

rTopic: Environmental Compliance
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Clifton Park
Year (*adopted, written, etc.*): 1990-2005
Community Type – applicable to: Suburban; Rural
Title: Town of Clifton Park Pesticides – Aerial Spraying Ordinance
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Abstract

This law creates an application procedure for residents and commercial entities who wish to engage in the use of pesticides, bans the use of pesticides in certain areas, and describes penalties for violating the law. The Town derives its power to enact this law pursuant to its municipal home rule authority.

Resource

Town of Clifton Park NY Pesticides (Aerial Spraying)
Code of the Town of Clifton Park NY
Chapter 159: Pesticides
Article I: Aerial Spraying

General Code

[HISTORY: Adopted by the Town Board of the Town of Clifton Park 5-8-1990 by L.L. No. 10-1990. Amendments noted where applicable.]

ARTICLE I Aerial Spraying [Adopted 5-8-1990 by L.L. No. 10-1990]

§ 159-1. Intent.

It is the intention of the Town Board to recognize the private property rights of residents of the town and the special interests and rights of those at risk by virtue of pesticide spraying activities. The Town Board finds it essential to protect residents from the potential ill effects and problems associated with aerial pesticide spraying, while recognizing the private property rights of individuals choosing to address problems associated with insect infestation.

§ 159-2. Statutory authority.

This article is adopted pursuant to the town's municipal home rule authority pursuant to Municipal Home Rule Law §§ 10, 11 and 20, and the general police powers set forth in the Town Law, and the general municipal powers of the town pursuant to the Town Law and Suburban Town Law.

§ 159-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACTIVE INGREDIENT — In the case of a pesticide, an ingredient which will prevent, destroy, repel or mitigate insects, fungi, rodents, weeds or other pests.

AERIAL SPRAYING — The application of pesticide from an aircraft.

AIRCRAFT — Any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

APPLICATION OF PESTICIDE — Any application of pesticides by aircraft.

CERTIFIED APPLICATOR — Any individual who is certified to use or supervise the use of any pesticide in any category of use covered by his certification from the Department of Environmental Conservation.

INSECT — Any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta comprising six-legged, usually winged forms as, for example, beetles, bugs, bees, flies, moths and to other allied classes of arthropods whose members are wingless and usually have more than six legs as, for example, spiders, mites, ticks, centipedes and wood lice, except those on or in living man.

PEST — Any insect, rodent, fungus, weed or any 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 other living animals, deemed a "pest" by the Commissioner of Environmental Conservation.

PESTICIDE — Any substance or mixture or substances intended for preventing, destroying, repelling or mitigating any pest.

§ 159-4. Filing requirements.

- A. Any individual, company or corporation engaged in or sponsoring aerial pesticide spraying within the Town of Clifton Park shall submit a filing with the office of the town's

Department of Building and Development a minimum of 15 days prior to commencement of aerial spraying activities.

- B. The filing shall include a list, by name and address, of all properties in the town that will be subject to aerial pesticide spraying, a consent form signed by each participating property owner consenting to the spraying, the dates and times of the proposed aerial spraying, the name of the active ingredients to be utilized in the aerial spraying activity, the name and address of the sponsor of the spraying, the name and address of the certified applicator of the pesticide, the names and addresses of the owners of the aircraft being utilized for the spraying and an affidavit listing the names and addresses and a map of all property owners within 500 feet of the properties to be sprayed, which affidavit shall affirm that all property owners on the list have been notified of the dates and times of the proposed spraying in person or, as an alternative, provide with the filing the Postmaster's green card indicating said individuals have received written notification of the proposed spraying, and the active byproduct labels and Environmental Protection Agency fact sheets for ingredients being utilized in the spraying activities.

- C. Within 15 days of the submission of the completed spraying filing, the Director of the Town Department of Building and Development shall issue an acknowledgment of filing. The acknowledgment shall include the following language: "The sponsor assumes responsibility in connection with spraying activity and has received a copy of Local Law No. 10-1990, entitled `Regulation of Aerial Pesticide Spraying.'"

- D. Upon issuance of the acknowledgment, the Director shall cause a notice of the dates and times of the aerial spraying to be posted and published in the town's official newspaper and shall issue a press release of the dates, times and location of the aerial spraying.

§ 159-5. Prohibited spraying.

- A. No aerial pesticide spraying is permitted on properties located within the Town of Clifton Park without the filing by the sponsor pursuant to this article.

- B. No aerial pesticide spraying is permitted on the property of any property owner who has not consented to the aerial spraying of his property.

§ 159-6. Penalties for offenses; enforcement.

- A. It shall be a violation of this article to engage in any activities prohibited by § 159-5 hereof. Each separate property affected by a violation of this article shall be considered a separate violation.

- B. Private action. Any person injured or damaged or who may be injured or damaged by any violation prescribed herein may enforce the rights created herein through an action in New York State Supreme Court against the sponsor, applicator and/or aircraft owner in connection with any such violation.
- C. Government enforcement. Each violation of any of the provisions of this article shall, upon conviction, be punishable by a fine not to exceed \$2,000, or by a term of imprisonment not to exceed 30 days, or by both such fine and imprisonment. **[Amended 5-2-2005 by L.L. No. 4-2005]**