

**CITY OF PORTLAND
MEMORANDUM**

TO: Chairman Marshall and Members of the Transportation, Sustainability & Energy Committee
FROM: Danielle P. West-Chuhta, Corporation Counsel; Adam R. Lee, Associate Corporation Counsel
DATE: March 13, 2015
RE: **Pesticide Use and Local Regulations**

It was requested by the Chair of the TS&E Committee that the issue of pesticide use and local regulations be researched and that a memorandum be provided in order for the committee to determine what steps, if any, it wants to take regarding this issue. The following is a summary of our research on this subject.

I. What State Law is applicable to Pesticides?

The Maine Board of Pesticide Control (Web site: <http://www.maine.gov/dacf/php/pesticides/index.shtml>) is a subdivision of the Bureau of Agriculture, Division of Animal and Plant Health in the Department of Agriculture, Conservation and Forestry. Its authority was created by the Maine Pesticide Control Act of 1975 (7 M.R.S. §§ 601-6250 and the Maine Board of Pesticide Control Law (22 M.R.S. §§1471-A to X, Chapter 258-A) (**attachment 1**).

One of the most important components of the Pesticide Control Law particularly with respect to the private use of pesticides, is Pesticide Notification. Pursuant to that portion of the State Law, if one lives or works within 500 feet (1,000 feet for aerial application) of any treated area, they are entitled to receive information about the pesticide application. In order to do so, one must make a request of the neighbor or the individual responsible for management of the land. As a result of the request, the person or entity receiving the request must provide notification of the intention to apply pesticides including approximate date of application, which pesticide, manner of application, name and address of person responsible for pesticide application for any additional information, and the MSDSs and/or the pesticide labels. If the information provided is insufficient, and follow up discussion is ineffective, the Board of Pesticide Control is then required to reach a reasonable and fair resolution between parties. Another means of notification is the "Maine Pesticide Notification Registry" For payment of a

fee, an individual may be listed on the registry, as a result they will then be notified of all non-agricultural pesticide applications in their vicinity.

That Law also regulates local ordinances (22 M.R.S. §1471-U), a list of which is found on the board's web site. A municipality is required to file a copy of any local pesticide ordinance within 30 days of adoption; failure to file the ordinance renders it "void and of no effect" until the Board is noticed and the ordinance is filed. It does not appear from the Statute that the Board has a significant basis to scrutinize those Ordinances that are properly filed in accord with the statute. In fact, §1471-U(4) provides that "It is the intent of this section to provide information on municipal ordinances. This section shall not affect municipal authority to enact ordinances."

Nevertheless, the administrative components must be strictly abided by. As made evident by the issues that Ogunquit had with approval of its Pesticide Ordinance. In that instance, the basis by which it was voided was the Town's failure to meet deadlines pursuant to § 1471-U(3), including failing to "provide the board with notice and a copy of any ordinance to be listed under subsection 1 at least 7 days prior to the meeting of the legislative body or the public hearing at which adoption of the ordinance will be considered." It appears during the time period after the first Ogunquit Ordinance was voided, the Town's Conservation Commission decided to make several alterations to the Ordinance that would provide better enforcement mechanisms and avoid enforcement pitfalls that would have potentially subjected it to challenge by outside forces. These alterations included a host of exemptions that the State had apparently suggested in communication with the Commission and following the voiding of the first Ordinance, those exemptions were numerous and included: commercial agriculture; pet supplies such as shampoos, tick and flea collars and dusts; disinfectants, germicides, bactericides, and virucides; insect repellents; outdoor animal repellants; swimming pool supplies; aerosol products; general use paints, stains and wood preservatives and sealants; and finally CMP, and other, routine vegetation maintenance programs on transmission sections that run through the Town of Ogunquit. Restricted pesticides were also allowed to be applied for the following purposes: noxious growths (e.g. poison ivy, poison oak and poison sumac); invasive species; mandatory applications; and health and safety (e.g. the control of insects that are venomous or disease carrying). A copy of the approved Ogunquit Ordinance is attached as **Exhibit A**.

Conversely, Rockland has a very restrictive Ordinance with respect to City-owned land. Attached as **Exhibit A1**. It defines Pesticide as “Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the USEPA. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.” All uses, except those of natural, organic land care protocols, sludge, or those products that can be used on certified Organic Farms, are prohibited on City-Owned land. There are a number of exceptions: drinking water or wastewater treatment; indoor pesticide use; baits or traps for rodent control; EPA exempt materials; pesticides permitted by the Organic Materials Review Institute; management of City-owned land not used or used infrequently by the public (roadway medians, for example); pesticide applications by owners or tenants of residential properties on landscaped areas within municipal rights-of-way; pesticide applications on City-owned land to control vermin or other infestations, which applications are, in the discretion of the City Manager, reasonably necessary to prevent the spread of such infestations or to protect the public health; and control of poisonous or invasive species.

II. How are other Municipalities regulating the use of Pesticides?

Given §1471-U (which allows the enactment of Ordinances) municipalities have approached regulation of pesticide use from multiple and varied approaches, each unique to the particular municipality. To the extent it is possible, we have attempted to classify them into broad categories based on what they attempt to regulate. We have also provided, for your review, a copy of each of the Municipal Ordinances presently catalogued by the Board of Pesticide Control.

A. Ordinances that restrict Aerial and/or Mechanical application of pesticides

Coplin Plantation

Coplin Plantation voted in 2001 to approve an Ordinance (attached as **Exhibit B**) prohibiting the aerial and mechanical application of pesticides, herbicides, insecticides, and fungicides. In doing so it excepts applications to one acre or less for an individual landowner per year and application along utility lines.

Lebanon

Lebanon approved two separate, very broad, Ordinances (attached as **Exhibit C**) in 1980 and 1983 respectively, they prohibit the aerial spraying of pesticides within the Town and “prevent” commercial spraying of herbicides for non-agricultural reasons unless approved by the Town.

Limestone

Limestone’s Ordinance (attached as **Exhibit D**) very specifically prohibits (along with farming practices that cause excessive erosion of soil) the use of agricultural chemicals such as pesticides, herbicides, insecticides, fungicides, and particularly the aerial spraying (except for fungicides) of such chemicals on all properties adjacent to Trafton Lake.

New Sweden

In 1990, New Sweden approved an Ordinance (attached as **Exhibit E**) restricts the Aerial spraying of herbicides and pesticides in New Sweden.

Sweden

Sweden’s 1991 Ordinance (attached as **Exhibit F**) prohibited the aerial spraying of herbicides and pesticides, but also amended the Land Use code to require a conditional use permit for those seeking to pursue the “spread of chemical fertilizer, herbicides, pesticides, and manure beyond that reasonably associated with home lawn and garden care.”

B. Ordinances that require specific permits, licenses or notices for application

Similar to Sweden, many municipalities have chosen to regulate through use of permits, licenses or other mechanisms requiring City approval for pesticide use.

Rangeley

Rangeley’s Ordinance (attached as **Exhibit G**) requires that any party who plans to apply pesticides by power equipment to an area of more than 2 acres to submit a drift management plan to Selectmen for approval.

Cranberry Isles

Cranberry Isles’ Shoreland Land Use Ordinance (attached as **Exhibit H**) requires that one obtain from the Planning Board a permit for “application of pesticides, herbicides, fertilizers & other similar organic or inorganic substances.”

Waterboro

Waterboro’s Ordinance (attached as **Exhibit I**) requires application for a Hazardous waste generation permit.

Amherst

Amherst's Land Use Ordinance (attached as **Exhibit J**) requires application for a permit from the Planning Board for "chemical application."

C. Other Shoreland Based Ordinances

Harpswell

Harpswell's 2004 Insect Growth Regulator and Insecticide Application Control Ordinance (attached as **Exhibit K**) motivated by concerns on the effects to lobsters and crabs prohibits the "use and/or application by any person by any method whatsoever of any Insect Growth Regulator that contains diflubenzuron or tebufenozide and the aerial spraying of any Insect Growth Regulator or Insecticide whose product label indicates that it is harmful to aquatic invertebrates."

Standish

Standish's Shoreland Zoning Ordinance was amended in 2002 (attached as **Exhibit L**) to add a provision to prohibit the "storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms."

Wayne

Wayne's Shoreland Zoning Ordinance (attached as **Exhibit M**) similarly prohibits "storage of chemicals, including, pesticides or fertilizers other than amounts normally associated with individual households or farms." A previous incarnation of the Ordinance had also included a prohibition on herbicides, but that was subsequently deleted.

D. Forest and Woodland Ordinances

Allagash

Allagash's Ordinance (attached as **Exhibit N**) prohibits the application of herbicides for Forestry purposes except where 2/3rds of the town meeting approves a variance.

Brighton Plantation

Brighton Plantation through Ordinance (results of which are attached as **Exhibit O**) prohibits the application of pesticides on the woodlands.

E. Ordinances affecting Rights-of-Way or particular government agencies

Arrowsic

Arrowsic's Ordinance (attached as **Exhibit P**) banned the Public Work's Department's use of foliar (applied to leaves) herbicides but permits application to stumps.

Limerick

Limerick's Ordinance (attached as **Exhibit Q**) passed in 1988 prohibited spraying of herbicides along right of ways.

Newburgh

In 1980, Newburgh passed an Ordinance (attached as **Exhibit R**) that prohibited application, or contracting to have applied any herbicides along the roadside rights of way.

Southport

Southport's Ordinance (attached as **Exhibit S**) prohibits all State and commercial use of pesticides and herbicides.

Owl's Head

Owl's Head's Ordinance (attached as **Exhibit T**) dates back to 1970 and "outlaw[s] the use of defoliant and stop[s] all road-side spraying with poisons."

New Gloucester

New Gloucester passed an Ordinance in 1982 (attached as **Exhibit U**) that states "[t]he spraying or spreading of chemical fertilizers or pesticides shall be consistent with the standards of the U.S. Department of Agriculture."

F. Aquifer Protection Ordinances

Brunswick

In 2005, Brunswick amended its Aquifer Protection Zone Ordinance (attached as **Exhibit V**) to prohibit use or storage of most pesticides other than for households and agriculture within the aquifer protection zone. The Ordinance provides that the Code Enforcement Officer may provide exceptions.

Castine

In 2008, Castine amended its Ordinance (attached as **Exhibit W**) to require site plan approval for applying non-residential pesticides and Pest Management and Nutrient Management plans approved by the Board and storing pesticides in the Aquifer Protection Overlay District.

Wells

In 1989, Wells' Ordinance (attached as **Exhibit X**) within its Aquifer Protection District, requires notice to the Code Enforcement Officer before pesticides can be applied.

III. Next steps?

Presently the City does not have a policy or Ordinance in place with respect to the use of pesticides. Staff practice is, consistent with the State Law, to minimize the use of pesticides. The current practice is synopsised by Troy Moon in his memorandum attached as **Attachment 2**. There are a number of concerns, however, that would be raised if an Ordinance effectively precluded the City from utilizing pesticides in the limited instances it presently does. City Staff who utilize pesticides in a limited manner will be available to answer questions at your meeting.

A host of other concerns are present in the event the City were to pass an Ordinance that regulates the private use of pesticides beyond the State Law. Several questions would need to be answered. They are as follows:

1. What chemicals and uses of chemicals are included in the scope of the Ordinance's prohibition?

The dictionary definition of a "Pesticide" is "a chemical substance used to kill harmful insects, small animals, wild plants, and other unwanted organisms." As demonstrated by the Ogunquit Ordinance and its many exceptions, what is considered a "pesticide" is, without narrowing exceptions, quite broad. Ogunquit, notwithstanding its exceptions, defines a Pesticide as:

Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer.

Any action by this Committee to propose enactment of an ordinance will require very clear language as to what types of pesticides and uses of pesticides it intends to prohibit.

2. Who will enforce the Ordinance and what are the penalties?

After the question of which pesticides and uses are intended to be prohibited is answered, a subsequent internal question will need to be answered in drafting of any ordinance. Enforcement of such a provision would invite substantial public reporting of "unlawful uses," to the City and enforcement of the prohibition. Any Ordinance should answer the question which Department will be responsible for the intake, investigation and follow-up required with these potential private complaints.

3. What will be the penalties for non-compliance?

In order to be effective, any prohibition on pesticides and uses of pesticides will need to be enforced through the imposition of penalties and the Court system. This will, at the very least, require a fine structure. That will assumedly be done through a civil violations procedure. The initial objective of any violations procedure is to create compliance with Code, however, in order to be effective in creating compliance there must be a deterrent effect achieved by potential imposition of penalties. There are practical difficulties in proving that someone has unlawfully applied a pesticide that this committee may want to consider in determining a proper penalty. This would be limited by the parameters of 30-A M.R.S. §4452 and Chapter 1 of our Code.

If the Committee would like to proceed towards enactment of an Ordinance, it is our suggestion that there be substantial public engagement. There are a number of stakeholders that would be affected by the sweep of such action, including those that maintain sports fields and parks (both public and private), business owners, private residents, public utilities, and all City Departments that may be effected by the scope of the Ordinance. We will be available at your meeting to discuss this issue in more detail and to answer any questions.

Title 22: HEALTH AND WELFARE
Chapter 258-A: BOARD OF PESTICIDES CONTROL

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Title 22: HEALTH AND WELFARE
Chapter 258-A: BOARD OF PESTICIDES CONTROL

§1471-A. PURPOSE AND POLICY

For the purpose of assuring to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and for the further purpose of protecting natural resources of the State, it is declared to be the policy of the State of Maine to regulate the sale and application of chemical insecticides, fungicides, herbicides and other chemical pesticides. [2011, c. 510, §2 (AMD).]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1983, c. 542, §§1,3 (AMD). 2011, c. 510, §2 (AMD).

§1471-B. BOARD OF PESTICIDES CONTROL

1. Board established. The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Conservation and Forestry. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System having practical experience and expertise in integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. The 2 members appointed to represent the public must represent different geographic areas of the State. The term must be for 4 years, except that of the initial appointees, 2 shall serve 4-year terms, 2 shall serve 3-year terms, 2 shall serve 2-year terms and one shall serve a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term.

[2011, c. 119, §1 (AMD); 2011, c. 119, §2 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

2. Organization of the board. The board shall elect a chair and any other officers it determines necessary from among the membership. The board shall meet at the call of the chair or at the request of any 3 members. Four members constitute a quorum and, except as otherwise provided in this subsection, any action requires the affirmative vote of the greater of either a majority of those present and voting or at least 2 members. Any action by the board requesting that the Attorney General pursue a court action against an alleged violator of any law or rule requires an affirmative vote by 3 members or a majority of those present and voting, whichever is greater. The chair and any other officers shall serve in those capacities for a period of one year following their elections.

[1989, c. 841, §4 (AMD) .]

3. Compensation of the board. Each public member shall be compensated according to the provisions of Title 5, chapter 379.

[1983, c. 812, §120 (RPR) .]

4. Director. The commissioner shall appoint a director, with the approval of the board. The director shall be the principal administrative, operational and executive employee of the board. The director shall attend and participate in all meetings of the board, but may not vote. The director, with the approval of the commissioner and the board, may hire whatever competent professional personnel and other staff he deems necessary. All employees of the board shall be subject to Title 5, Part 2. The director may obtain office space, goods and services as required.

[1979, c. 644, §3 (NEW) .]

5. Staff. The board must establish standards for the delegation of its authority to the director and staff. Any person aggrieved by a decision of the director and staff has a right to a review of the decision by the board. The Commissioner of Agriculture, Conservation and Forestry shall provide the board with administrative services of the department, including assistance in the preparation of the board's budget. The commissioner may require the board to reimburse the department for these services.

[1989, c. 841, §5 (AMD); 2011, c. 657, Pt. W, §6 (REV) .]

6. Registration of pesticides.

[1981, c. 112, §1 (RP) .]

7. State contracts. Notwithstanding any other provisions of law, members of the board are eligible to contract with the State when the contracts are awarded in accordance with normal bidding procedures of the Department of Administrative and Financial Services. Members also are eligible to receive grants when grants are awarded in accordance with normal state procedures. A member may not vote on the award of a contract or grant for which that member has submitted a bid or proposal.

[2007, c. 466, Pt. A, §40 (RPR) .]

8. Meetings. The board shall periodically meet in various geographic regions of the State. When considering an enforcement action, the board shall attempt to meet in the geographic region where the alleged violation occurred.

[1989, c. 841, §6 (NEW) .]

SECTION HISTORY

1975, c. 293, §4 (AMD). 1975, c. 397, §2 (NEW). 1977, c. 696, §181 (AMD). 1979, c. 644, §3 (RPR). 1979, c. 731, §19 (AMD). 1981, c. 112, §1 (AMD). 1981, c. 470, §A66 (AMD). 1981, c. 632, §§1,2 (AMD). 1983, c. 309, (AMD). 1983, c. 812, §§119,120 (AMD). 1985, c. 779, §60 (AMD). 1985, c. 785, §A95 (AMD). 1987, c. 702, §2 (AMD). 1989, c. 503, §B83 (AMD). 1989, c. 841, §§4-6 (AMD). 1991, c. 376, §45 (AMD). 2007, c. 466, Pt. A, §40 (AMD). 2007, c. 466, Pt. B, §17 (AMD). 2011, c. 119, §1 (AMD). 2011, c. 119, §2 (AFF). 2011, c. 657, Pt. W, §§5, 6 (REV).

§1471-C. DEFINITIONS

As used in this chapter, the following words have the following meanings. [1983, c. 819, Pt. A, §40 (NEW) .]

1. Agricultural commodity. "Agricultural commodity" means any plant, or part thereof, or animal or animal product produced by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons, primarily for sale, consumption, propagation or other use by humans or animals.

[1975, c. 397, §2 (NEW) .]

2. Aircraft. "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.

[1975, c. 397, §2 (NEW) .]

3. Board. "Board" means the State Board of Pesticides Control as established in section 1471-B.

[1975, c. 397, §2 (NEW) .]

4. Certified applicator. "Certified applicator" means any person who is certified pursuant to section 1471-D and authorized to use or supervise the use of any pesticides.

[1975, c. 644, §1 (AMD) .]

5. Commercial applicator. "Commercial applicator" means any person, except a government pesticide supervisor, whether or not the person is a private applicator with respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property. "Commercial applicator" also includes individuals who apply any pesticides in connection with their duties as officials or employees of federal, state or local governments.

[2007, c. 245, §1 (AMD) .]

5-A. Custom application. "Custom application" means an application of a pesticide:

A. Under contract or for which compensation is received; [2007, c. 245, §2 (NEW) .]

B. To a property open to use by the public; or [2007, c. 245, §2 (NEW) .]

C. In a food establishment licensed under chapter 551 or an eating establishment licensed under chapter 562, except that "custom application" does not include a pesticides application at a licensed food or eating establishment when:

(1) The establishment is ancillary to the production of an agricultural commodity;

(2) The owner or an employee of that establishment is certified as a private applicator under section 1471-D, subsection 2; and

(3) The property is not open to the public. [2007, c. 245, §2 (NEW) .]

[2007, c. 245, §2 (AMD) .]

6. Defoliant. The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[1975, c. 397, §2 (NEW) .]

7. Desiccant. The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[1975, c. 397, §2 (NEW) .]

8. Distribute. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.

[1975, c. 397, §2 (NEW) .]

9. FIFRA. "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., PL 92-516.

[1975, c. 397, §2 (NEW) .]

10. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants, of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds, except those on or in living man or other animals or those on or in processed food, beverages or pharmaceuticals.

[1975, c. 397, §2 (NEW) .]

11. Fungicide. "Fungicide" means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

[1975, c. 397, §2 (NEW) .]

11-A. Government pesticide supervisor. "Government pesticide supervisor" means any federal, state or local government agency, official or employee, whether or not the person is a private applicator with respect to some uses, who, in the course of his duties, responsibilities or employment, supervises the use of any pesticides. For the purposes of this subsection, "supervise" means any and all activity other than the direct application of pesticides.

[1981, c. 374, §2 (NEW) .]

