

TOWN OF FAIR HAVEN FAIR HAVEN, VERMONT SEWER ORDINANCE

#2009-04-21

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Effective: 5/22/21

Regulating the Use of Fair Haven's Municipal Sewer System

This ORDINANCE establishes the policies, rules, and regulations necessary to govern and operate the municipal sewer system of the Town of Fair Haven, Vermont (24 V.S.A, Chapters 59 and 101). This ORDINANCE supersedes all previous rules, regulations and ordinances and applies to all users regardless of the municipality in which they are located. All existing agreements between individual property owners and the Town of Fair Haven, Vermont shall remain in effect provided such agreement is recorded in the Town of Fair Haven Clerk's Office. A copy of this ORDINANCE is available at the Town Clerk's Office. Questions about this ORDINANCE should be directed to the Fair Haven Town Manager.

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ARTICLE 1

General Provisions

SECTION 1.01 – GENERAL PROVISIONS

All rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the "SEWER ORDINANCE" hereinafter sometimes referred to as this ORDINANCE.

The Fair Haven Town Clerk shall file certified copies of this ORDINANCE, as well as certified copies of any additions and amendments to this ORDINANCE as may be hereafter adopted, in the municipal records and with the BOARD and the Health Officer.

The principal objective of public sewage facilities is to collect wastewater and to provide the state regulated degree of treatment under favorable and economical conditions. Therefore, the discharge of wastewaters into the public sanitary sewers which are not regulated by the Vermont Agency of Natural Resources are prohibited.

The provisions of this ORDINANCE may be reviewed at intervals not exceeding five (5) years by the BOARD with the objective of assessing the continued applicability of these provisions; to consider any recommendations proposed for their improvement; and to determine if, and what, changes are advisable due to advances in the technical methods or processes of wastewater treatment and sewage collection available to the TOWN.

If there is a conflict between the terms of this ORDINANCE and any other applicable regulation, by-law, ordinance or statute, the stricter shall apply.

ARTICLE 2

Definitions

SECTION 2.01 – DEFINITIONS

Unless specifically defined in this Article, words and phrases used in this ORDINANCE shall have their common ordinary meaning, and are intended to give this ORDINANCE its most reasonable application.

"Applicable Billing Quarters" shall be defined as previous year(s) billing quarters corresponding to the same season.

"Best interest" shall be defined by the BOARD and may include meeting economic development or community institutional needs.

"BOARD" shall mean the Board of Selectmen of Fair Haven, comprised as the Sewage Disposal Commissioners as provided for in 24 V.S.A., Chapter 101, Section 3614. (See "Sewage Disposal BOARD")

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

"Building Drain" shall mean that part of the lowest horizontal piping of a structure's sewage collection system which receives the discharge from sewage inside the walls of the building and conveys it through the building wall to the building sewer. The building drain extends five feet beyond the outer face of the building wall.

"Building Sewer" shall mean that part of the sewage system which receives the sewage from the building drain and conveys it to the nearest end of the house connection unless a house connection is not available, whereby the building sewer shall be extended to the nearest available "Y" branch on the main sewer.

"Business days" shall mean Monday through Thursday, excluding legal holidays and the day before any day when the TOWN Office is not open to the public.

"Chief Operator" shall mean that employee of the TOWN who shall be designated by the BOARD to operate and maintain the public sewage facilities, and other activities stated within this ORDINANCE. Decisions of the Chief Operator may be appealed within thirty (30) days to the BOARD.

"Clerk" shall mean the Town Clerk of the Town of Fair Haven.

"Combined Sewer" shall mean a sewer receiving both surface water runoff and sewage.

"Committed Reserve Capacity" shall mean 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.

"Completed Construction" shall mean -

1. For building development; completion of construction of all foundations, framing, siding and roofs.
2. For subdivision development; completion of infrastructure and subdivision improvements.

"Customer" means any individual, group, society, association, firm, company, or corporation who receives sewer service from the TOWN and is the property owner, whether or not that individual is the ultimate user.

"Delinquency" means a failure of the Customer to tender payment for a valid bill or other charge by a "due date" at least thirty (30) days after mailing, which due date shall be clearly

printed on the bill or other charge, or, in the absence of such a printed due date, the date thirty (30) days after postmarking of such bill or charge.

"Department" shall mean the Vermont Department of Environmental Conservation.

"Development" shall mean the construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial, industrial, manufacturing, farming, educational, medical, charitable, civic, recreational, religious uses, and subdivisions with the intent to subdivide.

"Development Wastewater Flow" shall mean the flow resulting from full use of the development at its build-out capacity, which flow shall be calculated using flow quantities adopted as rules by the DEPARTMENT, as promulgated at the time a connection permit application is made. The flow quantities shall be as shown in the current Vermont Environmental Protection Rules, Chapter 1.

"Discharge Permit" shall mean a permit issued by the DEPARTMENT pursuant to authority granted in 10 V.S.A., Chapter 47.

"Flow Basis" shall mean the calculated wastewater flows as determined using the Environmental Protection Rules, Chapter 1, current edition.

"Force Main" shall mean the pressurized sewer pipe that a sewage pumping system discharges into. The force main transports the pressurized sewage to a gravity receiving structure such as a sewer manhole or open surface tank or structure. Force main may also be known as a Low Pressure Sewer when the sewage pumping system consists of a grinder pump system and/or a Septic Tank Effluent Pump (STEP) system.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

"Health Officer" shall mean the legally designated Health Officer or Deputy Health Officer of the TOWN.

"Hearing Officer" shall mean the person appointed by the TOWN, pursuant to 24 V.S.A., Chapter 129, to act as a fact finder and to hear and investigate evidence, and to make recommendations to the BOARD for final determination of a dispute.

"House Connection" shall mean that part of the sewage system that runs from the main sewer to the property line or right-of-way limit and includes all necessary fittings. (See "Building Sewer")

"Industrial Wastes" shall mean the liquid waste from an industrial manufacturing process, trade or business. Industrial wastes do not include sanitary sewage.

"Initiate Construction" shall mean -

1. For building development; the completion of the foundation.

2. For subdivision development; substantial commencement of any site improvement(s) pursuant to the approved subdivision and infrastructure plans.

"Main Sewer" shall mean the force main and gravity sewers laid longitudinally along streets or other rights-of-way and which all owners or abutting properties have equal rights and which is controlled by public authority.

"Municipality" shall mean the Town of Fair Haven, Vermont.

"Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

"On-Site Sewage Treatment and Disposal System" shall mean a septic tank and leaching field system utilizing natural soil to treat and disperse sewage effluent in such a manner as to protect public health, and both groundwater and surface water from contamination.

"One-Time Sewer System Fee" shall mean the financial amount due, as determined by the BOARD, charged to property owners for the benefit to connect to the TOWN's sewer.

"Owner" shall mean any person, who owns or possess any property connected to the municipal wastewater collection system or proposes to connect to the municipal wastewater system as applicant.

"Payment of a Bill and/or Other Charge" means receipt at the TOWN Office of cash, check or money order which is subsequently honored.

