

SOUTH PORTLAND PROPOSED PESTICIDE USE ORDINANCE FREQUENTLY ASKED QUESTIONS (FAQs)

1. What is the purpose of this ordinance?

There is an increasing body of research both nationally and internationally that pesticides have detrimental effects on human health and the environment.¹ The proposed Pesticide Use Ordinance addresses these concerns by greatly restricting the use of pesticides and promoting a transition to organic land care practices. In so doing, the ordinance will protect people, pets, and the environment.

2. Which pesticides will be banned and which will be allowed under the ordinance?

The proposed ordinance would allow the use of EPA registered pesticides that are (i) permitted under the U.S. Department of Agriculture's [National List of Allowed and Prohibited Substances](#)² and/or (ii) [classified as "minimum risk"](#)³ by the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

3. Why use these lists?

Under the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances for organic production, synthetic substances are prohibited unless specifically permitted. This approach, which requires that man-made synthetic substances undergo rigorous review⁴, requires a robust analysis of each material's human health and environmental impacts, compatibility, and essentiality within an organic system. Compatibility is important because it recognizes that synthetic substances which harm soil biology and ecosystems are undercutting natural nutrient cycling. This cycling reduces the need for continuous synthetic pesticides.

EPA has exempted "minimum risk pesticides" from the requirement that they be registered under the FIFRA because they pose little to no risk to human health or the environment.

¹ Peer-reviewed toxicological and epidemiological studies are listed in Beyond Pesticides' [Pesticide Induced Diseases Database](#).

² See §205.601 Synthetic substances allowed for use in organic crop production and §205.602 Non-synthetic substances prohibited for use in organic crop production.

³ See §152.25(f)(1) Exempted products and (2) Permitted inert ingredients.

⁴ See 7 U.S. Code §6517 - National List

4. How will I know what type of products I can use?

Two independent organizations, the [Organic Materials Review Institute](#) (OMRI) and the [Washington State Department of Agriculture Organic Food Program](#) review and list products which are in compliance with the National List of Allowed and Prohibited Substances. Both of these organizations maintain databases on their websites which can be searched by product, generic materials, company name, product name, or product type. Also, once the ordinance is adopted the City will develop targeted education and outreach for homeowners and retailers about approved products and organic land care practices.

5. Does the ordinance restrict all pesticide uses?

The ordinance restricts pesticide use for all turf, landscape, and outdoor pest management activities. However, there are several exemptions for public health and safety and non-aesthetic uses of pesticides. These exemptions are:

- a) Commercial agriculture
- b) Pet supplies, such as shampoos and tick and flea treatments
- c) Disinfectants, germicides, bactericides, miticides and virucides
- d) Insect repellents when used in the manner specified by the manufacturer;
- e) Rat and rodent control supplies
- f) Swimming pool supplies
- g) General use paints, stains and wood preservatives and sealants
- h) 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;
- i) Golf course playing surfaces applications – Prohibited 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 course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
- j) Invasive insect applications – 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; and
- k) Right-of-way spraying – Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City.

6. Who is affected?

Prohibited pesticides will be restricted on public and private property, whether managed by a commercial operator, licensed applicator, a business owner or a resident.

7. When will the ban go into effect?

The ban will be phased in over three years allowing for a transition to organic land care practices. The ban will go into effect for City-owned property one year after the ordinance is adopted (expt. 2017), for private property after two years (expt. 2018), and for golf courses after three years (expt. 2019).

8. Who will implement and oversee the ordinance?

A seven-member Pest Management Advisory Committee (PMAC) comprised of the City's Stormwater Program Coordinator, a practicing agronomist, two licensed landscape professionals (at least one of whom is accredited in organic land care management), and three resident or taxpayer representatives 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 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.

9. Can I apply for a waiver?

Yes, for situations that pose a threat to public health and safety or for the control of invasive species that pose a threat to the environment, people may apply to the PMAC for a waiver. Applications must include a management plan without broadcast and preemptive applications, a pest identification and threshold report, and reason for requesting the use of a prohibited pesticide. A two-person sub-committee of the PMAC will review and rule on applications within five business days and appeals will be heard by the City Manager according to the following criteria:

- (1) A situation exists that threatens the public health and safety and/or where invasive species pose a threat to the environment; and
- (2) The applicant has carefully evaluated all alternative methods and materials;
- (3) The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties;
- (4) The grant of the waiver will not be detrimental to the public health, safety or welfare.

