

The Select Board of the Town of Westford, Vermont has considered a draft municipal wastewater ordinance for the governance of a community wastewater disposal system serving the Town Common, which would be considered for adoption, if and when a system is approved by Town voters and ultimately built.

Key provisions and policies contained in the draft wastewater ordinance are provided below. Text from the ordinance draft is shown in boxes, with explanation following. The full draft of the ordinance is available at Town Offices.

The Wastewater Service Area Is Limited

Section 7.2, page 11

2. **Service area established.** The boundaries of the Wastewater Service Area (Service Area) are depicted on the map entitled “Town of Westford Wastewater Service Area” attached hereto as Appendix A, and as maintained by the Town Clerk.

The Wastewater Service Area within which properties may voluntarily connect to the system is established in the ordinance. The draft refers to the maps in the [August 2023 30% Design Documents](#). The Wastewater Service Area may not be changed without a vote to amend the ordinance by the Select Board.

Connection to the System Is Voluntary

Section 7.3, page 11 and Section 7.4, page 12

3. **Existing private wastewater systems.** Within the Service Area boundaries, any on-site sewage system lawfully operating as of the Effective Date of this Ordinance, including any system serving multiple properties (Cluster System), may continue to be so operated. Any such On-Site Sewage Treatment and Disposal System or Cluster System may be expanded provided the expanded system will not create or increase the degree of encroachment into any well head protection zone on another property.

4. **Replacement of failed private wastewater systems.** Within the Service Area boundaries, a properly permitted replacement On-Site Sewage Treatment and Disposal System or Cluster System may be constructed provided:
- a. The existing On-Site Sewage Treatment and Disposal System or Cluster System has failed; and
 - b. The replacement system will not create or increase the degree of encroachment into any well head protection zone on another property.

No owner of a lawfully-operating on-site system would be required to connect to the community wastewater system. Existing on-site systems may be expanded so long as the expansion does not create or increase encroachment into a well head protection zone on another owner’s property. Property owners within the Wastewater Service Area whose on-site systems have failed may replace the system, provided the replacement system does not create or increase encroachment into a well head protection zone on another owner’s property.

No Cost to Connect During Construction

Section 7.6, page 12

6. **Application for connection to the System.** Any Owner of a parcel of land located wholly or partially within the Wastewater Service Area boundaries who wishes to connect to the Public Sewage System may apply, by way of an accurate, complete, and proper application, to be connected in accordance with the terms, regulations, and procedures set forth elsewhere in this Ordinance, subject to the following conditions:
- a. Any Owner who applies for and receives a Final Approval and Capacity Allocation for connection to the System prior to the date of initial construction and operation of the System shall not be required to pay a Sewer Connection Fee and shall not be responsible to schedule and pay for the physical construction of its Building Sewer, House Connection, or the municipal sewer extension, as otherwise required under Subsection (8), below.
 - b. Any Owner who applies for and receives approval for a Final Approval and Capacity Allocation for connection to the System after the date of initial construction and operation of the System shall pay all applicable fees and charges, and shall be responsible for scheduling of and payment for physical construction of the Building Sewer, as set forth in Subsection (8), below.

Property owners who connect to the system voluntarily during its initial construction are not required to pay sewer connection fees. The cost to construct the building sewer, house connection, and any septic tank abandonment costs for those choosing to connect during construction will be funded through project's construction contract. Once the project is constructed, property owners will be responsible for the cost to connect to the system and will be charged a Sewer Connection Fee.

Connection Potentially Required for Public Health Reasons

Sections 7.5 and 7.7, page 12

5. **Variations or new encroachments prohibited.** Within the Service Area boundaries, any new or expanded structure, the lawful occupancy of which would require sewage treatment capacity, must be connected to the Public Sewage System (System) if the installation or expansion of an On-Site Sewage Treatment and Disposal System or Cluster System:
- a. Would require a Variance from the Vermont Department of Environmental Conservation; or
 - b. Would result in encroachment into any well head protection zone on another property.

7. **Connection to System required in specific circumstances.** Notwithstanding the foregoing, the Board may require connection of any structure located wholly or partially within the Service Area boundaries to the System if, without limitation, the following conditions apply:
- a. Continued operation of an On-Site Sewage Treatment and Disposal System or Cluster System poses a threat to public health, safety, or welfare, including but not limited to the discharge of improperly treated Sewage to surface or ground waters; and
 - b. Construction of a replacement system would create or expand encroachment into a well head protection zone on another property; or
 - c. The Owner, upon notice from the Health Officer or the Department, is unwilling or unable to effect a properly functioning On-Site Sewage Treatment and Disposal System or Cluster System.

