

- Nov 5, 1996
(enacted at Referendum Election)

TOWN OF CANAAN

Ordinance Regulating Storage and Land Application of Sludge, Septage, and Other Residuals

Title: This Ordinance shall be known and may be cited as the "Town of Canaan Sludge and Septage Management Ordinance."

ARTICLE I: Authority

This Ordinance is adopted pursuant to Maine Constitution Article VII, part 2; 30-A M.R.S.A. 3001.

ARTICLE II: Findings and Purpose

The Town finds that sludge and residuals may contain concentration of heavy metals, polychlorinated biphenyls and other substances which can be harmful to humans, animals, aquatic life and the natural environment. The Town further finds that its topography, which includes the Carrabassett Stream, Sibley Pond, Lake George, Canaan Bog, wetlands, numerous brooks and tributaries, and significant ground water aquifers, makes it uniquely susceptible to environment damage and, more particularly, that runoff from areas where sludge and residuals have been spread would pose a special danger to those water bodies and would threaten the ecological and economic well-being of the Town.

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

ARTICLE III: Definitions

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

b. **Aquifer:** See "significant groundwater aquifer."

- c. Board: The term "Board" refers to the Canaan Planning Board.
- d. Canaan Groundwater and Sludge/Septage Testing Program: This is a testing program to monitor the groundwater of the Town of Canaan and sludge and septage spread and/or stored in the Town of Canaan which is established by this Ordinance and funded as hereinafter set forth. It shall be referred to in the Ordinance as the "Canaan Testing Program".
- e. Department of Environmental Protection: The term "Department of Environmental Protection," more commonly referred to as "DEP", refers to the State of Maine Department of Environmental Protection, including the Board of Environmental and the Commissioner, and/or its successor agencies.
- f. EP Toxicity Test: The term "EP Toxicity Test" refers to the Extraction Procedure Toxicity Test as described in Section 1.2.4. of the U.S. Environmental Protection Agency (EPA) document entitled Test Methods for Evaluating Solid Waste, SW 846 (Nov. 1986).
- g. Operator: The term "operator" refers to any person who has care, charge or control of a landspreading site or storage facility subject to this Ordinance. This person may be the owner, an agent, a lessee of the owner, or an independent contractor.
- h. Owner: The term "owner" refers to any person who, alone or in conjunction with others, owns the real property upon which is located a landspreading site or storage facility subject to this Ordinance.
- i. Primary sand and gravel recharge areas: The term "primary sand and gravel recharge areas" refers to the surface directly overlying sand and gravel formations that provide direct replenishment of the ground water in sand and gravel and fractured bedrock aquifers. The term does not include areas overlying formations that have been identified as unsaturated and are not contiguous with saturated formations.
- j. Residual: The term "residual" refers to pulp and paper mill wastewater treatment plant sludge. This term also includes resultant ash from incineration of sludge and wood generated from commercial or industrial facilities and available as potentially suitable materials for controlled land application resulting in vegetative assimilation, assimilation of the components in the material, or improved soil conditions.

k. Selectmen: The term "Selectmen" refers to the Town of Canaan Board of Selectmen.

l. Significant groundwater aquifer: The term "significant groundwater aquifer" refers to any formation of soil or fractured bedrock that contains significant recoverable quantities of water (greater than ten gallons per minute from a properly constructed six inch diameter well). NOTE: reference may be made to the "Hydrogeologic Data for Significant Sand and Gravel Aquifers" map prepared by the Maine Geologic Survey. In the event that on-site testing required pursuant to this Ordinance identifies additional aquifers or identifies boundaries of aquifers that are different from those mapped, the results of the on-site testing shall control.

m. Sludge: The term "sludge" refers to the solid, semi-solid or liquid residual generated by a municipal, commercial or industrial wastewater treatment plant.

n. Temporary Field Stacking: The term "temporary field stacking" refers to only short-term stacking of materials for not longer than a period of seventy-two (72) hours before spreading is to occur.

