

BLUE HILL HEALTHY ECOSYSTEM ORDINANCE

A. PURPOSE

The Town of Blue Hill hereby finds and declares that it shall be its policy to eliminate Toxic Pesticide use in and on public and private property in order to promote a healthy environment and protect the public from the hazards of Pesticides, and for implementation of sustainable land and building management practices on all public and private property.

The Town of Blue Hill wishes to protect the quality of the Blue Hill Bay and other waterways that support the economic vitality of local fisheries and working waterfront.

The Town of Blue Hill wishes to limit all potential applications, drift and runoff of Pesticides into the waters, tributaries and lands in the town in order to maintain water quality for consumption and domestic purposes and protect the environment, marine and freshwater organisms, wildlife and habitats.

B. FINDINGS

The Town of BH recognizes that healthy soils serve as the foundation for vibrant ecosystems and Pest-resistant plant life and the source of Microbiomes and their critical role in regulating such diverse processes such as metabolism, immunity, and neurodevelopment.

Pesticides cannot necessarily be confined to a single location but move through the environment in the air, land, and water acting as Non-point Source pollutants impacting non-target species and plants months to years after application.

The U.S. Geological Survey reports that 33% of major aquifers and 50% of shallow wells contain one or more Pesticides at detectable levels. Maine has no meaningful Pesticide spray buffer zones to protect communities and farms from Pesticide Drift.

Pesticides are harmful to humans, pets, wildlife, plants, soil microbiology and natural ecosystems and may bio-accumulate in living organisms and create superweeds that are resistant to Pesticides.

Scientific studies associate exposure to Pesticides with serious health problems such as cancer, child developmental disorders, learning disabilities, Parkinson's disease, Alzheimer's disease, asthma, liver damage, endocrine disruption, reproductive dysfunction, and even death.

Pesticides can negatively impact the human Microbiome, a community of microorganisms (bacteria, fungi, viruses, and other microbes) that live in all of us. These communities are integrated in us and are beneficial or neutral to health. Our Microbiome (like those of animals, plants, and insects) is colonized from existing soils, air and water and changes dynamically.

Many citizens desire to be protected from exposure to Pesticides that may result from chemical Drift and contaminated runoff, in the air, water, or soil.

Children are especially sensitive to Pesticide exposure.

Many alternatives to the application of Pesticides exist for land care, lawns and gardens.

Embracing a precautionary approach to the use of Pesticides allows local governments to anticipate and help protect people and the environment from harmful effects of Pesticides.

B. AUTHORITY

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

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 Natural Resources Protection Act (38 M.R.S.A. §480-A-480-Z), the Site Location of Development Act (38 M.R.S.A. §481-490).

C. DEFINITIONS

Application The spreading of pesticides over an area by any means including but not limited to, in liquid or dry form: broadcasting, pasting, ground spraying, aerial spraying, soil injection, surface utilization.

CFR Code of Federal Regulations

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

Cultural Management Manipulation of growing conditions such as sanitation, the environment, or production timing to achieve disease, insect, or weed management.

Drift Movement by a current of air or water.

e-CFR electronic Code of Federal Regulations

Ecosystem A biological community of interacting organisms and their physical environment

Emergency An urgent need to mitigate or eliminate a pest that threatens public health or safety.

EPA The United States Environmental Protection Agency.

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

Herbicide A pesticide designed to control, desiccate or kill plants, trees, weeds, or grasses.

Invasive Species A non-native plant which has disrupted an area's natural ecological relationships and processes.

Nonsynthetic A natural substance that is derived from mineral, plant, or animal matter and does not undergo a Synthetic process.

Non-point Source A source of pollution that comes from many diffuse sources. Non-point source pollution can be caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters and ground waters.

Organic Land Care Organic Land Care is knowledge-based. Conventional land care is product based and relies on Synthetic Pesticides and fertilizers.

Organic Pest Management The act of managing or controlling pests through the use of mechanical, Cultural, or biological processes, or through the use of natural, organic, or Nonsynthetic substances.

Organism Any living being, whether plant, mammal, bird, insect, amphibian, reptile, fish, crustacean, aquatic or estuarine animal, bacterium, virus, fungus or microorganism.

Persistent Pesticide A Pesticide that persists on vegetation and in the soil for months or years.

Person Any individual natural person, partnership, joint venture, society, association, company, club, trustee, trust or corporation; of any officer, agent, employee, or personal representative or any thereof, in any capacity acting either for her or himself or for any other person under either personal appointment or pursuant to law.

