

TOWN OF READFIELD
AN ORDINANCE REGULATING STORAGE AND LAND APPLICATION OF SLUDGE
AND OTHER RESIDUALS

Adopted December 9, 2002

Revised September 15, 2004

Revised and Adopted June 9, 2011

Title:

This Ordinance shall be known and cited as the “Town of Readfield Sludge Management Ordinance” and shall be referred to herein as “this Ordinance”.

Article 1 - Authority, Applicability and Availability

1.1 This Ordinance is adopted pursuant to Title 30-A M.R.S.A. Section 3001 and Section 4452 et seq.

1.2 The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Readfield.

1.3 A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during Town Office hours. Copies shall be made available to the public at reasonable cost to be charged to the person making the request.

1.4 A certified copy of this Ordinance shall be sent to the Department of Environmental Protection.

1.5 This Ordinance is consistent with the Town of Readfield Comprehensive Plan adopted in 2009.

1.6 Whenever a reference is made to the Department of Environmental Protection, the reference also includes any successor state agency that regulates the storage and land application of sludge, septage, compost and other residuals.

Article 2 - Findings and Purpose

2.1 The Town finds that sludge, septage, compost and other residuals, may, if properly treated, tested, stored and applied, provide a safe and beneficial soil amendment for the Town’s agricultural and forest lands. If improperly constituted or handled; however, sludge, septage and other residuals may pose a threat to the public health and safety.

The purpose of this Ordinance is to protect the health and safety of the residents of the Town of Readfield; to provide opportunity for local review, monitoring and enforcement of sludge,

septage, compost and other residual storage and application activities, including any long-term effects; to enhance and maintain the quality of the environment; to conserve natural resources including groundwater, surface water, slope stability, soil health and plant life through regulation of storage and land application of septage, and municipal, commercial or industrial wastewater treatment plant sludge and other residuals; to protect animal health and safety; to support the Town's agricultural and forest base by allowing proper use of sludge, septage compost and other residuals by farmers and foresters as a soil amendment; to provide an opportunity for effective notice and meaningful input during the local review process; to ensure adequate remedy for any damage that may occur; and, to provide a yearly renewable permitting process by which to apply new scientific data as it develops.

The Town of Readfield desires to work in partnership with the Department of Environmental Protection by establishing in this Ordinance a local procedure for the following activities: a public hearing process to review all land application sites, an inspection process to review all land spreading activities, and a notification process to keep the Town informed of all land spreading activities.

Article 3 - Validity, Severability, and Conflict with Other Ordinances

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, rule, regulation or statute, the more restrictive requirements shall apply.

Article 4 - Appeals

4.1 An aggrieved party may appeal any final action taken by the Planning Board or Code Enforcement Officer to the Board of Appeals in accordance with the provisions of Article 2 of the Town of Readfield's Land Use Ordinance adopted June 2010 or any revisions thereof. An aggrieved party may appeal the decision of the Board of Appeals to Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure within 45 days of the Board's final decision.

Article 5 - Amendments

5.1 This Ordinance may be amended in accordance with Article 1, Section 8, of the Town's Land Use Ordinance adopted June 2010 or any revisions thereof.

Article 6 - Continuance of Existing Uses

6.1 Any land spreading of sludge and other residuals, storage of sludge and other residuals, land spreading and storage of septic sludge, and composting operations that are legally existing and operating with a permit from the Department of Environmental Protection within the Town of

Readfield prior to the adoption of this Ordinance may continue, but shall be subject to the following requirements:

6.1.1 The expansion or enlargement of any existing activity shall require a permit and conform to the provisions of this Ordinance.

6.1.2 The applicant shall obtain an annual permit renewal within twelve (12) months of the effective date of this Ordinance and shall conform to the requirements established for permit renewal.

Article 7 - Definitions

The definitions of all terms in this Ordinance shall have the same meaning as those set forth in the State of Maine Department of Environmental Protection (“Department”) Rules; CMR 06-096 Chapters 400, 405, 419 and 420 or any revisions thereof. For the purposes of this Ordinance, “Department Rules” shall mean the relevant provisions of CMR 06-096 Chapters 400, 405, 419 & 420. In addition to the Department Rules, the Town adopts the additional terms listed below.

