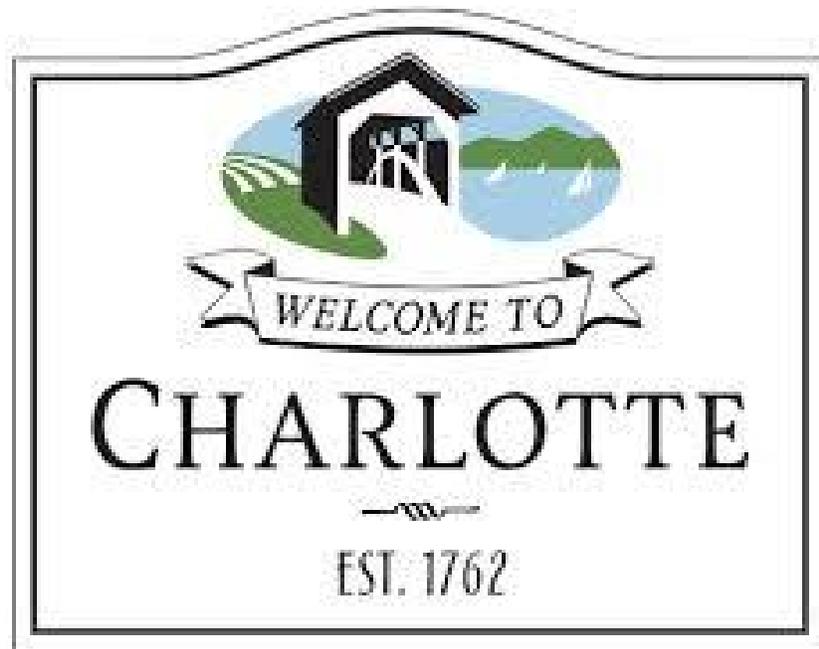


TOWN OF CHARLOTTE

SEWER ALLOCATION ORDINANCE



Abstract:

The Town of Charlotte has a certain amount of uncommitted reserve capacity at the municipal sewage disposal facilities located at three different locations and a sewage collection and transmission system (“Sewers”) as defined in 24 V.S.A. §3501(6) and 3601. The capacity of the Disposal Fields and sewer collection and transmission system are the property of the Town. The uncommitted reserve capacity of the disposal fields and Sewers shall be allocated over the remaining life of the system by the BOARD in the manner described in this ordinance consistent with the guidance set forth in the municipal plan..

Sewer Allocation Ordinance

Legislative History

Adopted _____, 2015, effective
_____, 2016

Amendments:

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TOWN OF CHARLOTTE

SEWER ALLOCATION ORDINANCE

1. Ownership, Capacity and Discharge Permit

The Town of Charlotte has a certain amount of uncommitted reserve capacity at the municipal sewage disposal facilities (fields) located at three different locations and a sewage collection and transmission system (“Sewers”) as defined in 24 V.S.A. §3501(6) and 3601. . The Burns Disposal System has a permitted capacity serving the municipal facilities in the West Village and is operated in accord with a discharge permit, as amended, issued by the Vermont Department of Environmental Conservation (“Department”) under authority granted in 10 V.S.A., Chapter 47. The board of Sewage Disposal commissioners (“BOARD”) is obligated by law to comply with conditions of that permit, and to operate and manage the Sewers as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

The Town also controls interest in a permitted disposal system located on the Lavalatte property located off of Greenbush Road while it owns disposal easements, without permitted capacity, on lands near Barber Hill ,also off of Greenbush Road.

The existing Burns wastewater disposal system has a permitted capacity of 4,999 gpd with an expected increase to 6,499 gpd by _____, 2015 by permit application demonstrating that the existing system has the capacity under the current Environmental Protection Rules which are less stringent than when the original system was permitted. The existing permitted uses to the system are outlined below.

User	(GPD) Existing
Town Offices, Library, and Fire and Rescue	865
Senior Center	2,000
Infiltration	237
TOTAL	3,052

There are other portions of the Burns property that have additional wastewater disposal capacity but will be subject to the issuance of a State Indirect Discharge Permit. Additional site performance evaluations are required to determine the ultimate capacity of this area.

The existing Lavalatte wastewater disposal system has a permitted capacity of 900 gpd with the potential to be expanded to 1,200 gpd through the redesign of the disposal system footprint which is now enabled under the current Environmental Protection Rules.

