The Town of Clinton

An Ordinance Regulating Solid Waste Facilities

Passed: June 13, 2000 Town Warrant
Revised: June 8, 2004 Town Warrant
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Title	Town of Clinton: An Ordinance Regulating Solid Waste Facilities	Page 2
Article 1:	Authority, Applicability, and Availability	Page 2
Article 2:	Purpose	Page 2
Article 3:	Validity, Severability, and Conflict with other Ordinances Incorporation of State Regulations	Page 3
Article 4:	Appeals	Page 4
Article 5:	Amendments	Page 4
Article 6:	Definitions	Page 4
Article 7:	Regulated Activities	Page 5
Article 8:	Permit Requirements	Page 5
Article 9:	Permit Submission Requirements	Page 6
Article 10:	Application Procedure	Page 11
Article 11:	General Permit Criteria	Page 14
Article 12:	Decision of the Board of Selectmen	Page 17
Article 13:	Standard Permit Conditions	Page 17
Article 14:	Special Permit Terms and Conditions	Page 18
Article 15:	Enforcement	Page 21
Article 16:	General Distribution of Residuals for Agronomic Utilization	Page 23

Addendum "A"

TOWN OF CLINTON

AN ORDINANCE REGULATING SOLID WASTE FACILITIES

TITLE:

This Ordinance shall be known and cited as the "Town of Clinton Ordinance Regulating Solid Waste facilities"; and shall be effective when adopted at Town Meeting on June 13, 2000

1.1 This Ordinance is adopted pursuant to M.R.S.A. Title 30-A § 3001 and § 4452 et. seq.; and, Title 38 § 1301, et. seq.

1.2 The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Clinton; and, shall supplement the Land Use Ordinance, Wellhead Protection Ordinance, and Shoreland Zoning Ordinance of the Town.

1.3 A certified copy of the Ordinance shall be sent to the Commissioner of the Department of Environmental Protection within 30 days after its adoption at Town Meeting.

Article 2: Purpose

2.1 The purpose of this Ordinance is to protect the health and safety of the residents of the Town of Clinton; to enhance and maintain the quality of the environment; to conserve natural resources; and, to prevent water, air, and land pollution through regulations of storage and land applications of municipal and industrial wastewater treatment plant sludge and other residuals, and Septage.

The Ordinance recognizes the need to regulate and monitor the agronomic utilization, on sites located within the Town, of sludge, and residuals, generated by municipal wastewater treatment facilities from industrial, commercial, biomedical, as well as domestic wastes. It is designed to protect the Town against the risk to the environment, the risk to human and animal health, the risk of the loss of confidence in agricultural products from the Town, the risk of reduced property values, and the risk of an adverse effect upon residential or commercial development. While recycling of the organic matter and nutrients contained in wastewater through land application is a worthwhile objective, the mix of chemicals and pathogens in sludges includes a multitude of contaminants that pose a serious risk of harm to human, livestock, wildlife, and ecological health. Local regulation of solid waste facilities, such as sludge utilization sites, is necessary to protect the Town's natural resources from degradation and to preserve the quality of life of the Town's citizens. Strict regulation by the Town of a utilization site is particularly warranted when the site adversely impacts nearby residential properties or surface and ground waters.

The application of sludge and residuals on agricultural lands shall be performed in a manner that will not pollute any water, contaminate ambient air, constitute a hazard to health or welfare, or create a nuisance.

2.2 The purpose of this Ordinance is to exercise the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A M.R.S.A. § 300 I with respect to the Town's regulation of solid waste facilities. The Ordinance mandates the Town's review of all license applications For solid waste Facilities involving the storage and land application of sludge and other residuals proposed for location in the Town of Clinton.

The Ordinance establishes a review process based upon standards the Town of Clinton finds reasonable to regulate and monitor such solid waste facilities. These standards of review set forth in this Ordinance are consistent with, and not more strict than, those contained in Title 38 M.R.S.A. Chapter 13 and in Chapter 3, Subchapter I, Articles 5-A and 6, and the rules adopted there under, particularly the Solid Waste Management Regulations promulgated by the Maine Department of Environmental Protection Chapters 400,405,418, and 419, "Agronomic Utilization of Residuals", as amended. This review process occurs at public hearings held by the Town's Board of Selectpersons upon public notice and an opportunity for local public input. This review is independent from the review by the Maine Department of Environmental Protection (MDEP) with regard to the state license application. The Town's Board of Select persons must evaluate the information contained in the license application filed with the MDEP for the proposed waste facility, as well as other relevant and reliable information received through submissions under this Ordinance and/or documents or testimony at the public hearing. The Ordinance then directs the Town's Board of Select persons to make its findings of fact concerning the environmental impact of the proposed solid waste facility; and, to determine whether the proposed facility will pollute water of the State, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance.

Article 3: Validity. Severability. and Conflict with other Ordinances: Incorporation of State Regulations

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; provided that no requirement is more strict than the standards contained in Title 38 M.R.S.A. Chapter 13 and in Chapter 3, Subchapter I, articles 5-A and 6 and the rules adopted under these articles.

Article 4: Appeals

4.1 An aggrieved party may appeal any final action taken by the Board of Selectpersons to Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

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, Selectpersons, 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. The Board of Select persons shall conduct a public hearing on any proposed amendments.

Article 6: Definitions

6.1 All terms contained in this Ordinance shall have same definitions as set forth in the Maine Department of Environmental Protection Solid Waste Management Rules, Chapter 400, "General Provisions", as amended

6.2 Applicant:

The term "applicant" refers to any person or entity that has sufficient title, right, or interest in the real property upon which a land spreading site, compost operation or storage facility is proposed for development or use.

