

CHAPTER 19

HAZARDOUS MATERIAL ORDINANCE TOWN OF LITTLETON CONTROL AND CONTAINMENT OF HAZARDOUS MATERIALS

Section 1. Authority

Ordinance enacted under authority of RSA 31:38. RSA 47:17 VI. And RSA 154.

Section 2. Purpose

To provide for the control and containment of hazardous materials after accident or discharge. The purpose of this ordinance is not to impose upon the Town, or any of its officers or agents, and obligation to secure or remove any hazardous material from the Town. Once safe containment of the material is made; and that nothing in this ordinance shall be deemed to permit the possession, storage or use of hazardous materials, except in conformance with all Federal, State or local laws.

Section 3. Application

This ordinance shall apply to all incidents involving hazardous waste or materials within the boundaries of Town of Littleton, and to all persons who may possess such materials found within the Town except as prevailing Federal or State laws or regulations may take precedence and control over any such incident or person. (see RSA 146-A, RSA 265:115-118 for examples of such prevailing State law at the time this ordinance is adopted.)

Section 4. Definitions

For the purpose of this ordinance, the following definitions shall apply:

- I. Hazardous Material - Those substances or materials in such quantity or form which may pose an unreasonable risk to health and safety or property, which may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids and solids, combustible liquids and solids, poisons, oxidizing or corrosive materials, and compressed gases which are listed by the Material Transportation Bureau of the United States Department of Transportation in Title 49 of the code of Federal Regulations, and any amendment thereto.
- II. Person - Any individual, corporation, partnership, trust or other legal entity.
- III. User - Any person who manufactures or transports, or owns, uses, handles, stores, or has the legal authority to control hazardous materials, specifically including their officers, directors, employees and agents.
- IV. Responsible Party - Any individual, partnership, corporation, association, trust or other entity partially or solely responsible for the release of any hazardous material within the Town.
- V. Cleanup - The management, control, containment, recovery, removal or neutralization of any released hazardous material for the purpose of promoting or protecting public health or safety.

Section 5. Duty to Report

Any person who causes or has knowledge of any discharge or release of hazardous material: from their safe container, in any manner which poses an actual or potential threat to people, animals, wildlife, vegetation, property or the environment shall immediately notify the Littleton Fire Department.

Section 6. Cleanup

The user or transporter of a hazardous material which is intentionally or accidentally discharged or released within the Town shall, in addition to reporting the incident as required by Section V, take immediate action to cause the discharge or release to be cleaned up in an environmentally safe and scientifically sound manner, and to restore the site and surrounding environment.

Section 7. Intentional Discharge or Release

The intentional discharge or release of a hazardous material within the Town of Littleton is strictly prohibited.

Section 8. Cost Recovery

- I. Upon completion of any cleanup in which Town employees participated, all costs of the cleanup shall be itemized by each Town department involved, including the Fire Department. Such costs shall include, but are not limited to, the cost of cleaning, repair, restoration or replacement of any Town material or equipment used in the cleanup, the costs of any illness or injury sustained by any employee who participated in the cleanup and the costs of all contracted services utilized in the cleanup.
- II. Upon receipt of the itemizations (including its own) but in no event later than sixty (60) days from the date of the release, the Fire Department shall bill the full cost of cleanup to the responsible party or parties. The bill shall include a description of costs incurred. Bills for less than the full amount these costs shall be the reason therefore and the approximate date by which it can expect to receive a complete bill.
- III. Each responsible party shall be jointly and severally liable to the Town for the costs of the cleanup for which they are responsible. Such costs may be collected by any lawful means including, but not limited to, appropriate court proceedings. All funds received from responsible parties shall be forwarded to the Finance Department for deposit in the Town treasury.
- IV. Any and all costs recovered from a responsible party shall be separate from and in addition to any penalty that may be assessed for any violation of any provision of this article.

Section 9. Penalties

- I. Any person who fails to report, as required by Section V, shall be assessed a civil forfeiture not to exceed one thousand dollars (\$1,000.000). Each twenty-four (24) hour period that this incident is not reported shall constitute a separate violation.
- II. Any person who intentionally discharges or releases, or causes another to discharge or release, and hazardous materials from their safe container, in any manner which poses actual or potential threat to people, animals, wildlife, vegetation, property or the environment, shall be assessed a civil forfeiture not to exceed on thousand

dollars (\$1,000.00).

- III. Any person who fails to take the action required by Section VI shall be assessed a civil forfeiture not to exceed on thousand dollars (\$1,000.00). Each twenty-four hour (24) period that a person fails to take action to cause the discharge or release of a hazardous material to be cleaned up, shall constitute a separate violation.

Section 10. Use of Costs of Civil Forfeiture Collected

All costs and civil forfeiture collected under this ordinance shall be placed in the General Fund.

Section 11. Emergency Operations

The Fire Chief of the Town of Littleton or his designated representative(s) shall take, and be in control of, any actions necessary to mitigate a hazardous materials incident within the Town of Littleton, except where Federal or State agencies have jurisdiction by law.

Section 12. Enforcement

The Board of Selectmen of the Town of Littleton shall be responsible for enforcing this ordinance.

Section 13. Repeal

Any provision of any ordinance, which is inconsistent with this ordinance, is hereby repealed.

Section 14. Severability

If any section, subsection, sentence, clause, phrase, or part of this ordinance should be held invalid for any reason whatsoever, such decision shall not effect the remaining portions; which shall remain in full force and effect; and, to this end, the provisions of this ordinance are severable.

Section 15. Effective Date

This ordinance shall become effective upon passage by the Town Meeting.