

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. Thomas Sidelinger (207) 721-0600
 Name Telephone Number

Naturalawn of America
 Company Name

16 Meadow Rd Exn Topsham Me 04086
 Address City State Zip

II. Ben Goodall CMA3802
 Master Applicator (if applicable) License Number

16 Meadow Rd Exn Topsham Me 04086
 Address City State Zip

III. **As part of your application, please send digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov**

IV. Area(s) where pesticide will be applied:
 Product will be applied on affected turf areas around the home.

Property address is: 11 Hurricane Ridge Ext, Harpswell, Me

V. Pesticide(s) to be applied:
Dylox EPA Reg No. 432-1308

VI. Purpose of pesticide application:
Treat active white grub population.

VII. Approximate dates of spray application:

14-20 September

VIII. Application Equipment:

Handheld and push spreader.

IX. Standard(s) to be varied from:

Application may breach the 25ft high water mark buffer zone. The property sits atop a cliff.

X. Method to ensure equivalent protection:

The product will only be applied in near zero wind conditions. Additionally we will apply the product as low to the ground as possible to limit drift. We will be watering the product in immediately to ensure translocation into the soil.

Absorbent socks will be laid out at the edge of the cliff to catch any potential run off.

Signed: Thomas Sidelinger, Operations Manager

Date: 9/8/20

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**
OR E-mail to: pesticides@maine.gov



N

O'CONNELL LOT II HURRICANE RIDGE EXTENSION
HARPSWELL MARINE

N

TO PORTS POINT

HURRICANE RIDGE ROAD

HARPSWELL ROUTE 123

ESTES COAST

NORTH TO
BRUNSWICK

CAUSEWAY



XXXXX Area of grub infestation on slope

S

E

Couture, Amanda

From: Pesticides
Sent: Wednesday, September 09, 2020 12:22 PM
To: Couture, Amanda
Subject: FW: OConnell Application For Variance. For Sept. 18 Board Meeting

From: karen70now <karen70now@yahoo.com>
Sent: Wednesday, September 09, 2020 9:02 AM
To: Pesticides <Pesticides@maine.gov>
Subject: OConnell Application For Variance. For Sept. 18 Board Meeting

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am sending this application as background on the problem as I had prepared it not certain who should submit application myself or pesticide applicator.

The applicator referred me to the Board initially and they sent me instructions.

I did not want to miss this Wednesday deadline for submission.

Tom Sidelinger submitted an application on Tuesday evening as well. Therefore I reference that application for methods proposed to be used as I do not have specifics as yet.

BOARD OF PESTICIDE CONTROL
APPLICATION FOR VARIANCE PERMIT

I. NAME. KAREN O'CONNELL.

PHONE 207 844 0010

207 833 6265

COMPANY NAME-----

I PLAN TO USE NATURAL LAWN OF AMERICA FOR LAWN GRUB TREATMENT.

ADDRESS /LOCATION of PROPERTY -----

11 HURRICANE RIDGE EXTENSION

HARPSWELL MAINE

mail address is
PO Box 447 Harpswell Maine

II. MASTER APPLICATOR -----please refer to Mr. Sidelinger application

III. DIGITAL PHOTOS SENT UNDER SEPARATE EMAILS-----

Please advise if photos have arrived sent by Tom Sidelinger.

IF BOARD VIEWS AREA ON GOOGLE MAPS, IT IS THE 2ND HOUSE ON EASTERN SIDE JUST SOUTH OF THE CAUSEWAY SOUTH OF ESTES LOBSTER HOUSE ON ROUTE 123. HARPSWELL.

PLEASE NOTE GOOGLE MAPS MAY NOT BE ACCURATE AS TO OUR LOCATION AND TEND TO GO TO HURRICANE RIDGE ROAD RATHER THAN HURRICANE RIDGE EXTENSION WHERE WE LIVE. You need to move North on map to causeway then 2nd house South of causeway on east side is ours. A curved walkway shows on property.

I submitted via separate email a rough sketch of location showing the area of worst infestation in yellow and location of Honeysuckle buffer.

IV. AREA WHERE PESTICIDE WILL BE APPLIED.-----

WE ARE APPLYING TO USE PESTICIDE ON AN AREA OF PROPERTY WHICH WAS PREVIOUSLY NOT TREATED DUE TO IT'S PROXIMITY TO WATER.

WE WILL BE USING GRUB CONTROL ON OUR GRASSED AREA (ABOUT 65% OF OUR ONE THIRD ACRE LOT)
OTHER AREAS OF LOT CONSIST OF BIRCH AND OTHER TREES (naturalized no lawn West side of property)
And HONEY SUCKLE AND OTHER HEDGE TYPE PLANTS (buffer on eastern cliff edge).

V. TYPE OF PESTICIDE TO BE APPLIED-----

QUICK ACTING AND RAPID BREAKDOWN

Please refer to Tom Sidelinger application

VII. PURPOSE OF PESTICIDE-----

TO REDUCE/ CONTROL AN INCREASING 4 YEAR GRUB PROBLEM WHICH PUTS EASTERN SLOPE AT RISK OF WASH OUT TO OCEAN WATERS.

AS BACKGROUND, I HAVE AVOIDED USE OF CHEMICALS ON PROPERTY. I HAVE HAND PULLED WEEDS. I ReDIRECT HONEYSUCKLE BACK INTO ITSELF AND IT HAS BEHAVED FOR 21 YEARS. WE HAVE LIVED ON PROPERTY SINCE 1999. THE FIRST USE AND ONLY USE OF PESTICIDE CHEMICALS WAS 2018.

