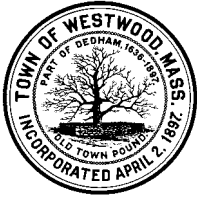


Town of Westwood
Commonwealth of Massachusetts
BOARD OF HEALTH



HAZARDOUS MATERIALS BYLAW
ARTICLE 17

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Hazardous Materials Bylaw

SECTION 1. Authority.

This Bylaw is adopted by the Town of Westwood under its home rule powers, its powers to protect the public health and welfare, and its authorization under Massachusetts General Laws, Chapter 40, Section 21.

SECTION 2. Purpose.

This Bylaw is intended to protect the public health, safety, welfare, and environment as well as to preserve and maintain existing and potential groundwater supply, groundwater recharge areas, and surface waters from risk of hazardous material release within the Town of Westwood, and to provide local emergency responders with appropriate contingency plans to mitigate emergencies in a safe and timely manner.

SECTION 3. Definitions.

Commercial or Industrial Establishment. An establishment whose principal use is non-residential and non-agricultural, either public or private.

Emergency Coordinator. A person designated by the contingency plan to interact with the appropriate governmental agencies involved with response to a release or potential release of a hazardous material, and given the authority to procure outside resources to help avert or mitigate such contingency; having been so designated based upon his or her knowledge of the facility; specific knowledge of areas where hazardous materials are manufactured, used, stored, or disposed; and understanding of the ramifications of a release of hazardous material for the safety of responders, the environment, and the community.

Hazardous Material. A material or combination of materials which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in serious or incapacitating illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored,

transported, used, disposed of, or otherwise managed. These materials shall include, but not be limited to, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and any substances defined as "toxic" or "hazardous" under Massachusetts General Laws Chapters 21C and 21E using the Massachusetts Oil and Hazardous Substance List (in 310 CMR 40.000).

Material Safety Data Sheet ("MSDS"). Information sheets, available by law from the manufacturer, containing data including physical characteristics, flammability, explosively, reactivity, and the health and safety hazards of a product, as well as information relative to procedures recommended for spills and leaks of specific chemicals and special protection and precautions to be taken in the handling of the product.

SARA Title III. The "right-to-know" law within the Super fund Amendments and Reauthorization Act of 1986, also titled the Emergency Planning and Community Right-To-Know Act.

SECTION 4. Exclusions.

In order to focus efforts on significant threats not fully addressed by other authorities, the following materials, activities and facilities are not within the scope of authority of this regulation:

- A. Household waste, including garbage, trash, and domestic sanitary sewage.
- B. Wastes generated from the growing of agricultural crops and the raising of animals, including manure which is returned to the soil as fertilizer.
- C. Treatment, Storage, and Disposal Facilities as defined by 310 CMR 30.000, Hazardous Waste Regulations.
- D. Large Quantity Generators of hazardous wastes as defined by 310 CMR 30.000, Hazardous Waste Regulations.
- E. Hazardous materials which are the subject of Tier II reporting, as defined by SARA Title III (this shall

not apply to hazardous materials not otherwise excluded).

- F. Materials storage subject to regulation by the Fire Department under Massachusetts General Laws Chapter 148.
- G. Materials kept at the dwelling where they are used for routine yard or swimming pool maintenance.

SECTION 5. Registration.

In order that the Town, the abutters, and public safety officials may know of the existence and location where hazardous materials are stored, every owner or operator of a commercial or industrial establishment, including governmental entities, which stores, transports, uses, handles, or otherwise manages hazardous materials which, summed across all such materials, totals fifty gallons liquid volume or twenty-five pounds dry weight or more in a calendar year must register with the Board of Health, unless excluded under Section 4.

- A. Timing. Registration must be made prior to initiation of activity or construction of facilities subject to this Bylaw, and prior to each two-year anniversary date as established by the Board of Health. In addition, if any of the following activities occur during the registration period, an updated registration must be obtained prior to such change.