11-B. General use pesticide. "General use pesticide" means any pesticide which has been registered by the United States Environmental Protection Agency as evidenced by a registration number on the label and which is not a restricted use or limited use pesticide, as defined in this section. Pesticides restricted by the United States Environmental Protection Agency are so identified on the label. Pesticides restricted or limited by the Board of Pesticides Control are listed by the board.

[1987, c. 723, §2 (NEW) .]

11-C. General use pesticide dealer. "General use pesticide dealer" means any person who distributes general use pesticides.

[1987, c. 723, §2 (NEW) .]

12. Ground equipment. "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, fogs, or in other forms.

[1975, c. 397, §2 (NEW) .]

13. Herbicides. "Herbicides" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

[1975, c. 397, §2 (NEW) .]

13-A. Household use pesticide product. "Household use pesticide product" means any general use pesticide product which contains no more than 3% active ingredients and which is applied undiluted by homeowners to control pests in and around the family dwelling and associated structures. For the purposes of this definition and section 1471-U, subsection 5, petroleum solvents shall not be considered active ingredients.

[1987, c. 723, §3 (NEW) .]

14. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

[1975, c. 397, §2 (NEW) .]

15. Insecticide. "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

[1975, c. 397, §2 (NEW) .]

16. Limited use pesticide. "Limited use pesticide" means any pesticide or pesticide use classified for limited use by the board.

[1975, c. 397, §2 (NEW) .]

16-A. Major forest insect aerial spray application. "Major forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing at least 1,000 acres in the aggregate.

[1983, c. 819, Pt. A, §41 (NEW) .]

16-B. Minor forest insect aerial spray application. "Minor forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing less than 1,000 acres in the aggregate.

[1983, c. 819, Pt. A, §41 (NEW) .]

16-C. Monitor. "Monitor" means a person working on a public or private forest insect aerial spray application project whose primary responsibilities are to observe and record meteorological conditions during spray operations, observe and record spray deposition, prepare the spray period report and who has the authority to cease spray applications when conditions require it.

[1983, c. 819, Pt. A, §41 (NEW) .]

17. Person. "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity or any organized group of persons whether incorporated or not.

[1975, c. 397, §2 (NEW) .]

18. Pest. The term "pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living man or other living animals, which the commissioner declares to be a pest.

[1975, c. 397, §2 (NEW) .]

19. Pesticide. The term "pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

[1975, c. 397, §2 (NEW) .]

20. Pesticide dealer. "Pesticide dealer" means any person who distributes limited or restricted use pesticides.

[1975, c. 397, §2 (NEW) .]

21. Plant regulator. The term "plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and as are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

[1975, c. 397, §2 (NEW) .]

22. Private applicator. "Private applicator" means any person who uses or supervises the use of any pesticide which is classified for restricted or limited use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

[1975, c. 644, §3 (AMD) .]

22-A. Private applicator of general use pesticides. "Private applicator of general use pesticides" means a person who uses or supervises the use of general use pesticides for purposes of producing agricultural commodities on property owned or rented by that person or that person's employer when:

A. The agricultural commodities produced are plants or plant products intended for human consumption as food; and [2011, c. 169, §1 (NEW).]

B. The person applying the pesticides or the employer of the person applying the pesticides derives \$1,000 or more in annual income from the sale of those commodities. [2011, c. 169, §1 (NEW) .]

[2011, c. 169, §1 (NEW) .]

23. Restricted use pesticide. "Restricted use pesticide" means any pesticide or pesticide use classified for use only by or under the direct supervision of a certified applicator by the Administrator of the United States Environmental Protection Agency or by the Commissioner of Agriculture, Conservation and Forestry.

[1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV) .]

23-A. Spotter. "Spotter" means a person working on a public or private forest insect aerial spray application project who is responsible for ordering the cessation of spraying over water bodies and other nontarget areas.

[1983, c. 819, Pt. A, §41 (NEW) .]

23-B. Spray contracting firm. "Spray contracting firm" means a person, as defined in this section, employed or contracted to conduct a public or private pesticide application. This term does not include the owner or lessee of land to be sprayed, employees of that landowner or lessee, the Bureau of Forestry, the employees of the Bureau of Forestry or individuals who are certified as commercial applicators.

[1985, c. 122, §1 (AMD); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

23-C. Spray period. "Spray period" means any period of a forest insect aerial spray application project during which pesticides are applied and which is demarcated from another spray period by at least a 2-hour cessation in pesticide application.

[1983, c. 819, Pt. A, §41 (NEW) .]

24. Under the direct supervision of a certified applicator. "Under the direct supervision of a certified applicator," unless otherwise prescribed by its labeling, means the act or process by which a pesticide is applied by a competent person acting under the instructions and control of a certified applicator who is available, if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied. In the case of an application made by a commercial applicator, the certified applicator must be physically present at the time and on the site of the application.

[1987, c. 243, §3 (AMD) .]

25. Weed. "Weed" means any plant which grows where not wanted.

[1975, c. 397, §2 (NEW) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1975, c. 644, §§1-3 (AMD). 1977, c. 20, §§1, 2 (AMD). 1979, c. 731, §19 (AMD). 1981, c. 374, §§1, 2 (AMD). 1983, c. 819, Pt. A, §§40, 41 (AMD). 1985, c. 122, §1 (AMD). 1987, c. 243, §§1-3 (AMD). 1987, c. 723, §§2, 3 (AMD). 2007, c. 245, §§1, 2 (AMD). 2011, c. 169, §1 (AMD). 2011, c. 657, Pt. W, §§6, 7 (REV). 2013, c. 405, Pt. A, §23 (REV) .

§1471-D. CERTIFICATION AND LICENSES

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Certification required; commercial applicators and spray contracting firms. Certification is required for commercial applicators and spray contracting firms as follows.

A. No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator; and [1983, c. 819, Pt. A, §42 (NEW) .]

B. No spray contracting firm may use or supervise the use of any pesticide within the State without prior certification from the board. [1985, c. 122, §2 (AMD) .]

[1985, c. 122, §2 (AMD) .]

2. Certification required, private applicators. No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

[1975, c. 397, §2 (NEW) .]

2-A. Certification required; government pesticide supervisor. No government pesticide supervisor may supervise the use of any pesticide without prior certification from the board, provided that the person who actually uses the pesticide must be certified.

[1981, c. 374, §3 (NEW) .]

2-B. Certification required; spotters and monitors. No person may:

A. Act as a spotter without prior certification from the board; or [1983, c. 819, Pt. A, §43 (NEW) .]

B. Act as a monitor without prior certification from the board. [1983, c. 819, Pt. A, §43 (NEW) .]

[1983, c. 819, Pt. A, §43 (NEW) .]

2-C. Exemptions or reduced licensing requirements for certain commercial or custom applications.

The board may by rule provide for exemptions from licensing requirements and for reduced licensing requirements for classes of commercial applicators of general-use pesticides applied by hand or nonpowered equipment if the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.

Notwithstanding Title 7, section 610, subsection 6, rules adopted pursuant to this section to provide exemptions from licensing or reduced licensing requirements are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 245, §3 (NEW) .]

2-D. (TEXT EFFECTIVE 4/1/15) Certification required; private applicator of general use pesticides for food production. A private applicator of general use pesticides may not use or supervise the use of general use pesticides for food production without prior certification from the board, except that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator. Additional certification under this section is not required for a person certified as a commercial applicator or a private applicator under subsection 1 or 2, respectively.

[2011, c. 169, §2 (NEW); 2011, c. 169, §6 (AFF) .]

3. License required, pesticide dealers. No pesticide dealer shall:

A. Distribute any limited or restricted use pesticide without a distributor's license from the board; or [1975, c. 397, §2 (NEW) .]

B. Distribute limited or restricted use pesticides to any person who is not licensed or certified by the board. [1975, c. 397, §2 (NEW) .]

[1975, c. 397, §2 (NEW) .]

4. Application. Application for licenses or certification shall be accompanied by such a reasonable fee as the board may establish by regulation. The applicant shall provide such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. Commercial applicators and spray contracting firms shall be required by the board to provide proof of financial responsibility in custom application as to such amounts as the board may, by regulation, designate; private applicators may also be required to provide such proof. All applicants to the board for certification or licensing shall be required to comply with such standards of competency as are established by the board concerning adequate knowledge of pesticide distribution or use and the related dangers and necessary precautions; provided that, in the case of applicants for commercial certification and pesticide dealers' licenses, such compliance shall be demonstrated by written examination in addition to such other criteria, including performance testing, as the board may establish.

[1983, c. 819, Pt. A, §44 (AMD) .]

5. Issuance. No license or certification may be issued by the board, unless the board determines that the standards for licensing and certification have been met as to those categories for which the applicant has applied and qualified. In the case of the spotter and monitor, the board shall set minimal proficiency requirements with the understanding that the board may choose to change these standards from time to time. The enforcement personnel of the Board of Pesticides Control shall be certified to meet at least the minimal proficiency requirements required of spotters and monitors. If a license or certification is not issued as applied for, the board shall provide written notice to the applicant of the reasons therefor. The license or certificate may be issued upon such terms and conditions as the board deems necessary for the protection of the public health, safety and welfare, and for enforcement and administration of this chapter and the rules promulgated pursuant to this chapter.

[1983, c. 819, Pt. A, §45 (AMD) .]

6. Renewal. Licenses for commercial applicators, government pesticide supervisors, spotters, monitors, spray contracting firms, pesticide dealers and private applicators are valid for such period as prescribed by the board by rule. Application for renewal must be accompanied by such reasonable fee as the board may by rule require. The board may, by rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter IV.

[1997, c. 454, §8 (AMD) .]

7. Suspension.

A. If the board determines that there may be grounds for revocation of a license or certificate, it may temporarily suspend said license or certificate pending inquiry and opportunity for hearing, provided that such suspension shall not extend for a period longer than 45 days. [1975, c. 397, §2 (NEW) .]

B. The board shall notify the licensee or certificate holder of the temporary suspension, indicating the basis therefor and informing the licensee or certificate holder of the right to request a public hearing. [1983, c. 819, Pt. A, §47 (AMD) .]

C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition, public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [1983, c. 819, Pt. A, §48 (AMD) .]

D. This subsection is not governed by the provisions of Title 4, chapter 5 or Title 5, chapter 375.

[1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

A. Is no longer qualified; [1975, c. 397, §2 (NEW) .]

B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [1975, c. 397, §2 (NEW) .]

C. Used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [1975, c. 397, §2 (NEW) .]

D. Has stored, transported or otherwise distributed pesticides in a careless, faulty or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety or welfare; [1975, c. 397, §2 (NEW) .]

E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [1975, c. 397, §2 (NEW) .]

F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [1975, c. 397, §2 (NEW) .]

G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [1981, c. 470, Pt. A, §67 (AMD) .]

H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [1981, c. 470, Pt. A, §67 (AMD) .]

I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [1977, c. 694, §341 (NEW) .]

[1983, c. 819, Pt. A, §49 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

9. State, federal and local government employees. Individuals who apply pesticides in connection with their duties as officials or employees of federal, state or local governments are subject to the provisions of this chapter concerning licenses and certification, but are exempt from the payment of any fee.

[1975, c. 397, §2 (NEW) .]

10. Nonresident licenses. The board may issue a license or certificate without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Licenses or certificates issued pursuant to this subsection may be suspended or revoked in the same manner and on the same grounds as other licenses or certificates issued pursuant to this chapter. Licenses and certificates issued pursuant to this subsection may be suspended or revoked pursuant to subsection 8, paragraph I.

[1977, c. 694, §342 (AMD) .]

11. Arborists. In the case of persons licensed under Title 7, chapter 404, subchapter II, the board may waive the application fee and may consider the arborist license as prima facie evidence of qualification to use pesticides in the categories of use provided by Title 7, chapter 404.

[1999, c. 84, §4 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 20, §3 (AMD). 1977, c. 694, §§338-342 (AMD). 1981, c. 374, §§3-7 (AMD). 1981, c. 470, §A67 (AMD). 1983, c. 819, §§A42-A49 (AMD). 1985, c. 122, §2 (AMD). 1997, c. 454, §8 (AMD). 1999, c. 84, §4 (AMD). 1999, c. 547, §§B39,78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 245, §3 (AMD). 2011, c. 169, §2 (AMD). 2011, c. 169, §6 (AFF).

§1471-E. AQUATIC APPLICATION, PERMIT REQUIRED

No person shall apply or cause to be applied a pesticide to the waters of the State without obtaining a waste discharge license from the Department of Environmental Protection pursuant to Title 38, chapter 3, subchapter I, Article 2. [1979, c. 281, §1 (RPR).]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 20, §4 (AMD). 1979, c. 281, §1 (RPR).

§1471-F. CRITICAL AREAS

No person shall apply pesticides to any area of the State which the board has determined to be a critical area, except to the extent such application is within the limits prescribed by the board in establishing the area. [1975, c. 397, §2 (NEW).]

SECTION HISTORY

1975, c. 397, §2 (NEW).

§1471-G. REPORTS

1. Pesticide dealers to maintain certain records. All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require.

[1975, c. 397, §2 (NEW) .]

2. Applicators and firms to maintain certain records. All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators and firms shall provide such information, notification and reports as the board, by regulation, may require.

[1983, c. 819, Pt. A, §50 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1983, c. 819, §A50 (AMD).

§1471-H. INSPECTION

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and

disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction. Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [1989, c. 841, §7 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1989, c. 841, §7 (AMD) .

§1471-I. ENFORCEMENT

(REPEALED)

SECTION HISTORY

1975, c. 397, §2 (NEW). 1979, c. 644, §4 (RP) .

§1471-J. PENALTIES

A person who violates any provision of this chapter or any order, rule, decision, certificate or license issued by the board or commits any act constituting a ground for revocation, except acts punishable under section 1471-D, subsection 8, paragraphs A and H, commits a civil violation subject to the penalties established in Title 7, section 616-A. [1989, c. 841, §8 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1975, c. 623, §26A (AMD). 1975, c. 770, §§91,92 (RPR). 1989, c. 841, §8 (AMD) .

§1471-K. APPEAL

Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court, within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive. [1975, c. 397, §2 (NEW) .]

SECTION HISTORY

1975, c. 397, §2 (NEW) .

§1471-L. SUBPOENAS

The board may issue subpoenas to compel the attendance of witnesses and production of such books, documents and records anywhere in the State in any hearing affecting the authority or privilege granted by a license or permit issued under this chapter, as may be relevant to proceedings of the board. If any person refuses to obey a subpoena issued by the board under this section, the board may apply to any Justice of the Superior Court for an order compelling such person to comply with the requirements of the subpoena. Such justice may issue such order and may punish failure to obey the same as a contempt thereof. [1975, c. 397, §2 (NEW) .]

SECTION HISTORY

1975, c. 397, §2 (NEW) .

§1471-M. POWERS OF BOARD

1. Establishment of categories and standards. The board shall, by regulation promulgated in conformity with Title 5, chapter 375, subchapter II:

A. Establish categories, and where applicable subcategories, of commercial pesticide applicators and government pesticide supervisors depending upon the nature and extent of the pesticide use, the type of pesticide equipment, the degree of knowledge or skill required in their application and such other factors as the board deems relevant, provided that such categories shall be consistent with, but not limited to, the categories established by the United States Environmental Protection Agency; [1981, c. 374, §8 (AMD) .]

B. Establish competency standards for the established categories for the certification and renewal of certification of commercial applicators. Such standards shall require, as a minimum, that the applicant demonstrate, by written examination and, as appropriate, performance testing, knowledge of pests, formulation and labelling of pesticides, equipment and application techniques, safety precautions, potential harmful effects on the environment, and applicable federal and state laws and regulations. [1975, c. 397, §2 (NEW) .]

C. Establish standards for the certification and renewal of certification of private applicators. Such standards shall require that the private applicator indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label, to apply pesticides in accordance with label instructions and warnings, to recognize local environmental situations that must be considered to avoid contamination, to recognize poisoning symptoms and corrective procedures, and to understand applicable federal and state laws and regulations. [1975, c. 397, §2 (NEW) .]

C-1. Establish standards for the certification and renewal of certification of private applicators of general use pesticides. Such standards must require that the private applicator of general use pesticides indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label and to apply pesticides in accordance with label instructions and warnings. [2011, c. 169, §3 (NEW) .]

D. Establish the standards for issuance and renewal of licenses of pesticide dealers. These standards shall include, but not be limited to, requirements concerning transportation of pesticides, the applicant's knowledge of applicable federal and state statutes and regulations, and the applicant's understanding of the dangers involved and the precautions necessary for the safe storage and distribution of pesticides; [1983, c. 819, Pt. A, §51 (AMD) .]

E. Establish guidelines and requirements for reporting of information by commercial applicators, pesticide dealers, spray contracting firms and monitors to the board; [1983, c. 819, Pt. A, §52 (AMD) .]

F. Establish standards for the certification and renewal of certification of government pesticide supervisors. These standards may require that the applicant demonstrate, by written examination and, as appropriate, performance testing, knowledge of pests, formulation and labeling of pesticides, equipment and application techniques, safety precautions, potential harmful effects on the environment and applicable federal and state laws and regulations. [1981, c. 374, §9 (NEW) .]

G. Establish standards for the certification and renewal of certification of spotters and monitors; and [1983, c. 819, Pt. A, §53 (NEW) .]

H. Establish standards for the certification and renewal of certification of spray contracting firms. [1983, c. 819, Pt. A, §53 (NEW) .]

[2011, c. 169, §3 (AMD) .]

2. Designation of critical areas; cooperation; promulgation of rules and regulations. The board may:

A. [1987, c. 702, §3 (RP).]

B. Cooperate with any other agency of this State or its subdivisions, or with any agency of any other state or the Federal Government for the purpose of administering this chapter and of securing uniformity of regulations; [1975, c. 397, §2 (NEW).]

C. On its own or in cooperation with other agencies or persons, publish such information as it deems appropriate, including information concerning injury which might result from improper application or handling of pesticides, and methods and precautions designed to prevent the injury; and [1987, c. 702, §4 (AMD).]

D. Promulgate such other rules and regulations and take such other actions as it deems appropriate to control the use and distribution of pesticides within the State and to otherwise provide that the purposes and policies of this chapter are insured. [1975, c. 397, §2 (NEW).]

[1987, c. 702, §§3, 4 (AMD) .]

3. Hazard communication and community right to know. The board shall assist the Director of the Bureau of Labor Standards in providing education and training to aid agricultural employers in complying with the federal Occupational Safety and Health Administration requirements for hazard communication and shall assist the responsible state agencies in providing education and training to aid agricultural employers in complying with the federal requirements for emergency and hazardous chemical inventory forms and community right-to-know reporting.

[1999, c. 57, Pt. B, §2 (RPR) .]

4. Designation of critical areas. The board may designate critical areas which shall include, but not be limited to, areas where pesticide use would jeopardize endangered species or critical wildlife habitat, present an unreasonable threat to quality of the water supply, be contrary to a master plan for the area where such area is held or managed by an agency of the State or Federal Government, or would otherwise result in unreasonable adverse effects on the public health, welfare or the environment of the area. The designation of a critical area may prohibit pesticide use or may include such limitations on such use as the board deems appropriate. The proceedings to designate a critical area under this section shall conform to Title 5, chapter 375, subchapter II.

The board, by rule, shall establish criteria for designation of critical areas by March 1, 1989.

In addition to the provisions of the Maine Administrative Procedure Act, Title 5, section 8001, any municipality and, for the purpose of representing unorganized territory, any county may petition the board for establishment of a critical area within their boundaries. If the board designates a critical area, the board shall develop a pesticide management plan for that area after receiving comments from the municipality or, for unorganized territory, the county; the volunteer medical advisory panel as established through the board; local applicators; owners of land within the critical area; and other interested parties and agencies.

[1989, c. 502, Pt. A, §67 (AMD) .]

