

TOWN OF NEW GLOUCESTER

ORDINANCE REGULATING
STORAGE AND LAND APPLICATION OF
SLUDGE AND RESIDUALS

SEPTEMBER 1986

REVISED MAY 1992

Section 1. Short Title.

This ordinance shall be known as and may be cited as the "New Gloucester Sludge Storage and Application Ordinance."

Section 2. Authority.

This Ordinance is adopted pursuant to Maine Constitution Article VIII, Part 2, 30-A M.R.S.A. 3001.

Section 3. Purpose.

The purpose of this Ordinance is to protect the health and safety of the residents of New Gloucester, to enhance and maintain the quality of the environment, and to conserve natural resources through regulation of storage and land application of municipal and industrial wastewater treatment plant sludge and other residuals.

Section 4. Definitions.

"Applicant" The term "applicant" refers to the owner and/or operator of the wastewater treatment plant or generator of the sludge or residual.

"Board" The term "Board" refers to the New Gloucester Planning Board.

"Groundwater Protection Overlay Zone" The term "Groundwater Protection Overlay Zone" refers to any mapped area designated by the Land Zoning Ordinance for the Municipality of New Gloucester, Maine as a zone for the protection of the groundwater resources of the Town.

"Operator" The term "Operator" refers to any person who has care, charge, or control of a landspreading site or storage facility. This person may be the owner, an agent, a lessee of the owner or an independent contractor.

"Residual" The term "Residual" refers to those materials (including but not limited to pulp and paper mill wastewater treatment plant sludge, food and fiber processing wastes, municipal wastewater treatment plant sludge, vegetable and fish processing residuals, and ash from wood fired boilers) generated from municipal, commercial or industrial facilities that are suitable for controlled land application and result in vegetative assimilation and improved soil conditions.

"Site" The term "Site" refers to any parcel of land, approved by the Department of Environmental protection and the New Gloucester Planning Board, for delivery, storage or spreading of sludge or residual. Each parcel of land shown as an individual lot on the New Gloucester Tax Maps, shall be considered a separate site.

"Sludge" The term "sludge" refers to the semisolid or liquid residual generated by a municipal, commercial or industrial wastewater treatment plant.

Section 5. Prohibitions.

Storage and land application of sludge and residuals is prohibited in New Gloucester unless approval has first been obtained from the Board and from the Maine Department of Environmental protection.

No sludge or residual may be stored or spread in any groundwater protection overlay zone in New Gloucester.

No sludge or residual may be delivered to, stored or spread in New Gloucester pursuant to a variance or experimental permit issued by the Department of Environmental Protection under its regulations at Chapter 567 B-1.b unless approval has first been obtained from the Board.

No sludge or residual may be delivered to, stored or spread in New Gloucester if testing required by this Ordinance indicates that concentrations of heavy metals, organic compounds or other pollutants exceed the maximum permissible concentrations and/or loading limits appearing in the Department of Environmental Protection Regulations at Chapter 567 B-1.b.

Section 6. Procedures and Standards for approval of an application for land spreading of sludge or other residuals.

Any person wishing to deliver, store or spread sludge or residuals in New Gloucester shall file an application form with the Board at least 90 days before the date of first delivery, storage or spreading.

The application shall be accompanied by a completed "Application for Sludge Utilization" prepared for the Department of Environmental Protection and the fee for Site Plan Review. In addition to the foregoing, the applicant shall furnish the Board with the following: 1) A baseline soils analysis as described in sub-paragraph 2.A of this section; 2) A map of the proposed site which clearly indicates property lines, abutters, areas not suitable for spreading and the reason therefore, required setbacks and the reason therefore, storage and stacking areas, and proximity to the groundwater protection overlay zone or may identified sand and gravel recharge area. The Board may require such other information as it deems necessary.

The Board shall grant, grant with conditions or deny the permit within 60 days of receiving a completed application.

A permit issued under this Ordinance shall be valid for a period of five years from the date of issuance and shall be subject to annual review by the Board. The Board will notify the applicant 14 days prior to annual review and will at the time of review assure that the conditions of the permit were met for the previous year and may, at their discretion, modify or revoke the permit if actions by the applicant or operator were in violation of this Ordinance or if the Board finds that continuation of the permit unreasonably threatens human or animal health and safety.

