TOWN OF HIGHGATE
Planning Commission
September 16, 2025 @ 6pm
APPROVED MINUTES

NOTE: All actions taken are unanimous unless otherwise stated.

JOIN ZOOM MEETING: https://us02web.zoom.us/j/85959727357

I. CALL TO ORDER

Luc Dupuis called the meeting to order @ 6:01pm. This meeting was a hybrid of in-person and Zoom. Those participating were in-person, unless otherwise noted.
Planning Commission Board Members: Luc Dupuis - Chair; Scott Bessette - Vice Chair; Tom Conley; Jack Pelkey
Town of Highgate Staff: Wendi Dusablon – Town Clerk & Public Meetings Clerk; Fredi Hayes – Town Admin.
Public / Other: Robert Clark – Otter Creek Engineering; Greta Brunswick – NorthWest Regional Planning Commission

II. VILLAGE WASTEWATER PROJECT – ORDINANCE REVIEW CONTINUATION

A draft of this ordinance was emailed and mailed to everyone about a week ago. Jack had questions on page 6 #3 to remove the word "except". Greta asked Fredi to outline specific changes from the last draft and there was discussion on those changes. Fredi has previously worked on similar projects in Shelburne and shared this document for feedback. There are no major changes in articles 1, 2 ,3 but article 4 there have been changes / additions. Article 5 is all definitions. There was discussion and conversation around keeping sections vague when it comes to future administration of the ordinance. There should be nothing vague about the legal terms. The section about the board of commissioners has changes which were reviewed and the reasons for the changes at the three-year point. For the first three years the Selectboard will be the overseeing board. Jack asked about the frequency of meetings for the wastewater board. Robert suggests monthly meetings. These could be connected to already scheduled meetings for the Selectboard / Planning Commission / however it is decided. Fredi noted that our current Zoning Administrator will be processing any permits. Scott had concerns about the definition for "development" with regard to farming. Greta had questions also on this and its context in the ordinance, referring to page 12. Acceptable uses were discussed and where they are found in the document. It was noted that wastewater permits all go to the state for approval. Scott provided some examples of this in the agricultural world and how that works. State law will always trump our town ordinance. No one will be forced to hook on to the system. Page 6 standards were reviewed and questions answered. Section 2.6 does specify that under certain circumstances connecting "may" be required not "shall" be required. That section was further discussed. On page 8 flows were discussed for residential users. Robert shared more info on ERUs and how they are calculated and why. Wording in the ordinance regarding ERUs was also brought up. Fredi is not worried about meeting the minimum requirement for hook ups and she explained why. We don't have fee amounts to share yet there are still other moving parts and workloads to figure out. Our

current ZA will be facilitating the permitting portion, and we don't know what percentage of her job will be affected and if a full-time employee will be needed. Fredi made notes on the section of the ordinance about allocating minimums and how this should be reflected in the document. Robert noted there is no mention of construction standards and he elaborated on what this means. There will be additions of several appendixes at the end of the document. Any changes to the wastewater ordinance would require a duly warned hearing just like with our zoning bylaws. The PC is booked with other topics through the end of 2025. This topic will be back on a future agenda.

III. APPROVAL OF MINUTES

Motion by Jack Pelkey to approve the minutes from *August 19, 2025,* as written. The motion was seconded by Scott Bessette – **APPROVED.**

IV. OTHER BUSINESS & UPDATES

The October and November PC meetings will concentrate on putting together the Capital Improvement Plan (CIP) with department heads. October 21st will be HVFD and Recreation and November 18th will be HLCC and Public Works. Wendi will notify departments of the dates / times to be at the PC meetings.

V. EXECUTIVE SESSION

Motion by Scott Bessette to enter into executive session @ 7:05pm with Fredi Hayes to discuss contracts and legal. The motion was seconded by Jack Pelkey – **APPROVED.** Motion by Scott Bessette to exit executive session @ 7:33pm. The motion was seconded by Jack Pelkey – **APPROVED.**

VI. ADJOURNMENT

Motion by Luc Dupuis to adjourn the meeting @ 7:33pm. The motion was seconded by Tom Conley – **APPROVED.**

Minutes respectfully submitted by:

W Dusablon — 10/21/25

Wendi Dusablon, Town Clerk & Public Meetings Clerk — Date

Minutes approved by:

Luc Dupuis — 10/21/2025

Luc Dupuis, Planning Commission Chair — Date

TOWN OF HIGHGATE, VERMONT

WASTEWATER ORDINANCE

Draft 9.8.25

Regulating the Use of Highgate's Community Wastewater System

Contents

ARTICLE 1 GENERAL PROVISIONS

Section 1.1 Authority and Purpose

1. The protection of the health, safety and welfare of the Town, its residents, and the general public require the establishment of standards governing the installation and operation of the Community Wastewater System (hereinafter "System") through this Wastewater Ordinance (hereinafter the "Ordinance").