5. Disclosure of rights. When issuing a license, the board shall provide to each licensee a written statement outlining the enforcement process and the process of negotiating agreements in lieu of court action that may occur in the event enforcement action is pursued. The Department of the Attorney General and the Department of Agriculture, Conservation and Forestry shall assist the board in developing an appropriate written statement. The board shall make this information available to all existing licensees within 30 days of the effective date of this section.

[1989, c. 841, §9 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

6. Notification. Whenever the board or its staff investigates a complaint alleging a violation of rules adopted pursuant to Title 7, section 606, subsection 2, paragraph G, the staff shall make all reasonable efforts to notify the alleged violator, if identity is known, prior to collecting samples.

[1989, c. 841, §9 (NEW) .]

7. Data collection; report. The board shall implement a system of record keeping, reporting, data collection and analysis that provides information on the quantity of product and brand names of pesticides sold. The board, in cooperation with the University of Maine Cooperative Extension Service, shall study ways to improve pesticide information data bases and to optimize the useful analysis of reported information.

Before April 1, 2002, the board shall submit a report on pesticide activities during the previous calendar year to the joint standing committee of the Legislature having jurisdiction over pesticide control matters. The report must contain sales information on quantities of pesticides sold listed by the common name of the active ingredient.

The board shall also include in the report aggregate data on pesticide use based on reports submitted to the board by commercial applicators and other persons required to submit reports under this chapter and rules adopted pursuant to this chapter. The board shall provide the data by sector of use whenever possible. The board shall provide the data by category of pesticide, including data for herbicides, insecticides, fungicides and other major categories. In addition, the board shall include in the report a summary of survey results or other information published by the University of Maine Cooperative Extension Service or the United States Department of Agriculture relating to pesticides use in the State.

The board shall develop a measure to estimate sales and types of pesticides commonly used by homeowners and track trends in the quantities and types of pesticides used by homeowners.

The board shall provide historical information on pesticide use and sales in the report when the information available is appropriate for comparison.

[2001, c. 355, §1 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 694, §§343,344 (AMD). 1981, c. 374, §§8,9 (AMD). 1981, c. 470, §§A68,A69 (AMD). 1983, c. 568, §2 (AMD). 1983, c. 819, §§A51-A53 (AMD). 1987, c. 660, §1 (AMD). 1987, c. 702, §§3-5 (AMD). 1989, c. 502, §A67 (AMD). 1989, c. 841, §9 (AMD). 1997, c. 389, §1 (AMD). 1999, c. 57, §B2 (AMD). 1999, c. 724, §1 (AMD). 2001, c. 355, §1 (AMD). 2011, c. 169, §3 (AMD). 2011, c. 657, Pt. W, §5 (REV) .

§1471-N. CHEMICAL CONTROL OF VERTEBRATE ANIMALS (REPEALED)

SECTION HISTORY

1977, c. 65, (NEW). 1979, c. 187, (AMD). 2009, c. 393, §8 (RP) .

§1471-O. EXERCISE OF POWERS BY BOARD OF PESTICIDES CONTROL

The powers established under the Maine Pesticide Control Act of 1975, Title 7, chapter 103, subchapter II-A, shall be exercised by the Board of Pesticides Control established by section 1471-B. [1981, c. 112, §2 (NEW) .]

SECTION HISTORY

1981, c. 112, §2 (NEW) .

§1471-P. STORAGE OF ILLEGAL AND OBSOLETE PESTICIDES

1. Board to accept illegal and obsolete pesticides. Within the limits of resources made available to it for the storage or disposal of illegal and obsolete pesticides purchased for use in Maine, the board shall accept, store and dispose of pesticides from persons who purchased them with the intent of applying them.

[1981, c. 705, Pt. S, §1 (NEW) .]

2. Board may adopt rules and fees. The board may adopt any rules necessary to implement this section, including rules limiting the quantity and nature of pesticides it accepts for storage or disposal. The board may adopt and charge fees for storage or disposal of pesticides presented to it where the amount of pesticides, or special treatments necessary for safe storage or disposal, will require a substantial cost to the board; provided, that the fees charged are close to the actual cost incurred by the board.

[1981, c. 705, Pt. S, §1 (NEW) .]

SECTION HISTORY

1981, c. 705, §S1 (NEW) .

§1471-Q. RETURN AND DISPOSAL OF LIMITED AND RESTRICTED USE PESTICIDE CONTAINERS

(REPEALED)

SECTION HISTORY

1983, c. 542, §§2,3 (NEW). 1985, c. 54, §1 (AMD). 2011, c. 510, §3 (RP) .

§1471-R. NOTIFICATION AND MONITORING

1. Purpose. The purpose of this section is to protect the public health and safety by requiring a system of notification to the public and to the board for forest insect aerial spray projects and by improving the monitoring of these projects.

[1983, c. 819, Pt. A, §54 (NEW) .]

2. Scope. The requirements of this section apply to public and private forest insect aerial spray pesticide applications.

[1983, c. 819, Pt. A, §54 (NEW) .]

3. Notification to the public. Prior to the commencement of a forest insect aerial spray application, notice shall be given to the public as follows.

A. If the project is a major forest insect aerial spray application, as defined in section 1471-C, the notification shall be as follows.

(1) At least 14 days, but not more than 30 days, prior to spray application, notice shall be published in a newspaper of general circulation in the area affected. The notice shall describe the proposed spray activity, the area to be sprayed, the pesticide to be used, the date or dates on which the spraying is proposed to take place, any public precautions which appear on the pesticide label and the name, address and telephone number of persons responsible for the activity from whom more specific information regarding spray areas and times may be obtained.

(2) Any additions of spray blocks or changes in the choice of insecticides from the notification required pursuant to subparagraph (1) shall be published in a newspaper of general circulation in the area affected at least 24 hours before the change is effected.

(3) Notice shall be conspicuously posted at each point of major ingress and egress of the public into the area to be sprayed, including, without limitation, marked foot trails known to be used by the public and roads accessible to 4-wheeled vehicles and open to the public. The notice shall contain the information described in subparagraph (1). The board shall determine the time period the notice shall be posted prior to the commencement and following the completion of the spray project.

[1983, c. 819, Pt. A, §54 (NEW) .]

B. If the project is a minor forest insect aerial spray application, as defined in section 1471-C, the notification shall be as follows: Notice in a newspaper of general circulation in the areas affected at least 4 days, but not more than 10 days, before the commencement of spray application. The notice shall contain the information required in paragraph A, subparagraph (1). [1983, c. 819, Pt. A, §54 (NEW) .]

C. Notice shall otherwise be provided, as required by rule or order of the board, when that board determines additional notification procedures to be necessary to reach the affected public. [1983, c. 819, Pt. A, §54 (NEW) .]

[1983, c. 819, Pt. A, §54 (NEW) .]

4. Notification to the board. Written notice shall be given to the board:

A. At least 15 days, but not more than 30 days, prior to the commencement of a major forest insect aerial spray application; or [1983, c. 819, Pt. A, §54 (NEW) .]

B. At least 5 days prior to the commencement of a minor forest insect aerial spray application. [1983, c. 819, Pt. A, §54 (NEW) .]

The notice shall contain the information required under subsection 3, paragraph A, subparagraph (1), and shall also include any other information which is required by the board. The notice shall be on such form as the board may prescribe.

[1983, c. 819, Pt. A, §54 (NEW) .]

5. Reports. The following reports shall be prepared.

A. Following the completion of each spray period, a written spray period report prepared by the monitor, as defined in section 1471-C, shall be made available to the board within a reasonable time period established by the board.

The report shall describe the spray activity, shall certify the area actually sprayed and the pesticide used, weather conditions at the time, a map showing where spray booms were turned on and off and any nontarget areas that were sprayed, and the date and time on which spraying took place. The report shall be on such form and filed in accordance with such procedure as the board may prescribe. [1983, c. 819, Pt. A, §54 (NEW) .]

B. In the event that a reportable spray incident occurs, a spray incident report shall be telephoned to the board immediately following the completion of each spray period. A reportable spray incident is a misapplication which may result in a potential threat to public health or the environment, including, without limitation: Failure to turn off spray booms over sensitive areas such as water bodies or human habitation; aircraft accidents involving chemical spills; and accidental discharge of insecticide, causing risk to human health. The report shall be on such form and filed in accordance with such procedure as the board may prescribe.

The spray contracting firm or applicator shall be responsible for complying with the requirements of this section. [1983, c. 819, Pt. A, §54 (NEW) .]

C. A project report as described in the board's regulations shall be filed in accordance with such procedure as the board may prescribe. [1983, c. 819, Pt. A, §54 (NEW) .]

[1983, c. 819, Pt. A, §54 (NEW) .]

6. Responsibility. The following parties shall be responsible for complying with the requirements of this section, unless otherwise noted:

A. In the case of a forest insect aerial spray program administered pursuant to Title 12, chapter 803, the Bureau of Forestry; and [1983, c. 819, Pt. A, §54 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

B. In the case of any other forest insect aerial spray activities, the landowner or the landowner's representative, or, if the land is leased, the lessee. [1983, c. 819, Pt. A, §54 (NEW) .]

[1983, c. 819, Pt. A, §54 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

SECTION HISTORY

1983, c. 819, Pt. A, §54 (NEW). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 405, Pt. A, §23 (REV) .

§1471-S. REQUIREMENT FOR SPOTTERS AND MONITORS

Major public and private forest insect aerial spray projects shall employ spotters and monitors, as defined in section 1471-C. These personnel shall be certified pursuant to section 1471-D, subsection 2-B. At least one spotter and one monitor shall be with each spray aircraft or spray aircraft team during all spray application activities. A spotter or monitor shall not serve as the pilot of any aircraft involved in the spray project. [1983, c. 819, Pt. A, §54 (NEW) .]

SECTION HISTORY

1983, c. 819, §A54 (NEW) .

§1471-T. EXEMPTION

The board may exempt a person from compliance with one or more of the requirements of sections 1471-R and 1471-S, if the board finds that the exemption will not result in any unreasonable risk to the public's health, safety or general welfare and is otherwise in the public interest. Any request for exemption shall be made in writing to the board and shall state the reasons for the request. The board shall not grant any exemption, except following notice to the public and opportunity for hearing. Notice and opportunity for hearing shall be in a manner as the board may prescribe and may be at variance with the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, to the extent that the board deems necessary under the circumstances. [1983, c. 819, Pt. A, §54 (NEW) .]

SECTION HISTORY

1983, c. 819, §A54 (NEW) .

§1471-U. MUNICIPAL ORDINANCES

1. Centralized listing. The Board of Pesticides Control shall maintain for informational purposes, for the entire State, a centralized listing of municipal ordinances that specifically apply to pesticide storage, distribution or use.

[1989, c. 93, §1 (RPR) .]

2. Existing ordinances. The clerk of any municipality which, on the effective date of this section, has an ordinance to be listed under subsection 1 shall file a copy of that ordinance with the board by December 31, 1988.

[1989, c. 93, §1 (RPR) .]

3. New ordinances. The clerk of the municipality shall provide the board with notice and a copy of any ordinance to be listed under subsection 1 at least 7 days prior to the meeting of the legislative body or the public hearing at which adoption of the ordinance will be considered. The clerk shall notify the board within 30 days after adoption of the ordinance.

[1989, c. 93, §1 (RPR) .]

4. Intent. It is the intent of this section to provide information on municipal ordinances. This section shall not affect municipal authority to enact ordinances.

[1989, c. 93, §1 (RPR) .]

5. Failure to file. For any ordinance which is not filed with the board, with notice given to the board in accordance with this section, which is otherwise valid under the laws of this State, any provision that specifically applies to storage, distribution or use of pesticides shall be considered void and of no effect after the deadline for filing and until the board is given proper notice and the ordinance is filed with the board.

[1989, c. 93, §1 (RPR) .]

SECTION HISTORY

1987, c. 702, §6 (NEW). 1987, c. 723, §§4,6 (NEW). 1989, c. 93, §1 (RPR) .

§1471-V. LOCAL PARTICIPATION

1. Representation. When the board, under section 1471-M, considers the designation of a critical area or the establishment of a pesticide management plan for a critical area, the municipal officers of any affected municipality, or county commissioners in the case of unorganized territories, shall be given the opportunity to select a local representative to serve as an additional board member. For a given action, there shall be only one local representative who shall represent the affected municipality or unorganized territory.

[1987, c. 702, §6 (NEW) .]

2. Participation and voting procedure. A local representative appointed under this section may participate officially and vote in deliberations on the designation of a critical area or on the establishment of a pesticide management plan only for a critical area which is in the municipality or unorganized territory represented. A local representative may participate on the board until final designation of the critical area or final establishment of the pesticide management plan, including any administrative or judicial appeals. When the board considers a proposed critical area or pesticide management plan that affects more than one municipality, the board shall take separate action on the portion in each municipality.

[1987, c. 702, §6 (NEW) .]

3. Compensation. Local representatives shall be reimbursed only for expenses as regular board members during the period of their service, to be paid by the board.

[1987, c. 702, §6 (NEW) .]

SECTION HISTORY

1987, c. 702, §6 (NEW) .

§1471-W. GENERAL USE PESTICIDE DEALERS

1. License required. Unless exempted under subsection 5, no person may distribute general use pesticides without a license.

[1989, c. 93, §2 (NEW) .]

2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. The Board of Pesticide Control may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Any person licensed to distribute restricted use pesticides is considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section are deposited in the Board of Pesticides Control Special Fund.

[1997, c. 454, §9 (AMD) .]

3. Records; reporting. Any person who distributes general use pesticides to licensed general use pesticide dealers in the State shall keep and maintain records of these sales for annual reporting purposes. These annual reports must include the names of all licensed general use pesticide dealers to whom general use pesticides were distributed, the names of the pesticides, the United States Environmental Protection Agency registration number and the quantity sold. These records must be kept for 2 years after the end of the calendar year. For the purposes of this subsection, "distributes" means sells, ships or delivers general use pesticides to a licensed general use pesticide dealer engaged in retail sales. The board may adopt rules to further clarify who is responsible for reporting under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[1997, c. 139, §1 (RPR) .]

4. Violations; penalty.

[1989, c. 93, §2 (NEW); 1989, c. 841, §10 (RP) .]

5. Exemptions. The following situations are exempt from the provisions of this section.

A. Any person may distribute the following products without a general use pesticide dealer license:

- (1) Household use pesticide products with no more than 3% active ingredients;
- (2) The following products, which have limited percentages of active ingredients:
 - (a) Dichlorovos (DDVP) impregnated strips with concentrations not more than 25% in resin strips and pet collars;
- (3) The following products with unlimited percentages of active ingredients:
 - (a) Pet supplies such as shampoos, tick and flea collars and dusts;
 - (b) Disinfectants, germicides, bactericides and virucides;
 - (c) Insect repellents;
 - (d) Indoor and outdoor animal repellents;
 - (e) Moth flakes, crystals, cakes and nuggets;
 - (f) Indoor aquarium supplies;

- (g) Swimming pool supplies;
- (h) Pediculocides and mange cure on man;
- (i) Aerosol products; and
- (j) General use paints, stains, and wood preservatives and sealants. [1989, c. 93, §2 (NEW) .]

B. The board may promulgate rules to exempt the sale of additional general use pesticide products from the dealer licensing provisions of this section. [1989, c. 93, §2 (NEW) .]

[1989, c. 93, §2 (NEW) .]

SECTION HISTORY

1989, c. 93, §2 (NEW). 1989, c. 841, §10 (AMD). 1997, c. 139, §1 (AMD). 1997, c. 454, §9 (AMD) .

§1471-X. STATE POLICY; PUBLIC AND PRIVATE INITIATIVES TO MINIMIZE RELIANCE ON PESTICIDES

It is the policy of the State to work to find ways to use the minimum amount of pesticides needed to effectively control targeted pests in all areas of application. The agencies of the State involved in the regulation or use of pesticides shall promote the principles and the implementation of integrated pest management and other science-based technology to minimize reliance on pesticides while recognizing that outbreaks of disease, insects and other pests will necessitate fluctuations in pesticide use. These agencies, in cooperation with private interest groups, shall work to educate pesticide users and the general public in the proper use of pesticides and to determine other actions needed to accomplish the state policy. [1997, c. 389, §2 (NEW) .]

SECTION HISTORY

1997, c. 389, §2 (NEW) .

§1471-Y. NOTIFICATION OF OUTDOOR PESTICIDES APPLICATION USING AIRCRAFT OR AIR-CARRIER EQUIPMENT

(REPEALED)

SECTION HISTORY

2009, c. 378, §1 (NEW). 2009, c. 584, §1 (RP) .

§1471-Z. REGISTRY OF PROPERTY REQUIRING NOTIFICATION FOR PESTICIDES APPLICATIONS

(REPEALED)

SECTION HISTORY

2009, c. 378, §2 (NEW). 2009, c. 584, §2 (AMD). 2011, c. 332, §1 (RP) .

§1471-AA. AWARENESS OF OUTDOOR PESTICIDES APPLICATIONS; ROLE OF THE BOARD

(REPEALED)

SECTION HISTORY

2009, c. 584, §3 (NEW). 2011, c. 332, §2 (RP) .

§1471-BB. REFUND OF DEPOSITS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/17)

(WHOLE SECTION TEXT REPEALED 12/31/17)

A pesticide dealer shall refund deposits paid in accordance with former section 1471-Q on returned pesticide containers bearing the board's identifying stickers. The board shall refund deposits paid on out-of-state sales in accordance with former section 1471-Q. [2011, c. 510, §4 (NEW) .]

This section is repealed December 31, 2017. [2011, c. 510, §4 (NEW) .]

SECTION HISTORY

2011, c. 510, §4 (NEW) .

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TITLE II
OGUNQUIT MUNICIPAL CODE
HEALTH, SAFETY & WELFARE

[Additions are underlined, deletions are ~~struck out~~]

CHAPTER 11 Pesticide/Herbicide Usages ~~on Town-Owned Lands~~

1101 Purpose

The purpose of this chapter is to safeguard the health and welfare of the residents of the Town of Ogunquit and to conserve and protect the town's ground water, estuarine, marine and other natural resources, while ensuring preservation ~~and enhancement of town-owned~~ of the land.

1102 Provisions.

The following provisions shall be applicable to all turf, landscape and outdoor pest management activities ~~on town-owned~~ conducted within the Town of Ogunquit, on both public and private land.

(a) *Permitted:*

1102.1 Use or application of natural, organic land care protocols.

1102.2 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.

1102.3 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:*

1102.4 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.

1102.5 Use or application of sludge or sludge-derived products not listed as permitted above.

1103 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 mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

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 Ogunquit and/or managed by the Town, including outdoor grounds such as parks, playing fields, the Marginal Way, or conservation and open space.~~

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

1104 Exemptions

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

- a. Commercial agriculture;
- b. Pet supplies such as shampoos, tick and flea collars and dusts;
- c. Disinfectants, germicides, bactericides, and virucides;

- d. Insect repellents;
- e. Outdoor animal repellants;
- f. Swimming pool supplies;
- g. Aerosol products;
- h. General use paints, stains and wood preservatives and sealants; and
- i. CMP, and other, routine vegetation maintenance programs on transmission sections that run through the Town of Ogunquit.

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 Protection Agency as exempt materials under 40 CFR 152.25 or pesticides permitted by the Organic Materials Review Institute; management of town-owned land not used or used infrequently by the public (roadway medians, for example).

A specific exemption is made for poison ivy control on the Marginal Way, 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 Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control.

Restricted pesticides may also be applied for the following purposes:

1. 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).
2. Invasive Species – The control of invasive species that may be detrimental to the environment.
3. Mandatory Applications- Use of pesticides mandated by state or federal law.
4. Health and Safety – The control of insects that are venomous or disease carrying.

1105 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:*

- 1105.1** 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
- 1105.2** Viable alternatives consistent with this article do not exist. The Select Board shall request the Conservation Commission to review any waiver requests made under this section, and to recommend a course of action.

1106. 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 Ogunquit.

1107. Conflict and invalidity

If a conflict or inconsistency is found between this article and other sections of the Zoning Ordinance or Town Charter, 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.