o. Septage: The term "septage" as defined in 38 M.R.S.A. Sec. 1303, is waste, refuse, effluent, sludge, and any other materials from septic tanks, or any other similar facilities. For the purposes of these Rules, septage is defined as a mixture of liquids and solids derived from household (domestic) sanitary wastewater, and shall include holding tank waste and sanitary wastewater and solids from tanks connected to commercial establishments such as restaurants and motels. Pit and vault privy waste, and portable toilet waste, may be included as septage if it is not contaminated with solid waste as defined by 38 M.R.S. A. Section 1303 (10). Wastes from septic tanks or any other similar facilities which are significantly different in character and origin (e.g., an industrial process) are not septage, and are subject to other applicable standards and Part A of this Ordinance.

p. Septage Applicant. The term septage applicant refers to the owner and/or operator of any septage management, storage, or spreading business, facility, or operation.

PART A.

ARTICLE IV: Application Procedure

A. Procedure

1. An applicant wishing to deliver, store or spread sludge, residuals, or any material containing the aforementioned in Canaan shall file an application form with the Board. The application shall be submitted at least 135 days before the date of first delivery, storage or spreading, so as to ensure adequate time for review under this Ordinance.

2. The applicant shall submit ten (10) copies of the application at least thirty (30) days prior to the Board meeting at which the applicant wishes to be heard.

3. The application shall be accompanied by a non-refundable fee of Five Thousand Dollars (\$5,000.00) payable to the Town of Canaan, Maine, with a note indicating the specific purpose of the fee.

4. The Board shall require the applicant to deposit the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) in an interest bearing account in the name of the Town. Each applicant shall also pay to the Town \$.10 per yard for all sludge spread which shall also go into the said interest bearing account. The purpose of this account shall be to allow the Town to hire a professional consultant to review the application for compliance with this Ordinance and to hire an assistant or assistants for the Code Enforcement Officer of the Town of Canaan, as may be determined necessary by the Code Enforcement Officer in consultation with the Board. This account shall also be used to pay for the Canaan Testing Program. This account shall be used to conduct such additional studies as may be required to assure that the public health, safety and natural environment will not be adversely impacted by the proposed sludge spreading or storage. Funds may be withdrawn from this account by the Code Enforcement Officer up to the amount of Two Thousand Five Hundred Dollars (\$2,500.00) in the first year of applicant's license and up to Two Thousand Five Hundred Dollars (\$2,500.000) annually thereafter, in his discretion to pay for the operation of the Canaan Testing Program. Any additional funds shall be withdrawn only by the Treasurer of the Town at the Selectmen's request. Any interest earned and any remaining balance in this account shall be returned to the applicant following denial of the application or the expiration of the permit granted, whichever comes first not last.

5. At the meeting at which it is first considered by the Board, the Board shall review the application to determine whether it is complete or whether additional submissions are required. If the application is found to be incomplete, the Board shall notify the applicant in writing within ten (10) days of the meeting as to what additional submissions are necessary to begin the review process.

6. The applicant must provide any additional information within thirty (30) days of the date on which the Board gives notice that additional information is required.

7. The application shall be considered "complete" and "filed" as of the date when all required

information is furnished to the Board by the applicant.

8. A public hearing shall be held within thirty-five (35) days after the Board determines that the application is complete. The Board shall cause notice of the time, place and date of such hearing to be sent by certified mail, return receipt requested, not less than ten (10) days before the hearing to the applicant, to abutters of the properties involved, and to owners of any property within 1,000 feet of the properties involved. Owners of abutting properties and of properties within 1,000 feet shall be those listed in the most recent tax records of the Town of Canaan. Notice shall also be published at least seven (7) days prior to the public hearing in a newspaper of general circulation in the Town of Canaan. Notice shall also be posted in three (3) public places designated by the Board. Failure to receive notice shall not invalidate a public hearing held if the requirements of this subsection have been met.

9. The Board shall recommend to the Selectmen whether the application should be approved, approved with conditions, or denied. The Selectmen shall take final action within thirty five (35) days of the issuance of a license from the DEP, or within seventy (70) days of the Town's public hearing, whichever date is later. Final action by the Selectmen may be approval, approval with condition(s), or denial.

10. If the applicant/operator is denied a license by the DEP, no action shall be required by the Board. The applicant shall send the DEP approval or denial to the Board within three (3) days of receiving it.