"Permitted Wastewater Flow" shall mean the average daily PLANT wastewater flow authorized in the Discharge Permit on a monthly average daily flow basis.

"Person" shall mean any individual, firm, company, association, society, corporation, institution, partnership, group, governmental entity or other entity.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"PLANT" - shall mean the municipal sewage treatment PLANT owned by the TOWN.

"PLANT Wastewater Flow" shall mean the actual metered wastewater passing through the treatment PLANT in gallons per day on a monthly average daily flow basis for the most recent twelve (12) months.

"Pretreatment Facilities" shall mean grease, oil, hair and sand interceptors, interceptors of flammable wastes, flow equalizing facilities or other facilities for reducing pollutant quantities or flow quantities. Pretreatment facilities are privately owned and operated.

"Private Sewage System or Facilities" shall mean all facilities for collecting, pumping, treating, and disposing of sewage that are not owned or operated by the TOWN.

"Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

"Public Sewage System or Facilities" shall mean all facilities for collecting, pumping, treating and disposing of sewage that are controlled, owned and operated by the TOWN.

"Public Works Superintendent" shall mean that employee of the TOWN who shall be designated by the BOARD to maintain sewer infrastructure, oversee sewer connections, and other activities stated within this ORDINANCE. Decisions of the Public Works Superintendent may be appealed within thirty (30) days to the BOARD.

"Reserve Capacity" shall mean the permitted wastewater flow minus the actual PLANT wastewater monthly average daily flow during the preceding twelve (12) months.

"Sanitary Sewer" shall mean a sewer/house connection which carries sewage and to which storm, surface, and ground waters are not admitted.

"Sanitary Wastewater" shall mean wastewater of the same character and range of strength as expected from residential uses: homes, apartments and mobile homes.

"Secretary" shall mean the Secretary of the Agency of Natural Resources, State of Vermont or his/her representatives.

"Service Wye Inspection Fee" shall mean the fee incurred by a customer when the Town inspects the construction and installation of a service wye connecting to an existing municipal sewer main.

"Sewage" shall mean a combination of the water-carried wastes and wastewater, from residences, business buildings, institutions, industrial establishments, and other establishments. Excludes rainwater, stormwater and groundwater.

"Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

"Sewage Disposal BOARD ("or BOARD") shall mean the members of the TOWN Board of Selectmen, or their authorized deputy, agent or representative.

"Sewer" shall mean a pipe or conduit, including manholes, for carrying sewage.

"SEWERS" - shall mean the sewage collection and transmission system owned by the TOWN.

"Sewer Service Area" shall mean that area of properties connected to the municipal sewers.

"Shall" is mandatory; "May" is permissive.

"Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than

fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

"Storm Drain" (sometimes "Storm Sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"Subdivision" shall mean a tract of land, which has been divided or is intended to be divided into two (2) or more lots for any purpose, in accordance with the TOWN's current Subdivision Regulations.

"Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

"TOWN" shall mean the Town of Fair Haven, the Board of Selectmen, the Sewage Disposal BOARD, or their designated agents and representatives.

"Uncommitted Reserve Capacity" shall mean the portion of the reserve capacity remaining after subtracting the development wastewater flow of all projects approved by the DEPARTMENT and/or BOARD but not yet discharging to the SEWER.

"Wastewater" see "Sewage".

"Wastewater system" shall mean any piping, pumping, treatment or disposal system used for the conveyance and treatment of domestic, commercial or industrial waterborne wastes.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

ARTICLE 3

Abbreviations

SECTION 3.01 – ABBREVIATIONS

For the purpose of this ORDINANCE, the following abbreviations shall have the meaning ascribed to them under this ARTICLE. References to standards of the following organizations shall refer to the latest edition of same.

ANSI shall mean American National Standards Institute.

ASME shall mean American Society of Mechanical Engineers.

ASTM shall mean American Society for Testing and Materials.

AWWA shall mean American Water Works Association.

cm. shall mean centimeter.

CS shall mean Commercial Standards.

Degrees C shall mean degrees Centigrade.

Degrees F shall mean degrees Fahrenheit.

gpd shall mean gallons per day.

kg. shall mean kilograms.

l. shall mean liters.

m. shall mean meter.

mg/l shall mean milligrams per liter. 1 mg/l equals 1 ppm.

mgd shall mean million gallons per day.

NPC shall mean National Plumbing Code.

ppm shall mean parts per million. 1 ppm equals 1 mg/l.

sq.m. shall mean square meters.

V.S.A. shall mean the Vermont Statutes Annotated.

WWTF means Wastewater Treatment Facility

ARTICLE 4

Public Sewers Use Requirement

SECTION 4.01 – UNLAWFUL DISCHARGE OF OBJECTIONABLE WASTE

It shall be unlawful for any person to place, deposit or permit to be placed or deposited upon public or private property within the TOWN, or in any area under the jurisdiction of said BOARD, any human excrement or other objectionable waste.

It shall be unlawful to discharge to any natural outlet within the TOWN, or in any area under the jurisdiction of said BOARD, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this ORDINANCE and the laws and regulations of the State of Vermont.

SECTION 4.02 – PROPERTIES REQUIRED TO CONNECT

The owners of all houses, buildings, apartments, or structures used for human occupancy, employment, recreation or other purpose situated within the TOWN and abutting on any street, road or right-of-way in which there is located a public sewer (excluding force mains) of the TOWN, are hereby required, to connect such facilities directly with the public sewer (main sewer or house connection) in accordance with the provisions of this ORDINANCE, within forty-five (45) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the building(s) requiring service. Continued use of or installation of a private sewage system servicing a building located within two hundred (200) feet of a public sewer is not permitted unless the BOARD finds that connection would cause extreme hardship and the private sewage system would meet current pertinent State and municipal rules.

SECTION 4.03 – REQUIREMENT FOR ABANDONED PRIVATE SEWAGE SYSTEMS

In certain cases, with the availability of public sewage facilities, the BOARD may order owners of abandoned private sewage systems to thoroughly and properly clean the abandoned system(s), as well as disinfect, and fill in or remove according to good sanitation practices. These activities may be done under the inspection and direction of the BOARD or their designee(s).

ARTICLE 5

Capacity Allocation and Connection

SECTION 5.01 – OWNERSHIP AND DISCHARGE PERMIT

The TOWN owns and operates a sewage treatment and disposal PLANT (PLANT) and a sewage collection and transmission system (SEWERS) as defined in 24 V.S.A., Chapter 97, Section 3501(6) and 24 V.S.A., Chapter 101, Section 3601. The PLANT has a permitted capacity, and is operated in accordance 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 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.

SECTION 5.02 – SEWER EXPANSION PAID BY DEVELOPER

Any extension of the sewers to provide for new users shall be funded in the following way:

- A. The engineering, design, construction and development costs of public sewage system expansions and extensions which have been approved by the BOARD shall be borne by the developers and property owners requiring, requesting or directly benefiting from such extensions and/or expansions, unless the voters of the TOWN shall vote at a duly warned annual or special meeting to assume all or a portion of the costs, such costs will be paid from the collection of taxes unless the voters of the TOWN approved some other means of raising the required monies.

