

Village of Ludlow Wasteload Allocation Plan

Article 1 Authority and Purpose

A. This ordinance is enacted pursuant to the authority of 24 V.S.A. §3625 to authorize the Village of Ludlow to allocate the capacity of the municipal sewage treatment facility, to establish a Capacity Waiting List when capacity is unavailable, and to define the status of allocations of capacity which pre-date the adoption of this Ordinance.

B. The Village of Ludlow (“Village”) plans to make a significant public investment for improvements and increased permitted capacity to the Village’s sewage treatment and disposal facility (“Facility”) and sanitary sewage collection system (“Sewers”) in order to avoid the environmental damage and danger to the public health caused by limited or inadequate collection and treatment of wastewater. This sewer allocation ordinance is adopted to ensure that the allocation of sewer capacity occurs in a manner which is consistent with the Municipal Development Plan, subdivision regulations and zoning bylaws, to sustain the available capacity over a minimum of ten years and to protect the public investment in the Facility and Sewers. The Village recognizes that unplanned growth creates a burden to maintain the Sewers and Facility and creates an additional financial burden on the Village and the sewer system rate payers. This ordinance will help to direct growth to areas most appropriate for the efficient provision of the municipal sewer service.

Article 2 Discharge Permit and Reserve Capacity

A. The Village of Ludlow owns and operates the Facility as defined in 24 V.S.A. §3501(6) and 3601(3). The Facility is planning to undergo an improvement project based on the “Basis of Design Report for NPDES Permit Application,” prepared by Dufresne-Henry, dated December 2000. The Facility is operated in accordance with the discharge permit as issued by the Vermont Department of Environmental Conservation (“Department”) under authority granted in 10 V.S.A., Chapter 47. The Village of Ludlow Trustees serve as the Board of Sewage Commissioners (“Trustees”) and is obligated by law to comply with conditions of that permit, and to operate and manage the Sewers and Facility as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

B. The capacity of the Facility is the property of the Village. The uncommitted reserve capacity of the Facility shall be allocated over a minimum of ten years by the Trustees by the guidelines as specified below. This ordinance is adopted pursuant to the provisions of 24 V.S.A. §3625, in the manner provided in the Village of Ludlow Charter and shall not be construed as an abandonment or relinquishment of the authority or responsibility of the Trustees 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 and treatment of sewage.

Article 3 **Definitions**

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

- (a) “Actual Flows” - The volume of wastewater discharged into the Sewer by any single connection to the Sewer during any specified period of time, measured in gallons.
- (b) “Allocation” - The decision by the Trustees 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.
- (c) “Allocation Fee” - A fee for the allocation of sewage treatment capacity, specified as dollars per gpd, as established by the Trustees.
- (d) “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.
- (e) “Committed Reserve Capacity” - The total amount of total development wastewater flow (gallons per day) from all projects/buildings approved by the Trustees for discharge to the treatment Facility, but not yet discharging at the time of the calculation.
- (f) “Development” - The construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial and industrial activity.
- (g) “Development Wastewater Flow” - 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. Flow quantities shall be those established under the Vermont Department of Environmental Conservation’s Environmental Protection Rules. For uses which are not specified in the Environmental Protection Rules a flow quantity shall be established by the Department of Environmental Conservation.
- (h) “Discharge Permit” - Shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.

- (i) "Facility Wastewater Flow" - The wastewater passing through the treatment facility in gallons per day as determined on a twelve month rolling average.
- (j) "Mountain Recreation District" - The area of the municipality as defined in the Municipal Zoning Regulations. This District aims to provide for the orderly growth of the existing ski resort in the Town of Ludlow. Future uses of land within this District are envisioned to be those which are consistent with the direct operation of the ski area facilities, as well as those uses which complement ski area activities.
- (k) "Permitted Wastewater Flow" - The Facility wastewater flow authorized in the Discharge Permit on a monthly average basis.
- (l) "Priority District" - The area defined by the Village limits and located within the existing Sewer Service Area at the time of the adoption of this ordinance.
- (m) "Project" - The planned wastewater facility improvements project based on the "Basis of Design Report for NPDES Permit Application," prepared by Dufresne-Henry, dated December 2000. The improvements are required by the Discharge Permit and will subsequently increase the Permitted Wastewater Flow from 700,000 gpd to 1,050,000 gpd.
- (n) "Reserve Capacity" - The permitted wastewater flow minus the actual facility wastewater flow and Committed Reserve Capacity during the preceding 12 months.
- (o) "Sanitary Wastewater" - Wastewater of the same character and range of strength as expected from domestic sources.
- (p) "Sewer Service Area" - The area of the municipality that is adjacent to existing municipal collection lines and manholes. The Primary Sewer Service Area is that portion of the service area located within the Village limits, and the Secondary Sewer Service Area is that portion of the service area located outside of the Village limits.
- (q) "Trustees" - Shall mean the Board of Trustees of the Village of Ludlow acting as a Board of Sewage Commissioners under 24 V.S.A., §3614.