Pest Any organism declared to be a pest under circumstances that make it deleterious to living beings or the environment, as defined by 40 C.F.R. 152.5, U.S. Federal Code of Regulations.

Pest Emergency Please refer to Federal and/or State of Maine regulations.

Pest Management The act of managing or controlling Pests through the use of chemical, mechanical, Cultural, biological, or genetic measures.

Pesticide Any substance or mixture of substances intended to kill, repel, control, or desiccate species designated as a pest, including plants, insects, or other organisms, including but not limited to herbicides, <https://www.epa.gov/pesticide-registration/pesticide-emergency-exemptions> fungicides, insecticides, rodenticides, disinfectants, and antibiotics, and any fertilizer mixture which contains any of the foregoing.

Point Source Any discernible, confined, and discrete conveyance, from which Pesticides are or may be discharged, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill, leachate collection system, vessel, or other floating craft.

Recreational Area An area including but not limited to: athletic playing fields, leisure recreational areas, trail use, open public spaces, and playgrounds.

Repellent A substance that deters insects or other Pests from approaching or settling.

Sludge Solid, semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or wet process air pollution control facility or any other waste having similar characteristics and effect.

Synthetic A substance formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources. The term shall not apply to substances created by naturally occurring biological processes.

Toxic Containing or being poisonous material especially when capable of causing death or serious debilitation.

Vegetative Maintenance Removal of trees, shrubs, herbs, grasses, ferns, mosses, or weeds from an outdoor environment. Does not include the removal of mosses or mildews from buildings or vehicles.

Water Body Any lake, pond, river, stream and their tributaries, marsh, tidal area, and ocean.

Wetlands Land or areas that are covered often intermittently with shallow water or have soil saturated with moisture.

Weed A plant growing where it is not wanted.

D. PERMITTED AND PROHIBITED USES

Provisions

The following provisions shall apply to all turf, landscape, Recreational Areas, ditches, Vegetative Maintenance, and outdoor Pest management activities conducted within the Town of Blue Hill, on both public and private land.

The intent of this Ordinance is that the use of Pesticides will not result in material damage to other properties in the vicinity nor be detrimental to the public health, safety, welfare, or natural ecosystems.

Permitted Pest Management Activities and/or Materials:

1. Organic Pest Management.
2. Use or application of Synthetic substances specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances, (National Organic Program) CFR Title 7 205.601 except for 205.601 (b) (2) (ii) petroleum-based plastic mulch.
3. Use or application of Pesticides determined to be "minimum risk pesticides" pursuant to the FIFRA and listed in 40 CFR 152.25 (f) (1) and (2), as may be amended from time to time. Excluding products that include GMO's such as corn-cobs, soy, milk (GMO nutrient fed), nylon, ultramarine blue, paraffin wax, rubber, and PVC.

Prohibited Pest Management Activities and/or Materials:

1. Application, storage, or sale of Synthetic substances other than those specifically listed as "allowed" in the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances, (National Organic Program) CFR Title 7 205.602, with aforementioned exemptions in Permitted (3.) above and Exemptions (E.) below.
2. Other Prohibited Pesticides include:
 - a. Any Pesticide classified as "Carcinogenic to Humans" or "Likely to be Carcinogenic to Humans" by the U.S. Environmental Protection Agency.
 - b. Any Pesticide classified by the U.S. Environmental Protection Agency as a "Restricted Use Product."
 - c. Any Pesticide classified as a "Class 9" pesticide by the Ontario, Canada, Ministry of the Environment.
 - d. Any Pesticide classified as a "Category 1 Endocrine Disruptor" by the European Commission.
3. The neonicotinoid family of Pesticides.
4. Any Pesticide identified as Persistent by the U.S. Composting Council.
5. Application, storage, or sale of Nonsynthetic substances specifically listed as "prohibited" on the National List, (National Organic Program).
6. Application, storage or sale of Such (1-5) within two hundred-fifty feet of a Water Body, Wetland, or drainage ditch.
7. The sale of all products containing a Prohibited Pesticide in liquid or dry form within the Town of Blue Hill.

E. EXEMPTIONS

The Town of Blue Hill strongly encourages the use of cultural, physical, biological, organic, and mechanical methods of Vegetative Maintenance instead of Pesticide use. This chapter permits the use of Pesticides for the purposes set forth in this section.

