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City Considers Opting in to Healthy Lawns Act

by [Pam Schipper](#) • February 7, 2020 • [0 Comments](#)

What began on Jan. 27 as a fairly straightforward Mayor and City Council work session on Montgomery County's Healthy Lawns Act (Bill 52-14) and the city's possible participation in it, grew into an in-depth discussion of three related issues: opting in to the county law that bans the use of most synthetic pesticides on private and county lawns, playgrounds, mulched recreation areas and private healthcare facilities; the city's own environmental and pest management practices on municipal properties that would not be affected by the county's law; and the need for more education in organic lawncare best practices. During the two-and-a-half-hour discussion, the Mayor and City Council heard from county and city staff and the city's Environmental Affairs Committee (which recently voted unanimously to recommend opting in), as well as representatives of the lawncare industry, Safe Grow Montgomery, the Muddy Branch Alliance, the Sierra Club of Maryland and other concerned citizens.

The Healthy Lawns Act was passed by the Montgomery County Council in 2015 but challenged in the courts. It went into effect in May 2019 after the Maryland Court of Special Appeals ruled in favor of the act. Montgomery County is currently working to educate residents about the law, according to Mary Travaglini, program manager for the county's organic lawn and landscapes program. Municipalities can choose to opt in to the law, and 10 municipalities, including Gaithersburg, are currently considering this.

Should Gaithersburg opt in, "the county would be responsible for everything surrounding the law," Travaglini said. "... We expect that there would be no additional burden with any municipality should they opt in to the law. ... Gaithersburg currently does not have its own pesticide law. ... The burden for education and enforcement would be fully on the county."

Montgomery County is the largest municipality in the U.S. to enact such a law, she noted. "The law came from the constituents of Montgomery County asking for this to protect the environment and the public in Montgomery County, protect their kids, protect their pets, protect themselves, etc. We

recognize that (pesticide) applicators go through a lot of licensing to keep themselves safe and to keep their clients safe and to make sure that there's not excessive runoff or drift.... (But) it's not that difficult to do organic lawncare. We know it can be done."

Andrew Bray, vice president of government relations for the National Association of Landscape Professionals, said that the industry will abide by the county law but cautioned, "We believe that the current law, as proposed, has some flaws, and we believe that there may be some sensible tweaks and solutions."

He appealed to the city for more time. "We would love for you guys to delay opting in at this point. ... We think there's an opportunity to have a professional exemption for certified applicators in the lawncare industry, and we think there's a need to maintain personal property rights."

He expressed concern about creating a market for "bad actors," non-licensed lawncare people who may apply synthetic pesticides in the wrong way.

Current enforcement of the county's law is complaint-driven, Travaglini explained. Offenses incur a \$50 civil fine, and this does not escalate for repeat offenses. "It's not a large fine," she acknowledged. "Our goal is to educate."

Councilmember Mike Sesma expressed concern over enforcement.

"It's problematic when you create a law that becomes very difficult to enforce," he said.

The city could increase the amount of this fine. According to City Attorney Lynn Board, "these would be municipal infractions, and under state law the maximum penalty would be \$1,000 per incident."

The City Council stressed the importance of education. Councilmember Neil Harris spoke of his experience as a Kentlands resident when the community moved "to organic for our community turf maybe seven years ago. It was a long process." The community held many public forums to "teach people how to care for their own turf organically and why it is a better choice. It's more expensive and more work at first and has many benefits down the road," he added. "You have to make sure that people understand what the alternatives are and how to succeed."

Mark Scafide, the city's department of public works operations division chief, briefed the Council on the city's efforts to use more organic treatments on municipal property. An all-organic pesticide, 15-month treatment to a median on Montgomery Village Avenue was deemed unsuccessful, but organic treatment of Constitution Gardens is beginning to work with a third contractor and more hand pulling of weeds. Ballfields take three to five years to transition to organic, but the city is "implementing a lot of this now to use less of the pesticides on the turf." The city started with all-organic treatment of the Kentlands Mansion lawn in July.

"It's going to be aesthetically different ... after we opt in," Scafide summed up, referring to the time needed to build up soils and create a healthy lawn without using pesticides.

City Manager Tony Tomasello echoed Scafide’s concerns. “I do know that staff at some point needs to hear from you guys that you’re OK with our public spaces looking different for several years.”

Tomasello and city councilmembers expressed concern over opting in but then not following the county law on municipal properties. “It would be disingenuous of us to not follow the rules everybody else follows,” Tomasello said.

Travaglini noted, “More than half of the municipalities are opted in and have the same problem, the option to continue to do whatever they want on their own land—but they’re changing it (their practices).”

Sesma voiced interest in holding municipal property to high standards in organic lawn and landscape treatments. “I still believe we have to set our own standards for ourselves as a property owner in the municipality,” he said. “We have to be the role model for all the other property owners in the city, whether they’re residents or businesses or HOAs.”

Tomasello will meet with staff and come back to the City Council with recommendations on the city’s participation in the Healthy Lawns Act.



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