

TOWN OF CHARLOTTE

SEWER ALLOCATION ORDINANCE

Approved January 6, 2020



Abstract:

The Town of Charlotte has a certain amount of uncommitted reserve capacity at the municipal sewage disposal facilities located at multiple different locations and a sewage collection and transmission system 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, sewers and the sewage collection and transmission system shall be allocated over the remaining life of the disposal system by the BOARD in the manner described in this Ordinance consistent with the guidance set forth in the municipal plan.

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TOWN OF CHARLOTTE

SEWER ALLOCATION ORDINANCE

The Town of Charlotte Selectboard hereby ordains:

Introduction

The purpose of this Sewer Allocation Ordinance (the “Ordinance”) is to support the goals set forth in the Town Plan of enabling further infill of the West Village area by creating sewage disposal opportunities where none exists today by utilizing the unutilized sewage disposal capacity within existing Town of Charlotte sewer facilities. This Ordinance is separate and independent from the Town of Charlotte, Vermont, Sewage Ordinance, effective December 24, 2004, which regulates on-site sewage systems.

ARTICLE 1

Ownership, Capacity and Discharge Permit

The Town of Charlotte owns a certain amount of Uncommitted Reserve Capacity at the municipal sewage disposal facilities (fields) located at multiple different locations and a sewage collection and transmission system as defined in 24 V.S.A. §§3501(6) and 3601 (collectively, the “Disposal System”). The Burns Disposal System has a permitted capacity serving the municipal facilities in the West Village and is operated in accord with a Wastewater Disposal and Potable Water Supply 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 Disposal System 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 Lavallette property located off of Greenbush Road while it owns disposal easements, without permitted capacity, on lands near Barber Hill, also located 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 summer, 2019 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

The site of the existing Burns Property municipal wastewater disposal system has the capacity to be expanded in the future beyond its permitted 6,499 GPD capacity to up to 15,000 GPD through the State of Vermont’s Indirect Discharge Permit program.

There are other portions of the Burns property beyond the existing wastewater disposal site 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.

Satellite Systems

The permitted but not constructed Lavalatte wastewater disposal system located west of Greenbush Road north of West Village 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.

Due to their more remote locations and unconnected nature to the exiting sewage collection and conveyance system, the proposed use of these “satellite” wastewater disposal systems by private entities shall be prioritized over other applications when the proposed land use is one of the following uses.

1. Senior Housing
2. Home Conversions/Adaptive Re-use
3. Affordable Housing
4. Mixed Use as permitted by the Land Use Regulations.

ARTICLE 2

Introduction to Reserve Capacity Allocation

- 2.1. The capacity of the Disposal Systems is the property of the Town. The Uncommitted Reserve Capacity of the Disposal System shall be allocated over the remaining life of the Disposal 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 System must be controlled, that there is insufficient capacity to service the entire Town, and that it is necessary to maintain a balance of municipal, commercial and residential uses (and a mix of housing types), the BOARD may allocate pursuant to this Ordinance the uncommitted reserve capacity in the System by zoning districts and use classifications.

ARTICLE 3

Definitions

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

- 3.1 **“Affordable Housing”** – Housing that is either: (1) owned by its inhabitants, whose gross annual household income does not exceed the median income for the Burlington MSA, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household’s gross annual income; or (2) rented by its inhabitants whose gross annual household income does not exceed 80% of the median income for the Burlington MSA, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household’s gross annual income.
- 3.2 **“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 Development. An allocation may or may not include Allocation Phasing.
- 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”** means the Vermont Agency of Natural Resources.
- 3.5 **“BOARD”** - means the Selectboard of the Town of Charlotte acting as a board of sewage disposal commissioners under 24 V.S.A. § 3614.
- 3.6 **“Commercial Use”** – An occupation, employment or enterprise that is carried on either for profit by the owner, lessee or licensee, or by non-profit organizations as defined by State statute 11B V.S.A. §3.01.
- 3.7 **“Committed Reserve Capacity”** - Is the amount of total average wastewater flow (gallons per day) from all developments that have been approved by the BOARD and that have not expired for discharge to the Disposal System, even if not yet discharging at the time of the calculation.