The existing Barber Hill wastewater disposal system easements have an estimated capacity of 2,000 to 4,000 gpd. There are no existing permits for the use of this area.

2. Introduction to Reserve Capacity Allocation

- 2.1. The capacity of the Disposal Systems are the property of the Town. The uncommitted reserve capacity of the Disposal Fields and Sewers shall be allocated over the remaining life of the system by the BOARD in the manner described below.

This ordinance is adopted pursuant to the provisions of 24 V.S.A., §3625, in the manner provided in 24 V.S.A., Chapter 59 and shall not be construed as an abandonment or relinquishment of the authority or responsibility of the BOARD to regulate, control and supervise all means and methods of sewage collection, treatment and disposal within the Town, nor shall it be construed to impair or inhibit the ability of the Town to contract with persons for the collection, transmission and treatment of sewage.

- 2.2. Recognizing that the load on the Disposal Sewer Systems must be controlled, that there is insufficient capacity to service the entire Town, it is necessary to maintain a balance of municipal, commercial and residential uses (and a mix of housing types), the BOARD shall allocate pursuant to this Ordinance the uncommitted reserve capacity by zoning districts and use classifications.

3. Definitions

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

- 3.1. **“Allocation”** - The decision by the BOARD to commit a specified amount of sewage treatment capacity (measured in gallons per day or gpd) to a specific project. An allocation may or may not include allocation phasing.
- 3.2. **“Allocation Fee”** - A fee for the allocation of sewage treatment capacity, specified as dollars per gpd, as established by the BOARD.
- 3.3. **“Allocation Phasing”** - A provision included as part of an allocation to a specific development which specifies the amount of the total allocation which may be used each year.
- 3.4. **“ANR” or “Agency”** shall mean Agency of Natural Resource
- 3.5. **“BOARD”** - Shall mean the Selectboard of the Town of Charlotte acting as a board of sewage disposal commissioners under 24 V.S.A., § 3614.
- 3.6. **“Change in Use”** means increasing the number of permitted users/employees, converting to a different type of use such as from a residence to a restaurant or office space, adding bedrooms, and other changes provided that any of the above increase design flow or modify other operational requirements of the wastewater system or of the potable water supply.
- 3.7. **“Committed Reserve Capacity”** - Is the total amount of total development wastewater flow (gallons per day) from all projects/buildings approved by the BOARD for discharge to the Disposal System, but not yet discharging at the time of the calculation.

- 3.8. **“Completed Construction”**
(A) For building development; the completion of construction of all foundations, framing, siding and roofs.
(B) For subdivision development; the sale of the individual lots
- 3.9. **“Connection Permit”** - A permit authorizing the permit holder to construct the necessary facilities and a connection to the Town's sewers.
- 3.10. **“Department”** shall mean the Vermont Department of Environmental Conservation.
- 3.11. **“Design Flow”** - means the flows, set by Section 1-808 of the EPR's, that establish the size of the potable water supply and wastewater system serving a lot, building or structure.
- 3.12. **“Development”** - The construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial and industrial activity.
- 3.13. **“Development Wastewater Flow”** - Is the flow resulting from full use of the development at its peak capacity, which flow shall be calculated using flow quantities, as promulgated at the time an allocation application is made.
- 3.14. **“Discharge Permit”** - Shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.
- 3.15. **“Disposal System”** - A land based wastewater disposal system or disposal capacity rights (easement) owned by the Town of Charlotte.
- 3.16. **“EPR”** shall mean Environmental Protection Rules.
- 3.17. **“Feasibility Authorization”** – Is issued by the BOARD upon positive findings that it meets the standards for no feasible alternative means of wastewater disposal as outlined in Section 8 herein.
- 3.18. **“Holding Fee”** - A fee levied by the Town on any "unused" allocation of sewage treatment capacity.
- 3.19. **“Initiate Construction”** - For building development; the completion of the foundation or for subdivision development; the start of construction of infra-structure (water, sewer, roads, etc.).
- 3.20. **“Municipality”** shall mean the Town of Charlotte, Vermont.
- 3.21. **“New Flows”** shall mean wastewater flows other than the existing flows, as of **December 15, 2015**.
- 3.22. **“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.
- 3.23. **“Permitted Wastewater Flow”** - Is the maximum Disposal system wastewater flow authorized in the Discharge Permit on an annual average (365 day average) basis.
- 3.24. **“Permittee”** - That Person identified on the referenced Feasibility Authorization, Sewer Allocation Authorization or Sewer Connection Permit.
- 3.25. **“Person”** - Shall have the meaning prescribed in 1 V.S.A., § 128.