1108. Authority

Pursuant to 30-A 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. §§ 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 the rules adopted under those articles, as amended from time to time.¹

IN WITNESS WHEREOF, UNDER SEAL OF THE TOWN, this Ordinance as duly approved by the voters acting on Article _____ at a Special Town Meeting held on November 4, 2014.

Ordinance Change Effective January 1, 2015

OCT 23 2014



City of Rockland

270 Pleasant Street
ROCKLAND, MAINE 04841

(207) 594-0304

FAX (207) 594-9481

e-mail: ssylvester@ci.rockland.me.us

Rockland, City of Promise --- Gateway of the Penobscot

Stuart H. Sylvester
City Clerk

October 22, 2014

Henry Jennings, Director
Board of Pesticides Control
28 State House Station
Augusta, Maine 04333-0028

Dear Mr. Jennings,

Pursuant to 22 M.R.S Section 1471-U, please be advised that the attached Ordinance regarding the use of pesticides and herbicides in the City of Rockland was adopted by the Rockland City Council at its Regular Monthly Meeting held on October 15, 2014 and will become effective on November 14, 2014. If you have any questions please feel free to contact this office at the number or address above.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart H. Sylvester".

Stuart H. Sylvester
Rockland City Clerk

CITY OF ROCKLAND, MAINE
ORDINANCE AMENDMENT #30
IN CITY COUNCIL

September 8, 2014

ORDINANCE AMENDMENT: Municipal Use of Pesticides and Herbicides

THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 13, Parks and Trees, BE AMENDED AS FOLLOWS:

ADD:

ARTICLE IV Pesticide / Herbicide Usage on City-Owned Lands

Sec. 13-401 Purpose

The purpose of this chapter is to safeguard the health and welfare of the residents of the City of Rockland and to conserve and protect the City's ground water, estuarine, marine and other natural resources, while ensuring preservation and enhancement of City-owned lands.

Sec. 13-402 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 mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency ("USEPA"). Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

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

City-Owned Land: All land owned or leased by the City of Rockland and/or managed by or on behalf of the City, including outdoor grounds such as municipal facilities and lawns, parks, playing fields, cemeteries, the City Forest, and conservation and open space.

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

Sec. 13-403 Permitted and Prohibited Uses of Pesticides / Herbicides.

The following provisions shall be applicable to all turf and landscape for outdoor pest management activities on City-owned land.

A. Permitted Uses:

- (1) Use or application of natural, organic land care protocols;
- (2) 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; and
- (3) Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act (38 M.R.S. §§ 1301, et seq.), the Protection of Natural Resources Act (38 M.R.S. §§ 480-A, et seq.), or the Site Location of Development Act (38 M.R.S. §§ 481, et seq.), and any rules related thereto, as amended from time to time.

B. Prohibited Uses:

- (1) Use or application of chemical pesticides, other than pesticides classified by the USEPA as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute; and
- (2) Use or application of sludge or sludge-derived products not listed as permitted above.

Sec. 13-404 Exemptions

The following processes are exempt:

1. Drinking water and wastewater treatment;
2. Indoor pesticide use;
3. Contained baits or traps for rodent control;
4. Use of pesticides classified by USEPA as exempt materials under 40 C.F.R. 152.25;
5. Pesticides permitted by the Organic Materials Review Institute;
6. Management of City-owned land not used or used infrequently by the public (roadway medians, for example);
7. Pesticide applications by owners or tenants of residential properties on landscaped areas within municipal rights-of-way;
8. Pesticide applications on City-owned land to control vermin or other infestations, which applications are, in the discretion of the City Manager, reasonably necessary to prevent the spread of such infestations or to protect the public health;

9. Control of poisonous or rapidly invasive plant species injurious to human health or the environment, using the least toxic product in accordance with USEPA protocols under 40 C.F.R. 152.5, the Maine Code of Regulations, Titles 7 and 22; "Use of Pesticides," and the Best Management Practices for the Application of Turf Pesticides and Fertilizers of the Maine Board of Pesticide Control.

Sec. 13-405 Emergency waiver

If the City Manager, applying the criteria set forth below, finds that there exists an emergency situation, the Code Enforcement Officer may, upon written request, grant a thirty (30) day temporary waiver authorizing of non-exempt pesticide(s). The waiver may be extended, but in no event shall the total waiver period exceed six (6) months. 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.

The waiver determination shall be based on the following criteria:

A. The pest situation presents:

- (1) An immediate threat to human health or environmental quality; or
(2) An immediate threat of substantial property damage or loss; and

B. Viable alternatives consistent with this article do not exist.

Sec. 13-406 Enforcement and permits

Except with respect to the conduct of City of Rockland employees, this Article shall be enforced by the Code Enforcement Officer, in accordance with the provisions governing the enforcement of the property maintenance code set forth in Chapter 4. The City Manager shall be responsible for assuring compliance by City of Rockland employees with the provisions of this Article.

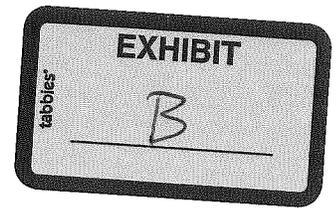
Sec. 13-407 Conflict and invalidity

If a conflict or inconsistency is found between this Article and other sections of the City Charter or Code of Ordinances, the terms of the stricter provision(s) shall prevail. The invalidity of a provision of this Article shall not invalidate any other provision of this article.

State Law Ref.: 30-A M.R.S. § 3001; 22 M.R.S. § 1471-U; 38 M.R.S. § 1310-U.

First Reading 9/8/14
First Publication 9/18/14
Public Hearing 10/15/14
Final Passage 10/15/14
Second Publication 10/23/14
Effective Date 11/14/14

Sponsor: Councilor Dickerson
Originator: Councilor Dickerson



COPLIN PLANTATION
P.O. Box 319
Stratton, Maine 04982

October 4, 2001

State of Maine
Dept. of Agriculture, Food & Rural Resources
Board of Pesticides Control
28 State House Station
Augusta, Maine 04333-0028

ATTENTION: Gary Fish, Board of Pesticides Control

SUBJECT: Affirmative vote on pesticide ordinance

The voters of Coplin Plantation met for a special town meeting on Tuesday October 2, 2001. The 26 voters present unanimously voted to accept the article as written; to ban aerial spraying in Coplin Plantation. A copy of the article is enclosed.

Harriet Powers

Harriet Powers
Town Clerk Pro Tem

John Dill
John Dill
Attest Moderator

Dennis C. Pike

Dennis Pike
Attest Franklin County Sheriff

COPLIN PLANTATION WARRANT

STATE OF MAINE

FRANKLIN COUNTY

To Basil Powers, a resident of Coplin Plantation in Franklin County

Greetings:

In the name of State of Maine, you are hereby required to warn and notify the inhabitants of Coplin Plantation, qualified to vote Plantation affairs, to assemble at the Historic Schoolhouse on Route 16, Tuesday October 2, 2001 at 6:30 p.m. to vote on the following articles.

ARTICLE 1. To choose a moderator to preside at said meeting.

ARTICLE 2. Shall an ordinance entitled "Herbicide/Pesticide Spraying" be enacted?

ORDINANCE:

Coplin Plantation prohibits the aerial and/or mechanical application of pesticides, herbicides, insecticides, fungicides etc. in Coplin Plantation.

Section A:

Exception 1: Manual applications to one acre or less, per individual landowner, per year.

Exception 2: Manual applications along utility lines.

Section B:

Penalties: Violators shall be liable to a fine of not less than 50 dollars or more than 5,000 dollars, per incident.

Enforcement: The first selectman shall be appointed enforcement officer.

Section C:

Effective Date: This ordinance will take effect when affirmatively voted at town meeting, and shall remain in effect until terminated or amended by majority vote of a town meeting.

ATTEST:

Basil Powers
Resident Coplin Plantation

Basil L. Powers

NOTARY PUBLIC

9.24.01

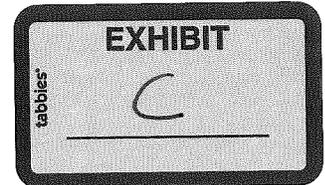
Kathy J. Fearon

KATHY J. FEARON
Notary Public, Maine
Commission Expires June 17, 2006

(TOXIC WASTE ORDINANCE)

To prohibit aerial spraying of toxic materials (pesticides) within the Town of Lebanon.

Historical Note: This ordinance was originally adopted by Town Meeting vote March 10, 1980.



To prevent any commercial spraying for non-agricultural reasons of herbicides in our Town unless approved by Town Meeting vote.

Historical Note: This ordinance was originally adopted by Ballot Vote on March 12, 1983.

NOTICE TO
BOARD OF PESTICIDES CONTROL
MUNICIPAL PESTICIDE ORDINANCE



MUNICIPALITY LIMESTONE

CONTACT PERSON: Thomas R. Stevens TELEPHONE # ²⁰⁷ 325-4704

ADDRESS: 27 Church Street

Limestone, Maine 04750

Pursuant to P.L. 1988, c. 702 (Sec. 6 22 MRSA §§1471-U and 1471-V) a copy of this municipality's (existing/proposed) pesticide ordinance is enclosed.

Signed Thomas R. Stevens Dated Sept. 13, 1988

Return to: Board of Pesticides Control
State House Station #28
Augusta, Maine 04333
(Tel. #289-2731)

(5). Professional offices— the office of a physician, lawyer, surgeon, dentist, architect, engineer, insurance or real estate agent, musician, artist or other such professional person shall be allowed in the Trafton Lake Subdivision, provided however, that any such home occupation or professional office shall be situated in the dwelling in which the proprietor of business resides or in a building accessory thereto located on the same lot.

(6). Retail and wholesale merchants stores and outlets are specifically prohibited, except one concessioner in the recreation area as approved by the Trafton Lake Committee.

→ (7). Farming practices in the Trafton Lake Subdivision shall be prohibited which cause excessive erosion of soil and/or create pollution hazards by, but not limited to, the use of agricultural chemicals such as pesticides, herbicides, insecticides, fungicides; (Aerial spraying in the subdivision specifically prohibited except for fungicides) use of said agricultural chemicals are prohibited within the boundaries of all properties conveyed to or acquired by the Inhabitants of the Town of Limestone adjacent to Trafton Lake.

(8). The taking and use of water from Trafton Lake for farming purposes, especially for the spraying of crops, is prohibited, except for those landowners who have vested property rights to use said water for such purposes as of the effective date of this Ordinance. Any such vested rights to use of water for farming purposes shall comply with all provisions of the State of Maine's Pesticide Laws.

(9). The taking and use of water from Trafton Lake for irrigation for agricultural purposes is prohibited, except for those landowners who have vested property rights to use said water for such purpose as of the effective date of this Ordinance.

(10). All builders, sub-dividers and developers, prior to being issued a building permit for construction on residential lots in the Trafton Lake Subdivision, shall submit a soil and water plan to the Trafton Lake Committee which shall include specific provisions for adequate use and control of water, protection of soil from excessive erosion and protection of Trafton Lake from sedimentation accumulation during and after construction. Said plan shall include, but not be limited to, provision for:

a. The preservation of trees and other vegetation; which, if any, areas of natural vegetation will be removed during the construction stage;

b. Drainage for streets, to storm sewers and/or other run-off disposal areas;

c. The Construction of sediment basins to remove sediment from run-off waters during the construction and development state so as to protect against increased run-off caused by altered land formations that could erode the soil and flood land.

(11). ~~Use of Trafton Lake—boats may be used by the public on Trafton Lake and be propelled by outboard motors which shall not exceed 7 1/2 horse power; racing boats are prohibited on the lake except by special permission of the Trafton Lake Committee.~~

*deleted by
order of Tm. Mch.*

(12). The land owned by the Inhabitants of the Town of Limestone

3-16-70

ART. 32. Voted to appropriate the following sums from the following revenue to reduce the 1970 commitment:

Excise Tax	\$30,000.00
Town Clerk's Fees	2,500.00
Interest Income	4,500.00
Telephone Tax	3,000.00

ART. 33. Voted that taxes shall be due 6/1/70, and the rate of interest shall be one-half per cent per month or part thereof after the 31st day of October 1970.

ART. 34. Voted to authorize the Selectmen on behalf of the town to sell and dispose of any real estate acquired by the town for non-payment of taxes thereon, on such terms as they deem advisable, and to execute quit claim deeds for such property.

ART. 35. Voted to change the Limestone School Committee from three to five members.

ART. 36. Voted to have the Town Clerk and Town Treasurer appointed by the Town Manager subject to confirmation by the Selectmen. Yes-60 No-52

ART. 37. Voted to enact an ordinance entitled "Trafton Lake Ordinance" with Section 3, (11) omitted. Said Ordinance becoming effective March 16, 1970, and being posted in Book 12, Page 122.

ART. 38. Voted to enact an ordinance entitled "Dog Ordinance". Said ordinance becoming effective when passed at this meeting. Posted in Book 12, Page 123.

ART. 39. Voted to limit ^{aerial} spraying to fungicides, INSECTICIES, PESTICIDES, AND HERBICIDES NOT TO BE USED BY AIRCRAFT SPRAYING WITHIN THE TOWN OF LIMESTONE DUE TO HEALTH HAZARD FROM AIR AND WATER POLLUTION. Voted to adopt as written.

Moved to adjourn 10:45 P.M.

James L. Hayes
Town Clerk

3-8-1971

ART. 33. Voted to raise and appropriate the sum of \$63,000.00 from the INCOME ACCOUNT to reduce the 1971 commitment as follows:

Excise Tax	\$32,000.00
Clerk Fees	3,000.00
Interest Income	5,000.00
Telephone Tax	23,000.00

ART. 34. Voted that taxes shall be due 6/1/71, and the rate of interest shall be one-half per cent per month or part thereof after the 31st day of October, 1971.

ART. 35. Voted to authroize the Selectmen, on behalf on the town, to sell and dispose of any real estate acquired by the town for non-payment of taxes thereon, on such terms as they deem advisable, and to execute quit-claim deeds for such property.

ART. 36. Voted to amend the Trafton Lake Ordinance by adding the following paragraph:

Any person found to be in violation of any provision of this ordinance or any order issued hereunder shall be liable to a fine not to exceed \$100.00; and every day which the violation continues shall constitute a new offense.

ART. 37. Voted to amend the ordinance on Aerial Spraying passed in the March 16, 1970 Town Meeting, to read as follows:

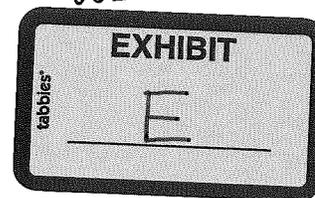
Any person violating the provisions of this ordinance shall be subject to a fine of not more than \$100.00.

Voted to adjourn at 9:25 p.m.

Signed

June L. Noyes
June L. Noyes, Town Clerk

JUL 09 1990



AMENDED NOTE

ADOPTED PESTICIDE AERIAL SPRAYING:
Section 10: I and J Adopted March 27, 1990 to be effective
March 27, 1990.

I.

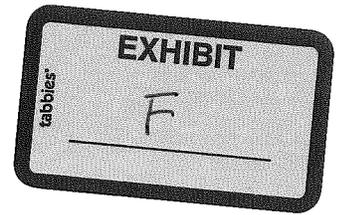
ART. 37. To see if the Town will vote to amend New Sweden's
Land Ordinance with the following statement: Aerial
spraying of herbicides and pesticides shall not be
permitted within the Town of New Sweden, Maine.

Passed as read.

J.

ART. 38. To see if the Town will vote to amend New Sweden's Land
Use Ordinance to designate specific areas within the
Town as deeryards and to include in the requirements
for land use within these deeryards.

Passed as read.



TOWN OF SWEDEN

ZONING AND LAND USE ORDINANCE 1991

Sweden, Maine

Originally Adopted - March 1975

First Revision - March 1979

Second Revision - August 1983

Third Revision - February 1991

125 feet from roadway centerline

100 feet from high-water line of a great pond or river; 75 feet from a stream or up-land edge of a wetland.

Height of structure from rear and side lot lines, but not less than thirty (30) feet.

6. Performance Standards. In addition to any other requirements of this Ordinance, Permitted and Conditional-Uses allowed shall also meet the requirements of all applicable land use and performance standards as contained in **Section X. PERFORMANCE STANDARDS.**

7. Major Subdivisions. Any plans for major subdivisions, in addition to meeting all other requirements of Sweden's Subdivision Regulations, shall incorporate clustering of individual lots/dwelling units, in accordance with the provisions for cluster development in Section X.

F. Aquifer Protection District (Overlay District) This District contains those lands covering significant sand or gravel aquifers identified on the Maine Geological Survey Sand and Gravel Aquifer Map, as delineated on the Sweden Zoning Map. Land use criteria of the underlying Zone apply, except that the Aquifer Protection District land use criteria will prevail when the latter are more restrictive.

1. Purpose. To prevent destruction or pollution of Sweden's identified sand and gravel aquifers; and to minimize the detrimental effect of development and land use in areas overlying the aquifer.

2. Permitted Uses. All Permitted Uses allowed in the underlying zone are allowed except:

- Open space off-road recreational activities involving motorized vehicles, other than snowmobiling on existing trails.
- Agriculture

3. Conditional-Uses. All Conditional-Uses allowed in the underlying zone may be allowed only upon approval of the Planning Board in accordance with the provisions of **Section XIII. CONDITIONAL USE.** In addition, the following require a Conditional-Use Permit:

- Agriculture
- Spread of chemical fertilizer, herbicides, pesticides, and manure beyond that reasonably associated with home lawn and garden care.

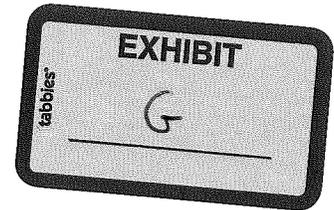
4. Prohibited Uses. The following uses are prohibited:

- All uses not specifically allowed as Permitted or Conditional-Uses
- Disposal or storage of solid waste, hazardous wastes, and leachable materials except for inside storage of materials accessory to a Permitted or approved Conditional-Use
- Application of road salt on roadways, except Route 93, Knight's Hill Road, and Smart's Hill Road
- Any activity involving the application or use of hazardous materials
- Aerial spraying of herbicides and pesticides
- Mineral exploration/extraction

5. Dimensional Requirements:

A. Minimum Lot Size: 135,000 square feet (approximately 3 acres)

TOWN OF RANGELEY
Pesticide Ordinance



SUMMARY:

Pursuant to the Revised Statutes of the State of Maine, as amended, 22 MRSA 1471-U and 1471-V, the Rangeley municipal ordinance for control of pesticides became void and of no effect after December 31, 1988, so that, as of that date, the only regulations for pesticide control in effect in Rangeley are the Pesticide Regulations for the State of Maine. The following ordinance adopts regulations for Rangeley.

ORDINANCE:

The Town of Rangeley enacts this Pesticide Ordinance to adopt the Pesticide Regulations of the State of Maine and the following regulations supplementary to the Pesticide Regulations of the State of Maine. The term "Pesticide" includes and is limited to pesticides regulated by the State of Maine.

Section 1. Drift Management Plan

Any party who plans to apply pesticides by powered equipment to an area of 2 acres or greater shall submit a drift management plan to the Selectmen for approval. The drift management plan will describe the methods proposed for compliance with the requirements of Chapter 22 of the Pesticide Regulations promulgated by the Board of Pesticides Control, Maine Department of Agriculture.

Section 2. Notification

Any party who plans to apply pesticides by powered equipment to an area of 2 acres or greater shall notify all landowners within 500 feet of the perimeter of the area to be treated. The method of notification shall comply with the regulations set forth in Section 6C-I of Chapter 22 of the state Pesticide Regulations.

Section 3. Pesticide Control Officer

The Selectmen of the Town of Rangeley shall appoint a Pesticide Control Officer. The duties of the Pesticide Control Officer shall be to monitor compliance with the requirements for drift management plans and notification as set forth herein. The Pesticide Control Officer shall cooperate with State Officials to promote compliance with the state Pesticide Regulations.

