

ORDINANCE CONCERNING THE DISPOSAL AND STORAGE OF HAZARDOUS WASTE IN THE TOWN OF LINCOLNVILLE

PREFACE

This ordinance shall be known and may be cited as the “Hazardous Waste Ordinance of the Town of Lincolnville, Maine.” This Ordinance is promulgated pursuant to Title 30, MRSA, subsection 2151 (1) (A) and Title 30, MRSA 2151 (6).

The purpose of this Ordinance is to provide for the general welfare and the public safety of the Town of Lincolnville.

SECTION I

The disposal and the storage of hazardous waste, as defined herein, and/or the disposal and storage of radioactive materials, as defined herein, within the boundaries of the Town of Lincolnville, Maine, is strictly prohibited unless the person causing or permitting disposal or storage of hazardous waste and radioactive waste materials obtains a permit in writing from the Board of Selectmen of the Town of Lincolnville permitting such disposal or storage.

(a) Permit Application. A person seeking a permit for the disposal or storage of hazardous waste and/or radioactive waste materials, hereinafter referred to as a “disposal and storage permit” shall complete and file with the Board of Selectmen of the Town of Lincolnville an application on a form prescribed by the Board of Selectmen and accompanied by the applicable application fee. In support of that application, the person seeking such permit shall submit any information concerning the operation of said disposal and/or storage facility as required by the Selectmen. The application for a permit shall include the following information as set forth in Schedule A, attached hereto and incorporated by reference herein. In addition, the Selectmen shall have the authority to prescribe additional information to be submitted by each applicant. The Selectmen shall set a fee for the application which said fee shall be no less than \$500. The Selectmen may increase the application fee in the event that the cost of administering and enforcing the Ordinance warrants such an increase in the fee.

(b) Duration of Permits. Permits shall be issued for a period of two (2) years. The terms and conditions of the permit may be subject to modification and change by the Town prior to the expiration of the permit, as limitations or requirements identified in Section II are modified and changed.

(c) Transfer of a Permit. A hazardous waste storage and disposal permit shall not be reassigned or transferred or sold to any other person and shall not be transferred to any other party or to a new or revised operation which does not conform with the applicant’s permit.

(d) Revocation of a Permit. Any person who obtains such a permit, hereinafter referred to as permittee, who violates any condition of that permit or of this Ordinance may result in revocation of that permit. Specific violations which may result revocation of a permit include, but are not limited to, the following:

- (i) Failure of a permittee to report accurately the hazardous waste constituents and characteristics of that hazardous waste;
- (ii) Failure of the permittee to report significant changes in operations, or hazardous waste constituents and characteristics;
- (iii) Refusal of the permittee to permit reasonable access to the permittee's premises for the purpose of inspection or monitoring.
- (iv) Ineffective and improper operation and maintenance of the permittee's facility; or,
- (v) Violations of any conditions of the permittee's permit or of any provision of this Ordinance.

Section II. Standards of Granting of Permit

A permit for disposal and storage of hazardous waste shall be approved by the Board of Selectmen, following consultations with the Planning Board, only after a determination by the Board of Selectmen to the satisfaction of that Board that the storage and disposal of hazardous waste as appears in the application of the applicant will conform with the following standards:

- (a) That the proposed disposal or storage of hazardous waste is desirable for the development of the Town of Lincolnville;
- (b) That the proposed location for the disposal and storage of hazardous waste is not undesirable for that proposed use and that such use will not have an unreasonable adverse effect on the use and quiet possession of the surrounding property owners.
- (c) That the proposed use of the site for disposal and storage of hazardous waste will not significantly depreciate the value of adjacent real estate.
- (d) That the use of the proposed site for disposal and storage of hazardous waste has no adverse effect on the quality or quantity of ground water in the vicinity of the proposed site.
- (e) That the proposed use of the site for disposal and storage of hazardous waste will have no adverse effect on the health or welfare of people residing in the vicinity of this site; and that use will not adversely affect the quality of air;

rivers, streams or other bodies of water in the Town of Lincolnville.

- (f) That the proposed use of the site for disposal and storage of hazardous waste will not cause any unreasonable increase in the provision of municipal services or the cost of the provision of municipal services by the Town of Lincolnville.
- (g) That the proposed use of the site for disposal and storage of hazardous waste will not adversely affect the character of the neighborhood in which the site is located.
- (h) That the proposed use of the site for disposal and storage of hazardous waste conforms strictly with all federal laws and regulations, state laws and regulations and all municipal ordinances including the zoning ordinances of the Town of Lincolnville.

In order for a permit to be granted in accordance with the foregoing standards, the applicant has the burden of proof that the applicant complies with each of those standards. No permit shall be granted unless the Board of Selectmen is satisfied that the applicant complies with all of the foregoing requirements. No variance from the terms of the foregoing standards shall be granted under any circumstances.

