

Johnson Village Ordinances Wastewater Reserve-Capacity Allocation

1. Ownership & Permit

The Village of Johnson (VILLAGE) 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 the 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 the 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 VILLAGE. The uncommitted reserve capacity of the PLANT and SEWERS shall be allocated by the BOARD in the manner described below. The 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 VILLAGE, nor shall it be construed to impair or inhibit the ability of the VILLAGE to contract with persons for the collection, transmission and treatment of sewage.

The Village's PLANT has a permitted treatment capacity of 200,000 gallons per day. Every six (6) months, the Vermont Agency of Natural Resources, Permits, Compliance and Protection Division, updates the "Report of Uncommitted Reserve Capacity" for NPDES Number VT0100901, Village of Johnson, Vermont. The most current "Uncommitted Reserve Capacity" value in gallons per day from this Report is to be used in the administration of this Ordinance.

3. Definition

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

a) "BOARD" shall mean the Board --of Trustees of the Village of Johnson acting as a Board of Sewage Disposal Commissioners under 24 V.S.A., Section 3614.

b) "Committed Reserve Capacity" is the total amount of total development wastewater flow (Gallons per day) from all projects/building approved by the BOARD and the DEPARTMENT for discharge to the treatment PLANT, but not yet discharging at the time of the calculation.

c) "Completed Construction"

(1) For building development; completion of construction of all foundation, framing, siding, roofs and internal improvements.

(2) For subdivision development; the completion of all building on all lots.

d) "Connection Fee" shall mean a fee imposed on applicants for the municipality's cost of performing, supplying materials, supervising, inspection and administering a connection to the sewage system including any necessary sewer service extension, upgrading sewers or for any portion of these activities.

e) "DEPARTMENT" shall mean the Vermont Department of Environmental Conservation

f) "Development" shall mean construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial, industrial activity.

g) "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).

h) "Discharge Permit" shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., chapter 47.

i) "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. The fee shall be consistent with the intent of impact fees authorized under 24 V.S.A., chapter 131.

j) "Initiate Construction"

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

(2) for subdivision development; the sale of the individual lots.

k) "permitted Wastewater Flow" is the maximum facility wastewater flow authorized in the Discharge Permit on an annual average (365 day average) basis.

l) "Person" shall have the meaning prescribed in 1 V.S.A., Section 128.

m) "PLANT" - The municipal sewage -treatment plant owned by the Village of Johnson.

n) "Plant Wastewater Flow" is the wastewater passing through - the treatment facility in gallons per day-on an annual average basis (365 day average) except where flows vary significantly from season development. In the latter case, plant wastewater flow is determined as the average throughout the high seasonal use period, as determined by the BOARD.

o) "Reserve Capacity" is the permitted wastewater flow minus the actual plant wastewater flow during the preceding 12 months (annual average flow).

p) "Sanitary Wastewater" is wastewater of the same character and range of strength as expected from homes.

q) "SEWERS" - The sewage collection and transmission system owned by the Village of Johnson.

r) "Sewer Service Area" is that area of a municipality that its property line is within 100 feet horizontally from existing municipal collection lines and manholes.

s) "uncommitted Reserve Capacity" is that portion of the reserve capacity remaining after subtracting committed reserve capacity approved by the DEPARTMENT but not yet discharging to the SEWER.

t) "VILLAGE" shall mean the Village of Johnson, Vermont.

4. Reserve Capacity Allocation

a) Allocation Flow Basis

All allocation to projects shall be based on the development wastewater flow. Any differential between actual flows and development wastewater allocated flows 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 principals are applied to specific projects.

First Priority:

Residential, commercial, institutional and industrial facilities existing within the sewer service area existing 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.

Second Priority:

New connection or revised connections within the VILLAGE service area provided that the connection is in the best interest of the Village of Johnson.

No allocation of reserve capacity shall be made for facilities outside the VILLAGE limits. No property (land, buildings, structures.) located in the Town of Johnson will be allowed to hook on to or be served by the Village system.

c) Allocation Principles

Subsequent to application of the allocation priority, uncommitted reserve capacity (including reverted capacity) in the wastewater treatment plant may be allocated to specific projects according to the following procedure:

1) All proposals for connection to the wastewater treatment plant must first obtain conceptual plan approval from the BOARD. Thereafter, a sewer permit application of a farm furnished by the VILLAGE must be completed. All requested information must be completed before the application will be considered. Once sewer permit applications have been returned to the VILLAGE office and marked with the time and date by the person receiving the application, the following procedures and principals shall apply,

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

b) The total remaining uncommitted 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 reserve capacity exists, and no limitation of the type of connection receiving the allocation. The reserve capacity will be determined each six (6) months and committed reserve capacity will be continuously recorded for use in allocation decisions.