Section 4. Restricted Area

Within one-half of a mile of the intersection of Main St. and Pleasant St., there shall be no spraying of pesticides by powered equipment except by special permission of the Selectmen. If such special permission is granted, operating requirements more stringent than State regulations may be set by the Selectmen.

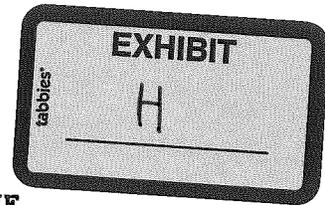
Section 5. Amendments, Validity and Severability

This ordinance may be amended by a Town Meeting of the Town of Rangeley, legally warned, called and conducted. The provisions of this ordinance are severable. Should any section of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

Section 6. Effective Date

The effective date of this ordinance is the date on which it shall have received any required approval from a State entity and is affirmatively voted at Town Meeting. Unless otherwise ordered by a court of competent jurisdiction, this ordinance shall remain in effect until terminated or amended by majority vote of a Town Meeting.

APR 17 1992



**LAND USE ORDINANCE FOR THE SHORELANDS
OF THE TOWN OF CRANBERRY ISLES, HANCOCK COUNTY, MAINE**

SECTION I. AUTHORITY

This ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

SECTION II. PURPOSE

The purposes of this ordinance are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; to protect buildings and land from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover and visual as well as actual points of access to coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

SECTION III. APPLICABILITY

This ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high water line of any saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high water line of a stream. This ordinance also applies to any structure built on, over, or abutting a dock, wharf or pier, or other structure extending beyond the normal high water line of a water body or within a wetland. This ordinance becomes effective immediately upon enactment.

SECTION IV.
AVAILABILITY, SEVERABILITY, CONFLICTS WITH OTHER ORDINANCES

Availability

A certified copy of this ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this ordinance shall be posted.

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 the ordinance.

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.

SECTION V. AMENDMENTS

- A. Amendments of this ordinance may be made only by a majority vote of the eligible voters present and voting at any regular or special town meeting, and only under the following conditions:
1. The Planning Board shall have held a public hearing on the proposed change, after 14 days notice in a local newspaper, and posting notice in a public place on Great and Little Cranberry Islands.
 2. The Planning Board shall have reported in writing to the Selectmen its opinion as to the desirability of the proposed change. If the Planning Board has not submitted its report within 30 days following the public hearing, its concurrence with the proposed change shall be assumed.
- B. The Planning Board shall hold the public hearing prescribed above within 30 days after a proposed amendment to this ordinance has been presented to the Planning Board by the Selectmen or by a petition signed by not less than 10 registered voters of the town.

SECTION VIII. USES PERMITTED

LAND USE	DISTRICT				
	RP	LDR	MR	BUS	WDCR
1. PRINCIPAL STRUCTURES					
a) single family	NO	PB 1/	CEO	NO	PB
b) duplex	NO	NO	CEO	CEO 2/	CEO2*/
c) multi-family	NO	NO	PB 3/	CEO 4/	CEO4*/
d) mixed use	NO	NO	PB 5/	PB	PB 5*/
e) commercial	NO	NO	CEO	CEO	NO
f) industrial	NO	NO	PB	CEO	NO
g) governmental/ institutional	NO	NO	PB	CEO	NO
h) restaurants	NO	NO	PB	CEO	NO
i) places of assembly/church	NO	NO	CEO	CEO	NO
j) functionally water dependent	NO	PB	CEO	CEO	PB
2. ACCESSORY STRUCTURES					
a) <250 sq. ft.	PB 6/	CEO	CEO	CEO	CEO
b) >250 sq. ft.	NO	PB	CEO	CEO	PB
3. MARINAS					
a) commercial fishing marina	NO	NO	PB 7/	PB	PB
b) pleasure boat marina	NO 8/	NO	PB	PB	PB
4. PIERS, DOCKS, WHARFS BRIDGES, AND OTHER STRUCTURES/USES EXTENDING OVER/BELOW HIGH WATER LINE/ OR IN A WETLAND					
a) temporary	CEO	CEO	CEO	CEO	CEO
b) permanent	PB 9/	PB	PB	PB	PB
5. HOME OCCUPATIONS	NO 10/	PB 10/	PB 10/	CEO 10/	CEO10/
6. CONVERSION SEASONAL RESIDENCES TO YEAR- ROUND USE	NO	PB/LPI	LPI	LPI	PB/LPI

APR 17 1992

7.PRIVATE SEWAGE DISPOSAL SYSTEMS FOR ALLOWED USES	NO	PB/LPI	LPI	LPI	PB/LPI
8.ROAD/DRIVEWAY CONSTRUCTION	NO 11/	PB	CEO	CEO	CEO
9.REMOVAL OF SHORE MATERIAL	NO	NO	NO	NO	NO
10.CLEARING VEGETATION FOR ALLOWED USES/ APPROVED CONSTRUCTION	NO	CEO 12/	YES	YES	YES
11.TIMBER HARVESTING	CEO	CEO	CEO	YES	CEO
12.FOREST MANAGEMENT ACTIVITIES OTHER THAN TIMBER HARVESTING					
a. APPLICATION OF PESTICIDES, HERBICIDES, FERTILIZERS & OTHER SIMILAR ORGANIC & INORGANIC SUBSTANCES	PB	PB	PB	PB	PB
b. OTHER MANAGEMENT ACTIVITIES	YES	YES	YES	YES	YES
13.WILDLIFE MANAGEMENT	YES	YES	YES	YES	YES
14.EMERGENCY OPERATIONS	YES	YES	YES	YES	YES
15.INDIVIDUAL PRIVATE CAMPSITES	NO	CEO	CEO	CEO	CEO
16.CAMPGROUNDS	NO	NO	NO	PB	NO
17.PARKING FACILITIES	NO	PB	CEO	CEO	PB
18.PUBLIC RECREATIONAL AREAS INVOLVING MINIMAL STRUCTURES	PB	PB	CEO	CEO	PB
19.NON-INTENSIVE RECREATION AREAS NOT WITH STRUCTURES	YES	YES	YES	YES	YES
20.MINERAL EXPLORATION NOT INCLUDING SAND/ GRAVEL REMOVAL	CEO 13/	CEO	CEO	CEO	CEO
21.AGRICULTURE	PB 14/	YES	YES	YES	CEO

replace an existing use or structure; or renew a discontinued nonconforming use.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a site plan to scale, on a form provided by the town, to the appropriate official as indicated on the form.
2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or the lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. No building permit shall be issued for any structure or use requiring the construction, installation, or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant or his/her agent, according to the requirements of this Ordinance.

D. Procedure for Administering Permits

Within 30 days of the date of receiving a written application, the Planning Board or the Code Enforcement Officer shall notify the applicant in writing that the application is a complete application, or, if the application is incomplete, the specified additional material needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 30 days of receiving the completed application. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. Permits may be made subject to reasonable conditions to insure conformity with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed structure or land use activity is in conformity with the purposes and provisions of this Ordinance.

APR 17 1992

The Code Enforcement Officer shall approve or deny those applications on which he/she is empowered to act as shown in Section VIII. Approval shall be granted only if the proposed use is in conformance with the purposes and provisions of this Ordinance.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board shall, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in erosion or sedimentation;
3. Will not result in water pollution.
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
5. Will conserve shoreland vegetation;
6. Will conserve visual points of access to waters as viewed from public facilities;
7. Will conserve actual points of public access to waters;
8. Will protect archaeological and historic resources as designated in the comprehensive plan;
9. Will not adversely affect existing commercial fishing or maritime activities;
10. Will avoid problems associated with flood plain development and use; and
11. Is in conformance with the provisions of Section XI, Land use Standards.

If a permit is either denied or approved with conditions, the reasons as well as the conditions shall be stated in writing.

No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

E. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

Dock: Any structure attached to land and extending into or over water.

Emergency Operations: Emergency operations shall include operations conducted for the public health, safety, or general welfare, such as the protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

Expansion of Property Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Expansion of a Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches, and greenhouses.

Family: Persons related by blood or marriage or not more than five persons not so related, occupying premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or both.

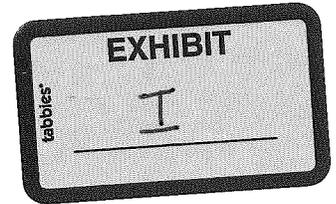
Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls plus the horizontal area of any unenclosed portions of a structure such as porches or decks.

Forest Management Activities: Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation, or maintenance of roads.

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Freshwater Wetlands: Freshwater swamps, marshes, bogs, and similar areas which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook such that in a natural state the combined surface area is in excess of 10 acres; and
2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.



TO: COMPANY MANAGER

FROM: WATERBORO HAZARDOUS WASTE COMMISSION

Enclosed is a copy of the latest Hazardous Waste Ordinance for the town of Waterboro. At a recent town meeting several changes to the Ordinance were made to further protect the health and welfare of the citizens of Waterboro. One of the most significant changes was the elimination of the industrial storage exemptions therefore a permit must be applied for if any hazardous material is generated or stored by your facility.

You are urged to review your Operations to determine if you are in compliance with the Ordinance. For your convenience a Hazardous Waste Permit Application is also enclosed. Should you have any questions or if assistance is needed in the preparation of the Permit please call the Town Hall (247-5166 or 247-6166) and a member of the Hazardous Waste Commission will contact you.

TOWN OF WATERBORO, MAINE
HAZARDOUS WASTE ORDINANCE

The Town of Waterboro hereby ordains:

Section I-Purpose

The regulations set forth in this ordinance are adopted to:

- A. Provide for the protection of ground water and surface water quality through the control of hazardous waste handling, storage or disposal;
- B. Protect the health, safety and welfare of the citizens of Waterboro.

Section II-Legislative Authority

A. Authority

- 1. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30, M.R.S.A., Section 1917, 38 M.R.S.A. 1310-A.
- 2. This ordinance shall be known as the "Amended Hazardous Waste Ordinance" of the Town of Waterboro, Maine, adopted and made effective by vote of the Town Meeting on March 8, 1986.

B. Administration:

- 1. The Hazardous Waste Commission of the Town of Waterboro shall administer this ordinance.
- 2. No person shall construct, develop, establish, operate, own or maintain an industrial or commercial site which will generate, process, handle, store or dispose of hazardous waste without having first obtained a permit from the Hazardous Waste Commission. A permit or renewal permit shall be issued for a period of three (3) years from the date of issuance, unless suspended or revoked. Each permit or renewal permit shall be issued only for the site designated in the plans accompanying the application and shall not be transferable or assignable except with the written approval of the Hazardous Waste Commission.

Section III-Validity and Severability and Conflict with Other Ordinances

A. Validity and Separability

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

B. Conflict with other Ordinances:

1. Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinances, code or statute, the more restrictive requirements shall apply.

Section IV-Applicability

- A. All requirements of this Ordinance shall apply to any new facility or enlargement of an existing facility in or at which hazardous waste will be generated, stored, handled, processed or disposed. Proposals to construct a new facility or enlarge an existing facility shall be presented as a Site Plan of Development Application and reviewed under Sections IV, V, VI(A) and VI(B) of this Ordinance.

- B. Existing facilities in or at which hazardous wastes are generated, stored, handled, processed or disposed must comply with the requirements for triennial operations permits under Section VI(C) of this ordinance.

C. Exemptions:

This Ordinance shall not apply to:

1. Agriculture Waste: The storage and handling of products used for agricultural purposes on working farms or generated by farming activities.
2. Household waste: Products which are used for normal domestic housekeeping.
3. Retail gasoline stations, household heating fuels.

Section V-Application Procedure and Site Plan Content

- A. The Site plan of Development Application shall include as a minimum:
1. A map at a convenient scale. (i.e. U.S.G.S. 7 1/2 minute or 15 minute topographic) delineating the parcel, and existing dwelling units, other structures, 100 year flood zones, private and public water supplies, land currently used for agricultural purposes, sand and gravel aquifers and aquifer recharge areas on the parcel or within 500 feet of the parcel..
 2. Maps and or engineering drawings at a scale of not less than one (1) inch to forty (40) feet and shall include:
 - a. name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest:

- b. municipal tax maps and lot numbers and names of abutting land owners;
- c. summary of existing and proposed easements, restrictions and covenants placed on the property;
- d. a hydrogeologic investigation of the site by a hydrogeologist;
- e. erosion and sedimentation control plan, storm water runoff plan, and spillage management plan;
- f. copies of all notification letters to: landowners within 200 feet of the boundaries of the proposed site; all of the following officials presently employed by the town: town manager, selectmen, road commissioner/public works director, fire chief, police chief and code enforcement officer. The letters must state the proposed use of the property, the size of the facility, and the location;
- g. statement of financial capacity which should include the names and sources of the financing parties, including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long term mortgages or both. This statement shall show the applicant has sufficient financial capacity to build, operate, and close down the facility;
- h. list of applicable local, state and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Clean Water Act and the Clean Air Act;
- i. the applicant evaluation of the availability and suitability of off-site public facilities which they will use, such as roads and fire protection;

Section IX-Appeals

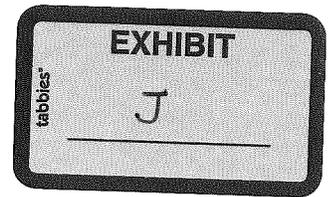
- A. If the Hazardous Waste Commission disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the ordinance do not apply, or that the true intent and meaning of the ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision to Superior Court within thirty (30) days from the Hazardous Waste Commission's final decision in accordance with Rule 80 B of the Maine Rules of Civil Procedure.

Section X-Amendments

- A. This ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Hazardous Waste Commission or by request of the Board of Selectmen to the Hazardous Waste Commission or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Hazardous Waste Commission shall conduct a public hearing on any proposed amendment.

Section XI-Definitions

- A. "Hazardous Waste" is defined as a waste material which is radioactive, ignitable, corrosive, reactive and/or toxic. It will include: (1) all wastes determined to be hazardous by the Resource Conservation and Recovery Act, Section 3001 and regulations promulgated pursuant to said section including 40 CRF 261; (2) wastes determined to be hazardous by the State Board of Environmental Protection pursuant to 38 M.R.S.A. s1303 and 1303-A; (3) waste defined as radioactive waste materials by 38 M.R.S.A. s361-D (1) (B).
- B. "Hazardous Waste Commission" shall mean the Waterboro Hazardous Waste Commission.
- C. "Ground Water" shall mean the water present in the saturated zone of the ground.
- D. "Aquifer" shall mean geologic deposits or structures from which useable quantities of ground water are available for households, municipalities or industries.
- E. "Surface Water" shall mean a body of water whose top surface is exposed to the atmosphere including but not limited to rivers, ponds, lakes, streams, marshes and wetlands.



TOWN OF AMHERST
LAND USE ORDINANCE

Approved by Town Vote
December 11, 1991

if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional or frontage requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

SECTION XII: CRITERIA FOR ESTABLISHING DISTRICTS

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, except that areas which are currently developed and areas which meet the criteria for the Shoreland Residential District need not be included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, or of the high-water line of great ponds, rivers and streams designated on the Amherst Land Use Guidance Map as requiring shoreland zoning. Streams are designated in accordance with the definition in SECTION XVI.
2. Flood plains along rivers defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater

wetland as defined, and which are not surficially connected to a water body during normal spring high water.

5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

B. Shoreland Residential District

The Shoreland Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District.

C. Rural Residential District

The Rural Residential District includes areas of two acres or more not included in a Resource Protected District or a Shoreland Residential District.

In areas adjacent to great ponds and adjacent to rivers flowing to great ponds, the designation of an area as a Rural Residential District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established Rural Residential Districts or expansions in area of existing Rural Residential Districts adjacent to great ponds, and adjacent to rivers which flow to great ponds .

SECTION XIII: SCHEDULE OF USES

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable Land Use Guidance Standards in SECTION XIII. The district designation for a particular site shall be determined from the Official Land Use Guidance Map.

Key to Land Use Guidance Table:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Requires permit issued by the Planning Board

CEO - Requires permit issued by the Code Enforcement Officer

LPI - Requires permit issued by the Local Plumbing Inspector

DEP/- Activity may also require application to and permit issued by Maine Department of Environmental Protection

N/A - Not Applicable

* - Land use activities permitted subject to specific Land Use Guidance Standards outlined in the next Section of this Ordinance

Abbreviations:

RP - Resource Protection
 SR - Shoreland Residential
 RR - Rural Residential

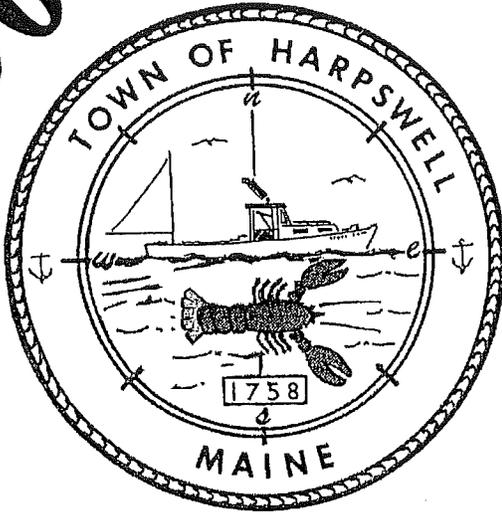
LAND USES IN THE SHORELAND ZONE

LAND USE		RP	SR	RR
1	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes
2	Motorized vehicular traffic on existing roads and trails	yes	yes	yes
3	Forest management activities except for timber harvesting	yes	yes	yes

LAND USE		RP	SR	RR
4	Timber harvesting *	CEO'	yes	yes
5	Clearing of vegetation for approved construction and other allowed uses *	CEO'	yes	yes
6	Fire prevention activities	yes	yes	yes
7	Chemical application	PB	PB	PB
8	Wildlife management practices	yes	yes	yes
9	Soil and water conservation practices	yes	yes	yes
10	Mineral exploration *	yes'	yes'	yes'
11	Mineral extraction including sand and gravel extraction *	PB'	PB	PB
12	Surveying and resource analysis	yes	yes	yes
13	Emergency operations	yes	yes	yes
14	Harvesting of wild crops	yes	yes	yes
15	Agriculture *	PB	yes	yes
16	Aquaculture	PB	PB	yes
17	<u>Principal structures and uses</u>			
	A. One and two-family residential	no	CEO	CEO
	B. Multi-unit residential	no	PB	PB'
	C. Family farm	no	PB	PB
	D. Professional office (surgeon, physician, clergyman, architect, engineer, attorney, or similar profession)	no	PB	CEO
	C. Home occupation (customary home occupation for personal gain carried on and requiring only customary home equipment such as studio for an artist, musician or dressmaker)	no	PB	CEO
	D. Governmental structures	no	PB	PB
	E. Institutional structures	no	PB	PB
	F. Small neighborhood business such as drug store, bakery, grocery store, restaurant, hardware store, hobby shop, beauty shop etc.	no	PB	PB
	G. Rental cottages and cabins	no	PB	PB
	H. Automobile service stations	no	no	PB

2004

EXHIBIT
tabbles
K



**Insect Growth
Regulator and
Insecticide
Application
Control
Ordinance**

Section 1. Purpose

Scientific studies have shown that certain Insect Growth Regulators and insecticides adversely affect aquatic invertebrates, especially molting shellfish such as lobsters and crabs. In addition to harming shellfish, these chemicals may interfere with beneficial insect species such as honeybees and lepidopteran pollinators. The Town of Harpswell is comprised of over 200 miles of coastline, numerous islands and narrow peninsulas such that discharges and runoff from inland areas are extremely close to coastal waters. The purpose of this Ordinance is to establish regulations that will aid the Town in protecting and maintaining the health of its shellfish resources and marine environment.

Section 2. Definitions

“Insect Growth Regulator” means any substance or mixture of substances that act to disrupt the action of insect hormones interrupting or inhibiting the life cycle of insects.

“Insecticide” means a substance or mixture of substances intended to prevent, destroy, repel or mitigate insects.