6.3 Nuisance

The term "nuisance" is defined within the parameters of the Maine (judicial) common law terminology for a private nuisance, as follows: Whatever is injurious to health, indecent, or unreasonably offensive to the senses, Of an obstruction to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. The term includes, but is not limited to, the particular nuisances set forth in Title 17 M.R S.A § 2802 which relate to solid waste facilities: The erection, continuance, or use of any building or place for the exercise of any trade, employment, or manufacture, which, by noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals, or of the public; and, the causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others; and, the corrupting or rendering unwholesome or impure the water of any river, stream, pond, or aquifer, to the injury of prejudice of others.

Article 7: Regulated Activities

7.1 The following activities shall be regulated by the Town of Clinton and shall require a permit approval by the Board of Selectpersons: the activities relating to the establishment or operation of solid waste facilities, including land spreading of sludge and residuals, storage of sludge and residuals, land spreading and storage of Septage, and composting operations.

Article 8: Permit Requirements

8.1 New Permits

No person shall conduct or allow on his/her property any of the activities listed in Section 7.1 without first obtaining a permit for that purpose from the Board of Selectpersons. The permit shall be issued for a period of one year and shall be subject to an annual renewal permit. The non-refundable new permit fee shall be $1,500.00 payable upon the filing of the application.

8.2 Annual Renewal Permit

All applicants that plan to continue operations shall file an application to obtain an annual renewal permit from the Board of Select persons within 30 days of the expiration of their existing permit. The non-refundable fee shall be $1, 000.00. Any applicant that does not obtain the annual renewal permit shall submit an application to the Board of Selectpersons for a new permit. The Renewal permit shall be obtained for any activity that plans to continue operations regardless of any temporary laps in spreading, storage, composting, etc.

8.3 Permit Modifications

The expansion and/or enlargement of any regulated activity shall require a permit from the Board of Selectpersons 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 shall require the Board of Selectpersons' review and its decision about the proposed change. The applicant shall be responsible for making any permit modifications with the Department of Environmental Protection, as required.

8.4 Permit Revocation

Upon the petition of the CEO or its own initiative, and after an evidentiary hearing, the Board of Select persons may revoke an issued permit upon finding that the applicant has conducted its activities in non conformance to the terms of the permit. An applicant shall be served with a Notice of

cont. Hearing together with a concise statement of the alleged violations at least 20 days prior to the hearing. A finding of violation by the Board of Selectpersons shall be based upon the weight of the competent and credible evidence presented at the hearing.

Article 9: Permit Submission Requirements

9.1 New Permits

An applicant must first obtain the necessary License of the Maine Department of Environmental Protection for solid waste facilities and solid waste handling operations; and, no application for a new permit under this Ordinance shall be accepted until the applicant files with the Town a true copy of the License issued by the Maine Department of Environmental Protection.

Each application for a new permit for any regulated activity shall be filed by the prospective operator of the waste facility and shall include the following information:

1. Name and address of the applicant;

2. Identification of the proposed site by Town tax map and registry of deed references;

3. Verification of the applicant's legal interest to the property together with a copy of the most recently recorded deed for the parcel and all deed restrictions, easements, rights-of-way or encumbrances currently affecting the property;

4. Names and addresses of all record owners of property adjacent within 1 mile from the site proposed for the waste facility site, which includes owners of properties across a public or private road;

5. Location Map

   The location Map shall be drawn at a size adequate to show the relationship of the proposed waste facility to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

   a. Locations and names of existing and proposed highways, streets, and private ways.

   b. An outline of the proposed waste facility and any remaining portion of the owner's property if the waste facility covers only a portion of the owner's entire contiguous holding.

6. Site Plan

A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.

The plan shall indicate the type of monument found or to be set at each lot comer. The Plan shall further detail the following information:

a. The corners of each common boundary line for abutting properties;

b. The location(s) of each existing dwelling or other structure located on the property proposed for the waste facility site or located on abutting properties;

c. The location of all rivers, streams, and brooks on or adjacent within 1,000 feet to the proposed facility;

d. The location of all private or public wells and water supplies on or adjacent within 1,000 feet to subject property;

e. The location and *size* of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property;

f. The location and detail of any proposed groundwater monitoring wells;

g. The location of aquifers and aquifer recharge areas and surface watershed boundaries according to surveys on file with the Town of Clinton Water District on or adjacent within 1,000 feet to the subject property;

h. If any portion of the facility is in the flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the Town's Flood Insurance Rate Map, shall be delineated on the plan;

i. The location and detail of each soil or percolation test site in conjunction with high intensity soil survey by a Registered Soil Scientist; and, Wetland area regardless of size;

j. Areas on or adjacent within 1,000 feet to the proposed facility which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife;

k. The location of any open space to be maintained as buffer areas.

l. The location, names, and present widths of existing streets and highways. and existing streets and highways, and existing and proposed access ways or easements;

m. Contour lines at intervals of five (5) feet in elevation in relation to Mean Sea Level.

n. The location of any schools and airports

7. A detailed description of the consistency, chemical composition, and origin of the material to be handled at the proposed waste facility. The Board will require information and testing on the content of contaminants in the form of synthetic organic chemicals, including dioxins and furans, in the event that matter generated from an industrial process is a constituent of the waste handled at the proposed facility and there is a demonstrable risk that such matter contains this class of contaminant.