7.1 Expansion and/or Enlargement

The expansion and/or enlargement of an activity shall mean an increase in the size or capacity of an operation regulated under this Ordinance and shall include the following: construction and/or enlargement of any building or structure, new spreading sites, and any increase in the size of the operation or area of land spreading, or change of material to be spread.

7.2 Minor Revision

A minor revision shall mean any change in the activity that does not include an expansion and/or enlargement or change in material or source of material.

Article 8 - Regulated Activities

8.1 The following activities when regulated by the Department of Environmental Protection shall also be regulated by the Town of Readfield and shall require a permit from the Planning Board. The activities are: land spreading of sludge and other residuals, storage of sludge and other residuals, land spreading of septage, storage of septage, and commercial composting production operations. The land spreading of residuals consisting solely of residuals classified as Type IA or Type IB by the Department of Environmental Protection (such as leaf and yard waste, wood chips, animal manures and produce and vegetative wastes that do not contain hazardous substances), the use of compost that is licensed, exempted or otherwise approved for use by the Maine Department of Environmental Protection or wastes from a composting toilet shall not be subject to Planning Board review.

8.2 The land spreading of sludge, septage, and other residuals, except for: (1) Type IA and IB residuals, (2) compost that is licensed, exempted or otherwise approved for use by the

Department of Environmental Protection, and (3) wastes from a composting toilet shall be prohibited in the Village, Village Residential, Resource Protection, Shoreland Residential, Stream Protection and Rural Residential Districts. In the Rural Residential District, existing sludge, septage or other residual storage and spreading activities shall be allowed to continue as long as there is no expansion or enlargement of these activities. No land spreading or storage of sludge, septage or other residuals shall occur on, over or within 100 feet of the edge of a sand and gravel aquifer unless it is in a permanent storage facility as provided in Department Rules (CMR 06-096 Chapters 419 and 420) and has received approval from the Department of Environmental Protection.

8.3 No sludge, septage, compost or other residual may be delivered to, stored or spread in Readfield pursuant to a variance or experimental permit issued by the Department of Environmental Protection under its Rules at CMR 06-096 Chapters 419 or 420 (or revisions thereof) unless a permit has been obtained from the Planning Board.

8.4 No sludge, septage, compost or other residual may be delivered to, stored or spread in Readfield if testing 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 CMR 06-096 Chapters 419 and 420 (or revisions thereof).

Article 9 - Permit Requirements

9.1 No person shall conduct or allow on his/her property any of the activities listed in section 8.1 without first obtaining a permit for that purpose for each site from the Planning Board. The Planning Board shall furnish an application form for the purpose of obtaining all the required information from the applicant. The fee for the permit shall be established annually by the Select Board and shall be presented with the complete application to the Town Clerk. The permit fee is non-refundable. In the event the Select Board fails to act to establish the permit fee on an annual basis, the annual permit fee shall be at the rate last established by the Select Board. The permit shall be issued for a period of one year and shall be subject to an annual permit renewal.

9.2 Permit Renewal

9.2.1 All applicants that plan to continue operations shall submit an annual permit renewal application form to the Code Enforcement Officer for placement on the next available Planning Board agenda at least 45 days before the expiration of the existing permit and shall do so on an application form furnished by the Code Enforcement Officer. A non-refundable permit renewal fee shall be paid when the application is submitted in the amount established annually by the Select Board. In the event the Select Board fails to establish the non-renewable permit renewal fee on an annual basis, the annual non-refundable permit renewal fee shall be at the rate last established by the Select Board. Any applicant who does not obtain the annual permit renewal prior to expiration of the current permit shall submit an application to the Planning Board for a

new permit. The permit renewal shall be obtained for any activity that plans to continue operations regardless of any temporary lapse in spreading, storage, composting or similar activities regulated under this Ordinance. At the time the annual permit renewal is requested, the applicant shall demonstrate compliance with this Ordinance and with current Department of Environmental Protection rules and standards. The applicant for a permit renewal shall provide with the permit renewal application all required testing data and/or reporting data that was required to be submitted to the Department of Environmental Protection during the preceding calendar year, the permit renewal fee and any proposed changes or modifications to the permit.

