

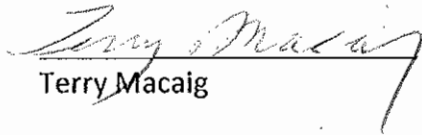
# TOWN OF WILLISTON

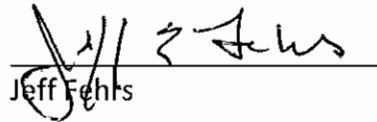
## SEWER ALLOCATION ORDINANCE

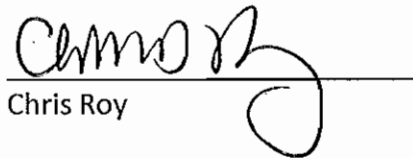
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Adopted this 4<sup>th</sup> day of May, 2015

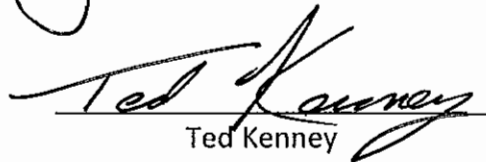
### Williston Selectboard

  
Terry Macaig

  
Jeff Fehrs

  
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#### Abstract:

The Town of Williston has a certain amount of uncommitted reserve capacity at the sewage treatment and disposal facility ("Plant") located in and owned by Essex Junction, and a sewage collection and transmission system ("Sewers") as defined in 24 V.S.A. § 3501(6) and 3601. 2.1. The capacity of the Plant allocated to the Town of Williston and Sewers are the property of the Town. The uncommitted reserve capacity of the Plant and Sewers shall be allocated over the remaining life of the system by the Board in the manner described in this Ordinance.

## Sewer Allocation Ordinance Legislative History

Adopted April 26, 1999, effective May 24, 1999

| <b>Ordinance Amendments</b> | <b>Attachment A Adoption</b> |
|-----------------------------|------------------------------|
| April 26, 1999              | June 13, 2000                |
| November 8, 2001            | June 28, 2001                |
| May 16, 2005                | February 14, 2002            |
| July 15, 2013               | February 28, 2003            |
| October 20, 2014            | March 22, 2004               |
| May 4, 2015                 | June 27, 2005                |
|                             | May 1, 2006                  |
|                             | April 16, 2007               |
|                             | May 5, 2008                  |
|                             | May 4, 2009                  |
|                             | May 3, 2010                  |
|                             | May 2, 2011                  |
|                             | May 7, 2012                  |
|                             | May 6, 2013                  |
|                             | April 21, 2014               |
|                             | May 4, 2015                  |
|                             | May 3, 2016                  |
|                             | April 18, 2017               |
|                             | May 1, 2018                  |
|                             | April 16, 2019               |
|                             | April 21, 2020               |
|                             | May 4, 2021                  |
|                             | May 3, 2022                  |
|                             | April 18, 2023               |
|                             | April 16, 2024               |

## Contents

|   |                  |
|---|------------------|
| 1. Ownership and Discharge Permit.....                                | 3                |
| 2. Introduction to Reserve Capacity Allocation.....                   | 3                |
| 3. Definitions .....  | 3                |
| 4. Capacity Determination .....                                       | 5                |
| 5. Capacity Allocation.....   | 6                |
| 6. Additional Capacity .....  | 7                |
| 7. Pollution Abatement .....  | 7                |
| 8. Capacity for Individual Developments .....                         | 8                |
| 9. Reversion.....   | 10               |
| 10. Cost Recovery for Sewers Expansion .....                          | 10               |
| 11. Application Requirement .....                                     | 10               |
| 12. Approval, Findings, Conditions and Connection Authorization ..... | 11               |
| 13. Fees .....  | <del>13</del> 13 |
| 14. Monitoring Final Flows and Adjustments to Fees.....               | 13               |
| 15. Authority to Require Connection .....                             | 14               |
| 16. Prior Allocations .....   | 14               |
| 17. Effect of Adoption of Ordinance .....                             | 14               |
| 18. Severability .....  | 14               |

