CITY OF DURANGO

ORGANICALLY MANAGED PARKS ORDINANCE

Section 1. Purpose.

The City of Durango hereby finds and declares that it shall be the policy of the City of Durango to reduce and ultimately eliminate the use of chemical fertilizers and pesticides on all Durango parks and open space in order to promote a healthy environment and to protect the public from the risks of chemical fertilizers and pesticides; and for Durango to implement an Organic Land Management program for all Durango parks and open space.

Durango recognizes that the use of chemical fertilizers and pesticides may have profound effects upon indigenous plants, surface water and ground water, as well as unintended effects upon people, bees, birds, fish, wildlife and other animals in the vicinity of treated areas.

Durango recognizes that all citizens, particularly children, have a right to protection from exposure to potentially hazardous chemical fertilizers and pesticides.

Durango recognizes that it is in the best interest of public health to reduce and ultimately eliminate the use of chemical fertilizers and pesticides on all Durango parks and open space, to develop tolerance to accept a diversity of plants growing symbiotically with grasses, and to introduce organic land stewardship practices designed to effectively manage and control weeds and pests on all Durango parks and open space.

Therefore, it is the express policy of Durango to refrain from the use of chemical fertilizers and pesticides upon all parks and open space, except in emergency public health situations that pose an imminent threat of serious injury to persons, property or agriculture warranting the use of pesticides.

Section 2. Findings.

WHEREAS, scientific studies associate exposure to pesticides with asthma, cancer, developmental and learning disabilities, nerve and immune system damage, liver or kidney damage, reproductive impairment, birth defects, and disruption of the endocrine system;

WHEREAS, infants, children, pregnant women, the elderly, people with compromised immune systems and chemical sensitivities are especially vulnerable to pesticide effects and exposure;

WHEREAS, pesticides are also harmful to pets, wildlife, soil microbiology, plants, and natural ecosystems, including honeybees and other pollinators;

WHEREAS, toxic runoff from chemical fertilizers and pesticides pollute rivers, streams, lakes and drinking water sources;

WHEREAS, healthy, organically managed soils increase organic nutrients and soil microorganisms allowing grasses to out-compete other plant species over time, ultimately resulting in a reduction of weeds and pests;

WHEREAS, the use of chemical fertilizers and pesticides is not necessary to create and maintain green lawns and landscapes given the availability of viable organic land management practices and products, and an increasing tolerance to accept a diversity of plants growing symbiotically with grasses;

WHEREAS, people have a right not to be involuntarily exposed to pesticides in the air, water or soil that inevitably result from chemical drift and contaminated runoff;

WHEREAS, recognizing that if an emergency public health situation warrants the use of pesticides, which would otherwise not be permitted under this policy, the Organic Land Management Coordinator shall have the authority to grant a temporary waiver, on a case-by-case basis, after having reasonably exhausted all non-chemical methods, and after having used Minimum Risk Pesticides;

WHEREAS, the use of an Organic Land Management program that emphasizes organic land stewardship practices, development of healthy organic soils, effective non-chemical methods of pest management and control, and the use of Minimum Risk Pesticides, will reduce and ultimately eliminate the use of and exposure to pesticides while effectively managing and controlling weed and pest populations;

WHEREAS, implementation of an Organic Land Management program complements other important goals of City maintenance and administration such as cost savings, energy conservation, security and promotion of the general health, safety and welfare of the public; and

WHEREAS, numerous communities and municipalities are embracing a precautionary approach to the use of chemical fertilizers and pesticides in order to adequately protect people, other living creatures and the environment from the harmful effects of chemical fertilizers and pesticides.

Section 3. Definitions.

Grounds — means any and all parks, open space, trails, lawns, playgrounds, sports fields, rights-of-way and other real property owned or leased by the City of Durango (City), including all City owned or leased areas adjacent to City owned or leased buildings, but excluding the interior spaces of City owned or leased buildings.

Minimum Risk Pesticide — means any product of which all ingredients (both active and inert) are listed as Minimum Risk Pesticides that are exempt from federal registration under Section 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as currently, or in the future may be, defined by the Environmental Protection Agency (EPA).

Minimum Risk Pesticide does not mean or include any product that contains any pesticide or ingredient (both active and inert) classified as known, likely, or probable human carcinogens or probable endocrine disruptors.