8. A detailed description of the manner in which Septage or solid waste will be transferred to the proposed facility.

9. A disclosure of the weight and volume of the material to be handled, on a yearly or monthly basis, at the proposed waste facility, together with details about each time period when the material is transported to, stored upon, and applied at the site.

10. A detailed description of the specific activities at the proposed waste facility, including methods of operation and a description of all structures and machinery which are a part of the facility or utilized in the land application process.

11. A detailed plan for erosion and sedimentation control at the site in accordance with the erosion and sedimentation control standards of the Maine Department of Environmental Protection.

12. A detailed plan to excavate, landscape, screen, or fence upon the subject property to alleviate unsightliness, fugitive dust, or putrescible odors, and to control access to and from the site for protection of the public and environment.

13. A detailed plan for site specific odor and fugitive dust control to mitigate impacts at adjacent occupied buildings in the event putrescible residuals are proposed for land application at the facility. The Board of Selectpersons will require the applicant to submit an odor and fugitive dust dispersion study if required to adequately assess the health and nuisance impacts upon occupied, residential properties near the proposed site. (Cross-reference: Article 14 (3.)(B.)).

14. A detailed soil analysis performed by the Cooperative Extension Service or similar facility to determine the PH and nutrient level of soil, with recommendation for what nutrients, if any, would need to be added to the soil for the intended crop to be economically grown, in the case of an agronomic utilization site.

15. For an agronomic utilization site application, a complete nutrient management plan for the operation which, at a minimum, will include:

    a. the number of livestock present in the applicants farming operations,
    b. the estimated amount of manure generated by these animals and it nutrient level,
    c. the type of crops to be grown on the utilization site,
    d. the resultant excess or deficiency of nutrients from these livestock sources for the intended crops to be economically cultivated

16. A detailed soil analysis to determine background, soil concentrations of the following heavy metals or elements:

    Arsenic, Cadmium, Copper, Chromium, Iron, Lead, Mercury, Molybdenum, Nickel, Selenium, Silver, and Zinc

    The Board of Selectpersons may require additional testing for inorganic or organic compounds or contaminants based upon known or suspected constituents of the sludge or residual that may adversely affect the public health or the environment.

17. A detailed soil and geological study of the site to determine soil classification and characteristics, soil slope, permeability, flooding potential, depth to bedrock and or sand or gravel deposits, water table levels, and appropriate operational standards required to prevent surface or ground water contamination.

18. A Hydro geologic assessment by a qualified geologist or engineer, which is required unless the Applicant demonstrates that no risk of contamination is posed to any drinking water supply, source or aquifer from underlying soil conditions, geological features, and groundwater characteristics.
    (Cross-reference: Article 14 (4.)(A.)).

19. A complete water test of private or public wells located adjacent within 1,000 feet of the property, which tests will include pathogens, arsenic and heavy metal concentrations, in the event such testing is requested by the adjacent landowner.

20. A detailed plan for groundwater monitoring wells on the property in the event the Board determines there is a risk posed to any drinking water supply, source, or aquifer by migration of contaminants to ground water. (Cross-reference: Article 14 (4.)(A)).

21. Construction drawings for any buildings and/or structures proposed for the facility.

22. Verification of the Applicant's technical and financial capacity to properly construct, operate, maintain, and close the proposed waste facility, including liability insurances covering the facility.

23. A report from the Town's Code Enforcement Officer indicating that the site was inspected for compliance with the provisions of this Ordinance.

24. The complete application submitted to the Maine Department Of Environmental Protection for the proposed activity, which shall include all the submissions required by the Department and copies of all correspondences between the Department and the applicant or generator, or their agents, concerning the application.

25. The Board of Select persons may require the submission of investigations, records, studies, reports, and other information set forth as a submission requirement under the Solid Waste Management Rules, despite the waiver the Maine DEP of any such submission requirement during the State licensing process.

9.2 Renewal Permits

All applicants for renewal permits for regulated activities shall be submitted to the Board of Selectpersons and shall include the following information:

1. All required testing data/or reporting data that was required to be submitted to the Maine Department of Environmental Protection during the preceding year.

2. Any proposed changes or modifications to the information submitted in the prior application for a new permit or renewal permit.

3. Updated results for testing and analyses of soil concentrations for heavy metal or elements under Article 9.1(16.).

4. Updated results for testing and analyses of ground water or well water under Article 9.1 (19.) and (20.).

5. Updated results for testing and analyses for the material handled at the waste facility under Article 9.1 (7.).

6. An updated soil nutrient test indicating any additional nutrients needed for the economic cultivation of intended crops grown at the site, in the case of agronomic utilization activities.

7. The applicant's journal for the prior year containing all the information required in Article 13-(3.) herein below.

Article 10: Application Procedure

10.1 New Permits

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

1. The applicant shall obtain a copy of this Ordinance from the Code Enforcement Officer.

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.

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

4. The applicant shall submit a complete application to the CEO with the following non-refundable application fees:

    a. non-refundable application fee $1,500.00

    b. Request to be placed on the Agenda of the Board of Select persons for consideration of the proposal.

5. The Board of Selectpersons shall schedule a hearing on the proposed application within sixty (60) days of the CEO receiving the complete application. The Board shall provide notice of the date and time of the hearing to the applicant at least twenty (20) days prior to the date of the hearing, in order to allow the adequate time for notification of property owners of record and legal notices.

