

TOWN OF HINESBURG
MUNICIPAL WASTEWATER ALLOCATION ORDINANCE



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Received and recorded this ____ day of _____, 2016

Melissa Ross, Town Clerk

Town of Hinesburg Wastewater Allocation Ordinance

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Town of Hinesburg Wastewater Allocation Ordinance

Ownership

The Town of Hinesburg (Municipality) owns and operates a wastewater treatment facility (Facility) located on Lagoon Road, a wastewater collection and transfer system (Sewers) as defined in 24 V.S.A. §3501(6) and 3601, and various other associated facilities and appurtenances. The Facility has a capacity permitted through and authorized by the State, and is operated in accord with a discharge permit issued by the Vermont Department of Environmental Conservation (VDEC) under authority granted in 10 V.S.A., Chapter 47. The Board of Water and Wastewater Commissioners (Board) is obligated by law to comply with conditions of that permit, and to operate and manage the Facility and Sewers as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

Introduction

The Facility is currently permitted to treat 250,000 gallons of wastewater per day. An upgrade to the Facility was completed in 2010 to replace worn out components, increase energy efficiency, meet current permit and code requirements, and improve operator safety. The permitted capacity of the Facility and Sewers is the property of the Town. The uncommitted reserve capacity of the Facility 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. Refer to the Municipal Wastewater System Use Ordinance for details about use and user requirements.

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 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 § 3625.

Recognizing that the load on the system must be controlled, and that it is necessary to maintain a balance of municipal, 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.

Mission Statement

The Town of Hinesburg will endeavor to operate an efficient and well maintained wastewater treatment facility and collection system that provides reliable service to its customers and remains in continual compliance with all applicable State and Federal standards while maintaining those facilities, equipment, and records in a manner that is reflective of the highest professional standards. At all times, the pursuit of this mission will be balanced with consideration of the cost to all end users.

Public Wastewater Allocation Ordinance

This ordinance was adopted to regulate all aspects of the Hinesburg public wastewater system including: the allocation policy, definition of the distribution area, the responsibilities of the user, the responsibilities of the municipality, water rates and fees.

Town of Hinesburg Wastewater Allocation Ordinance

All uses of the term Board in this document shall mean the Water and Wastewater Commissioners of the Town of Hinesburg acting as a board of water and wastewater commissioners under 24 V.S.A., § 3614. As of the date of adoption of the 2016 revision of this ordinance, the Board is comprised of the five Selectboard members of the Town of Hinesburg.

Wastewater/Water Allocation Dependency

Wastewater allocation shall not be granted within the wastewater service area without a corresponding municipal water allocation sufficient to enable appropriate and full utilization of any wastewater allocation, except in areas where the water and wastewater service areas are not contiguous.

Allocation Policy

Prior to the start of the new fiscal year the Board shall determine the Uncommitted Reserve Capacity and designate allocation pools for the following categories:

1. Municipal, educational, institutional, or special projects
2. Projects within the existing village core defined to include the following districts:
 - a. Village district
 - b. Commerce Street portion of the Commercial district
 - c. Industrial 3
 - d. Industrial 4
3. All other zoning districts within the wastewater service area

Each year, and in the following order of priority, the Board shall:

1. Reserve a minimum allocation pool of 5,000 gallons per day (GPD) or all remaining Uncommitted Reserve Capacity, whichever is less, for category 1 above.
2. Reserve a minimum allocation pool of 5,000 GPD or all remaining Uncommitted Reserve Capacity, whichever is less, for category 2 above.
3. Designate all or a portion of the remaining Uncommitted Reserve Capacity to category 3 above. The Board may choose to further divide the category 3 capacity to specific zoning districts of the wastewater service area.

In each category, the Board may choose to divide the pool into subsets for residential and enterprise uses.

Allocation pool designations shall be made, approved, and recorded on the Annual Allocation Pool Designations form in Appendix E. With the exception of changes to the minimum required allocations for categories 1 and 2 above, amending allocation pool designations shall not require changes to or re-approval of this Ordinance

The designated available capacity for each category shall be for the period from July 1 of the first year to June 30 of the following year. Once the annual water designations have been assigned, the Board shall communicate its decision to the appropriate Town staff. The appropriate Town staff shall be responsible for keeping track of the residual balance in the annual allocation pools of the various categories throughout the year and to report that balance to the Board.

When assigning capacity to allocation categories, the Board shall consider phasing requirements and other conditions as recommended by the Development Review Board (DRB) intended to implement provisions of the Town Plan and Zoning and Subdivision Regulations, pursuant to 24 V.S.A. § 3625. At its discretion, the Board may impose phasing that sets a maximum annual allocation limit per project.