Natural Organic Fertilizer — means fertilizers that contain nutrients naturally derived solely from the remains, or a by-product, of an organism, or from a mineral. The term includes wholly natural, organic compilations comprised of such items as compost, composted manure, worm castings, cottonseed meal, kelp, and fish emulsion. The term does not include any fertilizer containing synthetic ingredients, or natural minerals or substances that are reacted with acids or produced in a petrochemical process.

Organic Land Management (OLM) — means a program that:

> (A) uses — (i) an OLM plan based upon organic land stewardship and best management practices with respect to current organic horticultural science; (ii) teaching tolerance to accept a diversity of plants growing symbiotically with grasses; (iii) education of the public and City employees and its contractors; (iv) site or pest inspections; (v) pest population monitoring and control strategies; (vi) evaluation of the need for pest control; (vii) one or more effective non-chemical pest management and control methods; (viii) Minimum Risk Pesticides after all non-chemical options have reasonably been exhausted; and
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> (B) reduces and ultimately eliminates — (i) the use of pesticides; and (ii) the hazards to human health and the environment associated with pesticide applications.

OLM Coordinator — means an individual who is designated by the City to oversee development and implementation of the OLM plan for the City.

Pest — means any weed, insect, rodent, nematode, fungus, or other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or in other living animals) which the Colorado Commissioner of Agriculture or the Administrator of the EPA declares to be a pest.

Pesticide — any substance or mixture of substances intended for—(i) preventing, destroying, repelling, or mitigating any pest; (ii) use as a plant regulator, defoliant, or desiccant; or (iii) use as a spray adjuvant such as a wetting agent or adhesive.

Public Health Emergency — means an urgent need to mitigate or eliminate a pest that poses an imminent threat of serious injury to persons, property or agriculture.

Synthetic Fertilizer — means a substance containing a plant nutrient created by a synthetic, chemical process, including triple super phosphate made by treating rock phosphate with phosphoric acid, potassium chloride, urea quick release synthetic fertilizers and petroleum-based fertilizers.

Sec. 4. Organic Land Management Components.

(1) In General. — The City shall implement an OLM program, as defined herein, that at a minimum —

(A) Applies to all City Grounds;

(B) Establishes an OLM Coordinator within the City Department responsible for developing and carrying out the OLM plan; and

(C) Follows an OLM plan that utilizes the principles of organic land stewardship and best management practices with respect to current organic horticultural science for addressing pest management and control, and to provide healthy, organic soils.

(2) Duties of the OLM Coordinator. — The OLM Coordinator shall —

(A) Oversee the development and implementation of the OLM plan for all City Grounds that utilizes the principles of organic land stewardship and best management practices with respect to current organic horticultural science for addressing pest management and control, and to provide healthy, organic soils;

(B) Act as a contact for inquiries about the OLM plan;

(C) Organize and coordinate educational activities to inform the public and City employees and its contractors regarding the OLM plan, including, but not limited to, the following areas, (i) tolerance to accept a diversity of plants growing symbiotically with grasses, (ii) principles of organic land stewardship and best management practices with respect to current organic horticultural science, (iii) effective non-chemical methods of pest management and control, and (iv) the use of Minimum Risk Pesticides;

(D) Obtain periodic updates and training from OLM experts, including but not limited to, the areas of best management practices with respect to principles of organic land stewardship and current organic horticultural science, effective non-chemical methods of pest management and control, and the use of Minimum Risk Pesticides;

(E) Maintain and make available to any person upon request material safety data sheets, labels, and fact sheets or other official information related to the pesticides, for all pesticides that may be used on City Grounds;

(F) Be informed of Federal and State chemical health and safety information and contact information;

(H) Pre-approve on a case-by-case basis each and every Public Health Emergency pesticide application under Section 4, paragraph (6); and

(G) Maintain and make available to any person upon request complete records of the name(s) and type(s) of pesticide(s) applied, the date(s) and time(s) of each application, the amount(s) of pesticide used for each application, the method of application, the name(s) of the person(s) and responsible entity that physically performed each such application and the circumstances warranting the use of the pesticide, for all pesticides used on City Grounds for at least 3 years after the date on which each application of any pesticide is made.