SECTION 5.03 – INTRODUCTION TO RESERVE CAPACITY ALLOCATION

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 by the BOARD in the manner described below. This ORDINANCE is adopted pursuant to the provisions of 24 V.S.A., Chapter 101, Section 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 sewage collection, treatment and disposal within the TOWN, nor shall it be construed to impair or inhibit the ability of the TOWN's PLANT to contract with persons for the collection, transmission and treatment of sewage.

The TOWN maintains a running summary of committed reserve capacity and uncommitted reserve capacity.

SECTION 5.04 – RESERVE CAPACITY ALLOCATION

A. Allocation Flow Basis

Approvals of allocated flows shall be based on the applicant's wastewater flow basis not actual flows. Any differential between actual flows and the development wastewater flow basis that occurs is not available to the applicant for re-allotment to another project or a project expansion.

B. Allocation Principles

Subsequent to application of the allocation priority, uncommitted reserve capacity in the PLANT may be allocated to specific projects according to the following procedure:

1. Once sewer capacity allocation applications have been received at the TOWN Office, the BOARD may review the applications on a first come, first serve basis. The total remaining uncommitted wastewater reserve capacity shall be allocated by the BOARD, in a manner consistent with the TOWN's allocation priorities. The total uncommitted reserve capacity shall be reviewed by the BOARD every six

(6) months and committed reserve shall be regularly recorded and updated for use in allocation decisions.

2. The BOARD retains the right to review applications and make allocations on other than a first come, first serve basis if they find such action is in the TOWN's best interest.

SECTION 5.05 – SEWER CAPACITY ALLOCATION APPLICATION/PERMIT PROCESS

- A. Owners (also referred to herein as "applicants") wishing to use the SEWERS and PLANT shall apply to the BOARD on forms prescribed by the BOARD. Such applications shall:
 1. Be accompanied by a calculation of the applicant's wastewater flow basis to be generated by the project/development;
 2. Include calculations for the volume, flow rate, strength, infiltration/inflow and any other characteristics determined appropriate by the BOARD;
 - a. Infiltration/inflow must be calculated for every project involving new sewer lines.
 3. Unless waived by the BOARD, all calculations required in (1) and (2) above for developments generating over 1,000 gpd shall be certified by a Vermont registered Professional Engineer.
 4. Be accompanied by plans and specifications for the construction of building sewers (from the structure to the house connections/main sewers) and any municipal sewer extensions, including pump stations, required to service the development/proposed connection prepared by a Vermont registered Professional Engineer. This requirement to submit plans and specs may be waived by the BOARD until the Sewer Connection Permit application is submitted to the TOWN.
 5. Include payment of fees as set forth in the TOWN's Schedule of Rates and Fees.
- B. The sewer capacity allocation application/permit process consists of three (3) phases:
 1. Preliminary Sewer Capacity Allocation Application For Approval.
 2. Final Sewer Capacity Allocation Permit approval.
 3. Sewer Connection Permit approval.
- C. The Preliminary Sewer Capacity Allocation Application for Approval makes a reserve capacity commitment for one (1) year.
- D. The Final Sewer Capacity Allocation Permit approval makes a reserve capacity commitment for two (2) years.

- E. The Sewer Connection Permit approval maintains the reserve capacity commitment for two (2) years.

SECTION 5.06 – PRELIMINARY CAPACITY ALLOCATION APPROVAL REQUIREMENTS

Upon receipt of an acceptable application and supportive documents, the BOARD may issue the preliminary permit approval of uncommitted reserve capacity/allocation upon making affirmative findings that:

- A. 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
- B. The proposed wastewater is not of domestic sanitary origin and that sufficient evidence has been presented by the Owner 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 shall 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 connection.
- C. The proposed use of wastewater capacity complies with the allocation priorities and principles and is not in conflict with any other enactment adopted by the BOARD.

SECTION 5.07 – PRELIMINARY CAPACITY ALLOCATION APPROVAL CONDITIONS

The BOARD after making the approval findings in SECTION 5.06 may issue the Preliminary Sewer Capacity Allocation Approval, which approval shall be a binding commitment of capacity to the applicant contingent on compliance with any conditions or comments attached to the preliminary permit and the subsequent issuance of a Final Sewer Capacity Allocation Permit. The Preliminary Sewer Capacity Allocation Approval conditions may include:

- A. Specification that the period of time during which the Preliminary Sewer Capacity Allocation Approval shall remain valid is one (1) year from the date of the TOWN's preliminary allocation approval date. The BOARD may issue time extension(s) upon the request of the Owner. For each extension granted, the maximum extension is one (1) year, and requires an additional application fee.
- B. Incorporation of specific conditions which must be fulfilled by the applicant in order to maintain validity of the Preliminary Sewer Capacity Allocation Approval.
- C. Provision for revocation by the action of the BOARD on failure of the Owner to fulfill requirements of the Preliminary Sewer Capacity Allocation Approval.
- D. Specification that the recipient of the Preliminary Sewer Capacity Allocation Approval may not, by any means, transfer this approval to any other person or connect to the SEWERS. If there is a change from the original application, then the Owner must

reapply and the revised project will be considered a new project.

SECTION 5.08 – FINAL CAPACITY ALLOCATION PERMIT APPROVAL REQUIREMENTS

Prior to Final Sewer Capacity Allocation Permit approval, the following requirements shall be met by the Owner:

- A. Applicable local, State and Federal permits have been secured for the development/project;
- B. All local fees or taxes set by the BOARD have been paid in full to the TOWN. The BOARD shall establish the fees in the TOWN's Schedule of Rates and Fees.
 - 1. Financial hardship case.
The due date for the applicable fees may be extended by the BOARD. Said applicant may file its request in writing to the BOARD, for BOARD review. All fees, however, shall be paid by the owner at the time when the Sewer Connection Permit application is submitted to the TOWN.
- C. The Owner's "plans and specifications" for connection to and, if necessary, extension of the municipal SEWERS are acceptable to the BOARD, as presented by the Owner.
- D. The Owner shall schedule and pay for the physical construction of its building sewer and the "house connection".

SECTION 5.09 – FINAL CAPACITY ALLOCATION PERMIT APPROVAL CONDITIONS

A Final Sewer Capacity Allocation Permit is an agreement between the TOWN and the Owner. The Owner who is issued this permit does not own the capacity and forfeits all rights to capacity if Preliminary Capacity Allocation Approval and/or Final Capacity Allocation Permit conditions are not met.

- A. The BOARD on making affirmative findings that all conditions of the Preliminary Sewer Capacity Allocation Approval prerequisites in SECTION 5.07 of this Article have been fulfilled shall issue the Final Sewer Capacity Allocation Permit, which may be conditioned as follows:
 - 1. The permit shall specify the allowed volume, flow rate, strength frequency and any other characteristics of the proposed discharge determined appropriate by the BOARD.
 - 2. The committed reserve capacity allocation is not transferable to any other person or project unless requested by the original applicant and approved by the BOARD, however, a new application must be submitted.
 - 3. Incorporation of specific conditions which must be fulfilled by the applicant to maintain validity of the final allocation permit approval.