10. What type of notification and reporting is required?

If prohibited pesticides are used through an exemption or approved waiver, the applicator (whether business, resident or commercial applicator) must post warning signs in compliance with Maine Board of Pesticides Control (MBPC) rules and those laid out in the ordinance. In addition, all licensed applicators are required to submit an annual summary report to the City similar to what is required by the MBPC.

11. How will the ordinance be enforced?

The City's Sustainability Coordinator, assisted by the Code Enforcement Officer will enforce the ordinance. The Sustainability Coordinator will work with alleged violators to bring them into compliance by providing educational materials and advice on the use of less toxic chemicals to achieve their desired results. The Sustainability Coordinator will also maintain a listing of complaints of alleged violations. The listing will include the nature of the complaint, a summary of the situation and a brief description of how each complaint was resolved. This information will be reported on the City's website in aggregate by Assessor's tax map number (not by specific property address).

12. What types of education and outreach are planned?

The ordinance includes a robust education and outreach section in recognition that a meaningful reduction of pesticide use depends on the understanding of residents and local businesses about what is allowed and how they can transition to organic land care practices. The Sustainability Coordinator will work with the PMAC to develop and implement an education and outreach program with the following components:

- 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, workshops, 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 the ordinance and alternatives to prohibited pesticides

13. How much will education and outreach cost and how will it be funded?

Education and outreach is expected to be funded through the Sustainability Office's operating budget, grants, and through partnerships with local and national organizations who are already promoting and educating people about organic land care practices as part of their mission. See the Preliminary Education & Outreach Plan.

14. What have other communities done in Maine and beyond?

There are only three examples of jurisdictions that have banned pesticide use on public and private property; Takoma Park, MD, Ogunquit, ME, and Montgomery County, MD. Several local and national jurisdictions have enacted legislation or adopted policies to reduce or eliminate pesticides in coastal areas or on public property. Over two dozen jurisdictions in Maine have pesticide ordinances. The town of Harpswell prohibits the use of the insect growth regulators (IGRs) diflubenzuron and tebufenozide and the aerial application of all IGRs and any insecticide whose product label indicates that it is harmful to aquatic invertebrates. The town of Scarborough eliminated (with exemptions) pesticide use on town-owned property and encourages the elimination of pesticides on private property through education. The town of Rockland only allows pesticides approved for organic use or exempt from EPA registration (similar to our proposed ordinance) on town-owned land. Many other communities have adopted Integrated Pest Management programs (IPM).

15. Will lawn and turf quality deteriorate because of the ordinance?

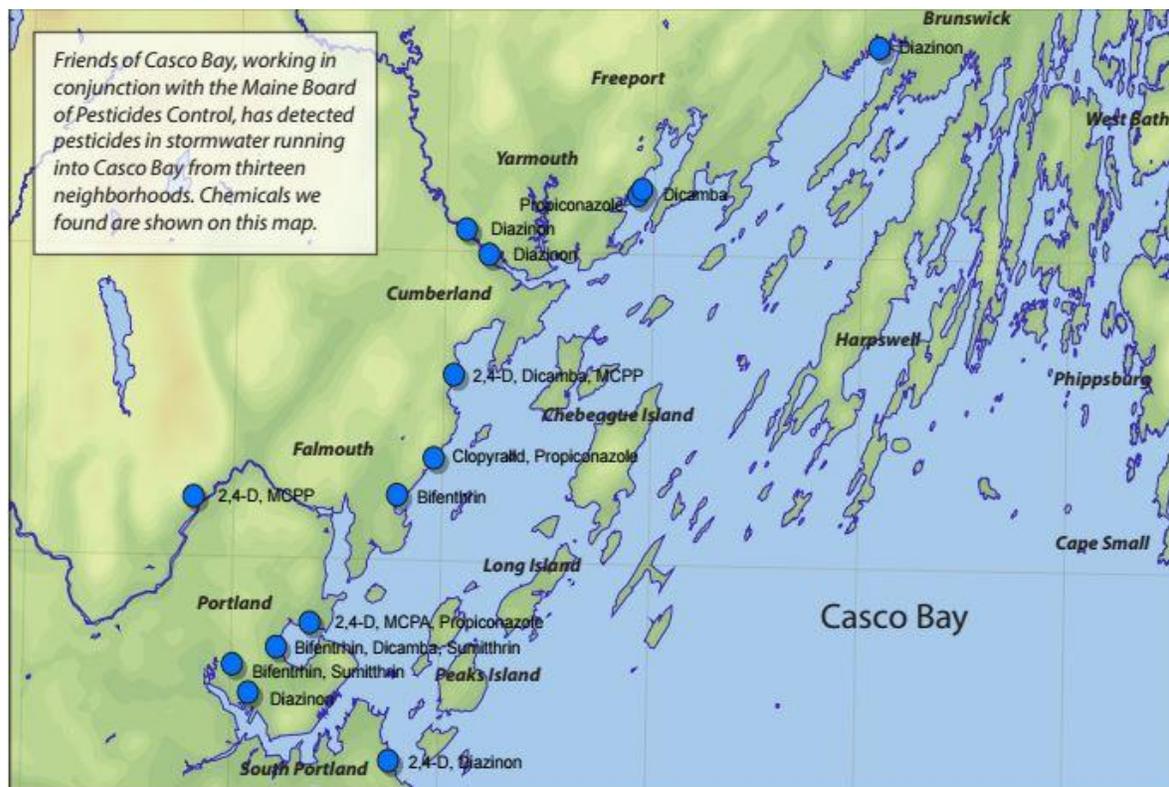
Organic land care is a soil-based approach that results in healthier, more resilient plants and can meet peoples' expectations for a lush green lawn. The goal is to build the soil biology that is part of nature, use the natural processes that release nutrients, which are taken up by plants. Natural fertilizers can be used to feed and improve the soil, increasing its capacity to keep plants strong and resistant to diseases and infestations. Accompanied by proper aeration, mowing height, and watering practices, a healthy turf system will crowd out weeds and retain water.

