

Adopted
10 Sept 1985

Effective 20 Sept 1985

WHEREAS, the Washburn County Agriculture Committee has applied pesticides for the purpose of conifer release to county forests within the Town of Casey; and

WHEREAS, research indicates that no pesticide is completely safe and that pesticides previously used by the County Agriculture Committee in the Town of Casey may be hazardous to human health in the following ways: 2,4-D has been found to be carcinogenic, teratogenic, mutagenic, and can cause peripheral neuropathy. Persistence in soil beyond one year is possible. 2,4-DP has been found to be carcinogenic, and can cause miscarriage. Glyphosate can form carcinogenic compounds in soil. Picloram has been found to be carcinogenic, may cause peripheral neuropathy, accumulates in soil and may persist over 20 years; and

WHEREAS, county forest lands are to be managed so as to provide recreational opportunities and assure maximum public benefits, sec. 28.11(1), Stats., and county forest lands in the Town of Casey are, in fact, used by the permanent and summer residents of Casey for recreation, including hunting and berry-picking; and

WHEREAS, the plants sought to be controlled in county forests by application of pesticides do not pose an imminent threat to forest crops, and can be controlled over the longer period of time required for scheduled mechanical removal of competing broadleaf plants; and

WHEREAS, the Town of Casey desires to protect its residents from the danger of consuming game or berries taken from an area to which pesticides have been applied, and from coming in contact with these pesticides on public lands or roads; and

WHEREAS, aerial spraying of pesticides increases the risk of injury or damage to persons, property and the environment, due to the increased likelihood of pesticide drift and pesticide overspray; and

WHEREAS, lakes and streams in the Town of Casey are important environmental and recreational resources, and aerial spraying of pesticides can affect and has affected these waters as a result of drift and/or overspray; and

WHEREAS, aerial spraying of pesticides in the Town of Casey has affected property beyond the boundaries of the target area as a result of drift and/or overspray; and

WHEREAS, the Town of Casey desires to protect its residents, recreational resources and private and public property from injury or damage due to drift or overspray of pesticides; and

WHEREAS, the Town of Casey has previously indicated, by resolution, its strong opposition of pesticides; and

WHEREAS, on the 9th day of April, 1983, at the Annual Meeting of the Town of Casey, the Town of Casey granted to the Town Board of Casey, village powers under sec. 60.18(12), Stats. (1981-82); and

WHEREAS, the Town Board, under the authority of secs. 61.34(1) and (5), Stats., does deem it in the interests of the Town to protect the health, safety, and general welfare of its township, community and residents;

NOW, THEREFORE, the Town Board of the Town of Casey does ordain that Ordinance No. 85-1, entitled "An Ordinance to Require a Permit for the Application of Pesticides," be created to read as follows:

Ordinance No. 85-1

An Ordinance to Require a Permit for the Application of Pesticides

Section 1. Application of Pesticides Permit Process.

1.1 Definitions. (1) "Person" means any individual, group of individuals, partnership, association, corporation, government, governmental agency, or other entity or combination of entities.

(2) "Pesticide" means any substance or mixture of substances labeled or intended for use or used for:

(a) preventing, destroying, repelling, or mitigating any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living persons or other living animals) declared to be a pest under federal or state law (7 U.S.C. § 136 et seq., sec. 94.67 et seq., Wis. Stats., and regulations issued under those laws); or

(b) defoliating plants, regulating plant growth or accelerating the drying of plant tissue.

(3) "Aerial Application of Pesticides" means the release of pesticides from any aircraft.

(4) "Public Lands" means all lands and all interests in lands owned by the state, the County of Washburn or the Town of Casey either as proprietor or as trustee, and which are dedicated in whole or in part to public use and benefit.

(5) "Private Lands" means all lands which are not public lands.

1.2 Application of Pesticides. No person may apply any pesticide to public lands, or to private lands subject to public use (including, but not limited to Forest Croplands, as defined in chapter 77, Stats.), or may aerially apply any pesticide to private lands within the Town of Casey except after obtaining a permit under section 1.3

1.3 Permit Process. (1) Permits. Permits may be issued by the town board for a single application of pesticide(s), or for a series of applications of pesticide(s) to a single defined area, provided the last application of the series will be completed within 60 days of the first application of the series.

(2) Request for permit. Any person who intends to apply any pesticide to public lands, or to private lands subject to public use, or who intends to aerially apply any pesticide to private lands, shall, not less than 60 days before the proposed application, file a request for permit and information with the Town Board, on such forms as the Board may prescribe. Forms may be requested from the Town Clerk, whose address is:

Town of Casey
Star Route - Box 137
Spooner, Wisconsin 54801

The information shall include, but shall not be limited to:

(a) the purpose for the desired application(s);

(b) the approximate date(s) and time(s) of the application(s);

(c) the areas of the Town of Casey to be affected by the application(s);

(d) an inventory of the pesticide(s) to be used listing the brand name, generic component ingredients, the quantities to be used, method of application, known benefits and know risks associated with the chemical(s) to be used;

(e) the chemical and non-chemical alternative methods or treatments available to accomplish the desired objectives and the reasons why the application of the proposed pesticide(s) is preferable to alternative chemicals and to other methods;