4. The construction of the house connection and, if necessary, the new sewer extension, must meet the TOWN requirement for TOWN oversight.
5. Provision for revocation by the action of the BOARD on failure of the Owner to fulfill requirements of the Final Sewer Capacity Allocation Permit approval.

SECTION 5.10 – FINAL CAPACITY ALLOCATION PERMIT EXPIRATION / EXTENSIONS

Committed Reserve Capacity allocated in conjunction with the Final Sewer Capacity Allocation Permit for building development shall revert to the TOWN if the permit recipient has failed to “initiate construction” within two (2) years of the issued date on said permit.

The Final Sewer Capacity Allocation Permit shall expire two (2) years from the date of its approval. A revised development plan and Final Sewer Capacity Allocation Application may be approved by the BOARD in the same manner as the original. Such revised plans must also be approved under local bylaws and by the applicable State Laws and Regulations. If the BOARD approves a revised permit, it may issue the revised permit with reduced or increased capacity allocation determined in accordance with the allocation priorities and principles. Where reduced capacity is granted in a revised Final Sewer Capacity Allocation Permit, the unused capacity shall revert to the TOWN. The BOARD shall determine the amount of unused capacity returned. With any approval of a revised final allocation permit the BOARD may consider extension of the original two (2) year permit expiration date.

If a permit expires after two (2) years or after any extension of time provided by the BOARD, the unused portion of the committed capacity allocation at the time of expiration shall revert to the TOWN and **there shall be no refund** of system fees, permit or other fees paid.

Regardless of the permit expiration period above the BOARD may extend the Final Sewer Capacity Allocation Permit expiration date over a longer period if this action is in the TOWN's best interest.

SECTION 5.11 – FINAL ALLOCATION PERMIT REGARDING SUBDIVISIONS

For subdivision projects the permit holder of a proposed subdivided parcel must indicate the development planned for each lot. If all prerequisites defined for the Final Sewer Capacity Allocation Permit approval herein are met, permits shall be issued to the subdivision owner for each lot with a specific reserve capacity allocation associated with the proposed development. These Final Sewer Capacity Allocation Permits shall expire after two (2) years from the date of permit approval unless the developer has sold the lot for development or has completed construction in accordance with the approved development plan. The expiration at two (2) years from original issuance shall not be modified by any revisions to the subdivision or development plan subsequent to the preliminary approval. The BOARD shall then notify the Vermont Agency of Natural Resources Wastewater Management Division, of the expired subdivision allocation permit.

The reserve capacity allotted to lots that are either unsold or do not have building construction completed at the time of permit expiration shall revert to the TOWN without refund of any fees

paid. Reserve capacity shall also revert to the TOWN from any reductions made to the development wastewater flow planned for each lot subsequent to preliminary approval.

When the owner of a subdivision sells individual lots within the two (2) year time frame, the Final Sewer Capacity Allocation Permit shall transfer when the property transfers and the new owner becomes bound to comply with all permits issued and the plans and specifications for connecting the municipal SEWERS. The transferred permit shall be considered a new Final Sewer Capacity Allocation Permit issued on the date of property transfer and the constraints of this ORDINANCE shall apply to this permit. The permit shall expire as provided in the approved permit.

SECTION 5.12 – TRANSFER OF ALLOCATION

Reserve capacity is initially allocated by the BOARD to a specific applicant, project and parcel of land, however, the allocation does not automatically run with the land during project construction.

The capacity allocation belongs to the TOWN and is not transferable until the project/building/development is constructed and connected to the TOWN's main sewer line. The transfer of the capacity allocation is prohibited unless approved in writing by the BOARD at the original Owner's request.

The BOARD may approve transfer of capacity from one project to another and one Owner to another provided the new project and new Owner meet all the requirements for the Final Sewer Capacity Allocation Permit approval originally issued and the original Owner applies for such transfer.

SECTION 5.13 – CONNECTION PERMIT APPROVAL REQUIREMENTS

The construction of the sewer wye connection and, if necessary, the municipal SEWER extension, must meet the TOWN requirement for TOWN oversight.

The Owner shall complete and submit a Sewer Connection Permit Application to the TOWN along with the applicable fees at least forty-five (45) calendar days in advance of any proposed sewer connection construction. This permit will expire two (2) years after of date of BOARD approval. If construction of and connection to the municipal sewer system is not complete after two (2) years, reserve capacity shall revert back to the TOWN and **there shall be no refund** of system fees, permit or other fees paid. The BOARD may issue time extension(s) upon the request of the Owner. For each extension granted, the maximum extension is one (1) year and requires an additional application fee.

The construction of the house connection and tie-in to the municipal sewer shall not be performed unless the TOWN is present and shall not be covered until approved by the TOWN. Additional constraints may be found in this ORDINANCE, where applicable.

The TOWN shall have the authority to inspect activities pertaining to the construction of the house connection, building sewer and any other related facilities, such as grinder pumps, or pump stations, that may affect the Public Sewage System. Given the nature of the connection

or extension project, the BOARD may contract engineering services for consultation and inspection services during construction, at the expense of the Owner.

Fees are set by the BOARD and have to be paid in full to the TOWN, prior to granting Sewer Connection Permit approval and therefore, prior to commencing construction.

The applicant shall file the Connection Permit in the land records of the TOWN along with copies of all fees paid and reference to the location of the approved connection plans and specifications.

SECTION 5.14 – CHANGE OF USE

Any person proposing a change of use, whether or not this change effects the property's existing daily wastewater flow basis or character of pollutants, shall be required to complete the three (3) phase application/permit process stated in this Article unless waived in part or in full by the BOARD. If the applicant is required to obtain these permits, the BOARD may decide to waive some or all of the fees if they determine that the change of use does not require additional allocation or treatment when compared to the property's existing wastewater strength and flow basis. For commercial, agricultural, or industrial uses, the BOARD may require laboratory analyses, technical data, treatability studies, engineering reports and any other pertinent wastewater flow information prepared by a registered Professional Engineer or a certified laboratory, as applicable, at the applicant's expense. No such change or connection shall be made without the necessary permits or written approval from the BOARD.

SECTION 5.15 – AUTHORITY OF TOWN 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 PLANT and SEWERS under the general laws of the State or local ordinances.

ARTICLE 6

Building Sewers and Connections

SECTION 6.01 – UNAUTHORIZED CONNECTION TO PUBLIC SEWERS

No unauthorized person shall cover or uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining the sewer permits discussed in Article 5 of this ORDINANCE. The permit applications shall be supplemented by plans and specifications or other information considered pertinent by the BOARD. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the TOWN and obtain the necessary permit approvals as stated in SECTIONS 5.05 and 5.14 at least forty-five (45) days prior to the proposed change or connection. No such change or connection shall be made without the written permits from the TOWN.