**TOWN OF WILLISTON  
SEWER ALLOCATION ORDINANCE**

**1. Ownership and Discharge Permit**

The Town of Williston has a certain amount of uncommitted reserve capacity at the sewage treatment and disposal facility (“Plant”) located in and owned by Essex Junction, and a sewage collection and transmission system (“Sewers”) as defined in 24 V.S.A. § 3501(6) and 3601. The Plant has a permitted capacity serving the communities of Essex Junction, Essex, and Williston, and is operated in accord with a discharge permit, as amended, issued by the Vermont Department of Environmental Conservation (“Department”) under authority granted in 10 V.S.A., Chapter 47. The board of sewage disposal commissioners (“Board”) is obligated by law to comply with conditions of that permit, and to operate and manage the Sewers as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

**2. Introduction to Reserve Capacity Allocation**

- 2.1. The capacity of the Plant allocated to the Town of Williston and Sewers are the property of the Town. The uncommitted reserve capacity of the Plant and Sewers shall be allocated over the remaining life of the system by the Board in the manner described below. This ordinance is adopted pursuant to the provisions of 24 V.S.A., § 3625, in the manner provided in 24 V.S.A., Chapter 59 and shall not be construed as an abandonment or relinquishment of the authority or responsibility of the Board to regulate, control and supervise all means and methods of sewage collection, treatment and disposal within the Town, nor shall it be construed to impair or inhibit the ability of the Town to contract with persons for the collection, transmission and treatment of sewage.
- 2.2. Recognizing that the load on the system must be controlled, that there is insufficient capacity to service the entire Town, that uncontrolled assignment of capacity will cause growth more rapidly than other municipal services can accommodate, and that it is necessary to maintain a balance of industrial, commercial and residential uses (and a mix of housing types), the Board shall allocate pursuant to this Ordinance the uncommitted reserve capacity by zoning districts and use classifications.

**3. Definitions**

The following words will have the meanings below when used in this ordinance:

- 3.1. “Allocation” - The decision by the Board to commit a specified amount of sewage treatment capacity (measured in gallons per day or gpd) to a specific project. An allocation may or may not include allocation phasing.
- 3.2. “Allocation Fee” - A fee for the allocation of sewage treatment capacity, specified as dollars per gpd, as established by the Board.

- 3.3. "Allocation Phasing" - A provision included as part of an allocation to a specific development which specifies the amount of the total allocation which may be used each year.
- 3.4. "Board" - Shall mean the Selectboard of the Town of Williston acting as a board of sewage disposal commissioners under 24 V.S.A., § 3614.
- 3.5. "Committed Reserve Capacity" - Is the total amount of total development wastewater flow (gallons per day) from all projects/buildings approved by the Board for discharge to the treatment Plant, but not yet discharging at the time of the calculation.
- 3.6. "Completed Construction"
  - (A) For building development; the completion of construction of all foundations, framing, siding and roofs.
  - (B) For subdivision development; the sale of the individual lots
- 3.7. "Connection Permit" - A permit authorizing the permit holder to construct the necessary facilities and a connection to the Town's sewers.
- 3.8. "Development" - The construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial and industrial activity.
- 3.9. "Development Wastewater Flow" - Is the flow resulting from full use of the development at its peak capacity, which flow shall be calculated using flow quantities, as promulgated at the time an allocation application is made.
- 3.10. "Discharge Permit" - Shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.
- 3.11. "Holding Fee" - A fee levied by the Town on any "unused" allocation of sewage treatment capacity.
- 3.12. "Initiate Construction" - For building development; the completion of the foundation or for subdivision development; the start of construction of infra-structure (water, sewer, roads, etc.).
- 3.13. "Permitted Wastewater Flow" - Is the maximum Plant wastewater flow authorized in the Discharge Permit on an annual average (365 day average) basis.
- 3.14. "Person" - Shall have the meaning prescribed in 1 V.S.A., § 128.
- 3.15. "Plant Wastewater Flow" - Is the wastewater passing through the treatment plant in gallons per day on an annual average basis (365 day average) except where flows vary significantly from seasonal development. In the latter case, plant wastewater flow is determined as the average throughout the high seasonal use period, as determined by the Board.
- 3.16. "Preferred Residential Projects" - Shall include residential projects containing affordable housing, congregate housing, and elder housing as described in the Town Plan.
- 3.17. "Reserve Capacity" - Is the permitted wastewater flow minus the actual plant wastewater flow during the preceding 12 months.
- 3.18. "Sanitary Wastewater" - Is wastewater of the same character and range of strength as expected from homes.
- 3.19. "Sewer Service Area" - Is that area comprising the zoning districts designated Village Zoning District, Residential Zoning District, Taft Corners Zoning District, Business

Park Zoning District, Mixed Use Commercial Zoning District, Mixed Use Residential Zoning District, Industrial Zoning District West, Gateway Zoning District South, and Gateway Zoning District North.

