

**TOWN OF WATERBORO, MAINE  
HAZARDOUS WASTE ORDINANCE**

Adopted March 8, 1986

Amended, March 14, 1987

Amended, June 3, 1995

**The Town of Waterboro hereby ordains:**

The Ordinance entitled the "Amended Hazardous Waste Ordinance" of the Town of Waterboro, Maine, as adopted and made effective by vote of the Town Meeting on March 8, 1986, is hereby further amended as follows:

**Section I-Purpose**

The regulations set forth in this ordinance are adopted to:

- A. Provide for the protection of ground water and surface water quality through the control of hazardous waste handling, storage or disposal;
- B. Protect the health, safety and welfare of the citizens of Waterboro.

**Section II-Legislative Authority**

**A. Authority**

- 1. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30, M.R.S.A., Section 1917, 38 M.R.S.A. 1310-A.
- 2. This ordinance shall be known as the "Amended Hazardous Waste Ordinance" of the Town of Waterboro, Maine, adopted and made effective by vote of the Town Meeting on March 8, 1986 and further amended by vote of the Town Meeting on March 14, 1987 also amended June 3, 1995..

**B. Administration:**

- 1. The Code Enforcement Officer of the Town of Waterboro shall administer this ordinance.(Amended June 3, 1995)
- 2. No person shall construct, develop, establish, operate, own or maintain an industrial or commercial site which will generate, process, handle, store or dispose of hazardous waste without having first obtained a permit from the Code Enforcement Officer. A permit or renewal permit shall be issued for a period of three (3) years from the date of issuance, unless suspended or revoked. Each permit or renewal permit shall be issued only for the site designated in the plans accompanying the application and shall not be transferable or assignable except with the written approval of the Code Enforcement Officer. (Amended June 3, 1995)

### Section III-Validity and Severability and Conflict with Other Ordinances

#### A. Validity and Separability

1. Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

#### B. Conflict with other Ordinances:

1. Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinances, code or statute, the more restrictive requirements shall apply.

### Section IV-Applicability

A. All requirements of this Ordinance shall apply to any new facility or enlargement of an existing facility in or at which hazardous waste will be generated, stored, handled, processed or disposed. Proposals to construct a new facility or enlarge an existing facility shall be presented as a Site Plan of Development Application and reviewed under Sections IV, V, VI(A) and VI(B) of this Ordinance.

B. Existing facilities in or at which hazardous wastes are generated, stored, handled, processed or disposed must comply with the requirements for triennial operations permits under Section VI(C) of the ordinance.

C. Exemptions: This Ordinance shall not apply to:

1. Agriculture Waste: The storage and handling of products used for agricultural purposes on working farms or generated by farming activities.
2. Household waste: Products which are used for normal domestic housekeeping.
3. Retail gasoline stations, household heating fuels.

### Section V-Application Procedure and Site Plan Content

A. The Site plan of Development Application shall include as a minimum:

1. A map at a convenient scale. (i.e. U.S.G.S. 7 1/2 minute or 15 minute topographic) delineating the parcel, and existing dwelling units, other structures, 100 year flood zones, private and public water supplies, land currently used for agricultural purposes, sand and gravel aquifers and aquifer recharge areas on the parcel or within 500 feet of the parcel.
2. Maps and or engineering drawings at a scale of not less than one (1) inch to forty (40) feet and shall include:
  - a. name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest:

- b. municipal tax maps and lot numbers and names of abutting land owners;
- c. summary of existing and proposed easements, restrictions and covenants placed on the property;
- d. a hydrogeologic investigation of the site by a hydrogeologist;
- e. erosion and sedimentation control plan, storm water runoff plan, and spillage management plan;
  
- f. copies of all notification letters to: landowners within 200 feet of the boundaries of the proposed site; all of the following officials presently employed by the town: town manager, selectmen, road commissioner/public works director, fire chief, police chief and code enforcement officer. The letters must state the proposed use of the property, the size of the facility, and the location;
- g. statement of financial capacity which should include the names and sources of the financing parties, including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long term mortgages or both. This statement shall show the applicant has sufficient financial capacity to build, operate, and close down the facility;
- h. list of applicable local, state and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Clean Water Act and the Clean Air Act;
- i. the applicant evaluation of the availability and suitability of off-site public facilities which they will use, such as roads and fire protection;
- j. a description of the site utilization and a description of specific activities including the volumes and types of waste, and all methods of operation signed by a Professional Engineer licensed in the State of Maine;
- k. an operations plan including a description of all operating procedures as well as emergency response plans, safety procedures and monitoring well sampling programs prepared by a licensed professional;
- l. an emergency management plan covering fire, spillage's and other potential accidents involving hazardous wastes, which shall be prepared by a qualified professional and approved by the Code Enforcement Officer;  
(Amended June 3, 1995)
- m. a letter from the fire chief acknowledging his acceptance of the emergency management plan as well as a description of response activities by all local, state and federal agencies;
- n. an agreement that notification of impending closure shall be made to the Code Enforcement Officer at least thirty (30) days prior to such closure a description of what public roads the hazardous wastes will be transported on,
- o. and of what hours deliveries to the site will be made;
- p. a description of anticipated air emissions, including materials which could cause odors.