11. Within seven (7) days of its final action, the Selectmen shall notify the applicant of its action and the reason(s) for such action. Approval of the application, together with the conditions of approval if any, shall constitute a permit.

B. Submissions

An application to spread sludge or residuals shall include the following:

1. A complete "Application for Sludge Utilization" prepared for the Department of Environmental Protection.

2. A fee as required by Article IV. A. 3 of this Ordinance and a deposit into an interest-bearing account as provided in Article IV.A.4.

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

4. A baseline soils analysis for each site. This analysis shall be conducted in the manner recommended by the Natural Resource Conservation Service for soils testing generally and shall include testing as required by Appendix A of this Ordinance.

5. A hydrogeologic analysis conducted by a certified geologist or registered professional engineer qualified by education and experience to conduct a hydrogeologic analysis. This analysis shall be sufficient to determine that the application of sludge or residuals to the proposed site will meet the performance standards set forth in Article V.B. of this Ordinance and shall include, but not be limited to, the following:

a. A site-specific geologic literature search.

b. Aerial photo interpretation, including a photolineament analysis, to identify potential high-yield aquifers.

c. Documentation of type, depth, yield, static water level, and length of casing of any water wells within 1,000 feet of a proposed spreading site.

d. Reconnaissance field mapping by a certified geologist of the surficial and bedrock geology of the proposed site and all areas within 1,000 feet, which field mapping shall relate any observed bedrock outcrop fracture orientation and spacing data to the photolineament analysis.

e. Documentation of the hydrogeologic setting of the project site, including, but not limited to, a general description of the depth and expected seasonal variations in the depth to the first ground water table encountered below ground surface, a description of the general direction of ground water flow up to the point where discharge to surface water occurs, a description of the relationship of the site to any significant aquifers (those producing over 10 gallons per minute to a properly constructed six-inch diameter water well) including bedrock aquifers or inferred bedrock aquifers.

f. A description of the background ground water quality at the up gradient and down gradient edges of the proposed site. This description shall include background levels for any constituent

regulated by this Ordinance as per Appendix A.

g. A proposed ground water monitoring plan to be used just prior to and for two years following the application of the sludge and/or ash, including the proposed horizontal and vertical placement of monitoring wells and all domestic wells within 1,000 feet monitored, frequency of monitoring, and precision of measurement for each parameter to be measured.

6. A plan for the independent weekly analysis (per the schedule required in Article V.B.2.a) of the sludge or residual (required by Appendix A of this Ordinance). Sampling and analysis shall be performed by a State-certified laboratory chosen by the Code Enforcement Officer in accordance with the DEP document entitled Methodology for Sampling and Analysis of PCDD's and PCDF's in Sludge and Residuals and shall be performed on all sludge or residuals without regard to the source.

7. A plan for the submission of the results of the tests required in subsection b and c of Article V.B. 2. of this Ordinance.

8. A plan for the submission of the results of soils tests to be performed just prior to and twice yearly following the application of the sludge and/or residuals for the duration of the permit sought, including the proposed sampling schedule, sampling locations, and parameters to be measured.

9. The Board may require such other information as it deems necessary.

ARTICLE V: Performance Standards

A. General Standards

1. Storage and land application of sludge and residuals is prohibited unless approval has first been obtained from the Board, the Selectmen, and from the Maine Department of Environmental Protection.

2. No sludge or residual may be stored on site in Canaan except in a permanent storage facility as provided in the Department of Environmental Protection Regulations Chapter 567 B-4.c. There shall be no winter field stacking of sludge or residuals in the Town of Canaan. Stacking per site shall be limited to the amount approved for use on each site.

3. If temporary field stacking is to occur, there must be reasonable precautions taken to prevent leaching and/or dispersal into the air.

4. Spreading shall be allowed only from May 15 to November 15 in any year. Spreading shall not be allowed in any event if it is raining, or if the ground is saturated, frozen or snow-covered.