- 3.26. **“Plant Wastewater Flow”** - Is the wastewater passing through the Disposal System 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. When daily readings are not available, the capacity shall be based upon Department permitted values.
- 3.27. **“Preferred Residential Projects”** - Shall include residential projects containing affordable housing, congregate housing, and elder housing as described in the Town Plan.
- 3.28. **“Reserve Capacity”** - Is the permitted wastewater flow minus the actual plant wastewater flow during the preceding 12 months.
- 3.29. **“Reserve Capacity Holding Fee”** shall mean the financial amount due, as determined by the BOARD, required of owners of reserved capacity allocation that has not been used. This is an biannually recurring fee.
- 3.30. **“Reserved Capacity Allocation”** shall mean that amount of design flow assigned by the BOARD to a certain property for a specific use from the Uncommitted Reserve Capacity of the system.
- 3.31. **“Connection Fee”** shall mean the financial amount due, as determined by the BOARD, charged to property owners for the benefit to reserve a portion of the system capacity and to connect to the municipal wastewater system.
- 3.32. **“Sanitary Wastewater”** - Is wastewater of the same character and range of strength as expected from homes.
- 3.33. **“Sewage Disposal Board (“or BOARD”)** shall mean members of the Charlotte Selectboard and/or the group of individuals who shall be designated from time to time by the Selectboard to have that title, or their authorized deputy, agent or representative.
- 3.34. **“Sewer Service Area”** - Is that area depicted in Appendix A generally comprising a portion of the Village Commercial District.
- 3.35 **“Superintendent”** shall mean that employee of the Town of Charlotte or an outside contractor who shall be designated by the BOARD to operate and maintain the public sewage facilities, oversee sewer connections, and other activities stated within this Ordinance.
- 3.36 **“Town Administrator”** person appointed by the Town of Charlotte Selectboard to administer the governmental operations of the Town of Charlotte.
- 3.37 **“Town Plan”** is the Charlotte Town Plan which is the principal policy statement for the Town of Charlotte which uthority to prepare and implement the Plan is granted through Vermont Statutes Annotated 10 (VSA) Title 24, Chapter 117, Municipal and Regional Planning and Development.
- 3.38. **“Unused allocation”** - The amount of sewage treatment capacity which has been allocated to a development which has not yet been “used” by any particular structure.

- 3.39. **“Used”** - An allocation (or part thereof) shall be considered as “used” when it is committed to serving a specific structure and the water meter on that structure is installed.
- 3.40. **“Uncommitted Reserve Capacity”** - Is that portion of the reserve capacity remaining after subtracting the development wastewater flow of all projects approved by the BOARD but not yet discharging to the sewer.

4. Capacity Determination

- 4.1. Prior to each five-year revision of the Town Plan the BOARD shall determine the uncommitted capacity that is available in the Disposal Systems. This determination shall be based on the following information:
 - 4.1.1. the total Disposal System capacity that is expected to be available to the Town during the period covered by the Town Plan, including both existing capacity and any anticipated additions to capacity;
 - 4.1.2. the current average annual flow into the Disposal Systems and flow projections designed to account for seasonal and annual variations in sewage flows;
 - 4.1.3. existing and anticipated commitments of capacity to planned municipal facilities,;
 - 4.1.4. existing and anticipated commitments of capacity to pollution abatement;
 - 4.1.5. previous commitments of capacity to specific developments, including the need to adjust such commitments to reflect actual sewage flows; and
 - 4.1.6. the need to maintain a reserve capacity sufficient to account for seasonal variations in sewage flows, the uncertainty in sewage flow projections for different land uses, and emergencies.
- 4.2. Based on its determination of uncommitted capacity, the BOARD shall allocate that capacity to the categories listed in SECTION 5.2., below, over a 3-year period, as provided by SECTION 5, below, and direct the Planning Commission to base the relevant elements of the Town Plan on this action.
- 4.3. The allocation of Uncommitted Reserve Capacity over a 3-year period is necessary to provide time for the Town to acquire or construct additional capacity, but the BOARD may reserve capacity that can be used for affordable housing (see SECTION 5.2.6) or the implementation of other specific goals of the Town Plan (see SECTION 5.3.9) at any time.
- 4.4. The BOARD’s determination of Uncommitted Reserve Capacity may be changed, as necessary, to account for public health emergencies, as provided by SECTION 6, below, or unanticipated changes in plant capacity. Changes made for these reasons need not be reflected in immediate amendments to the Town Plan. Changes for policy reasons must be reflected in amendments to the Town Plan before taking effect.