## B. Application Procedures:

1. The application for a permit allowing hazardous waste handling, storage or disposal shall be filed with the Code Enforcement Officer for review and accompanied by a fee of \$100. for processing the application. All costs related to publications and/or notifications as required under Section III(B)(a) of this Code shall be at the expense of the applicant. Within 30 days of the filing of an application, the Code Enforcement Officer shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Code Enforcement Officer has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development. (Amended June 3, 1995)
2. The Code Enforcement Officer shall have the right to inspect and/or have qualified professionals inspect the proposed site. All expenses of such inspection shall be at the expense of the applicant. (Amended June 3, 1995)
3. The Code Enforcement Officer shall hold a public hearing within 30 days of its determination of the filing of the completed application. The Code Enforcement Officer shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven (7) days prior to the hearing, in a newspaper of areawide circulation. The landowners within 200 feet of the proposed site shall be notified of the hearing. Public hearings by the Code Enforcement Officer shall be conducted according to the procedures outlined in Title 30, M.R.S.A. Section 2411, Subsection 3 (A), (B), (C), (D), and (E). (Amended June 3, 1995)
4. Within 60 days of the public hearing, the Code Enforcement Officer shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Code Enforcement Officer and the applicant. (Amended June 3, 1995)
5. Within ten (10) days of reaching their decision, the Code Enforcement Officer shall notify the applicant in writing of any action taken and the reason for taking such action. (Amended June 3, 1995)

## Section VI-Requirements and Performance Standards:

### A. Requirements:

1. a. Monitoring wells shall be located to adequately sample ground water for contamination. The location and construction standards will be determined by a Maine registered geologist.

b. All wells shall be monitored at least three (3) times a year (including once for relicensing) by a Maine registered geologist, such monitoring to be at periodic intervals. Additional monitoring as may be recommended by a Maine registered geologist may be required.

The geologist shall submit a full report explaining importance and impact of levels of waste (as defined herein) on the environment and population of the surrounding town. All such monitoring and subsequent reports shall be at the expense of the applicant/licensee.

2. Applicant must have acquired insurance of two million dollars (\$2,000,000) per occurrence of sudden and accidental or nonsudden and non-accidental discharge and an annual aggregate of four million (\$4,000,000 exclusive of legal defense costs, for claims arising out of injury to persons or property from the operations of the hazardous waste facility. The deductible written into the insurance policy must not exceed five (5) percent of the incident limit of liability of the policy. Such insurance shall be in effect for a period of 40 years after the site is no longer in operation.

3. Applicant must provide a surety bond to the Town of Waterboro an amount sufficient to cover the construction or expansion costs of the hazardous waste facility as proposed to the Code Enforcement Officer. This surety bond shall be released contingent upon approval of final construction by the Code Enforcement Officer. (Amended June 3, 1995)

4. The applicant must agree to obtain a surety bond to guarantee the operation of the site in accordance with this ordinance, or post a cash sum with the Town of Waterboro, any or all of which may be used by the Town of Waterboro to correct failures to comply with this ordinance or to pay for damages and/or necessary clean-up it finds have been caused by the applicant's use, storage, or disposal of hazardous wastes during operation or subsequent clean-up. The amount of the bond or the amount of cash to be posted shall be determined by the Code Enforcement Officer based upon its review of the application and its assessment of the risk associated with the activities for which the hazardous material use permit is being sought. Such surety bonds or cash deposits shall be held by the Town of Waterboro throughout the life of the permitted facility, and shall terminate or be relinquished only after the prescribed closure period, from 0 to 20 years, as set by the Code Enforcement Officer, has elapsed. (Amended June 3, 1995)

5. The applicant shall provide such special equipment (on-site) and training to reasonable prepare the town's fire department to respond to emergencies at the site.

6. In addition to other fees mentioned the applicant shall be required to pay the cost that Waterboro incurs for professional services to inspect the site during construction. The cost will either be established or a written agreement will be signed prior to approval of the application.