2. This ordinance establishes the policies, rules, and regulations necessary to govern and operate the community wastewater system in the Town of Highgate, Vermont, as provided for in 24 V.S.A, Chapters 59, 95, 97 and 101, and the Town of Highgate Charter. As required by 24 VSA Chapter 59, this Ordinance is hereby designated a civil ordinance.

3. This ordinance supersedes all previous rules, regulations and ordinances and applies to all users regardless of the municipality in which they are located. In the event of conflict between the terms of this Ordinance and any other applicable regulation, bylaw, ordinance, or statute, the more restrictive terms shall apply. All existing agreements between individual property owners and the Town of Highgate, Vermont shall remain in effect provided such agreement is recorded in the Town Clerk's Office. A copy of this ordinance is available at the Town Clerk's Office.

4. This Ordinance shall comply with Title VI of the Civil Rights Act of 1964 which prohibits discrimination in a Federally Assisted Program on the basis of race, color, or national origin.

Section 1.2 General Provisions

1. This is an Ordinance regulating the following in the Town of Highgate, Vermont:
    - the use of the public wastewater collection and treatment system;
    - private sewage disposal, as relates to the use of the public wastewater collection and treatment system;
    - the allocation of wastewater treatment capacity;
    - the installation and connection of building wastewaters;
    - the discharge of waters and wastes into the public wastewater collection and treatment system; and
    - providing for enforcement actions and penalties for violations.

2. This 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, 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's System to contract with persons for the collection, transmission and treatment of sewage.

3. The provisions of this Ordinance may be reviewed at intervals not exceeding five (5) years by the Selectboard to assess the continued applicability of these provisions and to consider recommendations for their improvement.

ARTICLE 2 USE OF THE WASTEWATER SYSTEM

Section 2.1 Unlawful Acts: Compliance with Regulations Required

1. **Unlawful discharges prohibited.**

    a. It is unlawful for any Person to place, deposit or permit to be placed or deposited, upon public or private property within the Town, or in any area under the jurisdiction of the Town, any human excrement, garbage, sewage, or other objectionable waste.

    b. It is unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of the Town, any sewage or other polluted waters, except where suitable treatment has been provided and permits have been obtained in accordance with subsequent provisions of this chapter and the laws of the State of Vermont.

2. **Private wastewater systems; compliance with applicable regulations required.** The type, capacities, location, and layout of any Private Wastewater System shall comply with all mandates of the State of Vermont, including, but not limited to those regarding wastewater treatment and disposal by individual on-site systems, and all other applicable federal, state and local regulations. No septic tank, cesspool, mound system or sewage leach field shall be permitted to discharge to any Natural Outlet. The owner shall operate and maintain the Private Wastewater System in a safe and sanitary manner at all times, at no expense to the Town.

Section 2.2 Connections to Municipal Wastewater System

1. **Board established.** The Town of Highgate owns and operates a municipal wastewater treatment system (the "Public Sewage System" or "System"), being also a sewage treatment or disposal plant, and a sewage collection and transmission system ("Sewers"), all as defined in 24 V.S.A. Sections 3501(6) and 3601. The System has a Permitted Capacity and is operated in accordance with permits issued by the Vermont Department of Environmental Conservation (Department). The Selectboard, in its capacity as the body which shall organize and appoint the Board of Wastewater Commissioners (Board), is obligated by law to comply with conditions of those permits.

    a. For the first 3 years after substantial completion of the System, the Board shall consist of the Selectboard members. After those 3 years, the Selectboard may decide to appoint a Board of Wastewater Commissioners that includes no less than one (1) Selectboard member and one (1) user of the System in the 5 total seats of the Board.

2. **Service area established.** The boundaries of the Wastewater Service Area (Service Area) are depicted on the map entitled "Town of Highgate Wastewater Service Area" as maintained separately by the Town Clerk.

3. **Pre-existing Private on-site sewage systems.** Within the Service Area boundaries, existing on-site sewage systems may continue to be operated, expanded, or replaced, except when the following conditions apply:

    a. The principal structure and the existing or proposed on-site sewage system are located entirely and wholly outside the mapped five hundred year (500 year) floodplain and State of Vermont mapped river corridor; and

    b. The system has not at any time constituted a "failed" system as defined herein; and

    c. Any such demonstration required pursuant to this ordinance shall be prepared at the applicant's expense and submitted to the Board for review and approval.

4. **New Private On-site Sewage Systems.** 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 Wastewater and Potable Water Supply Rules; or

    b. Would result in encroachment into any well head protection zone on another property.

5. **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, STEP Tank, House Connection, and the municipal sewer extension, as set forth in Subsection (8), below.

6. **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 and within 500-feet of existing, municipal wastewater infrastructure 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 not meet the requirements of Section 2.2(3)(a) or (b) above for continued operation of an on-site sewage system; 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.