If a community wastewater system is constructed, on-site systems would not be permitted to be expanded if a variance from the State's on-site wastewater rules (i.e., deviation from required minimum design or setback standards) is required to expand the system (5a). On-site systems also could not be expanded in ways that encroach into the well head protection zone on another owner's property (5b). The Select Board would have the authority to require discontinuance of an on-site system if a public health hazard is created (7a), if replacement would expand into the well head protection zone on another owner's property (7b and 4b above), or if the property owner is not willing or able to construct a properly functioning system (7c).

Capacity (Flow) Allocation Basis Established

Section 7.9, Page 13

9. Design Flow Basis for Wastewater Capacity Allocation.

- a. **Flow determined by Vermont rules.** Unless and until metering or other means of flow estimation are implemented within the Wastewater System, daily flows into the Wastewater System from any connected or prospective use shall be established per the Design Flows specified in Subchapter 8, General Technical Standards for Wastewater Systems and Potable Water Supplies of the State of Vermont Agency of Natural Resources Department of Environmental Conservation Drinking Water and Groundwater Protection Division Environmental Protection Rules Chapter 1 Wastewater System and Potable Water Supply Rules Effective: April 12, 2019, or as most recently amended (the "Rules"). Where a Design Flow for a connected or prospective use is not specified in the aforesaid Rules, the Town shall use the maximum daily demand in gpd for the use as estimated by the Town's engineer or designer as the Design Flow.
- b. **Flows for residential users.** Notwithstanding the provisions of (9)(a) above, the following flows shall be utilized as the allocated capacity for dwelling units within the Service Area:

Number of Bedrooms	Allocated Capacity
Studio or one-bedroom units	105 gallons per day (1.5 persons x 70 gallons per day)
Two-bedroom units	175 gallons per day (2.5 persons x 70 gallons per day)
3 or more bedroom units	245 gallons per day

Wastewater charges and capacity allocations will be determined for each property using State of Vermont wastewater rules for non-residential properties (9a) and flat rates for studio/one-bedroom, two-bedroom, and three or more bedroom residential units (9b). Because a public water system is neither proposed now nor envisioned for the Westford Town Common, flow from individual units will not be metered at the property. Therefore, the flows set forth in the Vermont rules and in this section of the ordinance would define the capacity allocation for each connected property.

20% of the Permitted System Capacity Is Retained as Town Reserve Capacity

Section 9.2, Page 16

2. **Town Reserve Capacity.** Twenty percent (20%) of the Permitted Capacity of the System shall be maintained as Town Reserve Capacity and shall not be allocated pursuant to the procedures outlined in this Section without action of the Selectboard amending this Ordinance.

Unless the ordinance is amended by the Select Board, 20% of the system's permitted capacity would be maintained as Town Reserve and would not be available to support new development or expanded use. Presently the capacity is 24,300 gallons per day (gpd); 20% is 4,860 gpd.

Allocation of Remaining Capacity Is First Come, First Served

Sections 9.3 and 9.4, page 16

4. **Allocation of Uncommitted Reserve Capacity.** Uncommitted Reserve Capacity in the System shall be allocated according to the following procedure:
- a. Once sewer connection applications have been received at the Town office and marked with the date received by the person receiving the application, the Board shall review the applications on a first come, first served basis.
 - b. The total Uncommitted Reserve Capacity shall be reviewed by the Board annually at a regular meeting of the Board. Committed reserve capacity shall be regularly recorded and updated for use in allocation decisions.
 - c. The Board retains the right to review applications and make allocations of Uncommitted Reserve Capacity on a basis other than first come, first served upon written finding after a public hearing that such action is in the Town's best interest, which includes but is not limited to the consideration of factors, such as, the amount of capacity requested, the timing of construction, the amount of Uncommitted Reserve Capacity available, and the benefit of the Development to the Town.

Unless specifically approved by the Board after a public hearing, uncommitted reserve capacity (i.e., permitted capacity less the Town Reserve and allocated capacity) would be available to property owners within the Wastewater Service Area on a first come, first served basis, through application procedures described in Section 10.

Holding a Capacity Allocation for More than One Year Requires Payment of a Portion of the Wastewater Charge

Section 10.5.a.iii, page 17 and Section 10.7.b, page 19

- iii. Any extension of a Preliminary Approval and Capacity Allocation beyond one (1) year of the original date of the Board's approval shall require ongoing payment by the Applicant of the applicable Capital Construction Charge portion of the User Fees, as set forth in Section 12.3, 12.4, and 12.5, commencing one (1) month after the date of issuance of the extension, unless the Board waives or modifies the fees based on a determination of financial hardship pursuant to Section 10.9.