- 3.20. "Unused allocation" - The amount of sewage treatment capacity which has been allocated to a development which has not yet been "used" by any particular structure.
- 3.21. "Used" - An allocation (or part thereof) shall be considered as "used" when it is committed to serving a specific structure and the water meter on that structure is installed.
- 3.22. "Uncommitted Reserve Capacity" - Is that portion of the reserve capacity remaining after subtracting the development wastewater flow of all projects approved by the Board but not yet discharging to the sewer.

#### 4. Capacity Determination

- 4.1. Prior to each five-year revision of the comprehensive plan the Board shall determine the uncommitted capacity that is available in the sewage treatment plant. This determination shall be based on the following information:
  - 4.1.1. the total plant capacity that is expected to be available to the Town during the period covered by the comprehensive plan, including both existing capacity and any anticipated additions to capacity;
  - 4.1.2. the current average annual flow into the plant and flow projections designed to account for seasonal and annual variations in sewage flows;
  - 4.1.3. existing and anticipated commitments of capacity to planned municipal facilities, including schools and other municipal buildings;
  - 4.1.4. existing and anticipated commitments of capacity to pollution abatement;
  - 4.1.5. previous commitments of capacity to specific developments, including the need to adjust such commitments to reflect actual sewage flows; and
  - 4.1.6. the need to maintain a reserve capacity sufficient to account for seasonal variations in sewage flows, the uncertainty in sewage flow projections for different land uses, and emergencies.
- 4.2. Based on its determination of uncommitted capacity, the Board shall allocate that capacity to the categories listed in SECTION 5.3, below, over a 10-year period, as provided by SECTION 5, below, and direct the Planning Commission to base the relevant elements of the comprehensive plan on this action.
- 4.3. The allocation of capacity over a 10-year period is necessary to ensure the moderate pace of development called for by the comprehensive plan and to provide time for the Town to acquire or construct additional capacity, but the Board may reserve capacity that can be used for affordable housing (see SECTION 5.3.6) or the implementation of other specific goals of the comprehensive plan (see SECTION 5.3.9) at any time.

- 4.4. The Board's determination of uncommitted capacity may be changed, as necessary, to account for public health emergencies, as provided by SECTION 6, below, or unanticipated changes in plant capacity. Changes made for these reasons need not be reflected in immediate amendments to the comprehensive plan. Changes for policy reasons must be reflected in amendments to the comprehensive plan before taking effect.

## 5. Capacity Allocation

- 5.1. No capacity shall be allocated outside the sewer service area existing on the date of the adoption of this ordinance, except for properties used exclusively for state or municipal purposes, with approval by the Selectboard or as provided by SECTION 7, below.
- 5.2. To determine the allocation capacity and assignment to allocation categories, the Board shall follow the procedure below:
  - 5.2.1. Prior to July of each year, the Board shall determine the uncommitted reserve capacity in the plant, including previously assigned but reverted capacity. The Board shall designate a portion of such reserve capacity to be available for distribution for the next fiscal year.
  - 5.2.2. The annual capacity allocation shall be set forth in a document entitled "Attachment A"
  - 5.2.3. Attachment A shall be adopted as if it were an ordinance in accordance with the provisions of 24 V.S.A., Chapter 59, except that prior to adoption, a public hearing shall be held no less than fifteen (15) days after publication of a public notice.
  - 5.2.4. If, at the beginning of any fiscal year, the "Attachment A" for that fiscal year has not yet been adopted or is not yet in effect, the "Attachment A" for the previous fiscal year shall remain in effect until the new "Attachment A" becomes effective, provided that the capacities made available in the previous "Attachment A" have not been fully allocated.
- 5.3. In allocating sewage treatment plant capacity, as provided by SECTION 4, above, the Board in consultation with the Planning Commission, shall assign specific quantities of capacity to the categories listed here:
  - 5.3.1. new and expanded commercial and industrial uses in the Taft Corners, Mixed Use Commercial and Mixed Use Residential Zoning Districts;
  - 5.3.2. new and expanded commercial and industrial uses in all other zoning districts;
  - 5.3.3. new residential uses in the Taft Corners, Mixed Use Residential and Mixed Use Commercial Zoning Districts;
  - 5.3.4. new residential uses in the Village and Residential Zoning Districts,