- 3.8 **“Completed Construction”** - means:
- (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 for connection to the Town's System. This permit requires the payment of the connection fees at the time of application in an amount as established by the BOARD and updated from time to time.
- 3.10 **“Department”** - means the Vermont ANR Department of Environmental Conservation.
- 3.11 **“Design Flow”** - means the flows, set by Section 1-808 of the EPRs, 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, that may be able to use the System.
- 3.13 **“Development Wastewater Flow”** - means the flow resulting from full use of the proposed project at its peak capacity, which flow shall be calculated using flow quantities adopted by the BOARD, as promulgated at the time an allocation application is made.
- 3.14 **“Discharge Permit”** - means a permit issued by the Department pursuant to authority granted in the Water Pollution Control Act (10 V.S.A. Chapter 47) and in the Groundwater Protection Act (10 V.S.A., Chapter 48) and for small scale systems under 3 V.S.A. §§808 and 2822(i) and (j); 10 V.S.A. §1259; 10 V.S.A. Chapter 64; 10 V.S.A. Chapter 159; 24 V.S.A. §§1154 and 1161; and 26 V.S.A. §1163(a).
- 3.15 **“Disposal System” (or “System”)** - The land-based wastewater disposal system or disposal capacity rights (easement) owned by the Town of Charlotte, including all components of the existing wastewater collection, conveyance and disposal system. It does not include the sewer service line that from the individual properties to the gravity or force main collection system.
- 3.16 **“Elderly Housing”** - Dwellings in one or more buildings, each unit of which is specifically designed and intended for occupancy by at least one person who is 55 years of age or older. In accordance with the federal Fair Housing Act, elderly housing includes housing that: (1) is specifically designed for and occupied by elderly persons under a federal or state housing program; (2) is to be occupied by a person 62 years or older; or (3) at least 80% of the dwelling units are to be occupied by at least one (1) person who is 55 years or older, in adherence to adopted policies to house persons who are 55 years or older. Such housing may include, as accessories, congregate dining and recreational facilities, and assisted living services.
- 3.17 **“EPR”** shall mean Chapter 1, Wastewater System and Potable Water Supply Rules, effective April 12, 2019, or as amended thereafter adopted under 3 V.S.A. §§808 and 2822(i).

- 3.18 **“Feasibility Authorization”** – Is issued by the BOARD upon positive findings regarding: the standards that there are no, or limited, feasible alternative means of on-site wastewater disposal as outlined in Section 8 herein.
- 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 July 15, 2019.
- 3.22 **“On-site wastewater”** shall include the subject parcel and any easements that benefit that parcel. When adjacent properties are owned by the same entity, only the capabilities of the subject parcel, and not that of the adjacent parcel(s) are to be considered as part of the on-site wastewater analysis.
- 3.23 **“Owner”** shall mean the owner of record of the property associated with an application or at issue.
- 3.24 **“Permitted Wastewater Flow”** - Is the maximum Disposal System wastewater flow authorized in the Discharge Permit on an annual average (365-day average) basis.
- 3.25 **“Permittee”** - shall mean an individual or entity that has been granted or assigned a permit by the BOARD and whom is required to follow the administrative and operation standards set forth in the enabling permit.
- 3.26 **“Person”** - means any individual, firm, company, association, society, corporation, group, or other legal entity.
- 3.27 **“Preliminary Sewer Allocation Application”** - An application seeking the preliminary allocation of wastewater disposal capacity by the BOARD to a particular property. This application will include an application fee for the preliminary allocation of sewage treatment capacity, as established by the BOARD.
- 3.28 **“Preliminary Sewer Allocation Authorization”** – An authorization granted by the BOARD for the reservation of a certain portion of the unallocated capacity from the System for use by the Permittee in acquiring State permits for the subject property.
- 3.29 **“Reserve Capacity”** - means the permitted wastewater flow minus the actual system wastewater flow during the preceding twelve (12) months.
- 3.30 **“Reserved Capacity Allocation”** - means 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 **“Satellite Facility”** –means those remote wastewater disposal sites controlled or leased by the Town that are not associated with the existing Burns property wastewater disposal system or those portions of the property which will enable the Burns property System’s future expansion beyond its current 6,499 GPD disposal capacity.

- 3.32 **“Sewage”** - shall mean a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.
- 3.33 **“Sewage Disposal Board (or “BOARD”)** shall mean members of the Charlotte Selectboard acting as the board of sewage disposal commissioners.
- 3.34 **“Sewer Service Area”** - Is that area depicted in Appendix A generally comprising a portion of the Village Commercial District and West Charlotte Village District.
- 3.35 **“System 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, System 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.
- 3.36 **“Town”** - means the municipality of Charlotte, Chittenden County, State of Vermont acting by and through its Selectboard or, in appropriate cases, acting by and through its authorized representatives, agents, deputies or operators.
- 3.37 **“Town Staff”** – means the person or persons appointed by the BOARD to administer the processing of applications submitted under this Ordinance.
- 3.38 **“Town Plan”** – means the Charlotte Town Plan, which is the principal policy statement for the Town of Charlotte and which authority to prepare and implement the Plan is granted through 24 V.S.A. Chapter 117.
- 3.39 **“Unused allocation”** - means the amount of sewage treatment capacity which has been allocated to a property which has not yet been “used” by any particular development.
- 3.40 **“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 and operational.
- 3.41 **“Uncommitted Reserve Capacity”** - means 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.
- 3.42 **“Wastewater”** shall mean sewage and is synonymous with that term.