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For projects that require DRB review, unallocated, permitted capacity shall be allocated by the Board according to the following:

Preliminary Allocation (subject to an application fee)

- Granted after DRB sketch plan approval for projects requiring subdivision
- Granted prior to DRB approval for all other projects

The preliminary allocation is contingent on DRB approval and shall expire if the project is denied at any stage by the DRB. In all cases the Board may make phasing recommendations to the DRB or impose other conditions. Application fees are not refundable.

Final Allocation (subject to an allocation fee)

- Granted after DRB final approval and may include revisions to the preliminary allocation based on the DRB approval

The final allocation may include phasing or other conditions as recommended by the DRB or as deemed necessary by the Board.

If there is not adequate capacity in the designated allocation pool to fulfill the requirements of a project, the DRB or the Board shall deny the permit application.

For projects that do not require DRB review, unallocated, permitted capacity shall be allocated according to the following:

Preliminary Allocation (subject to an application fee)

- If 1,000 GPD or less, granted by the Board's designated authority when an application is submitted
- If greater than 1,000 GPD, granted after an application is reviewed and approved by the Board

Final Allocation (subject to an allocation fee)

- Fee is due prior to receiving a certificate of occupancy

If there is not adequate capacity in the designated allocation pool to fulfill the requirements of a project, the Board's designee or the Board shall deny the permit application.

All allocations to projects shall be based on the calculated GPD as determined by the most current VDEC wastewater rules. Any difference between actual flows and the amount of allocation granted to a project is not available to the development owner for re-allotment to another project or expansion of the existing project.

Project Allocations

During the fiscal year, the Board may grant allocations for individual projects within the Wastewater Service Area (see exceptions below). No allocations shall be granted beyond the capacity assignments made to the allocation categories as defined above. The Board shall act on all applications on a first come, first served basis, or as directed by the Town Zoning and Subdivision Ordinances, 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.

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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.

Allocation Details

The Board may grant an allocation to a single residence, enterprise, multi-unit building, to a proposed change of use, or to an entire subdivision. In the case of a proposed change of use or subdivision the required allocation shall be a total of all proposed uses. In all cases if an allocation is granted, the Board shall make allocations to individual buildings or to individual units in multiple unit buildings and not as a lump sum to be used at the owner or developer's discretion.

The allocation shall be considered as "used" by the building when the water meter serving the building or individual unit is installed. Until the meter is installed, the allocation is subject to Holding Fees. 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.

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.

Exceptions for Allocations Outside of the Service Area

The Board may grant allocations for an expansion of an existing use or a new use outside of the service area if that expansion does not require a subdivision.

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 constructed portion of the development, will revert to the Town.

When a project has been completed and in service 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 flow on which the allocation was based.

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 by the Town at that time.

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.

Transfer of an allocation is prohibited unless approved in writing by the Board at the owner's request.

Town of Hinesburg Wastewater Allocation Ordinance

Cost Recovery for Wastewater Expansion

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.

Any payments made shall not be construed as payments towards treatment capacity that may be provided for the development.

Application Requirement

Persons wishing to use the wastewater system shall apply to the Board on a Water and Wastewater Allocation application. The application shall include:

1. A calculation of the GPD as determined by the most current VDEC wastewater rules to be generated by the project.
2. A calculation of the volume, flow rate, strength and any other discharge characteristics determined appropriate by the Board.
3. All calculations required above for developments generating over 1,000 GPD shall be certified by an engineer registered with the State of Vermont.
4. 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. 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 may be waived by the Board.

Completed wastewater applications shall be returned to the office of the Town Administrator and marked with the time and date received in the Town Offices.

Findings, Approval, and Conditions

Findings: Upon receipt of the wastewater allocation application and supporting documents, the Board may grant approval of an allocation upon making affirmative findings that:

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
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 Facility 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 Facility without treatment, interfere or otherwise disrupt the proper quality and disposal of Facility sludge or be injurious in any other manner to the Facility or Sewers and that there is sufficient uncommitted reserve capacity to accommodate the strength and volume of the proposed development;
3. The proposed use of wastewater capacity complies with the standards set forth in this ordinance and is not in conflict with any other ordinances duly adopted by the Selectboard of the Town of Hinesburg.

Approval and Conditions: After making the approval findings above, the Board may grant approval of an allocation. 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

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the allocation approval upon finding that the applicant failed to meet any of conditions attached to the approval.

Fees

After being granted a Preliminary Allocation, the holder of the allocation shall be assessed an Application Fee as set forth in the Appendix B of this ordinance. Upon receiving Final Allocation the recipient shall be assessed an Allocation Fee as set forth in the Appendix B of this ordinance. The amount of the fees shall be established and may from time to time be amended by the Board, which is hereby authorized to establish or amend all wastewater fees by resolution.