6. The applicant shall notify all property owners of record within one mile of the proposed site of the date, time, place, and purpose of hearing by certified mail. The applicant shall submit proof to the Board of Selectpersons that the letters were sent to each property owner of record. The letters shall be mailed at least ten (10) days prior to the scheduled hearing. Failure of any person to receive a notice shall not invalidate the hearing proceedings, provided that the applicant can show proof that the letters were mailed.

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 seven (7) days prior to the scheduled hearing. The applicant shall submit a copy of the ad to the Board of Selectpersons. The Applicant shall post a copy of the advertisement in four (4) conspicuous places in the Town.

8. The Board of Select persons shall review the proposed application for compliance with this Ordinance and shall hear testimony from the applicant, property abutters, and other interested parties. Expert testimony may be presented at the hearing in the form of a Written report or affidavit or scientific publication with sufficient detail and reliability of opinion. A Solid Waste Order and Findings or License issued by the Maine Department of Environmental Protection shall not b€ deemed evidence before the Board of Selectpersons.

9. The CEO shall attend the hearing and provide information to the Board of Selectpersons concerning the site inspection.

10. The Board of Selectpersons shall conduct a site visit prior to rendering its decision.

11. The Board of Selectpersons may continue the public hearing for a period not to exceed sixty (60) days if in the discretion of the Board of Select persons additional time is needed to gather or review information.

12. The Board of Selectpersons shall review and decide upon the application based upon the following standards.

    a. The application is complete,
    b. The applicant has complied with all hearing notification requirements, and a public hearing has been conducted before the Board of Selectpersons,
    c. The CEO has conducted a site visit and has submitted an inspection report to the Board of Selectpersons,
    d. The proposed activity conforms to all the applicable provisions of this Ordinance; and, the applicant has proven, by the weight of the competent and credible evidence presented to the Board of Selectpersons at the public hearing, that the proposed waste facility will not pollute any surface or ground water, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance

13. The Board of Selectpersons may decide to approve the application, with conditions in order to bring the proposal into compliance with this Ordinance, or deny the application.

14. Within thirty (30) days from the completion of the public hearing, the Board of Selectpersons shall issue a written decision, which shall be mailed to the applicant within 7 days of a decision. A copy of the Board's decision, including any conditions imposed by the Board shall also be mailed to the Department of Environmental Protection

15. If the Board of Selectpersons grants the issuance of a permit, the permit shall be issued thirty (30) days from the Board's written decision. If any appeal is filed by an interested party, the permit shall not be issued until the appeal is resolved by the judiciary.

10.2 Renewal Permits

The application procedure outlined below shall be followed for all renewal permits:

1. The applicant shall within thirty (30) days of the expiration of the existing permit submit a renewal application to the CEO together with the non-refundable fee of $1,000.00

2. The CEO shall review the permit request; and, unless the Board of Selectpersons have previously issued its decision to revoke the permit, the CEO shall refer the application for placement on the Agenda of the Board of Select persons if the application is complete and conforms to the provisions of this Ordinance.

3. The Board of Select persons shall issue a renewal permit provided it finds:

   a. The permit holder has maintained an operations log with the information required under Article 13 (3.);

   b. The permit holder has complied with all applicable municipal, state, and federal laws and regulations pertaining to Septage and solid waste disposal

   c. The criteria for granting the applicant's original permit together with the purpose of this ordinance, generally, have been and are being met in all respects

   d. An annual nutrient soil test is submitted indication of what additional nutrients for the intended crop are needed to grow the crops economically.

If the Board of Selectpersons find that either the criteria for granting the initial permit or the general purpose of this ordinance are not being met by the permit holder then the Board of Select persons shall be entitled to either deny the renewal of the permit, or grant a renewal permit with additional conditions. The Board of Selectpersons shall hold a public hearing on all renewal permits, upon seven (7) days advance notice to the applicant and to the public.

10.3 Additional Permit Fees

In addition to the permit fees required under this Ordinance, the Board of Selectpersons may, on a case by case basis, require the applicant to pay the Town an additional fee not to exceed $30,000 (Thirty thousand dollars) for an application for a Solid Waste Facility permit when the size, nature, location, geological setting or other relevant factors warrant additional expenditures for technical assistance. This additional fee constitutes the full or partial reimbursement to the Town for expenses deemed necessary by the Board of Selectpersons for its objective evaluation of the application. These expenses may include:

i. Payment or retainer for expert witnesses or hiring qualified professionals in environmental-related fields and other fields including, but not limited to, engineering, geology, public health, finance or law;

ii. The cost of using professional services in these fields to evaluate the application and to objectively access the accuracy of professional or expert reports submitted by applicant

iii. The cost of examining all aspects of the project of permit application which must be considered by the Board of Selectpersons in determining whether the proposed project may be permitted or not; and

iv. Identification, evaluation, and testing of public and private water sources.

Article 11. General Permit Criteria

The applicant must demonstrate compliance with the following general standards applicable to the permitting of solid waste facilities:

1. Complete Application:

   The applicant has provided the Board of Selectpersons with all submissions and information required under Section 9 above.

2. Notice:

   The applicant has provided proof that written notice of the public hearing has been served upon all owners of property which abut the proposed waste facility,

3. Legal Interest:

   The applicant has a sufficient legal interest in the property under consideration for a waste facility.