GRUB INFESTATION BEGAN AS A 30 FOOT AREA ON SUNNY EASTERN FACING SLOPE AND HAS ADVANCED OVER PAST 3 YEARS TO INVOLVE THE ENTIRE 75 FOOT SLOPE AND MOVING TO OTHER AREAS OF OUR PROPERTY AND NOW NEIGHBORS YARDS AS WELL.

THE SLOPE WAS A HEALTHY LAWN FOR APPROX.16 YEARS. APPARENTLY ITS EASTERN FACING LOCATION AND FULL DAYS SUN CAUSE IT TO BE IDEAL LOCATION FIR GRUBS.

SPRING 2017 AREAS OF GRASS ON SLOPE LOOKED BROWN AND DID NOT GREEN UP MUCH DURING SUMMER.

SPRING OF 2018, ON A 30 FOOT AREA OF THE SLOPE THE GRASS HAD THE APPEARANCE OF BEING TOTALLY ROTO -TILLED.(ANIMAL ACTIVITY PURSUING GRUBS) GRASSES WERE TOTALLY DEAD AND TURNED UP AND AREA AT RISK OF WASHING OUT.

THIS OCCURRED AGAIN SPRING OF 2019 AND 2020

FOR TWO YEARS (SPRING 2018 AND 2019) I PLANTED CLOVER GROUND COVER TO KEEP THE SLOPE FROM WASHING OUT. THE CLOVER GREW NICELY BUT THEN WAS TOTALLY TORN UP EACH SPRING.

SPRING OF 2018, OTHER AREAS OF THE LAWN BECAME INFESTED AND DUG UP AND WE TREATED THOSE WITH GRUB PRODUCT. I TRIED NEMATODES ON THE SLOPE BECAUSE IT WAS TOO CLOSE TO WATER TO USE GRUB PESTICIDE CONTROL. THAT DID NOT WORK.

GRUB PROBLEM CONTINUES ON MANY AREAS OF LAWN THIS YEAR WITH SLOPE THE WORST.

***CURRENTLY THE SLOPE IS BARE EARTH WITH CRAB GRASS. NO OTHER GRASS UNDER THE CRAB GRASS.

I WANT TO TREAT THIS FALL AND NEXT SPRING SO THAT GRASSES to be planted this Fall (RECOMMENDED BY GARY FISH) WILL NOT BE DESTROYED THIS FALL AND NEXT SPRING.

VII. APPROXIMATE DATES FOR APPLICATION-----

SEPTEMBER 2020 AND SPRING 2021 AS GRUBS COME TO SURFACE.

VIII. APPLICATION EQUIPMENT -----

SPREADER AND WATER SPRAYER

TO SETTLE AND ACTIVATE PRODUCT

Please refer to Tom Sidelinger application.

I understand there may be Town Ordinances that limit products, and will be checking on this.

IX. STANDARDS TO BE VARIED FROM ---

APPLICATION WILL BE CLOSER THAN THE 25 FOOT SET BACK BUT BETWEEN 10 AND 5 FOOT DISTANT FROM CLIFF EDGE

X. METHOD TO ENSURE EQUIVALENT PROTECTION -----

Please Refer to Tom Sidelinger application

I will call in on day of meeting to answer questions.

SKETCH OF PROPERTY SENT SEPARATE EMAIL

Sent via the Samsung Galaxy S9, an AT&T 5G Evolution capable smartphone



Dylox[®]
6.2

GRANULAR INSECTICIDE

For Control of White Grubs, Mole Crickets, Sod Webworms,
Cutworms, and Other listed Pests of Turfgrass
Controls damaging insects below the soil surface

Provides control of Japanese beetle grubs

ACTIVE INGREDIENT:

Trichlorfon, Dimethyl (2,2,2-trichloro-
1-hydroxy-ethyl)phosphonate 6.2%

OTHER INGREDIENTS: 93.8%

TOTAL: 100.0%

STORE IN A DRY PLACE

Treats 10,000 sq ft for White Grubs and Mole Crickets

Treats 15,000 sq ft for Sod Webworms

EPA Reg. No. 432-1308

EPA Est. No. 070989-MO-001

STOP - READ THE LABEL BEFORE USE.

KEEP OUT OF REACH OF CHILDREN.

CAUTION

PARA EL USUARIO: Si usted no lee o entiende inglés, no use este
producto hasta que le hayan explicado completamente las instruc-
ciones que figuran en la etiqueta.

(TO THE USER: If you cannot read or understand English, do not use
this product until the label has been fully explained to you.)

For MEDICAL And TRANSPORTATION Emergencies ONLY Call 24
Hours A Day 1-800-334-7577

For PRODUCT USE Information Call 1-800-331-2867

FIRST AID

Contains an organophosphate that inhibits cholinesterase.

If swallowed:	<ul style="list-style-type: none">• Call a poison control center or doctor immediately for treatment advice.• Have person sip a glass of water if able to swallow.• Do not induce vomiting unless told to do so by a poison control center or doctor.• Do not give anything to an unconscious person.
If in eyes:	<ul style="list-style-type: none">• Hold eye open and rinse slowly and gently with water for 15 to 20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing.• Call a poison control center or doctor for treatment advice.

Have the product container or label with you when calling a poison control center or doctor or going for treatment. The Bayer Environmental Science Emergency Response Telephone No. is 1-800-334-7577.

