



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Office of the Inspector General • 7833 Walker Drive, Suite 425 • Greenbelt, Maryland 20770

June 4, 2018

To: Catherine Cummings, Safe Grow Montgomery, MD

From: Renee Kenney, Inspector General
Maryland-National Capital Park and Planning Commission

Re: Compliance with Montgomery County Code, Chapter 33B, Pesticides

The purpose of this memorandum is to document the Office of the Inspector General's (OIG) response to your recent inquiries regarding the Maryland-National Capital Park and Planning Commission's (Commission), Montgomery County Department of Parks, (Montgomery Parks) compliance with Bill 52-14, adopted into Montgomery County Code, Chapter 33B, Pesticides.

You contacted my office on April 25, 2018 with two (2) concerns:

- Montgomery County Department of Parks failure to reply to Safe Grow Montgomery and Montgomery County Councilmembers inquiries; and
- Montgomery County Department of Parks non-compliance with the required regulations, specifically, the continued use of pesticides at Commission parks.

On April 26, 2018, Mr. Mike Riley, Director, Montgomery County Department of Parks sent you, and others, information on the athletic field pilot, along with a link to the Commission's semi-annual report on Montgomery County Parks Pesticide Use Report. (Copy Attached)

Consequently, you contacted my office on May 7, 2018 to ask for guidance on completing a compliance investigation as Safe Grow Montgomery disputes the details disclosed in the semi-annual report. Subsequently, the OIG completed a limited review of the County requirements¹ to assess the Commissions level of compliance.

¹ County regulations may be preempted by state law.

Article 4. County Property and Parks requires:

Sec. 33B-14. County parks.

- (a) *Policy.* It is the policy of Montgomery County to promote environmentally sensitive landscape pest management in its parks by phasing out the use of the most hazardous pesticides and reducing overall pesticide use while preserving landscape assets, maintaining functionality of playing fields, and protecting the health and safety of the public and County employees. To carry out this policy, the Parks Department must, subject to appropriation, implement the provisions of this Section.
- (b) *Pesticide-free parks.* The Parks Department must implement a pesticide-free parks program that, at a minimum consists of:
- (1) the maintenance of certain parks entirely without the use of registered pesticides other than listed pesticides;
 - (2) a program for reducing the use of registered pesticides other than listed pesticides on playing fields that includes:
 - (A) a pilot program consisting of at least five playing fields maintained without the use of registered pesticides other than listed pesticides that:
 - (i) is conducted in consultation with an expert in organic turf management, with experience in successful transitions from conventional to organic turf management; and
 - (ii) includes a publicly available plan describing the practices and procedures used;
 - (B) maintenance of all other playing fields using an integrated pest management program; and
 - (C) a plan submitted to the Council by September 2019 for transitioning to maintenance of all playing fields without the use of registered pesticides other than listed pesticides by 2020; and
 - (3) a public Communication campaign to inform the public of the existence and progress of the pesticide-free park program.
- (c) *Pesticide usage protocols.* The Parks Department must develop usage protocols which limit the use of registered pesticides other than listed pesticides to the maximum extent possible and, subject to the exceptions in subsection (d):

- (1) do not permit the use of registered pesticides other than listed pesticides within 25 feet of a waterbody;
 - (2) except where immediate application is necessary to protect human health or prevent significant economic damage, include the posting of notice of each planned application of a registered pesticide other than a listed pesticide on the appropriate Parks Department website and in the area where the pesticide is to be applied, from at least 48 hours before application through at least 48 hours after application, that includes:
 - (A) the common name of the pesticide;
 - (B) the location of the application;
 - (C) the planned date and time of the application; and
 - (D) the reason for the use of the pesticide; and
 - (3) provide for pesticide application information required under paragraph (c)(2) to be made available to the public in real-time and in a manner consistent with the Montgomery County Open Data Act, Chapter 2, Article XIV of this Code.
- (d) *Exceptions.* The pesticide-free park program and pesticide usage protocols may generally permit the application of a registered pesticide to:
- (1) control of weeds as defined in Chapter 58, Weeds;
 - (2) control of invasive species listed in a regulation adopted under subsection 33B-5(c);
 - (3) control disease vectors;
 - (4) control biting or stinging insects or stinging plants;
 - (5) control organisms that threaten the health of trees or shrubs;
 - (6) remove weeds as part of the renovation of a playing field;
 - (7) control pests while engaged in agriculture; and
 - (8) otherwise protect human health or prevent significant economic damage.
- (e) *Reporting requirement.* The Parks Department must submit semi-annual reports to the County Executive and County Council on or before January 15 and July 15 of each year that:

- (1) detail registered pesticide usage, other than listed pesticide usage in County parks during the preceding year, including:
 - (A) the common name of each registered pesticide used;
 - (B) the location of each application;
 - (C) the date and time of each application; and
 - (D) the reason for each use of a registered pesticide;
- (2) describe the status of the pesticide-free parks program implemented under this Section; and
- (3) are available to the public in a manner consistent with the Montgomery County Open Data Act, Chapter 2, Article XIV of this Code.

As part of this review, the OIG completed interviews with Montgomery County Department of Parks personnel, and compared details disclosed in the posted semi-annual report to the requirements included in Montgomery County Code, Chapter 33b, to assess the Commission's level of compliance with County regulations. The OIG reasonably determined:

- The Commission selected 11 parks for the pesticide-free park pilot program. The parks are maintained without the use of registered pesticides other than listed pesticides. The semi-annual report identifies the eleven parks.
- The semi-annual report also discusses exceptions to pesticide use (e.g. fence-line management, and mulch tree rings). These exceptions are provided for in section 33-14(d).
- As part of the required program for reducing the use of registered pesticides, Montgomery County Department of Parks is working with organic turf management expert, Chip Osborn of Osborne Organics, LLC on its pilot program. Details of the program are included in the semi-annual report.
- Montgomery Parks is currently working through the procurement process to hire a contractor to maintain the 10 playing fields identified by Osborne Organics, LLC. (Note: five organic fields and five conventional use fields were identified as part of the pilot program.)
- The semi-annual report includes details on informing the public and staff training.
- This information is available on the Commission's website, as well as in the semi-annual reports.

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Based on our analysis, it appears that Montgomery Parks pesticide management program complies with Montgomery County Code, Chapter 33B.

The Parks Department must still finalize their maintenance plan for the athletic fields included in the pilot. The Parks Department is on schedule for submitting a plan to the Council by September 2019 for transitioning to maintenance of all playing fields without the use of registered pesticides other than listed pesticides by 2020.

Scope Limitation: The OIG has not completed any testing of soil samples on the identified pesticide free parks, playgrounds or athletic fields to verify the information detailed in the semi-annual reports.

Per Mr. Mike Riley, Director of Montgomery County Department of Parks, Montgomery Parks personnel are committed to ensuring compliance with all regulations. If you have any specific concerns regarding the application of pesticides on any of the pilot parks or athletic fields, please do not hesitate to contact his office at 301-495-2468 so your concerns can be expediently and thoroughly investigated.

Thank you.

Attached: Montgomery Parks Pesticide Use Report (July 1 – December 31, 2017)

Cc: Casey Anderson, M-NCPPC Chair

Mike Riley, Director, Montgomery County Department of Parks

Adrian Gardner, General Counsel