4. Sufficient Financial and Technical Ability

   The applicant has adequate technical and financial capacity to properly construct, operate, maintain, and close the proposed waste facility. The standard is further defined by the Maine DEP Solid Waste Management Rules Chapter 400, Section 4.B., and 4.C, and 419, incorporated herein by reference. Proof of financial capacity to operate a waste facility shall include evidence of liability insurance coverage in the minimum amount of one (I) million dollars per occurrence and an annual aggregate of 2 million dollars (exclusive of legal defense costs) for claims arising out of injury to persons or property from the operation of applicant's waste facility which insurance shall extend for such periods deemed necessary by the Board of Selectpersons to protect its citizenry in view of the type and volume of waste being handled together with the unique characteristics and specifications of the proposed waste facility

5. Provisions for Traffic Movement

   The applicant has made adequate provisions for safe and uncongested traffic movement of all types into, out of, and within the proposed solid waste facility. This standard is further defined by the Maine DEP Solid Waste Management Rules applicable to the waste facility (Chapter 400 Section 4.d., and 419), incorporated herein by reference.

6. Fitting the Solid Waste Facility Harmoniously into the Natural Environment
The solid waste facility is designed with buffer strips of sufficient size and quality, and to adequately protect aquatic and wildlife habitat and the natural environment; and, the facility does not unreasonably adversely effect protected natural resources and rare, threatened and endangered plant and animal species. This standard is further defined by the Maine DEP Solid Waste Management Rules applicable to the waste facility (Chapter 400, Section 4.E., and 419) incorporated herein by reference.

7. No unreasonable Adverse Effect on Existing Uses and Scenic Character
The solid waste facility does not unreasonably adversely effect existing uses, specifically including the properties neighboring the proposed facility and scenic character. This standard is further defined by the Maine DEP Solid Waste Management Rules applicable to the waste facility (Chapters 400, Section 4.F, and 419) incorporated herein by reference. An unreasonable adverse effect on uses of adjacent properties include, but are not limited to, nuisance levels of putrescible odors and fugitive dust and threats of contamination impacting an outside business frequented by the public such as campgrounds, u-pick vegetable or fruit fields, as well as indoor businesses such as restaurants and day care or nursery schools; and, nuisance levels of putrescible odors and fugitive dust and risks of contamination of groundwater sources for private or public drinking water wells impacting the residence(s) of citizens.

8. No Unreasonable Adverse Effect on Air Quality
The solid waste facility does not unreasonably adversely effect air quality, specifically including the applicant's control of fugitive dust and nuisance odor from the facility. This standard is further defined by the Maine DEP Solid Waste Management Rules applicable to the waste facility (Chapters 400 Section 4.G., and 419), incorporated herein by reference.

9. No Unreasonable Adverse Effect on Surface Water Quality
The solid waste facility does not discharge any water pollutants, directly or indirectly, to affect the state classification of a surface water body as specified in 38 M.R.S.A. § 464. This standard is further defined by the Maine DEP Solid Waste Management Rules Chapters 400 Section 4.H., and 419, incorporated herein by reference,

10. No Unreasonable Adverse Effect on Other Natural Resources:
The solid waste facility does not have an unreasonably adverse effect on other natural resources in the Town of Clinton or in neighboring municipalities. This standard is further defined by the Maine DEP Solid Waste Management Rules Chapters 400, Section 4.I., and 419, incorporated herein by reference.

11. Soil Types that are Suitable and Will Not Cause Erosions:
The solid waste facility is located on soils suitable for the undertaking and the facility does not cause unreasonable sedimentation or erosion of soil. This standard is further defined by the Maine DEP Solid Waste Management Rules Chapters 400, Section 4.J., and 419 incorporated herein by reference.

12. No Unreasonable Risk that a Discharge to a Significant Ground Water Aquifer Will occur.
The solid waste facility does not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur. The standard is further defined by the Maine DEP Solid Waste Management Rules Chapters 400, Section 4.K, and 419, incorporated herein by reference.

13. Adequate Provision for Utilities and No Unreasonable Adverse Effect on Existing or proposed Utilities
The applicant has provided for adequate utilities and the facility does not have an unreasonable adverse effect on existing or proposed utilities in the Town of Clinton or area served by the utilities. This standard is further defined by the Maine DEP Solid Waste Management Rules Chapters 400, Section 4.L., and 419, incorporated herein by reference.

14. Not Unreasonably Cause or Increase Flooding:
The solid waste facility does not unreasonably cause or increase flooding on-site or on adjacent properties nor create an unreasonable flood hazard to a structure. This standard is further defined by the Maine DEP Solid Waste Management Rules Chapters 400, Section 4.M., and 419, incorporated herein by reference.

15. Agronomic Benefit:
For a utilization site, the residual does increase the nutrient content of the soil at a rate commensurate with the nutritional needs of the crop to be grown; otherwise improve agricultural soil conditions, or provide another horticultural benefit in which the residual meets or exceeds the generally accepted product specifications and standards for the product it is replacing; and, each residual in a residual mixture adds to the agronomic benefit of the whole mixture.

16. Compatibility with Town Ordinances:
The solid waste facility is consistent with the Town of Clinton Comprehensive Plan and the Town's Land Use Ordinance, Wellhead Protection Ordinance, and Shoreland Protection Ordinance promulgated there under.

Article 12. Decision of the Board of Selectpersons

The Board of Selectpersons shall issue a permit for a waste facility only when the applicant affirmatively demonstrates by the evidence, that the proposed facility:

(a.) Will not pollute any water of the Town;

(b.) Will not contaminate the ambient air;

(c.) Will not constitute a hazard to health or welfare;

(d.) Will not create a nuisance.

A permit shall be granted, granted with conditions, or denied within thirty (30) days of the completion of the public hearing.