- 5.3.5. residential additions and minor subdivisions;
  - 5.3.6. new affordable housing within the sewer service area;
  - 5.3.7. planned public facilities, including municipal buildings, parks, and schools and institutions of higher education; and
  - 5.3.8. a reserve of capacity sufficient to account for seasonal variations in sewage flows, the uncertainty in sewage flow projections for different land uses, and emergencies.
  - 5.3.9. The Board may also reserve capacity to be held and used to encourage specific types of development, including housing for special populations and major employers in export or base industries. Such a reserve may be created only to implement a specific goal of the comprehensive plan.
- 5.4. The assignment of capacity to any of the categories listed in SECTION 5.2 for a given planning period, or for a given year within a planning period, may be zero.
- 5.5. The Board may also, but is not required to, reserve capacity in anticipation of the need to abate pollution by connecting uses currently served by on-site wastewater disposal systems to the Town's sewerage system.
- 5.6. The Board's assignment of capacities to the above categories shall be consistent with the comprehensive plan.

## **6. Additional Capacity**

Both the Board's determination of uncommitted capacity, as required by SECTION 4 above, and its allocation of capacity to the categories listed in SECTION 5.3 above, may be changed, as necessary, to account for the acquisition of additional capacity.

## **7. Pollution Abatement**

Needs for pollution abatement will be anticipated in the Board's allocation of capacity when possible, as provided by SECTION 5.5. It is understood, however, that the Town may find it necessary to make an emergency allocation for pollution abatement. Allocations for pollution abatement may be made only where the following conditions are met:

- 7.1. Inside the sewer service area, the Town Manager must, with the advice of the Director of Public Works and the Director of Planning, find that:
- 7.1.1. that it will correct a public health hazard as defined in 18 V.S.A., § 2,



- 7.1.2. that all other possible means of providing sewerage have been explored and found inadequate, and
  - 7.1.3. that sufficient reserve capacity is available. The beneficiaries of an emergency allocation shall be responsible for the full cost of replacing the reserve capacity provided.
- 7.2. Outside the sewer service area or where the emergency allocation will be made from capacity other than the reserve, the Board must, with the advice of the Town Manager, Director of Public Works, and the Director of Planning, find that:
- 7.2.1. that it will correct a public health hazard, as defined in 18 V.S.A., § 2; or where soil testing was deferred by the planning commission (currently the development review board) during subdivision approval of a lot and the lot is immediately adjacent to the town's sewer service area;
  - 7.2.2. that all other possible means of providing sewerage have been explored and found inadequate;
  - 7.2.3. that adequate land use controls are in place to prevent additional connections to any necessary sewer line extensions; and
  - 7.2.4. that sufficient capacity is available. The beneficiaries of an emergency allocation shall be responsible for the full cost of replacing the capacity provided.

## **8. Capacity for Individual Developments**

With the exception of capacity allocated to encourage specific types of development pursuant to SECTION 5.3.9, the grant of sewage treatment plant capacity to individual developments shall be administered by the Town Manager, with the advice of the Director of Public Works, and the Director of Planning. The capacity available in each of the categories listed in SECTION 5 above, shall be granted on a first come, first served basis, as provided in SECTIONS 8.1 and 8.2 below. Capacity to be allocated to encourage specific types of development under SECTION 5.3.9 shall be subject to review and approval by the Selectboard, in consultation with the Planning Commission, and are not subject to SECTION 8.1.1 below.

- 8.1. Commercial and Industrial Developments, and Residential Developments on Individual Residential Lots. All applications for zoning permits for individual commercial or industrial buildings or additions, or for residential buildings or additions on individual lots that will be connected to the Town's sewerage system shall be accompanied by an application for sewerage service. The Zoning Administrator shall promptly refer this application to the Director of Public Works.

