

Town of Canterbury Contaminated Materials Ordinance

I. Statutory Authority:

Pursuant to the authority conferred by RSA 147:1, the Town of Canterbury Board of Selectmen approve this Contaminated Materials Ordinance to promote the health, safety, and general welfare of the Town of Canterbury and its residents.

II. Purpose:

The purpose of this Ordinance is to protect, preserve, and maintain existing and potential groundwater sources and groundwater recharge areas. The purpose of this Ordinance is also to protect, preserve, and maintain surface water quality, soil quality, and the general health and safety of the public from the potential adverse impacts associated with storing, stockpiling, releasing, spreading, or otherwise discharging any contaminated materials, including but not limited to septage sludge, within the Town.

This Ordinance's objectives include: (1) protecting natural areas; (2) maintaining ecological balance; (3) protecting potential and existing water supplies; (4) preventing soil contamination; (5) protecting property values; (6) preventing unnecessary or excessive municipal costs that may arise from contaminated materials in the Town

III. Scope:

This Ordinance is a supplement to and not intended to preempt any other local, state, or federal laws, regulations, or ordinances that may apply to the creation, handling, storage, and disposal of contaminated materials.

IV. Definitions:

Contaminated Materials: any waste that because of quantity or concentration of any physical, chemical, or infectious characteristics may, if not properly treated, stored, or disposed of: (1) cause or contribute to an increase in mortality or illness; or (2) pose a present or potential threat to human health or the environment. Contaminated materials specifically includes septage sludge and [***add any other materials the Board wants to include***].

V. Prohibition on Contaminated Materials:

No person shall store, stockpile, spread, release, or otherwise discharge any contaminated materials within the boundaries of the Town of Canterbury.

VI. Violation and Penalties:

Pursuant to RSA 147:1, III, a person who violates the provisions of this Ordinance and who fails to fully remediate and abate the violation within a reasonable time after notice to do so shall be fined \$50 per day from the date the Town first notified the person of the violation.

In addition, each violation of this Ordinance shall also constitute a “violation” under the New Hampshire Criminal Code and be prosecutable and punishable under RSA 625:9 up to the maximum fine allowed for a violation under New Hampshire law.

For any violation that requires remediation or abatement, including but not limited to remediation or abatement conducted by the Town, the owner or occupant of the property may be responsible for all costs as directed in RSA 147:7 and RSA 147:7-b.

BAO Notes:

- (1) Because the BOS wanted a selectman ordinance rather than a zoning ordinance, this draft cites RSA chapter 147 for authority.
- (2) Relying on RSA ch. 147, this will ultimately need to be proposed to the BOS by the Town's current health officer, Geoff Hubbell. The BOS can then approve the ordinance.
- (3) I kept the ordinance simple and flexible, and the Board should feel free to add in any specific types of contaminated materials to the definition. (Dirty dirt?).
- (4) The fine amount is flexible—RSA ch. 147 authorizes fines but doesn't put a cap. In any event, the real penalty will be remediation/abatement. And if the town conducts that remediation, the person will owe the town for the cost of the remediation.