B. Testing Requirements

Providing that approval of the application is conditioned on approval by the Department of Environmental Protection, the Board shall recommend for approval or conditional approval an application for land spreading (or storage for the purpose of land spreading) if the applicant agrees to comply with any additional testing required by the Board or the Selectmen including but not limited to the following:

1. Site Testing and Monitoring

a. Soils Analysis: The applicant shall furnish a baseline soils analysis as required in section IV.B.4. and soils testing program in accordance with section IV.B.8. of this Ordinance with the initial application to the Board

b. Water Analysis: The applicant shall install at least two monitoring wells on each site, the number and location of said wells to be determined by a Board-appointed certified geologist or registered professional engineer qualified by education and experience to make that determination. The water in these wells shall be tested quarterly for parameters to be approved by the Board based on the actual constituents of the sludge or residuals. At the discretion of the Planning Board or at the request of the owner of an existing well located within 1,000 feet of any site proposed for storage or spreading of any sludge or residual and the Board or Code Enforcement Officer may require baseline and annual water analysis of any such wells.

2. Characteristics of Sludge or Residuals.

a. The Board shall provide for the supervision of an independent random weekly sample of sludge or residuals 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 sixteenth edition of Standard Methods for Examination of Water and Wastewater (1985), published by the American Public Health Association, and the results shall be furnished to the Canaan Code Enforcement Officer and/or Board on a schedule approved by the Board.

b. Sludge and Residuals shall be tested for pollutants as required by the Department of

Environmental Protection Regulations and as required by this Ordinance. In addition to the above requirements, the Board or its agent shall take a representative composite sample of the actual product delivered to Canaan and test by the "EP Toxicity Test" and as required by Appendix A of this Ordinance

c. No sludge or residual may be delivered to, stored, or spread in Canaan 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.

3. Hydrogeologic Criteria

a. No sludge or other residual may be delivered to, stored, or spread on land with a slope of greater than fifteen percent (15%).

b. Where the proposed application site has a slope of fifteen percent (15%) or less, no sludge or other residual may be delivered to, stored, or spread within the following setback areas:

| | |
|---|----------|
| Residences; classified bodies of water including lakes, ponds, and streams; | |
| Water supply wells | 300 feet |
| Intermittent streams | 100 feet |
| Public roadways, drainage gullies, property boundaries | 50 feet |

Additional setback requirements established by the Department of Environmental Protection Regulations at Chapter 567 B-2.b and B-4.a. must also be met.

c. Notwithstanding the provisions of subsection "b" of this section with respect to water supply wells, no sludge or residual containing human pathogens may be delivered to, stored, or spread on a site closer than a two hundred (200) day hydraulic ground water travel time from the nearest water well used for drinking water purposes.

d. No sludge or other residual may be delivered to, stored, or spread over a significant groundwater aquifer, over a primary sand and gravel recharge area, or within the recharge area of public water supply well.

e. The sludge or other residuals shall not cause the State of Maine Primary Drinking Water Standards or the National Primary Drinking Water Regulations, which are incorporated herein by reference, to be exceeded in the ground water at a distance greater than one hundred (100) feet from the edge of the sludge or other residual spreading boundary, or at the property line, if it is within one hundred (100) feet of the sludge or other residual spreading boundary, taking into account existing background ground water quality under the site. The burden shall be on the applicant to show that the sludge or other residual spreading will not cause these standards to be exceeded.

4. Aquatic Impact Criteria

The sludge or other residual spreading shall not cause the National Water Quality Criteria (freshwater chronic criteria), established by the U.S. Environmental Protection Agency (EPA) to protect aquatic organisms, to be exceeded in classified water bodies that will receive runoff from the sludge or other residual spreading site, taking into account the existing quality of those classified water bodies. The freshwater chronic criteria appear in full in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," published in the EPA document Quality Criteria for Water 1989 EPA 440//5-86-001. The burden shall be on the applicant to establish that the sludge and other residual spreading will not cause these criteria to be exceeded.

C. Additional Requirements

1. The Board shall not recommend approval of an application for land spreading (or storage for the purpose of land spreading) unless the applicant agrees in writing to furnish the Canaan Code Enforcement Officer with copies of all conditions and limitations imposed by the Department of Environmental Protection as well as twenty-four (24) hour advanced notice of any changes in the composition of the material and further testing required by the DEP and the results of those tests, and any annual variations in site spreading or storage plans.