Section 3. Prohibition

The following is prohibited in the territorial limits of the Town of Harpswell: A) the use and/or application by any person by any method whatsoever of any Insect Growth Regulator that contains diflubenzuron or tebufenozide; and B) the aerial spraying of any Insect Growth Regulator or Insecticide whose product label indicates that it is harmful to aquatic invertebrates.

Section 4. Random Sampling

Upon the request of the Code Enforcement Officer, any person, firm, or corporation, being the owner of or having control or use of any Harpswell property, shall provide the Town with soil or leaf samples from a location on the property specified by the Code Enforcement Officer in sufficient quantity to permit laboratory testing of the soil or leaf in order to check for the presence of any Insect Growth Regulator that contains diflubenzuron or tebufenozide or any Insect Growth Regulator or Insecticide whose product label indicated that it is harmful to aquatic invertebrates.

Section 5. Violations

A person, firm, or corporation who uses or applies or causes to be used or applied any Insect Growth Regulator or Insecticide in violation of this ordinance shall be fined not less than \$1,000 nor more than \$2,500 for the first violation of this Ordinance. A fine of not less than \$2,501 nor more than \$5,000 shall be levied against any person, firm, or corporation violating this Ordinance for the second and each subsequent violation. Refusal to comply with the Code

Enforcement Officer's sampling request shall result in a fine of not less than \$1,000 and may result in further action by the Town and its Code Enforcement Officer in seeking an administrative inspection warrant for the property.

Section 6. Enforcement

This Ordinance shall be enforced by the Code Enforcement Officer. The Code Enforcement Officer is hereby authorized to institute or cause to be instituted, in the name of the Town, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this Ordinance.

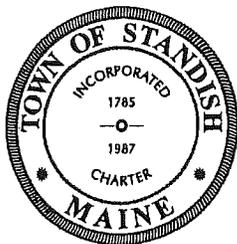
Section 7. Severability

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Ordinance shall remain valid.

TOWN OF STANDISH

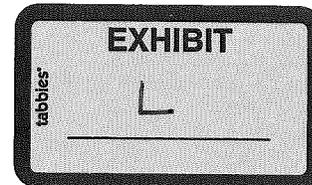
FEB 25 2002

175 Northeast Road
Standish, ME 04084



(207) 642-3461

Fax (207) 642-5181



February 21, 2002

Maine Board of Pesticides Control
28 State House Station
Augusta ME 04333-0028

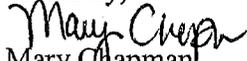
Dear Sirs:

Enclosed you will find a copy of Shoreland Zoning Ordinance that the Town of Standish adopted on February 12, 2002. The ordinance has gone through Planning Board Review and the Planning Board Public Hearing. The Public Hearing for the Town's legislative process was on February 12, 2002 with the ordinance becoming effective 45 days later.

As required enclosed you will find a copy of the entire ordinance for review, specifically, Section 237-15 F (4) on page 12, prohibits the storage of chemicals, including herbicides, pesticides other than amounts normally associated with individual households or farms.

I believe that this meets the Department's Guideline for requirements. If you need any additional information, please contact our office.

Sincerely,


Mary Chapman
Town Clerk

237-15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards.

- (1) The minimum size of any lot, located partially or completely within the Shoreland Development and Water Oriented Commercial Districts, shall be equal to or greater than the minimum lot size for the underlying zone as specified in Chapter 181, Land Use.
- (2) The minimum lot size in the Stream Protection and Resource Protection Districts shall be three (3) acres.
- (3) The minimum shore frontage requirement in all districts within the Shoreland Zone shall be as follows:
 - (a) For residential uses: two hundred (200) feet per dwelling unit.
 - (b) For governmental, institutional, commercial or industrial uses the required shore frontage shall be three hundred (300) feet per principal structure.
 - (c) For public and private recreational facilities: two hundred (200) feet.
- (4) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (5) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (6) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the required width for the underlying zone
- (7) If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

B. Principal and Accessory Structures.

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of great ponds and rivers, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.²²

In addition, the water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Shoreland Development and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
- (4) The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland.

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- (6) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (7) Except in the WOC District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.

D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- 1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a great pond or a river and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual-Private Campsites. Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond or river and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

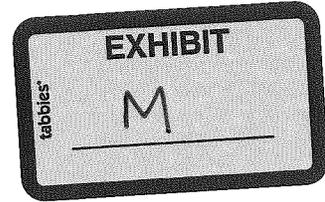
F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds streams which flow to great ponds and rivers:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing
- (13) Animal Husbandry
- (14) Cemeteries
- (15) Commercial wood processing
- (16) Motor vehicle sales
- (17) Airports
- (18) Salvage Yards

G. Parking Areas.

- (1) Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, in districts other than the SD and WOC Districts may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

TOWN OF WAYNE
Incorporated February 12, 1798



Lovejoy Pond Road
RR #1, Box 515
Wayne, ME 04284

Telephone 207-685-4983
Fax 207-685-3836
tnwayne@mint.net

ARTICLE 54
PROPOSED AMENDMENT TO
PART I, ARTICLE V, SHORELAND ZONE
SECTION E.6.d
Deletions are ~~crossed out~~

PART I, ARTICLE V, SHORELAND ZONE, "R-4"

E Prohibited uses

d. Storage of chemicals, including ~~herbicides~~, pesticides or fertilizers other than amounts normally associated with individual households or farms.

ZONING ORDINANCE
TOWN OF WAYNE, MAINE

ARTICLE V - SHORELAND ZONE - "R-4"

The Shoreland Zone includes all land areas within 250 feet of the normal highwater mark of any great pond, defined pond or lake stream, river, or upland edge of a freshwater wetland, or within 100 feet of the normal high water mark of a tributary stream; and shall include any structure built on, over, or abutting a dock wharf, pier or other structure extending beyond the normal high water mark, including floats. Shoreland Zoning under this Ordinance is pursuant to 30-A M.R.S.A. Section 3001 and 38 M.R.S.A., Section 435, et. seq. The intent of this Shoreland Zoning is to maintain safe and healthful conditions; to prevent and control water pollution, and to preserve and enhance water quality; to protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; to control building sites, placement of structures and land uses; to preserve and enhance the aesthetics of water bodies and views therefrom; to protect shoreland areas from erosion; to avoid problems associated with floodplain development and use; and to conserve and sustain shore cover, natural beauty, and points of access (both visual and actual) to water bodies.

A. The Shoreland Zone shall be a zone of year-round and seasonal residences, and certain qualifying uses. All land use activities within this zone shall conform to the following provisions of sections B-L below.

B. Minimum Lot Size and Density:

1. Lots abutting any great pond, defined pond or lake, stream, tributary stream, river, or upland edge of a wetland shall meet the following minimum standards:

- a. Shore Frontage and Width: 250 feet
- b. Depth: 200 feet
- c. Area: 2 acres

2. Density: There shall be no more than one residence of one dwelling unit per minimum lot. Uses permitted as a Special Exception shall require at least a minimum lot.

C. Setback and Height Requirements:

1. Setbacks: New structures and additions to existing structures shall meet the following minimum setbacks:

- a. Normal High Water Mark: 100 feet.
- b. Side: 30 feet.
- c. Right of Way Line of streets and roads: 30 feet.
- d. Rear: 15 feet.
- e. Upland Edge of a Freshwater Wetland: 100 feet.

If more than one applies to the same setback, the larger setback controls.

ZONING ORDINANCE

TOWN OF WAYNE, MAINE

2. Height: No new primary building or additions to existing primary buildings shall be higher at the roof peak than 30 feet above the highest point in the natural grade at the perimeter of the building or addition. Accessory buildings by the same measure shall be no more than 22 feet.

D. Permitted Uses:

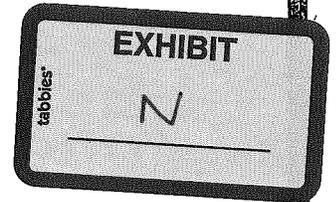
1. A residence (excluding Mobile Homes) of one (1) dwelling unit.
2. Home Occupations; provided that parking requirements of Article II, Section D, ss. 2 are met.

E. Prohibited Uses:

1. Installation of underground petroleum storage tanks
2. Housing, corralling or grazing of livestock.
3. Removal of sand or gravel from natural beaches.
4. Earth cuts, fills, grading, lagooning, dredging or altering existing patterns of natural water flow which would result in erosion or in detriment to water bodies by reason of erosion, sedimentation, impairment of water quality or of fish and aquatic life.
5. Commercial uses, which uses include rental of docking facilities, rental of launching facilities, or rental of shoreland access except to an owner's residential lessee, except such uses are provided for by Special Exception.
6. Any commercial or home occupation use as follows:
 - a. Auto washing facilities
 - b. Vehicle service and/or repair facilities
 - c. Chemical and bacteriological laboratories
 - d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
 - e. Commercial painting, wood preserving, and furniture stripping
 - f. Dry cleaning establishments
 - g. Electronic circuit assembly
 - h. Laundromats
 - i. Metal plating, finishing, or polishing
 - j. Photographic processing
 - k. Printing
 - l. Beauty parlors
 - m. Any use which involves a hazardous activity as defined by Title 39 M.R.S.A. Section 482 (2-C).

Article-28. To see if the inhabitants of the Town of Allagash will vote to accept the following funds from the State.

Category:	Undetermined Amount:
Revenue Sharing _____	\$ _____
Road Assistance _____	\$ _____
General Assistance _____	\$ _____
Tree Growth _____	\$ _____
Taxation _____	\$ _____
Conservation _____	\$ _____
Snowmobile Fund _____	\$ _____
Fire Department _____	\$ _____
Public Lots _____	\$ _____
Veteran's Exemption _____	\$ _____
Maine Emergency Management Agency _____	\$ _____
Community Block Grant _____	\$ _____



Article-29. To see if the inhabitants of the Town of Allagash will vote and appropriate the recommended sum to update the Town Comprehensive Plan.

Recommended ___ \$ 6,000.00

Article-30. To see if the inhabitants of the Town of Allagash will vote to enact the following Ordinance.

Model Forest Herbicide Ordinance

SUMMARY

Pursuant to 22 M.R.S.A section 1471-U, Maine municipalities may enact Ordinances that apply to pesticide storage, distribution or use. In order to safeguard the public's health, safety, and welfare, as well as to insure the protection of the natural resources of the Town of Allagash, the following Ordinance is adopted to meet these goals.

NO
17
YES
30

PROHIBITION

The aerial and ground application of herbicides for forestry purposes is prohibited at all times throughout the Town of Allagash except as outlined below.

EXCEPTIONS

Proposed variances or exemptions to the above Ordinance must be approved by a two-thirds majority vote of a Town Meeting or by two-thirds majority vote by registered voters of the Town of Allagash.

ENFORCEMENT AND PENALTIES

This Ordinance shall be enforced by the Town's Code Enforcement Officer, according to the policies governing enforcement of municipal ordinances of the Town of Allagash. The Town of Allagash may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

EFFECTIVE DATE

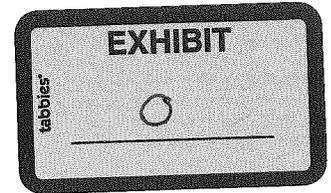
This Ordinance shall take effect on the date upon which it has received any required approval by a majority vote of a Town Meeting or by vote of a majority of the registered voters of the Town of Allagash. This Ordinance shall remain in effect until terminated or amended by a two-thirds majority vote of a Town Meeting or by two-thirds majority vote by registered voters of the Town of Allagash.

Brighton Plantation

SOMERSET COUNTY

Office of

The Selectmen, Assessors and Overseers of Poor



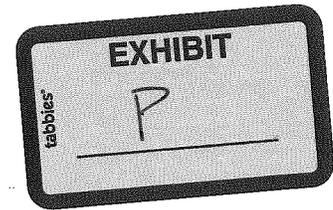
MAY 21 1996

May 21, 1996

To the pesticide control board,

The results of the vote on the ordinance to prohibit the application of pesticides on the woodlands within the town of Brighton was passed with a 19 yes and 1 no at the special town meeting of May 7, 1996.

Geraldine Miller
Town Clerk
Brighton Plantation



A true copy of the warrant from 1984 Town Meeting Article: 46

TOWN OF ARROWSIC

Art. 42. To see what sum the Town will vote to dedicate from Surplus for transfer to the Fire Fund. (Selectmen recommend \$15,000.00)

Art. 43. To see if the Town will vote to establish a Paying Account, to be funded, in part, by the dedication of all automobile excise revenues.

Art. 44. To see what sum the Town will vote to raise and appropriate and/or draw from Surplus and Revenue Sharing for the general maintenance and repair of Town Ways and other Properties for the ensuing year.

Table with 3 columns: FY 83-84 BUDGET, FY 83-84 ACTUAL, FY 84-85 REQUEST. Rows include Appropriation \$10,000.00, Federal/State Revenue Sharing \$10,000.00, Surplus \$10,000.00, and totals \$30,000.00, \$29,784.32, and \$30,000.00.

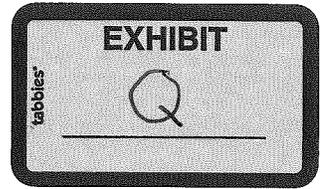
Art. 45. To see if the Town will vote to dedicate the MDOT Block Grant of approx. \$10,285.00 to cover the cost of Snow Removal and Sanding in the Town, matched with Revenue Sharing funds as needed to meet contract price.

Table with 3 columns: FY 83-84 BUDGET, FY 83-84 ACTUAL, FY 84-85 REQUEST. Row: \$11,800.00, \$11,800.00, \$11,800.00.

Art. 46. To see what action the Town will take, if any, to control the use of herbicides for public works use in brush control.

Options:

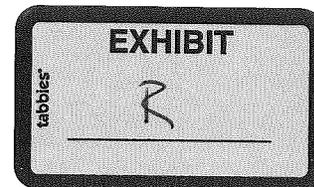
- Ban all public works use of herbicides in the Town; Failed
-Ban the use of foliar herbicides (applied to the leaves) but permit stump application; PASSED
-Continue to permit the application of state and federally controlled herbicides by licensed applicators. Failed



~~Art.~~ 4. Shall the town adopt an Ordinance to prohibit spraying of herbicides along right of ways in the Town of Limerick?

This was passed at our annual town meeting March 12, 1988.

Office of the Clerk



MUNICIPALITY OF Newburgh, MAINE

P. O. RFD 1 Box 1513, MAINE 04444
ZIP

Sept. 13, 1988

TO WHOM IT MAY CONCERN:

The following is a copy of the Town Meeting/minutes held
May. 8, 1980 which outlines the "Spray Ordinance"
for the Town of Newburgh:

Town of Newburgh Town Meeting March 8, 1980

Article 36: To see if the Town will vote to prohibit
any utility from applying, or contracting to have
applied, any herbicides along the roadside rights
of way in the Town of Newburgh.

The above article was amended to read: To see if the Town
will vote to prohibit application, or contracting to
have applied any herbicides along the roadside rights
of way in the Town of Newburgh.

The vote of the townspeople present at the Town Meeting
March 8, 1980 voted to accept the article as amended.

Attest: *Lois E. Libby*
Lois E. Libby
Town Clerk, Newburgh, Me.
9/13/88

... 2000 FROM EXCISE
AND 3 EA 1000 DOLLAR NOTES TO PURCHASE



Art. 45. To see if the Town will vote to establish a Conservation Commission, as set forth in Maine Revised Statutes, Annotated, Title 30, Section 3851, as amended. Requested by Elizabeth Quimby.

VOTED YES STEPHEN BABINE OF THE

FIDELITY NATIONAL BANK

Taken from Town Clerks' Records of March to 1972 Town Meeting MLK

Art. 46. To see if the Town will vote to raise and appropriate the sum of \$2000 to be paid to the State of Maine Publicity Bureau to be expended and used for advertising the natural resources, advantages and attractions of the State of Maine in accordance with the provisions of Chapter 41, Section 106, of the Revised Statutes of 1954.

Requested by Mo. Publicity Bureau.

VOTED TO DISMISS

Art. 47. To see if the voters of the Town of Southport will authorize the Town Treasurer to accept the sum of \$139.92 deposited in the Depositors Trust Company, a bank in Boothbay Harbor, and to hold and add to it such sums as may be donated to the Newagen Community Building Fund, until such time as the members of said fund vote to use or release said fund.

Requested by Maybelle S. Gray, Acting Treasurer.

VOTED YES

Art. 48. To see if the Town will vote to prohibit all State and commercial use of pesticides and herbicides in the Town of Southport. Requested by Marjorie Barter.

VOTED YES

Art. 49. To see if the Town will authorize the Board of Selectmen to dispose of the old 1947 Fire Pumping Engine by selling the same to the highest bidder, or do anything in relation thereto.

VOTED TO AUTHORIZE AND PROCEED TO ... FIRE DEPARTMENT

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Results of Annual Town Meeting (cont) March 9, 1970



Art. 52. The Town voted to authorize the tax collector to accept payment of taxes not yet accessed.

*Art. 53. The Town voted to outlaw the use of defoliant and stop all roadside spraying with poisons in the Town of Owl's Head.

Art. 54. The Town voted to pass over Art. 54.

Art. 55. It was voted to amend Art. 55 to read 90 days instead of 30 days. The Town voted to raise \$500.00 for the Poor Account for payment of emergency ambulance services within the Town which remain uncollectible after 90 days. Such payments to be published in the Town Report.

Art. 56. The Town voted to authorize the Selectmen to study the ambulance situation, to enter into agreements to provide adequate emergency ambulance coverage for the Town, and if necessary to borrow funds for this purpose. Any agreements made would be subject to a vote of the Town at the next annual Town Meeting.

Art. 57. It was voted to raise \$300.00 to have the Town Reports bound in book form.

Art. 58. It was voted to amend Art. 58 after Barry Faber advised that under State Laws it is illegal to absolve a person of liability. The Town voted to authorize the Selectmen to contract for snow removal from roads or ways other than Town ways, providing said ways are properly constructed and maintained to accommodate Town snow removal equipment. All agreements to be filed with the Town Clerk before November first of each year.

Art. 59. The Town voted to adopt the State of Maine Traffic Laws as posted in Town. It was explained that the Courts cannot convict speeders if the Town hasn't accepted the State Laws.

Art. 60. Voted to authorize the Town Council to conduct a feasibility and cost study for a Local Sheriff's Patrol to operate in the areas of Traffic Control, Antilittering and Property Security.

Art. 61. A motion for a written ballot on this article was passed. In discussion, it was stated that the Owl's Head Zoning Administrator would have the power to enforce this ordinance, and further that the State and County Commissioners could enforce it.

County

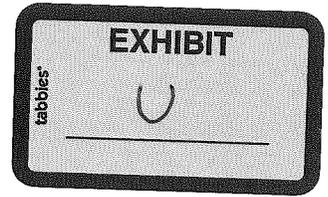
William Martin stated that since the County would not construct buildings, buildings would be taxed by the Town as private property. Any buildings not used for aeronautical purposes can be taxed by the Town. Mr. Martin stated that the airport and proposed Industrial Park comprise 60 acres which are undesirable for residential use.

The runway to be developed is #321, as #3517 is a discontinued runway. It was explained that the entrance to the Industrial Park has been changed to Buttermilk Lane to alleviate traffic past the school

The Town voted to accept an amendment to the Zoning Ordinance to

SEP 14 1988

NOTICE TO
BOARD OF PESTICIDES CONTROL
MUNICIPAL PESTICIDE ORDINANCE



MUNICIPALITY New Gloucester
CONTACT PERSON: William Parquette TELEPHONE # 926-4126
ADDRESS: Box 82
New Gloucester, Maine 04260

Pursuant to P.L. 1988, c. 702 (Sec. 6 22 MRSA §§1471-U and
1471-V) a copy of this municipality's (existing/proposed)
pesticide ordinance is enclosed.