9.2.2 The Planning Board shall determine if the renewal application is complete and shall schedule a public hearing on the application to be held within twenty-one (21) days of acceptance of the application. The public hearing shall be limited to whether the applicant has previously complied with this Ordinance. The Code Enforcement Officer shall notify by first-class mail the applicant and all property abutters to the site at least ten (10) days prior to the public hearing. The Code Enforcement Officer shall obtain a Certificate of Mailing as proof of mailing and the Certificate of Mailing shall be retained as a part of the official records of the permit renewal application. The notice shall include the date, time and place of the public hearing and a brief description of the proposal. Property abutters, for purposes of a renewal application, shall mean the owner of any parcel with one or more common boundaries or points, as well as property owners of any parcel located directly across any road or stream along the road or stream from the parcel involved in the application or appeal. Property owners shall mean all parties listed by the Town Tax Assessor as those against whom taxes are assessed. The Planning Board shall review the permit request and any information provided and shall issue the permit renewal if the application is complete and conforms to the provisions of this Ordinance prior to the expiration of the existing permit.

9.3 Permit Modifications

The transfer, expansion and/or enlargement of any regulated activity shall require a permit from the Planning Board 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 Code Enforcement Officer may request the Planning Board's input prior to making a decision about the proposed change. The applicant shall be responsible for making any permit modifications with the Department of Environmental Protection as required.

9.4 Financial Resources and Technical Capacity

All applicants shall have adequate financial resources and technical capacity to engage in the activities regulated under this Ordinance. In making this determination, the Planning Board shall consider the applicant's previous experience, the experience and training of the applicant and any violations of previous approvals granted to the applicant or any other relevant violations by the applicant of federal, state or local laws. The Planning Board may deny a permit if it is

determined that the applicant does not meet the requirements of this section. The Planning Board may attach reasonable conditions to ensure compliance with this Ordinance.

Article 10 - Submission Requirements for New Permits

10.1 New Permits

Any new permits for any regulated activity shall be filed on the forms provided by the Code Enforcement Officer and shall include the following information:

10.1.1 The complete application submitted to the Department of Environmental Protection for the proposed activity. This Department of Environmental Protection application shall include all the required license attachments including, but not limited to, the written consent of the applicable landowner.

10.1.2 The application fee. For the purpose of establishing the application fees for both new and renewal permits, a site is considered to be the outermost perimeter of the area or areas of contiguous land under the same ownership or control on which the storage or land application of sludge or other residuals is regulated and permitted under this Ordinance. This area includes all required buffer areas and all structures and improvements located within this perimeter. Land divided by a public or private right-of-way shall not be considered contiguous land.

10.1.3 Construction drawings for any buildings and/or structures proposed for the activity.

10.1.4 A list of names and addresses of all property owners of record within one thousand (1,000) feet of the proposed activity.

10.1.5 A map(s) of the proposed spreading area that clearly indicates property lines, abutters, owners of property within 1,000 feet of the proposed spreading or storage areas, existing well water locations within 1,000 feet of same, areas not suitable for spreading and the reason(s) therefor, required setbacks and the reason(s) therefor, storage areas, and the proximity to any significant sand and gravel aquifer.

