

Town of Hinesburg Wastewater Capacity Allocation Ordinance

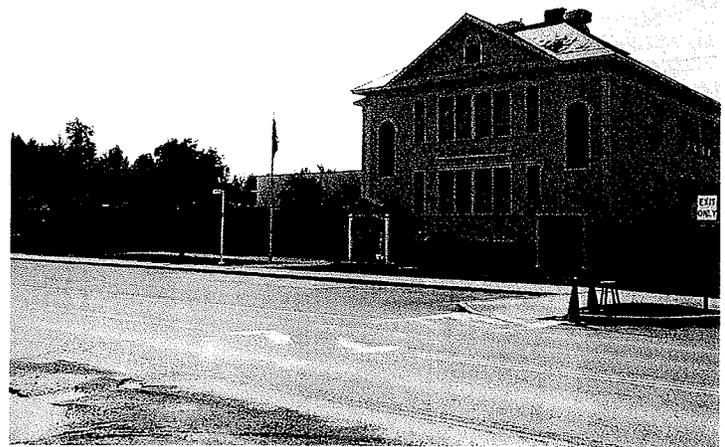
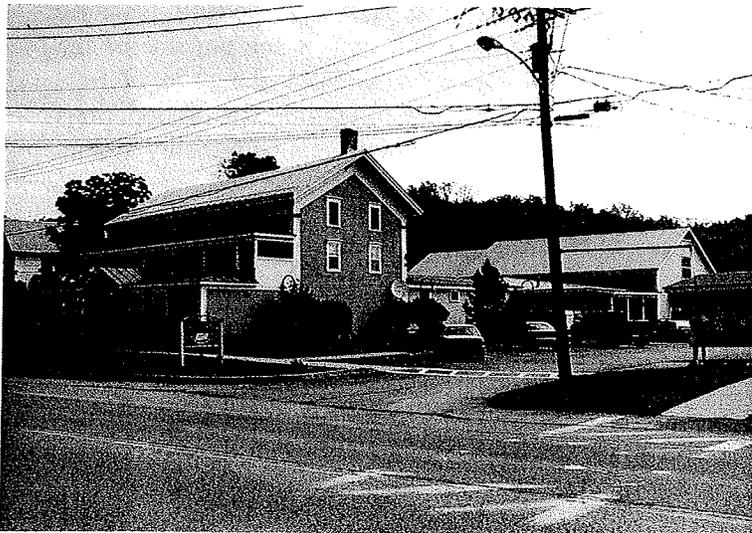
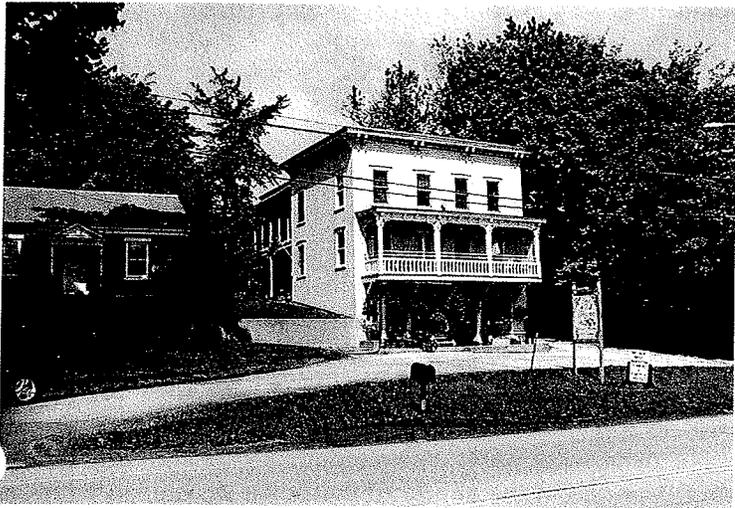
Adopted April 16, 1990