7. If wastes will be incinerated on the site air monitoring devices shall be located to sample emissions. Emissions shall be monitored in accordance with state and federal regulations.

8. The Code Enforcement Officer shall require that such records be kept as it determines are necessary to allow the Town of Waterboro to assure that the handling, transportation, storage and/or disposal of hazardous wastes is in accordance with the information supplied in the application and the conditions of the permit. The records shall be available to authorized municipal employees and consultants. (Amended June 3, 1995)

**B. Performance Standards:** The following standards are to be used by the Code Enforcement Officer in judging applications and shall serve as minimum requirements for approval of the plan. The plan shall be approved, unless in the judgment of the Code Enforcement Officer, the applicant is not able to reasonable meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application. (Amended June 3, 1995)

1. Posting of Permit: A permit issued hereunder shall be kept posted in a conspicuous place on the permitted facility and must be kept legible and protected from the weather.

2. Signs: A sign shall be erected and maintained at the entrance of the hazardous waste use, storage or disposal site, clearly legible and visible, which shall contain the following:

- a. Name of site.
- b. Emergency phone number
- c. Accepted types of hazardous wastes
- d. Operating hours

3. Buffering of development site: the lot shall be set back and landscaped in order to screen the appearance of outstanding features of the development, i.e. exposed storage areas, truck loading and unloading areas, to provide an audio/visual buffer to minimize their adverse impact on surrounding properties. Sound pressure levels shall not exceed 70 dB(A) from 7 a.m. to 7 p.m. and 60dB(A) from 7 p.m. to 7 a.m. at all major lot lines, at a height of at least 4 feet above the ground surface as measured on a sound level meter.

4. External lighting: all external lighting shall be designed to minimize adverse impact on neighboring properties.

5. Vehicular Access: the proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes and traffic signalization when required by existing and projected traffic flow on the municipal road systems.

6. **Parking and Circulation:** the layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas, shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangements and use of parking areas.

7. **Emergency Vehicle Access:** provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to the site and all facilities at all times.

8. **Surface Water Drainage and Soil Erosion:** adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality or public storm drainage systems. On-site absorption of runoff waters shall be utilized to minimize discharges from the site. Also unreasonable soil erosion or reduction in flow capacity of the land to hold water so that a dangerous or unhealthy condition may result shall be prevented. Spill control mechanisms shall be included on the surface drainage plan.

9. **Water Pollution:** the development shall not adversely impact water quality. In making its determination, the Code Enforcement Officer shall at least consider: (1) the elevation of land and its relation ability to adequately support the development; (2) the applicability of any D.E.P. approved licenses; (3) the slope of the land; (4) surface and ground water resources including aquifer recharge areas; and, (5) the applicable federal, state and local laws, ordinance codes and regulations. (Amended June 3, 1995)

10. **Air Pollution:** the development shall not have a negative impact upon air quality including odor. In making its determination, the Code Enforcement Officer may consult federal and state consultants to determine that applicable air quality laws and regulations can be met. (Amended June 3, 1995)

11. **Safety-Fire Hazards:** the applicant shall provide sufficient facilities and equipment available of the needs of the development including fire-fighting and spill prevention and control.

12. **Sewage Disposal:** the applicant shall provide for adequate sewage waste disposal.

13. **Municipal Services:** the development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, open spaces, recreational programs and facilities and other municipal services and facilities.

**C. Triennial Renewal Permit Standards:** A triennial operations permit application shall be submitted at least three (3) months before the current permit is to expire or, in the case of an existing facility for which no permit has previously been issued, within 3 months after March 14, 1987 to the Code Enforcement Officer accompanied by a fee of \$50. for processing the application. The Code Enforcement Officer shall grant a triennial

operations permit contingent upon the findings that the following have been met.  
(Amended June 3, 1995)

1. Maintenance of a current operations plan;
2. An acceptable emergency exercise;
3. Test monitoring of wells and monitoring of air emissions when applicable;
4. An acceptable facility inspection by a registered engineer.

### **Section VII-General Provisions**

A. The Code Enforcement Officer may modify or waive any of the above applications requirements when the Code Enforcement Officer determines that because of the special circumstances of the site, such applications requirements would not be applicable or would be an unnecessary burden upon the applicant and would not adversely affect the abutting land owners and the general health, safety and welfare of the town. (Amended June 3, 1995)

B. A permit granted under this ordinance shall expire if the work or change is not commenced within one year from the date the permit is granted, although such permit may be renewed for additional periods. Renewal of a permit shall be treated as a new application and shall be subject to all provisions of this ordinance.

