

**TOWN OF CAVENDISH
TIERNEY ROAD ORDINANCE**

Prohibiting Operations Requiring Federal Licensing on Tierney Road

WHEREAS, the Town of Cavendish has, by authority granted in 24 V.S.A. § 1971 et seq., 2246, 2291, and 24 V.S.A. § 1973 the power to adopt, amend, repeal and enforce ordinances; hereby adopts the following:

NOW, THEREFORE, to protect public health, safety and well-being, to promote the general welfare, abate public nuisances, endorse responsible land use, preserve historic resources, protect the environment, and maintain the quiet rural residential, forest and deer-wintering atmospheres as officially identified in all Cavendish Town Maps and the Cavendish Town Plan;

To prevent pollution of air, surface water, river, stream and tributary water, residential household drinking water sourced by underground wells from explosions, to protect private and public property from seismic vibrations, and accelerated erosion, and protect wetlands, ecosystems, and wild-life from chemicals, smoke, dust, noxious fumes, and other such hazards and dangers commonly associated with industrial usage;

To acknowledge thirteen (13) pre-existing and legally binding deed restrictions and covenants (that run with land titles and deeds) prohibiting each parcel of land and any lawful owners on Tierney Road from establishing industrial operations on such parcels of lands and/or properties;

To acknowledge the goals of these covenants, designed, created and mutually consented to in order to protect, preserve and promote responsible land use and ensure land and/or property on Tierney Road would be used in conformity with all above stated goals and would not be adversely impacted by industrial activities;

To maintain and promote the usage of land and/or property on Tierney Road as identified on all Cavendish Town Maps (and proposed future maps) as either “rural residential, forest, deer-wintering;” to ensure compliance with goals and objectives in the Town Plan which seek to prevent harmful encroachment of incompatible land uses adversely impacting natural resources, environment standards, or the quiet enjoyment of land and/or property on Tierney Road identified in all Cavendish Town Maps that are jointly and legally connected to the codified Cavendish Town Plan under Title 24 ch. 109, § 7.

To ensure all tax revenue derived and collected from land and/or property owners on Tierney Road is maintained, and such tax revenues are not harmed, diminished or negatively impacted even in the slightest capacity as related to the adopted Town Plan; and to ensure tax revenues from all other land and/or property owners in Cavendish are not potentially impacted either;

To abide by and be in compliance with the Cavendish Town Plan as it relates to the Cavendish Town Maps; the Board of Selectmen hereby adopts this ordinance Prohibiting Industrial Federal License Operations on Tierney Road within the Town of Cavendish.

ARTICLE I. LAND AND/OR PROPERTY DEFINITION

Land and/or property shall be defined as any land, property, acreage, parcel, plot, tract (or fractional denomination thereof), that is directly addressed on Tierney Road. This shall be limited to any land and/or property specifically addressed on Tierney Road. This shall include any land and/or property accessed by or through any easements or right-of-way(s) connected by, to, land and/or property specifically addressed on Tierney Road. This ordinance does not pertain to any other land and/or property, road, street or public way in the Town of Cavendish.

ARTICLE II. INDUSTRIAL FEDERAL LICENSE OPERATIONS DEFINITION

This ordinance shall not have any impact on lawful purposes relating to ordinary domestic, domiciliary, habitation, or usage manifesting from such lawful activities inside or outside of any structures or abodes fit for human habitation; activities that facilitate such usage by lawful land and/or property owners who seek to occupy, inhabit and use their land and/or property for all lawful purposes they so chose so long as such usage is in compliance with all state laws and/or regulations governing such usage.

This ordinance shall not govern or have any impact or affect on land and/or property owners who seek to use their homes and/or properties for any purposes which do not require a federal license or permit. Such as: home offices, property rental usage, holistic purposes (such as but not limited to) meditation healing, yoga, reiki, or any other activity or use which under state laws are lawfully permissible on private residential property. This ordinance shall only prohibit commercial operations specifically requiring the owner and/or operator to obtain federal licensing and/or permitting from the federal government due to the inherit dangerous and/or ultra hazardous nature of such operations.

ARTICLE III. ENFORCEMENT AND PENALTIES

1. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau or in the Windsor County Superior Court, at the election of the Cavendish Board of Selectmen.
2. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of in 24 V.S.A. §§ 1971 et seq., 2246, and 2291. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. For purposes of enforcement in either the Judicial Bureau or Superior Court, a civil penalty of \$500 shall be imposed for violation of this order. Each day that the violation continues shall constitute a separate violation of this order.
3. A municipal ticket will be issued 10 days after written notification of violation is mailed or delivered by the Board of Selectmen, Town Manager and/or any agent of the Town of

Cavendish if the violation has not been remedied in accordance with this order. Each day that the violation continues shall constitute a separate violation of this ordinance.

4. For purposes of enforcement in the Judicial Bureau, the Town Manager, Town Constable, Windsor County Sheriff, police officer, or other law enforcement official shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

ARTICLE IV. AUTHORITY

The Town of Cavendish has, by authority granted in 24 V.S.A. § 1971 et seq., 2246, 2291, and 24 V.S.A. § 1973 the power to adopt, amend, repeal and enforce ordinances. In addition, The Town of Cavendish has, by authority granted in the following:

24 App. V.S.A ch. 109, § 25: Ordinances: Any rule, ordinance, regulation, or by-law of the Town of Cavendish may apply to a limited area and not the the whole Town, notwithstanding that the ordinance, rule, or regulation might also have been applied to another area or areas within the Town;

24 App. V.S.A ch. 109, § 7: Existing ordinances; municipal maps; regulations: (a) The Town Plan, zoning regulations, subdivision regulations, and official maps of the Town of Cavendish and Village of Proctosville, as they exist or may exist, all as contemplated by the Vermont Planning and Development Act, shall become and be the Town Plan, zoning regulations, subdivision regulations and official maps of the Town of Cavendish, as merged.

24 App. V.S.A ch. 109, § 24: Powers, Structure, And Authority of the Town: The Town shall have the authority to exercise all powers relating to municipal affairs conferred and granted by law, including those implied powers necessary to effectuate and execute granted powers. Without limited any of its dully vested powers and authority, the Town of Cavendish may exercise those powers conferred by law;

ARTICLE V. SEVERABILITY

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such findings shall not invalidate any other part of this ordinance.

ARTICLE VI. JURISDICTION

Under 24 V.S.A. § 1973 this ordinance shall become effective 44 days after its adoption by the Cavendish Board of Selectmen. If a petition for a vote on this order is filed under 24 V.S.A. § 1973, that statute shall govern.