16. Are synthetic pesticides really a problem? What data do we have that indicate a cause for concern?

For over 25 years, Friends of Casco Bay has been working to improve and protect water quality in Casco Bay, using scientific data as a critical component of its advocacy and education efforts to reduce threats to the health of the Bay.

In 2001, Friends of Casco Bay tested stormwater for pesticides at Drew Road, a South Portland waterfront neighborhood. They found diazinon and 2,4D, a component of “weed and feed” products flowing into Casco Bay.⁵

Having met their goal to establish the presence of pesticides in stormwater runoff in that location, Friends of Casco Bay’s staff continued its sampling in other communities all around the Bay. As this map illustrates, Friends of Casco Bay sampled stormwater runoff to test for the presence of the most common pesticides in lawn care products and found detects at numerous locations.



⁵ [A Changing Casco Bay: The Bay Where You Work and Play Is at Risk](#), Friends of Casco Bay, 2014.

The goal of this effort was to establish whether pesticides were flowing into coastal waters from communities that border the Bay to confirm that these products were migrating into the water. This data was used to bolster Friends of Casco Bay's outreach program called BayScaping, which explains how--and why--we need to change our lawn care practices to reduce the amounts of pollutants that may end up in the Bay.

In another instance, Maine Board of Pesticides Control sediment sampling results from 2008-2010 showed findings of Bifenthrin and Sumithrin in Portland and South Portland.⁶ Initial results of 2014 sediment samples detected Bifenthrin and Cypermethrin.⁷ All of these sampling results indicate only a presence of pesticides. Even though concentration benchmarks cannot be established, the trends established in each sample site indicate the continued release and presence of pesticides.

The United States Geological Survey (USGS) has conducted much more robust and extensive water quality monitoring studies over the past two decades at numerous locations throughout the country in urbanized settings similar to South Portland. The results from these studies indicate that urban land uses often result in the exceedance of Aquatic Life Benchmarks (ALBs)⁸. According to a [2006 USGS report](#), pesticides were detected in 97 percent of urban stream water samples across the United States, and exceeded human health and aquatic life benchmarks 6.7 and 83 percent of the time, respectively.

In terms of human toxicology, we know that pesticides affect peoples' health. The "Pesticide-Induced Disease Database," maintained on Beyond Pesticides' website, cites independent scientific studies that link pesticide exposure to a range of diseases, from cancer, reproductive problems, compromised immune and nervous systems, respiratory illness, Parkinson's, Alzheimer's, and learning disabilities.

17. Are organic pesticides safer than synthetic pesticides?

Materials allowed under the federal organic standards are subject to a much more rigorous review than those used in conventional systems, taking into account the adverse effects associated with the chemical's life cycle (production through use and disposal), their

⁶ "[Sediment Monitoring for Pesticides](#)" presentation, Mary Tomlinson, Maine Board of Pesticides Control, 2014.

⁷ "[Interim Report on the Environmental Risk Advisory Committee Study of Pesticides and Lobsters](#)," Maine Board of Pesticides Control, 2015.