- (1) Remodeling, operating changes, or expansion of an existing facility which substantially modifies the type or quantity of hazardous materials managed.
- (2) Changes in the location or method of use, storage, manufacture or handling of hazardous materials in any facility.
- (3) Change in ownership of a facility. Registration is not transferable between past and future owners.

- (4) Addition of new hazardous materials not documented in the original registration, and resulting in the quantity threshold (50 gallons, 25 pounds) being exceeded.

B. Submittals.

The following must be submitted to the Board of Health as part of the registration process.

- (1) A Hazard Prevention and Contingency Plan, to include the following.
 - (a) A list of all qualified "Emergency Coordinators", including names and addresses with both work and residence telephone numbers.
 - (b) A list of the resource agencies (including telephone numbers) to be contacted in the event of a hazardous material emergency.
 - (c) A list of all-relevant emergency supplies and equipment available on the site, together with brief description of their capabilities and usage.
 - (d) Scale maps or drawings of the premises locating the areas where hazardous materials are stored, handled, or in use; areas where emergency equipment such as spill kits and medical supplies are kept; and emergency evacuation routes and assembly locations.
 - (e) Electronic copies of Material Safety Data Sheets (MSDS) on CD-ROM, one MSDS for each hazardous chemical in the workplace. If CD-ROM is unavailable, hard copies of MSDS are acceptable.
 - (f) A written description of the types of emergency which are the most likely, even if highly improbable; procedures to be followed routinely in reducing the risk of an

emergency actually occurring through error, vandalism, corrosion or spillage, including employee training, and product loss detection through inventory reconciliation and monitoring; and procedures to be followed in response to any contingency, in order to protect safety and minimize any damage.

- (2) Information pertaining to any disposal of hazardous wastes: Hazardous Waste Generator ID number assigned by DEP, name of the hazardous waste transporter(s), and methods of handling spills of less than the volume which must be reported under the Massachusetts Contingency Plan, 310 CMR 40.000.
- (3) Fees. The basic fee shall be \$250.00 for initial registration, and \$100.00 for annual renewal. In addition, the Board of Health may require that the applicant pay for the reasonable fees and expenses of consultants selected by the Board if necessary for the review and evaluation of applications for registration.

C. Approval.

Registration submittals shall be acted upon and the applicant notified within sixty-days (60) following their receipt by the Board of Health. Submittals shall be approved only if, following consideration of recommendations by the Westwood Emergency Management Agency (WEMA), the Board, or the Health Director acting on behalf of the Board, finds that:

- (1) submittals are substantially complete;
- (2) all other approvals relating to hazardous materials have been applied for and, if not yet received, operation has clearly been made contingent upon such approval; and
- (3) the contingency plan assures adequate protection of the environment and of public health and safety, taking into consideration the scale, location, and degree of hazard involved from the

materials in question, and the norms of contemporary best management practices.

SECTION 6. Storage Requirements.

A. Above ground storage. Storage of hazardous materials above ground is permitted only in accordance with the following.

- (1) Materials shall be stored in product-tight containers, in an orderly manner with wastes stored separately from usable materials, and on an impervious surface.
- (2) Outdoor storage must be provided with secondary containment with impervious materials able to contain spills of not less than 110% of the volume stored, and to prevent any flow of product to exposed soils or outside drains, and must be protected from the elements, accidental damage, and vandalism, which in some cases may require a roof structure and fencing.
- (3) Indoor storage must be designed (by means of a berm, dike, or other means of containment) to prevent any flow of product to exposed soils, floor drains, or outside drains.

B. Underground storage.

- (1) Underground storage of hazardous materials is permitted only in underground storage facilities authorized by the Fire Department in accordance with State and Federal law and regulations.
- (2) New installations for underground storage of hazardous materials are prohibited in the following locations:

within any Water Resource Protection District, as defined in the Westwood Zoning Bylaw;

within four (4) feet of the historical high water table;

within four hundred (400) feet of a public surface water supply; or

within one hundred (100) feet of a private well for potable water supply.

