

**TOWN OF LINCOLNVILLE
ORDINANCE CONCERNING THE STORAGE AND DISPOSAL OF
SLUDGE AND SEPTAGE ON SITES IN THE TOWN OF
LINCOLNVILLE**

Preface

This Ordinance shall be known and may be cited as the “Sludge, Disposal, and Storage Ordinance of the Town of Lincolnville, Maine.” This Ordinance is promulgated pursuant to Title 30, MRSA, § 2151 (1) (A), Title 30, MRSA, § 2151 (6), and Title 38, MRSA, § 1305 (2).

The purpose of this Ordinance is to provide for the general welfare and the public safety of the Town of Lincolnville and to control the disposal and storage of sludge and septage which results in odors offensive and discomforting to the inhabitants of the Town of Lincolnville.

SECTION 1

The disposal and the storage of sludge and septage within boundaries of the Town of Lincolnville, Maine is strictly prohibited unless the person causing or permitting disposal or storage of such sludge or septage obtains a permit in writing from the Board of Selectmen in the Town of Lincolnville permitting such disposal or storage.

A. The Permit Application

The person seeking a permit for the disposal or storage of sludge and septage, hereinafter referred to as “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 plans for the disposal, and storage of sludge and septage, including plans for the spreading of sludge and septage, as required by the Board of Selectmen. 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 \$15.00. The Selectmen may increase the application fee in the event that the cost of administering and enforcing the Ordinance warrants such increase in the fee.

B. Duration of Permit

Disposal and storage permits shall be issued for a period of six months from the date of issuance. Issuance of the permit shall allow the person who obtains such a permit, hereinafter referred to as the “Permittee”, to cause or permit the disposal and storage of sludge and septage on a site approved in accordance with the terms of this Ordinance for a period not to exceed six months from the date of issuance. The storage and disposal permit shall not be reassigned or transferred and sold to any other person and a new owner of the approved site shall reapply for

a new permit before causing or permitting any future sludge or septage to be disposed or stored on the approved site.

C. Revocation of a Permit

Any violation of a condition of the Storage and Disposal Permit or of this Ordinance by Permittee may result in a revocation of the permit, after notice to the Permittee and hearing. In the event that disposal or storage on the approved site ceases to conform with the standards of Section II, then the Board of Selectmen may revoke the permit after notice to the Permittee and hearing.

SECTION II

Standards of Granting a Permit

A permit for disposal and storage of sludge and septage shall be approved by the Board of Selectmen only after a determination by the Board of Selectmen to the satisfaction of that Board that the storage and disposal of sludge and septage as appears in the application of the applicant for the requested site will conform with the following standards:

- A.** That the proposed location for the disposal and storage of sludge and septage is not undesirable for that proposed use and that such use will not have an unreasonable adverse affect on the use and quiet possession of the surrounding land owners;
- B.** That the proposed use of the site for the disposal and storage of sludge and septage will not significantly depreciate the value of adjacent real estate;
- C.** That the proposed use of the site for disposal and storage of sludge or septage will not constitute a hazard to the health or safety of the residents of the Town of Lincolnville and that such use will not adversely affect the quality of the air, rivers, streams, or other bodies of water in the Town of Lincolnville, including ground water;
- D.** That the proposed use of the site for disposal and storage of sludge and septage will not cause unreasonable increase in the provision of municipal services or the cost of municipal services by the Town of Lincolnville;
- E.** That the proposed use of the site for disposal and storage of sludge or septage will not adversely affect the character of the neighborhood in which the site is located; and,
- F.** That the proposed use of the site for disposal and storage of sludge or septage 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; and including without limitation regulations pursuant to Title 38, Maine Revised Statutes, §1305.

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 all of those aforementioned standards. Strong and prolonged odor originating from the proposed

site and detectable outside the property boundaries of the proposed site shall be evidence of a violation of the standards set forth in Paragraph (A), Paragraph (B), Paragraph (C), and Paragraph (E) of this Section of the Ordinance. Strong and prolonged odors from the approved site caused by disposal and storage of sludge or septage shall be grounds for revocation of any permit granted pursuant to this Ordinance, after notice and hearing.

SECTION III

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

SECTION IV

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 concerning storage and disposal of sludge or septage, 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 of Lincolnville authorized to make the inspection, at any reasonable time that admission is required.

In the event that any Permittee, or person in charge of the premises of a Permittee, refuses to permit any such inspection, including taking of sufficient samples for analysis, or in the event that such Permittee or such person interferes with such inspection, 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 or in a Disposal and Storage Permit, the Town shall send a written notice to that person stating the nature of the violation and requiring satisfactory correction of that violation.

(B) Enforcement Action

If any person permits or causes sludge or septage disposal or storage contrary to the provision of this Ordinance or any permit granted hereunder, 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 sludge or septage in violation of the provision of this Ordinance or any permit granted hereunder shall be considered a public nuisance. In the event that the person receiving written notice as set forth in Section V(A) does not take appropriate corrective steps to cure the violation within the time set forth in that notice, then the Town shall commence immediate action for legal or equitable relief.

SECTION VI

Penalties/Cost

Any person, who fails to comply with any provisions of this Ordinance, and the conditions of any permit granted hereunder, shall be fined not less than \$250 and not more than \$1,000 for each offense. Each instance of violation or failure of compliance that occurs shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Town may recover reasonable attorney fees and expenses of litigation in any suit commenced by the Town against the person who adjudged to have violated this Ordinance or any of the condition of any permit granted hereunder.

SECTION VII

Appeals

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 any such decision or order of the Board of Selectmen in the administration of this Ordinance. Upon such hearing, the Board of Appeals shall affirm, modify or set aside the decision from which an appeal lies. Any modification and 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. Any such appeal to the Zoning Board of Appeals shall occur no later than thirty (30) days from the date of issuance of the decision or order by the Board of Selectmen.

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

SECTION VIII

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 portions of this Ordinance. To the extent that any provision of this Ordinance are less stringent than or inconsistent with provisions of Title 38, Maine Revised Statutes, §1305 (6) through 1308 or the regulations adopted thereunder, then provisions of those statutes and the regulations adopted thereunder shall control.

In addition to the provisions of this Ordinance, any person providing a site for the disposal of septage for a site located within the Town of Lincolnville shall be subject to the requirements of Title 38, Maine Revised Statutes, §1305 (6).

SECTION X

Definitions

- (1) Sludge shall mean any residue of waste and effluent generated by a municipal or private sewerage treatment plant including both such residue produced by sewage treatment within the Town of Lincolnville and by sewerage treatment outside of the Town of Lincolnville.
- (2) Septage shall mean waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or other similar facilities including both materials produced within the Town of Lincolnville and outside the Town of Lincolnville.
- (3) Person shall mean any natural person, firm, corporation, partnership, or other business entity or organization.
- (4) Disposal shall mean any permanent disposition of sludge or septage at a site within the Town of Lincolnville.
- (5) Storage shall mean any retention of sludge or septage on a site within the Town of Lincolnville which involves temporary retention or placement of that material at that site.
- (6) Site shall mean any parcel of land or location in the Town of Lincolnville upon which sludge or septage is to be disposed or stored or for which sludge or septage is being disposed or stored.
- (7) Applicant shall mean the person or persons who make an application pursuant to this Ordinance for disposal or storage of sludge or septage at this site. Under normal circumstances, the applicant shall be the owner of the proposed site.

SECTION XI

This Ordinance shall be effective immediately upon enactment at a duly constituted town meeting.

Adopted: November 10 1983

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