ARTICLE 4

Capacity Determination

- 4.1. Prior to each eight-year revision of the Town Plan the BOARD shall determine the Uncommitted Reserve Capacity that is available in the Disposal System. 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 System 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 properties, 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. The BOARD's determination of Uncommitted Reserve Capacity may be changed, as necessary, to account for public health emergencies, as provided by Article 6, below, or unanticipated changes in the System's Reserve 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.

ARTICLE 5

Capacity Allocation

5.1. Except for properties used exclusively for State or municipal purposes, no capacity shall be allocated outside the Sewer Service Area existing on the date of the adoption of this Ordinance, and any capacity within the Sewer Service Area may only be allocated with approval by the BOARD and as provided in Article 8, below.

5.2. **Allocation**

The BOARD's 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. Only those properties located within the Village Commercial District are eligible for allocation of capacity in the Disposal System.

Reserved Municipal Allocation: The Town shall reserve sufficient capacities for the continuation of public uses currently connected to the System before allocating any excess capacity to private Development. 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

Satellite Facilities – Allocation authorizations for the use of Satellite Facilities are to be addressed in accordance with the submittal and prioritization requirements set forth in this Ordinance. Satellite facilities may only be utilized for land uses located within the West Charlotte Village District.

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

- 5.3. Allocations in the Disposal System (as opposed to in the Satellite Facilities) are available for the following land uses.
- a. Municipal;
 - b. Commercial uses including existing commercial uses, adaptive re-use of existing structures for commercial uses and new commercial uses; and
 - c. Elderly housing and affordable housing.

In allocating Uncommitted Reserve Capacity in the Disposal System, as determined by Article 4, the BOARD in consultation with the Planning Commission, may assign specific quantities of capacity to the categories listed here. The correction of failed private systems is not eligible for allocation consideration.

- 5.4. The assignment of capacity to any of the categories listed in Section 5.3 for a given planning period, or for a given year within a planning period, may be zero.
- 5.5. The BOARD's assignment of capacities to the categories listed in Section 5.3 shall be consistent with the Town Plan.
- 5.6. The BOARD retains the right when making preliminary Allocations to adjust Allocations of capacity on a case-by-case basis when strict adherence to the foregoing Allocations is not in the municipality's best interest.

ARTICLE 6

Additional Capacity

Both the BOARD's determination of Uncommitted Reserve Capacity, as required by Article 4 above, and its allocation of capacity to the categories listed in Section 5.3, may be changed, as necessary, to account for the acquisition of additional capacity.

ARTICLE 7

Pollution Abatement

The correction of failed private wastewater disposal systems is to be the responsibility of the property owner within the standards set forth by the Department of Environmental Conservation, and a failed private system repair is not eligible for allocation of wastewater capacity through this ordinance.

ARTICLE 8

Capacity for Individual Developments

The grant of the Disposal System's Uncommitted Reserved Capacity to individual Developments shall be administered by the BOARD in a three step process.

1. Feasibility Analysis (This Section)
2. Preliminary Sewer Allocation (This Section)
3. Sewer Connection (Sewer Use Ordinance Section 12.3)

The capacity available in each of the categories listed in Section 5.3, above, shall be granted on a first come, first served basis, as provided below:

Step 1 – Feasibility –All Development seeking an allocation of Uncommitted Reserve Capacity in the System are required to demonstrate that there are no feasible on-site wastewater disposal solutions for the property where the Development is located or that the on-site wastewater disposal options have been maximized. All System allocations shall be made for a specific Development on a specific parcel of land.

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 and identifies on-site options and disposal capacity.

This report shall be reviewed by the BOARD and in consultation with the Town's wastewater consultant. In order for the applicant to be eligible to proceed to Step 2, the BOARD shall come to the conclusion that the design flows for the proposed Development

cannot be fully accommodated on the property where the Development is to be located in accordance with the EPRs.