5. Capacity Allocation

5.1. No capacity shall be allocated outside the sewer service area existing on the date of the adoption of this ordinance, except for properties used exclusively for state or municipal purposes, with approval by the BOARD or as provided by SECTION 7, below.

5.2. 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.

First Priority: The Town shall reserve sufficient capacities for the continuation of public uses currently connected to the existing system before allocating any excess capacity to private uses. The following amounts are to be reserved for expansion of the pre-existing connections.

User	(GPD) Existing	(GPD) Future Increase	(GPD) Total
Town offices, library, and fire and rescue	865	260	1,125
Senior Center	2,000	25	2,025
Infiltration	237	150	387
TOTAL	3,102	435	3,587

Second Priority: Connection of failed existing individual on-site systems within the municipal sewer service area that cannot reconstruct on-site and meet state standards. The Town shall set-a-side 900 gpd (2 residential living units) as committed reserve capacity for these first priority emergency systems.

Third Priority: Residential, commercial, institutional and industrial facilities existing within the sewer service area on the date of adoption of this ordinance.

Fourth Priority: Applicants with “new flows” within the sewer service area shall have the next priority of uncommitted reserve capacity provided that the new construction is in the best interest of the Town as determined by the BOARD and meets Town Plan and Zoning requirements and STATE permit conditions.

The Town shall limit the approved allocation in any of the described customer categories, (i.e. residential, commercial, institutional and industrial) in any given year, if deemed in the best interest of the Town.

5.3. In allocating sewage treatment plant capacity, as provided by SECTION 4, above, the BOARD in consultation with the Planning Commission, shall assign specific quantities of capacity to the categories listed here:

- 5.3.2. Adaptive Re-use of existing buildings for commercial use in the Village Commercial zoning district;
 - 5.3.3. new residential uses in the Taft Corners, Mixed Use Residential and Mixed Use Commercial Zoning Districts;
 - 5.3.4. new senior housing uses in the sewer service area;
 - 5.3.5. residential additions and minor subdivisions of 3-lots or less within the sewer service area;;
 - 5.3.6. new affordable housing within the sewer service area;
 - 5.3.7. planned public facilities, including municipal buildings, parks, and schools and institutions of higher education; and
 - 5.3.8. a reserve of capacity sufficient to account for seasonal variations in sewage flows, the uncertainty in sewage flow projections for different land uses, and emergencies.
 - 5.3.9. The BOARD may also reserve capacity to be held and used to encourage specific types of development, including housing for special populations and major employers in export or base industries. Such a reserve may be created only to implement a specific goal of the Town Plan.
- 5.4. The assignment of capacity to any of the categories listed in SECTION 5.2 for a given planning period, or for a given year within a planning period, may be zero.
 - 5.5. The BOARD may also, but is not required to, reserve capacity in anticipation of the need to abate pollution by connecting uses currently served by on-site wastewater disposal systems to the Town's sewerage system.
 - 5.6. The BOARD's assignment of capacities to the above categories shall be consistent with the Town Plan.

6. Additional Capacity

Both the BOARD's determination of uncommitted capacity, as required by SECTION 4 above, and its allocation of capacity to the categories listed in SECTION 5, may be changed, as necessary, to account for the acquisition of additional capacity.

7. Pollution Abatement

Needs for pollution abatement will be anticipated in the BOARD's allocation of capacity when possible, as provided by SECTION 5.4. It is understood, however, that the Town may find it necessary to make an emergency allocation for pollution abatement. In all cases the Town shall require that the existing building be retrofitted with low flow fixtures as a condition of approval. Allocations for pollution abatement may be made only where the following conditions are met:

7.1. Inside the sewer service area, the BOARD must find that:
 Sewer Allocation Ordinance – Prepared by Charlotte Economic Development Group
 March 22, 2015