SECTION 6.02 – CONSTRUCTION EXPENSE BORNE BY OWNER

Section 6.02 – Construction Expense Borne By Owner

All costs and expenses related to the installation and connection to a public sewer/house connection shall be borne by the Owner. The Owner shall indemnify the TOWN from any loss or damage that may be caused directly or indirectly by the installation of the sewer connection. The Owner shall hire its own contractor.

1. The Owner will have the road cut returned to its original condition within 30 days of the sewer connection. (added 6-18-19)
2. Failure to return the road cut to its original condition within 30 days from the date of sewer hookup will result in the Town of Fair Haven putting the road cut back to its original condition and billing the Owner. This bill will be added to the owner's next sewer bill. (added 6-18-19)

SECTION 6.03 – MULTIPLE SEWER SERVICES ON ONE SERVICE CONNECTION

A separate and independent sewer connection shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, in which case the building sewer from the front building may be extended to the rear building and the whole considered as one sewer connection. Use of private sewage facilities which accept and convey flow from more than one building may not be used except when found, on examination and test by the BOARD, to be in satisfactory condition and meeting all requirements of this ORDINANCE. The burden of proof and all expenses incurred by the BOARD to determine the condition and adequacy of the private sewer shall be borne by the Owner of said private sewer.

SECTION 6.04 – WATER METER AND WATER SAVING FIXTURE REQUIREMENT

The BOARD may require the Owner of a project or developer to install a water meter so recorded flow can be used to determine the quarterly wastewater charge. Water saving fixtures, master flow meters and/or equalization tanks may be required by the BOARD for projects/buildings and developments that are connecting to the sewer system.

SECTION 6.05 – CONSTRUCTION STANDARDS TO BE FOLLOWED

The size, slope, alignment, materials of construction of a building sewer, the connection of the building sewer to the public sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the TOWN's Public Work Standards, the National Plumbing Code (NPC), and other applicable rules and regulations of the TOWN and the State of Vermont. Any deviation from the prescribed procedures and materials must be approved by the TOWN before installation.

SECTION 6.06 – CONSTRUCTION INSPECTION BY TOWN

The TOWN shall be notified at least forty-five (45) calendar days in advance of any proposed sewer connection authorized by a Sewer Connection Permit for an inspection. The construction of the house connection and tie-in to the municipal sewer shall not be performed unless the TOWN is present and shall not be covered until approved by the TOWN. Additional constraints may be found in this ORDINANCE, where applicable.

The Owner is committed by sewer and any other permits to construct the project/building/development to meet all specifications for which allocation/capacity was issued. The TOWN may inspect existing buildings and construction sites from time to time during each sewer construction phase to assure permit specifications are being met. A final inspection shall be made prior to the connection from the building to the main sewer line by the TOWN.

SECTION 6.07 – MAINTENANCE OF PRIVATE SEWAGE FACILITIES

- A. Maintenance of all private sewage facilities shall be the responsibility of the Owner, at his or her expense. These facilities include, but are not limited to:
1. House plumbing systems;
 2. Building sewers to the main sewer;
 3. House connections; and
 4. Sewers and appurtenances.
- B. The Owner shall be solely responsible for continually maintaining such facilities in satisfactory operating condition. Maintenance shall include, but not be limited to:
1. Maintaining flow;
 2. Clearing obstructions;
 3. Maintaining all joints gas and water-tight;
 4. Repair or replace collapsed, deteriorated or defective materials;
 5. All other work which is necessary and essential to maintaining proper operation and preserving the structural integrity and water-tightness of the system.

ARTICLE 7

Use of the Public Sewer

SECTION 7.01 – UNAUTHORIZED DISCHARGE OF UNCONTAMINATED WATERS

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, cellar drains, basement sumps, or other sources of surface runoff, groundwater, or uncontaminated cooling water to a building sewer which, in turn, is connected directly or indirectly to a public sanitary sewer. All such connections which exist shall be disconnected by the Owner, at his/her expense, by no later than the date of when this ORDINANCE takes effect, or within forty five (45) days upon receipt of notification by the BOARD, or its municipal designee.

Stormwater and all other unpolluted drainage may be discharged to storm sewers, or to a natural outlet approved by the BOARD. Industrial cooling water may be discharged, upon approval of the BOARD, to a storm sewer, or natural outlet.

SECTION 7.02 – UNAUTHORIZED DISCHARGE OF WASTES

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the TOWN that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming their opinion as to the acceptability of these wastes, the TOWN shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction in the sewers, nature of the sewage treatment process, capacity of the sewage treatment PLANT, degree of treatability of wastes in the sewage treatment PLANT and other pertinent factors. The substances prohibited are:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- B. Any waters or wastes containing toxic or poisonous solids, liquids (such as paint) or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment PLANT.
- C. Any waters or wastes having a pH lower than 6.5 or higher than 8.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the public sewage facilities.
- D. Any ashes, cinder, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, ground garbage, whole blood, hair, flashings, entrails and paper dishes, cups, milk containers or any other solid or viscous substance, whether whole or ground by garbage grinders, capable of causing obstruction to the flow in sewers or other interference with the proper operation of the public sewage facilities.
- E. Any liquor or vapor having a temperature higher than 150°F (65°C).
- F. Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil, wax or grease, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32°F (0°C) and 150°F (65°C).
- G. Any garbage that has not been properly shredded. The installation and operation of a garbage grinder equipped with a motor of 1 Hp or greater shall be subject to the review and approval of the BOARD prior to installation.
- H. Any chemicals or chemical compounds of the following nature or characteristics or having similarly objectionable characteristics: alcohols, arsenic and arsenicals, phenols

or cresols, formaldehydes, iodine, manganese, cyanide, heavy metals and other metal finishing or PLANT wastes, acid pickling waste, mercury and mercurials, silver and silver compounds, sulfonamides, toxic dyes (organic or mineral), zinc, all strong oxidizing agents such as chromates, dichromates, permanganates, peroxide and the like, compounds producing hydrogen sulfide, or any other toxic, inflammable or explosive gases, either upon acidification, alkalization, oxidation or reduction, strong reducing agents such as nitrites, sulfides, sulfites, and the like, radioactive materials or isotopes, whether neutralized or not, and carcinogenic substances and agents.

