

1. Ownership & Permit

The Town of Richmond, Vermont, 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., Section 3501(6) and 3601. The PLANT has a permitted capacity, and is operated in accord with a discharge permit issued by the Vermont Department of Environmental Conservation (DEPARTMENT) under authority granted in 10 V.S.A., Chapter 47. The board of sewage disposal commissioners (BOARD) is obligated by law to comply with conditions of that permit, and to operate and manage the PLANT and SEWERS as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

2. Introduction to Reserve Capacity Allocation

The permitted capacity of the PLANT and SEWERS is the property of the Town of Richmond. 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., 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 of Richmond, nor shall it be construed to impair or inhibit the ability of the Town of Richmond to contract with persons for the collection, transmission and treatment of sewerage.

The Town of Richmond has a design treatment capacity of 222,000 gallons per day and currently operates the treatment PLANT at an average of 68,250 gallons per day from "current users". At the time of the adoption of this ordinance committed reserve capacity equals 0 gallons and the uncommitted reserve capacity equals 153,750 gallons, these amounts are subject to change.

3. Definitions

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

- a) "Person" shall have the meaning prescribed in 1 V.S.A., Section 128.
- b) "Department" shall mean the Vermont Department of Environmental Conservation.

- c) "Discharge Permit" shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.
- d) "BOARD" shall mean the Board of Selectmen of a Town, the Trustees of a Village, City Council of a City or the Prudential Committee of a Fire District acting as a Board of Sewage Disposal Commissioners under 24 V.S.A., Section 3614.
- e) "Impact Fee" shall mean a fee imposed on applicants for capacity allocation equal to the capital cost per gallon of sewage treatment and disposal capacity attributable to the project or development. This fee shall be consistent with the intent of impact fees authorized under 24 V.S.A. Chapter 131.
- f) "Connection Fee" shall mean a fee imposed on applicants for the municipality's cost of performing, supplying materials, supervising, inspecting and administering a connection to the sewage system including any necessary sewer service extension, upgrading sewers or for any portion of these activities.
- g) "Plant Wastewater Flow" is the wastewater passing through the treatment plant in gallons per day on an annual average basis (365 day average) except where flows vary significantly from seasonal development. In the latter case, plant wastewater flow is determined as the average throughout the high seasonal use period, as determined by the BOARD.
- h) "Permitted Wastewater Flow" is the maximum plant wastewater flow authorized in the Discharge Permit on an annual average (365 day average) basis, or on the high seasonal use period as defined in the discharge permit.
- i) "Development Wastewater Flow" is the flow resulting from full use of the development at its peak capacity, which flow shall be calculated using flow quantities, adopted as rules by the DEPARTMENT, as promulgated at the time a connection permit application is made. The flow quantities in State regulation at the time of adoption of this ordinance are shown on Table 7a (Attachment A).
- j) "Reserve Capacity" is the permitted wastewater flow minus the actual plant wastewater flow during the preceding 12 months.
- k) "Uncommitted Reserve Capacity" is that portion of the reserve capacity remaining after subtracting the development wastewater flow of all projects approved by the DEPARTMENT but not yet discharging to the SEWER.

- l) "Committed Reserve Capacity" is the total amount of development wastewater flow (gallons per day) from all projects/buildings approved by the BOARD and the DEPARTMENT for discharge to the treatment PLANT, but not yet discharging at the time of the calculation.
- m) "Sanitary Wastewater" is wastewater of the same character and range of strength as expected from homes.
- n) "Sewer Service Area" is that area of the municipality that is within the existing municipal main service collection lines and manholes.
- o) "PLANT" - The municipal sewage treatment plant owned by the Town of Richmond.
- p) "SEWERS" - The sewage collection and transmission system owned by the Town of Richmond.
- q) "Development" - The construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial, industrial activity, subdivisions and the intent to subdivide.
- r) "Initiate Construction" -
  - 1) For building development; the completion of the foundation.
  - 2) For subdivision development; the sale of the individual lots, or other, sale or the intent to subdivide.
- s) "Completed Construction" -
  - 1) For building development completion of construction of all foundations, framing, siding and roofs.
  - 2) For subdivision development; the sale of the individual lots.

4. Reserve Capacity Allocation

A) Allocation Flow Basis

All allocations to projects shall be based on the development wastewater flow. Any differential between actual flows and development wastewater flows that occurs is not available to the development owner for reallocation to another project or a project expansion.