Upon positive findings from the BOARD that the on-site wastewater disposal on the property has been maximized, the BOARD will issue a Feasibility Authorization for the Development. 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.

Upon receipt of a negative determination from the BOARD that the on-site wastewater disposal of the property has not been maximized, the applicant may request reconsideration from the BOARD. As part of the reconsideration process, the applicant shall first present to the Planning Commission: (1) the benefits of the proposed project as it relates to (a) the proposed project's furtherance of the goals and objectives of the Town Plan; and (b) as further defined in the Purpose statement of the underlying zoning district in which the property is located. The applicant shall submit a "Request for Advisory Statement Application," on a form to be developed by the BOARD, to the Planning Commission. The application shall include the requirement that the applicant submit materials outlining how the project addresses the standards set forth above in this paragraph. Based upon this information, the Planning Commission shall provide an advisory statement to the Board as it relates to the proposed project's furtherance of the standards set forth above in this paragraph. In addition to the requirements set forth above, the applicant shall also present to the BOARD what other extenuating circumstances exist that preclude the applicant from fully complying with the requirement that on-site wastewater disposal be maximized as set forth in the fourth paragraph of "Step 1 – Feasibility," above.

Step 2 – Preliminary Allocation

Once the BOARD makes positive findings and issues the Feasibility Authorization, the applicant may make application to the Town for a formal Preliminary Sewer Allocation Authorization of design flows for the proposed Development. The application materials shall follow the requirements outlined in Article 10.

Step 3 – Connection Permit - The formal connection (construction) authorization shall follow the requirements set forth in the Town of Charlotte Sewer Use Ordinance Article 4.

ARTICLE 9

Reversion

Capacity in the Disposal System is granted to a specific Development, based on a Preliminary Sewer Allocation Approval, on a specific property or parcel of land. After completion of the Development, or upon permit expiration, any unused capacity, being the differential between actual flows and Development Wastewater Flow that occurs following connection of the Development to the System, (adjusted to the actual Development constructed, if necessary), will revert to the Town.

ARTICLE 10

Application Requirements and Processing

10.1 Projects undergoing initial Feasibility Authorization phase review shall submit information as outlined below. Persons wishing to use the System Capacity shall apply to the BOARD on a Feasibility Analysis Request form prescribed by the BOARD.

The Feasibility Analysis application shall:

- A. Identify the property owner, lot number, street and mailing address, and contact information.
- B. Detailed description of the proposed Development.
- C. Basis of Design Flows and anticipated strengths of the wastewater.
 1. Unless waived by the BOARD, a professional engineer licensed in the State of Vermont shall prepare and certify the determination of the wastewater strength and design flow characteristics for any proposed Development.
- D. Documentation of the existing on-site soil conditions.
- E. Identification of whether the project is subject to “best fix” or full compliance of design standards.
- F. Sketch of most prudent on-site wastewater disposal option(s), if any.
- G. Certification from the consultant that the potential on-site wastewater disposal capacity has been maximized with the identified options.
- H Non-refundable Feasibility Application Fee.

10.2 Persons having received Feasibility authorization from the BOARD and are seeking permission to use the System Capacity shall apply to the BOARD on a Preliminary Sewer Allocation Application form prescribed by the BOARD which generally shall include:.

- A. The identity of the property owner, lot number, street and mailing address, and contact information.
- B. Detailed description of the proposed Development.
- C. Basis of Design Flows and anticipated strengths of the wastewater.
 2. Unless waived by the BOARD, a professional engineer licensed in the State of Vermont shall prepare and certify the determination of the wastewater strength and design flow characteristics for all proposed Development.

- D. Identification of any on-site wastewater disposal capacity to be used as part of the application.
 - E. Identification of the requested System Allocation in gallons per day.
 - F. Sketch of most prudent on-site wastewater disposal option(s), if any.
 - G. Non-refundable Preliminary Sewer Allocation Application Fee
- 10.3 The BOARD shall process the Feasibility Analysis Application and Preliminary Sewer Allocation applications 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.
- 10.3.1. Applications will be processed on a first come, first served basis, in the order they are received.
 - 10.3.2 The Town Staff shall review the application for completeness. If the application is found to be incomplete, the applicant shall be notified by the BOARD with an explanation of why the application was deemed incomplete and what additional information is required to make the application complete. The application fee will not be refunded for the withdrawal or denial of applications.
 - 10.3.3 The BOARD shall review the application at the public hearing, receive comment from the applicant and the public and then shall close the hearing. The BOARD shall render a decision within thirty (30) days of the close of the hearing. The applicant shall be notified in writing of the BOARD's decision, which shall be sent to the applicant by certified US mail.