Note To Physician: Prolonged exposure will cause cholinesterase depression. Atropine Sulfate is antidotal. 2-PAM is also antidotal and may be administered in conjunction with atropine.

Net Contents
30 Pounds

SKU #0909274

03545249D 150120AV1

White Grubs





Dylox[®]
6.2

GRANULAR INSECTICIDE

PRECAUTIONARY STATEMENTS

HAZARDS TO HUMANS AND DOMESTIC ANIMALS

CAUTION

Harmful if swallowed. Causes moderate eye irritation. Do not take internally. Do not breathe dust. Avoid contact with eyes, skin, or clothing. Prolonged or frequently repeated skin contact may cause allergic reactions in some people.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Mixers, Loaders, Applicators and other handlers must wear:

- Long-sleeved shirt and long pants
- Shoes plus socks

Follow manufacturer's instructions for cleaning/ maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

User Safety Recommendations

Users should:

- Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

This product is toxic to fish, birds, and wildlife. Do not apply directly to water. Do not contaminate water by cleaning of equipment or disposal of wastes. Do not apply when turf grass areas are water-logged or the soil is saturated with water (i.e. will not allow penetration into the root zone of the plant). Avoid run-off or puddling of irrigation water following application.

To protect the environment, do not allow pesticide to enter or run off into storm drains, drainage ditches, gutters, or surface waters. Applying this product in calm weather when rain is not predicted for the next 24 hours will help to ensure that wind or rain does not blow or wash pesticide off the treatment area. Sweeping any product that lands on a driveway, sidewalk, or street, back onto the treated area of the lawn or garden will help to prevent run off to water bodies or drainage systems.

Use only as directed on this label. Do not use on crops used for food or forage.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

IMPORTANT: Read these entire Directions for Use before using DYLOX 6.2 Granular Insecticide. **Do not use on turf being grown for sale or other commercial use as sod, or for commercial seed production or for research purposes except for research involving use of this product that is consistent with this label.**

ENTRY RESTRICTIONS

Do not enter or allow others to enter the treated area (except those persons involved in the incorporation) until the incorporation is complete. Incorporation is to be accomplished by watering-in. Do not enter or allow others to enter the treated area until the surface is dry after the watering-in. For home lawns, notify the property owner that he or she must water-in the product promptly or within the same day.

RESTRICTIONS

- Do not apply this product in a way that will contact workers or other persons, either directly or through drift.
- Only protected handlers may be in the area during application.
- Aerial application is prohibited.
- Use this product only on the turf sites permitted by this label.
- Do not apply this product using hand-held or chest-mounted spreaders.
- ~~The applicator must water-in the product after application, or notify the property owner that he or she must water-in after application on the same day.~~
- Limit the number of applications to turf to 3 per calendar year with minimum retreatment intervals of 7 days.
- Limit the total of all applications to 24.5 lbs of active ingredient (395 lbs of product) per acre per year for controlling mole crickets and grubs and to 16.2 lbs of active ingredient (261 lbs of product) per acre per year for controlling surface feeding insects.
- Apply this product directly to the lawn or garden area. Water treated area as directed on this label.
- Do not water to the point of run-off. Do not make applications during rain.
- Application is prohibited directly into sewers or drains, or to any area like a gutter where drainage to sewers, storm drains, water bodies, or aquatic habitat can occur. Do not allow the product to enter any drain during or after application.

Additional Restrictions For Turf on Golf Courses

- Do not apply within 25 feet of lakes, reservoirs, rivers, permanent streams, marshes, natural ponds, or estuaries.
- Broadcast use is limited to tees and greens. Use on fairways is limited to spot treatments.
- Post-application watering-in is mandatory.

PRODUCT SPECIFICATIONS

DYLOX® 6.2 GRANULAR INSECTICIDE	<ul style="list-style-type: none">• Granular Insecticide containing 6.2% trichlorfon
CONTROLS	<ul style="list-style-type: none">• White Grub Larvae (such as larvae of Asiatic garden beetle, black turfgrass atanius, European chafer, green June beetle, Japanese beetle, <i>Aphodius</i> spp., May or June beetles (<i>Phyllophaga</i> spp.), northern and southern masked chafers (<i>Cyclocephala</i> spp.), oriental beetle and sugarcane grubs (<i>Tomarus</i> spp.))• Mole crickets• Annual bluegrass weevil• Billbug larvae• Sod webworms and cranberry girdler• Cutworms and armyworms• Chinch bugs
WHERE TO APPLY	<ul style="list-style-type: none">• All types of turf where pests have been seen or found excluding turf where application is not allowed. See IMPORTANT: above.
COVERAGE	<ul style="list-style-type: none">• One bag (30 lbs) will treat 10,000 sq ft for white grubs, annual bluegrass weevil, chinch bugs, cranberry girdler, and mole crickets.• One bag (30 lbs) will treat 15,000 sq ft for sod webworms, armyworms, and cutworms.
HOW TO APPLY	<ul style="list-style-type: none">• Do not apply with hand-held or chest-mounted spreader.• Apply granules using a broadcast or drop type spreader.
QUESTIONS	For questions or comments, call toll free 1 (800) 331-2867.