- 8.1.1. These applications will be processed on a first come, first served basis, in the order they are received.
  - 8.1.2. The Town Manager shall, with the advice of the Director of Public Works and the Director of Planning, determine the sewage flow that will be generated by the proposed building or addition. If sufficient capacity is available, the Town Manager shall inform the Zoning Administrator who shall process the zoning permit application. If sufficient capacity is not available, the applications for sewerage and zoning permits shall be returned to the applicant.
  - 8.1.3. Upon approval of the permit required by the zoning regulations, the Town Manager shall approve the application for sewerage service, certifying that sufficient capacity is available. No application for sewerage service shall be approved before the required zoning permit has been approved.
  - 8.1.4. The capacity shall be considered as “used” when the water meter serving the building is installed. Until this meter is installed, the capacity is considered “unused” and is subject to holding fees and allocation fees in accordance with SECTION 13 below. After installation of the meter, sewer usage is subject to the Town's sewer use fees in accordance with the Sewer Use Ordinance
  - 8.1.5. If capacity is not “used” within four (4) years from the date it is granted, it shall revert to the town's unallocated capacity. There shall be no refund of any fees paid on the reverted capacity. The Board may grant an extension of up to three (3) years if it finds that the holder of the capacity has been working diligently to implement the project. The Board shall not be obligated to approve an extension.
- 8.2. Residential Subdivisions. Residential subdivisions are subject to the residential growth management system established by Chapter 11 of the *Unified Development Bylaw*. All proposed residential subdivisions that will be connected to the Town’s sewerage system shall file an application for sewerage service with the report required by Chapter 11 of the *Unified Development*. The Zoning Administrator shall refer that application to the Director of Public Works.
  - 8.3. If the proposed residential subdivision receives an allocation of units from the residential growth target, as provided by Chapter 11 of the *Unified Development Bylaw*, the Town Manager shall, with the advice of the Director of Public Works and the Director of Planning, approve the application for sewerage and apportion the capacity granted to individual buildings within that subdivision according to the estimated sewer needs of each building.

- 8.4. The capacity apportioned to a specific building within a residential subdivision shall be considered as “used” by that building when the water meter serving the building is installed.
- 8.5. Once the meter is installed, the capacity “used” by the building shall be deducted from the subdivision's unused capacity and the “used” capacity shall be subject to the Town's sewer use fees in accordance with the Town's Sewer Use Ordinance.
- 8.6. The subdivision's remaining “unused” allocation shall be subject to holding fees and allocation fees in accordance with SECTION 13 below.
- 8.7. If capacity is not “used” within four (4) years of the date it is granted, it shall revert to the Town's unallocated capacity. There shall be no refund of any fees paid on the reverted capacity. The Board may grant an extension of up to three (3) years if it finds that the holder of the capacity has been working diligently to implement the project. The Board shall not be obligated to approve an extension.

## 9. Reversion

Capacity is granted to a specific development, based on a specific permit approval, on a specific parcel of land. After completion of the development, or upon permit expiration, the unused capacity (adjusted to the actual development constructed, if necessary), will revert to the Town in accordance with SECTION 8 above, of this ordinance.

## 10. Cost Recovery for Sewers Expansion

- 10.1. The cost of any extension of the sewer lines to provide for new users shall be borne by the persons to be served by the expansion.
- 10.2. Any payments made as required by SECTION 13.1 shall not be construed as payments towards treatment capacity that may be provided for the development.

## 11. Application Requirement

Persons wishing to use the Plant and Sewers shall apply to the Board on a Sewer Allocation Request form prescribed by the Board. Such application shall:

- 11.1. Be accompanied by a calculation of the development wastewater flow to be generated by the project/development;
- 11.2. Include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the Board;
- 11.3. Unless waived by the Board all calculations required in SUBSECTIONS 11.1 and 11.2 above for developments generating over 1000 gpd shall be certified by a Vermont registered engineer.

