

**Town of Cape Elizabeth
Ordinance Committee Minutes**

August 8, 2023

7:00 p.m.

Town Hall

Members Present: Penny Jordan, Chair
Caitlin Jordan
Gretchen Noonan

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order at 7:00 p.m. The meeting is being recorded using the Owl.

Minutes

The July 26, 2023 meeting minutes were approved by a vote of 3-0.

Pesticide Ordinance

Chair Penny Jordan announced that this is the opportunity for public comment.

Debbie Peck, 21 Cottage Farms Rd – She is excited the town is addressing pesticides. 35 years ago, she had a perfect green lawn with her neighbors and decided to get off pesticides. It took 3 years to get the lawn back and now it is green grass with no pesticide use. She supports education and, as a Lawn and Garden club member, supports programming for members, such as taking care with plant selection in her garden. South Portland is a great model and a pesticide use policy shows great leadership. She supports the committee's work.

Nancy Ross, 12 Elmwood Rd – She has 4 comments on draft. (1) IPM should not be the goal because it treats all methods of growing, including use of chemicals, as equal. Use of toxic chemicals and mechanical means should not be the same.

Chair Penny Jordan noted that IPM is a hierarchy of actions and the first is intervention.

Ms. Ross wants (d) in the definition to require all non-chemical methods first.

Heather Spalding, Maine Organic Farmers and Growers Association (MOFGA) – She also supports a definition that makes chemical use a last resort. She read a definition for Ecological Pest Management.

The committee added most of the ecological pest management definition into the second paragraph of the purpose statement. The committee reviewed where IPM is referenced in the

ordinance and because it is common practice and landscapers are often certified in IPM, retained it in the ordinance.

Mrs. Ross's second comment is replacing "insect" with "pest" on page 5, which she does not support. The committee changed it back. Mrs. Ross objects to listing grub treatment as an emergency. Strict IPM means the insect needs to appear before treatment and Chip Osborne said there is no need to spray for grubs.

Chair Jordan responded that we learned that effective treatment for grubs involves timely intervention in the life cycle when there may not yet be symptoms. Mrs. Ross stated that once you have mature grubs, you need to aerate, compost, and reseed to remove grubs.

Jessie O'Brien suggested that you remove the tick language, page 6, because it has nothing to do with turf maintenance. The committee agreed to remove "in the usual core of turf maintenance."

Councilor Noonan clarified that the standard is not an "emergency," but a "threat to human health."

The committee began review of the Definitions section, and agreed to retain the IPM definition, which mirrors state law.

The committee edited the invasive plants list to reference only the Department of Agriculture, Conservation and Forestry, Natural Areas program list after confirming the other referenced lists are not appropriate.

The remaining definitions, applicability and exemption sections were not revised. Other references to invasive plant lists were updated.

The committee discussed replacing the Waiver section with a Notification section.

Mr. O'Brien shared that very few waivers are granted in Portland and South Portland. Most are for municipal, institutional uses like athletic fields, schools, and homeowner associations.

Councilor Caitlin Jordan asked about compliance? Or are folks just not getting the waiver?

Mr. O'Brien responded that there is no hard data.

Chair Jordan proposed replacing the Waiver provision with a Notification provision, which would be less burdensome on the code enforcement officer and provide an opportunity to collect information on trends. The notification would be sent to the Public Works Director and Facilities manager. They would review the notification and suggest options so it can be an education opportunity instead of enforcement. There is no way to enforce the waivers, which will be complaint driven and hard to investigate.

Councilor Noonan suggested the waiver and notification are essentially the same thing as there is no town capacity on expertise right now. She prefers the waiver, if it could be effectively administered, but it can't be administered.

Chair Jordan suggested the waiver will be no more effective and the public works director supports the notification option. She wants to emphasize education, the Recycling Committee has done well with recycling education, and she would like to expand their reach to include pesticides.

Councilor Caitlin Jordan agrees.

The committee agreed to replace the waiver provision with the notification concept. They want the notification form to be set up on the website, and then when submitted, automatically update a report list on the website that anyone can check.

Chair Jordan allowed additional public comment.

Mrs. Ross – She wants the town policy to have a title that promotes non-toxic alternatives. She objects to eliminating the waiver provision. The waiver system gets every company with a license to comply with the ordinance. Companies are using organic methods and homeowners are satisfied. Also, not everyone can afford a licensed applicator.

The committee discussed adding an abutter notification requirement to the Notification provision, but then there would be questions about whether the notification was done by the home owner. Councilor Jordan supports the website option as a way to notify the public.

Councilor Caitlin Jordan made a motion to move the Pesticide Ordinance to the Town Council for review, seconded by Councilor Noonan, and the motion passed 3-0.

Town pesticide use policy

The committee began with suggestions for the policy name.

Mrs. Ross – In keeping with the guidance to limit the policy name to 6 words, she suggests "Ecosystem health first, pesticide use last" policy.

The committee discussed options and agreed to "Healthy Landscape and Turf Maintenance Policy."

The committee agreed to send the policy to the Town Council as well as an information item, and to recommend the Town Council hold a public hearing on the Pesticide Ordinance recommendations.

Home Business Amendments

The committee reviewed the draft Home Business amendments.

Chair Jordan asked if the Accessory building definition needed to be revised and Ms. O'Meara responded that the existing definition does not conflict with the proposed changes.

The committee discussed making a home business a permitted use, with standards applied by the Code Enforcement Officer, but decided to leave it as a conditional use with standards applied by the Zoning Board of Appeals.

The committee discussed parking requirements. Councilor Jordan noted that on-street parking is currently allowed, and Chair Jordan noted parking complaints that have been received. Councilor Noonan summarized that on-street parking is allowed until it becomes unsafe.

There was concern that a business may compromise the internet access of neighbors, but decided not to add a standard.

Councilor Jordan made a motion to move the Home Business Amendments to the Town Council, seconded by Councilor Noonan, and the motion passed 3-0.