SURFACE FEEDING INSECTS

Sod webworm, cranberry girdler, cutworm, and armyworm

Use Rate	<ul style="list-style-type: none">• 2-3 pounds per 1,000 sq. ft. of turf.• Refer to chart for spreader settings (Make sure your spreader is calibrated for this product before application).
How to Apply	<ul style="list-style-type: none">• For properly managed turf remove excessive thatch, which encourages insects. Rake or de-thatch the area and remove the debris to expose insect hiding places.• Water the turf and cut to proper height.• Apply granules with a broadcast or drop type spreader.• To release the active ingredient from the granule, the applicator must water-in after application or notify the property owner that he or she must water-in, on the same day as application, with sufficient water to thoroughly wet the remaining thatch. If sufficient rainfall to thoroughly wet the thatch occurs after application but before watering-in, additional watering-in is not required.
When to Apply	<ul style="list-style-type: none">• Treat when the insects are present.• To control multiple generations of sod webworm larvae, additional treatments at 30- to 40-day intervals during the summer months may be required. Do not make more than 3 applications per calendar year.

Apply Dylox 6.2 Granular Insecticide uniformly over the area being treated with normally used granular application equipment. Both drop-type and rotary-type spreaders may be used to apply Dylox 6.2 Granular Insecticide. Do not use spreaders that would apply the material in concentrated bands. Calibrate application equipment prior to use according to the manufacturer's directions. Check frequently to be sure equipment is working properly and distributing granules uniformly and accurately.

Spreader Settings 2 pounds per 1,000 sq ft

SPREADER	SETTING	SPREADER	SETTING
Cyclone Pro	4	Scott's R7X	H
Cyclone-Roto	3	Spyker Pro	4
Lely Broadcast	2.5	Greenview (Model 105)	6.5
Lesco Rotary	11	Earthway (Model 2600)	8
Prize CB85, CB T85	4.5	Sears Broadcast	3.5
Scott's Drop	4	Sears Drop	6
(30 pounds will treat 15000 sq ft at this rate)			

Spreader Settings 3 lb/1,000 sq ft

SPREADER	SETTING	SPREADER	SETTING
Cyclone Pro	4.75	Scott's R7X	J
Cyclone-Roto	3.5	Spyker Pro	4.7
Lely Broadcast	2.9	Greenview (Model 105)	7.5
Lesco Rotary	14	Earthway (Model 2600)	10
Prize CB85, CB T85	5	Sears Broadcast	4
Scott's Drop	4.5	Sears Drop	7
(30 pounds will treat 10,000 sq ft at this rate)			

ROOT FEEDING INSECTS

<p>annual bluegrass weevil (larvae) Billbugs (larvae) cranberry girdler mole crickets chinch bugs</p>	<p><u>white grub larvae</u>: larvae of Asiatic garden beetle, black turfgrass ataenius, European chafer, green June beetle, Japanese beetle, <i>Aphodius</i> spp., May or June beetles (<i>Phyllophaga</i> spp.), northern & southern masked chafers (<i>Cyclocephala</i> spp.), Oriental beetle, and sugarcane grubs (<i>Tomarus</i> spp.)</p>
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Use Rate	<ul style="list-style-type: none"> 3 pounds per 1,000 sq. ft. of turf. Refer to chart for spreader settings (Make sure your spreader is calibrated for this product before application).
How to Apply	<ul style="list-style-type: none"> Ensure that there is no more than 1/2 inch of thatch present at time of application. Under dry conditions, prewater prior to application for control of white grub and weevil larvae. Water the turf and cut to proper height. Apply granules with a broadcast or drop type spreader. The applicator must water-in after application or notify the property owner that he or she must water-in, on the same day as application, with sufficient water to thoroughly wet the remaining thatch and move the product to the root zone. If sufficient rainfall to thoroughly wet the thatch occurs after application but before watering-in, additional watering-in is not required.
When to Apply	<ul style="list-style-type: none"> Apply when pests are present. Consult your Agricultural Extension Service for the best time to treat in your area. A second treatment may be needed for mature large sized grubs.

STORAGE AND DISPOSAL

Do not contaminate water, food, or feed by storage or disposal.

PESTICIDE STORAGE:	<ul style="list-style-type: none">• Store in its original container in a cool, dry, locked place out of reach of children.
PESTICIDE DISPOSAL:	<ul style="list-style-type: none">• Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.
CONTAINER HANDLING:	<ul style="list-style-type: none">• Nonrefillable container. Do not reuse or refill this container. Completely empty bag into application equipment. Offer for recycling, if available or dispose of empty bag in a sanitary landfill.

IMPORTANT: READ BEFORE USE

Read the entire Directions for Use, Conditions, Disclaimer of Warranties and Limitations of Liability before using this product.

If terms are not acceptable, return the unopened product container at once. By using this product, user or buyer accepts the following Conditions, Disclaimer of Warranties and Limitations of Liability.

CONDITIONS: The directions for use of this product are believed to be adequate and must be followed carefully. However, because of manner of use and other factors beyond Bayer CropScience LP's control it is impossible for Bayer CropScience LP to eliminate all risks associated with the use of this product. As a result, crop injury or ineffectiveness is always possible. All such risks shall be assumed by the user or buyer.

DISCLAIMER OF WARRANTIES: TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, BAYER CROP-SCIENCE LP MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, THAT EXTEND BEYOND THE STATEMENTS MADE ON THIS LABEL. No agent of Bayer CropScience LP is authorized to make any warranties beyond those contained herein or to modify the warranties contained herein. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, Bayer CropScience LP disclaims any liability whatsoever for special, incidental or consequential damages, resulting from the use or handling of this product.