Signed Jan A. Burt Dated 9/8/88

Return to: Board of Pesticides Control
State House Station #28
Augusta, Maine 04333
(Tel. #289-2731)

5.16 5.17 SPRAYING OR SPREADING OF CHEMICAL FERTILIZERS OR PESTICIDES

The spraying or spreading of chemical fertilizers or pesticides shall be consistent with the standards of the U.S. Department of Agriculture. (Added, March 1982)

5.17 5.18 STORAGE OF ROAD SALT

The salt shall be kept under cover and on an impervious pad. (Added, March 1982)

5.18 5.19 SIGNS (Added, March 1984)

- A. No sign shall be erected adjacent to any road or street in such a manner as to obstruct clear and free vision of all traffic, or to obstruct the view of or be confused with any authorized traffic sign, signal, or device, or otherwise to constitute a hazard to pedestrian or vehicular traffic.
- B. For signs that are permitted uses:
 - 1. No sign may be erected within 15 feet of the edge of the traveled way on any road or street unless the sign is affixed to a building or is a warning sign.
 - 2. Only one sign other than one affixed to a building may be erected for every 250 feet of frontage on any lot or site, except for warning signs.
- C. For signs that are conditional uses, the Planning Board shall apply subsection 5.12C of this article in reviewing applications for Conditional Use Permits.
- D. Signs which are animated, flashing, or with intermittent illumination are prohibited. (Added, August, 1986)

5.19 5.20 HAZARDOUS MATERIAL AND WASTE

No activity shall generate, handle, discharge or cause discharge of any hazardous material or waste.

"Hazardous Waste" means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 MSRA 1303-A. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or part or constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

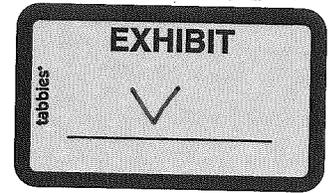


TOWN OF BRUNSWICK, MAINE

INCORPORATED 1739

DEPARTMENT OF PLANNING AND DEVELOPMENT
28 FEDERAL STREET
BRUNSWICK, ME 04011

JUN - 9 2005



PHONE: 207-725-6660
FAX: 207-725-6663

THEO. H.B.M. HOLTWIJK, DIRECTOR

M E M O R A N D U M

Date: June 8, 2005

To: Gary Fish, Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028

From: Theo Holtwijk, Director of Planning & Development *the*

Re: Adopted Amendments to Aquifer Protection Zone

In accordance with MRSA Title 22 Chapter 258-A § 1471-U section 3, we are filing with your office, on behalf of the Town Clerk, chapter 210 of the Brunswick Zoning Ordinance which contains amendments to the aquifer protection zone adopted by the Brunswick Town Council on June 6, 2005.

We appreciate the comments you have provided us during this process.

We are also sending you this information in a digital form for your use.

Thank you.

cc. Don Gerrish, Town Manager
Fran Smith, Town Clerk
Geoff Hole, Town Attorney
Norm Cyr, Brunswick and Topsham Water District

II. OVERLAY ZONES

Overlay districts supplement or supersede the provisions of the underlying zone. Where an inconsistency exists, the provisions of the overlay zone shall prevail. They do not change density, use or dimensional requirements of the underlying zone unless specifically stated.

ENVIRONMENTAL PROTECTION OVERLAY ZONES

210 AQUIFER PROTECTION ZONES (APZ)

210.1 PURPOSE

The purpose of the Aquifer Protection Zones is to protect the quality and quantity of Brunswick's present and future ground water resources by regulating activities and land use practices which are likely to affect those resources. The protection of ground water is critical to promoting the health, safety and general welfare of the residents of Brunswick.

210.2 DEFINITION OF ZONES

The APZ consist of sand and gravel aquifers and aquifer recharge areas. The Aquifer Protection Zones shall overlay the underlying zoning district. APZ regulations shall supplement or supersede any other applicable zoning restrictions.

210.3 CONFLICTS BETWEEN ORDINANCE SECTIONS AND OTHER LAWS

If a conflict is found between section 210 and other sections of the zoning ordinance, section 210 shall prevail. Nothing in this Ordinance shall be interpreted to supercede the provisions of any other local, state or federal ordinance, law, rule or regulation.

210.4 DELINEATION OF ZONES

The Aquifer Protection Zones are delineated on the Town's tax maps and are entitled "Aquifer Protection Zones" (APZ). These maps are prepared based upon:

- "Hydrogeology of the Jackson, Taylor and Williams Stations Aquifer in Topsham and Brunswick, Maine" report, dated February 25, 1994, by Caswell, Eichler and Hill; and
- "Hydrogeology of the Jordan Avenue Station Aquifer in Brunswick, Maine" report, dated March 22, 1994, by Caswell, Eichler and Hill.

The APZ maps are an amendment to the Brunswick Zoning Map, last revised March 16, 1998.

210.5 CLASSIFICATION OF ZONES

The Aquifer Protection Zones, as delineated on the Aquifer Protection Zone maps, are comprised of the following three zones:

- A. Zone 1** is the area within which leachable materials disposed of or applied into or onto land or waterbodies can travel to the public water supply wells within 200 days.
- B. Zone 1A** is the area outside of the Zone 1 boundary drained by streams which flow directly into the sand and gravel aquifer. The streams in zone 1A are important as they have eroded through the silt/clay cap leaving exposed a "window" to the underlying aquifer.
- C. Zone 2** is the area within which leachable materials disposed of or applied into or onto land or waterbodies can travel to the public water supply wells in more than 200 days.

210.6 REVISION OF ZONE DELINEATIONS

The delineation of aquifers, aquifer recharge areas, and Zones 1, 1A, and 2 may be revised by amendment to this ordinance in accordance with Section 108 of this ordinance. The Town shall notify the Brunswick and Topsham Water District of any hearing to amend section 210 of the ordinance at least 14 days prior to the date of the hearing.

210.7 APPEALS

Appeals shall be taken to the Zoning Board of Appeals under Section 703 of this Ordinance.

In a case where any Zone 1, 1A, or 2 boundary determination is appealed, the applicant shall show where the bounds should properly be located with a report submitted and accepted from a hydrogeologist licensed in the State of Maine. The Brunswick and Topsham Water District may hire a hydrogeologist to review all information submitted by the appellant. At the request of the appellant, the Water District may engage a licensed hydrogeologist to determine more accurately the location and extent of aquifers, aquifer recharge areas, and Zones 1, 1A, and 2, and may charge the appellant for the cost of the investigation.

210.8 USE PROVISIONS

The following use provisions are applicable in the Aquifer Protection Zones:

210.8.A Zone 1

All uses are prohibited with exception of the following:

1. Conservation of soil, water, plants and wildlife.

2. Outdoor recreation, including fishing, nature study, and hunting where otherwise legally permitted.
3. Pedestrian, bicycle and horse paths and bridges.
4. Operation, maintenance, and expansion of public water supply facilities.
5. Timber harvesting.
6. Natural gas or propane storage and transmission facilities. (Amended 9/21/68 R)

Motorized vehicles may be used in conjunction with the uses stated in item 1, 4 and 5 listed above. The use of motorized vehicles for recreational purposes is prohibited. The permitted uses shall meet the performance standards of section 210.10.

210.8.B Zone 1A

All uses are prohibited, except those uses allowed in zones 1 and 2 provided that they meet the requirements of the underlying zoning district and the following conditions:

1. All parts of all types of subsurface wastewater disposal systems shall be set back a minimum horizontal distance of 150 linear feet from the normal high water line of any stream. The Local Plumbing Inspector may consider a request concerning the setback of a replacement subsurface wastewater disposal system, if a report, prepared by a soils scientist or site evaluator registered in the State of Maine, is submitted and accepted stating that the existing system is failing and that the proposed location is the only suitable location on the applicant's property.
2. All home heating fuel tanks, except propane gas tanks, shall be enclosed and located within an impervious secondary containment unit.
3. Application of pesticides, nitrogen fertilizer or manure within a minimum horizontal distance of 150 linear feet from the normal high water line of any stream is prohibited. This setback requirement cannot be reduced. (Amended 1/20/04 R)
4. The storage of no more than two unregistered automobiles.

The permitted uses shall meet the performance standards of section 210.10.

210.8.C Zone 2

Prohibited uses and management practices are: (Amended 6/6/05 E)

1. The disposal of solid waste other than brush or stumps.
2. The disposal or storage of hazardous matters, as defined in Section 111, with the exception of the above ground propane gas tanks.
3. The disposal or storage of leachable materials, except subsurface wastewater disposal systems and water from residential swimming pools.
4. The bulk or commercial disposal or storage of road salt or other de-icing agents.
5. The storage of petroleum products in containers with a total volume in excess of 10 gallons, except those stored for heating use by that property owner or his designee only.

6. The disposal, storage or application of sludge or other sludge containing products, except for the application of class A composted residuals that are licensed for unrestrained distribution by the Maine Department of Environmental Protection which shall require a permit in accordance with section 210.10.J. (Amended 6/6/05 E)
7. The disposal of any unregistered automobiles or the storage of more than two unregistered automobiles.
8. Use or storage of pesticides, other than for households or agriculture and those products that are permitted by the Organic Materials Review Institute (OMRI). (Amended 6/6/05 E)
9. Use or storage of fertilizer, compost, or manure, other than: (Amended 6/6/05 E)
 - a. slow-release organic fertilizer,
 - b. products used for households and agriculture, and (Amended 6/6/05 E)
 - c. natural organic compost that is: (Amended 6/6/05 E)
 - i. in keeping, but not limited to compost approved by USDA National Organic Program, or which (Amended 6/6/05 E)
 - ii. in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association (MOFGA) Certified Farms, or which (Amended 6/6/05 E)
 - iii. meets the standards and test requirements to qualify for unrestrained distribution under Chapter 419 of the Maine Department of Environmental Protection regulations, titled "*Agronomic Utilization of Residuals*," as amended. (Amended 6/6/05 E)
10. Aerial spraying of pesticides from aircraft, except for applications for public health reasons performed under the auspices of the Town of Brunswick or State of Maine. (Amended 6/6/05 E)
11. Pipelines for transmission of petroleum products or hazardous materials, except natural gas or propane storage and transmission facilities.
12. Commercial boat, internal combustion engine, and motor vehicle sales, service and repair.
13. Metal plating operations.
14. Dry cleaning operations.
15. Truck terminals.
16. Furniture stripping, painting, and wood preserving operations.
17. Mining operations.
18. Sand and gravel extraction.

Other uses or management practices, not listed above but permitted in the underlying zones, may be permitted in Zone 2 provided that they will not have an unreasonable adverse effect on the water supply and meet the performance standards of section 210.10. (Amended 6/6/05 E)

210.8.D Pesticide Exemption

The Codes Enforcement Officer may, upon written request, approve an exception to Section 210.8.C.8 for pesticides to be used:

- to control or destroy a health hazard, i.e. a pest which has or is likely to have an adverse effect on the health of any person;
- to control or destroy pests which have caused infestation to property, i.e. where the presence of pests in numbers or under conditions which involve an immediate or potential risk of substantial loss or damage; or
- to control or destroy bees nests or poison ivy.

The Brunswick and Topsham Water District shall be notified of any such requests and approvals.

(Amended 6/6/05 E)

210.9 NON-CONFORMITY

The non-conforming use of land, building or structure existing on the effective date of this ordinance is governed by section 304 of this ordinance, subject to the provision that expansion of non-conforming uses will not adversely affect the water supply and meets the performance standards of section 210.10.

210.10 PERFORMANCE STANDARDS AND PERMITS

All uses or management practices not specifically prohibited in Section 200 or elsewhere in this Ordinance or legally non-conforming shall meet the following performance standards and require the following permits, as applicable. (Amended 6/6/05 E)

Household uses are exempt from the permitting process. (Amended 6/6/05 E)

The "reviewing authority" shall be the Planning Board, Staff Review Committee or Codes Enforcement Officer as determined by the scope and nature of a particular project in accordance with section 402, 403, and 704 of this ordinance.

(Amended 6/6/05 E)

210.10.A General Standards for Uses and Practices Requiring Permits (Amended 6/6/05 E)

210.10.A.1 The stormwater run-off of the use or expansion of the use shall be either retained on the specific property or allowed to infiltrate or

transported off-site through a subsurface stormwater system to the Town's collection system.

210.10.A.2 The calculated or actual levels of any contaminants in the groundwater at the property line of the specific lot associated with the use, expansion of the use, or management practices shall not exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water Act, as amended. (Amended 6/6/05 E)

210.10.A.3 The use, expansion of the use, or management practices shall not cause the cumulative, calculated or actual levels of any contaminants in the groundwater at the Brunswick and Topsham Water District property line to exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water act, as amended. (Amended 6/6/05 E)

210.10.B Timber Harvesting

Timber harvesting shall conform with the provisions of section 211.2.I of the zoning ordinance. (Amended 1/20/04 R)

210.10.C Application of Fertilizers and Manure

Application of nitrogen fertilizer and manure is allowed subject to permit approval from the reviewing authority. Permit applications shall include application materials and rates and rates and shall conform to section 210.10.A.

210.10.C.1 All manure spreading shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine Soil and Conservation Commission in July 1972, or the latest revision thereof.

210.10.C.2 Provisions shall be made to control runoff from areas where manure or fertilizer is being applied to the land.

210.10.C.3 Application of manure or fertilizer to sand, or bare soil where the topsoil has been removed, is prohibited.

210.10.C.4 Lawn maintenance and home garden care is allowed without permit approval.

210.10.D Manure Storage

Agricultural operations which generate or utilize manure must provide containment facilities for manure storage. Manure containment facilities must be adequate to hold 1 year's production and must be covered.

210.10.E Animal Husbandry

The landowner shall minimize potential impact on groundwater quality when managing manure generated on-site through utilization of effective collection and storage measures.

210.10.F Use of Pesticides

Land application of pesticides is allowed. Provisions shall be made for control of surface runoff and erosion in areas where pesticides are being applied. Lawn maintenance and home garden care is allowed without a permit. Applications of pesticides for agriculture are allowed subject to permit approval from the reviewing authority. Permit applications shall include copies of the pesticide labels and materials safety data sheets and the proposed rate of application and shall conform to section 210.10.A. (Amended 1/20/04 R)

210.10.G Subsurface Waste Disposal Systems

210.10.G.1 Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning septic systems, is prohibited.

210.10.G.2 Subsurface waste disposal systems in Zones 1 and 1A shall be pumped out at least once every 3 years and maintained. A waiver regarding the frequency of pumping and maintenance may be approved by the Local Plumbing Inspector when evidence of significant underusage of the disposal system is presented and accepted.

210.10.G.3 Homeowners shall retain receipts when their tank is pumped to demonstrate compliance to the Codes Enforcement Officer during an inspection. To establish an accurate pumping record for each existing tank, homeowners shall submit receipts to the Codes Enforcement Officer within 60 days of the effective date of this amendment.

210.10.H STORAGE TANKS

210.10.H.1 All underground tanks in place prior to the effective date of this amendment shall be non-conforming. All existing underground storage tanks and piping systems which are single wall and double wall tanks without an interstitial space monitoring system shall be precision-tested annually. Double wall tanks and piping systems with

an interstitial space monitoring system are exempt from annual precision-testing. Tanks failing to pass the precision test shall be excavated and examined for leaks. If found to be leaking, the tank and any material discharged from the tank shall be removed at the expense of the owner in accordance with the requirements of the Maine Department of Environmental Protection. When it becomes necessary to replace an underground tank and/or its piping systems it shall be replaced with a double wall tank and/or piping system with an interstitial space monitoring system, or better. (Amended 11/2/98 R)

210.10.H.2 All aboveground storage tanks located within Zones 1 and 1A in place prior to the effective date of this amendment and which are not enclosed and located within an impervious secondary containment unit shall be non-conforming. When it becomes necessary to replace these tanks, the replacement tanks shall be enclosed and located within a secondary containment unit. (Amended 11/2/98 R)

210.10.H.3 This Section does not apply to propane gas or natural gas storage tanks. (Amended 11/2/98 R)

210.10.I Sand and Gravel Extraction

210.10.I.1 Excavation shall not be allowed below 5 feet above the average seasonal high water table.

Artificial lowering of the water table is prohibited.

210.10.I.2 Access roads into and around the pit shall not be oiled, salted, or paved.

210.10.I.3 The excavation area shall not be used for disposal of solid or hazardous wastes at any time including the period following closure of the pit.

210.10.J Permit Application for Compost and Sludge Products, and Organic Fertilizer (Amended 6/6/05 E)

210.10.J.1 An initial permit for land application of compost or sludge products and/or organic fertilizer shall be submitted and shall include data listed in section 210.12, as applicable, land application materials and rates, as well as an Integrated Pest Management Plan. Land application materials are limited to those specified in 210.8.C. (Amended 6/6/05 E)

- 210.10.J.2 No annual submission of this permit application is required. Any amendment to a permit application does require resubmission and reapproval prior to land application. (Amended 6/6/05 E)
- 210.10.J.3 Records of past land applications shall be kept and included with any permit application. (Amended 6/6/05 E)
- 210.10.J.4 Homeowner and agricultural use is exempt from permit approval. (Amended 6/6/05 E)

210.11 ADMINISTRATION AND ENFORCEMENT

- 210.11.A No activity or land use may be conducted in Zone 1, 1A, or 2 except in accordance with these provisions.
- 210.11.B If any portions of a lot are located in Zone 1, 1A, or 2, all land located in Zone 1 shall be governed by the regulations for Zone 1, all land located in Zone 1A shall be governed by the regulations for Zone 1A, all land located in Zone 2 shall be governed by the regulations for Zone 2.
- 210.11.C Monitoring wells may be required for a use known by the Codes Enforcement Officer to be an actual or potential source of pollution. A licensed hydrogeologist chosen or approved by the Town shall determine the number, location, and depth of monitoring wells. Monitoring wells shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Monitoring wells shall be installed on the property at the expense of the owner. The Codes Enforcement Officer shall determine, in consultation with the Brunswick and Topsham Water District and/or a licensed hydrogeologist, when monitoring wells shall be sampled. Results from monitoring well samples shall be submitted to the Department of Planning and Development and the Brunswick and Topsham Water District.

210.12 DEVELOPMENT REVIEW SUBMISSION DATA

In addition to the requirements of Chapters 4 and 5, all submittals for Development Review approval for uses in the Aquifer Protection Zone shall include the following as applicable:

- A. A site plan showing the following:
1. The Aquifer Protection Zone boundaries, labeled, if they cross the parcel.
 2. The location of all storage tanks.

210.13.B The Brunswick and Topsham Water District shall promptly inform the Town Council, Codes Enforcement Officer, Planning Board and Zoning Board of Appeals, and no development review approval(s) and/or waivers will be allowed, when the calculated or actual levels of any contaminants in the groundwater exceeds 50% of the allowable Primary Public Drinking Water Standards for contaminants as measured at the Brunswick and Topsham Water District monitoring wells.

210.14 WATER DISTRICT REVIEW

Before the reviewing authority takes final action on any applications within the Aquifer Protection Zones, the Brunswick and Topsham Water District shall be offered an opportunity to provide its review and comments regarding water quality issues pertaining to the application.

(Section 210 was amended in its entirety 8/3/98R)

Town of Brunswick, Maine

INCORPORATED 1739

Town Clerk's Department

DEC 11 2006

28 Federal Street, Ste. 2,
Brunswick, Maine 04011-1583

207-725-6658
207-725-6663 FAX



December 8, 2006

Dear Mr. Fish,

Please see the enclosed Brunswick Community Health and Land Care Ordinance we are filing pursuant to state law.

Sincerely,

A handwritten signature in black ink, appearing to read "Fran Smith". The signature is fluid and cursive, with a large loop at the end.

Fran Smith
Town Clerk
28 Federal Street
Brunswick, ME 04011



Brunswick Community Health and Land Care Ordinance

I. **Purpose.** The purpose of this ordinance is to safeguard the health and welfare of the residents of the Town of Brunswick and to conserve and protect the Town's ground water and other natural resources, while ensuring preservation and enhancement of Town-owned lands.