C. Identification.

- (1) Hazardous material storage areas must be clearly delineated, and signs must be posted noting the dedicated nature of the area.
- (2) Containers of all non-waste hazardous materials must be labeled as required under SARA Title III, including the name of the product or chemical(s), the producer's name, address, and telephone, a listing of the physical and health hazards associated with the materials, and target organ effects from exposure.
- (3) Containers of hazardous wastes must be prominently labeled as "Hazardous Waste," and must also be labeled with the Hazardous Waste Generator ID# and the date the container began accumulating waste.

SECTION 7. Emergency Requirements.

- A. Notification. In case of a spill and/or loss of hazardous material at or above the volume which must be reported under the Massachusetts Contingency Plan, 310 CMR 40.000, the owner/operator must immediately report the spill or loss to the Fire Department. Notification shall be made to the Board of Health within 24 hours of the spill. Notification to the MA DEP Emergency Response Section shall be in accordance with 310 CMR 40.0000.

B. Planning.

- (1) The map and written description required at Section 5B (1) and (2) must also be posted at one or more of the following on-site locations: guard shack, fire alarm box annunciator panel, or other location acceptable to the Fire Department. The location of posting must be specified in the registration materials.

- (2) Material Safety Data Sheets must be kept on file and freely accessible at all times at an on-site location approved by the Health and Fire Departments. The Data Sheets must be available to the Fire and Health departments during routine inspections and in the event of an emergency.
- (3) The owner/operator shall provide adequate and reasonable employee training programs to ensure the proper use, storage, transportation and handling of hazardous materials, in compliance with SARA Title III.

SECTION 8. Administration.

A. Enforcement

- (1) The Board of Health or its agent(s) shall be the enforcing authority for the Bylaw.
- (2) The Board of Health or its agent(s) may enter upon privately owned property for the purpose of performing their duties under this Bylaw.

B. Violations.

Written notice of any violation of this Bylaw shall be given by the Board of Health or its agent(s) and shall specify:

- (1) The nature of the violation, and the item in this Bylaw which is being violated
- (2) Any corrective measures which must be taken.
- (3) A time schedule for compliance.

C. Penalties.

Whoever fails to take corrective action consistent with the time schedule for compliance required under Section 8B(3) shall be subject to a fine of Fifty (\$50.00) Dollars per day per violation pursuant to the Town of Westwood General Bylaws, Article 10, Police Regulation, s. 22, Non-Criminal Disposition Bylaw, and as authorized by M.G.L. Chapter 40, Section 21D.

D. Appeals and Variances.

- (1) An administrative appeal of the interpretation of this Bylaw by the Health Director in a specific application may be made to the Board of Health by the owner or operator of the premises in question, or by the owner or operator of any abutting premises, or by any Town official. Procedure shall be as prescribed at paragraph (3) below.
- (2) Variance in the application of this Bylaw, unless otherwise precluded by law, may be granted by the Board of Health upon application by the owner or operator of the premises in question, upon the Board's determination that the alternative proposed, subject to any conditions imposed, will provide protection equivalent under the circumstances to that assured by literal compliance with the Bylaw.
- (3) Applications for administrative appeals or variances shall be made in writing to the Board of Health. The Board shall hold a public hearing on the application, at least ten (10) days prior to which notice shall be provided in a newspaper of general circulation in the Town and by certified mail to all abutters, at the expense of the applicant.

The Board shall make a written decision within thirty (30) Calendar days of the close of the hearing, unless the applicant agrees to extension in writing. Copies of the decision shall be provided to the Town Clerk, the applicant, the owner or operator of the premises, if different, and to any others requesting it.

- (4) Any person aggrieved by a decision of the Board of Health or its agent(s) may seek relief therefrom within thirty days (30) in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

SECTION 9. Severability.

Each provision of this Bylaw shall be construed as separate to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.