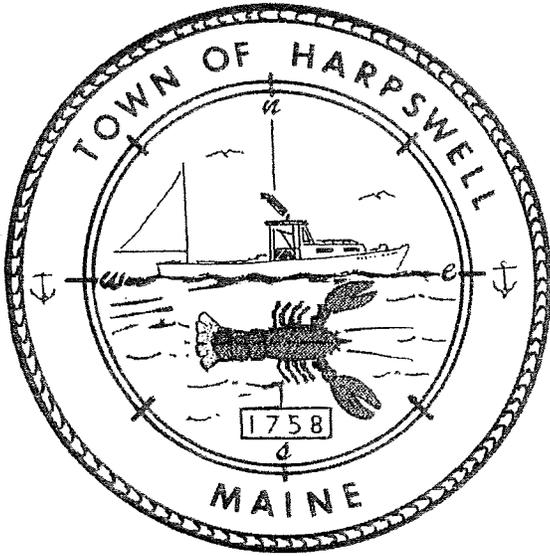
LIMITATIONS OF LIABILITY: TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE USER OR BUYER FOR ANY AND ALL LOSSES, INJURIES OR DAMAGES RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT, WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE PAID, OR AT BAYER CROP-SCIENCE LP'S ELECTION, THE REPLACEMENT OF PRODUCT.

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Produced for:
Bayer Environmental Science
A Division of Bayer CropScience LP
2 T. W. Alexander Drive
Research Triangle Park, NC 27709

Bayer



*Town of
Harpswell
Maine
2018*

Outdoor Pesticides Control and Fertilizer Use Ordinance

TOWN OF HARPSWELL
Outdoor Pesticides Control and
Fertilizer Use Ordinance

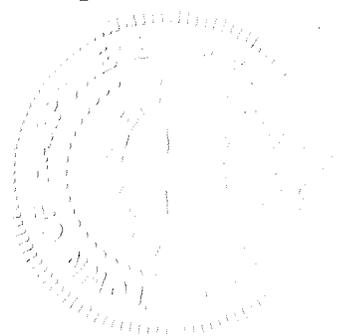
Enacted May 20, 2004
Amended March 12, 2016
Amended March 11, 2017
Amended March 10, 2018

Harpswell, Maine

Attest: A true and exact copy.

Catherine J Doughty
Town Clerk, Deputy Deputy

Date 03/28/2018



Section 1. Purpose

Scientific studies have shown that certain Insect Growth Regulators (IGR), neonicotinoids 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 bees and lepidopteran pollinators (moths and butterflies). The Town of Harpswell is comprised of approximately 216 miles of coastline, numerous islands and narrow peninsulas such that discharges and runoff from inland areas are extremely close to coastal waters. The application of water soluble fertilizers is apt to runoff into the sea and overload it with nitrogen that causes algal blooms and coastal acidification which affect shellfish by inhibiting their shell formation. The purpose of this Ordinance is to establish regulations that will aid the Town in protecting and maintaining the health of its shellfish resources, marine environment, and pollinators.

Section 2. Definitions

Aerial Spraying – spraying by airplane.

Insect Growth Regulator – a substance or mixture of substances including, but not limited to, azadirachtin, diflubenzuron, and tebufenozide, that act to disrupt the action of insect hormones thereby interrupting or inhibiting the life cycle of insects.

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

Licensed Applicator – a person who applies pesticides, has passed certification exams and is licensed by the Maine Board of Pesticides Control.

Neonicotinoid – a class of neuro-active insecticides including, but not limited to, acetamiprid, clothianidin, imidacloprid, nitenpyram, nithiazine, thiacloprid, and thiamethoxam.

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. Herbicides, fungicides, insecticides, and rodenticides are considered pesticides. 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, are not considered pesticides.

Weed and Feed Fertilizer – a mixture of fertilizer and pesticide.

Section 3. Prohibition and Restrictions on the Outdoor Use of Pesticides

- a) The outdoor use of the following pesticides is prohibited in the Town of Harpswell except for use in conjunction with commercial agriculture, nurseries, or golf courses:

- i. the use and/or application by any person by any method whatsoever of any Insect Growth Regulator (IGR) as defined, or;
 - ii. the aerial spraying of any Insecticide whose product label indicates that it is harmful to aquatic invertebrates.
- b) No outdoor use of a pesticide shall be permitted within twenty-five (25) feet of the maximum high water line of a great pond, stream, tributary stream, the highest annual tide (HAT) of a coastal wetland or the upland edge of a freshwater wetland; except in conjunction with commercial agriculture, nurseries, or golf courses.
- c) The outdoor use and/or application of any neonicotinoid insecticide whose product label indicates that it is harmful to bees or aquatic invertebrates is subject to the following restrictions except in conjunction with commercial agriculture, nurseries, or golf course.
- i. Between twenty-five (25) and two hundred fifty (250) feet of the maximum high water line of a great pond, stream, tributary stream, the highest annual tide (HAT) of a coastal wetland or the upland edge of a freshwater wetland, the use of a neonicotinoid insecticide regulated by this ordinance must be done by a licensed applicator. Uses permitted by licensed applicators are limited to applications by stem injection or painting on wind pollinated trees or plants.
 - ii. Outside of the two hundred fifty (250) foot shoreland zone, neonicotinoid insecticides may be applied by:
 - a) stem injection or tree painting to wind pollinated trees plants, or
 - b) other application methods if applied by a licensed applicator.