- I. Any water or wastes containing excessive settleable solids, iron, chromium, copper, zinc and similar objectionable or toxic substance or wastes exerting an excessive chlorine demand, exerting an unusual chemical oxygen demand, or containing any other material or constituent in concentrations which exceed limits which may be established by the BOARD.
- J. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the TOWN as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal or other public agencies having jurisdiction for such discharge to the receiving waters.
- K. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the TOWN in compliance with applicable State or Federal Regulations.
- L. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment PLANT.
- M. Any noxious or malodorous gas or substance capable of creating a public nuisance.
- N. Any waters or wastes if it appears likely, in the opinion of the BOARD, that such waste can harm either the sewers, treatment PLANT process or equipment, would have an adverse effect on the receiving stream, or could otherwise endanger human or animal life, limb, public property or constitute a nuisance.
- O. Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed or proposed or are amenable to treatment only to such a degree that the sewage treatment PLANT effluent cannot meet the requirements of its discharge permit or of other agencies having jurisdiction over discharge to the receiving waters.
- P. Materials which exert or cause:
 - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works, which may cause the effluent limitations of the discharge permit to be exceeded.
4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

SECTION 7.03 – POSSIBILITIES FOR AUTHORIZATION OF WASTE

The admission into the public sewers of any waters or wastes having (a) a five (5) day BOD greater than 300 mg/l or (b) containing more than 350 mg/l of suspended solids or (c) containing any quantity of substances having the characteristics described in SECTION 7.02 or (d) having an average daily flow greater than two percent (2%) of the average daily sewage flow received at the sewage treatment PLANT shall be subject to the review and approval of the BOARD. The BOARD may:

- A. Reject the wastes, or
- B. Require pretreatment to an acceptable condition for discharge to the public sewers, or
- C. Require control over the quantities and rates of discharge, or
- D. Require a fine to be levied according to the severity of the problem or,
- E. Require any combination of the foregoing.

SECTION 7.04 – PRETREATMENT AND FLOW EQUALIZATION

If the BOARD permits the pretreatment or equalization of waste flows, the design, plans, specifications and any other pertinent information relating to proposed equipment and facilities shall be submitted for the approval of the BOARD and the Agency of Natural Resources and no construction of such facilities shall be commenced until said approvals are obtained in writing. Further, pretreatment facilities must be consistent with the requirements of any State pretreatment permit issued to the industry.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the Owner at his/her expense.

SECTION 7.05 – GREASE, OIL, HAIR, AND SAND INTERCEPTORS

Grease, oil, hair, and sand interceptors shall be provided when in the opinion of the BOARD, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients. Such interceptors shall not be required for private living quarters. All interceptors shall be of a type and capacity

approved by the BOARD and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight.

Where installed, all grease, oil, hair, and sand interceptors shall be maintained by the Owner, at his/her expense, in continuously efficient operation at all times. Materials collected shall not be introduced into the public sewage system.

SECTION 7.06 – ACCESSIBILITY TO PRIVATE SEWAGE STRUCTURES

When required by the BOARD, the Owner of any property served by a building sewer carrying industrial wastes shall install a suitably controlled manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the BOARD. The manhole shall be installed by the Owner, at his/her expense, and shall be maintained by the Owner so as to be safe and accessible at all times.

SECTION 7.07 – INDUSTRIES TO MONITOR THEIR OWN DISCHARGE

All industries discharging into a public sewer shall perform such monitoring of their discharges as the TOWN may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the TOWN. Such records shall be made available, upon request, by the TOWN, to other agencies having jurisdiction over discharging to the receiving waters. Where industrial pretreatment permits are issued by the State of Vermont, monitoring records must also be submitted to the State in accordance with such permit. Records of any monitoring may be supplied by the TOWN to the State on request.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ORDINANCE shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater" published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the existence of hazards to life, limb and property. (The particular analyses involved may determine whether a twenty-four (24) hour flow composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour proportioned composites of all outfalls whereas pH is determined from periodic grab samples.)

Any industry held in violation of the provisions of this ORDINANCE may have its disposal authorization terminated and may be fined by the BOARD, as permitted by law.

ARTICLE 8

Sewer Charges

SECTION 8.01 – SEWER BASE AND USE RATE

The Sewer Base Rate and Sewer Use Rate shall be collected for the purpose of the payment associated with the costs of operating, maintaining and repairing said system including loan repayment expenses as appropriate. The BOARD may establish annual charges separately for bond payments, for fixed operating and maintenance costs not dependent on actual or estimated use and for variable operations and maintenance costs dependent on actual or estimated use.

The annual charges stipulated above shall be based upon rate structure(s) decided by the BOARD as provided for in 24 V.S.A., Chapter 101. The annual charges shall be stipulated in the duly adopted "Schedule of Rates and Fees".

SECTION 8.02 – CHARGING CONNECTED VACANT PROPERTIES

The sewer charges established in SECTION 8.01 and defined hereinafter may be charged whether or not the property is occupied, when the property is connected to the public sewage system by the necessary building sewer as required under the terms of this ORDINANCE. Exempted properties, whose exemption has expired but have not connected, shall be considered as connected vacant properties and therefore, subject only to the Sewer Base Rate. Properties required to connect but not connected shall also be considered as connected vacant properties and therefore, subject only to the Sewer Base Rate. The rate structure shall incorporate the requirements of 24 V.S.A., Chapter 101, Sections 3612, 3615, 3616, and other statutes as appropriate and applicable.

SECTION 8.03 - CAPITAL COSTS

The design, construction and development costs of all public sewage system expansions and extensions which have been approved by the BOARD shall be paid for by the following:

- A. By developers and property owners requiring, requesting or directly benefiting from such extensions and/or expansions, unless;
 - 1. The voters of the TOWN vote on the project cost at a duly warned annual or special meeting. When the voters of the TOWN vote on the project costs, such

- costs shall be paid from the collection of wastewater user fees unless the voters of the TOWN approve some other means of raising the required monies; or
2. If the BOARD agrees to fund all, or part of the extension with existing wastewater operating budget or system fees.

SECTION 8.04 - POOL FILLING

CUSTOMERS shall be exempt from sewer charges when filling a pool if they follow the process listed below.

- A. Pool filling will be applied only once a calendar year. It is the responsibility of the CUSTOMER to read the meter before and after pool filling. The CUSTOMER will notify the Accounts Receivable Department of the water meter readings along with the day and time the pool was filled. Accounts Receivable will calculate the amount of water used. That amount shall then be subtracted *from* sewer charges at the next billing. Failure to read the water meter will result in all sewer charges being applied to the quarterly bill. Exemption from sewer charges shall not apply to "topping off" pools
- B. Abusing pool filling policy by reporting inaccurate meter readings to Accounts Receivable will disqualify the CUSTOMER from all future pool filling sewer exemptions.

SECTION 8.05 - SEWER ABATEMENT FOR A WATER LEAK

Should a CUSTOMER have a major water leak where the water does not enter the Wastewater collection system the Customer may request a reduction in the sewer portion of their bill by following this process.

- A. Request for reduction: Requests will first be referred to the Accounts Receivable Department. Requests will include the address where the leak occurred, contact information for the property owner as well as the day(s), time(s) and the duration of the leak. Accounts Receivable will run the weekly water meter report verifying there was an unusual amount of water used for the reported period of time. If an unusual amount of water was used and leak warnings recorded for the period of time in question Accounts Receivable will make the required adjustment to the sewer portion of the bill based on the determination process outlined below. If no leak was detected by the weekly meter reading the request will be denied.
- B. Determining the amount of the reduction: Accounts Receivable will run a report showing the previous four (4) applicable billing quarters. The reduction in the sewer portion of the bill will be based on the average usage of those four (4) applicable billing quarters. Adjustments to bills will be approved by the town manager.