- b. Unless waived or modified pursuant to Section 10.9, a Final Approval and Capacity Allocation shall require on-going payment by the Applicant of the Capital Construction Charge portion of the User Fees, as set forth in Sections 12.3, 12.4, and 12.5, commencing one (1) month after the date of issuance of the Final Approval and Capacity Allocation.

Any person holding a wastewater capacity allocation for a period of more than one year, where the property has not yet been connected to the wastewater system, will pay the Capital Construction Charge portion of the applicable wastewater fees. A standard requirement in public wastewater systems, charging capacity holders a portion of the applicable wastewater fee ensures that capacity allocation holders are paying their proportional share of the cost of maintaining the system's permitted capacity.

Sewer Connection Fee Required for New Connections After System Construction

Section 12.2, page 22

- 2. Sewer Connection Fee.**
- a. For new connections to the System, the Board may set a Sewer Connection Fee in an amount determined by Resolution from time to time. Any such fee shall be included in the Schedule of Fees and shall be paid in full prior to any new connection to the System.
 - b. Properties connecting to the System at the time of the System's initial construction shall be exempt from payment of a Sewer Connection Fee or Capacity Allocation Fee.
 - c. Upon receipt of a written request, the Board shall have the authority to reduce or waive the Sewer Connection Fee for affordable housing as defined in 24 VSA §4303, and for any other use for which the Board determines that reduction or waiver of the Sewer Connection Fee is in the public interest, including consideration of such factors, such as, the amount of fee waiver or reduction requested, the timing of connection, and the benefit of connection to the Town.

Any property owner connecting to the system after its initial construction would pay a Sewer Connection Fee set by the Select Board. This is a standard charge in public wastewater service systems.

Wastewater System User Fees/Charges Based on Annual System Operating Costs

Section 12.3, page 22 and Section 13.3, page 24

- 3. Basis for User Charges.**
- a. The User Charge shall be based on an annual estimate by the Board of the projected annual cost of operations and maintenance, and repayment of any bonded indebtedness related to construction of the System, as further described under Section 12.5.
 - b. Adjustments for additions and/ or omissions, or other changes, shall be made by the Board to the User Charge System as necessary to ensure that charges remain equitable and sufficient to cover such costs, either during a year or from year to year.
 - c. The User Charge per gallon of Allocated Capacity shall be determined based on the cost per gallon of the total wastewater capacity of the System, as determined in Vermont Department of Environmental Conservation Indirect Discharge Permit No. [NUMBER], dated [DATE], as most recently issued.
 - d. All User Charges charged to a connected property shall be based on the property's capacity allocation of the user as set forth in Section 9.9 of this Ordinance.

- 3. Authority of the Board.** The Board shall have the authority to increase, decrease, stop and / or maintain regular deposits to the Dedicated Fund by an annual set-aside of up to fifteen percent (15%) of the normal operation and maintenance and sewer bond payment costs (i.e., total system costs).

Reflecting standard practice for public wastewater systems, the periodic charge to system users shall be based on the total annual system cost to (1) operate and maintain the system, (2) pay back any system-related debt, and (3) maintain a Dedicated Fund (reserve). The ordinance proposes to limit annual costs in the Dedicated Fund to 15% of the annual costs of operation and maintenance plus any system-related debt payments. The cost per gallon shall then be the total annual system cost divided by the total permitted capacity of the system.

Individual User Fees/Charges; Billing Frequency and Responsibility

Section 12.4, page 23 and Section 14.4, page 25

- 4. Determination of User Charges for Allocated Capacity**
- a. The User Charge System shall impose a charge per gallon of Allocated Capacity assigned to each System user per the user's individual Final Approval and Capacity Allocation, as determined in Section 10.7 of this Ordinance and maintained by the Town, or as set forth in a Preliminary Approval and Capacity Allocation.
 - b. The **total Allocated Capacity** of the System shall be the sum of all specifically Allocated Capacity, including allocations granted through:
 - i. Permits issued to connected users of the System; and
 - ii. Capacity reserved through issuance of a Preliminary Approval and Capacity Allocation for one (1) year or more; and
 - iii. Capacity reserved through issuance of a Final Approval and Capacity Allocation.

- 4. Payment of Charges; delinquency; billing**
- a. **Billing frequency.** User Charges shall be invoiced no less than quarterly by the Town. User Charges shall be payable on or before the thirtieth (30th) day following the date of the invoice, or a later date as shown on the invoice.
 - b. **Penalty for late payment.** In the event that such charge is not paid when due, a penalty of one percent (1%) per month for the first three (3) months and one and one half percent (1½%) per month thereafter shall be added to the total amount due.
 - c. **Delinquency.**
 - i. If any account remains delinquent after thirty days, the Board may take any action that is consistent with the provisions of 24 V.S.A. Chapter 129, Uniform Water and Sewer Disconnect, as presently constituted and as amended from time to time, to obtain payment of delinquent charges or to discontinue service.
 - ii. Such charges shall be a lien upon the real estate under 32 V.S.A. § 5061 and may be enforceable and collected in the same manner and to the same effect as taxes are a lien on real estate are collected as provided in 24 V.S.A. §§ 3612 and 5149.