Section 4. Use of Licensed Pesticide Applicators

Any application, for which compensation is paid, of general use pesticides, restricted pesticides, or weed and feed fertilizers, shall be done by a licensed applicator.

Section 5. Fertilizer Use Limitation

The outdoor use of fertilizers, except in conjunction with commercial agriculture, nurseries, or golf courses, is subject to the following limitations:

- a) Within the shoreland zone:
 - i. No fertilizer shall be applied within twenty-five (25) feet of the maximum high water line of a great pond, stream, tributary stream, the highest annual tide (HAT) of a coastal wetland or the upland edge of a freshwater wetland.
 - ii. Between twenty-five (25) and two hundred fifty (250) feet of the maximum high water line of a great pond, stream, tributary stream, the highest annual tide (HAT) of a coastal wetland or the upland edge of a freshwater wetland, only non-water soluble fertilizer, compost, or composted manure may be applied.

- b) Outside of the two hundred fifty (250) foot shoreland zone, water soluble chemical fertilizer, sludge or non-composted manure may be applied in addition to those allowed in Section 5(a)(ii).

Section 6. Exemptions

- a) The following materials are not regulated by the provisions of this Ordinance:
 - i. Pet supplies such as shampoos, tick and flea collars, and dusts;
 - ii. Insect repellents;
 - iii. Aerosol products; and
 - iv. Application of materials or substances mandated by state or federal law.

- b) The provisions of this Ordinance do not apply to the following uses:
 - i. Commercial agriculture;
 - ii. Nurseries;
 - iii. Golf courses; and
 - iv. Indoor uses

Section 7. Waiver

The Conservation Commission is authorized to grant waivers from the provisions of this ordinance when a pest presents: a) an immediate threat to human health, or b) an immediate threat of substantial property damage or loss. A waiver may only be granted to a licensed applicator for a specific use of a specific pesticide. The initial approval of a waiver shall be for a period of not more than thirty (30) days. The commission may grant a renewal of a waiver for a period of not more than three (3) years if it finds that the licensed applicator has performed satisfactorily, that the location of the treatment and the pesticide and method of application will be the same as the initial waiver, and that the need for the continuing waiver is the result of the same ongoing infestation or problem.

The licensed applicator who seeks a waiver shall apply to the Code Enforcement Officer. The application shall specify the specific nature of the situation requiring a waiver including an analysis of why other approaches for control of the pest cannot be utilized or will create greater risk to the marine environment and/or pollinators, the pesticide use for which the waiver is sought, the proposed method of application, and measures that will be taken to limit any adverse impacts on the marine environment or pollinators.

Upon receipt of an application for a pesticide use waiver or the renewal of an existing waiver, the CEO shall forward the application to the Conservation Commission which shall consider the application within fifteen (15) days. The Commission may obtain outside assistance in its review of the application.

The Commission shall approve the application only if it finds:

1. That there is an immediate threat to human health or an immediate threat of substantial property damage or loss,
2. That control methods allowed by the ordinance are not adequate to address the threat,
3. That the approach for controlling the pest for which the waiver is requested presents the least risk to the marine environment and/or pollinators, and
4. The licensed applicator will undertake measures to limit the potential adverse impacts on the marine environment.

A decision of the Conservation Commission with respect to the granting of a waiver may be appealed to the Board of Selectmen within fifteen (15) days of the Commission's decision. The Board shall act on an appellate basis in reviewing the decision and may affirm or modify the Commission's decision.

Section 8. Enforcement

When a violation of the provisions of this ordinance is suspected, the Code Enforcement Officer may require that the person, firm, or corporation that is the owner of or having control or use of the property, 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 (IGR) that prevents molting or inhibits exoskeletal formation or any Neonicotinoid or Insecticide whose product label indicates that it is harmful to aquatic invertebrates or bees.

- a) 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 enforcement of this Ordinance.

The following procedure is available to the Code Enforcement Officer when he/she becomes aware of a possible violation of this ordinance and wishes to investigate it:

- 1) If there has been a complaint, the complainant shall document the nature of the complaint using a form provided by the Town and submit the completed form to the Code Enforcement Officer who may, in his/her discretion, choose to meet with the complainant.
- 2) Based on the information available, the Code Enforcement Officer shall make a preliminary determination as to whether there is a possible violation of this ordinance.
- 3) If there is a possible violation of the ordinance involving the use of fertilizers, the Code Enforcement Officer shall attempt to meet with the property owner and/or the applicator of the fertilizer to obtain information on the type of fertilizer applied.
- 4) If there is a possible violation of this ordinance involving the use of pesticides, the Code Enforcement Officer shall obtain information from the applicator of the material on the type and concentration of pesticide applied, the location and method of application, the conditions at the time of application, and any mitigation activities undertaken using a form provided by the Town.

- 5) If the Code Enforcement Officer believes that there could be a violation of the Maine Pesticide Control Board regulations, the Code Enforcement Officer shall contact the enforcement staff of the Board.
 - 6) If there is agreement between the Code Enforcement Officer and the property owner and/or applicator that a violation has occurred, and that the violation was not a willful or repeat violation, the Code Enforcement Officer together with a representative of the Conservation Commission shall meet with the property owner and/or applicator to explain the requirements of this ordinance.
 - 7) If the Code Enforcement Officer determines, based on this information, that there is an unresolved possible violation of this ordinance, he/she shall refer the case to the Board of Selectmen for further action.
- b) The Board of Selectmen shall review any cases of possible violation of this ordinance referred to it by the Code Enforcement Officer to determine if a violation has occurred in accordance with the following:
- 1) The Board of Selectmen shall determine if a violation of the ordinance has occurred. In making this determination, the Board may retain outside expertise to evaluate the information collected and/or obtained by the Code Enforcement Officer, undertake sampling and testing for pesticides, and to provide professional guidance as to whether a violation has occurred. The Board may require the owner of the property subject to the review or the applicator to pay for the collection and testing of appropriate samples if a violation is found. If the Board determines that a violation has occurred, it shall pursue the legal remedies set forth in Section 9.