(f) the status of the proposed pesticide(s) and of any chemical alternatives in the federal Environmental Protection Agency's (EPA) pesticide reregistration program including but not limited to:

i. the status of the proposed pesticide(s) and any chemical alternatives in the Data Call-In Program, including whether a Data Call-In Notice or equivalent has been issued, whether the EPA has reached a final decision regarding data that are required, and the status of data collection;

ii. the status of the proposed pesticide(s) and any chemical alternatives in the Registration Standards Program, including whether and when a Registration Standard or Guidance Package has been issued;

iii. the status of the proposed pesticide(s) and any chemical alternatives in the Special Review Program including Pre-Special Review status, whether and when Position Documents 1, 2, 2/3 or 4 have been published or are expected to be published, what presumptions against registration are presented in those Documents, which risk criteria, as defined in 40 CFR sec. 162.11, have been possibly met or exceeded, and the EPA's regulatory action or proposed action for the pesticide(s);

(g) the positive and negative effect of reducing or eliminating the use of the proposed pesticide(s) and of any chemical alternatives;

(h) the anticipated impact of the application upon humans, animals and plants of the proposed pesticide(s) and of any chemical alternatives;

(i) the precautions that will be taken to protect the public and to minimize public exposure to the proposed pesticide(s) and to any

chemical alternatives, and the actions that will be taken to mitigate any adverse impacts of the application of the proposed pesticide(s) and of any chemical alternatives; and

(j) such other information as may be required.

(3) Initial Determination by the Town Board.

Within 15 days after receipt of completed request for permit and information, the Town Board after consideration of the information shall post in three (3) places in the Town and shall mail to the person requesting the permit notice of its decision to either deny the permit, grant the permit, or grant the permit with conditions. When the Board denies or places conditions on a permit, it shall state the reasons therefor. The board may impose any reasonable conditions on a permitted application related to the protection of the health, safety and welfare of the residents of the Town of Casey. Such requirements may include, but shall not be limited to:

(a) a requirement that an application be confined to an area not used by the public for recreation;

(b) a requirement that a reasonable method of ground application, rather than aerial spraying, be used.

(4) Request for Hearing. Within 5 business days after mailing notice of the Board's initial determination to the person requesting a permit, and posting such notice in the town, the person requesting a permit or any town resident may request a hearing before the Board.

(5) Hearing.

(a) A hearing before the Town Board shall be scheduled within 20 days after receipt of a written request for hearing. Notice of the hearing shall be posted in 3 public places in the Town of Casey and shall be published in a newspaper of general circulation in the Town of Casey, not less than 5 days before the hearing.

(b) Any person requesting a hearing may present information before the Board relating to the safety of the chemicals proposed to be applied, or of the method of application, the costs of the proposed application compared to the costs of alternatives to the application, or any

other items of information relating to application of pesticides.

(c) After consideration of information produced at the hearing and contained in the request for permit, the Board shall either deny the permit, grant the permit, or grant the permit with conditions relating to the protection of the health, safety and welfare of town residents.

(d) Notice of the final decision of the board shall be mailed to the person requesting the permit within 5 days of the hearing. If the final decision differs from the initial decision, the board shall state the reasons therefor.

(6) Fees. A person requesting a permit to apply pesticides shall include a fee of \$25 with the request to cover costs of processing the request.

(7) Notice. When a permit to apply pesticides is granted, or granted with conditions, the permittee will post placards giving notice of the application(s).

(a) Each placard shall contain the words: "WARNING--AREA TREATED WITH PESTICIDE" in one-inch block letters. The placards shall also contain, in letters at least 1/4 inch high, the intended date(s) and time(s) of application(s), the brand name and generic component ingredients of the pesticide(s) used, and any label information prescribing safe reentry time to the area of application.

(b) Placards shall be posted at least 24 hours prior to the intended application, or, in the case of multiple applications of pesticide(s) to a single area, at least 24 hours prior to the first such application. If the application date is changed, a new notice shall be given as soon as reasonably possible prior to the application. Placards shall be maintained for at least 6 months after the last date of application allowed by the permit.

(c) If the application is to public lands; or to private lands subject to public use; or if the application is to private lands not subject to public use, but the area to which pesticides are applied is within 100 feet of a road, other public right-of-way, or land not owned or controlled by the permittee; then notice shall

be posted approximately every 1/4 mile along the perimeter of the treated area and any normal access points from roads or other public rights-of-way.

Section 2. Penalty.

Any person who violates any of the provisions of this ordinance, or directs another to violate it, shall in addition to being liable for all damages resulting from each violation, be subject to a forfeiture of up to \$5,000.00 for each violation thereof. Each day shall constitute a separate violation.

Section 3. Severability.

If any section, sentence or clause of this ordinance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Ordinance.

Section 4. Effective Date.

This Ordinance shall take effect upon passage by the Town Board and publication as required by law.

The foregoing Ordinance was duly adopted by the Town Board of the Town of Casey at a regular meeting of the Town Board on September 10, 1985.

Imbert M. Eslevig
Town Chairman

Mary M. Emerson
Mary Emerson, Town Clerk

Adopted: September 10, 1985

Published: September 20¹⁹, 1985