- 7.1.1. that it will correct a public health hazard as defined in 18 V.S.A., § 2,
 - 7.1.2. that all other possible means of providing sewerage have been explored and found inadequate, and
 - 7.1.3. that sufficient reserve capacity is available. The beneficiaries of an emergency allocation shall be responsible for the full cost of replacing the reserve capacity provided.
- 7.2. Outside the sewer service area or where the emergency allocation will be made from capacity other than the reserve, the BOARD must find that:
- 7.2.1. that it will correct a public health hazard, as defined in 18 V.S.A., § 2;
 - 7.2.2. that all other possible means of providing sewerage have been explored and found inadequate;
 - 7.2.3. that adequate land use controls are in place to prevent additional connections to any necessary sewer line extensions; and
 - 7.2.4. that sufficient capacity is available. The beneficiaries of an emergency allocation shall be responsible for the full cost of replacing the capacity provided.
 - 7.2.5. That options for the use of the Barber Hill or Lavalette Disposal Systems are exhausted prior to the use of the Burns property system.

8. Capacity for Individual Developments

The grant of sewage Disposal System capacity to individual developments shall be administered by the BOARD in a three step process.

1. Feasibility Analysis (This Section)
2. Sewer Allocation (This Section)
3. Sewer Connection (section 12.3)

The capacity available in each of the categories listed in SECTION 5 above, shall be granted on a first come, first served basis, as provided in SECTIONS 8.1 and 8.2 below. Capacity to be allocated to encourage specific types of development under SECTION 5.3.9 shall be subject to review and approval by the BOARD, in consultation with the Planning Commission, and are not subject to SECTION 8.1.1 below.

Step 1 – Feasibility - All projects seeking a Disposal System allocation are required to demonstrate that there are no feasible on-site wastewater disposal solutions that are less expensive than the municipal Connection Fee in place at the time of application.

This process shall be supported with a report, prepared by a professional engineer or site technician licensed by the State of Vermont for wastewater design that summarizes the existing conditions, identifies on-site options and breaks down the estimated permitting, design and construction costs.

This report shall be reviewed by the BOARD and in consultation with the Town's wastewater consultant, the BOARD shall come to the conclusion that the proposed use cannot be economically accommodated on the property or as part of a mutually agreeable community system.

The Step 1 Allocation application shall:

- A. Identify the property owner, lot number, street and mailing address, and contact information.
- B. Basis of Design Flows.
- C. Documentation of the existing on-site soil conditions.
- D. Identification of whether the project is subject to "best fix" or full compliance of design standards.
- E. Summary of communications with abutting property owners regarding the potential to utilize a portion of those properties for a new or shared wastewater disposal system.
- F. Sketch of most prudent on-site wastewater disposal option(s).
- G. Detailed estimate of design, permitting and construction costs for the proposed on-site system and a separate estimate for the proposed costs to connect to the municipal system.
- H. Application Fee

The period of time during which the Feasibility Authorization shall remain valid is one (1) year from the date of the BOARD's approval letter.

Step 2 – Allocation – This is covered in Section 12.

Once the Feasibility Authorization has been issued by the BOARD, the applicant may make application to the Town for a formal allocation of design flows for the proposed project. The application materials shall follow the requirements outlined in Section 11.

Step 3 – Connection - The formal connection (construction) authorization shall follow the requirements set forth in Section 12.4

9. Reversion

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

10. Cost Recovery for Sewers Expansion

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

10.2 The construction of the building connection and, if necessary, the municipal sewer extension, must be overseen by the Town to assure compliance with the approved

plans and specifications and good construction practice in a manner acceptable to the BOARD. Fees for the inspection shall be paid by the OWNER.

10.3. Any payments made as required by SECTION 13.1 shall not be construed as payments towards treatment capacity that may be provided for the development.

11. Application Requirements

11.1 Projects undergoing initial Feasibility phase review shall submit information as prescribed in 8. Persons wishing to use the Plant Capacity shall apply to the BOARD on a Sewer Allocation Request form prescribed by the BOARD.

Such application shall include:

- 11.1.1 Identify the property owner, lot number, street and mailing address, and contact information.
- 11.1.2 Be accompanied by a calculation of the development wastewater flow to be generated by the project/development;
- 11.1.3 Include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the BOARD;
- 11.1.4 Unless waived by the BOARD all calculations required in SUBSECTIONS 11.1 and 11.2 above for developments generating over 1000 gpd shall be certified by a Vermont registered engineer.
- 11.1.5 Application Fee

11.2 Persons wishing to connect to the Sewers shall apply to the BOARD on a Sewer Connection Request form prescribed by the BOARD.

