

Town of Manchester

Pesticide/Herbicide/Fertilizer Usage on Town-Owned Lands

Enacted: 06/15/2017

Attested Copy: _____

Pesticide/Herbicide/Fertilizer Usage on Town Owned Lands

1. Purpose

The purpose of this ordinance is to safeguard the health and welfare of the residents of the Town of Manchester and to conserve and protect the Town's ground water, Cobbossee Watershed and other natural resources, while ensuring preservation and enhancement of town owned land.

2. Provisions

The following provisions shall be applicable to all turf, landscape and outdoor pest management activities on town owned land.

(a) Permitted:

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

(b) Prohibited:

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

3. Definitions

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

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

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

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

Town Owned Land: All land owned or leased by the Town of Manchester and/or managed by the Town, including outdoor grounds such as area around Town Office, playing fields, school grounds and Town Owned parcels.

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

4. Exemptions

The following situations are exempt from the provisions of this Ordinance:

- (a) Disinfectants, germicides, bactericides and virucides;
- (b) Personal Application of Insect repellents;
- (c) Outdoor animal repellants;
- (d) Aerosol products;
- (e) General use paints, stains and wood preservatives and sealants; and

The following processes are exempt: drinking water and wastewater treatment; indoor pesticide use; contained baits or traps for rodent control; use of pesticides classified by the US Environmental Protections Agency as exempt materials under 40 CFR 152.25 or pesticides permitted by the Organic Materials Review Institute.

Restricted pesticides may also be applied by a licensed pesticide applicator using the least toxic product in accordance with the US Environmental Protection Agency under 40 CFR 152.5, the Maine State Regulations Title 7 and Title 22: "Use of Pesticides", and the Best A Management Practices for the Application of Turf Pesticides and Fertilizers of the Maine Board of Pesticide Control for the following purposes:

A. Noxious Growths: The control of plants, including and not limited to, poison ivy (*Rhus Radicans* or *Toxicodendron Radicans*), Poison oak (*Rhus Toxicodendron* or *Toxicodendron Quercifolium*), and poison sumac (*Rhus Vernix* or *Toxicodendron Vernix*).

B. Invasive Species: The control of invasive species that may be detrimental to the environment.

C. Mandatory Application: Use of pesticides mandated by state or federal law.

5. **Emergency Waiver**

If an emergency situation warrants the use of non-exempt pesticides, the Code Enforcement Officer may, upon written request to the Board of Selectmen, grant a thirty(30) day temporary waiver. The waiver may be extended to a six (6) month total period. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency. The presence of weeds or common fungal diseases in the usual course of turf maintenance shall not constitute an emergency.

(a) Waiver determination shall be based on the following criteria.

- i. The pest situation presents, a) an immediate threat to human health or environmental quality, or b) an immediate threat of substantial property damage or loss; and
- ii. Viable alternatives consistent with this article do not exist. The Board of Selectmen shall request the Conservation Commission to review any waiver requests made under this section and to recommend a course of action.

6. **Enforcement and Permits**

This article shall be enforced by the Code Enforcement Officer, according to the policies governing enforcement of municipal ordinances of the Town of Manchester. Pesticide safety data sheets shall be submitted to the Code Enforcement Officer prior to the application of any pesticide.

7. Conflict and Invalidity

If a conflict or inconsistency is found between this article and other sections of the Land Use Ordinance or other Town ordinance, the terms of the stricter provisions shall prevail. The invalidity of a provision of this article shall not invalidate any other provision of this article.

8. Authority

Pursuant to 30A M.R.S.A. § 3001, municipalities may enact ordinances to protect the welfare of their inhabitants. Pursuant to 22 M.R.S.A. § 1471-U, Maine municipalities may enact ordinances that apply to pesticide storage, distribution, or use. Pursuant to 38 M.R.S.A. § 1310-U, municipalities may enact ordinances with respect to solid waste facilities with standards that are not more strict than those contained in the Maine Hazardous Waste, Septage and Solid Waste Management Act 38 M.R.S.A. § 480A – 480Z, the Site Location of Development Act 38 M.R.S.A. § 481-490, and the rules adopted under those articles, as amended from time to time.

Robert K. Gasper, Chairman

Paula Thomas, Vice Chairman

Jeremy Pare

Thomas Oliver

Dawn Kliphan

Respectfully Submitted by, _____
Town Clerk

Date: _____



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

10 July 2017

Ms. Tina Cagle
City Clerk/ Voter Registrar
Town of Manchester
P.O. Box 18
Manchester, ME 04351

Ms. Cagle:

Thank you for submitting the finalized Town of Manchester Pesticide Usage Ordinance. We will update our centralized listing of municipal pesticide ordinances pursuant to 22 M.R.S.A. § 1471-U.

Thank you for your timely attention. Please feel free to contact me if you have any questions or comments.

Sincerely,

Cam Lay
Director
Maine Board of Pesticides Control