business days of receipt of the appeal. The decision of the City Manager or designee shall be in writing, with copies provided to the aggrieved party, the PMAC Waiver Committee, and the Sustainability Coordinator. The decision of the City Manager or his or her designee shall be final.

**Sec. 34-8. 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 as outlined in 01-026 C.M.R. Ch. 50, as amended from time to time, all State of Maine licensed applicators are required to submit to the PMAC an annual summary report on or before February 1st of each calendar year relating to the preceding calendar year. This report shall contain the following information for applications performed in the City in the prior calendar year: target site, pesticide brand name, EPA registration number, total undiluted formulation (in pounds or gallons), and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticides Control.

**Sec. 34-9. Management plan and annual reporting for publicly owned parks and open spaces.**

The City shall maintain a management plan for public open spaces that shall be posted on the City website. The City Manager or

his or her designee shall provide an annual report to the PMAC describing efforts to reduce the use of synthetic pesticides, a description of synthetic pesticides used during the previous year, the reason for their use, and the cost of such pesticide usage.

#### **34-10. Public Notification.**

Any person shall comply with the following posting requirements. For all prohibited pesticide uses or applications:

(a) A warning sign shall be posted on the privately or publicly owned land. These signs must be posted before application activities commence on the land and be left in place for at least forty-eight (48) hours after actual application or until expiration of the restricted entry interval indicated by the pesticide label, whichever is longer;

(b) All signs shall be at least five (5) inches high and four (4) 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 the duration of the placement;

(c) All 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:

1. The word "CAUTION" in 72-point type;
2. The words "PESTICIDE APPLICATION" in 30-point type or larger;
3. The Maine Board of Pesticides Control designated symbol;
4. Any reentry precautions from the pesticide labeling;
5. The name and telephone number of the entity making the pesticide application;
6. The date and time of the application;
7. A date and/or time to remove the sign;
8. the chemical and trade name of the pesticide; and
9. the length of time to remain off the treated area as indicated by the pesticide label; and

(f) For licensed applicators, the requirements above 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, as may be amended from time to time, regarding public notification.

**Sec. 34-11. Outreach and Education.**

(a) The Sustainability Coordinator or his or her designee shall publish notice of this ordinance in a newspaper of general circulation in the City upon adoption and shall attempt to provide information about it to identified retailers and lawn, garden, and tree-care providers serving the City of Portland, as well as to churches, schools, and other institutions in 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 may 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 Portland internet and web-based resources; 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/or any additional methods deemed appropriate by the PMAC.

(c) The PMAC shall also develop a program to work directly with retailers that sell pesticides in the City of Portland to:

1. 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; and
2. 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 pesticides.

**Sec. 34-12. Violations.**

Any person violating any of the provisions of this ordinance or failing, neglecting or refusing to obey any order or notice of the City Manager or his or her designee issued hereunder shall be subject to enforcement action as provided in §34-13.

**Sec. 34-13. Enforcement and Remedies.**

(a) This ordinance may be enforced by the City Manager or his or her designee;

(b) 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 ordinance; and

(c) Any violation of this chapter shall constitute a civil violation subject to the penalties contained in Portland City Code, Chapter 1, § 1-15.

**Sec. 34-14. Severability.**

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

**Sec. 34-15. 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 chapter, article or ordinance of the Portland City Code shall control.

**Sec. 34-16. Effective date; Applicability dates.**

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 effective as follows:

(a) Phase One: Commencing no later than July 1, 2018, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses);

(b) Phase Two: Commencing no later than January 1, 2019, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to private property (but not high use athletic fields or golf courses); and

(c) Phase Three: Commencing no later than January 1, 2021, the provisions set forth in Sec. 34-5 on outdoor pest management activities with respect to high use athletic fields shall apply to public or private property, except that the City Manager or his or her designee may request that the City Council extend this applicability date if he or she determines more time is necessary to transition to organic management practices for these properties and facilities.