1. An Application Fee shall be due upon submitting an application to the DRB or Zoning Administrator.
2. An Allocation Fee shall be due upon receiving a Final Allocation for the building/use for which the allocation was granted.
3. An Allocation Holding Fee shall be due quarterly. The Holding Fee rate shall be established by the Board and included in the rate table found in Appendix B of this ordinance. Payment is due within thirty (30) days of billing date.
4. If the Allocation or Holding Fee is not paid when due, the unused allocation shall expire and revert to the Town's Uncommitted Reserve Capacity.
5. In cases where an allocation expires and a new person applies for capacity for the same project 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.

Mandatory Connection to Municipal Water System

All units receiving construction approval (building permit, site plan approval, or final plat approval) within the wastewater service area as defined in Appendix D shall connect directly to the municipal wastewater system in accordance with the provisions of this ordinance. Individual or community systems shall not be allowed within the municipal wastewater service area and/or village growth center. A property owner may request that this requirement be waived by the Board due to Undue Hardship.

Prior Allocations

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

Cold Weather Construction

The construction of a new wastewater service or the extension of mains shall not occur between November 15th and April 15th without prior approval of the municipality. The owner may be assessed a charge to cover any additional expense incurred as a result of violating this rule.

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 Selectboard 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.

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.

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Appendix A Definitions

Actual Flow

The volume of water from any individual unit (residential, commercial or institutional) connected to the Wastewater System, measured at the incoming water connection by a water meter.

Allocation

The decision by the Board to commit a specified amount of wastewater treatment capacity measured in Gallons per Day to a specific project.

Allocation Fee

A fee for the allocation of wastewater treatment capacity, specified as dollars per GPD, as established by the Board.

Board

The Water and Wastewater Commissioners of the Town of Hinesburg acting as a board of water and wastewater commissioners under 24 V.S.A., § 3614.

Commercial

A place of business, including but not limited to the following: offices, retail stores, beauty salons, gas stations, restaurants, schools, clinics, or any other places of business.

Development

The construction of improvements on a tract of land for any purpose, including, but not limited to institutional, residential, commercial and industrial activity.

Discharge Permit

The permit issued by the State of Vermont pursuant to authority granted in 10 V.S.A., Chapter 47 to discharge treated effluent from the Wastewater System into a specified receiving body of water.

Enterprise

Any project, commercial or industrial, planned to house or otherwise serve a business enterprise.

Holding Fee

A fee levied by the Town on any “unused” allocation of wastewater treatment capacity.

Industrial

Any project used or intended for use for manufacturing, processing, or assembling any product, commodity or article.

Institutional

Pertaining to the public sector project or a municipal obligation, or a project deemed by the Board to be important to the general health and wellbeing 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.

May

The use is permissive in the context of this ordinance, indicating a choice.

Municipality

The Town of Hinesburg.

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Permitted Wastewater Flow

The maximum daily discharge allowed by the discharge permit issued by the State of Vermont. Daily discharge is calculated as an average of a continuous 365 day period.

Person

Shall have the meaning prescribed in 1 V.S.A., § 128.

Reserve Capacity

Is the permitted wastewater flow minus the actual wastewater discharged during the preceding 12 months.

Residential

Any dwelling unit or abode which includes a minimum of a kitchen or kitchenette, bathroom, and bedroom or other room that serves as sleeping quarters.

Sanitary Wastewater

Wastewater of the same character and range of strength as typically expected from homes.

Sewers

Interchangeable with Wastewater System in this ordinance.

Shall

The use is mandatory in the context of this ordinance.

Special Projects Projects whose circumstances are so unique that the allocation cannot be met without using capacity from the reserve, and are deemed by the Board to be in the best long-term public health, safety, and welfare of the Town. These may include projects and/or businesses awarded funding through the Town's revolving loan fund.

Undue Hardship

Degree of hardship created by the contents of the ordinance that creates unreasonable or excessive current and future costs for a user, and/or otherwise constitutes health and safety concerns. Within the context of this ordinance, undue hardship is a relative concept and intended as a last resort. A lack of municipal wastewater system capacity to serve individual users or development proposals does not, by itself, constitute an undue hardship. The Board is the arbiter of whether or not an undue hardship exists with respect to compliance with this ordinance.

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.

Used

An allocation (or part thereof) shall be considered as "used" when the water meter on that structure is installed.

Uncommitted Reserve Capacity

That portion of the permitted capacity of the Wastewater System that remains after subtracting the allocated and not yet connected GPD from the current Reserve Capacity for the year in question.

Wastewater

Water discharged from buildings into the Wastewater System.

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Wastewater Service Area

Is that area of the Town of Hinesburg which shall be served by the Wastewater System. This area shall be established by the Board and is shown on map attached as “Appendix D”. 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.