ARTICLE 11

Preliminary Sewer Allocation Approval, Findings and Conditions

- 11.1. Findings: Upon receipt of the Preliminary Sewer Allocation Application and supporting materials, the BOARD may issue a Preliminary Sewer Allocation Authorization that authorizes an Allocation from the Uncommitted Reserve Capacity established pursuant to Article 5, above, upon making affirmative findings that:
- 11.1.1. The proposed wastewater is of residential or commercial origin and that there is sufficient Uncommitted Reserve Capacity to accommodate the volume and strength of the proposed flow; or
 - 11.1.2. 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 System and that the proposed wastewater will not alone, or in

combination with other wastes, cause a violation of the State permit or be injurious in any other manner to the System.

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

11.2. Approval and Conditions: The BOARD, after making the approval findings above, may grant approval of a Preliminary Sewer Allocation Authorization from the Uncommitted Reserve Capacity. The Preliminary Sewer Allocation Authorization must be made in accordance with the provisions set forth in Article 8, above, and shall expire as set forth below. The Preliminary Sewer Allocation Authorization shall be a binding commitment of capacity to the Development contingent on compliance with any conditions of approval until its expiration. The BOARD may revoke the Preliminary Sewer Allocation Authorization upon advanced notice and upon finding after a hearing that the applicant failed to meet any of conditions attached to the approval. The BOARD may attach additional conditions to the Preliminary Sewer Allocation Authorization if deemed necessary to ensure compliance with the intent of this ordinance. Preliminary Sewer Allocation Authorization conditions may include

11.2.1. Specifications that the Preliminary Sewer Allocation Authorization issued by the BOARD shall expire one (1) year from the date of issuance. Upon written request of the Permittee submitted to the Town prior to the expiration of the Preliminary Sewer Allocation Authorization, the allocation can be extended by the BOARD for a first extension for a period of up to twelve (12) months. The BOARD shall grant the extension if the Permittee is in compliance with the conditions of approval and demonstrates good faith, diligent efforts to obtain all permits required for the Development. A second extension of six (6) months may be issued by the Board if applied for prior to the expiration of the first extension if the Permittee is in compliance with the conditions of approval and the Development is still in active permitting phase. If the Connection Permit Fee has not been paid by the end of the BOARD's last issued extension period, the Preliminary Sewer Allocation Authorization shall fully expire. Any extension request shall be accompanied with a new application fee for the approval that is proposed to be extended;

11.2.2 Incorporation of specific conditions that must be fulfilled by the Permittee to maintain validity of the Preliminary Sewer Allocation Authorization;

11.2.3 Provision for revocation by the action of the BOARD on failure of the Permittee to fulfill requirements of the Preliminary Sewer Allocation Authorization;

11.2.4 Specification that the recipient of the Preliminary Sewer Allocation Authorization may not transfer, by any means, the Preliminary Sewer Allocation Authorization to serve any Development other than that which the approval is granted.

11.2.5 Provisions allowing the recipient of the Preliminary Sewer Allocation Authorization to request an amendment of the Allocation from the BOARD while the Preliminary Sewer Allocation Authorization remains valid subject to the limitation that the time limits for the original Preliminary Sewer Allocation Authorization set forth in Section 11.2.1, above, shall not be extended.

11.3. Connection Authorization: The BOARD by issuance of the Preliminary Sewer Allocation Authorization, allows the Permittee to apply for a Connection Permit, which once issued allows the applicant to construct the necessary facilities and connect to the Disposal System. This application process is described in and governed by the Town of Charlotte Sewer Use Ordinance.

ARTICLE 12

Feasibility and Allocation Fees

Establishment of Fee System - The Selectboard shall establish the user charge system in accordance with appropriate Federal and State rules and regulations, incorporating requirements of 40 CFR § 35.2140 and 24 V.S.A. Chapter 101. The rates shall be established to defray the costs of the Town's share of the initial construction of the System. Schedules reflecting the method of calculation of current rates and fees are available at the Town Offices.

ARTICLE 13

Prior Allocations

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

ARTICLE 14

Effect of Adoption of Ordinance

The adoption of this Ordinance shall not interfere with the authority and responsibility of the legislative body in matters relating to the management and operation of the Disposal System as provided in 24 V.S.A. Chapter 97 and 101.

ARTICLE 15

Severability

If any provision of this Ordinance and any amendments hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance and any amendments 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