2. The Board shall not recommend approval of an application unless the applicant agrees in writing to notify the Canaan Code Enforcement Officer of delivery of any sludge or residual not generated by the Town of Canaan, 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, and in any event not later than three (3) days prior to spreading.

3. The Board shall not recommend approval of an application unless the applicant has provided the landowner and the Town with a written statement indicating that the applicant has agreed or will agree to indemnify the owner, abutters, or any other person whose land or water

supply is damaged by the spreading of sludge for any damages which may result from the spreading of sludge or residual.

4. The Board shall not recommend approval of an application unless the applicant agrees in writing to be financially responsible should the storage or spreading of its sludge prove hazardous to the health and safety of the residents, wildlife, soil, water, and/or air quality of the Town of Canaan.

5. It is required that an applicant who top dresses sludge on fields (as opposed to fields that are tilled or plowed under after spreading) shall post such fields with a sign saying "WARNING, SLUDGE SPREADING AREA, NO TRESPASSING" every 50 feet around the perimeter and shall erect a single strand wire fence where the field boundary is within a 300 foot radius of a dwelling. Such fences shall remain in place for a period of 30 days after each sludge application.

ARTICLE VI: Duration of Permit: Review Process

A. A permit issued under this Ordinance shall be valid for a period of five (5) years from the date of issuance and shall be subject to annual review by the Board and the Selectmen.

B. At least fourteen (14) days prior to annual review, but not more than thirty (30) days prior thereto, the Board shall notify the applicant of the review.

C. As part of the annual review, the applicant shall submit the following information to the Board in writing:

1. The names of the applicant and the landowner and the date of the original permit.
2. A narrative describing the following:
 - a. the quantity of sludge and/or residual waste supplied the previous year and the number of acres utilized;
 - b. any problems incurred the previous year;
 - c. any proposed changes in the upcoming year (NOTE: new acreage requires a new application);
 - d. any physical or chemical changes in the sludge or residual waste;
 - e. a sludge or residual waste analysis as required in the initial application;

- f. a soil PH for each land acre to which the sludge or residual waste was applied;
- g. the results of the quarterly water analysis required under Article V.B. 1.b of this Ordinance;
- h. such other analysis as the Department of Environmental Protection, Board or Selectmen required in the initial approval.

D. The applicant shall submit a non-refundable annual renewal fee of Five Thousand Dollars (\$5,000.00).

E. If the Board determines that the conditions of the permit were met for the previous year, the Board shall recommend that the permit continue in effect until the next annual review. The Selectmen may, in its discretion, modify or revoke the permit if actions by the applicant or the 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.

F. Any person applying or storing sludge or residual waste within the municipal boundaries at the time of enactment of this Ordinance pursuant to a license issued by the Department of Environmental Protection may continue to do so for sixty (60) days from the enactment of this Ordinance. By the sixty-first day following enactment of this ordinance, any such person shall submit an application to the Board as required by this Ordinance prior to continuance of the application or storage activity.

ARTICLE VII: Canaan Groundwater Sludge/Septage Testing Program

A. There is hereby created the Town of Canaan Groundwater and Sludge/Septage Testing Program. The program shall be administered by the Code Enforcement Officer for the Town of Canaan.

The testing program shall be funded as follows:

1. Each applicant shall pay the sum of Five Thousand Dollars (\$5,000.00) in the first year as part of its application fee which shall be non-refundable, and which shall be used to fund the testing program as per Art. IV.A.3. Additionally in the first year of the testing program the Code Enforcement Officer may utilize up to Ten Thousand Dollars (\$10,000.00) of the fee set forth in Art. IV.A.4. to pay for the program.

2. Each year thereafter, each applicant shall pay the sum of Five Thousand Dollars (\$5,000.00)

as its renewal fee (Article VI. D.) and such fee shall be used to fund the testing program.

B. PURPOSE:

The Town of Canaan has determined that the regulations of the DEP for septage and sludge are generally unenforced in the Town of Canaan because of State manpower shortages and financial shortcomings. The purpose of the Canaan Testing Program is to remedy this situation and put in place a long term testing program that is self-funding. The testing program will provide for hydrogeologic mapping of the Town and for the monitoring and testing of all sludge, septage, their sites and adjoining groundwater, aquifers and wells, as elsewhere provided in this Ordinance, and thereby scientific data shall be generated.