Amended March 9, 1993

Rewritten/Adopted June 2, 2003

Amended April 19, 2004

Amended August 16, 2010



Town of Hinesburg
Wastewater Capacity Allocation Ordinance

1. Ownership and Discharge Permit:

The Town of Hinesburg (“Town”) owns and operates a wastewater treatment plant (“Plant”) located on Lagoon Rd. and a wastewater collection and transfer system (“Sewers”) as defined in 24 V.S.A. §3501(6) and 3601. The Plant has a permitted capacity, and is operated in accord with a discharge permit issued by the Vermont Department of Environmental Conservation (“Department”) under authority granted in 10 V.S.A., Chapter 47. The board of wastewater disposal commissioners (“Board”) is obligated by law to comply with conditions of that permit, and to operate and manage the Plant and Sewers as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

2. Introduction to Reserve Capacity Allocation

The Plant has a permitted treatment capacity of 250,000 gallons per day. An upgrade to the Plant was completed in 2010 in order to replace worn out components, increase energy efficiency, meet current permit and code requirements, and improve operator safety. The permitted capacity of the Plant and Sewers is 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 (or in the manner provided for in 24 V.S.A., Chapter 117), 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 wastewater 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 wastewater.

Two major goals of the Town Plan (section 1.5) are to guide the Town in appropriate, well managed growth while also providing for adequate community facilities and services. These general goals are further refined in sections 3.1 and 4.8 of the Zoning Regulations, which outline the purpose of the Village Growth Area (bulk of wastewater service area) and the need to keep the pace of new development in line with the provision of adequate public infrastructure. Planning for the judicious allocation of wastewater treatment capacity is an important way to implement this community vision, and is specifically authorized in 24 V.S.A, Chapter 101, Section 3625.

Recognizing that the load on the system must be controlled, and that it is necessary to maintain a balance of institutional, industrial, commercial and residential uses (and a mix of housing types), the Board shall allocate pursuant to this Ordinance the uncommitted reserve capacity by use classifications within the adopted Wastewater Service Area.

3. Definitions:

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

- A. “Actual Flow”- shall mean the volume of water from any individual unit (residential, commercial or institutional) connected to the Sewers, measured at the incoming water connection by a water meter.
- B. “Allocation” - The decision by the Board to commit a specified amount of wastewater

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

- treatment capacity measured in gallons per day (or gpd) to a specific project.
- C. “Allocation Charge” - A fee for the allocation of wastewater treatment capacity, specified as dollars per gpd, as established by the Board.
- D. “Board” - Shall mean the Selectboard of the Town of Hinesburg acting as a board of wastewater disposal commissioners under 24 V.S.A., § 3614.
- E. “Committed Reserve Capacity” - Is the total amount of 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.
- F. “Department” shall mean the Vermont Department of Environmental Conservation.
- G. “Development” - The construction of improvements on a tract of land for any purpose, including, but not limited to institutional, residential, commercial and industrial activity.
- H. “Development Wastewater Flow” - Calculated flow quantities as determined by the most current VT Department of Environmental Conservation wastewater rules.
- I. “Discharge Permit” - Shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.
- J. “Enterprise Project”-any project, commercial or industrial, planned to house or otherwise serve a business enterprise.
- K. “Holding Fee” –a fee levied by the Town on any “unused” allocation of wastewater treatment capacity.
- L. “Institutional Project”- a public sector project or municipal obligation, or a project deemed by the Board to be important to the general health and well being of the community. Such projects could include schools, town offices, care facilities, medical facilities, libraries, affordable housing (as defined in Zoning Regulations), elderly housing, assisted living facilities, or other.
- M. “Permitted Wastewater Flow” - Is the maximum Plant wastewater flow authorized in the Discharge Permit on an annual average (365 day average) basis.
- N. “Person” - Shall have the meaning prescribed in 1 V.S.A., § 128.
- O. “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.
- P. “Residential Project”-Any project, or part of a project, which provides residential housing. A residential project is not considered an enterprise project for the purposes of this ordinance.

