

TOWN OF ATHENS HERBICIDE NOTIFICATION ORDINANCE

## SECTION 1. PURPOSE.

The purpose of the Town of Athens Herbicide Notification Ordinance is to safeguard the health, welfare, drinking water, and property of the residents of Athens by requiring notification of landowners when the manager of a utility right-of-way plans to conduct vegetation management activities that involve the use of herbicides.

## SECTION 2. AUTHORITY

Pursuant to 22 M.R.S.A. section 1471-U, Maine municipalities may enact ordinances that apply to herbicide storage, distribution, or use. In order to safeguard the public's health, safety, and welfare, this ordinance is adopted to meet these goals.

## SECTION 3. DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**HERBICIDE:** "Herbicide" has the same definition as specified by 22 M.R.S.A. section 258-A, and means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

**NO-SPRAY ZONE:** The section of a right-of-way abutting the property of a landowner who has requested that non-herbicide based vegetation management methods be used instead of herbicides. Unless otherwise requested by the abutting landowner, the no-spray zone shall include the entire length of the right-of-way abutting the property, and the entire width of the right-of-way running through the property, even if the owner of the opposite side of the right-of-way is different than the landowner requesting non-herbicide based vegetation management. No herbicides may be applied in the No-spray zone.

**NON-HERBICIDE BASED VEGETATION MANAGEMENT.** Mechanical and manual vegetation management methods, such as mowing vegetation and cutting trees and brush, which do not involve the application of any herbicides.

**RIGHT-OF-WAY:** A type of easement that allows a utility company to use a certain portion of another person's property for construction and maintenance of electricity distribution systems.

**SPRAY CONTRACTING FIRM:** A person or company employed or contracted by a utility or transmission corridor right-of-way manager to conduct herbicide application.

**TOWN:** The Town of Athens.

**TRANSMISSION CORRIDOR.** A tract of land owned, occupied, or leased by a utility transmission provider, or covered by an easement or right-of-way held by a utility transmission provider, where an electric transmission line is constructed, operated, or maintained.

**UTILITY:** Any electrical transmission and distribution utility that is subject to the jurisdiction of the Maine Public Utilities Commission.

**WEED:** Any plant which grows where not wanted.

## SECTION 4. REQUIREMENTS

A Utility that owns, operates, maintains or manages a transmission corridor in the Town of Athens must mail written notice of intent to apply herbicides along the transmission corridor, to all landowners whose property abuts the transmission corridor right-of-way, at least three weeks (21 days) prior to scheduled vegetation management that may include herbicide application.

The herbicide application notification letter must list the date(s) that vegetation management is planned to occur, the name(s) and EPA registration number(s) of herbicides that may be used, and list any herbicides to be used which contain glyphosates.

The Utility must also provide written notice to the Town of Athens at least three weeks prior to scheduled herbicide application on a transmission corridor, listing the names and addresses of property owners who were mailed herbicide application notifications.

No Utility or spray contracting firm may apply herbicides to a section of the transmission corridor if an abutting landowner requests that vegetation management along the right-of-way abutting the landowner's property be conducted without use of herbicides.

Upon landowner request, a no-spray zone must apply to the entire length of right-of-way abutting the landowner's property. The cost of using non-herbicide based vegetation management methods shall be covered by the Utility or Transmission Corridor manager, and no fee for costs of non-herbicide based vegetation management shall be imposed upon a landowner requesting a No-Spray zone along the section of right-of-way abutting the landowner's property.

## SECTION 5. ENFORCEMENT.

This Ordinance shall be enforced by the Town's Code Enforcement Officer and the Board of Selectmen. The Town of Athens may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

A fine of \$1,000 per violation shall be imposed if a Utility or Transmission Corridor Manager or Spray Contracting Firm fails to honor a landowner request for a no-spray zone or if a Utility or Transmission Corridor Manager fails to notify an abutting landowner at least three weeks prior to scheduled herbicide application. Each failure to honor a no-spray request and each failure to notify an abutting landowner shall be treated as a separate violation.

## SECTION 6. SEVERABILITY.

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

## SECTION 7. CONFLICTS

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of any other ordinance, regulation or statute, the more restrictive provision shall control. The Town of Athens Herbicide Notification Ordinance repeals and replaces the Town of Athens Herbicide Application Notification Ordinance that was previously adopted at Town Meeting on June 4, 2024.

## SECTION 8. EFFECTIVE DATE

This Ordinance becomes effective as of July 30, 2024 if this Ordinance receives approval by the majority of voters at Town Meeting. This Ordinance shall remain in effect until terminated or amended by a majority vote of a Town Meeting.