

ARTICLE XII

TOWN OF LEEDS

SLUDGE MANAGEMENT ORDINANCE

Adopted: June 2, 2001

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TOWN OF LEEDS SLUDGE MANAGEMENT ORDINANCE

TITLE:

This Ordinance shall be known and cited as the “Town of Leeds Sludge Management Ordinance” and will be referred to herein as “this Ordinance.”

Article 1: Authority, Applicability and Availability

- 1.1** This Ordinance is adopted pursuant to 38 MRSA Section 1310-U, under municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A, Section 3001. Municipalities may enact ordinances with respect to residual utilization and storage that contain standards the municipality finds reasonable, provided the standards contained in this Ordinance are in conformance with those contained in 38 MRSA Section 1301 et seq. and Chapter 419.
- 1.2** The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Leeds.
- 1.3** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during Town Office hours. Copies shall be made available to the public at reasonable cost to be charged to the person making this request. Notice of availability of this Ordinance shall be posted in the Town Office.
- 1.4** The Leeds *Wastewater Treatment Plant Sludge Moratorium Ordinance* enacted March 24, 2001, is hereby repealed with the enactment of this Ordinance.
- 1.5** This Ordinance shall not apply to homeowners using composted residuals.

Article 2: Purpose

- 2.1** The purpose of this Ordinance is to protect the health and safety of the residents of the Town of Leeds; to enhance and maintain the quality of the environment; and to conserve natural resources through regulation of storage and land application of sludge and other residuals.

The Town of Leeds desires to work in partnership with the Department of Environmental Protection by establishing in this Ordinance a local procedure for the following activities: public hearing process to review all land application sites, an inspection process to review all land spreading activities, notification process to keep the Town informed of all land spreading activities. This Ordinance also recognizes the agricultural value that sludge and other residuals can provide the Town's farms and forest land. The opportunity to use sludge and residuals on agricultural land enhances the ability of local farmers to improve the productivity of their land and further promotes the Town's interest in preserving the agricultural heritage of the community. Furthermore, the application of sludge and residuals represent a cost effective management strategy for a certain portion of municipal and special solid waste. The application of sludge and residuals on agricultural lands shall be performed in a manner that also recognizes the other land use activities that share the Town's rural landscape.

Article 3: Validity, Severability, and Conflict with Other Ordinances

- 3.1 Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section of this Ordinance.
- 3.2 Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, Code, or Statute, the more restrictive requirements shall apply.

Article 4: Appeals

- 4.1 An aggrieved party may appeal any final action taken by the Planning Board or Code Enforcement Officer to the Leeds Board of Appeals solely to review their actions for errors in applying this Ordinance.

Article 5: Amendments

- 5.1 This Ordinance may be amended by a majority vote of the Town. Amendments may be initiated by a request of the Planning Board, Selectmen, or by petition bearing the signatures of registered voters equal to, or in excess of 10% of the votes cast in the last gubernatorial election in the Town.

Article 6: Continuance of Existing Uses

- 6.1 Any land spreading of sludge or residuals or storage of sludge or residuals that are legally existing and operating with a permit from the Department of Environmental Protection within the Town of Leeds prior to the adoption of this Ordinance may continue, but be subject to the following requirements:

- 6.1.1 The expansion or enlargement of any existing activity shall require a permit and conform to the provisions of this Ordinance for the new, expanded area.
- 6.1.2 The applicant shall obtain a permit within 12 months of the effective date of this Ordinance and shall conform to the requirements established for permits.

Article 7: Effective Date

- 7.1 Having been adopted by the voters on the effective date of this Ordinance shall be June 2, 2001.

Article 8: Definitions

In addition to those terms defined below, all terms as defined by the currently adopted Department of Environmental Protection Chapter 400 are adopted for the purposes of this Ordinance. See Appendix A for the Chapter 400 definitions.

8.1 Applicant

The term applicant refers to the owner and/or operator of the wastewater treatment plant or generator of the sludge or residual, or any person who alone or in conjunction with others owns real property upon which is located a land spreading site or storage facility.

8.2 Expansion or Enlargement

The expansion or enlargement of an activity shall mean the increase in the size or capacity of an operation regulated under this Ordinance and shall include the following: construction or enlargement of any building or structure, new spreading sites, and any increase in the size of the operation.

8.3 Septage

Waste, refuse, effluent, sludge, and other materials from septic tanks, cesspools, or other similar facilities.

8.4 Sensitive Natural Resources

Sensitive natural resources consist of protected locations, protected natural resources, sensitive receptors, or significant wildlife habitat as defined by Chapter 400.