Section 9. Legal Remedies

When the Board of Selectmen determines that a violation of this ordinance has occurred in accordance with 8.b)1), the Board may enter into a consent agreement with the property owner and/or pesticides applicator setting forth appropriate remedies and remedial actions if necessary, or undertake any and all actions, legal or equitable against the property owner and/or applicator for violation of the ordinance. In the latter case, 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 the Ordinance shall be subject to a fine of 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 request for information on pesticide use or the collection of samples from the property shall result in a fine of not less than \$1,000 and may result in further action by the Town in seeking an administrative inspection warrant for the property.

Section 10. 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.

Section 12. Table of Prohibitions and Restrictions

The following table provides an overview of the prohibitions and restrictions on the outdoor use of pesticides and fertilizers except for applications in conjunction with commercial agriculture, nurseries, and golf courses. Where there is conflict between the table and the descriptions in the preceding sections, the language of Sections 3, 4, 5 and 6 shall apply.

HARPSWELL PESTICIDE/FERTILIZER PROHIBITIONS AND DISTANCE FROM WATER			
CLASS OF PESTICIDE/ FERTILIZER	SHORELAND ZONE		OUTSIDE SHORELAND ZONE
	25' BUFFER	25' – 250'	OVER 250'
Insect Growth Regulator (IGR)	X	X	X
Neonicotinoids: Label indicates harmful to pollinators or aquatic invertebrates	X	Use only permitted by Licensed Applicator on wind pollinated trees or plants using stem injection or painting	Use only permitted on wind pollinated trees or plants using stem injection or painting. Other application methods will not be restricted if applied by a Licensed Applicator.
All other pesticides	X	No restriction	No restriction
Fertilizer	X	Compost Non water soluble nitrogen fertilizer	No restriction

X = Use prohibited

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 41: SPECIAL RESTRICTIONS ON PESTICIDE USE

SUMMARY: This chapter describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox, Proxol); (3) hexazinone (Velpar, Pronone), (4) aquatic herbicides in the State of Maine and (5) plant-incorporated protectants.

Section 1. ALDICARB (TEMIK®)

The registration of aldicarb (Temik 15G) is subject to the following buffer zone requirements:

- A. Aldicarb (Temik 15G) shall not be applied within 50 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in the range of one to ten parts per billion (ppb). The 50 foot buffer would be mandatory for one year with a required retesting of the water at the end of the period.
- B. Aldicarb (Temik 15G) shall not be applied within 100 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in excess of 10 ppb. The 100 foot buffer would be mandatory for one year with a required retesting of the water at the end of this period.

Section 2. TRICHLORFON (DYLOX, PROXOL)

The registration of trichlorfon (Dylox, Proxol) is subject to the following requirements:

- A. Trichlorfon shall only be used for control of subsurface insects on turf.
- B. Prior to application the target pest must be identified and the severity of the infestation must be determined, including the extent of the damage.
- C. Only infested areas shall be treated with trichlorfon. Broadcast treatments of the entire turf area are prohibited.
- D. Following application, the trichlorfon must be watered into the soil with at least ½ inch of water and according to the label directions. The applicator must assure that the appropriate watering will take place prior to re-entry by any unprotected person.

Section 3. HEXAZINONE (VELPAR, PRONONE)

The registration of hexazinone is subject to the following limitations and conditions.

A. Licenses Required

No person shall use or supervise the use of any pesticide containing the active ingredient hexazinone unless they have obtained an applicators license in accordance with 22 M.R.S. §1471-D.

Section 4. AQUATIC HERBICIDES

The registration of pesticides for which there is an aquatic herbicide use on the product label shall be subject to the following limitations and conditions.

A. Board Publication of List

The Board of Pesticides Control will publish by May 23, 2003 and by March 15th of each year thereafter a list of herbicide products registered in Maine for which the manufacturer has verified that there is an aquatic use on the pesticide label. Based on available information, the Board may exempt from this list pesticides that it determines are not for use in the control of aquatic vegetation. Pesticides labeled solely for use in aquariums and antifouling paints, are specifically exempt from this list.

B. Licenses Required

- I. Unless exempted under Chapter 41, Section 4 (B) (III), no person shall purchase, use or supervise the use of any aquatic herbicides identified on the Board's annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.
- II. No person shall:
 - a. Distribute any aquatic herbicides identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board; or
 - b. Unless exempted under Chapter 41, Section 4 (B) (III), distribute any aquatic herbicides identified on the Board's annual listing to any person who is not licensed as a private or commercial applicator by the Board.
- III. Registered herbicides containing only the active ingredients erioglaucine (Acid Blue 9 or FD&C Number 1, CAS Registry No. 1934-21-0) and/or tartrazine (Acid Yellow 23 or FD&C Yellow Number 5, CAS Registry No. 2650-18-2 (trisodium salt) or 3844-45-9 (triammonium salt)) are exempt from the applicator licensing requirements described in Chapter 41, Section 4 (B) (I) and Chapter 41, Section 4 (B) (II) (b).