Wastewater System

All components of the wastewater infrastructure including the: treatment facility and lagoons, pumping stations, lines, and manhole

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Appendix B Wastewater Rates, Connection Fees, and Special Charges

Effective July 1, 2016

Wastewater Rates:

1. Metered Properties
 - \$20.00 per unit per quarter base fee
 - \$0.01 per cubic foot water usage (1 cubic foot = 7.48 gallons)

2. Unmetered Properties
 - \$20.00 per quarter base charge
 - \$20.00 per unit per quarter unmetered usage charge

Connection Fee: \$1,000 per unit

Application Fee: \$2.80 per GPD

Allocation Fee: \$25.40 per GPD

Allocation Holding Fee: \$0.30 per GPD per quarter

Special Charges:

Collection Fee: \$25/trip
Disconnect Fee: \$75.00
Reconnection Fee: \$75.00
Deactivation Fee: \$75.00
Activation Fee: \$75.00
Meter Test Deposit: \$75.00

Disconnection and Reconnection Fees:

Charges for disconnection/reconnection resulting from delinquent accounts will be according to Vermont State Statute Title 24 VSA § 5151.

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Appendix C Water and Wastewater Allocation Application

Town of Hinesburg Water/Wastewater Service Connection Application

Property Owner/Applicant: _____

Phone #: _____

Mailing Address: _____

Property Location: _____

I hereby apply for permission to construct a:

- New Water Service, see Town of Hinesburg Water Ordinances
- New Wastewater Service, see Town of Hinesburg Wastewater Ordinances

Name, address of Contractor, Company or Individual who will undertake the proposed work:

Phone: _____ Fax: _____

Email: _____

Water Service Information:

Commercial, Residential, Industrial, Other (describe) _____

Type and Size of Service: _____

Wastewater Service Information:

Commercial, Residential, Industrial, Other (describe) _____

Type and Size of Service: _____

Permit Conditions:

Work must commence within one year from the date of this permit. No work may begin without Water/Wastewater Department approval.

1. Water/Wastewater Department must be contacted 48 hours prior to:
 - a. Construction of service connection
 - b. Meter installation
 - c. Final inspection
2. Final inspection and approval by Water/Wastewater Dept. is required prior to water or wastewater service use. Any use without Approval will be subject to penalties per Water/Wastewater Ordinances.
3. All Allocation and/or Connection fees shall be paid at the time service connection(s) are constructed.
4. Applicant is responsible for all labor and material costs of connection except that Town shall supply 5/8" meter, remote reader and backflow prevention device for each unit.

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I hereby certify that I have read the applicable Town of Hinesburg Water and Wastewater Ordinances and I agree to abide by the conditions contained therein, conditions as noted above, or additional conditions attached to this permit.

Signatures

Applicant(s): _____

Date: _____

Board of Commissioners Chair: _____ Date: _____

OFFICE USE ONLY:

Allocation Fees Received:

Water \$ _____ Check # and Date _____ Property Tax ID # _____

Wastewater \$ _____ Check # and Date _____ Property Tax ID # _____

Connection Fees Received:

Water \$ _____ Check # and Date _____ Property Tax ID # _____

Wastewater \$ _____ Check # and Date _____ Property Tax ID # _____

Final inspection by: _____

Notes: _____

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Appendix D Wastewater Service Area Map

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Appendix E Annual Allocation Pool Designation Form

Annual Allocation Pool Designations Form

The following water allocation pool designation were made and approved by the Board for the period:

July 1, _____ to June 30, _____

Category 1 requirement

Municipal, Educational, Institutional, Special Projects - Minimum of 5,000 Gallons per Day (GPD) or all remaining Uncommitted Reserve Capacity, whichever is less

| Total GPD | Residential | Enterprise |
|-----------|-------------|------------|
| | | |

Category 2 requirement

Projects in the village core defined as the Village District, the Commerce Street portion of the Commercial District, Industrial Districts 3 and 4 - Minimum of 5,000 GPD or all remaining Uncommitted Reserve Capacity, whichever is less

| Total GPD | Residential | Enterprise |
|-----------|-------------|------------|
| | | |

Category 3

Projects in all other zoning districts of the water service area including Village Northeast, Village Northwest, All remaining Commercial districts, Industrial 5, Residential 1, and Residential 2

| Total GPD | Residential | Enterprise |
|-----------|-------------|------------|
| | | |

Or

| District | Total GPD | Residential | Enterprise |
|-------------------|-----------|-------------|------------|
| Village Northeast | | | |
| Village Northwest | | | |
| Commercial | | | |
| Industrial 5 | | | |
| Residential 1 | | | |
| Residential 2 | | | |

Board of Commissioners Chair: _____

Date: _____