⁸ USGS defines water quality benchmarks as threshold values against which measured concentrations can be compared to help assess the potential effects of pesticides on water quality (and aquatic life) in hydrologic systems.

compatibility with the ecology, and the need, given the availability of alternatives. The assessments for allowed materials in the National Organic Program have resulted in the prohibition of nearly all synthetic pesticides with the exception of soaps, essential oils, sulfur, and copper.

18. Are organic pesticides safe?

Allowed materials in the National Organic Program are the most strictly regulated synthetic and natural materials on the market. With that said, pesticides are design to prevent, destroy, repel, defoliate, or mitigate pests and should be handled with caution.

19. Are all synthetic pesticides hazardous?

Not necessarily. The Environmental Protection Agency maintains an exemption for "minimum risk" pesticides, which pose little to no risk to human health or the environment. Several synthetic pesticide products have qualified for this exemption. Additionally, some synthetic materials are allowed under the National List of Allowed and Prohibited Substances and subject to standards of review that are tougher than those required for pesticide registration under FIFRA.

20. Aren't pesticides regulated for safety by the EPA and MBPC?

Yes, pesticides are regulated for safety by the EPA and MBPC. However, the "unreasonable adverse effects standard of federal pesticide law" allows the U.S. Environmental Protection Agency (EPA) to establish allowable harm and uncertainty associated with adverse effects to people, wildlife, and the environment. Independent scientific findings have raised serious questions about the effectiveness of current regulations governing pesticide use including the lack of testing of chemical mixtures, synergistic effects, and regular noncompliance with product label directions. The risk assessment process used by EPA to register pesticides does not fully protect the most vulnerable, children, elderly, and those with pre-existing medical conditions that can be made worse by pesticide exposure.

21. Why are we providing an exemption for golf courses?

The high stress nature of the land use and the closely cut greens of golf course playing surfaces make these areas more challenging to maintain with conventional pesticides. There are currently very few examples of golf courses that are being managed with organic systems. While the same soil health practices are required to manage a golf course, a lawn, or a playing field, golf courses may require a longer transition, given the intensity of pesticide use, the condition of the soil, and the playing surface management requirements.

Therefore, the ordinance exempts playing surfaces (with Audubon certification) and provides for a longer phase-in for golf courses.

22. If our goal is to reduce toxics in our environment, why not go with Integrated Pest Management (IPM)?

The proposed ordinance is consistent with an Integrated Pest Management (IPM) decision making process that seeks to identify the pest problem and resolve it by determining the underlying causes and then utilizing mechanical, biological, and structural approaches, with pesticides only as needed. The definition of IPM is broad and there is no oversight or guidance on the use of pesticides. In fact, while IPM was established to stop the prophylactic use of pesticides and limit toxic materials, many have embraced the term while using toxic pesticides for pre-emergent treatments and on a routine basis. An organic land care approach follows the IPM process, emphasizing soil health to support healthy plants, and delineating a set of allowed pesticides as needed.

23. Instead of banning the use of most synthetic pesticides, why can't we just implement an education and outreach campaign?

Education and outreach, while important, does not ensure adherence to, nor does it incentivize, organic practices. It is often difficult for the business sector to transition its operations unless it is clear that there will be a change in practices required by law. With the ordinance in South Portland, and the requirements in place, the business community will respond to ensure full implementation of an organic systems approach to turf management. In short, an ordinance will set the standard.

24. Will local businesses be adversely affected?

Quite the opposite. There is a large area for growth following the ordinance's implementation. A study published in the journal *Environmental Health*⁹ identified many accomplishments associated with the implementation of a pesticide ordinance in the City of Toronto. The results show an increase in the number of lawn care companies, a high level of public awareness of the law, a substantial decrease in the number of households applying pesticides, increases in the use of natural lawn care methods, and a very small number of required enforcement actions.

⁹ ["Municipal bylaw to reduce cosmetic/non-essential pesticide use on household lawns - a policy implementation evaluation,"](#) Donald Cole, et. al., *Environ Health*. 2011; 10: 74, 2011.

25. Were landscaping professionals consulted in drafting the ordinance?

Yes, staff met on several occasions with landscaping professionals and their representatives while drafting the ordinance. In fact, the City has reached out to numerous stakeholders, and consulted with numerous experts, in the process of developing the policy including policy makers, advocates, practitioners, and land care professionals to develop the draft ordinance. Jay Feldman, Director of Beyond Pesticides and Chip Osborne, President of Osborne Organics have worked with staff as consultants.