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

- Q. “Reserve Capacity” - Is the permitted wastewater flow minus the actual plant wastewater flow during the preceding 12 months.
- R. “Sanitary Wastewater” - Is wastewater of the same character and range of strength as expected from homes.
- S. “Sewers”-Shall be used to mean and interchanged with “Wastewater system” in this ordinance.
- T. “Wastewater Service Area” – Is that area of the Town of Hinesburg which shall be served by the Sewers and Plant for wastewater disposal. This area shall be established by the Board and is shown on map attached as “Attachment A”. A change in the Wastewater Service Area shall constitute a change in this ordinance, and shall be adopted as outlined in Title 24 VSA section 1972.
- U. “Unused allocation” - The amount of wastewater treatment capacity which has been allocated to a development which has not yet been “used” by any particular structure.
- V. “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.
- W. “Uncommitted Reserve Capacity” - Is that portion of the Reserve Capacity remaining after subtracting the Committed Reserve Capacity.
- X. “Wastewater”- Shall be used to mean and interchanged with ‘sewage’ in this ordinance; shall mean water discharged from buildings to the Plant.

4. Reserve Capacity Allocation:

4.A. Allocation Flow Basis:

All allocations to projects shall be based on the Development Wastewater Flow. Any difference between actual flows and development wastewater flows that occurs is not available to the development owner for re-allotment to another project or a project expansion.

4.B. Determination of Annual Capacity Allocation and assignment to Allocation Categories:

During the month of June each year, the Board shall determine the Uncommitted Reserve Capacity in the Plant by subtracting unused, committed allocations from the previous year’s actual average flow. The Board shall designate such Uncommitted Reserve Capacity to be available for the next fiscal year. This shall be referred to as the “Annual Capacity Allocation”.

- 4.B.1. Should there be any existing pollution from a residential, commercial, institutional, or industrial facility within the Wastewater Service Area, and such pollution constitutes a public health hazard as defined in 18 V.S.A., § 2, then the Board shall grant a priority allocation from that year's Annual Capacity Allocation to obviate the public health hazard. The Board shall then assign specific capacities from the remainder of the Annual Capacity Allocation to the following Allocation Categories within the Wastewater Service Area:

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

First:

- a) Institutional Projects – 5,000 gpd
- b) Projects on the Saputo property (tax map #20-50-66.000) – 10,000 gpd
- c) Projects within the “existing village core” – 5,000 gpd; specifically within the following zoning districts: Village district, Commerce Street portion of Commercial district, Industrial 3 (Saputo) & 4 (Giroux) districts

Second, after setting aside the capacities above:

- d) Residential Projects-70% of remaining reserve capacity
- e) Enterprise Projects-30% of remaining reserve capacity

The Board, in assigning capacities to the allocation categories, may also establish phasing provisions and other conditions intended to implement provisions of Town Plan, Zoning Regulations, and Subdivision Regulations, pursuant to 24 V.S.A., Chapter 101, Section 3625.

4.B.2. No capacity shall be allocated outside the Wastewater Service Area existing on the date of the adoption of this ordinance except as specified below:

- (a) In the event that any existing waste water treatment system fails outside the Wastewater Service Area, the Board may make an emergency allocation to alleviate the problem, provided that the following conditions are met:
 - (1) The failure has created a public health hazard, as defined in 18 V.S.A. §2, or has the potential for causing substantial harm;
 - (2) All other possible solutions have been explored and found inadequate, and
 - (3) There will be no additional connections to any wastewater line extensions constructed to solve the problem.
- (b) Any structure located outside of the Wastewater Service area, which is connected to the Sewers as of the effective date of this ordinance, may be granted additional allocation, under the same terms and conditions of this ordinance, provided that the additional allocation is used solely for the connected structure and that the Sewers are not extended beyond the connected structure.
- (c) A project, which is deemed to be in the best interest of the Town, complies with the Town Plan and meets Development Review Board approval.