- (r) "Uncommitted Reserve Capacity" - That portion of the reserve capacity remaining after subtracting the development wastewater flow of all projects approved by the Trustees but not yet discharging to the Sewers.

Article 4 **Sewer Service Area**

No capacity shall be allocated outside the sewer service area, except as specified below:

A. A project which has received a conditional use approval from the Development Review Board and which complies with the Municipal Development Plan.

B. In the event that any existing wastewater treatment system fails, within or outside of the sewer service area, the Trustees may make an emergency allocation to alleviate the problem, provided that the following conditions are met:

- (1) The failure has created a public health hazard, as defined in 18 V.S.A. § 2, or has the potential for causing substantial environmental harm;
- (2) All other possible solutions have been explored and found inadequate; and
- (3) There will be no additional connections to any sewer line extensions other than those needed to solve the problem.

C. **Connected Structures Outside of Sewer Service Area:** Any structure located outside of the sewer service area, which is connected to the Sewers as of the effective date of this ordinance, may be granted additional allocation, under the same terms and conditions of this ordinance, provided that the additional allocation is used solely for the connected structure and that the Sewers are not extended beyond the connected structure. The additional allocation shall not exceed the existing allocation to the structure.

Article 5 **Reserve Capacity Allocation**

A. **Allocation Flow Basis:** All allocations to projects shall be based on the development wastewater flow. Any differential between actual flows and development wastewater flows that occurs is not available to the development owner for other uses. The difference between actual flows and the level of wastewater flow allocated to the development shall revert to the Village, after the connection is made and the development is fully completed for one-year, as unused capacity for future allocation.

B. The Village of Ludlow has a design treatment capacity of 1,050,000 gallons per day and currently operates the treatment plant at an average of 482,000 gallons per day from "current users". At the time of adoption of this ordinance committed reserve capacity equals 91,761 gallons and the uncommitted reserve capacity equals 126,239 gallons, these amounts are based on an existing permitted wastewater

capacity of 700,000 gallons per day and are subject to change. Upon completion of the proposed improvements Project, the permitted capacity will increase to 1,050,000 gallons per day, and the uncommitted reserve capacity will increase to 476,239 gallons per day.

C. Application shall be made for the number of gallons per day of estimated sewer usage determined by applying the standard factors specified by the Vermont Agency of Natural Resources as amended from time to time. Industrial projects and others not covered by those standard factors will be allocated a reasonable number of gallons, as determined by the Trustees, consistent with the Environmental Protection Rules established by the Department and consistent with similar size and type of industrial projects. The amount requested may be amended by the applicant prior to final action by the Trustees, or by the Trustees in connection with its final approval.

D. The Trustees shall establish a minimum reserve capacity for the primary sewer service area located within the Village of Ludlow. This minimum capacity shall be reviewed on an annual basis. The minimum reserve at the adoption of this ordinance is 50,000 gallons per day and shall increase to 100,000 gallons per day following the completion of the proposed facility improvements. There shall be no limit to annual allocations granted within the Village.

E. The Trustees shall further establish a minimum reserve capacity for qualified Affordable Housing Projects within the primary and secondary sewer service area. This minimum capacity shall be reviewed on an annual basis. The minimum reserve capacity for qualified Affordable Housing Projects at the adoption of this ordinance shall be 50,000 gallons per day. There shall be no limit to annual allocations granted to Affordable Housing Projects.

F. At the time of adoption of this plan there are approximately 30 single family residences currently served by on-site septic systems that are within the existing sewer service area. The Trustees shall maintain a minimum reserve capacity of 15,000 gallons per day for these residences. This reserve capacity will be reviewed on an annual basis.