Article 13. Standard Permit Conditions

The Board of Selectpersons may issue a permit subject to any conditions necessary to ensure compliance with the above criteria and the purposes set forth in this ordinance. The following standard conditions are applicable to a permit:

1. Compliance with all applicable laws:
The construction and operation of a new waste facility and the handling of all Septage or solid waste within this municipality shall be performed in accordance with the provisions and regulations contained in this Ordinance and the applicable license of the Maine Department of Environmental Protection; and, shall comply with all other municipal, state, and federal laws and regulations which may apply.

2. Notice of Permit:
The applicant shall execute an instrument entitled "Notification of Waste Facility' with recording in the Kennebec County Registry of Deeds, containing the following information:

   a. A description of the real estate upon which the waste facility is sited together with Registry of Deeds references;
   b. The type of facility located on the lot and the dates of its establishment and closure;
   c. A description of the location and the composition, extent, and depth of waste deposited;
   d. If asbestos-containing waste or asbestos-contaminated waste has been disposed on a site, the location coordinates must be identified (refer to Chapter 405 of State Regulations);

3. Waste Records
All permit holders shall be responsible for keeping a journal of all Septage and solid waste brought into its waste facility throughout the duration of the permit period which shall include the following information:

a. Date any Septage and/or solid waste is transported to, or deposited on, the land encompassing the waste facility;
b. Date any Septage and/or solid waste is spread or applied on or over the land encompassing the waste facility.
c. Identity of person transporting waste material into waste facility together with the identity of the transporter's employer if different;
d. A description (including consistency and chemical composition) of all waste material handled at the waste facility;
e. The volume or weight of all waste material transported into the waste facility for each such date identified in the foregoing paragraph (a) together with information as to the origin of such waste material, and the method in which such waste material was disposed of at the site.

4. Permit Holders
Each permit holder shall accept no waste material from any transporter who fails or refuses to provide the information specified in Section 3 above.

5. Compliance with all terms and conditions of approval
The permittee shall submit all reports and information requested by the Board of Selectpersons demonstrating that the permittee has complied or will comply with all terms and conditions of the permit approval.

6. Transfer of Permit
The permittee may not transfer the solid waste facility permit or any portion thereof without the prior approval by the Board of Selectpersons.

Article 14 Special Permit Terms and Conditions

The Board of Selectpersons may issue a permit subject to the following special terms and conditions necessary to ensure compliance with the above criteria and purposes set forth in this Ordinance:

I.The following special standards are applicable to agronomic utilization sites (a) involving residuals that have a nitrogen content C: N ratio of less than 25: 1, unless the residual is a compost or unless the Maine DEP has determined in a program license that mineralization or other comparable studies demonstrate that excess nitrates will not contaminate groundwater; or (b) involving residual that the Maine DEP has determined in a program license to readily leach contaminants which may contaminate groundwater:

a. Setbacks
The boundaries of the spreading area at a utilization site must be located at a minimum distance from certain features as specified in Table 419.1 of the Maine DEP Solid Waste Management Rules, provided, however, the Board of Selectpersons may require an increase in setbacks if necessary to meet the criteria set forth in Article 11 of this Ordinance

c. Minimum depth to bedrock
For established perennial crops such as hay the bedrock must be a minimum of ten (10) inches below the ground surface; and, for other crops, including row crops, the depth of the bedrock at the site must be a minimum of twenty (20) inches below the ground surface; provided, however, the Board of Selectpersons may increase bedrock separations if necessary to meet the criteria set forth in Article 11 of this Ordinance.

2. The following special standards are applicable to agronomic utilization sites involving (a) residuals containing monthly average metal concentrations in excess of the applicable metal concentrations set forth in Maine DEP Chapter 419 Rules, Tables 419.3,419.4,419.5, as applicable, or (b) residuals containing in excess of 27ppt 2,3,7,8, TCDD equivalents, or (c) residuals classified as Type II that have not been treated to Class A pathogen standards, or (d) residuals that, in combination with other nutrient sources, supply more than the crop uptake rate of phosphorous:

   a. Buffers and Setbacks
   The boundaries of the utilization site must be located at a minimum distance from some surface water as specified in Table 419.2 of the Maine DEP Solid Waste Management Rules, unless otherwise approved in a site specific solid erosion control plan; provided, however, the Board of Selectpersons may increase setbacks if necessary to meet the criteria set forth in Article 11 of this Ordinance.

3. The following special standards are applicable to agronomic utilization sites involving putrescible or dusty residuals:

   a. Buffers and Setbacks
   Putrescible residuals may not be land applied within 300 feet of occupied buildings other than the site owner or operator; provided, however, the Board of Selectpersons may require that setbacks be increased when necessary to prevent nuisance odors at adjacent occupied buildings.

   b. The applicant must implement a site specific odor and dust control plan approved by the Board of Selectpersons (1) to mitigate odor impacts from land spreading on adjacent occupied buildings; and, (2) for field stacking sites, to treat the residual or locate, design, and operate the site to avoid nuisance odors and to avoid dust at off-site locations.

   c. The applicant must inform the Town Clerk each time residuals will be applied at the site at least one (1) business day before spreading.