The Code Enforcement Officer is authorized to enter into agreements and joint ventures with colleges and universities to conduct the testing required by this Ordinance and to employ college laboratories and facilities to do same.

The Code Enforcement Officer is authorized to hire, within his budgetary constraints, one or more assistants, which may be college or graduate students, to gather the data and conduct the tests required by this Ordinance, including , without limitation in, the tests required by Art.III. 4, Art. IV. B.4, Art. IV. B.5., Art. IV.B.6., Art.IV.B.8., Art. V.B. 1., Art. V.3.2 and Art. VI.C.2.

The Code Enforcement Officer is specifically empowered to do such things and take such acts as will assist and promote the generation of scientific data and understanding concerning the groundwater of the Town of Canaan, its flow, its purity, any pollution of same, and the environmental impact of the spreading of sludge and septage in the Town. All tests required of applicants and owners in this ordinance may be conducted as part of this testing program at the request of the applicant /owner and with the approval and consent of the Code Enforcement Officer, as the expense of the applicant /owner.

There shall be created the Testing Program Committee consisting of three members to be appointed by the Selectman for staggered 2-year terms which shall assist the Board and the Code Enforcement officer in the implementation, conduct, and monitoring of the testing program and with whom the COE shall consult concerning the operation of the program. This committee shall have the authority to propose for enactment to the selectmen or the Town, from time to time, such changes in the testing program and this ordinance as it deems appropriate for approval by either the selectmen or the town. The committee shall report directly to the selectmen.

C. RECORDKEEPING:

It shall be a requirement for any applicant, owner or person participating in spreading sludge or septage in the Town of Canaan to file with the Town Clerk copies of all documents generated for the State of Maine, Department of Environmental Protection, and all test results and other data generated by the Canaan Testing Program and this Ordinance so that the same may be available during normal town office business hours to all residents of the Town of Canaan.

ARTICLE VIII: 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 not generated by the Town of Canaan unreasonable threatens environmental safety or human or animal health, then it may recommend to the Selectmen such appropriate action as it deems necessary, including limitation, modification, suspension or revocation of any permit.

ARTICLE IX: Enforcement and Penalty

A. The Canaan Code Enforcement Officer shall have the right to enter all land application and storage sites at all reasonable hours for the purpose of inspecting the site for compliance with this Ordinance.

B. If the Code Enforcement Officer finds violations of any permit conditions or of any obligations imposed by the Ordinance or Chapter 567 of the Department of Environmental Protection Regulations, the Code Enforcement Officer shall issue a written notice to the landowner, the Board, the applicant, the operator (if different from the landowner) and notify the Department of Environmental Protection. In such an event the Code Enforcement Officer may suspend the permit for 20 days, pending Board action.

C. The Board, upon finding the provisions of the Ordinance or conditions of approval are being or have been violated, may temporarily further suspend the permit for 30 days and the Selectmen may revoke the permit after notice and hearing. The Selectmen may take any other action it deems necessary, including prosecution of the code violation pursuant to Rule 80K of the Maine Rules of Civil Procedure.

D. The applicant and/or operator who violates the Ordinance or the conditions of approval as well as the owner who knowingly permits such violations to occur, shall be guilty of a civil violation

and shall be subject to a civil penalty of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) for each offense. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

ARTICLE X: Appeals

An aggrieved party may appeal any final action taken by the Selectmen to the Superior Court pursuant to Rule 80D of the Maine Rules of Civil Procedure.

ARTICLE XI: Validity, Severability and Conflict with Other Ordinances

A. 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.

B. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, code, or statute, the more restrictive requirements shall apply.

ARTICLE XII: Amendments

This Ordinance may be amended by a vote of the Legislative Body of the Town of Canaan. Amendments may be initiated by a request of the Planning Board, the Selectmen, or by petitions bearing the signatures of registered Canaan voters equal to, or in excess of, ten percent (10%) of the votes cast in the last gubernatorial election in the Towns. The selectmen shall conduct a public hearing on any proposed amendment.