WHEREAS, the U.S. Environmental Protection Agency states: "All pesticides are toxic to some degree, and the commonplace, widespread use of pesticides is both a major environmental problem and a public health issue.";

WHEREAS, the National Research Council reports that there is uncertainty about the potential for adverse human health effects from exposure to treated sewage sludge;

WHEREAS, the protection of ground water is critical to promoting the health, safety and general welfare of the residents of Brunswick;

WHEREAS, viable alternatives to potentially harmful land care practices and products are available;

THEREFORE, the Town of Brunswick adopts land management principles and practices for the care of Town-owned land that minimize risk, to the greatest extent possible, to human health and the environment.

II. **Provisions.** The following provisions shall be applicable to all turf, landscape and outdoor pest management activities on Town-owned land.

Permitted:

- Use or application of natural, organic land care protocols.
- All control products and soil amendments, including fertilizer and compost, used under the terms of this ordinance 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.

Prohibited:

- 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.
- Use or application of sludge or sludge-derived products.

III. **Definitions.** "Natural, organic land care" shall mean an extension of the principles and practices of organic agriculture to the care of turf and landscape. References by way of guide may be made to the Organic Land Care Program of Connecticut and Massachusetts, the Organic Pest Management Policy of the Town of Marblehead, Massachusetts and the USDA National Organic Program.

"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; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

"Sludge" and "sludge-derived products" shall include, without limitation, any product that contains a solid, semi-solid, or liquid waste generated by a municipal, commercial or industrial wastewater treatment plant or companies that use sludge in a product used as a soil additive, including composted class A residuals and residuals that may contain human pathogens.

“Town-owned land” means all land owned or leased by the Town of Brunswick and managed by the Town of Brunswick Parks and Recreation Department, including outdoor grounds such as parks, playing fields, conservation and open space.

“Pest” shall include any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

IV. **Exemptions.** 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 Protection Agency as exempt materials under 40 CFR 152.25 or pesticides permitted by the Organic Materials Review Institute; Management of Town-owned land not used or used infrequently by the public (roadway medians, for example).

V. **Emergency Waiver.** If an emergency situation warrants the use of non-exempt pesticides, the Codes Enforcement Officer may, upon written request, grant a 30 day temporary waiver. The waiver may be extended to a six 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.

Waiver determination shall be based on the following criteria:

1. 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
2. Viable alternatives consistent with this ordinance do not exist.

VI. **Enforcement and Permits.** This ordinance shall be enforced by the Code Enforcement Officer, according to the policies governing enforcement of municipal ordinances of the Town of Brunswick.

VII. **Advisory Committee.** The Brunswick Town Council may create an Advisory Committee to oversee implementation and enforcement of this ordinance and to study expanding this ordinance to include school property. At least two residents of Brunswick with an interest or expertise in public health or natural, organic land care shall be appointed to this committee.

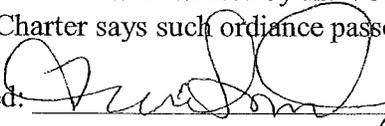
VIII. **Conflict and Invalidity.** If a conflict or inconsistency is found between this ordinance and other sections of the zoning ordinance or town charter, the terms of the stricter provisions shall prevail. The invalidity of a provision of this ordinance shall not invalidate any other provision of this ordinance.

IX. **Authority.** Pursuant to 30-A M.R.S.A. Section 3001, municipalities may enact ordinances to protect the welfare of their inhabitants. Pursuant to 22 M.R.S.A. Section 1471-U, Maine municipalities may enact ordinances that apply to pesticide storage, distribution, or use.

Proposed changes to this ordinance must be approved by a majority vote of registered voters of the Town of Brunswick.

X. **Effective Date.** This ordinance shall be adopted on a regular basis and shall take effect immediately upon approval by the majority of the voters of the Town of Brunswick. Upon adoption, a copy of this ordinance shall be sent to the Board of Pesticides Control.

This ordinance was enacted by the Voters of the Town of Brunswick at the Election held on November 7, 2006. The Town Charter says such ordinance passed by a majority of voters becomes effective 10 days after the Election.

Attested:  (Town Clerk)



John Elias Baldacci
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III
COMMISSIONER
HENRY JENNINGS
DIRECTOR

April 28, 2008

Dale Abernethy
Town of Castine Municipal Offices
PO Box 204
Castine ME 04421-0204

Dear Mr. Abernethy:

This letter is to confirm that Castine's town ordinance related to pesticides has been adopted pursuant to Title 22 M.R.S.A. Section 1471-U and the changes are now included in our centralized listing of municipal ordinances. Thank you for your cooperation in this matter. Please feel free to contact me if you have any questions.

Sincerely,



Henry S. Jennings
Director

Enclosure



CASTINE MAINE
U.S.A.

APR 18 2008

Dale Abernethy
Town Manager
dale@castine.me.us

April 17, 2008

VIA CERTIFIED MAIL

Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Reference: Municipal Ordinance Amendment

Gentlemen:

The Town of Castine held a town meeting on March 24, 2008 and approved several amendments to the municipal zoning ordinance. One of the amended sections has and continues to regulate the application of pesticides within the Town. Specifically, Section 5.2 *Aquifer Protection Overlay District* was amended, moved to Article 4, Section 4.7.4 of the ordinance and retitled *Source Water Protection Overlay District*.

Pursuant to Title 22 M.R.S.A. § 1471-U (3), this letter is transmitting a copy of the approved amendment to the Board. If you require any additional information, please contact me at the municipal office.

Very truly yours,

Dale Abernethy

Town of Castine Municipal Offices

P.O. Box 204, 67 Court Street, Castine, Maine 04421-0204

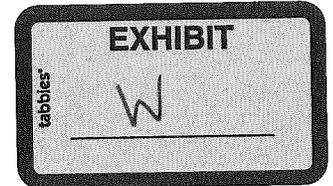
Telephone: 207.326.4502 Facsimile: 207.326.9465 Internet: <http://www.castine.me.us/>



APR 18 2008
CASTINE MAINE
U.S.A.

Susan M. Macomber
Town Clerk
sue@castine.me.us

April 17, 2008



ATTEST:

Attached is a true copy of the excerpts dealing with pesticides from Article 4 of the *Zoning Ordinance of the Town of Castine, Maine* adopted by the voters at the annual town meeting held on March 24, 2008.

Susan M. Macomber
Town Clerk

AFFIX SEAL

APR 16 2008

ARTICLE 4: ZONING DISTRICTS

4.7. DISTRICT OVERLAY REQUIREMENTS

4.7.4. Source Water Protection Overlay District [Am. 6]

The Source Water Protection Overlay District applies overlay requirements to the land within the boundaries of the District. In addition to uses prohibited in the underlying districts, certain additional uses are prohibited. There are also additional requirements for other uses requiring Site Plan Approval.

4.7.4.1. Delineation of Zones within the Source Water Protection Overlay District

There shall be two zones within the District:

- Zone 1 shall consist of all land lying within a circle of 300-foot radius around each water supply well.
- Zone 2 shall consist of all remaining land lying within the boundaries of the District.

4.7.4.2. Permitted Uses within Source Water Protection Zone 1

The following are permitted uses in Zone 1:

- Uses directly related to the operations of the Castine Water Department or approved by it.
- Any other uses in existence on March 24, 2008.

4.7.4.3. Prohibited Uses within Source Water Protection Zone 1

Any use not set forth in Section 4.7.4.2. above is prohibited.

4.7.4.4. Permitted Uses within Source Water Protection Zone 2

4.7.4.4.1. The following are permitted uses not requiring Site Plan Approval:

- Subsurface sewage disposal system, the design and maintenance schedule of which is reviewed and approved by the Local Plumbing Inspector (LPI).
- Gardening,
- Residential composting,
- Residential pesticide or fertilizer application in compliance with label restrictions,
- Non-commercial animal husbandry,
- Forest management activities, and forest product harvesting, so long as harvest removes less than 40% of the canopy from any lot within a ten (10) year period,
- Recreational uses,
- Municipal uses such as road and facility maintenance,
- Creating impervious surfaces totaling not more than twenty percent (20%) of any lot,
- Storage of not more than ten (10) gallons in the aggregate of petroleum products in portable containers with secondary containment,
- Storage of greater than ten (10) gallons of petroleum products in fixed containers subject to Section 4.7.4.10 below,
- Maintenance of any existing structure.

4.7.4.4.2. In addition to those permitted uses in the underlying districts and listed in the Land Use Table as requiring Site Plan Approval, the following permitted uses require Site Plan Approval under this section and shall be issued a Conditional Use Permit:

- Non-residential application of pesticides or fertilizers.
- Flooding or mining of land.

4.7.4.5. Prohibited uses within Source Water Protection Zone 2

In addition to those uses prohibited in the underlying districts, the following uses are prohibited in Zone 2:

- Automobile graveyards or the outdoor storage of more than three motor vehicles not in regular use.
- New underground storage tanks or containers for petroleum products or chemicals after March 24, 2008.
- Creating impervious surfaces totaling more than twenty percent (20%) of any lot.
- Commercial activities involving the disposal of liquid or leachable wastes, except as are routinely permitted for disposal into the Town sewage system.
- Commercial waste impoundment or disposal.
- Uncovered waste storage.
- Commercial waste storage for a period exceeding 30 days.
- Commercial manure or sludge storage or spreading.
- Uncovered sand and salt piles.

4.7.4.6. Status of Castine Water Department

For any application for Site Plan Approval in the Source Water Protection Overlay District, the Castine Water Department shall have the status of an abutter.

4.7.4.7. Permitted Use Standards

All permitted uses within Zone 1 and Zone 2 shall be constructed, operated and maintained in a manner that will not cause a material increased risk of contamination or decreased quantity of recharge to the aquifer and the public water supply ponds as determined by the Planning Board in its sole discretion. The Planning Board may be guided in making its determination by advice from consultants chosen by it and by the advice contained in the manual of the Maine Department of Health and Human Services Drinking Water Program entitled *Best Management Practices for Groundwater Protection – A Guide for Local Officials and Public Water Suppliers*. (This publication is available at the Town Office and on the Town web site www.castine.me.us).

4.7.4.8. Source Water Impact Analysis

For uses requiring Site Plan Approval pursuant to Section 4.7.4.4.2. above, the Planning Board may also require submission to the Planning Board by the applicant of a Source Water Impact Analysis. The Planning Board expects the detail of the Analysis to vary according to the proposed use. The Planning Board may require that any or all of the components of the Analysis be prepared by an appropriate registered/licensed professional, with the fees of such professional to be paid as determined by the Planning Board. In the sole

discretion of the Planning Board, the Analysis may contain any or all of the following components:

- 4.7.4.8.1. Maps showing any or all of: 1) property boundaries, 2) topography, 3) soil types, 4) surficial geology on the property, 5) post-development recharge areas, 6) the recommended sites for subsurface wastewater disposal systems and wells in the development; 7) direction of groundwater flow and 8) direction and routing of surface water flow.
 - 4.7.4.8.2. Documentation of existing ground water quality for the site.
 - 4.7.4.8.3. A nitrate analysis, or other contaminant analysis as applicable, including calculation of anticipated concentrations at the property line(s) and wells on the property.
 - 4.7.4.8.4. For water intensive uses, as determined by the Planning Board in its sole discretion, an analysis of the effects of the proposed use on the aquifer drawdown relative to the quantity and quality of water available for other water supplies or potential water supplies serving the Town or private parties.
 - 4.7.4.8.5. The installation of, and sampling of water from, water quality monitoring wells in accordance with appropriate ASTM standards. The number, location and depth of monitoring wells shall be determined by the Planning Board. Water quality sample results from monitoring wells shall be submitted to the CEO with evidence showing that they meet the Maine Department of Health and Human Services Drinking Water Program performance standards for water quality.
 - 4.7.4.8.6. A list of assumptions made to produce the required information.
- 4.7.4.9. Sanitary waste water disposal**
- No use, including home occupations, shall dispose of other than normal domestic waste water on-site. No more than 900 gallons per day of sanitary waste shall be discharged to any one subsurface sewage disposal system. Septic tanks shall be pumped every three (3) years for routine maintenance. Pumping shall be observed by the LPI. Disposal of waste water shall be in compliance with the *Maine Subsurface Waste Water Disposal Rules* (CMR 10-144, Chapter 241, as amended).
- 4.7.4.10. Petroleum product storage, above ground**
- For inside above ground storage of petroleum for commercial or private use, tanks (including replacement tanks) installed after March 24, 2008 in a fixed location must be designed to contain leaks, with either double-walled primary containers, or with a single walled tank set in a secure secondary container having a capacity of at least 110% of the capacity of the primary tank. There shall be no floor drains into which leaking oil could drain in a building storing petroleum products for commercial use.
 - For outside above ground storage of petroleum in fixed tanks (including replacement tanks) installed after March 24, 2008, tanks shall be enclosed to prevent accidental toppling and shall have a cover or roof to prevent filling of the secondary containment with rainwater.
 - Tanks (including replacement tanks) installed after March 24, 2008 must be installed in accordance with Maine Oil and Solid Fuel Board *Installation of Oil Burning Equipment* (CMR 02-381, Chapter 9, as amended).

4.7.4.11. Petroleum product storage, underground

For underground storage of petroleum in existence on March 24, 2008 for commercial or private use, the standards of Maine DEP *Rules for Underground Oil Storage Facilities* (CMR 06-096, Chapter 691, as amended) shall apply. Specifically, regarding design and operation, all tanks and piping shall be double walled for containment of petroleum product, and volumes and interstitial spaces shall be continuously electronically monitored. If portions of the system are to be replaced, then the design of such replacement shall be in accordance with the Chapter 691 regulations requiring the maximum security against spills and leaks of petroleum product.

4.7.4.12. Application of pesticides or fertilizers

Prior to non-residential application of pesticides and fertilizers, the permit applicant shall develop an Integrated Pest Management Plan and Nutrient Management Plan following Best Management Practices described in the publication entitled *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Department of Agriculture Board of Pesticides Control. (This publication is available at the Town Office and on the Town web site www.castine.me.us.)

The plans shall be reviewed by the Maine Department of Agriculture Board of Pesticides Control and the Maine Department of Health and Human Services Drinking Water Program and approved by the Planning Board.

Such plans shall incorporate:

- maps showing the location and types of turf to be treated,
- label directions for any pesticides or fertilizers proposed for application,
- pesticide applicator licenses,
- water insoluble and low-leachability options where available and a minimization of fertilizers and pesticide use,
- 24 hour advance notice to the public of pesticide or fertilizer applications to an area larger than nine (9) square feet, such notice to be posted at prominent locations, visible to the public from public ways, on the subject property and at the application site.

4.7.4.13. Excavation or mining, fill, sand, gravel and other minerals.

The water table shall not be artificially lowered by ditches, trenches, pumping or other methods. Excavation shall not be allowed below five feet above the average seasonal high water without Site Plan Approval from the Planning Board following receipt of a variance from the Maine DEP for mining below the water table pursuant to Maine DEP *Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products* (CMR 06-096, Chapter 378, as amended).



I. Amend §138-19.D(2)(b) by adding the following submission requirements:

[9] The level of the seasonal high water table throughout the site.

J. Amend §138-19.D (3) to add the following performance standards:

(h) Within the BBA district the following additional standards shall apply.

[1] Excavation shall not extend closer than five feet above the seasonal high water table.

[2] Access to the site shall be secured by fencing and gates during all inactive periods and during non-working hours.

[3] No refueling of equipment shall occur. There shall be no on-site storage of fuel, lubrication or hydraulic fluids.

[4] Repairs of equipment shall take place only upon an impermeable surface equipped with drain to collect any spilled fuels, lubrication or hydraulic fluids. Otherwise all equipment shall be removed from the BBA district for repair.

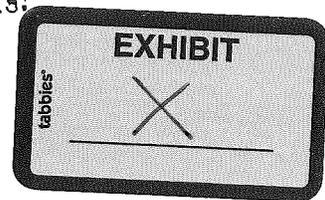
(i) Equipment shall not be stored, serviced, used or permitted in the RP-BB district under any circumstances.

K. Amend §138-19.E(1) by adding an additional standard which applies only in the RP-BB and BBA districts:

(d) Within the RP-BB and the BBA districts only, no less than sixty days prior to the application of any "restricted use" pesticide, the applicator or land owner shall notify the Code Enforcement Officer of the name of the pesticide to be applied, the application rate and the projected application dates. A copy of this notification shall also be sent to the Kennebunk, Kennebunkport, & Wells Water District. The Code Enforcement Officer shall review the notification and consult with the Water District, notifying the applicator or land owner, in writing, if the pesticides or its application rates present a danger to the quality of the groundwater or Branch Brook. If the Code Enforcement Officer does not respond within thirty days from the receipt of the notification, the applicator may apply the pesticide in accordance with the EPA label and the rules of the Maine Pesticide Control Board.

L. Amend §138-19.E(7) by adding an additional standard which applies in the RP-BB district:

(1) Within the RP-BB district only, a harvesting plan prepared by a Registered Professional Forester shall be submitted to the Site Review Board. Copies of the plan shall be sent to the superintendent of the Kennebunk, Kennebunkport & Wells Water District, and the York County Soil and Water Conservation District for their review.



*Adopted
3/10/90*

A TRUE COPY ATTESTED:

*Marion B. Noble
Town Clerk*



Michael J. Bobinsky
Director of Public Services

To: Members of the Transportation, Sustainability and Energy Committee
From: Troy Moon, Environmental Programs and Open Space Manager
Re: Herbicide Applications by the Dept. of Public Services
Date: 9/12/2014

ATTACHMENT 2

At the request of your committee, we are providing information about the Department's use of chemical herbicides.

Streets:

Our department has a limited program to apply glyphosate (Round Up) strategically to control the growth of weeds in highly visible and/or difficult to maintain areas. See attached the list of locations for spot treatments. I have also provided a map of the Portland Downtown District service map. Our contract requires weed control. To facilitate this services, we apply treatment to curb lines and around street furniture on most streets in this service area.

The purpose of the application is to prevent the growth of weeds which are unsightly but, more importantly, damage infrastructure if left to grow unchecked. Our staff has found that ongoing treatment under the current program has reduce the amount of treatment required as weed growth is kept controlled in key locations.

These programmed applications are conducted under contract with a licensed applicator. The annual cost is \$10,000.

Parks and Open Spaces

We make every effort to minimize the use of chemical treatments in our parks and open spaces. For example, we recently redesigned the Rose Circle in Deering Oaks to feature only hardy, disease and drought resistant varieties that do not require any chemical treatment at all. Previously, the Rose Circle required extensive use of pesticides and herbicides in order to maintain visually pleasing roses. We do not perform broadleaf weed control.

- Trees – The program primarily involves spot treatments around trees before mulching to prevent weed growth. It is important to provide a buffer between the mowed space and the trees to limit mower damage. We have a

limited program of injections for Hemlock Trees to control Hemlock Woolly Adelgid and for the few remaining Elm trees

- Flower Beds – Staff uses spot applications to inhibit weed growth in display gardens. These include beds in Deering Oaks, Fessenden Park, Eastern & Western Prom, Longfellow Square. Applications occur 1 – 3 times per year.
- Invasive or Hazardous Species Control – While mowing is the primary method for controlling invasive plants, the Department makes some applications to control plants such as Japanese Knotweed and Poison Ivy. The largest area of application is on the Ocean Avenue Landfill Cap where our DEP approved maintenance plan requires aggressive control of woody growth – in this case, Japanese Knotweed.

Licensed Department staff members perform most horticultural applications. The budget for product is \$250. For larger areas, such as the Ocean Avenue Landfill or other areas that may require treatment, we work with a licensed contractor. The cost may vary from year to year but is approximately \$3,000 - \$5,000.

Schools

The Department of Public Services collaborates with the School Department on maintenance of grounds around school buildings. This involves limited spot applications of herbicide in key locations – along sidewalks, curb lines and planting beds. The licensed contractor strictly follows notification requirements and adheres to the School Department's policy regarding use of chemical treatments. Please see attached policy.

The Department of Public Services will have staff available to answer questions.