Such application shall:

- 11.2.1 Identify the property owner, lot number, street and mailing address, and contact information.
- 11.2.2 Include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the BOARD;
- 11.2.3 Plans and specifications for the construction of building sewers (from the buildings to municipal sewers) and any municipal sewer extensions, including pump stations, required to service the development shall be submitted.
- 11.2.4 Copy of State Permit authorizing the proposed sewer improvements.
- 11.2.5 Application Fee

11.3 The BOARD shall process each Feasibility, Allocation or Connection application in the following manner. For applications where information is missing or where

supplemental information is required, the time frame shall be re-started from the time of submission of the supplemental information.

11.3.1. Applications will be processed on a first come, first served basis, in the order they are received.

11.3.2 The BOARD shall review the application at its next available meeting, but no sooner than 14 days after submission of the application, for

11.3.1.1 Compliance with allocation standards and the available Uncommitted Reserve Capacity.

11.3.1.2 Supporting content as specified in the respective application form.

If the application is found to be deficient, the applicant shall be notified by US mail within 15 days of the decision with an explanation of why the application was denied or what additional information is required to make the application complete.

11.3.3 The BOARD has 30 days to review and act on a completed application. If the application satisfies the allocation standards, the BOARD shall then schedule a public hearing.

11.3.4 The BOARD shall review the application at the public hearing, receive public comment and shall act within 30 days of the close of the hearing. The applicant shall be notified by US mail of the BOARD's decision.

11.4. Commercial and Industrial Developments, and Residential Developments on Individual Residential Lots.

11.4.1.1 All applications for zoning permits for individual commercial or industrial buildings or additions, or for residential buildings or additions on individual lots that will be connected to the Town's sewerage system shall be accompanied by a Sewer Connection application. The Zoning Administrator shall promptly refer this application to the Town Administrator.

11.4.1.3. The Town Administrator shall, with the advice of the Town's Wastewater Consultant, determine the sewage flow that will be generated by the proposed building use or addition. If sufficient capacity is available, the Town Administrator shall inform the Zoning Administrator who shall process the zoning permit application. If sufficient capacity is not available, the applications for sewerage and zoning permits shall be returned to the applicant.

11.4.1.4 Upon approval of the permit required by the zoning regulations, the Town Administrator shall approve the sewer connection application, certifying that sufficient capacity is available. No application for sewerage service shall be approved before the required zoning permit has been approved.

12. Allocation Approval, Findings, Conditions and Connection Authorization

12.1. Findings: Upon receipt of the sewer allocation application and supporting documents, the BOARD may grant approval of an allocation from the Annual Capacity Allocation established pursuant to SECTION 5, above, upon making affirmative findings that:

12.1.1. The proposed wastewater is of domestic, sanitary origin and that there is sufficient uncommitted reserve capacity to accommodate the volume and strength of the proposed connection; or

12.1.2. The proposed wastewater is not of domestic sanitary origin and that sufficient evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the Plant and Sewers and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit, pass through the Plant without treatment, interfere or otherwise disrupt the proper quality and disposal of Plant sludge or be injurious in any other manner to the Plant or Sewers and that there is sufficient uncommitted reserve capacity to accommodate the strength and volume of the proposed development;

12.1.3. The proposed use of wastewater capacity complies with the standards set forth in this Ordinance, including but not limited to SECTION 8, and is not in conflict with any other ordinances duly adopted by the Selectboard of the Town of Charlotte.

12.2. Approval and Conditions: The BOARD, after making the approval findings above, may grant approval of an allocation from the Annual Capacity Allocation established in accordance with SECTION 5. The allocation must be made in accordance with the provisions set forth in SECTION 8, above, and shall expire if not assigned as set forth therein. The approval shall be a binding commitment of capacity to the project contingent on compliance with any conditions attached to the approval. The BOARD may revoke the allocation approval upon finding that the applicant failed to meet any of conditions attached to the attached approval. The BOARD may attach additional conditions deemed necessary to ensure compliance with the intent of this ordinance.