PART B

ARTICLE XIII: Additional Findings and Purpose:

The findings and purposes of Part A of this Ordinance are adopted herein by reference. The purpose of Part B of the Ordinance is to govern the storage and spreading of septage in the Town of Canaan. The Town finds that the regulations of the Department of Environmental Protection concerning septage management adopted by the DEP pursuant to 38 M.R.S.A. Sections 1304 and 343 are good and sufficient to protect the inhabitants of the Town of Canaan but that their enforcement has been insufficient due to inadequate State funding and staffing. It is the purpose of Part B of this Ordinance to insure that there is a sufficient funding for the enforcement of these regulations and for the staffing of the Canaan Code Enforcement Officer's position to carry out the septage management rules of DEP.

ARTICLE XIV: DEP Regulations

The Town of Canaan expressly adopts the septage management rules of the Maine Department of Environmental Protection and no person shall be permitted to store, spread or manage septage in the Town of Canaan unless approval has been first obtained from the Board, the Selectmen, and the Maine Department of Environmental Protection and thereafter complies with these regulations in all respects.

ARTICLE XV: Application Procedure

A. Procedure:

1. The application procedure set forth in Article IV, A shall apply to septage applicants, provided that the application of each septage applicant shall be accompanied by a non-refundable fee of Five Thousand Dollars (\$5,000.00) payable to the Town of Canaan, Maine, with a note indicating the specific purpose of the fee and the Board shall require the septage applicant to deposit the sum of Three Thousand Dollars (\$3,000.00) in an interest bearing account in the name of the Town. The purpose of this account shall be to allow the Town to hire a professional consultant to review the application for compliance with this Ordinance and to hire an assistant or assistants for the Code Enforcement Officer of the Town of Canaan, as may be determined necessary by the Code Enforcement Officer in consultation with the Board. This account shall also be used to pay for the Canaan Testing Program in an amount not to exceed Five Thousand Dollars (\$5,000.00) in every year. This account shall be used to conduct such additional studies as may be required to assure that the public health, safety and natural environment not be adversely impacted by the proposed septage storage, management or spreading. Funds shall be withdrawn from this account by the Code Enforcement Officer for the Town of Canaan, or by the Treasurer of the Town at the direction of the Selectmen.

2. The provisions of Part A, Article III subsections 5, 6, 7, 8, 9, 10, and 11 are adopted herein by reference.

B. Submissions

1. An application to spread, store or manage septage shall include the data, proposals, testing mechanisms, and other things as required by the Regulations of the Department of Environmental Protection attached to this Ordinance as Exhibit "A" and made a part hereof by reference. The applications and submissions shall be those set forth in those regulations.

2. A copy of the complete application for septage storage, management, or spreading prepared by the applicant for the Department of Environmental Protection.

3. A fee as required by Article XV, A. 1. of this Ordinance, and a deposit into an interest bearing account is provided in Article XV, A. 1. of this Ordinance.

ARTICLE XVI: Performance Standards

The performance standards of Part B of this regulation are those set forth in the regulations the Department of Environmental Protection for septage attached hereto as Exhibit "A".

ARTICLE XVII:

All of the provisions of Article VII of this Ordinance which create the Canaan Testing Program are incorporated into Part B of this Ordinance in full, provided, however, that the application fee required by Article VII. A.1., shall be that set forth in Article XV, A. 1., the deposit set forth in Article VII, A.4., shall be a deposit set forth in Article XV, A. 1., and the annual renewal fee set forth in Article VI, D., shall be for septage applicants in the sum of Five Thousand Dollars (\$5,000.00)

ARTICLE XVIII:

All of the provisions of Articles V C.3 and C.4, VIII, IX, X, XI, and XII of Part A of this Ordinance are incorporated herein by reference and made a part hereof.

ARTICLE XIX: Savings Clause

To the extent that any of the rules, regulations or requirements of Part B of this ordinance contradict or conflict with the rules and regulations of the Department of Environmental Protection which have been adopted by the Town expressly in Part B, Article XIV of these regulations, then, in that event, the State regulation shall control. Should any word, phrase, term, requirement or part of this entire regulation, Parts A&B, be determined to be void or unenforceable at law, then, nevertheless, the entire remainder of this regulation shall remain in full force and effect.