8.5 Planning Board

The Leeds Planning Board.

Article 9: Regulated Activities

9.1 The following activities shall be regulated by the Town of Leeds and shall require a permit from the Planning Board. The activities are land spreading of sludge or residuals or storage of sludge or residuals.

Article 10: Permit Requirements

10.1 No person shall conduct or allow on his/her property any of the activities listed in Section 9.1 without first obtaining a permit for that purpose from the Planning Board. The Planning Board shall furnish an application form for the purpose of obtaining all the required information from the applicant. The fee for the permit shall be \$300.00 and shall be presented with the complete application to the Town Clerk. The permit fee is non-refundable.

10.2 Permit Modifications

The expansion or enlargement of any regulated activity shall require a permit from the Planning Board according to the requirements for a new permit. Minor changes or revisions to the original application shall be submitted to the Code Enforcement Officer for review and approval. The CEO may request the Planning Board's review prior to making a decision about the proposed change. The applicant shall be responsible for making any permit modifications with the Department of Environmental Protection as required.

Article 11: Application Permits

11.1 New Permits

All new applications for any regulated activity shall be filed on the forms provided by the Planning Board and shall include the following information:

11.1.1 The complete application submitted to the Department of Environmental Protection for the proposed activity. This shall include all the required permit attachments.

11.1.2 The \$300.00 application fee.

11.1.3 Construction drawings for all buildings or structures proposed for the activity.

11.1.4 A list of names and addresses of all abutting property owners of record to the proposed activity.

11.1.5 A map of the proposed site showing any sensitive natural resources within 500 feet of the site.

11.1.6 A report from the Code Enforcement Officer (referred to hereafter as CEO) that indicates that the site was inspected for compliance with the provisions of this Ordinance.

Article 12: Application Procedure

12.1 New Permits

The application procedure outlined below shall be followed for all new permit applications:

12.1.1 The applicant shall obtain a copy of this Ordinance and application form from the Leeds Town Office during regular business hours.

12.1.2 The applicant shall complete the application and arrange an inspection of the site with the CEO who shall check the location for compliance with this Ordinance.

12.1.3 The CEO shall complete an inspection report and submit a copy to the applicant to include with the application.

12.1.4 The applicant shall submit a complete application and fee to the CEO and request to be placed on the Planning Board agenda for consideration of the proposal.

12.1.5 The Planning Board shall schedule a hearing on the proposed application within 30 days of the CEO receiving the complete application. The Planning Board shall provide notice of the date and time of the hearing to the applicant at least 20 days prior to the date of the hearing, in order to allow adequate time for notification of property owners of record and legal notices.

12.1.6 The applicant shall notify all property owners of record abutting the proposed land application site of the date, time, place, and purpose of the hearing by certified mail. The applicant shall submit proof to the Planning Board that the letters were sent to each property owner of record. The letters shall be mailed at least 10 days prior to the scheduled hearing. Failure of any party to receive a notice shall not invalidate the hearing proceedings, provided that the applicant can show proof that the letters were mailed.

12.1.7 The applicant shall place one legal ad in a newspaper of general circulation in the area indicating the date, time, place, and purpose of the hearing. The ad shall be placed at least 7 days prior to the scheduled hearing. The applicant shall submit a copy of the ad to the Planning Board.

- 12.1.8 The Planning Board shall review the proposed application for compliance with this Ordinance and shall hear testimony from the applicant, property abutters and other interested parties.
- 12.1.9 The CEO shall attend the hearing and provide information to the Planning Board concerning the site inspection.
- 12.1.10 The Planning Board shall review and decide upon the application based upon the following review standards:
- 12.1.10.1 The application is complete.
 - 12.1.10.2 The applicant has complied with all hearing notification requirements.
 - 12.1.10.3 The CEO has conducted a site visit and finds that the proposal complies with all of the applicable provisions of this Ordinance.
 - 12.1.10.4 The proposed activity conforms to all the applicable provisions of this Ordinance.
- 12.1.11 The Planning Board may decide to approve the application, approve the application with conditions in order to bring the proposal into compliance with this Ordinance, or deny the application.
- 12.1.12 The Planning Board shall issue a written decision and shall indicate the reasons for their decision by a finding of fact. The written decision shall be mailed to the applicant within 7 days of a decision.
- 12.1.13 The Planning Board shall grant or deny the permit to the applicant based upon the Board's written finding of fact. The permit shall be issued within 7 days of the final decision of the Planning Board.