- C. If the reduction is denied: because of lack of sufficient evidence such as weekly readings not recording leaks or usage is consistent with past use as compared to the previous four (4) applicable billing quarters, the CUSTOMER will be notified in writing. The CUSTOMER will have the opportunity to present their claim to the BOARD, either in writing or in person, within thirty (30) days of such notification.
- D. Water leak reductions will be approved only once to any CUSTOMER: It is the responsibility of the CUSTOMER to properly maintain their water system.
- E. No appeal may be maintained with respect to the level or design of water rates themselves: During appeal, disconnection shall be postponed.

Upon evidence shown, the BOARD may grant bill reductions to any Customer as seen fit.

SECTION 8.06 – COLLECTION OF DELINQUENT SEWER CHARGES

Collection of the delinquent sewer charges may be enforced by the TOWN pursuant to 24 V.S.A., Chapter 129, and 24 V.S.A., Chapter 101, Sections 3612 and 3615. In the event any sewer charge is not paid within thirty (30) days from the billing date, an interest charge shall be added to the sewer charge. The amount of the interest charge on the overdue accounts shall be the same as those applied to delinquent taxes as set forth in 32 V.S.A., Chapter 17, Section 1674, and Chapter 133, Section 5136. The TOWN has the authority to place a lien on the real estate or may defer the property for tax sale if delinquent sewer charges remain unpaid. Refer to the following SECTION of this ORDINANCE for further information on liens and tax sales.

SECTION 8.07 – TAX SALES AND LIENS ON REAL PROPERTY

Upon delinquency of payment of a valid bill for service provided to the Owner of the real estate or other charge for sewer service properly charged to the Owner of the real estate, the BOARD may file notice of a lien or notice of a tax sale upon the real estate with respect to which the sewer service was rendered, provided in 24 V.S.A., Chapter 89, Section 3306. Such notices shall be in the standard form furnished by the TOWN and recorded with the Clerk of the TOWN. A copy of the notice shall be mailed to the Owner and all lien holders or mortgagees of the property. Before filing the lien or deferring the property for tax sale, the BOARD shall give the Owner of said property an opportunity to be heard.

If the Owner fails to enter into any agreement for payment of a delinquent bill, or if the Owner fails to abide by the terms of said agreement, the BOARD has the authority to place the real estate up for tax sale, in accordance with 32 V.S.A., Chapter 133, Section 5252, regardless of the total dollar amount of the delinquency and the period of time for which the Owner has been delinquent, as the BOARD deems necessary.

If the Owner fails to comply with the TOWN's delinquent billing policy, the BOARD shall defer said property for tax sale.

The TOWN also has the authority to foreclose on liens in the same manner as provided by law for the foreclosure of mortgages on real estate, when such lien has been in effect for more than two (2) years, 24 V.S.A., Chapter 101, Section 3612 and 32 V.S.A., Chapter 133, Section 5061. While foreclosure of a lien is generally only undertaken when the value of the real

estate is worth less than the dollar amount of the lien, the BOARD may use their discretion to determine what is in the best interest of the TOWN.

Upon full payment of all delinquent bills and other charges, the BOARD shall notify the Clerk of the TOWN in which the lien was filed that the lien has been discharged.

ARTICLE 9

Sewer Fund Management

SECTION 9.01 – SINKING FUND / CAPITAL RESERVE FUND SET-ASIDES FOR MAJOR EXPENDITURES

The following provides for and restricts the use of set-aside (sinking/capital reserve) funds to finance future major maintenance/replacement costs and PLANT/collection system expansion/upgrade costs.

SECTION 9.02 – SINKING FUND / CAPITAL RESERVE FUND ESTABLISHMENT

A separate sinking fund and/or capital reserve fund may be utilized for major maintenance/replacement expenditures and for expansion/upgrading expenses associated with the wastewater collection, treatment and disposal system in the TOWN. Sinking fund / capital reserve fund establishment for maintenance/replacement expenditures shall be based upon at least the following in writing: major maintenance/ replacement identification, estimated expenditures, estimated year of expenditure, payment amount, type of account used to accumulate sinking fund / capital reserve fund assets, source of funding and when payments are to stop. All sinking funds / capital reserve funds shall be established and maintained in accordance with 24 V.S.A., Chapter 101, Section 3616.

SECTION 9.03 – SINKING FUND / CAPITAL RESERVE FUND MANAGEMENT

The TOWN reserves the right to increase, decrease, stop and/or maintain regular deposits to a sinking fund / capital reserve fund not exceeding 15% of the normal total budgeted expenses for maintenance/ replacement in that year. The sewer fees charged for expansion cost shall be deposited into a separate account and a record shall be kept to show payment date, person making payment and payment amount. The sewer BOARD holding office has the authority to withdraw sinking fund / capital reserve fund amounts only for the purpose of paying for major maintenance/replacement expenditures and for expansion/upgrading expenses for which the fund was established. When sinking fund / capital reserve fund assets are not disbursed fully for major maintenance/replacement expenditures and/or PLANT/collection system expansion/upgrade, excess money shall remain in the sinking fund / capital reserve fund for future related expenditures similar in nature.

SECTION 9.04 – SINKING FUND / CAPITAL RESERVE FUND ASSETS

When sinking fund / capital reserve fund assets are not disbursed fully for major maintenance/replacement expenditures and/or plan expansion, excess money shall remain in

the fund for future related expenditures similar in nature. Revenues established for plant expansion dedicated funds may be generated from system fees paid by prospective users to defray and pay expansion costs. This fund shall not exceed the estimated future expansion cost for the wastewater treatment facility. When the TOWN so votes, the expansion/upgrade sinking fund / capital reserve fund may be used to finance major maintenance/replacement expenditures, but under no circumstances shall the major maintenance replacement sinking fund / capital reserve fund be used to finance wastewater expansion/upgrade expenses.

SECTION 9.05 – OTHER EXPANSION FUNDS

Revenues established for PLANT/ collection system expansion/upgrade dedicated funds may also be generated from system fees paid by prospective users to defray and pay maintenance/replacement/expansion costs.

ARTICLE 10

Applications/Permits/Fees

SECTION 10.01 – APPLICATION/PERMITS/FEES

Applications for permits shall be made on forms established and provided by the BOARD as discussed in Article 5 of this ORDINANCE.

Any false or misleading statement in any application for a permit shall invalidate the permit and shall be deemed a violation of this ORDINANCE.

All fees stipulated, or referred to, in the ORDINANCE shall be determined by the BOARD and identified in the TOWN's "Schedule of Rates and Fees". The BOARD may update the schedule as they deem necessary.

Any payments made as required in this Article shall not be construed as payments towards reserve capacity that may be provided for the project.

SECTION 10.02 – AUTHORITY TO SUSPEND OR REVOKE PERMITS

- A. Any permit issued by the BOARD, or its municipal designee, may be suspended or revoked at any time by the BOARD, or its municipal designee for:
 - 1. Violation of any of the conditions of this ORDINANCE.
 - 2. Violation of the specific terms and conditions of the permit.
 - 3. Refusal to permit inspection by the BOARD or their duly authorized representatives.
- B. Any member of the BOARD, or its municipal designee, may verbally suspend or revoke a permit at any time whereupon the suspension or revocation shall take effect

immediately. Such action shall be confirmed in writing by the BOARD, or its municipal designee. When possible, the BOARD or its municipal designee may provide a written notice to desist or make correction of any practice or operation which violates or contravenes the provisions or the purpose of this ORDINANCE or the permit and shall allow sufficient time for the correction of the violation.