B) Allocation Priorities

Allocation of uncommitted reserve capacity shall comply with the following priority intended to govern the gross allocation of reserve capacity before the allocation principles are applied to specific projects.

Residential, commercial, institutional and industrial facilities existing within the sewer service area on the date of adoption of this ordinance which are required to be connected to the municipal sewer by the municipal sewer use ordinance, or by virtue of existing pollution from the facilities to waters of the State, or existing health hazard shall be entitled to first priority in allocation of uncommitted reserve capacity. New development within or outside the sewer service area will have second priority of uncommitted reserve capacity provided that the development is in the best interest of the Town of Richmond as determined by the BOARD.

C) Allocation Principles

Subsequent to application of the allocation priority, uncommitted reserve capacity in the wastewater treatment facility may be allocated to specific projects according to the following procedure.

a) Once sewer permit applications have been returned to the municipality) office and marked with the time and date by the person receiving the application, 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 such a way that there are no limitations on what total reserve amounts can be allocated in any one year as long as uncommitted capacity exists, and no limitation of the type of development receiving the allocation. The total reserve capacity will be determined each (suggested 6) months and committed reserve will be continuously recorded for use in allocation decisions.

b) 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 municipality's best interest.

5. Cost Recovery for SEWERS Expansion

A) Any extension of the sewer service area to provide for new users shall be funded in the following way.

The proposed users to be served by the expansion pay the entire cost of the expansion and upgrading of the SEWERS and wastewater facility determined necessary and adequate by the BOARD.

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

6. Application Requirement

Persons wishing to use the PLANT and SEWERS shall apply to the BOARD on a form prescribed by the BOARD (Attachment B). Such application shall:

- a) Be accompanied by a calculation of the development wastewater flow to be generated by the project/development;
- b) Include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the BOARD;
- c) Unless waived by the BOARD all calculations required in (a) and (b) above for developments generating over 1000 gpd shall be certified by a Vermont registered engineer.
- d) Be accompanied by plans and specifications for the construction of building sewers (from the buildings to municipal sewers) and any municipal sewer extensions, including pump stations, required to service the development prepared by a Vermont registered engineer. This requirement to submit plans and specs may be waived by the BOARD until final connection approval.

7. Preliminary Connection Approval Findings

Upon receipt of the connection application and supportive documents, the BOARD may make preliminary approval of uncommitted reserve capacity 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;
- b) The proposed wastewater is not of domestic sanitary origin and that sufficient evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the PLANT and SEWERS and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit, pass through the PLANT without treatment, interfere or otherwise disrupt the proper quality and disposal of PLANT sludge or be

injurious in any other manner to the PLANT or SEWERS and that there is sufficient uncommitted reserve capacity to accommodate the strength and volume of the proposed development;

- 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 or municipality.

8. Conditions of Preliminary Connection Approval

The BOARD, after making the approval findings above, may issue a preliminary connection approval, which approval shall be a binding commitment of capacity to the project contingent on compliance with any conditions attached to the preliminary approval and the subsequent issuance of a final connection approval (Attachment C). The preliminary approval conditions may include:

- a) Specification of the period of time during which the interim connection approval shall remain valid 120 days. Provisions for time extensions if approved by the BOARD.
- b) Incorporation of specific conditions which must be fulfilled by the applicant to maintain validity of the preliminary connection approval.
- c) Provision for revocation by the action of the BOARD on failure of the applicant to fulfill requirements of the preliminary connection approval.
- d) Specification that the recipient of the preliminary connection approval may not transfer, by any means, the preliminary connection approval to any other person or connect to the SEWERS.

PRIOR TO FINAL CONNECTION APPROVAL THE FOLLOWING COMMITMENTS SHALL BE MET BY THE APPLICANT:

- a) Applicable local, State and Federal permits have been secured for the development/project;
- b) Connection fees, impact fees, permit fees and other local fees or taxes all set by the BOARD, have been paid in full to the Town of Richmond. Impact fees will be partially based on the volume and strength of the proposed wastewater flow.
- c) The plans and specs for connection to and, if necessary, extension of the municipal SEWERS are acceptable to the BOARD.

