

Middleborough Board of Health Contaminated Soils Regulations

Section 1: Purpose

These Regulations are adopted by the Board in order to protect the public and the environment from the deleterious and harmful effects of contaminated soils that may be imported into, transported through or used within the Town. These Regulations shall not apply to any contaminated soils that are disposed as solid waste at an active lined landfill, that are recycled at a soil recycling facility, or that are transported through the Town for such purposes.

Section 2: Definitions

Each of the following terms as used in these Regulations are defined as follows. Any terms that have not been defined specifically herein shall have their normal English meanings, unless the context indicates otherwise.

Active Lined Landfill – a landfill that is currently operating and permitted in accordance with Massachusetts General Laws Chapter 11, Section 150A, and 310 CMR 19.000 et seq., and which is accepting solid waste for disposal.

COMM – 97 Soils – refers to any contaminated soils as defined and discussed in Massachusetts' Department of Environmental Protection Policy #COMM-97-001, entitled "Reuse and Disposal of Contaminated Soil at Massachusetts Landfills".

Contaminated Soils – For purposes of this regulation, the definition of contaminated soils shall include all contaminated soils as defined in #COMM-97-001, 310 CMR 16.000, 310 CMR 19.000, 310 CMR 30.000, 310 CMR 40.000 and Title 40 of Code of Federal regulations.

Daily Cover – shall be as described in 310 CMR 19.130 (15) (c).

Dispose(d)/Disposal – means the dumping and abandoning of solid waste at an active lined landfill, without said solid waste being reused as daily cover, intermediate cover or grading and shaping material pursuant to 310 CMR 19.130(15).

Grading and Shaping Material – shall have the definition of that term as provided in the Massachusetts Department of Environmental Protection's July 6, 2001 Memorandum entitled "Revised Guidelines for Determining Closure Activities at Inactive Unlined Landfill Sites".

Intermediate Cover – shall be as described in 310 CMR 19.130 (15) (d).

Soil Recycling Facility – shall be as described in Section 9.1 of Massachusetts Department of Environmental Projection Policy #WSC-94-400, entitled "Interim Remediation Waste Management Policy for Petroleum Contaminated Soils".

Solid Waste –shall have the definition as provided in 310 CMR 19.006.

Section 3: Public Health Issues with Contaminated Soils

Contaminated Soils, including their importation into, and use within the Town, constitute a public nuisance that may be harmful and dangerous to persons and property, and may be injurious to public health and the environment, including, without limitation, through the creation of airborne dust and particulate, and by leaching into public and private drinking and groundwater supplies.

Section 4 Prohibition of Contaminated Soils

In order to protect the public health and environment, pursuant to the authority that is found in Massachusetts General Laws, Chapter 111, Sections 31 and 122, the import into, and use within the Town of Contaminated Soils are prohibited. This prohibition without limitation applies to any use of Contaminated Soils, including, but not limited to, as daily cover, intermediate cover or grading and shaping material at any landfill.

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Section 5: Prohibition of Nuisance Trade

Any person or business that utilizes Contaminated Soils may result in public nuisances, may be harmful to the inhabitants of the Town, may be injurious to their property, and may be dangerous to the public health and the environment. Therefore, any such business is considered to be a nuisance trade and, pursuant to the authority that is found in Massachusetts General Laws, Chapter 111, Sections 31 and 143, is prohibited from being established, operated or undertaken in any manner within the Town. This prohibition applies without limitation, to any person or business that either is engaged by the owner of an inactive, unlined landfill, or purchases such a landfill, in order to cap and close the same, where any portion of said capping and closure activities, including the grading and shaping of any such landfill, utilizes Contaminated Soils.

Section 6: Severability

The provisions of the regulation are severable. If any court of competent jurisdiction determines that any provision is in violation of the laws, constitutions or regulations of the Commonwealth of Massachusetts and the United States of America, the remaining provisions shall not be affected thereby and shall continue in full force and effect.

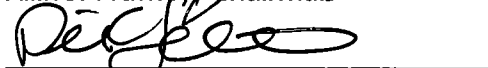
Section 7: Effective Date

These rules and regulations shall be effective as of 1/29/18.

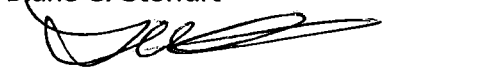
MIDDLEBOROUGH BOARD OF HEALTH



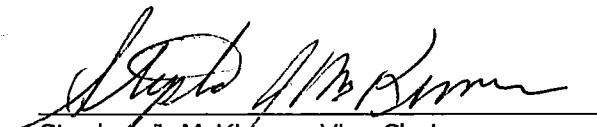
Allin J. Frawley, Chairman



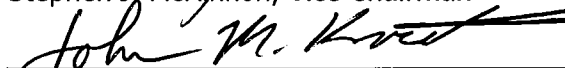
Diane C. Stewart



Leilani Dalpe



Stephen J. McKinnon, Vice Chairman



John Knowlton

1/29/18

Date