Article 13: Performance Standards

13.1 Notification Standards

- 13.1.1 The applicant shall notify the CEO at least 24 hours prior to any sludge or residuals land spreading activity.
- 13.1.2 The applicant shall notify the CEO of any change or modification in the activity and request that the original permit be amended. Failure to notify the CEO of any alteration in the original permit shall constitute a violation of this Ordinance.
- 13.1.3 The applicant shall notify the CEO when the activity will permanently

cease operation at the location. A temporary lapse in activity does not constitute a closing of the activity.

13.2 Inspection

13.2.1 Upon notification that land spreading will occur at the site, the CEO shall inspect the site during or after spreading has occurred. The CEO shall maintain a record of each inspection.

13.2.2 The CEO shall inspect the site for compliance with this Ordinance and shall notify the applicant in writing of any violation.

13.2.3 The CEO shall respond to all complaints concerning any activity regulated by this Ordinance and determine if there are any violations of this Ordinance. The CEO shall notify the applicant or its agent within one business day of receipt of a complaint and provide a copy of all complaints to the applicant.

13.2.4 The applicant shall allow the CEO to inspect the activity.

13.3 General Standards

13.3.1 All activities shall be performed in accordance with the regulations and provisions contained in this Ordinance and the applicable DEP permit. The applicant shall provide to the CEO all annual reporting data required by the DEP at the time of permit renewal. Any activity not performed in accordance with this Ordinance shall constitute a violation of this Ordinance.

13.3.2 All activities shall conform to the following general standards as applicable:

13.3.2.1 Land spreading shall not occur during the following time period: November 15th to April 15th.

13.3.2.2 Land spreading shall not occur on frozen ground or if the ground is saturated.

13.3.2.3 Sludge or residuals incorporation activities shall occur as soon as possible after spreading operations.

13.3.2.4 All activities shall conform to the setback and buffer requirements established by the DEP in Chapter 419.

13.4 Transportation

13.4.1 The applicant shall take all reasonable measures to transport sludge or residuals to the site in a manner that reduces any odors or other nuisances to residents and businesses along the access route.

13.5 Sensitive Natural Resources

The applicant shall provide a statement of information concerning whether or not the proposed site is located in, on, over, or next to a protected location, protected natural resource, sensitive receptor, or significant wildlife habitat as defined in Chapter 400. The statement of information should describe and name the sensitive natural resources and identify the approximate horizontal distance from the nearest site boundary to the sensitive natural resource. Chapter 419 regulatory setbacks and licensing standards shall apply to the identified sensitive natural resources, unless additional site specific setbacks are established through municipal conditions included in DEP licenses.

Article 14: Municipal Oversight of Residuals Utilization Activities

14.1 The municipality must file a copy of the ordinance with the DEP Commissioner within 30 days of its adoption.

14.2 Pursuant to Title 30-A, section 4452, section 6: The town, after notifying the DEP, may enforce the terms and conditions of a sludge utilization or storage site license issued by the Department under Chapter 419 and Chapter 400.

14.3 Coordination between the municipality and the DEP on sludge licenses. Under state law:

14.3.1 Notification: The DEP shall notify municipalities (municipal officers or their designees) in which sludge utilization sites or sludge storage sites are being proposed. Notification will be made within 14 working days of DEP receipt of a complete permit application. The notification will include, at a minimum, the name and address of the applicant, and the analytical results of the sludge proposed to be spread in the municipality.

14.3.2 Municipal Conditions in DEP Licenses: Prior to approving an application for a sludge land application site or storage facility, the DEP will consult with the municipal officers or their designees in the municipality in which the site or facility is proposed, and provide them with an opportunity to suggest conditions, including additional setbacks, to be included in the license. The DEP will impose those conditions that are necessary for the project to meet the licensing standards in Chapter 419. If the DEP does not impose conditions on a license that have been suggested in writing by the municipality, the DEP will provide a written explanation to the municipality.

14.3.3 The DEP shall consult with a municipality within 10 days of receipt of a request by a sludge generator to change the terms or conditions of a sludge land application or storage facility license concerning a facility located in the municipality.

14.3.4 Petitions Concerning Sludge Testing Protocols: A municipality may petition the DEP Commissioner to review a generating facility's testing protocol for sludge. The DEP Commissioner will respond to the municipality, in writing, within 10 days of receipt of a written petition. The DEP Commissioner may order the generator to conduct an additional waste characterization test on their sludge at the generator's expense. The generator must provide a copy of the additional test results to the municipality within 30 days of receipt.