

Chapter 2. Notice of Pesticide Applications

§5201. Statement of purpose

The Village desires to address continuing concerns about health effects from toxic chemicals classified as pesticides which are designed for general use on lands to kill a variety of plants and insects and rodents and similar destructive animals. More and more evidence reveals the very real and dangerous threats to humans, animals, and the environment potentially posed by misuse of pesticides. There is uncertainty regarding adverse long-term effects. The purpose of this Ordinance is to provide adjoining owners the authority to request certain information regarding pesticides which were or are to be applied to neighboring lands aerially by commercial pesticide applicators.

§5202. Definitions

For purposes of this chapter, the following terms shall have the meanings set forth herein:

- (a) “Pesticide” means any substance produced or distributed for preventing, destroying or repelling any insects, weeds, rodents, fungi, nematodes, mites, spiders or other forms of plant or animal life or viruses, and includes without limitation any herbicide, insecticide, fungicide, acaricide, nematocide or rodenticide.
- (b) “Application of a pesticide” or “applies a pesticide” means the aerial spraying or aerial spreading of a pesticide on turf grass, shrubs, flowers, landscape plants or other vegetation by a commercial pesticide applicator, and does not include applications on humans, livestock, and domestic pets.
- (c) “Turf grass” means a covering of mowed vegetation growing together with an upper soil stratum of intermingled roots and stems.
- (d) “Landscape plants” means any ornamental and flowering shrubs and plants, shade trees, or plants larger than eight feet in height.
- (e) “Site” includes any land in the Village as divided by the then current tax map parcel identifiers on the grand list of the Town of Woodstock, Vermont, but does not include indoor locations.
- (f) “Commercial pesticide applicator” means any person who applies a pesticide on a site for a fee, whether or not licensed or certified and whether or not otherwise legally entitled to do so.
- (g) “Owner of a site” means an owner, tenant, or any person in lawful possession of or who manages a site or portion thereof. An “owner of a site” shall presumptively include the person whose name appears on the then current grand list of the Town of Woodstock, Vermont.
- (h) “Abutting owner” means an owner, tenant, or any person in lawful possession of or who manages a site which physically touches the site where the application of a pesticide has or is proposed to occur, or which would touch such site but for the existence of a public highway existing between the two sites.
- (i) “MSDS sheet” means the material safety data sheet required by federal law (Occupational Health and Safety Act) for hazardous chemicals including pesticides.
- (j) “Information regarding application of pesticides” shall include with respect to each pesticide proposed for or actually used by a commercial pesticide applicator in the application of a pesticide:

1. The time of any proposed or actual application;
 2. Its identity including common or trade name;
 3. A copy of its packaging label;
 4. The rate of application;
 5. The applicable MSDS sheet;
- (k) Any existing and federally required facts sheets pertaining to it and/or its active ingredients; and
- (l) The name and address of the commercial pesticide applicator.

§5203. Right of abutting owner to request information

An abutting owner may request information regarding application of pesticides from the owner of a site including only any of the items of information specified in §5202(10) of this chapter. Such request must be in writing and must be either hand delivered with signed receipt or mailed by certified, registered, or other form of mail or package delivery for which signed receipt is made or required, whether or not the signed receipt is required to be returned to the sender. Such request may also be made in writing mailed by regular U.S. mails to the address of the owner of a site appearing on the then current grand list with respect to the involved site, unless that address is known by the sender to be incorrect. Such request must specify the items of information requested and the site involved, and must also include the name(s) and address(es) where the information is to be mailed or delivered. In specifying the information requested it shall be sufficient to refer to the Ordinance section and/or subsection numbers. For example, the request may refer to “all information listed under W.V.O. §5202(10)” or similar language. Such request shall be limited to a period of 90 days before and after the date the request is properly mailed or delivered unless a lesser term is specified in the request. Under the terms of this Ordinance such request shall also be strictly limited to application of pesticides involving commercial pesticide applicators using aerial spraying or aerial spreading of pesticides on the site identified in the request, otherwise the request may be disregarded in its entirety.

§5204. Duty of owner of a site to provide information

The owner of a site for which the aerial application of pesticides by a commercial pesticide applicator has occurred or is proposed to occur within 90 days (or fewer if so specified in such request) of any request therefor properly made under §5203 of this chapter shall provide the information requested within a reasonable time from the date of the request which presumptively means within 10 days or the day of proposed application whichever is sooner, provided, however, these times shall be extended by the time of any delay caused by the failure of the commercial pesticide applicator to provide information requested by the owner of a site seeking in good faith with due diligence to respond to such request. Information shall be considered provided when it is mailed by regular U.S. mails to the name(s) and address(es) specified in the request or when it is hand delivered to such person(s).

§5205. Duty of commercial pesticide applicator to provide information

- (a) Upon customer request, a commercial pesticide applicator with respect to a site shall provide its customer with any of the information specified in §5202(10) within three business days of any request therefor, or before application of pesticides to a site,

whichever is sooner.

(b) In addition to other remedies, a customer of a commercial pesticide applicator seeking information to which such customer is lawfully entitled and which the commercial pesticide applicator fails to give in a timely manner may report the violation to the Vermont Department of Agriculture, Plant Industry Division, 116 State Street, Drawer 20, Montpelier, VT 05620-2901.

(c) Commercial pesticide applicators shall comply with all applicable sign notification and posting regulations of the state of Vermont pertaining to control of pesticides.

§5206. Exemption for certain practices

Accepted agricultural or silvicultural practices as defined by regulation of the Vermont Commissioner of Agriculture Food and Markets are exempt from this chapter.

History:

2001 Amendment. Chapter 2 was added by section 1 of Woodstock Village Ordinance Revision #14, adopted by the Board on August 27, 2001, effective October 26, 2001.