Provided that approval of the application is conditioned on approval by the Department of Environmental Protection, the Board shall approve or conditionally approve an application for land spreading (or storage for the purpose of land spreading) of sludge or residuals if it finds that:

- 1) The applicant agrees to furnish the New Gloucester Code Enforcement Officer with copies of all conditions and limitations imposed by the Department of Environmental Protection as well as prompt notice of any changes in the composition of the material, any further testing required by the Department of Environmental Protection and the results of those tests, and any annual variations in site spreading or stacking plans.
- 2) The applicant agrees to comply with any additional testing required by the Board including but not limited to the following:

A. Site testing and monitoring

Soils Analysis: As part of the initial site application to the Board, the applicant shall furnish the results of a baseline soils analysis. This analysis shall be conducted in the manner recommended by the Soil Conservation Service for soils testing generally and shall include testing for: soil pH, cation exchange capacity, potassium, phosphorous, magnesium, calcium and testing for concentrations of mercury, lead, cadmium, chromium, nickel, copper and zinc. For the purposes of annual testing, the Board shall designate one site per applicant to be tested each year that sludge is spread with the same soils analysis as the baseline analysis. The site selection shall be based on site characteristics including baseline analysis results, proximity to wells, population density, proximity to sensitive areas including the aquifer recharge area or other criteria the Board determines as relevant.

Water Analysis: At the discretion of the Planning Board or at the request of the owner of an existing well located within 300-500 feet of any site proposed for storage or spreading of any sludge or residual, the Board may require baseline and annual water analysis of the well for nitrate and nitrite levels.

B. Testing requirements for Sludge or Residuals.

At least annually or as required by the Department of Environmental Protection, the applicant shall sample sludge and residuals to be spread in New Gloucester with samples taken at the point of generation after the product has gone through all processing steps necessary prior to delivery. All testing shall be in accordance with the most recent edition of Standard Methods for Examination of water and Wastewater, published by the American Public Health Association, and the results shall be furnished to the New Gloucester Code Enforcement Officer at least annually or on a schedule approved by the Board.

Sludge. Sludge shall be tested for pollutants as required by the Department of Environmental Protection Regulations or as required by the Board. In addition to the above requirements, unless the Board approves a program of daily analysis, the applicant shall take a representative composite sample of the actual product delivered to New Gloucester and test for heavy metal concentrations; provided that mercury testing need only be conducted on a monthly basis.

Ash. Ash from wood fired biomass boilers shall be tested for non-organic pollutants as required by the Department of Environmental Protection. In addition to the above requirement, the Board may require that ash be tested periodically for heavy metals and vanadium.

3) The applicant agrees to notify the New Gloucester Code Enforcement Officer of delivery of any sludge or residual to New Gloucester, to advise the Code Enforcement Officer of the proposed spreading timetable, and of who is to do the actual spreading. The person spreading the sludge or residual shall notify the Code Enforcement Officer as soon as possible prior to spreading.

The applicant shall pay an annual inspection fee for each site. The fee will be as established by the Board of Selectmen.

4) The applicant has provided the landowner and the Town with a written statement, satisfactory to the Board, outlining the extent to which the applicant assumes liability for any damages which may result from the spreading of sludge or residuals, except that for quasi-municipal or municipal entities, proof of liability insurance shall be submitted. The Board may require the applicant to provide satisfactory evidence of ability to pay any damage for which the applicant may be responsible.

Section 7. Modification of Conditions and Revocation of Permit.

If at any time, as a result of any testing required by the Department of Environmental Protection, this Ordinance, or the Board, elements or compounds are found in quantities which may threaten environmental safety or human or animal health, the Board may require additional testing at the applicant's expense and may modify the conditions applicable to any permit. If the Board as a result of any required testing or risk assessment determines that continued storage or spreading of sludge or residuals unreasonably threatens environmental safety or human or animal health, then they may take such appropriate action as they deem necessary, including, without limitation, modification, suspension or revocation of any permit.

Section 8. Enforcement and Penalty.

If the New Gloucester Code Enforcement Officer finds violations of any permit conditions or of any obligations required by this Ordinance, he may recommend that the Board modify, suspend or revoke any or all permits held by the applicant for spreading of sludge or residuals in New Gloucester and/or take any other action that he or the Board deems necessary including prosecution of the code violation.

Any person found guilty of violating any of the provisions of this Ordinance shall be subject to a fine of not less than \$100.00 or more than \$2,500.00 for each violation. Each day a violation is permitted to exist after notification thereof, shall constitute a separate offense. All fines collected hereunder shall inure to the Town of New Gloucester.

Section 9. Validity and Severability.

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. Each day such a violation is permitted to exist after notification shall constitute a separate offense.