G. The remaining 361,239 gallons per day of available capacity as a result of the improvements project shall be reserved for the secondary sewer service area and other areas located outside of the Village limits as follows:

(1) The Trustees shall establish a reserve capacity for the Mountain Recreation District located in the secondary sewer service area. Annual allocations to this District shall be subtracted from its reserve capacity. This reserve capacity shall be 200,000 gallons per day and be reviewed on an annual basis and adjusted as allocation is granted.

(2) The Trustees shall establish an uncommitted reserve capacity for all other areas located inside and outside of the sewer service area and located within or

without the Mountain Recreation District or the Village limits. This capacity shall be 161,239 gallons per day and be reviewed on an annual basis. Allocations to developments not described in Article 5, Sections D, E, F, and G.1 shall be subtracted from this uncommitted reserve.

H. The remaining 361,239 gallons per day in Article 5.G shall be allocated according to the following schedule:

(1) In no single year shall more than 35,000 gallons per day be allocated for new development unless the Trustees determine that the development is in the best interest of the municipality.

(2) Unused allocation in a one year period shall be rolled into the following year.

(3) Allocation shall not exceed the amortization schedule of 361,239 gallons per day over 10 years.

(4) No single development shall obtain greater than 75% of the available annual allocation at the time of the application.

I. Phasing: If the allocation required for a project will occur over an extended period of time, the Trustees may grant that the capacity will be made available over a multi-year period. Reserve capacity may be deducted from future years in order to allocate the total gallons needed for that application. In determining such an allocation schedule the Trustees shall consider any phasing imposed as a condition of Development Review Board approval.

Article 6 **Application Procedures**

A. Any allocations made by the Trustees pursuant to this Article shall be deducted from the Village's Uncommitted Reserve Capacity.

B. Allocation Principals: Subsequent to application of the allocation priority, uncommitted reserve capacity in the wastewater treatment facility may be allocated to specific projects. Once sewer permit applications have been returned to the Village office in accordance with the Sewer Works Ordinance and marked with the time and date received, the Trustees will review the applications. Allocation will be granted in accordance with the specifications of this ordinance. The total reserve capacity will be determined each 6 months and committed reserve will be continuously recorded for use in allocation decisions.

(1) No applications for individual project allocations shall be considered by the Trustees unless the project is located on a lot in a pre-existing or approved residential or commercial/industrial subdivision, as appropriate, in accordance with the Town and Village zoning by-laws.

(2) A project which has received approval by the Development Review Board may be granted allocation by the Trustees.

(3) Sewer allocation applications shall be completed and returned to the Office of the Town Manager. The application shall be accompanied by any application fee established by the Trustees.

(4) The application shall be accompanied by a calculation of the development wastewater flow to be generated by the project/development. Calculations shall include the volume, strength, flow rate, and any other characteristics determined appropriate by the Trustees. Unless waived by the Trustees all calculations required for developments generating over 1,000 gpd shall be certified by a Vermont registered engineer.

(5) The application shall be accompanied by conceptual 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 may be waived by the Trustees until final connection approval.

C. **Priority of Review:** If the application is filed with the Office of the Town Manager within thirty (30) days after the granting of conditional use, site plan approval, its priority vis-à-vis other applications shall be determined by the date of said approval; otherwise, its priority of review shall be determined by the date of the filing with the Town Manager.

Article 7 **Expiration of Allocations**

A. If unused, allocations shall expire one year after all permits are final unless the Trustees grant a one year extension. Subsequent one year extensions may be approved by the Trustees upon determination that the project is still active in any applicable permit process. A request for any one year extension must be made to the Trustees prior to the expiration of any site plan allocation approval or prior extension.

B. **Reversion of Allocation:** Reserve capacity is allocated by the Trustees to a specific project on a specific parcel of land. After completion of the project, or upon expiration of necessary permits issued under the Town's zoning or subdivision regulations, the unused allocation (adjusted to the actual development constructed, if necessary), will revert to the Village.

Article 8 **Assignability of Allocations**

A. Allocations of capacity and places on a waiting list under this Ordinance, without the prior approval of the Trustees, may not be:

(1) Sold or transferred for use on property other than that for which the allocation was originally granted; or

(2) Used for substantially different improvements of the same property, whether or not owned by the original applicant.

Article 9 Approval, Findings, Conditions and Connection Authorization

A. Findings: Upon receipt of the sewer allocation application and supporting documents, the Trustees may grant approval of an allocation upon making affirmative findings that:

(1) The proposed use of wastewater capacity complies with the standards set forth in this ordinance and is not in conflict with any other ordinances duly adopted by the Ludlow Village Trustees, and either Subsections 2 or 3 below.