## 12. Approval, Findings, Conditions and Connection Authorization

- 12.1. Findings: Upon receipt of the sewer allocation application and supporting documents, the Board may grant approval of an allocation from the Annual Capacity Allocation established pursuant to SECTION 5, above, upon making affirmative findings that:
- 12.1.1. The proposed wastewater is of domestic, sanitary origin and that there is sufficient uncommitted reserve capacity to accommodate the volume and strength of the proposed connection; or
  - 12.1.2. The proposed wastewater is not of domestic sanitary origin and that sufficient evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the Plant and Sewers and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit, pass through the Plant without treatment, interfere or otherwise disrupt the proper quality and disposal of Plant sludge or be injurious in any other manner to the Plant or Sewers and that there is sufficient uncommitted reserve capacity to accommodate the strength and volume of the proposed development;
  - 12.1.3. The proposed use of wastewater capacity complies with the standards set forth in this Ordinance, including but not limited to SECTION 8, and is not in conflict with any other ordinances duly adopted by the Selectboard of the Town of Williston.
- 12.2. Approval and Conditions: The Board, after making the approval findings above, may grant approval of an allocation from the Annual Capacity Allocation established in accordance with SECTION 5. The allocation must be made in accordance with the provisions set forth in SECTION 8, above, and shall expire if not assigned as set forth therein. The approval shall be a binding commitment of capacity to the project contingent on compliance with any conditions attached to the approval. The Board may revoke the allocation approval upon finding that the applicant failed to meet any of conditions attached to the attached approval. The board may attach additional conditions deemed necessary to ensure compliance with the intent of this ordinance.
- 12.3. Connection Authorization: The Board shall authorize the Public Works Director to issue a connection permit which allows the applicant to construct the necessary facilities and connect to the Town's sewers, after determining that the following conditions have been met. The Connection Permit shall specify the allowed volume, flow characteristics, flow rate and quality of the proposed discharge, and must be consistent with the provisions of the allocation approval.
- 12.3.1. In projects where a sewer allocation was granted to a subdivision for multiple connections and included phasing requirements, the Public Works Director shall not, in any given fiscal year, issue connection permits allowing a cumulative flow which exceeds the amount of allocation phased for that fiscal year;
  - 12.3.2. Plans and specifications for the construction of building sewers (from the buildings to municipal sewers) and any municipal sewer extensions, including pump stations, required to service the development shall be submitted and

- approved by the Public Works Director. Such plans and specifications shall have been prepared by a Vermont registered engineer;
- 12.3.3. Applicable local, state and federal permits shall have been secured for the development/project;
  - 12.3.4. All pre-construction conditions attached to the allocation approval have been satisfied;
  - 12.3.5. The construction of the connection and, if necessary, the municipal sewer extension, will be overseen to assure compliance with the plans and specifications and good construction practice in a manner acceptable to the Public Works Director;
  - 12.3.6. The connection permit shall expire at such time as the allocation expires and reverts back to the Town in accordance with SECTION 8 of this Ordinance. Prior to expiration, a revised development plan, allocation and connection authorization may be approved by the Board in the same manner as the original. Such revised plans must also be approved under Town Bylaws and by the applicable State Laws and Regulations. Where reduced capacity is granted in a revised allocation, the unused capacity will revert to the Town and the Town may pay to the applicant, a proportional refund of connection or allocation fees. Regardless of any revised development plans approved by the Board, the Board shall not be obligated to approve an extension of expiration period;
  - 12.3.7. For subdivision projects, the permit holder (developer) of a proposed subdivided parcel must indicate the development planned for each lot. If all prerequisites required for allocation and connection approval herein are met, connection permits will be issued to the permit holder for the designated lot. The connection permit shall indicate the specific flow associated with the proposed use, and capacity equal to that flow shall be deducted from unused allocation retained by the subdivision. If the connection permit is not exercised within two years after the fiscal year for which phased construction was authorized, not implemented, the connection permits will expire. The Board may grant an extension for the use of the connection permit if it finds that the developer of the subdivision has been making steady progress to complete the project, and that there is reason to believe that the project will be completed in a reasonable period of time. The Board shall not be obligated to approve an extension for use of the connection permit;
  - 12.3.8. When the owner/developer of a subdivision sells individual lots within the time frame of the permit, both the allocation and the connection permit applicable to that lot shall transfer when the property transfers and the new owner shall be bound to comply with all permits issued and the plans and specifications for connection to the municipal Sewers. The transferred permit will be considered a new permit issued on the date of property transfer and it shall be subject to all applicable constraints set forth in this ordinance.

