

ARTICLE 7. Hazardous Waste Ordinance

June 21, 1982

The Town of Chesterville hereby Ordains:

Passed.

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 Chesterville.

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., Section 1320, and 38 M.R.S.A., Section 1321.
2. This ordinance shall be known as the "Hazardous Waste Ordinance" of the Town of Chesterville, Maine, adopted and effective by vote of the Town Meeting on

B. Administration:

1. The Planning Board of the Town of Chesterville shall administer this ordinance.
2. No person shall construct, develop, establish, operate, own or maintain an industrial or commercial site which will handle, store, or dispose of hazardous waste without having first obtained a permit from the Planning Board. A permit or renewal permit shall be issued for a period of one (1) year 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 Planning Board.

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. This ordinance shall apply to all development proposals for new construction of hazardous waste storage, handling, processing and/or disposal facilities and shall also apply to any expansion or existing facilities.

B. Existing facilities including commercial and industrial operations which store, handle, process, or dispose of hazardous wastes shall comply with renewal permit criteria in Section VI. C. of this ordinance.

C. Exemptions:

1. Agriculture: The storage and handling of products used for agricultural purposes on working farms.
2. Domestic sewage.
3. Household waste: Products which are used for normal domestic housekeeping.

4. Recycled oil and petroleum products generated in this town.
5. Industrial storage: Industrial or manufacturing facilities storing less than 400 pounds per calendar month, within a fully enclosed secure structure with concrete retaining walls on all sides.

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 $\frac{1}{2}$ minute or 15 minute topographic) delineating the parcel, existing dwelling units, other structures, 100 and 500 year flood zones, private and public water supplies, land currently used for agricultural purposes, aquifers and aquifer recharge areas.
2. Maps and/or engineering drawings at a scale of not less than one (1) inch to fifty (50) 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. perimeter survey of the parcel made and certified by a Registered Land Surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage. Areas within 200 feet of the proposed development site shall be included;
 - c. topography indicating contours at intervals of 2 or 5 feet in elevation as specified by the Planning Board;
 - d. existing soil conditions described using the Unified Soil Classification System by a Registered Geologist or Soil Scientist in the State of Maine;
 - e. location of aquifers and aquifer recharge areas and surface watershed boundaries as described by a Registered Geologist in the State of Maine;
 - f. location, ground floor area and elevations of building and other structures on parcels abutting the site;
 - g. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design at ingress and egress of vehicles to and from the site on to public streets;
 - h. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private right-of-way;
 - i. landscape plan showing location, type and approximate size of plantings and location and dimension of all fencing and screening;
 - j. profiles of underlying soil and bedrock conditions prepared by a Registered Geologist in the State of Maine;
 - k. engineering drawings including plans and profiles of all storage, handling, processing, and disposal facilities signed by a Professional Engineer licensed in the State of Maine. Additionally, construction drawings which show the site upon closure;
 - l. location and details of ground water monitoring wells;

according to the procedures outlined in Title 30, M.R.S.A., Section 2411, Subsection 3 (A), (B), (C), (D), and (E).

3. Within 30 days of the public hearing, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
4. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

Section VI. Requirements and Performance Standards

Requirements:

1. Monitoring wells shall be located to adequately sample ground water for contamination. The location, construction standards and monitoring program will be determined by a Registered Geologist.
 2. Applicant must have acquired insurance of two million dollars (\$2,000,000) per occurrence and an annual aggregate of four million dollars (\$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 Chesterville in an amount sufficient to cover the construction or expansion costs of the hazardous waste facility as proposed to the Planning Board. This surety bond shall be released contingent upon approval of final construction by the Planning Board.
 4. Applicant must have obtained a surety bond in the amount of \$100,000 guaranteeing the operation of the site in accordance with these rules and regulations, or the applicant must post a sum equal to or greater than \$1,000,000 with the Town of Chesterville any or all of which may be used by the Town of Chesterville to correct failures to comply with this ordinance.
 5. The applicant shall provide such special equipment (on-site) and training to reasonably prepare the town's fire department to respond to emergencies at the site.
- b. Performance Standards: The following standards are to be used by the Planning Board in judging applications and shall serve as minimum requirements for approval of the plan. The plan shall be approved unless in the judgement of the Planning Board the applicant is not able to reasonably 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.
1. Buffering of development site: the lot shall be setback 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.
 2. External lighting: all external lighting shall be designed to minimize adverse impact on neighboring properties.
 3. 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.

4. **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.
 5. **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.
 6. **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.
 7. **Water Pollution:** in making this determination, the Board shall at least consider: (1) the elevation of land and its relation to flood plains, the nature of soils and subsoils and their ability to adequately support the development; (2) the applicability of any approved D.E.P. licenses; (3) the slope of the land; (4) the ground water resources including aquifer recharge areas; (5) the applicable federal, state and local laws, ordinance codes and regulations.
 8. **Air Pollution:** in making this determination, the Board shall consult federal and state authorities to determine that applicable air quality laws and regulations can be met.
 9. **Safety/Fire Hazards:** has sufficient facilities and equipment available for the needs of the development including fire-fighting and spill prevention and control.
 10. **Sewage Disposal:** will provide for adequate sewage waste disposal.
 11. **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. **Annual Renewal Permit Standards:** A yearly operations permit application shall be submitted to the Planning Board accompanied by a fee of \$200.00 for processing the application. The Planning Board shall grant a yearly operations permit contingent upon the findings that the following have been met.
1. Maintenance of a current operations manual;
 2. An acceptable emergency exercise;
 3. Test monitoring of wells;
 4. An acceptable facility inspection by a Registered Engineer.

Section VII. General Provisions

- A. The Planning Board may modify or waive any of the above applications requirements when the Planning Board determines that because of the special circumstances of the site, such application 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 and safety and welfare of the town.

- 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.

Section VIII. Violation, Enforcement, and Fines

- A. **Violation and Enforcement:** The Planning Board, the Selectmen or the appropriate municipal official, upon a finding that any provision of this ordinance or the addition(s) of a permit issued under this ordinance is being violated are authorized to institute legal proceedings to enjoin violations of this ordinance.
- B. **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 \$499. Each day such violation continues, shall also be liable for court costs and reasonable attorney fees incurred by the municipality.

Section IX. Appeals

- A. If the Planning Board disapproves an application or grants approval with conditions that are objectional to the applicant or any abutting land owner 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 land owner, or aggrieved party may appeal the decision to Superior court within thirty (30) days from the Planning Board's final decision in accordance with rule 80 B of the Maine Rules of Civil Procedure.

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 Planning Board or by request of the Board of Selectmen to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendment.

Section XI. Definitions

- A. "Hazardous wastes" is defined as 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 CFR 261; (2) wastes determined to be hazardous by the State Board of Environmental Protection pursuant to 38 M.R.S.A., sections 1303 and 1303A; (3) wastes defined as radioactive waste materials by 38 M.R.S.A., sections 361-D(1) (B).
- B. "Planning Board" shall mean the Chesterville Planning Board.
- 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 useable 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 Materials use, storage, or disposal permit" shall mean a certificate issued by the Chesterville Planning Board authorizing the use, storage or disposal of hazardous materials for a specific use site by a specific person, or firm and specifying such other requirements which the Planning Board finds to be necessary for the protection of the health, safety and welfare of the citizens of Chesterville.
- 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).

The Registrar of Voters will be in session at the time and place of said meeting for the purpose of correcting the list of Voters. Fail not to make due service of this warrant and to return your doings at the time and place of said meeting.

JOHN HINKLEY
[Signature]

DAVID ARCHER

GEORGE BARKER