4.C. Individual Project Allocations:

During the ensuing fiscal year, the Board shall consider applications for, and may grant allocations for individual projects within the Wastewater Service Area. No allocations shall be granted beyond the capacity assignments made to the allocation categories in accordance with Section 4-B-1, above. The Board shall act on all applications on a first come, first served basis as soon as practical, but no later than sixty days after it receives an application. The Board may attach conditions related to wastewater infrastructure (e.g., line improvements, pump station improvements, future tie-in provisions, etc.) to allocation approvals in order to achieve the goals and policies of the Town Plan.

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

No applications for individual project allocations shall be considered by the Board unless the project has first received sketch plan approval from the Development Review Board pursuant to the Town's Subdivision Regulations, or is to be located on a lot in an approved commercial or industrial subdivision and has received conditional use approval and site plan approval, as appropriate, in accordance with the Town's Zoning bylaws. Wastewater allocation applications (on forms provided by the Board) shall be completed and returned to the Office of the Town Administrator and marked with the time and date received in the Town Offices.

Individual project allocations shall not be approved if the resulting wastewater flow will overwhelm, adversely impact, or cause the failure of existing wastewater system components. Except as outlined below, individual project allocations that connect to the wastewater system via existing private infrastructure (e.g., private wastewater lines, private pump stations, etc.) shall not be approved if the current condition, specifications, and location of said private infrastructure are deemed unacceptable by the Board. Such allocations may be granted if the application sufficiently addresses the aforementioned issues, to the satisfaction of the Board, via proposed improvements to be completed as part of a development project. Such improvement plans shall be included in the allocation application as noted in section 6D.

4.C.1. Commercial, Industrial, Institutional and Residential Projects where allocation is made to individual buildings, buildings containing multiple units, and individual residential lots.

(a) If granted, the Board shall make allocations to individual buildings or to individual units in a multiple unit building not total development projects.

(b) The allocation shall be considered as "used" by the building when the water meter serving the building or individual unit is installed.

-- Until this meter is installed, the allocation is considered as "unused" and is subject to Holding Fees in accordance with Section 8 of this Ordinance.

-- After installation of the meter, wastewater usage is subject to the Town's wastewater use fees in accordance with the Town's Sewer Use ordinance.

(c) If an allocation is not "used" within three (3) years of the date the allocation is granted by the Board, it shall expire and revert to the Town's Uncommitted Reserve Capacity. There shall be no refund of any allocation fees paid on the reverted allocation. The Board may grant extensions if it finds that the holder of the allocation has been working diligently to implement the project and no relevant local or state approvals have expired. The Board shall not be obligated to approve an extension.

4.C.2. Commercial, Industrial, Institutional and Residential Projects where the allocation is

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

granted to an entire Subdivision.

- (a) If granted, the Board shall grant an allocation to an individual subdivision for all of the commercial, industrial or dwelling units in that subdivision.
 - (b) The allocation to a subdivision will be apportioned to individual buildings within that subdivision according to the estimated wastewater needs of each building or individual unit as part of a multi-unit building. The application shall clearly state the amount requested for each lot and/or building and/or unit in the subdivision. The capacity apportioned to a specific building or individual unit thereof shall be considered as “used” by that building or individual unit thereof when the water meter serving the building is installed.
 - ◆ Once the meter is installed, the original capacity allocated to the building or individual unit thereof shall be deducted from the subdivision's “unused” allocation.
 - ◆ The “used” capacity shall be subject to the Town's wastewater use fees in accordance with the Town's Sewer Use Ordinance.
 - ◆ The subdivision's remaining “unused” allocation shall be subject to Holding Fees in accordance with Section 8 of this Ordinance.
 - (c) If an allocation is not “used” within three (3) years of the date the allocation is granted by the Board, it shall expire and revert to the Town's unallocated reserve capacity. There shall be no refund of any allocation fees paid on the reverted allocation. The Board may grant extensions if it finds that the holder of the allocation has been working diligently to implement the project and no relevant local or state approvals have expired. The Board shall not be obligated to approve an extension.
- 4.C.3. Commercial, Industrial, Institutional or Residential Projects where allocation is granted to an existing building, or individual unit as part of a multi-unit building, connected to the Sewers for a proposed change of use or increase in capacity.
- (a) If granted, the Board shall grant the additional allocation to individual buildings or individual units thereof.
 - (b) The additional allocation to an existing building or individual unit thereof shall be apportioned according to the estimated wastewater needs of the building or unit. The application shall clearly state the amount requested for each building or unit.
 - ◆ Once the change of use of the building or unit is completed the additional capacity allocated to the building shall be considered “used”.
 - ◆ The “used” capacity shall be subject to the Town’s wastewater use fees in accordance with the Town’s Sewer Use Ordinance.
 - (c) If an allocation is not used within three (3) years of the date the allocation is

