

AN ORDINANCE REGULATING WASTE OIL AND USED TIRES

Section I. Purpose

- A. Provide for the protection of ground water and surface water quality and to minimize the potential for fire through the control of waste oil handling, storage or disposal and used tire handling, storage and disposal.
- B. Protect the health, safety and welfare of the citizens of Hebron.

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.
2. This ordinance shall be known as An Ordinance Regulating Waste Oil and Used Tires of the Town of Hebron, Maine, adopted and effective by vote of the Town Meeting on March, 17, 1984.
(month) (day)

B. Administration:

1. The Planning Board of the Town of Hebron shall administer this ordinance.
2. No person shall construct, develop, establish, operate, own or maintain an industrial or commercial facility which will handle, store or dispose of waste oil or used tires 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 ordinance, 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 waste oil or used tire storage, handling, processing and/or disposal facilities and shall also apply to any expansion of existing facilities.
- B. Existing facilities including commercial or industrial operations which store, handle, process, or dispose of waste oil or used tires 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. Household Waste: Products which are used for normal domestic housekeeping.
 3. Industrial/Commercial Storage: Industrial or manufacturing facilities storing less than five hundred (500) gallons of waste oil or one hundred (100) used tires per calendar month.

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, existing dwelling units, other structures, 100 and 500 year flood zones, private and public water supplies, aquifers and aquifer recharge areas within 1,000' of the parcel.
 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. topographic indicating contours at intervals of 2 (two) or 5 (five) feet in elevation when 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;
- f. location of buildings and other structures on parcels abutting the site;
- g. location and dimension of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of 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 rights-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;
- 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; and
- l. location and details of ground water monitoring wells.

3. A written statement by the applicant that shall consist of:
 - a. evidence by the applicant of his title and interest in the land for which the application covers;
 - b. municipal tax maps and lot numbers and names of abutting landowners;
 - c. summary of existing and proposed easements, restrictions and covenants placed on the property;
 - d. erosion and sedimentation control plan;
 - e. copies of letters to the abutting landowners, selectmen, road commissioner and fire chief notifying them of the proposed development;
 - f. 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;
 - g. list of applicable local, state, and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Clean Water Act;
 - h. the applicant's evaluation of the availability and suitability of off-site public facilities;
 - i. a description of the site utilization and a description of specific activities and all methods of operation;
 - j. an emergency management plan covering fire, spillages and other potential accidents involving waste oil and used tires;
 - k. 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 and state agencies; and
 - l. an operations plan including a description of all operating procedures as well as emergency response plans, safety procedures, and monthly monitoring programs for waste oil impurities.

B. Application Procedures:

1. The application for a permit allowing waste oil or used tires handling, storage or disposal shall be filed with the Planning Board for review and accompanied by a fee of \$100 for processing the application. Within 30 days of the filing of an application, the Planning Board 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 Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
2. The Planning Board shall hold a public hearing within 30 days of the filing of the completed application. The Planning Board 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 abutting landowners shall be notified of the hearing. Public hearings by the Planning Board 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).
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

A. Requirements:

1. Monitoring wells when required by the Planning Board 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 acquire insurance for claims arising out of injury to persons or property from the operations of the 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 10 years after the site is no longer in operation.

3. Applicant must provide a surety bond to the Town of Hebron in an amount sufficient to cover the construction or expansion costs of the facility as proposed to the Planning Board. This surety bond shall be released contingent upon approval of final construction by the Planning Board.
 4. 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 judgment 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: The development shall not adversely impact water quality. In making its determination, the Board shall at least consider: (1) the elevation of land and its relation to floodplains, the nature of soils and subsoils and their ability to adequately support the development; (2) the slope of the land; (3) the ground water resources including aquifer recharge areas; and (4) the applicable federal, state and local laws, ordinance codes and regulations.
8. Air Pollution: The development shall not have a negative impact upon air quality. In making its 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: The applicant shall provide sufficient facilities and equipment for the needs of the development including fire-fighting and spill prevention and control.
10. Sewage Disposal: The applicant shall 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, solid waste program, 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 at least three (3) months before the current permit is to expire to the Planning Board accompanied by a fee of \$25 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 plan;
 2. An acceptable emergency exercise;
 3. Test monitoring of wells;
 4. An acceptable facility inspection by a registered engineer; and
 5. Receipt of monthly product monitoring reports.

Section VII. General Provisions

- A. The Planning Board may modify or waive any of the above application 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 landowners and the general health, 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 condition(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 for each day such violation continues. The violator 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 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 the Hebron Board of Appeals within thirty (30) days from the Planning Board's final decision in accordance with Title 30, M.R.S.A. Section 2411.

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. **Waste oil** is defined as a petroleum based oil which, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. Waste oil which exhibits hazardous wastes characteristics, or which has been contaminated with hazardous wastes in excess of quantities normally occurring in waste oil shall be considered a hazardous waste and must comply with federal and state laws.
- B. **Used Tires** are defined as discarded, worn-out tires which may or may not be usable now or in the future.
- C. **Commercial/Industrial Waste Oil Facility** is defined as a facility designed and operated to handle, dispose of or store waste oil in excess of 500 gallons per calendar month.
- D. **Commercial/Industrial Used Tire Facility** is defined as a facility designed and operated to handle, dispose or store more than 100 used tires per calendar month.
- E. **Planning Board** shall mean the Hebron Planning Board.
- F. **Ground Water** shall mean the water present in the saturated zone of the ground.

- G. **Aquifer** shall mean geologic deposits or structures from which usable quantities of ground water are available for households, municipalities or industries.
- H. **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.
- I. **Waste Oil or Used Tire Storage or Disposal Permit** shall mean a certificate issued by the Hebron Planning Board authorizing the use, storage or disposal of materials for a specific 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 Hebron.
- J. **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.
- K. **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).
- L. **Handling** means to store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat, or dispose of.
- M. **Disposal** shall mean the discharge, dumping, spilling, leaking or placing of any materials into or on the land or water.
- N. **Storage** shall mean the temporary placement of materials in drums, tanks, lagoons, piles or in structures intended to be retained for subsequent use or disposal.