

TOWN OF HINESBURG HAZARDOUS MATERIALS ORDINANCE

AUTHORITY: This ordinance is adopted pursuant to the authority granted to the Selectboard under 24 VSA S2291.

GENERAL PURPOSE: It is the purpose of this Ordinance to provide for the orderly and expeditious control of the person or persons having control over them, and thereby pose a threat to the Town of Hinesburg. Further it is the purpose of this Ordinance to require any person possessing such hazardous material to be financially responsible for the control and clean up of said hazardous material, including but not limited to : compensating the Town for all services provided in relation to the control and clean up of said hazardous material; and reimbursing the Town for any costs or damages, direct or indirect, incurred by the Town as a result of it's effort to contain, control or clean up such hazardous material.

APPLICATION: This Ordinance applies to all incidents involving hazardous materials within the boundaries of the Town of Hinesburg, and to all persons who may possess such materials founds within the boundaries of the Town, EXCEPT as State or Federal law and/or regulation may take precedence and authority over any such incident or person. This Ordinance shall be in addition to any and all provisions of said State or Federal law and/or regulation.

DEFINITIONS: For the purpose of this Ordinance, the following words shall have the following meanings:

Hazardous Materials: Those substances, materials, or agents in such quantity, state and form as may constitute a potential risk to the health and safety of the people and environment of the Town and which may constitute a threat to the property of the people, including without limitation the following: explosives, radioactive materials, etiologic agents, flammable materials, combustible materials, poisons, oxidizing agents or corrosive materials and compressed gases. Also any other materials listed as hazardous by the Department of Transportation in Title 49 of the Code of Federal Regulations as amended or those materials the disposal of which is regulated under 9 VSA S2821 et seq., 10 VSA S6601 et seq., and 10 VSA S7001 et seq.

Person: Person shall mean any individual, corporation, or other entity having recognized legal status of a person (i.e. association), or any partnership, trust or legal entity as distinguished from the individual members thereof.

Possession: Possession shall mean to possess, own, hold or have within his/her control any material defined as hazardous. In the case of a corporation or legal entity, in addition to the entity itself, it's officers, directors or other natural persons having legal responsibility for the control of said entity shall be deemed to be in possession. It

**TOWN OF HINESBURG
HAZARDOUS MATERIALS ORDINANCE
PAGE 2 OF 3**

is the intention of this Ordinance to include within the concept “person in possession” not only the legal owner, but also any and all persons who may at any time come within the chain of control without regard to the issue of legal title. Person in possession shall include not only the owner, but any agent consignee, employee, contractor, or representative within a chain of control. Person in possession shall not include the owner of land on which hazardous materials have been deposited without the owner’s knowledge or permission.

DUTIES: The person or persons in possession of any hazardous material shall have the duty to prevent its discharge or release and to assure that any such material is used in a manner that will prevent its escape from safe containment. No person in possession shall discharge, dump, deposit, release or dispose of hazardous material within the Town of Hinesburg. In the event of the discharge or release of any hazardous material from safe containment the person in possession at the time of discharge shall immediately report the same to the Hinesburg Fire Department Dispatch Service.

CONTROL, CONTAINMENT AND CLEANUP: In the event of an incident involving hazardous materials, the goals of the Town of Hinesburg shall be to respond promptly upon receiving a report, to bring the material under control in safe containment, to minimize damage caused by such material, and to take other action as may be necessary to protect the public health, safety, welfare, property and the environment. The Town of Hinesburg accepts no liability for or associated with actions pursuant to this section.

COSTS: The person or persons in possession of any hazardous material shall be strictly liable to the Town of Hinesburg for all costs incurred in the control, containment and cleanup of the materials which have been discharged or released. If such material was possessed by more than one person then all shall be jointly and severally liable, and the costs incurred by the Town may be recovered from any one of them, by suit brought in court of competent jurisdiction.

PENALTY: Pursuant to 24 VSA S1974a, the penalty for violation of this ordinance shall be \$500. The waiver fee for violation of this ordinance shall be \$350. Each day the violation continues shall constitute a separate violation.

ENFORCEMENT: This Ordinance is designated as a civil ordinance pursuant to 24 VSA S1971(b). For the purpose of enforcement of this ordinance, the issuing municipal officials are the Fire Chief, the Emergency Manager, the Chief of Police and the Health Officer.

**TOWN OF HINESBURG
HAZARDOUS MATERIALS ORDINANCE
PAGE 3 OF 3**

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

EFFECTIVE DATE: August 4, 1995

BY: THE HINESBURG SELECTBOARD

June 5, 1995

Lynn E. Gardner, Chairman

Robert S. Bast

John W. Guttler

Andrea Morgante

Randall C. Volk