C. Town of Waterboro Conservation Commission members shall be notified of any application requests and any or all members of the Conservation Commission may set in on all hearings. However, Conservation Commission members will not have voting power.

### **Section VIII-Violation, Enforcement and Fines.**

**A. Right of Entry and Inspection:** The Code Enforcement Officer shall have the authority to enter any property at reasonable hours and to enter any building with the consent of the owner, occupant, or agent to inspect the premises and take samples or designate tests appropriate to determine compliance with any provision set forth in the Hazardous Waste Ordinance. (Amended June 3, 1995)

**B. Suspension and Revocation of Permit:**

1. The Code Enforcement Officer shall have the right to enter the property during reasonable hours upon presentation of credentials to perform duties imposed by this ordinance or to enter any building with the owner's consent.

2. Whenever the Code Enforcement Officer determines that a hazardous wastes use, storage or disposal site is not being operated in conformance with any portion of this ordinance, he/she may cause to have issued a notice of violation indicating corrective action necessary to comply with this ordinance. Such notice may include an order to



cease the operation of the site where violations of the permit constitute a threat to the public health, safety, and welfare.

3. The Code Enforcement Officer is authorized to suspend or revoke a permit where they find there has been a failure to comply with this ordinance.

**C. Violation and Enforcement:** The Selectmen or State certified Code Enforcement Officer, upon a finding that any provision of this ordinance or the condition(s) of a permit issued under this ordinance is being violated are authorized to institute legal proceedings to enjoin violations of this ordinance.

**D. Fines:** A person who violates the provisions of this ordinance or the condition(s) of a permit shall be guilty of a civil violation and on conviction shall be fined not less than \$100. nor more than \$2500., each day such violation continues, and shall also be liable for court cost and reasonable attorney fees incurred by the municipality.

#### **Section IX-Appeals**

A. If the Code Enforcement Officer disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the ordinance do not apply, or that the true intent and meaning of the ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision to Superior Court within thirty (30) days from the Code Enforcement Officer's final decision in accordance with Rule 80 B of the Maine Rules of Civil Procedure. (Amended June 3, 1995)

#### **Section X-Amendments**

A. This ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Code Enforcement Officer or by request of the Board of Selectmen to the Code Enforcement Officer or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Code Enforcement Officer shall conduct a public hearing on any proposed amendment. (Amended June 3, 1995)

#### **Section XI-Definitions**

A. "Hazardous Waste" is defined as a waste material which is radioactive, ignitable, corrosive, reactive and/or toxic. It will include: (1) all wastes determined to be hazardous by the Resource Conservation and Recovery Act, Section 3001 and regulations promulgated pursuant to said section including 40 CRF 261; (2) wastes determined to be hazardous by the State Board of Environmental Protection pursuant to 38 M.R.S.A. s1303 and 1303-A; (3) waste defined as radioactive waste materials by 38 M.R.S.A. s361-D (1) (B).

B. "Code Enforcement Officer" shall mean the Waterboro Code Enforcement Officer. (Amended June 3, 1995)

C. "Ground Water" shall mean the water present in the saturated zone of the ground.

D. "Aquifer" shall mean geologic deposits or structures from which usable quantities of ground water are available for households, municipalities or industries.

E. "Surface Water" shall mean a body of water whose top surface is exposed to the atmosphere including but not limited to rivers, ponds, lakes, streams, marshes and wetlands.

F. "Hazardous Waste, Storage or Disposal Permit" shall mean a certificate issued by the Waterboro Code Enforcement Officer authorizing the use, storage or disposal of hazardous wastes for a specific use site by a specific person, or firm and specifying such other requirements which the finds to be necessary for the protection of the health, safety and welfare of the citizens of Waterboro. ( Amended June 3, 1995)

G. "Person" shall mean any individual, group of individuals, firm, corporation, association, partnership or private or public entity, including a district, county, city, town or other governmental unit or agent thereof, and in the case of a corporation, any individual having active and general supervision of the properties of such corporation.

H. "Household Waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels).

I. "Handling" of hazardous waste means to store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat, or dispose of.

J. "Disposal of Hazardous Waste" shall mean the discharge, dumping, spilling, leaking, or placing of any materials into or on the land or water.

K. "Storage of Hazardous Waste" shall mean the placement of materials in drums, tanks, lagoons, or other structures intended to retain the wastes for subsequent use or disposal.

L. "Generation of Hazardous Waste" means the act or process of producing hazardous waste.