

HAZARDOUS MATERIALS CONTROL ORDINANCE

POWNAL HAZARDOUS MATERIALS CONTROL ORDINANCE

Adopted August 11, 1980

TABLE OF CONTENTS

	<u>Page</u>
Section I. Regulation	104
Section II. Prohibition	105
Section III. Purpose	105
Section IV. Legislative Authority	105
Section V. Severability	105
Section VI. Definitions	106
Section VII. Administration	109
Section VIII. Present Hazardous Material Users	110
Section IX. Conflict with Other Ordinances	110
Section X. Effective Date	110

POWNAI HAZARDOUS MATERIALS CONTROL ORDINANCE

Section I: Regulation

Whereas, hazardous materials of many types are used and produced in manufacturing any other activities in Cumberland County; and

Whereas, some municipalities in Cumberland County have been severely harmed by the effect of disposal of hazardous materials within their borders, and

Whereas, adequate regulations to ensure the safe disposal of hazardous materials so that future generations will be protected from exposure to them would require an enforcement staff and highly technical regulations, and

Whereas, the Town of Pownal is a rural community with limited resources and without services such as a public water supply, professional fire department and full time employees to enforce complex regulations requiring advanced technological knowledge; and

Whereas, the Town of Pownal has adopted a Comprehensive plan in which future growth and development will be similar to that which is presently here; and

Whereas, the Comprehensive Plan states that "Pownal is a community which consists of low density residential development with large amounts of open space and forest land currently being used for or suitable for use in farming and wood and wood products related industry"; and

Whereas, the Comprehensive Plan states that "there is no suitable waterway in which to dispose of treated wastes and land surface treatment could lead to the contamination of groundwater supplies on which the residents depend"; and

Whereas, it is the policy of the Town of Pownal to protect wildlife and natural resources from needless abuse, to protect the environment from contamination which might lead to death and/or disease, and to preserve the prime agricultural lands for farming and livestock operations; and

Whereas, the hazardous materials listed below are of an inherently dangerous nature and may cause permanent damage to the environment and to its inhabitants by contaminating the air, water and/or land;

Therefore, the Town of Pownal, in order to protect the health, safety and welfare of the citizens of Pownal, hereby ordains and enacts the Pownal Hazardous Materials Ordinance.

Section II: Prohibition

The use, storage, and/or disposal of hazardous materials as defined in this ordinance, or as adopted by the Pownal Town Meeting, are prohibited. Specifically excluded from the regulations of this ordinance are the following: solid wastes lawfully deposited in a municipal landfill, domestic sewage, domestic sewage sludge, nonradioactive cooling water, boiler blow down water, sand and gravel washing waste, waste that is lawfully discharged to surface waters or any public sewerage system, virgin petroleum products for retail sales or use on site as a fuel, agricultural organic wastes, radioactive materials of less than eight ounces, and other hazardous materials in quantities less than 120 gallons, 16 cubic feet, or 100 pounds at any one time or 180 gallons or 24 cubic feet or 1500 pounds per month, whichever standard is more restrictive.

Section III: Purpose

The regulations set forth in this ordinance are adopted to:

- A. Provide for the protection of groundwater and surface water quality through the prohibition of hazardous materials handling, storage, transportation, or disposal;
- B. Prevent the establishment of operations with potential dangers from fires, explosives, toxic emissions and infections.
- C. Protect the health, safety, and welfare of the citizens of Pownal.

Section IV: Legislative Authority

This ordinance is enacted pursuant to authority granted in 30 M.R.S.A. §215 and 38 M.R.S.A. §1311.

Section V: Severability

If any parts, section or subsection, sentence, clause or phrase of this ordinance or the rules and regulations promulgated thereunder is for any reason declared to be unconstitutional or invalid, such shall not affect the validity or constitutionality of the remaining portions of this ordinance or the rules and regulations promulgated thereunder.

Section VI: Definitions

Disposal: Salvage, process, reduce, recover, incinerate, separate, treat, discharge, dump, spill, leak, or place any hazardous materials into or on the land or in or out of buildings.

Hazardous Materials:

"Hazardous Materials" shall mean all materials in quantities controlled by this Ordinance with the characteristics listed in categories 1-7 below:

1. "Type 1 Toxic Materials" shall mean a material which, due to toxicity, ability to harm genetic material, or persistence of a representative sample of a standard leachate from the waste, has any of the properties defined below.
 - (a) Has a concentration of any substance, for which a federal drinking water standard exists, greater than or equal to 10 times that drinking water standard.
 - (b) Has a concentration (mg/1) of any substance in the NIOSH Registry of Toxic Effects of Chemical Substances ("Registry") greater than or equal to 0.35 times the lowest oral mammalian LD 50 expressed in mg/kg units for that substance.
 - (c) Has a concentration (mg/1) of any substance equal to 10 times the lowest 96 hour LC50 (mg/1) for that substance as listed in the "Registry."
2. "Type 2 - Reactive Materials" shall mean a material which has any of the following properties:
 - (a) Materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate. Also materials which may react violently with water, which form potentially explosive mixtures with water, or which generate toxic fumes when mixed with water.
 - (b) Materials which in themselves are capable of detonation or explosive reaction but require a strong initiating source or which must be heated under confinement before initiation or which react explosively with water.
 - (c) Materials which in themselves are readily capable of detonation or of explosive decomposition or reaction at normal temperatures and pressures.
 - (d) Reactive materials can also be identified by the following tests:

- (i) Thermally unstable liquid materials can be identified using the JANAF (Joint Army-Navy-Air Force) L.P. Test No. 6.
 - (ii) Thermally unstable liquid or nonfluid materials can be identified using the protocol specified in ASTM Standard Method E-476-73.
 - (iii) Materials unstable to mechanical shock can be identified using the Picatinny Arsenal Impact Test (Picatinny Arsenal Technical Report No. 1740 (Revision 1) (1958), or the Bureau of Mines Impact Test (U.S. Bureau of Mines Bulletin 346 (1931)).
3. "Type 3 - Radioactive Materials" shall mean low level liquid and gaseous radioactive materials and high level solid liquid or gaseous materials. Low level liquid and gaseous radioactive materials shall mean all liquid and gaseous materials that exceed the maximum permissible concentrations for discharge to unrestricted areas as listed in Appendix B, Table II, Columns 1 and 2 of Title 10, part 20 of the Code of Federal Regulations except that defined as high level liquid or gaseous radioactive waste. High level liquid and gaseous radioactive waste includes the liquid and gaseous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing of irradiated reactor fuel; and, any other radioactive waste which the Planning Board shall subsequently specify as high level radioactive waste as adopted by order of the Pownal Town Meeting.
4. "Type 4 - Flammable Waste" shall mean any waste such that any sample of that waste has a flash point less than 140 degrees Fahrenheit (60 degrees centigrade) determined by the Pensky-Martens closed Cup Tester, using the protocol specified in ASTM Standard D-93-73.
5. "Type 5 - Corrosive Waste" shall mean any waste such that any sample of that waste has either of the following properties:
- (a) A pH less than 2. or greater than 12. as determined by the pH meter, using the protocol specified in the "Manual of Methods for Chemical Analysis of Water and Wastes" (EPA-625-16-74-003).
 - (b) A corrosion rate greater than 0.250 inch per year on steel (SAE 1020) at a test temperature of 130 degrees Fahrenheit as determined using the protocol specified

in NACE (National Association of Corrosion Engineers) Standard TM-01-69.

6. "Type 6 - Infectious Waste" shall mean any waste which is generated from the following sources:
- (a) Health care facilities
Certain department of hospitals as defined by Standard Industrial Classification (SIC) Codes 8062 and 8069 in "Standard Industrial Classification Manual, 1972" U.S. Government Printing Office, Stock No. 4101-0066.
 - (i) Obstetrics department including patients' rooms
 - (ii) Emergency department
 - (iii) Surgery department including patients' rooms
 - (iv) Morgue
 - (v) Pathology department
 - (vi) Autopsy department
 - (vii) Isolation rooms
 - (viii) Laboratories
 - (ix) Intensive care unit
 - (x) Pediatrics department
 - (b) Laboratories, as defined by SIC codes 7391, 8071 and 8922 but does not include any waste is discharged directly to an underground septic system at the site at which it is generated.
7. "Waste Oil" shall mean discarded oil generated by residential, institutional, commercial, industrial, agricultural sources or oil recovered from spills.

Storage:

The placement of materials in drums, tanks, lagoons, or other structures intended to retain the materials for subsequent use or disposal, regardless of their location in the ground or in a building or other physical location.

Use:

The employment of materials regulated by this Ordinance.

Waste:

Waste is any garbage, refuse, sludge or solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial or mining operations, or from community activities, which is discarded or stored prior to being discarded, is disposed of, or is a manufacturing or mining by-product.

Section VII. Administration

1. Enforcement officer - It shall be the duty of the Building Inspector of the Town of Pownal to enforce the provisions of this Ordinance. The Inspector or any deputy designated by him/her may at all reasonable hours enter any building or premises and inspect its records for the purpose of making an inspection which under the provisions of this Ordinance is deemed necessary to be made. If the Building Inspector shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by the Ordinance to insure compliance with or to prevent violation of its provisions.
2. Legal action and violations - When any violation of any provision of this Ordinance shall be found to exist, the Building Inspector shall notify the Municipal Officers who shall then institute any and all actions to be brought in the name of the Town.
3. Fines - Any person, firm, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions hereof, shall be subject to a fine of not less than \$250 and not more than \$1000 for each offense. Each day such violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Pownal.
4. Enforcement Costs - If a violation occurs, the person, firm, or corporation owning or controlling use of the building or premises shall be liable for costs incurred by the Town of Pownal for professional services needed for enforcement and the Town of Pownal shall assess those parties for those costs.
5. Cleanup Costs - The person, firm or corporation owning or controlling use of the building or premises where the violation occurs, shall be responsible for all cleanup costs. If the Town of Pownal incurs costs related to the enforcement of protection of the health, safety and welfare of the citizens of Pownal, the violators shall be responsible for those costs and shall repay the Town of Pownal.

Section VIII: Present Hazardous Material Users

No hazardous materials uses, as defined by this Ordinance, are presently located in the Town of Pownal, so special provisions for existing activities are not necessary.

Section IX: Conflict With Other Ordinances

In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or the Code of the Town of Pownal existing on the effective date of this Ordinance, the provision which establishes the higher standard for the promotion of health, safety and welfare shall prevail.

Section X: Effective Date

This Ordinance shall take effect immediately on adoption by the vote of the majority present at the Pownal Town Meeting.

