

**Town of Dartmouth
Board of Health
400 Slocum Road
Dartmouth, MA 02747**



Public Health
Prevent. Promote. Protect.

Wendy W. Henderson, R.S. Director
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Leslie E.J. McKinley, Chair
Lynne Brodeur
Thomas W. Hardman

Date: July 17, 2014

From: Wendy W. Henderson
Director of Public Health

Attn: **Landowners hiring LSP's to work in Dartmouth, MA**

Re: Comm-97 soils Hazardous Waste Remediation



I forward this correspondence in order to make you aware of the attached regulation prohibiting both the use of COMM-97 soils (as defined in Massachusetts Department of Environmental Protection Policy # COMM-97-001) in the Town of Dartmouth, and the transport of the same through the Town for such purposes, even if the ultimate destination for such use is outside of the Town.

Please provide a copy of this correspondence to any LSP that is presently, or in the future, involved in remediation activities at any property that you own within the Town.

Additionally, please note that, pursuant to Section 1 of the attached regulation, any COMM-97 soils can be transported through the Town for disposal at any approved DEP landfill.

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Dartmouth 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 certain 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, or that are transported through the Town for such disposal, as these activities are subject to regulation solely pursuant to Massachusetts General Laws, Chapter 111, Sections 31A and 31B.

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 111, 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”.

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 for 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”.

Inactive Unlined Landfill – shall have the definition for 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).

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

Section 3: Public Health Issues with Contaminated Soils

COMM-97 Soils, including their importation into, transport through, 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 importation into, transport through, and use within the Town of COMM-97 Soils is prohibited. This prohibition applies to any use of COMM-97 Soils, including, but not limited to, as daily cover, intermediate cover or grading and shaping material at any landfill.

Section 5: Prohibition of Nuisance Trade

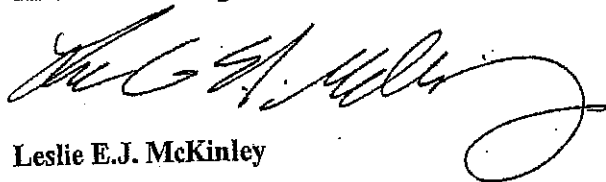
Any for-profit business that utilizes COMM-97 Soils may result in public nuisances, may be harmful to the inhabitants of the Town, may be injurious to their property, and may be dangerous to the public health and the environment. Therefore, any such business is considered to be a nuisance trade and, 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 for-profit 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 COMM-97 Soils.

Section 6: Severability

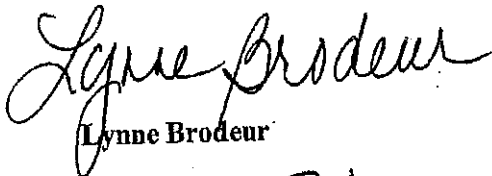
The provisions of the regulation are severable. If any court of competent jurisdiction determines that any provision is in violation of the laws, constitutions or regulations of the Commonwealth of Massachusetts or the United States of America, the remaining provisions shall not be affected thereby and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

Section 7: Effective Date:

These rules and regulations shall be effective as of April 23, 2014.



Leslie E.J. McKinley




Lynne Brodeur



Thomas W Hardman

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2014 APR 18 PM 2 35
DARTMOUTH TOWN CLERK

A True Copy.
Attest:
 TOWN CLERK