(3) Use of Pesticides. — Except in the event of a Public Health Emergency, the City of Durango shall only use a Minimum Risk Pesticide as part of the OLM plan. The Minimum Risk Pesticide may only be used as a last resort after all non-chemical options have reasonably been exhausted.

(4) Use of Fertilizers. — The City of Durango shall only use Natural Organic Fertilizers on City Grounds. The use of Synthetic Fertilizers on City Grounds is hereby strictly prohibited.

(5) Development of Healthy, Organic Soils. — The OLM plan shall include essential turf and landscape practices for all City Grounds that shall be reasonably designed to provide healthy, organic soils, including, but not limited to the following:

(A) Employment of best management practices to comply with current organic horticultural science, including the following practices — scouting, monitoring, effective watering and mowing, proper spacing, aeration, top dressing, over-seeding, de-thatching, fertilizing and mulching;

(B) Use of effective non-chemical controls, including the following practices — hand-pulling, pruning, cutting, habitat modifications and moving insect nests manually;

(C) Regular soils analysis and testing;

(D) Organic soil amendments applied as necessitated by soils analysis and test results;

(E) Selection of plantings using criteria of hardiness and compatibility;

(F) Suitability to native conditions;

(G) Drought, disease, pest-resistance and ease of maintenance; and

(H) Through observation, determining the most effective treatment time, based on pest biology and other variables, such as season, weather and local conditions.

(6) Public Health Emergency. —

(**A) In General**. — If the OLM Coordinator determines that a pest on City Grounds cannot be controlled, (i) after having reasonably exhausted all non-chemical methods under the OLM plan, and (ii) after having used Minimum Risk Pesticides, and (iii) it is a

Public Health Emergency; the City may use a pesticide other than a Minimum Risk Pesticide in accordance with this Section 4, paragraph (6).

(B) OLM Coordinator Approval Required. — Prior to each application under this Section 4, paragraph (6), the OLM Coordinator shall approve, after identifying the pesticide product ingredients and any potential acute and chronic adverse health effects, the pesticide product before any Public Health Emergency application is made.

(C) Notification of Public and Posting of Signs. — If applying a pesticide other than a Minimum Risk Pesticide under this Section 4, paragraph (6), at least 24 hours prior to the application, the OLM Coordinator shall cause to be posted signs warning of the application of the pesticide — the signs shall be posted in prominent places that are on, along or adjacent to the location to be treated. The signs required for the application of a pesticide shall remain posted for at least 72 hours after the end of the treatment, be at least 8 1⁄2 inches by 11 inches, of rigid, weather resistant material, and shall include the following information:

(i) the common name, trade name, and EPA registration number of the pesticide; (ii) a description of the location of the application of the pesticide; (iii) a description of the date and time of application; and (iv) the statement "The EPA cannot guarantee that registered pesticides do not pose risks, and unnecessary exposure to pesticides should be avoided"; (v) a description of potential adverse effects of the pesticide based on the material safety data sheet of the pesticide and any additional warning information related to the pesticide; (vi) the name and telephone number of the OLM Coordinator; (vii) a description of the problem and the factors that qualified the problem as an emergency that threatened public health; and (viii) a description of the specific steps the City will take in the future to avoid emergency application of a pesticide under this Section 4, paragraph (6).

(D) Modification of OLM Plan. — If the City of Durango applies a pesticide other than a Minimum Risk Pesticide under this Section 4, paragraph (6), the OLM Coordinator shall modify the OLM plan after each application, to reduce and ultimately eliminate any future emergency applications of pesticides under this Section 4, paragraph (6).

Section 5. Enforcement.

(1) The City of Durango shall be responsible for the enforcement of this Ordinance and its agents shall be authorized to issue statements of offense;

(2) Any citizen or entity may commence a civil action on his, her or its own behalf — (I) against any person or entity who is alleged to be in violation of (A) a standard or limitation under this Ordinance, or (B) an order or directive issued by the City, or its employees, with respect to a standard or limitation under this Ordinance; or (II) against the City where there is alleged a failure of the City, and/or its agents, employees or contractors, to comply with, perform or refrain from any act, duty, standard or limitation under this Ordinance;

(3) Any citizen or entity who wholly or partially prevails in a civil action brought to enforce any provision of this Ordinance shall recover from any defendant all of his, her or its attorney's fees and costs incurred in preparing, bringing and prosecuting of such civil action.