- d. **User Charges for new connections.** New sewer connections made during a billing period shall be billed on the following basis:
 - i. Capital Construction Charges for the entire billing period in which the connection occurs, regardless of date of hookup within the period;
 - ii. Operations and Maintenance Charges pro-rated for the period from the date of hookup to the end of the billing period.
- e. **Owners responsibility for payment; assignment of billing.** All User Charges and other applicable fees will be billed to the owner of record of the building or buildings served by the System, unless the owner of record provides written documentation to the Town accepting responsibility for payment but identifying other person(s) for receipt of billings.

Also reflecting standard practice for public wastewater systems, user charges shall be based on the cost per gallon (outlined in Section 12.3) multiplied by the user's allocated capacity (outlined in Section 7.9). The Town's general fund (i.e., property taxes) would pay the share of the total annual system cost not paid by connected, non-municipal users. Fees would be billed not less than quarterly basis (Section 14.4.a) depending on future decisions of the Town's administrative staff and Select Board. While property owners may have bills sent to renters, property owners ultimately are responsible for payment of wastewater fees (Section 14.4.e). Standard Town of Westford charges for delinquent payments would apply to wastewater user charges. Since a public water system is neither proposed nor envisioned, and no "disconnection" from the system is possible, the authority reference under Section 14.4.c.i above would allow the Town to take steps to recover delinquent charges through standard legal channels up to and including placing a lien upon the property, as is done today for unpaid taxes.

Town Authority to Prevent and Remediate Damage

Section 19, page 30 and Section 20.3, page 31

SECTION 19. PROTECTION FROM DAMAGE

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the System. Any person violating this provision shall be subject to immediate arrest under the charge of unlawful mischief as set forth in Title 13, Section 3701 of the Vermont State Statutes Annotated. Any person violating this Article on conviction thereof shall be fined and/ or shall owe a penalty in an amount not less than One Hundred Dollars (\$100.00) per day for each violation with each day counting as a separate violation.

3. **Access to Easements.** The Health Officer and other duly authorized employees, agents or representatives of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the property involved.

Damage to the wastewater system, including discharges not in keeping with the requirements of Section 18, are violations of the ordinance and enforceable by the Town. As is standard for all public wastewater systems, easements will be obtained from all properties connecting to the wastewater system to allow the Town to enter onto private property for the sole and limited purpose of managing the wastewater system.

Schedule of User Rate Charges and Fees

Section 12, page 22 and Schedule, page 34

ARTICLE 4 - USER CHARGES and FUND MANAGEMENT

SECTION 12. USER CHARGES and FEES

1. **Authority to Establish User Charges and Fees**
 - a. The Board shall have the authority to establish reasonable charges (also known as rents, rates, or sewage disposal charges) through a User Charge System for the purpose of producing adequate revenues to cover the costs of construction, operation, and maintenance of the Sewers and the System.
 - b. The Board also shall have the authority to establish a schedule of fees, including but not limited to fees for applications for System Connection and Capacity Allocation; application for extension or revision; application for transfer of capacity allocation; and connection to the municipal wastewater system.
 - c. A Schedule of User Charges and Fees shall be adopted by Resolution of the Board. User Charges shall be adjusted annually as set forth in Section 12.2.a. Fees may be adjusted from time to time by Resolution of the Board.

SCHEDULE of USER RATE CHARGES and FEES

1. This schedule applies to all users of the Town of Westford Wastewater System.
2. **Charges for Sewer Service:**
 - a. **Usage Charge:**
 - i. Capital Construction Charge: \$XX.XX/period per gallon
 - ii. Operations and Maintenance Charge: \$XX.XX/period per gallon
 - iii. Total User Charge: \$XX.XX/period per gallon
 - b. High Strength Waste Surcharge: [per unit of BOD₅]
 - c. Charges are billed on a [not more than quarterly] basis and are due and payable within thirty (30) days after date of mailing of billing.
 - d. Delinquency Charges: Accounts not paid within thirty (30) days of billing will be subject to a \$X.00 late fee plus an interest charge of X percent (X%) per month on the unpaid balance over thirty (30) days due.
 - e. For complete information about the payment of bills, see Section 14 and 24 V.S.A. Chapter 129.

As outlined in Section 12, the Select Board would set wastewater-related fees by Resolution. As further outlined in Section 12.3, user charges must be related directly to the annual system costs.