(2) 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

(3) 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 Facility 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 Facility without treatment, interfere or otherwise disrupt the proper quality and disposal of Facility sludge or be injurious in any other manner to the Facility or Sewers and that there is sufficient uncommitted reserve capacity to accommodate the strength and volume of the proposed development;

B. Approval and Conditions: The Trustees, after making the approval findings above, may grant approval of an allocation. The approval shall be a binding commitment of capacity to the project contingent in compliance with any conditions attached to the approval. The Trustees may revoke the allocation approval upon finding that the applicant failed to meet any of the conditions attached to the approval. The Trustees may attach additional conditions deemed necessary to ensure compliance with the intent of this ordinance and for purposes of implementing the goals and policies of the Town's Municipal Development Plan.

Article 10 Capacity Waiting List

A. Capacity Allocation Waiting List: Once the annual capacity allocation has been fully distributed, any subsequent applications for allocation within that period shall be placed on a waiting list. Applications on the waiting list shall be acted on in the following order once a subsequent allocation period begins:

(1) Applications located within the primary sewer service area or which have been deemed by the Trustees to be eligible as part of a planned residential/planned unit development.

(2) Applications located within the secondary sewer service area.

(3) All other applications, in the order as specified in Article 6.C, above.

B. **Insufficient Facility Capacity Waiting List:** In the event that there is no capacity in the Facility, applications for capacity shall be placed on a waiting list, in the same order as specified in Article 6.C above. Within thirty (30) days after receipt of notice from the Vermont Agency of Natural Resources or its successor that capacity is available and that sewer connections may be resumed the Trustees shall re-establish a capacity allocation and shall consider applications in the order in which they are on the waiting list.

C. **Removal From the List:** Unless voluntarily withdrawn, an application will remain on the waiting list until notified that capacity is available, provided that final Development Review Board approval, as appropriate, has been obtained and remains in effect.

Article 11 **Cost Recovery For Sewer Expansion**

A. The cost of any extension of the Sewer to provide for new users shall be borne by the persons to be served by the expansion.

B. Any payments made as required by Article 6 shall not be construed as payments towards treatment capacity that may be provided for the development.

Article 12 **Fees** Fees shall be as set or amended by the Trustees as authorized by this Ordinance or other Village ordinances regulating the Facility and Sewers.

Article 13 **Authority to Require Connection** Noting herein shall be construed as limiting or impairing the authority of the Village or its Trustees to require connections to the Sewer under the general laws of the state or local ordinances.

Article 14 **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.

Article 15 **Effect of Adoption of Ordinance** To the extent that any provision herein shall be inconsistent with or contrary to any provision of other Village Sewer Ordinances, then the provisions of this ordinance shall apply. The adoption of this allocation ordinance shall not interfere with the authority and responsibility of the Trustees in matters relating to the management and operation of the Facility and Sewers as provided in Chapter 97 and 101 of 24 V.S.A. The Trustees reserve the power to modify this Ordinance as required by future needs and demands.

Article 16 Publication, Recording, and Effective Date

- A. This ordinance shall be entered in the minutes of the Trustees Meeting and posted in at least five (5) conspicuous places within the Village of Ludlow and published in a newspaper circulating in the Village on a day not more than fourteen (14) days following the date when the ordinance is so adopted.

- B. This ordinance will become effective on March 8, 2003, sixty (60) days after the date of adoption by the Trustees, unless a petition is filed with the Village Clerk by February 20, 2003, forty four (44) days after the date of its adoption. The petition should be addressed to the Trustees, should be signed by at least five (5%) percent of the qualified voters of this municipality, and should ask for a special meeting to be called to vote on the question of disapproving the ordinance. Questions about the ordinance may be directed to the Municipal Manager, Drawer B, Ludlow, Vermont 05149, or call 802-228-2841.

The foregoing regulations, as amended from the original ordinance adopted October 12, 1999 are hereby adopted by the Trustees of the Village of Ludlow this 7th day of January, 2003.

BOARD OF TRUSTEES
VILLAGE OF LUDLOW, VERMONT
JANAUARY 7, 2003

Robert Gilmore, Chair

George Dunnett, , Vice Chair

David Rose, Clerk