12.2.1. The Reserved Capacity Allocation issued by the BOARD shall expire one (1) year from the date of issuance. Prior to the expiration of the Reserved Capacity Allocation, the allocation can be extended by the BOARD, upon written request by the permittee, for a period of up to six (6) months. This BOARD may issue up to two extensions for just cause. If the Connection Fee has not been paid by the end of the BOARD's last issued allocation period, it shall fully expire.

12.3. Connection Authorization: The BOARD shall authorize the Town Administrator to issue a connection permit which allows the applicant to construct the necessary facilities and connect to the Town's sewers, after determining that the following conditions have been met. The Connection Permit shall specify the allowed volume,

flow characteristics, flow rate and quality of the proposed discharge, and must be consistent with the provisions of the allocation approval.

- 12.3.1. In projects where a sewer allocation was granted to a subdivision for multiple connections and included phasing requirements, the Town Administrator shall not, in any given fiscal year, issue connection permits allowing a cumulative flow which exceeds the amount of allocation phased for that fiscal year;
- 12.3.2. Plans and specifications for the construction of building sewers (from the buildings to municipal sewers) and any municipal sewer extensions, including pump stations, required to service the development shall be submitted and approved by the BOARD with input from the Town's wastewater consultant. Such plans and specifications shall have been prepared by a Vermont registered engineer;
- 12.3.3. Applicable local, state and federal permits shall have been secured for the development/project;
- 12.3.4. All pre-construction conditions attached to the allocation approval have been satisfied;
- 12.3.5. The construction of the connection and, if necessary, the municipal sewer extension, will be overseen to assure compliance with the plans and specifications and good construction practice in a manner acceptable to the Town Administrator; See the Sewer Use Ordinance for requirements.

12.4 Post Sewer Connection Authorization Conditions.

- 12.4.1. The connection permit shall have a term and expiration component as outlined in Section 12.4.1.1 below. The allocation associated with an expired Connection Permit reverts back to the Town in accordance with SECTION 9 of this Ordinance.

Prior to expiration, a revised development plan, allocation and connection authorization may be approved by the BOARD in the same manner as the original. Such revised plans must also be approved under Town Bylaws and by the applicable State Laws and Regulations. Where reduced capacity is granted in a revised allocation, the unused capacity will revert to the Town and the Town may pay to the applicant, a proportional refund of connection or allocation fees. Regardless of any revised development plans approved by the BOARD, the BOARD shall not be obligated to approve an extension of expiration period;

- 12.4.2.1. The Sewer Connection Authorization issued by the BOARD shall expire one (1) year from the date of issuance. Prior to the expiration of the Sewer Connection Authorization, the authorization can be extended by the BOARD, upon written request by the permittee, for a period of up to six (6) months. This BOARD may issue up to two extensions for just cause.

- 12.4.2.1. The Permittee may request a refund of 75% of the Connection Fee for an expired Sewer Connection Permit which has not received any extensions while an expired authorization that has received one or more extensions may request a refund of 50% of the Connection Fee.
- 12.4.2 For subdivision projects, the permit holder (developer) of a proposed subdivided parcel must indicate the development planned for each lot. If all prerequisites required for allocation and connection approval herein are met, connection permits will be issued to the permit holder for the designated lot. The connection permit shall indicate the specific flow associated with the proposed use, and capacity equal to that flow shall be deducted from unused allocation retained by the subdivision. If the connection permit is allowed to expire and is not implemented, the connection permits will expire. The BOARD may grant an extension for the use of the connection permit if it finds that the developer of the subdivision has been making steady progress to complete the project, and that there is reason to believe that the project will be completed in a reasonable period of time. The BOARD shall not be obligated to approve an extension for use of the connection permit;
- 12.4.3. When the owner/developer of a subdivision sells individual lots within the time frame of the permit, both the allocation and the connection permit applicable to that lot shall transfer when the property transfers and the new owner shall be bound to comply with all permits issued and the plans and specifications for connection to the municipal Sewers. The transferred permit will be considered a new permit issued on the date of property transfer and it shall be subject to all applicable constraints set forth in this ordinance.
- 12.4.4 The capacity shall be considered as “used” when the water meter serving the building is installed. Until this meter is installed, the capacity is considered “unused” and is subject to holding fees and allocation fees in accordance with SECTION 13 below. After installation of the meter, sewer usage is subject to the Town's sewer use fees in accordance with the Sewer Use Ordinance.
 - 12.4.2.1. Once the meter is installed, the capacity “used” by the building shall be deducted from the subdivision's unused capacity and the “used” capacity shall be subject to the Town's sewer use fees in accordance with the Town's Sewer Use Ordinance.
 - 12.4.2.2. The subdivision's remaining “unused” allocation shall be subject to holding fees and allocation fees in accordance with SECTION 13 below.