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

granted by the Board, it shall expire and revert to the Town's Uncommitted Reserve Capacity. There shall be no refund of any allocation fees paid on the reverted allocation. The Board may grant extensions if it finds that the holder of the allocation has been working diligently to implement the project and no relevant local or state approvals have expired. The Board shall not be obligated to approve an extension.

4.D. Reversion of Allocation:

The Board allocates reserve capacity to a specific parcel of land for a specific project. After completion of the project, or upon permit expiration, the unused allocation (adjusted to the actual development constructed, if necessary), will revert to the Town.

4.D.1. When a project that has received a wastewater allocation has been completed and on line for at least one year, the Town may monitor its Actual Flow and determine the actual average daily flow based on metered consumption, unless an alternate method is approved by the Board. This will be compared with the estimated development wastewater flow on which the allocation was based.

4.D.2. If the actual first year 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.

4.D.3. If the actual first year 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.

4.E. Transfer of allocation:

The transfer of the capacity allocation is prohibited unless approved in writing by the Board at the owner's request.

5. Cost Recovery for Wastewater Expansion:

5.A. The cost of any extension of the wastewater lines to provide for new users shall be borne by the persons to be served by the expansion.

5.B. Any payments made as required by Section 5 (A) shall not be construed as payments towards treatment capacity that may be provided for the development.

6. Application Requirement:

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

6.A. Shall be accompanied by a calculation of the Development Wastewater Flow to be generated by the project/development.

Town of Hinesburg
Wastewater Capacity Allocation Ordinance

- 6.B. Shall include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the Board.
- 6.C. Unless waived by the Board all calculations required in Subsections (a) and (b) above for developments generating over 1000 gpd shall be certified by a Vermont registered engineer.
- 6.D. Shall be accompanied by 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 prepared by a Vermont registered engineer. These plans shall also address any necessary improvements to existing public or private infrastructure per section 4C. Improvement plans for deficient, existing infrastructure need not address the entire municipal wastewater system, and may focus on necessary improvements that are proportional in nature to the proposed development. This requirement to submit plans and specs may be waived by the Board.

7. Findings, Approval and Conditions:

- 7. A. Findings: Upon receipt of the wastewater allocation application and supporting documents, the Board may grant approval of an allocation from the Annual Capacity Allocation established pursuant to Section 4-B, above, upon making affirmative findings that:
 - 7.A.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
 - 7.A.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;
 - 7.A.3. The proposed use of wastewater capacity complies with the standards set forth in this Ordinance, including but not limited to Section 4C, and is not in conflict with any other ordinances duly adopted by the Selectboard of the Town of Hinesburg.
- 7.B. 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 4-B. The allocation must be made in accordance with the provisions set forth in Section 4-C, 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 approval.

**Town of Hinesburg
Wastewater Capacity Allocation Ordinance**

8. Fees:

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

- 8.A. An Allocation Charge shall be due upon application for a zoning/building permit for the building/use for which the allocation was granted based on the Development Wastewater Flow for that building/use.
- 8.B. Quarterly the Town shall levy a Holding Fee against any allocation held. The Holding Fee shall be fifty (50) percent of the user fee as established in the Sewer Use Ordinance, and shall be due within thirty (30) days of billing date. (i.e.: established user fee x allocation amount x 50% x 90 days) If the allocation charge is not paid when due, the “unused” allocation shall expire and revert to the Town's Uncommitted Reserve Capacity.
- 8.C. In cases where an allocation 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.