4. The following special standards are applicable to solid waste facilities, including agronomic utilization sites, where the Board of Selectpersons determines there is a potential threat to public health and safety, particularly due to the proximity of public or private drinking water wells, or to the environment because of the nature of the wastes stored or disposed of and/or the type, design, location, or operation of the solid waste facility:

    a. The applicant must implement a detailed water quality-monitoring program for the solid waste facility capable of detecting any changes in ground water quality and/or in surface water· quality in the vicinity of the solid waste facility. The program must include down gradient and up gradient (or back ground) ground water monitoring wells and/or surface water monitoring points placed in sufficient locations to meet the standards set forth in Chapter 405 of the Maine DEP Solid Waste Management Rules, as determined through a hydro geological investigation of the facility site; and,

    b. The applicant must implement a detailed waste characterization program containing the specific analytical requirements set forth in Chapter 405 of the Maine DEP Solid Waste Management Rules. For an agronomic utilization facility, the Board of Selectpersons may determine testing requirements based on the proposed utilization program, an assessment of parameters likely to be in the residual, an evaluation of the chemical compounds known or suspected to be present in the waste stream, from which the sludge or residuals originate, the process used to generate the residual, the data base of analytical results developed by Maine DEP, and other factors as appropriate. The Board of Selectpersons may require generators to provide an initial residual analysis representative of the residue proposed for application or storage at the site, based upon the test parameters of DEP Rule 405 (6) (D) (2). The Board of Selectpersons may further require the applicant to provide follow-up residual sampling and analysis based upon the initial analytical results for the residual, the Maine DEP's data base of analytical results, the potential for these compounds to be present in the material, and other factors as appropriate. The Board of Selectpersons may require the sampling and testing of solids at the storage or utilization site with test parameters including priority heavy metals, toxic organic compounds, and inorganic compounds identified in Maine DEP Rule 405 (6) (D) (2) for which concentrations in the residual or sludge causes an excessive maximum allowable soil concentration allowable under Maine DEP Rule 419 (Tables 419.3, 419.4, 419.5)

5. A solid waste facility shall not be sited or operated within SO feet of an abutting property boundary unless the applicant has the written consent of the abutter for waiver of this setback.

6. For a utilization site, no sludge or residue shall be applied when the soil is frozen, snow-covered, or water saturated.

7. This Ordinance incorporates by reference all of the standards promulgated by the Maine Department of Environmental Protection Solid Waste Management Rules Chapters 400, 405, 418, and 419, as amended. The Board of Selectpersons may impose any such standard as a term and condition of a solid waste facility permit issued under this Ordinance, despite the waiver, or the determination of the non-applicability of such standard by the Maine DEP within the State licensing process, in the event that the Board of Selectpersons determines such term and condition is required to accomplish the criteria and purposes of this Ordinances.

Article 15 Enforcement

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the CEO finds that any provision of this Ordinance is being violated, the CEO shall notify in writing the permit holder and person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it; and, shall also notify in writing the Town Board of Selectpersons.

2. The Board of Selectpersons shall meet after receipt of the CEO's notice of violation and, upon notice and public hearing to the permittee, the Board may suspend or revoke the permit of any person who violates the terms and conditions of the permit, in accordance with Article 8.4.

3. The CEO shall notify the Department of Environment Protection, in writing, that the town is starting enforcement action against an applicant prior to issuing an enforcement notice to the applicant. The notice to the Department of Environmental Protection shall include a description of the violation.

4. Any person including, but not limited to, a landowner, a landowner's agent, or a contractor who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A M_RS.A § 4452. If court action is necessary to enforce this Ordinance, the violator shall be responsible for all court costs and the Town's reasonable attorney fees. Any fine recovered through this Ordinance shall accrue to the Town.

5. The CEO shall maintain a record of all inspections and complaints, notices of violations, resolutions of any violations, and enforcement actions.

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Article 16 General Distribution of residuals for agronomic utilization

16 Summary Permits:

The following activities and materials may be permitted by the Town of Clinton through a summary permit issued by the Code Enforcement Officer. The Code Enforcement Officer will use a Board of Selectmen "Approved Products List" which consist of qualified residuals approved for general distribution for agronomic utilization, by land application under a Program License issued by the Maine Department of Environmental Protection that exempts the materials from the utilization review by Maine DEP.

a. Summary application submission: The applicant shall submit a complete application to the Town Office on a summary permit application form approved by the Board of Selectmen. An application may cover several qualified residuals for agronomic utilization from the Board of Selectmen "Approved Products List", produced by multiple generators. The application shall be accompanied by a true copy of:

(1) the Maine Department of Environmental Protection Program license for each residual subject of the application
(2) the Best Management Practice (BMP) Agreement executed by the applicant and the generator/distributor of each residual,
(3) the most recent physical and chemical solid waste characterization analysis or test conducted by each generator in conformance with the standards of Chapter 405, Section 6 of the Maine DEP regulations and
(4) a letter from the Maine Department of Agriculture which certifies there is a soil nutrient management plan filed with the agency by the applicant for the subject land.

b. Summary application fee:
The non-refundable summary permit fee shall be $25.00.

c. Summary permit procedure:
The Town of Clinton Code Enforcement Officer will review application to ensure compliance with Ordinance. A permit shall be issued within ten (10) days from the date of submission of the application. All Summary Permits issued by the Code Enforcement Officer shall expire one (1) year from the date the permit was issued.