10.1.6 The results of baseline water tests from all drinking water sources located within 500 feet of each proposed spreading or storage site or a written statement from the landowner of any well declining the test. The Planning Board may waive this provision if a landowner declines to provide a written statement. Water samples from potable water supply sources shall be tested for nitrates, heavy metals and coliform

10.1.7 Description of management techniques to protect ground and surface waters.

10.1.8 The applicant shall furnish the Town with a Certificate of Insurance and a copy of policies, endorsements and riders from a carrier admitted in Maine and rated at least “A” by A.M. Best providing:

Commercial General Liability, on Insurance Services Office, Inc. form CG 00 02 01 96 (or comparable), with minimum loss limits of \$1,000,000 per occurrence per site and \$2,000,000 per site in the aggregate; and

Pollution Liability Coverage, on Insurance Services Office, Inc. form CG 00 39 01 96 (or comparable), providing for sudden and accidental occurrences as well as per occurrence per site and \$2,000,000 per site in the aggregate; and

Clean-up endorsement with a minimum of \$1,000,000 per site; and Owners and Contractors Protective Liability, on Insurance Services Office, Inc. form CG 00 09 01 96 (or comparable), with minimum loss limits of \$1,000,000 per occurrence per site and \$2,000,000 per site in the aggregate.

Said insurance shall be effective upon granting of the permit, shall remain in effect for the active life of the permit, and shall continue to provide coverage for any actions taken under the permit regardless of the term of the policy or policies.

10.1.9 An applicant for a permit limited to the spreading of domestic septage either shall meet the requirements of this section 10.1.8, or such requirements as are modified by the Planning Board only to the extent of reducing on a uniform basis for all applicants or at the time of renewal the loss limits of one or more of the policies, endorsements and riders herein required.

10.1.10 The Planning Board may, after initial review of the application, require other such information as it deems necessary to guarantee adequate protection of the public health and safety. This may include, but is not limited to, background water tests of existing wells or additional hydrogeologic data. Additional testing shall only be required when there is evidence of a circumstance at or in the vicinity of a specific site that was not adequately addressed by the Department of Environmental Protection in its review. Well-substantiated public comment may give cause for the Planning Board to require additional baseline testing or other information.

10.1.12 A report from the Code Enforcement Officer indicating that the proposed site was inspected for compliance with the provisions of this Ordinance.

Article 11 - Procedure for New Permit Applications

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

11.1.1 The applicant shall obtain a copy of this Ordinance and an application form from the Code Enforcement Officer.

11.1.2 The applicant shall complete the application form and arrange for an inspection of the site with the Code Enforcement Officer who shall check the location for compliance with this Ordinance.

11.1.3 The Code Enforcement Officer shall complete an inspection report and submit a copy to the applicant to be included with the application.

11.1.4 The applicant shall submit a complete and truthful application to the Code Enforcement Officer which shall include the application for a license to the Department of Environmental Protection along with all supporting documents and request to be placed on a Planning Board Agenda for consideration of the proposal.

11.1.5 The Planning Board shall schedule a hearing on the proposed application within thirty (30) days of the Planning Board's determination that the application is complete. The Planning 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 adequate time for notification of property owners of record and legal notices.

11.1.6 The applicant agrees to comply with and pay for additional testing required by the Planning Board which may include the following:

Soil Monitoring: The Planning Board may designate that one or more fields per licensed permit be tested each year that sludge is spread. The testing may utilize methods and parameters the same as or different from the baseline analysis. The sampling location shall be based on site characteristics including baseline analytical results or other prior results and proximity to wells and other sensitive areas.

Water Quality Monitoring: Based upon indications of possible pollution from the baseline nitrate, heavy metals and/or coliform drinking water tests, the applicant may be required to do additional analyses for potential contaminants of existing wells located within 500 feet of any site proposed for storage or spreading of any residual. *Note: Such tests, if demonstrating that pollutants are present prior to residual application, afford protection to the applicant.* The Planning Board may also, if it deems necessary to fulfill the purposes of this Ordinance, require that a hydrogeologic study including one or more monitoring well(s) be installed consistent with Chapter 405. The Planning Board may also require that an additional test of the well be performed each year after application of a residual to the site.

11.1.7 The applicant shall notify all property owners of record within one thousand (1,000) feet of the proposed site of the date, time, place, and purpose of the hearing by first-class mail. The applicant shall obtain a Certificate of Mailing from the postal clerk at the time of mailing which Certificate of Mailing shall be submitted to the Code Enforcement Officer and retained as a part of the official records of the application. The letters shall be mailed at least ten (10) days prior to

the scheduled hearing. Failure of any party to receive a notice shall not invalidate the hearing proceedings, provided that the applicant can show proof that the letters were mailed.