9. Final Connection Approval Requirements

The BOARD on making affirmative findings that all conditions of the preliminary connection approval and final connection approval prerequisites in Section 8 have been fulfilled shall issue the final connection approval permit which approval may be conditioned as follows:

- a) The permit shall specify the allowed volume, flow rate, strength frequency and any other characteristics of the proposed discharge determined appropriate by the BOARD.
- b) The capacity allocation is not transferable to any other person or project unless requested by the original owner and approved by the BOARD.
- c) The construction of the connection and, if necessary, the municipal SEWER extension, must be overseen to assure compliance with the plans and specs and good construction practice in a manner acceptable to the BOARD.
- d) Capacity allocated in conjunction with the final connection permit for building development shall revert to the Town of Richmond if the permit recipient has failed to initiate construction within one year of the issued date on the permit.
- e) The permit shall expire (three) years from the date of issuance. A revised development plan and connection 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 development plan and connection with reduced or increased capacity allocation determined in accord with the allocation priorities and principles. Where reduced capacity is granted in a revised connection permit, the unused capacity shall revert to the Town of Richmond and the Town of Richmond will pay to the applicant, a proportional refund of impact fees and, where appropriate, a portion of the connection fees. With any approval of a revised development plan and connection permit the BOARD may consider extension of the original (three) year permit expiration date.

If a permit expires after (three) 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 of Richmond and there will be no refund of connection, impact, permit or other fees paid. The BOARD will determine the amount of unused capacity returned. Generally, the unused capacity reverting to the municipality is associated with buildings that do not at least have foundations, framing and roofs.

Regardless of the permit expiration period above the BOARD may order construction of the development over a longer period if this action is in the municipality's best interest.

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

The reserve capacity allotted to lots that are either unsold or do not have building construction completed at the time of permit expiration (three) years shall revert to the municipality without refund of any fees paid. Reserve capacity shall also revert to the municipality from any reductions made to the development wastewater flow planned for each lot subsequent to initial approval.

The subdivision owner shall file the final connection permits in the land records of the Town of Richmond along with copies of all fees paid and reference to the location of the approved connection plans and specifications. When the owner/developer of a subdivision sells individual lots within the (three) year time frame, the final connection 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 will be considered a new permit issued on the date of property transfer and the constraints of 9(e) will apply to this permit. The permit will expire as provided in 9(e).

- g) In cases where a final connection permit expires and a new person applies for capacity on the same or a different project, the BOARD may consider previous fees paid by the original person when setting fees for the new person applying for capacity.
- h) The chief wastewater treatment plant operator or other designated municipal official shall be notified one week in advance of any proposed sewer connection



authorized by a final connection permit. The connection to the municipal sewer shall not be performed unless the municipal official is present and shall not be covered until approved by the official. Additional constraints may be found in the Sewer Use Ordinance.

10. Transfer of Allocation

- a) Initially reserve capacity is allocated by the BOARD to a specific person, project and parcel of land. The allocation is not made solely to a parcel of land and therefore does not run with the land during project completion. After completion of the project or permit expiration, however, the allocation (adjusted to the actual development constructed, if necessary) will run with the land.
- b) The transfer of the capacity allocation is prohibited unless approved in writing by the BOARD at the original owners request.
- c) The BOARD may approve transfer of capacity from one project to another and one owner to another provided the new project and owner meets all the requirements for the final connection approval originally issued and the original owner requests such transfer.

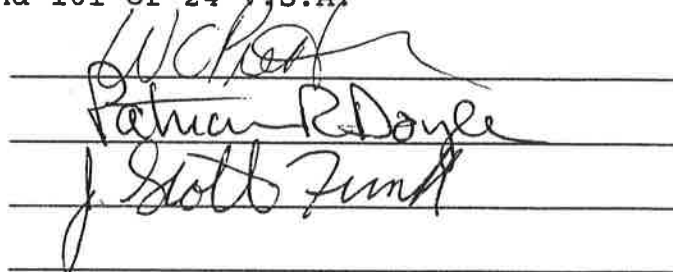
11. Authority to Require Connection

Nothing herein shall be construed as limiting or impairing the authority of the Town of Richmond or its BOARD to require connections to the PLANT and SEWERS under the general laws of the state or local ordinances.

12. Adoption of Ordinance

This ordinance shall become effective at midnight, 12/4/92. To the extent that any provision herein shall be inconsistent with or contrary to any provision of Town of Richmond ordinance (Sewer Use Ordinance) adopted 9/28/92, then the provisions of this ordinance shall apply. The adoption of this allocation Ordinance shall not interfere with the authority and responsibility of the legislative body as Sewer Commissioners, in matters relating to the management and operation of the Public Sewer System as provided in Chapter 97 and 101 of 24 V.S.A.

BOARD OF SELECTMEN:

  
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