16.2 Special Performance Standards

Special performance standards shall apply to summary permits issued under this section as follows:

A. Requirements for residual site utilization:

1. No residual shall be applied to frozen, saturated, or snow covered ground.
2. Application of residuals shall be limited to established agricultural sites that have nutrient management plans in place.
3. No residual shall be applied in diversions, drainage gullies, non-vegetated swales, ravines, or on bedrock outcrops; and on slopes in excess of 15%.
4. Minimum setback and buffer distances for spreading are:
   a. Water supply well — 100 feet
   b. Residences; classified bodies of water — 100 feet
   c. Intermittent streams, drainage gullies — 25 feet
   d. Public roadways and property boundaries — 50 feet

B. Requirements for residual storage

1. No residual shall be stock-piled for more than 9 months after delivery, unless there is an extension approved by CEO based on weather conditions that are prohibitive of the land application of the residual.
2. Residuals shall be stored only on the farm where the material is utilized.
3. Residuals shall be stored only in a location having a low potential for human contact.
4. Residuals shall not be stored within the Town's Wellhead Protection District.
5. Residuals shall not be stored within any 100-year flood plain zone.
6. Residuals shall be stored only on level areas that will minimize the potential for contact with surface water.
7. Minimum setback and buffer distance for storage are:
   a. Water supply well — 300 feet
   b. Residences; classified bodies of water — 300 feet
   c. Intermittent streams, drainage gullies — 100 feet
   d. Public roadways and property boundaries — 100 feet
   e. Stockpiling must be upgrade of a slope; if not, an approved diversion must be made for run-off to go around the pile.

C. All residuals shall not contain any substance in excess if the screening or detection standards set forth in Chapter 405.6.D of the DEP regulations, as applicable, including, but not limited to: inorganic compounds, salt toxicity, target volatile and semi-volatile organic compounds, PCBs, pesticides, and dioxin.

D. All residuals shall not contain heavy metals in excess of the standards established by Maine DEP for liming agents (DEP regulations, Table 419.4)

E. All residuals shall be applied in a controlled manner in order to increase the nutrient content of the soil as a rate commensurate with the nutritional needs of the crop to be grown and the assimilative capacity of the soil, in accordance with the appropriate agricultural Best Management Practices (BMP).

F. The land application of residual shall conform to the terms and condition of the Program License for the residual issued by Maine DEP.

16.3 Board of Selectmen "Approved Products List"

The Board of Selectmen will have an "Approved Products List," in which the Code Enforcement Officer shall use to issue summary permits.

The Attached "Approved Product List" is hereby adopted with the adoption of this Ordinance.

Any additional products added to the "Approved Product List" must go through the following process:

The Board of Selectmen shall schedule a hearing upon receiving a request of a new product to be placed on the "Approved Products List" within thirty (30) days of its filing. The Board shall conduct a public hearing before issuing a final decision on the new product to be placed on the "Approved Products List".

To be an eligible Approved Product, the Board of Selectmen must receive a copy of the State of Maine Department of Environmental Protection Program License from the generator, a complete physical and chemical analysis and along with a general product summary including information regarding nutrient value and odor.

The Board shall provide notice to the applicant and post its notice of public hearing in five (5) conspicuous places in Town at least seven (7) days before the public hearing.

The Board may continue the public hearing for a period not to exceed sixty (60) days if, in its discretion, additional time is needed to gather or review information. Within thirty (30) days from the completion of the public hearing, the Board of Selectmen shall issue its decision on the new Product. The Board may decide to approve the new product or deny the new product.

Accepted at the June 11, 2013 Annual Town Meeting

November 27, 2012

Town of Clinton Ordinance Regulating Solid Waste Facilities

Article 16: Summary Permit Application

Proposed "Approved Products List"

Source	DEP License #	Product Type	Current or New Product	General Distribution	Nutrients	Stockpile Limit
SAPPI Somerset	S-022170-SD-A-N	mill lime	current	yes	lime	9 months
Imerys Somerset	S-22093-SD-A-N	lime grit	current	yes	lime	9 months
Cascades-Auburn Fiber	S-21399-SB-G-A	short paper fiber	new	yes	lime, org. matter	9 months
FMC Bioplymer	S-22125-SF-C-A	Algefiber	new	yes	lime, org. matter magnesium	9 months
Verso Bucksport	S-0223830SD-A-N	bioash	new	yes	lime, org. matter	9 months
ReEnergy Fort Fairfield	S-020091-SD-F-M	wood ash MOFA	new	yes	lime, org. matter, potash	9 months
Hawk Ridge Compost	S-20115-CC-X-A	biosolids compost	new	yes	macro and micro nutrients	9 months
Woodland Pulp LLC	S-022133-SD-A-N	mill lime	new	yes	lime, magnesium	9 months
Earthlife Fertilizer	S-22246-SC-A-N	Sludge pellets	new	yes	nitrogen	9 months

Amended April 11, 2017
Board of Selectmen

ADDENDUM 'A'

RE: Ordinance Regulating Solid Waste Facilities

State of Maine Solid Waste Management Rules

Chapter 419, effective July 19,1999, as amended

Chapter 400, effective November 2,1998, as amended September 6,1999

Chapter 405, effective November 2, 1998, as amended September 6, 1999

Chapter 418, effective November 2, 1998, as amended September 6, 1999

Cost Estimates Mentioned in 10.3 Additional Permit Fees:

Several phone conversations with Mr. Peter Garrett, a hydro geologist: office in Waterville, Maine - telephone number (207) 872-0613 indicated that testing in this area is fairly expensive with some complete hydro geological surveys ranging in cost from $17,000 (seventeen thousand dollars) to $30,000 (thirty thousand dollars) depending on how extensive the tests were.

ORDINANCE AMENDED BY TOWN WARRANT ARTICLE 35 JUNE 8, 2004

Article 16 Summary Permit Application Section adopted by vote 269/198.

Article 16 Summary Permits revised and adopted June 11, 2013
by vote 344 Yes 99 No