11.1.8 The applicant shall place a public notice in a newspaper of general circulation in the area with the notice's content approved by the Planning Board and/or the Code Enforcement Officer that an application has been made for the spreading or storage of sludge, septage or other residual under the Town of Readfield's Sludge Management Ordinance indicating the date, time, place and purpose of the hearing. The notice shall be placed in the newspaper at least seven (7) days prior to the scheduled hearing.

11.1.9 The Planning Board shall review the proposed application for compliance with this Ordinance and shall hear testimony from the applicant, property abutters and other interested parties.

11.1.10 The Code Enforcement Officer shall attend the hearing and provide information to the Planning Board concerning the site inspection.

11.1.11 The Planning Board shall conduct a site visit prior to rendering its decision.

11.1.12 The Planning Board shall review and decide upon the application based upon the following review standards:

11.1.12.1 The application is complete.

11.1.12.2 The applicant has complied with all hearing notification requirements.

11.1.12.3 The Planning Board and Code Enforcement Officer have conducted a site visit and find that the proposal complies with all of the applicable provisions of this Ordinance.

11.1.12.4 The proposed activity conforms to all the applicable provisions of this Ordinance and applicable state laws and regulations.

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

11.1.14 The Planning Board shall issue a written decision and shall indicate the reasons for its decision by a finding of fact. The written decision shall be mailed to the applicant within seven (7) days of a decision. A copy of the Planning Board's decision, including any conditions imposed by the Planning Board, shall also be mailed to the Department of Environmental Protection. No permit shall be issued by the Town until such time as a license has been issued by the Department of Environmental Protection.

Article 12 - Performance Standards

12.1 Notification Standards

12.1.1 The applicant shall notify the Code Enforcement Officer at least two (2) business days prior to any sludge, residuals or septage land spreading activity.

12.1.2 The applicant shall submit all test reports, annual reports and any other data required as per the Department of Environmental Protection license to the Code Enforcement Officer at the time of the annual permit renewal. The Code Enforcement Officer shall file this information with the original permit.

12.1.3 The applicant shall notify the Code Enforcement Officer of any change or modification in the activity and, if any, request that the original permit be amended. Failure to notify the Code Enforcement Officer of any alteration in the original permit shall constitute a violation of this Ordinance.

12.1.4 The applicant shall notify the Code Enforcement Officer when the activity shall permanently cease operation at the location. A temporary lapse in activity does not constitute a closing of the activity.

12.2 Inspection

12.2.1 Upon notification that land spreading shall occur at the site, the Code Enforcement Officer shall inspect the site during or within forty-eight (48) hours after spreading has occurred. The Code Enforcement Officer shall maintain a record of each inspection.

12.2.2 The Code Enforcement Officer shall inspect the site for compliance with this Ordinance and shall notify the applicant, the Planning Board and the Department of Environmental Protection in writing of any violation along with the steps necessary to remedy the situation.

12.2.3 The Code Enforcement Officer shall respond to all complaints concerning any activity regulated by this Ordinance and determine if there are any violations of this Ordinance. A copy of all written complaints shall be provided to the applicant.

12.2.4 The applicant shall allow the Code Enforcement Officer to inspect the activity during reasonable business hours.

12.3 General Standards

12.3.1 All activities shall be performed in accordance with the regulations and provisions contained in this Ordinance and the applicable Department of Environmental Protection license.

The applicant shall provide to the Code Enforcement Officer all annual reporting data required by the Department of Environmental Protection at the time of permit renewal. Any activity not performed in accordance with this Ordinance shall constitute a violation of this Ordinance.