5. Cost Recovery for SEWERS Expansion

a) Extensions of the sewer service area to developments shall be funded in the following way: The Applicant shall pay the entire cost of the expansion and upgrading of the SEWERS 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 wastewater Treatment Plant and SEWERS shall apply to the Board on a sewer application/permit form prescribed by the BOARD (Attachment B). Such application shall:

a) Include calculations for the projects wastewater volume, including infiltration, flow rate, strength and any other characteristics determined appropriate by the BOARD;

b) Unless waived by the Board all calculations required in (a) above for developments generating over 1000 gpd shall be certified by a Vermont registered engineer.

c) 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 specifications may be waived by the BOARD until final connection approval.

d) Fees are described in Section 10.

The sewer use approval process consist of two (2) phases:

1) Preliminary approval process.

2) Final approval process.

The Preliminary approval makes a reserve capacity commitment for one (1) year and requires a Fee as shown in Section 10.

The Final approval is based upon approved plans and specifications, proof of all permits, and requires a Fee as shown in Section 10.

7. Preliminary Approval of Reserve Capacity

Upon receipt of the sewer application and supportive documents, the BOARD may make preliminary approval of reserve capacity and sewer use upon making affirmative findings that:

- a) The proposed wastewater is of domestic, sanitary origin and that there is sufficient uncommitted reserve capacity to accommodate the volume and strength of the proposed connection; or
- b) The proposed wastewater is not of domestic, sanitary origin and that sufficient evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation at 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 connection;
- c) The proposed use of wastewater capacity complies with the allocation priorities and principals and is not in conflict with any other enactment adopted by the BOARD or the Village of Johnson.

8. Conditions of Preliminary Approval

The BOARD, after making the approval findings above, may issue a preliminary approval for sewer use to the Applicant, 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 approval. The preliminary approval conditions may include:

- a) Preliminary approval shall not exceed one (1) year from the date of preliminary approval without subsequent approval by the BOARD. Provisions for time extensions may be granted if approved by the BOARD.
- b) Incorporation of specific conditions which must be fulfilled by the applicant to maintain validity of the preliminary approval.
- c) Provision for revocation by the action of the BOARD on failure of the applicant to fulfill requirements of the preliminary approval.
- d) Specification that the recipient of the preliminary approval may not transfer, by any means, the preliminary approval to any other person or use of the SEWERS. If there is a change of Owner, then Owner must reapply and the project will be considered as a new project.

PRIOR TO FINAL 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, reserve capacity allocation fees, impact fees, permit fees and other local fees or taxes all set by the BOARD, have been paid in full to the Village of Johnson. Reserve capacity allocation fees will be partially based on the volume and strength of the proposed wastewater flow.
- c) The plans and specifications for sewer use and, if necessary, extension of the municipal SEWERS are acceptable to the BOARD.

9. Conditions of Final Approval

The BOARD on making affirmative findings that all conditions of the preliminary approval in Section 8 have been fulfilled shall issue the final approval to the Applicant which approval may be condition as follows:

- a) Receipt of the first year payment on Committed Reserve Capacity fee.

b) The final approval shall specify the allowed volume, flow rate, strength frequency and any other characteristics of the proposed wastewater as determined appropriate by the BOARD.

c) The committed reserve capacity is not transferable from the Applicant to any other person or project. If there is a change in Owner, the new Owner must reapply.

d) The construction of the connection and, if necessary, the municipal SEWER extension, must be overseen to assure compliance with the plans and specifications and good construction practice in a manner acceptable to the BOARD.

e) Committed reserve capacity allocated in conjunction with the final approval shall revert to the Village of Johnson if the Applicant has failed to initiate construction within one (1) year of the final approval date.

f) The committed reserve capacity shall expire one (1) year from the date of final approval, providing construction has not been initiated within the first year approval period. Within the one (1) year period, a revised development plan and sewer use application may be approved by the BOARD in the same manner as the original. If the BOARD approves an amended application, it will issue a revised final approval with reduced or increased committed reserve capacity allocation determined in accord with the allocation priorities and principles. Where reduced committed reserve capacity is granted in a revised final approval, the uncommitted reserve capacity will revert to the VILLAGE. The BOARD shall not be obligated to approve an extension of the original one (1) year expiration period. After one (1) year, the unused portion of the committed reserve capacity allocation will revert to the Village and there will be no refund of connection, impact, permit or other fees.

In compliance with 24 V.S.A. Section 3625 in respects to the final approval expiration period above, the BOARD may authorize an extension of the approval period if this action is in the municipality's best interest.