1. Prohibited Pesticides may be used in a Pest Emergency (e.g. an Invasive Species) per Federal Code 40CFR166 and/or State of Maine summary of FIFRA Section 18 Emergency Exemptions, when Pest Emergency exists that would result in a significant risk to the health of humans, the environment, or animals.

Note:

- a. The presence of Weeds or common fungal diseases in the usual course of turf maintenance shall not be considered a need for exemption. Reference Best Management Practices for the Application of Turf Pesticides and Fertilizers of the Maine Board of Pesticide Control.
- b. Financial difficulty is not considered a need for exemption.

E. EXEMPTIONS continued

2. Pet supplies for tick and flea treatment, when used in the manner specified by the manufacturer.
3. Disinfectants, germicides, bactericides, miticides, and virucides, when used in the manner specified by the manufacturer.
4. Insect repellants for bodily application, when used in the manner specified by the manufacturer.
5. Indoor Pesticide use, when used in the manner specified by the manufacturer.
6. Rodent control supplies, when used in the manner specified by the manufacturer.
7. Swimming pool supplies, when used in the manner specified by the manufacturer. Chlorine, bromine, salt, and other pool chemicals that are used to keep swimming pools safe for people may kill fish and other aquatic life in streams. Pool owners are strongly encouraged to remove chlorine and bromine from water before discharging water.
8. General use paints, stains, wood preservatives, and sealants, structural wood preservation, when used in the manner specified by the manufacturer.
9. Drinking water and wastewater treatment.
10. Pest control will follow Integrated Pest Management practices in emergency situations as defined by the following: Federal code 40 CFR 152.25; 40 CF2-7R 166.2-7; State of Maine Code of Regulations Titles 7 and 22; and Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.
11. Commercial farming, yet encouraging the adoption of ecologic based organic practices.

F. VIOLATIONS and ENFORCEMENT

This ordinance will be enforced by the Blue Hill Code Enforcement Officer, according to the policies governing enforcement of ordinances of the Town of Blue Hill.

Each day a violation occurs shall be deemed a separate violation.

Any Person violating this Ordinance shall be fined as follows:

1. A fine not exceeding \$100.00 for the first violation.
2. A fine not exceeding \$250.00 for the second and each subsequent violation.
3. Reimbursement of the Town's legal fees and costs for prosecution of each violation.

G. PUBLIC NOTIFICATION OF PESTICIDE USE

A property owner, commercial farmer, or Person hired to apply Prohibited Pesticide shall post notification of Prohibited Pesticide use if applied within 250 feet of abutting neighbor or public way.

Areas treated shall be posted in a manner and at locations designed to reasonably assure that persons entering such area will see the notice. Such notice shall be posted at least 24 hours before application activities commence and shall remain in place at least 72 hours following the completion of the application.

Posting Requirements

1. The sign shall measure 8 1/2 x 11 inches.
2. The sign must be made of rigid, weather resistant material that will last at least ninety-six (96) hours when placed outdoors.
3. The sign must be light colored background with dark, bold letters.
4. The sign must bear:
 - a. The word CAUTION in 72 point type.
 - b. The word PESTICIDE APPLICATION in 30 point type or larger.
 - c. The State of Maine Board of Pesticide Control designated symbol for Notification Signs.
 - d. The common name, trade name, and Environmental Protection Agency registration number of the Pesticide.
 - e. A detailed description of the location of the application of the Pesticide.
 - f. The statement "The EPA cannot guarantee that registered Pesticides do not pose risks, and unnecessary exposure to Pesticides should be avoided."
 - g. Any reentry precautions from the Pesticide labeling.
 - h. The name of the Pesticide manufacturer and its telephone number.
 - i. The date and time of the application.
 - j. A date and time to remove the sign.

Person applying Pesticide may make **Notice of Pesticide Use** signs, which conform to the above Posting Requirements or may purchase signs at the Blue Hill town office.

H. OUTREACH AND EDUCATION

www.BlueHillHealthyEcosystem.com

I. SEVERABILITY

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

J. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive chapter, article, or ordinance of the Town of Blue Hill code shall control.

K. EFFECTIVE DATE

In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or applications (and the related public notification, signage and reporting requirements), the ordinance shall become effective on January 1, 2021.

**Certified
True Copy**

By Blue Hill Select Board
January 31, 2020

Vaughn Leach
~~James Leach~~
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