13. Fees

After having been granted an allocation by the BOARD, the holder of the allocation shall be assessed Connection and holding fees as set forth in this section. The amount of the

fees shall be established by the BOARD, which is hereby authorized to establish or amend sewer allocation fees from time to time, by resolution.

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

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

13.1.2. Twice each year (September 30 and March 31) the Town shall levy a Reserve Capacity Holding Fee (Holding Fee) against any "unused" allocations held on that date, regardless of when the allocation was obtained. The first holding fee shall not be assessed earlier than six (6) months after issuance of the sewer allocation. The holding fee shall be ten (10) percent of the allocation fee on the "unused" allocation, and shall be due within thirty (30) days. If the holding fee is not paid when due, the "unused" allocation shall expire and revert to the Town's unallocated reserve capacity.

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

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

13.2.2. Twice each year (September 30 and March 31) the Town shall levy a Reserve Capacity Holding Fee (Holding Fee) against any "unused" allocation remaining on that date. The first holding fee shall not be assessed earlier than six (6) months after issuance of the sewer allocation. The holding fee shall be five (5) percent of the allocation fee on "unused" allocation, and shall be due within thirty (30) days. If the holding fee is not paid when due the "unused" allocation shall expire and revert back to the town's unallocated reserve capacity.

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

13.4 Connection Fees to Incrementally Expand the System Payment Plan

13.4.1 If the new sewer connection requires the extension of the master-planned sewer collection system, then each new user will contract for, obtain the necessary permits for, and construct the required extension.

- 13.4.2. If the cost of this extension is less than the connection fee, the new user will pay the difference between the construction costs and connection fee and the Town will place this in the utility operating fund.
- 13.4.3. If the construction cost is greater than the connection fee, the new user will pay the entire cost up front and will be reimbursed the difference by the utility operating fund.
- 13.4.4. If the utility operating fund has adequate funding, this reimbursement will occur upon completion of construction. If the utility operating fund does not have adequate funds, new users will be reimbursed when enough future connection fees from other new users are collected.

14. Monitoring Final Flows and Adjustments to Fees

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

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

15. Authority to Require Connection

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

16. Prior Allocations

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

17. Effect of Adoption of Ordinance

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

18. Severability

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

Appendix A - Sewer Service Area Map

Appendix B - Allocations

Burns Property Design Capacity		6,499
Current Allocated Design Flows		3,102
Unallocated Reserve Capacity		3,397
Specific Future Uses Identified to Date		
5.3.7	Reserve Capacity for Planned or expanded public facilities,	285
5.3.8	Reserve of capacity sufficient to account for seasonal variations in sewage flows and emergencies.	150
5.5	Reserve capacity in anticipation of the need to abate pollution by connecting uses currently served by on-site wastewater disposal systems to the Town's sewerage system	840
		1,275
Remaining Unallocated Reserve Capacity		2,122
Remaining Land Uses Subject to Specific Demand and Revision by Board from time to time		
5.3.1	New and expanded commercial uses in the Village Commercial zoning district;	1,000
5.3.2	Adaptive Re-use of existing buildings for commercial use in the Village Commercial zoning district;	500
5.3.3	New residential uses in the sewer service area	0
5.3.4	New senior housing uses in the sewer service area;	622
5.3.5	Residential additions and minor subdivisions of 3-lots or less within the sewer service area;	0
5.3.6	New affordable housing within the sewer service area;	0
5.3.9	Special Housing	0
		Total
		2,122

Appendix C - Fees

Sewer Feasibility Application \$500.

Sewer Allocation Application \$250.

Sewer Connection Application \$500.

Connection Fee (due at Zoning/Building Permit application).....\$60/gpd of Design Flow

Example

3-BR single Family Home not part of subdivision.

Allocation Fee = 420 gpd Design Flow x \$60/gpd = \$25,200

Holding Fee: 10% x \$25,200 = \$2,520 per billing period

The first holding fee shall not be assessed earlier than six (6) months after issuance of the sewer allocation. Holding Fee terminates upon installation of water meter.

Construction Phase Inspection.....Paid By Applicant/Permittee at Actual Cost