C. Disclosure

The Board will make a disclosure form available to dealers distributing any aquatic herbicides identified on the Board's annual listing. The Board requests that dealers present to customers the disclosure form that advises purchasers that, (1) an aquatic discharge license must be obtained from the Maine Department of Environmental Protection before any application may be made to any surface waters of the State as defined in 38 M.R.S.A. Section 361-A(7) including any private ponds that may flow into such a body of water at any time of year, (2) that Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection on the use of aquatic herbicides are available.

D. Records and Reporting

Dealers distributing any aquatic herbicides identified on the Board's annual listing shall keep records of such sales and provide reports to the Board as described for restricted use pesticides in Chapter 50, "Record Keeping and Reporting Requirements."

E. Use of Best Management Practices

Aquatic herbicides applied to private ponds and not subject to an aquatic discharge permit may only be applied consistent with Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection.

Section 5. PLANT-INCORPORATED PROTECTANTS

The registration, distribution and use of plant-incorporated protectants are subject to the following limitations and conditions:

A. Definitions

"Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance.

B. License Required

No person shall distribute any plant-incorporated protectant without either a general use pesticide dealer license or a (restricted or limited use) pesticide dealer license from the Board.

C. Dealer Requirements

Dealers distributing plant-incorporated protectants are subject to the following requirements:

- I. General use and (restricted or limited use) pesticide dealers shall notify the Board of their intent to distribute plant-incorporated protectants on all initial license and license renewal application forms provided by the Board.
- II. General use and (restricted or limited use) pesticide dealers shall maintain sales records showing the list of the names and addresses of all purchasers of plants, plant parts or seeds containing plant-incorporated protectants. These records must be made available to representatives of the Board for inspection at reasonable times, upon request, and must be maintained for two calendar years from the date of sale.
- III. Any general use and (restricted or limited use) pesticide dealer who discontinues the sale of plant-incorporated protectants shall notify the Board in writing and shall provide the Board, upon request, with all records required by Section 5(C)II of this chapter.

D. Grower Requirements

- I. All users of plant-incorporated protectants shall maintain the records listed below for a period of two years from the date of planting. Such records shall be kept current by recording all the required information on the same day the crop is planted. These records shall be maintained at the primary place of business and shall be available for inspection by representatives of the Board at reasonable times, upon request.
 - a. Site and planting information, including town and field location, a map showing crop location and refuge configuration in relation to adjacent crops within 500 feet that may be susceptible to cross-pollination;
 - b. Total acres planted with the plant-incorporated protectant and seeding rate;
 - c. Total acres planted as refuge and seeding rate;
 - d. Detailed application information on any pesticide applied to the refuge as described in Section 1(A) of Chapter 50, "Record Keeping and Reporting Requirements"; and
 - e. Planting information for each distinct site including:
 - i. date and time of planting; and
 - ii. brand name of the plant-incorporated protectant used.
- II. There are no annual reporting requirements for growers.

E. Product-Specific Requirements

- I. Requirements for plant-incorporated protectant corn containing *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production.
 - a. Prior to planting plant-incorporated protectant corn containing any *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for

its production, the grower must have completed a Board-approved training course and possess a valid product-specific training certificate.

- b. Product-specific training certificates shall be issued following each Board-approved session. The certificates will remain valid until December 31 of the third year after issuance.
 - c. Non-Bt-corn growers whose crops are or will be located within 500 feet of a prospective Bt-corn planting site can request that the Bt-corn grower protect the non-Bt-corn crop from pollen drift.
 - i. the request must be made prior to planting of the Bt-corn crop;
 - ii. the request must identify the non-Bt-corn crop to be protected; and
 - iii. the growers may agree on any method for protection but, if an agreement cannot be reached,
 - 1. the Bt-corn grower must plant any refuge required by the Bt-corn grower agreement, grower guide or product label in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt-corn crop; or
 - 2. if no refuge is required, the Bt-corn grower shall maintain at least a 300-foot Bt-corn-free buffer to non-Bt-corn crops.
 - d. Bt-corn growers are encouraged to follow all best management practices developed by the Board or the Department of Agriculture, Conservation and Forestry.
- II. Dealers distributing Bt-sweet corn shall only sell the seed in quantities large enough to plant one acre or more.

F. **Confidentiality**

Any person providing information to the Board in connection with the record-keeping and reporting requirements of Section 5 of this chapter may designate that information as confidential in accordance with 7 M.R.S.A. §20.

STATUTORY AUTHORITY: 5 M.R.S.A. §§ 8051 *et seq.*
7 M.R.S.A. §§ 601-610
22 M.R.S.A. §§ 1471-A, 1471-B, 1471-C, 1471-D, 1471-M

EFFECTIVE DATE:
March 8, 1981 (Captan)

AMENDED:
May 7, 1981 (Trichlorfon)
January 2, 1984 (Aldicarb)
May 8, 1988 (Trichlorfon)
August 5, 1990 (Captan)
August 17, 1996 (Hexazinone)
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
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April 30, 2007 – filing 2007-154
February 3, 2008 – filing 2008-36
July 16, 2009 – filing 2009-253 (final adoption, major substantive)
May 3, 2012 – filing 2012-99 (final adoption, major substantive)

CORRECTIONS:
February, 2014 – agency names, formatting

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