### 13. Fees

After having been granted an allocation by the Board, the holder of the allocation shall be assessed allocation and holding fees as set forth in this section. The amount of the fees shall be established by the Selectboard, which is hereby authorized to establish or amend sewer allocation fees from time to time, by resolution.

#### 13.1. Commercial, Industrial, and preferred Residential Projects Where Allocation is Made to Individual Buildings, and Individual Residential Lots.

13.1.1. An allocation fee shall be due upon application for a zoning/building permit for the building for which the allocation was granted, based on the estimated development wastewater flow for that building. If the development wastewater flow exceeds the amount of capacity allocated to the structure, the applicant must apply for additional allocation before the zoning/building permit can be issued.

13.1.2. Twice each year (September 30 and March 31) the Town shall levy a holding fee against any "unused" allocations held on that date, regardless of when the allocation was obtained. The holding fee shall be ten (10) percent of the allocation fee on the "unused" allocation, and shall be due within thirty (30) days. If the holding fee is not paid when due, the "unused" allocation shall expire and revert to the Town's unallocated reserve capacity.

#### 13.2. Residential Projects Where the Allocation is Granted to an Entire Subdivision.

13.2.1. An allocation fee shall be due upon application for a zoning/building permit for each residential dwelling structure. The fee shall be based on the estimated development wastewater flow for the dwelling

13.2.2. Twice each year (September 30 and March 31) the Town shall levy a holding fee against any "unused" allocation remaining on that date. The holding fee shall be five (5) percent of the allocation fee on "unused" allocation, and shall be due within thirty (30) days. If the holding fee is not paid when due the "unused" allocation shall expire and revert back to the town's unallocated reserve capacity.

13.3. In cases where an allocation or connection permit expires and a new person applies for capacity on the same or a different project on the same site, the Board may consider previous fees paid by the original person when establishing fees for the new project.

### 14. Monitoring Final Flows and Adjustments to Fees

When a project that has received a sewer allocation has been completed and on line for at least one year, the Town shall monitor its actual wastewater flows and determine the actual average daily flow. This will be compared with the estimated development wastewater flow on which the allocation was based, and the capacity allocated to the project.

- 14.1. If the actual average daily flow exceeds the allocation, the applicant shall apply for an allocation equal to the difference, and shall pay the standard allocation fee assessed per gpd by the Town at that time.
- 14.2. If the actual average daily flow is less than the allocation, the difference, in gpd, shall be added to the Town's unallocated reserve capacity. There shall be no refund of previously paid allocation fees or holding fees.

**15. Authority to Require Connection**

Nothing herein shall be construed as limiting or impairing the authority of the Town or its Board to require connections to the Sewers under the general laws of the state or local ordinances.

**16. Prior Allocations**

Adoption of this ordinance and any amendment thereto, shall not modify any allocations of treatment capacity issued prior to the adoption of this ordinance, or amendment. However, the procedures established by this ordinance shall govern.

**17. Effect of Adoption of Ordinance**

To the extent that any provision herein shall be inconsistent with or contrary to any provision of the Town's Sewer Use Ordinance adopted May 24, 1990, as later amended, then the provisions of this ordinance shall apply. The adoption of this allocation ordinance shall not interfere with the authority and responsibility of the legislative body as Sewer Commissioners in matters relating to the management and operation of the Public Sewer System as provided in Chapter 97 and 101 of 24 V.S.A.

**18. Severability**

If any portion of this Ordinance and any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance and any amendments made hereto shall not be affected and shall remain in full force and effect. If any statute referred to in this Ordinance shall be amended, this Ordinance shall be deemed to refer to such amended statute.

**ATTACHMENT A**

**Fiscal Year 2025**

*Adopted on April 16, 2024*

| <b>Allocation Category</b> | <b>Amount (gpd)*</b> |
|----------------------------|----------------------|
| New commercial/industrial  | 10,000               |
| New Residential            | 23,500               |
| Residential Additions      | 1,500                |
| Affordable Housing         | 7,250                |
| Planned Public Facilities  | 0                    |
| Pollution Abatement        | 1,500                |
| Specific Development       | 10,000               |
| Reserve                    | 77,700               |
| <b>Total Allocated</b>     | <b>131,450</b>       |

\*gpd = gallons per day