SECTION 10.03 – PERMITS TO BE KEPT ON PROJECT PREMISES

All permits shall be kept on the project premises and shall be made available to the BOARD or their duly authorized representatives at any time. Failure to keep permits available shall be presumptive evidence that the work or operation being conducted is without a permit and is a violation of this ORDINANCE.

SECTION 10.04 – FUNDING FOR SEWERS CONNECTION

The TOWN is not financially obligated to expand, extend, or connect the main sewers within and/or outside the original area of sewer service.

The BOARD has the following option(s) for other cost recovery/funding methods, if in the “best interest” of the TOWN:

- A. At the BOARD's discretion, place a question for ballot vote to be approved/disapproved by the majority of voters present and voting.
- B. At the BOARD's discretion, if the project can be funded within the existing sewer operating budget, or existing wastewater sinking fund balance, to be funded by the TOWN.
- C. Any combination of options in this SECTION.

SECTION 10.05 – REQUESTS FOR FEE WAIVERS

All requests for fee waivers shall be presented to the BOARD for review and action.

ARTICLE 11

Protection From Damage

SECTION 11.01 – PROTECTION FROM DAMAGE

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the public sewage disposal system. Any person violating this provision shall be subject to immediate arrest under the charge of unlawful mischief as set forth in 13 V.S.A., Chapter 81, Section 3701.

ARTICLE 12

Powers and Authority of Inspectors

SECTION 12.01 – POWERS AND AUTHORITY OF INSPECTORS

The TOWN and their duly authorized representatives, bearing proper credentials and identification, shall be permitted to enter all properties through which the TOWN holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ORDINANCE. All entry and subsequent work, within said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. The TOWN or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for wastewater treatment.

SECTION 12.02 – PROTECTION OF OWNER

While performing the necessary work on private properties referred to in SECTION 12.01 above, the TOWN and their duly authorized representatives shall observe safety rules applicable to the premises established by the Owner and the Owner shall be held harmless for injury or death to the TOWN and their representatives and against liability claims and demands for personal injury or property damage asserted against the Owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the Owner to maintain safe conditions.

ARTICLE 13

Prohibitions and Penalties for Violation of Rules

SECTION 13.01 – PROHIBITIONS

- A. No person shall deny access to any inspector of the TOWN or any person authorized by the TOWN to conduct an inspection or perform such other duties as set forth in this ORDINANCE.
- B. No person shall violate any emergency rule adopted by the BOARD as provided in Article 1 of this ORDINANCE.
- C. No person may make, and no customer shall suffer or permit any person to make, any connection to the TOWN's sewer system, unless such connection is authorized by the BOARD.

- D. No person shall make any material misstatements of fact in any application for sewer service.
- E. No person shall complete construction of any service connection with the TOWN's sewer system in any manner other than that set forth in any plans and specifications submitted to and approved by the BOARD. No person shall fail to disclose any deviations or variations from such plans to the BOARD at the first date such variations or deviations become known to such person.
- F. No person shall violate and no customer shall suffer or permit any person to violate at the customer's service location, any provision of this ORDINANCE, or shall violate any order, direction, or emergency rule adopted by the BOARD.

SECTION 13.02 – PENALTIES FOR VIOLATION OF THIS ORDINANCE

- A. This is a civil ORDINANCE. Enforcement procedures for this civil ORDINANCE shall be in accordance with the provisions of 24 V.S.A., Chapter 59, Sections 1974(a) and 1977 et seq.
- B. Any person violating any of the provisions of this ORDINANCE, except Article 11, shall become liable to the TOWN for any expenses, loss or damage caused by such offense and shall be served by the BOARD with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease the violation.
- C. Any violation of this ORDINANCE shall be a civil matter enforceable to the extent as referenced in Paragraph A of this SECTION. A civil penalty shall be assessed for each offense. The amount of the civil penalty shall be determined by the hearing officer, not to exceed five hundred dollars (\$500.00) per offense. Each day the violation continues shall constitute a separate offense. The offender can choose to pay the waiver fee on the complaint or request a hearing to contest the violation with the Judicial Bureau. The waiver fee shall be determined by the hearing officer and shall be less than the civil penalty.
- D. Notwithstanding any of the foregoing provisions, the TOWN may institute any appropriate action including injunction, or other proceeding to prevent, restrain or abate violations hereof, and any other legal and equitable relief to seek compensatory damages and compensation for other fees and expenses as provided in this ORDINANCE.

ARTICLE 14

Validity

SECTION 14.01 – VALIDITY

All other rules and regulations in conflict with this ORDINANCE are hereby repealed.

Each SECTION or part of a SECTION in this ORDINANCE is hereby declared to be a separate and distinct enactment. If any SECTION or portion thereof in this ORDINANCE, as adopted, is found to be void, invalid, unconstitutional, inoperative or ineffective for any cause, it shall not affect the validity of any other SECTION or part thereof which can be given effect without such invalid part or parts.

These rules may be amended at any time by the TOWN as provided by law.

ARTICLE 15

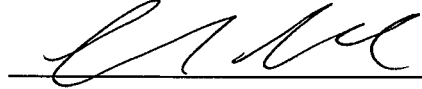
Ordinance in Force

SECTION 15.01 – ORDINANCE IN FORCE

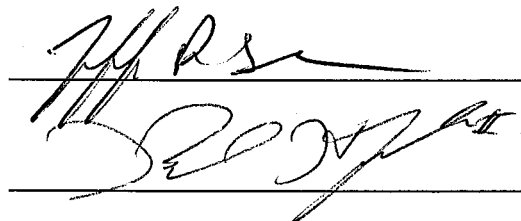
This ORDINANCE shall be in full force and effect from and after its passage, approval, recording and publication as provided by law, replacing the Sewer Ordinance enacted September 14th, 1993.

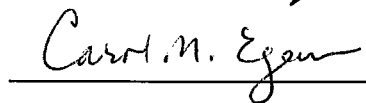
Duly enacted and ordained by the Board of Sewer Commissioners of the Town of Fair Haven, Rutland County, State of Vermont, on the 23 day of March, 2021, at a duly called and duly held meeting of said BOARD. This ORDINANCE shall become effective sixty (60) days from the date hereof.

BOARD OF SEWER COMMISSIONERS
TOWN OF FAIR HAVEN









I, the undersigned duly elected Town Clerk for the Town of Fair Haven, do acknowledge by my signature that this document is the Rules and Regulations as adopted by the Board of Sewer Commissioners on _____, 20 ____.

Dated this _____ day of _____, 20 ____.

Town Clerk's Signature

Suzanne Dechame
Town Clerk's Printed Name