

AN ORDINANCE RELATING TO HAZARDOUS MATERIALS

The Selectboard of the Town of Williston hereby ordain:

Preamble: The spillage, discharge or emission of Hazardous Materials is dangerous to the health and safety of the public and constitutes a public nuisance which, at times, must be abated by the Town at considerable expense. Therefore, this Ordinance is adopted pursuant to the provisions of 24 V.S.A. Sections 2291 (13) and (14).

Section 1: If, during the course of responding to an accident or emergency by town police, fire or other personnel, such persons or property of the Town come into contact with Hazardous Materials, as defined herein, including any residue, vapor, or other form thereof, or come within such proximity to those materials as to create a substantial risk of contamination or harm therefrom, the Persons in Possession of those materials and/or the Persons at Fault for such accident or emergency, as those terms are defined herein, shall be jointly and severally liable to the Town of Williston for any damage, loss or expense occasioned thereby, including, but not limited to, the cost of clean up and disposal of those materials.

Section 2: For the purposes of this Ordinance, the following words shall have the following meaning:

(a) Hazardous Materials: Those substances, materials or agents in such quantity, state or form as may constitute a potential risk to the health and safety of the people and environment of the Town or which may constitute a risk of harm to the property of the people or the Town including, but not limited to , explosives, radioactive material, etiologic agents, flammable materials, combustible materials, poisons, oxidizing or corrosive materials and compressed gasses. Also, any other materials listed as hazardous by the Materials Transportation in Title 49 of the Code of Federal Regulations, as amended, and those materials the disposal of which is regulated under 9 V.S.A. Section 2821 et seq., 10 V.S.A. Section 601 et seq., and 10 V.S.A. Section 7001 et seq.

(b) Person: Any individual, corporation or other legal entity. In the case of any corporation or other legal entity, in addition to the entity itself, its officers, directors or other natural persons having legal responsibility for the control of said entity shall be deemed to be Persons.

(c) Possession: To possess, own, hold or have within one's control any Hazardous Material. It is the intent of this Ordinance to include within the definition of Person in Possession not only the legal owner of Hazardous Material but also any and all other Persons who have control of that Material. Therefore, Persons in Possession shall include not only the owner of Hazardous Material but any agent, consignee, employee, contractor or representative of such an owner who is within the chain of control of such Material.

(d) Fault: To cause an event in which any Hazardous Material is released.

Section 3: In the event the Town commences legal proceedings to effect the recovery of sums owned under this Ordinance, the Town shall also be entitled to recover of Persons in Possession or Persons at Fault all expenses associated with such legal proceedings, including a reasonable attorneys' fee.

Section 4: This Ordinance shall take effect sixty (60) days from the date of its adoption.

ADOPTED: 12/9/93

EFFECTIVE: 2/7/94