Capacity allocated shall revert to the municipality if the capacity recipient has failed to initiate construction within one year of the issuance of the allocation or has failed to complete construction within three (3) years of the issuance of the allocation. At the end of the three (3) year period, the reserve capacity associated with any unconstructed portion of the project, as determined by the legislative body of the municipality, shall revert to the issuing municipality unless that municipality has specifically required that construction proceed over a period longer than three (3) years.

g) For subdivision projects, the Applicant must indicate the development placed for each lot. If all prerequisites defined for final connection approval herein are met, final approval will be issued to the Applicant for each lot with a specific committed reserve capacity allocation associated with the entire development.

The committed reserve capacity allotted to lots that do not have building construction completed at the time of approval expiration shall revert to the municipality without refund of any fees paid. Committed reserve capacity shall also revert to the municipality from any reductions made to the development wastewater flow planned for each lot subsequent to the approval date.

The subdivision Applicant shall file the final approvals in the land records of the VILLAGE along with copies of all fees paid and reference to the location of the approved plans and specifications. When the owner/developer of a subdivision sells individual lots within the time frame of the approval, the final approval shall transfer when the property transfers and the new owner becomes bound to comply with all permits issued and the plans and specifications for use of 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) hereof will apply to this permit. The final approval will expire as provided in 9(e) hereof.

h) In cases where a final approval expires and a new applicant applies for capacity on the same or a different project, the BOARD will not consider previous fees paid by the original applicant.

i) The designated VILLAGE official shall be notified one (1) week in advance of any proposed sewer connection authorized by a final connection approval. The connection to the VILLAGE sewer shall not be performed until approved by the official. Additional constraints may be found in the Sewer Use Ordinance.

j) No final connection shall be permitted until the Applicant or other record owner Coney's to the VILLAGE by easement deed in a form satisfactory to the BOARD: (This applies to sewers and other project components to be turned over to the ownership of the VILLAGE.)

- 1) A perpetual right and easement to lay, repair, maintain and operate sewer pipes and associated equipment over, under, and upon the specified lands and premises,
- 2) A perpetual right and easement, from time to time, to renew, replace, modify, and otherwise change said sewer lines, manholes, and associated equipment, and to pass over specified lands for all said purposes,
- 3) Title in fee to all sewer lines or pipes, manholes, and associated equipment, as may be depicted on the plat for the project/development.

In said easement deed, the VILLAGE will agree that upon completion of said sewer lines, manholes, and associated equipment, and after each subsequent entry, it will restore the surface of the lands and premises to the condition of such land and premises prior to entry.

10. FEES

- a) Sewer Application Fee; Preliminary Approval: (Paragraph 4 d) (1))

Residential Single Family \$500.00

Commercial User \$600.00

Multi-Unit, per unit \$750.00

Industrial User As review by the Board

- b) Committed reserve capacity; Final Approval

As part of the final approval by the Board, the Applicant is subject to a user fee in accordance with the established Sewer Use Ordinance. The committed reserve capacity approved allocation amounts will be assessed a 10%-fee to be paid on an annual basis (i.e. established user fee x committed reserve capacity amount x 10%) from the time the final approval is granted until such time as actual hook on to the municipal sewer system takes place. Fees for allocation on multi-lot development shall be adjusted as units are completed. As each lot is connected to the municipal sewer, the allocated gallonage shall be decreased by an amount equal to that assigned said lot and/or building.

11. Transfer of Allocation

a) Initially committed reserve capacity is allocated by the BOARD to a specific person, project and parcel of land. The Allocation is not committed solely to a parcel of land and therefore does not run with the land. After completion of the project, however, the allocation (adjusted to the actual development constructed, if necessary) will run with the land.

b) The transfer of the committed reserve capacity location is prohibited unless approved in writing by the BOARD at the original owners request.

12. Capacity Committed Prior to the Adoption of the "Ordinance for wastewater Reserve Capacity Allocation"

a) All capacity committed prior to July 1, 1989 is subject to the following condition:

1) Committed reserve capacity allocated in conjunction with the prior approval shall revert to the village of Johnson if the Applicant has failed to initiate construction within one (1) year of the adoption of this Ordinance.

b) All capacity committed after July 1, 1989 and prior to the adoption of this Ordinance shall be subject to the conditions set forth in 24VSA, SS 3625, Allocation of Sewage Capacity.

13. Authority to Require Connection

Nothing herein shall be construed as limiting or impairing the authority of the VILLAGE or its BOARD to require connection to the SEWERS under the general laws of the state ordinances.

14. Adoption of Ordinance

This ordinance shall become effective at midnight, December 11, 1993 To the extent that any provision herein shall be inconsistent with or contrary to any provision of VILLAGE ordinance (Sewer Use Ordinance.) adopted November 2, 1974, 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.
Adoption of this ordinance shall not modify any allocations of treatment capacity issued prior to the adoption of this ordinance. However, the procedures established by this ordinance shall govern.

Board of Trustees
Village of Johnson