12.3.2 All activities shall conform to the following general standards as applicable:

12.3.2.1 Land spreading shall not occur during the following time period: November 15 to April 15.

12.3.2.2 Land spreading shall not occur on frozen ground or if the ground is saturated.

12.3.2.3 Whenever sludge, compost other residuals or septage are planned to be tilled into or spread on the soil, this activity shall occur within 48 hours of delivery of the material to the site. Field stacking of sludge, septage or other residuals shall not be permitted for more than 48 hours unless the material is in a permanent storage facility.

12.3.2.4 All activities shall conform to the setback requirements established by the Department of Environmental Protection. A vegetated buffer zone shall be maintained around all agricultural or forest lands where sludge, septage or other residuals are spread in accordance with Department of Environmental Protection rules. There shall be no additional fertilizer or nutrient spread within this buffer zone other than for the purpose of maintaining vegetation. All areas which show evidence of erosion or channeled flow must be repaired, re-contoured, seeded, mulched and otherwise modified to create sheet flow. Nutrients may not be applied to buffer zones, except as necessary to support adequate plant growth to function as a buffer.

12.3.2.5 The Planning Board may ask the Cobbossee Watershed District to review any application for potential degradation of surface waters. Such a review shall be paid for by the applicant.

12.4 Transportation

12.4.1 The applicant shall take all reasonable measures to transport sludge, residuals or septage to the activity site in a manner that reduces any odors or other nuisances to residents and businesses along the access route. Whenever possible, an access route shall be found through the least populated area.

12.5 Warnings and Public Access Restrictions

12.5.1 Public access shall be restricted at septage utilization and septage non-utilization sites in accordance with the Septage Management Rules of the Department of Environmental Protection, Chapter 420. At those sites where the Planning Board has authorized a permit for the spreading for other than septage, the applicant shall cause to be posted legible warning signs at all vehicle access points and every 100 feet around the perimeter of the permitted property warning that

potentially dangerous substances are or about to be spread in the permitted area. Lettering on the signs must be a minimum of two inches in height. The top of the signs must be between four feet and eight feet above the ground surface.

12.5.2 Where appropriate and where the area to be utilized is surrounded by trees, stonewalls or other natural barriers, the applicant shall provide a gate for entry and exit to the site to be utilized.

12.5.3 Whenever the applicant abandons the site for the spreading or storage of sludge, septage or other residuals, a plan must be submitted within 60 days to the Code Enforcement Officer for the removal of all appurtenances incidental to the spreading or storage of the residuals in order to restore the area to a condition as near as possible to that which preceded all land application activities. Failure to submit such a plan and to implement its agreed upon contents shall constitute a public nuisance.

Article 13 - Monitoring and Enforcement

13.1 The Code Enforcement Officer shall inspect permitted storage and/or spreading operations no less than once each year to monitor compliance with this Ordinance and Department of Environmental Protection permit requirements.

13.2 If the Code Enforcement Officer finds any aspect of the operation to be outside of the permit conditions, the Code Enforcement Officer shall report such finding to the Department of Environmental Protection. The Code Enforcement Officer shall monitor Department of Environmental Protection's response to the suspected violation and inform the Planning Board of all activity at its next meeting. It is the intent of this Ordinance to authorize the Town to take action if necessary, but not to duplicate or replace the authority and responsibility of the State to enforce its regulations.

13.5 By November 1 of each year, the Code Enforcement officer shall compile a report to present to the Select Board and Planning Board of all permitted residual storage and/or spreading activities in the Town of Readfield. The report shall be sufficient for the Select Board to determine whether the operations are in compliance with this ordinance and Department of Environmental Protection license conditions.

13.6 Regardless of any action taken by the State, the Select Board or their authorized designee may exercise their authority under Title 30-A MRSA Section 4452.

13.7 In the event that the Code Enforcement Officer or Planning Board requires testing of soils, groundwater or air where sludge, septage or other residuals are to be or have been spread, all costs associated with the testing shall be borne by the applicant.

13.8 The Code Enforcement Officer shall maintain a record of all inspections and complaints, notices of violation, resolutions of any violations and enforcement actions.

Article 15 - Effective Date

15.1 This Ordinance takes effect upon its enactment by the Town.