9. 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 Wastewater System under the general laws of the state or local ordinances.

10. 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.

11. 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

**Town of Hinesburg
Wastewater Capacity Allocation Ordinance**

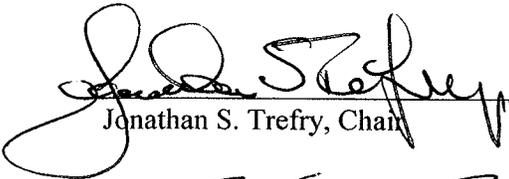
and responsibility of the legislative body as Board of Wastewater Disposal Commissioners in matters relating to the management and operation of the Public Sewer System as provided in Chapter 97 and 101 of 24 V.S.A.

12. 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.

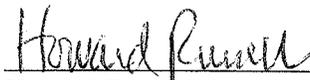
Adopted this 16th day of August, 2010.

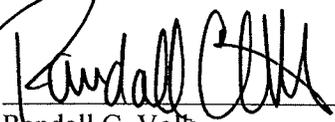
Town of Hinesburg Selectboard


Jonathan S. Trefry, Chair


Ken Brown

Andrea Morgante


Howard Russell

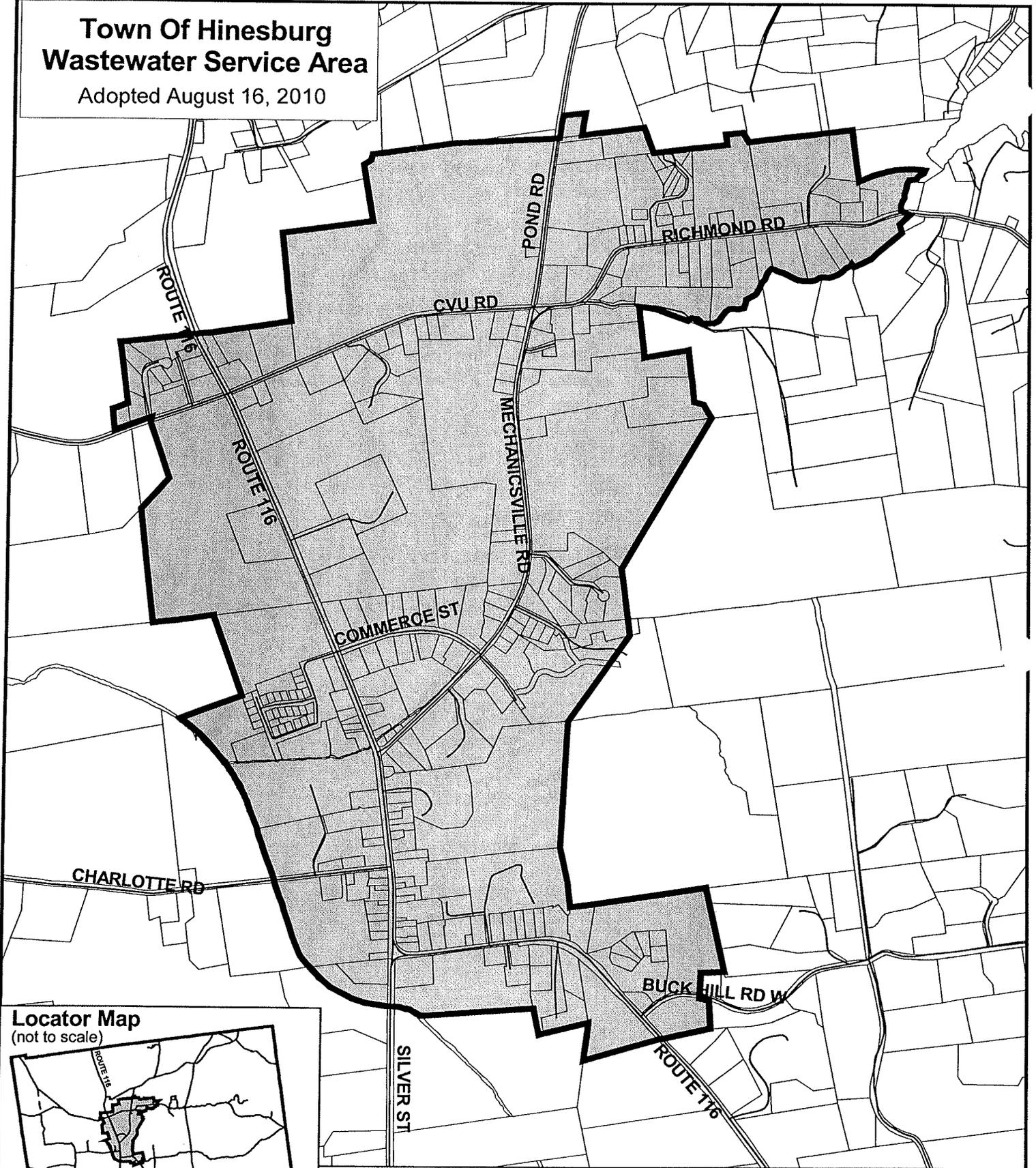

Randall C. Volk

Received and recorded this 17th day of August, 2010

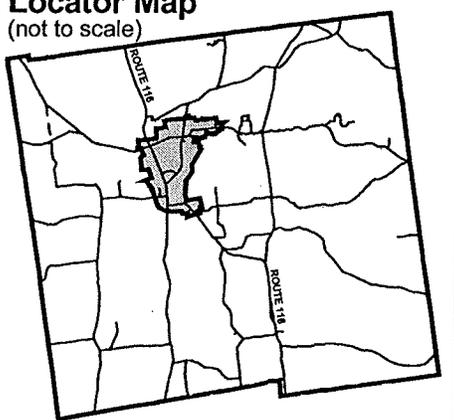

Melissa Ross, Town Clerk

Town Of Hinesburg Wastewater Service Area

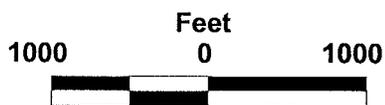
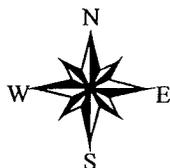
Adopted August 16, 2010



Locator Map
(not to scale)



See Wastewater Allocation Ordinance for more info



Boundaries based largely on
2009 Zoning District and 2009
Parcel lines.

Town of Hinesburg Wastewater Capacity Allocation Fees:

Fees outlined in Section 8 consist of:

1. Allocation Charge as of July 28, 2008, -\$11.91 per gallon wastewater requested
2. Holding Fee-(Quarterly charge to hold the approved allocation)-50% of established user fee as of January 1, 2009 of \$.027/cubic foot wastewater or \$.0036/gallon

Example: Single family home allocation approved at 210 gallons per day.

Allocation charge- $210 \times \$11.91 = \2501.10

Holding Fee- $50\% \times 210 \text{gpd} \times \$0.0036 \times 90 \text{days} = \$34.02/\text{quarter}$

**TOWN OF HINESBURG
WASTEWATER ALLOCATION REQUEST**

Applicant Name and Address:

Telephone Number: _____

Property Owner(s) Name and Address:

Project name, location and brief description (specify number of living units or type of commercial or industrial use):

Based on information above, wastewater allocation requested: _____ gallons per day

Signature of Applicant: _____ Date: _____

NOTE: See attached for copy of Article 6 of the Hinesburg Sewer Allocation Ordinance
.....

DEPARTMENTAL APPROVAL

Planning & Zoning / Site Plan or Sketch Plan Received ____ yes ____ no Date Received, if yes _____

Buildings & Facilities Department / Recommend Approval ____ yes ____ no

Comments: _____

Approved by the Hinesburg Selectboard on (date): _____

Kenneth Brown

Andrea Morgante

Howard E. Russell

Jonathan S. Trefry

Randall C. Volk