Section III. Conditions

In connection with the granting of a permit for any applicant who complies with all of the foregoing conditions, the Board of Selectmen may prescribe reasonable additional requirements as conditions for the granting of a permit in order to give reasonable protection for the neighborhood and the Town of Lincolnville. These reasonable additional conditions shall not constitute a waiver of any of the standards contained in Section II above but said conditions shall assure strict compliance with the standards of Section II above.

Section IV. Inspections

Whenever inspections of any property or premises of a permittee hereunder shall be deemed necessary by the Board of Selectmen for the purposes of this Ordinance, or are reasonably necessary to secure compliance with any Ordinance, provision, state law, or other municipal rules and regulations, it shall be the duty of the permittee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the Town authorized to make the inspection, at any reasonable time that admission is required. The purpose for which inspection may be required may include, but shall not be limited to the following:

- (a) Copying any records concerning the business or activity of the permittee;

- (b) Inspecting any equipment or method of the permittee;
- (c) Sampling any hazardous waste disposed or stored at the site; and,
- (d) Inspecting the condition and operation of any facility for the disposal and storage of hazardous waste.

Any authorized representative of the Town may enter upon the property or premises of the permittee at any hour under emergency circumstances.

In the event that any permittee, or the person in charge of the premises of a permittee, refuses to permit any such officer, official, or employee of the Town to make an inspection or to take sufficient samples for analysis, or interfere with such officer, official, or employee, that action shall be deemed a violation of this Ordinance by the permittee.

Section V. Enforcement Procedures

(a) Notification of Violation. Whenever any person has violated or is violating this Ordinance, or any prohibition, limitation or requirement contained herein, the Town shall send a written notice to that person stating the nature of the violation and providing a reasonable time, not to exceed seven (7) days, for the satisfactory correction of that violation. In the event that that violation involves a person who disposes or stores hazardous waste without a permit, then the violation of this Ordinance shall be deemed an emergency and the Town shall take all steps necessary to cause an immediate cessation of that violation of this Ordinance.

(b) If any person permits or causes hazardous waste disposal or storage contrary to the provisions of this Ordinance or any order of the municipal officers, the Town may commence an action for legal and/or equitable relief including injunctive relief in the appropriate Superior Court. Any disposal and storage of hazardous waste in violation of the provisions of this Ordinance or any order of the municipal officers shall be considered a public nuisance.

In the event that any person violates this Ordinance by disposing and storing hazardous waste without a permit, the actions of said person in violation of this Ordinance shall be deemed an emergency and the Town shall commence an action for legal and/or equitable relief including injunctive relief in the appropriate Superior Court as soon as reasonably possible to cause a cessation of that violation of this Ordinance and for such other relief as the Town requires.

Section VI. Penalties/Cost

Any person who fails to comply with any provisions of this Ordinance, and the orders, rules and regulations issued hereunder, shall be fined not less than \$500 and not more than \$2000 for each offense. Each day on which a violation will occur or continue

shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Town may recover reasonable attorney's fees, court cost, court reporter's fees, fees for expert witnesses, and other expenses of litigation in any suit commenced by the Town against a person who is adjudged to have violated this Ordinance or the orders, rules, and regulations issued hereunder.

Section VII. Appeals

(a) Upon written application of an aggrieved party from any decision or order of the Board of Selectmen under the terms of this Ordinance, and after public notice, the Board of Appeals may hear appeals from the determinations and decision of the Board of Selectmen in the administration of this Ordinance. Following such hearing, the Board of Appeals shall affirm, modify, or set aside the decision from which an appeal lies. Any modification or reversal of the decision from which the appeal is taken shall occur only upon a finding that the decision of the Board of Selectmen is clearly contrary to the specific provisions of this Ordinance.

Section VIII

An appeal may be taken from any decision of the Zoning Board of Appeals to the Superior Court in accordance with state law within thirty (30) days of the date of such a decision.

Section IX. Separability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

Section X. Definitions

(1) Hazardous Waste shall mean any waste designated as hazardous under federal or state regulations or laws concerning hazardous waste, whichever said regulation or laws are the most inclusive and the most restrictive and any radioactive waste materials as defined by Title 38, MRSA, subsection 361-D.1.B.

(2) Person shall mean any natural person, firm, corporation, partnership, or other business entity or organization.

(3) Disposal shall mean any permanent disposition of hazardous waste and/or radioactive waste at a site within the Town of Lincolnville which involves a permanent or long-term storage of that waste material.

(4) Storage shall mean any retention of hazardous waste and/or radioactive material at the site in the Town of Lincolnville which involves temporary retention or placement of that material at that site.

(5) Site shall mean any parcel of land or location for storage of hazardous waste and radioactive waste materials in the Town of Lincolnville.

Dated 6/22/81

Article #11 Shall an ordinance be enacted entitled “Ordinance Concerning the Disposal and Storage of Hazardous Waste in the Town of Lincolnville.” **Passed**

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