7. **Procedures for required connections.** Where the Board requires connection to the System pursuant to this Section, the Owner(s) shall at the Owner's expense install suitable connection of all sanitary sewage facilities to the Sewer in such a manner as the Town may require, by the date or time set forth in a notice given by the Town to the Owner, subject to such limitations and restrictions as shall be established herein or otherwise shall be established by the Town from time to time. The date or time set forth in the aforesaid notice by the Town to the Owner by which to make such connection shall be at least forty-five (45) days after the giving of such notice to such Owner. Each such Owner shall, within the same time limit, cease and desist from all further discharge of Sewage into any other conduit or pre-existing system, whether privately or publicly owned, except where and to the extent continued use of such pre-existing systems are approved by the Town of Highgate and the Vermont Department of Environmental Conservation.

8. **Procedure for abandonment of existing "Private Sewage Systems".** The abandonment of private sewage facilities shall be carried out in accordance with the requirements set forth in Chapter 1 of the Vermont Environmental Protection Rules, Wastewater System and Potable Water Supply Rules, effective April 12, 2019, or as most recently amended. All work associated with the abandonment process shall comply with the standards and procedures contained therein, and shall be performed in a manner that ensures the protection of public health, safety, and the environment.

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 Section 2.2(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 Section 2.2(8)(a) above, the following flows shall be utilized as the allocated capacity for dwelling units occupied by a single household unit within the Service Area:

Number of Bedrooms	**Allocated Capacity**
Studio or one-bedroom units	140 gpd (2 persons X 70 gpd)?
Two-bedroom units	(4 persons x 70 gpd) (but >245 gpd)
3 or more bedroom units	245 gallons per day

i. Subdivision of a residential structure into separate dwelling units shall require assignment of a separate Allocated Capacity based on the number of bedrooms in the duly issued Zoning Permit, as set forth in table 8(b)(i) above.

ii. An accessory dwelling unit shall be assigned an Allocated Capacity based on the number of bedrooms in the duly issued Zoning Permit, as set forth in table 8(b)(i) above.

iii. Allocated capacity for any structure utilized in whole or part for occupancy by more than one household unit, including but not limited to use as a short-term rental, rooming house, or other group quarters, shall be calculated using the provisions of the Vermont Rules as set forth under Section 8(a) above.

Section 2.3 Building Sewers and Connections

1. **Unauthorized connection prohibited.** No unauthorized person shall uncover, make any connection(s) with or make any opening into, use, alter, or disturb in any manner any Public Sewage System or appurtenance thereof without first obtaining a permit, in writing, from the Zoning Administrator, and paying to the Town any fee required and imposed by the Town against the Owner.

2. **Costs of connection; fees to be paid prior to connection.**

    a. All costs and expenses incident to the installation, collection, maintenance, and repair of the Building Sewer shall be borne by the Owner of the property served or to be served.

    b. The Owner shall indemnify and save harmless the Town, including but not limited to its board members, elected and appointed officials, administrators, managers, employees, volunteers and agents, from any and all loss or damage that may directly or indirectly be occasioned by any installation, connection, maintenance, repair of the Building Sewer or its connection to the Sewage Works (whether any work done was done by the Town or in accordance with its requirements).

    c. However, as a part of the initial construction of its Sewage Works for the Service Area, the Town may, at its expense, initially construct a portion or the whole of any Building Sewer to the extent and manner determined by the Board.

    d. The Board may, at its sole discretion, contract engineering services for consultation and inspection services during construction, at the expense of the Owner.

    e. All applicable fees shall be paid in full to the Town prior to connection.

3. **Separate Building Sewers required.**

    a. A separate and independent Building Sewer shall be provided for each building. Grouping of more than one (1) building on one (1) Building Sewer shall not be permitted; except where one building stands behind another and no Private Wastewater System is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the Building Sewer from the front building may be extended to the rear building.

    b. This requirement may be waived by the Board where the Board finds that strict application of this policy is infeasible or if shared connections are in the best interest of the Town or upon the discretion of the Board.

4. **Use of pre-existing Building Sewers.** Pre-existing Building Sewers may not be used in connection with new buildings.

5. **Technical standards.** The size, slope, alignment, materials of construction of a Building Sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town and State of Vermont. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the *ASTM* and *WPCF Manual of Practice No. 9* shall apply.

6. **Elevation**. Whenever possible, the Building Sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any Building Drain is too low to permit gravity flow to the System, Sewage carried by such Building Drain shall be lifted by an approved means and discharged to the Building Sewer.

7. **Clear water connections prohibited.** No person(s) shall make connections of roof downspouts, foundation drains, areaway drains, basement sumps, or other sources of surface runoff or ground water to a building sewer or building drain which, in turn, is connected directly or indirectly to the System.

8. **Plumbing code applies.** The connection of the Building Sewer into the System shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town and State of Vermont, or the procedures set forth in appropriate specifications of the *ASTM* and *WPCF Manual of Practice No. 9.* All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.

9. **Notification to Town; inspection.** Prior to any connection of a Building Sewer to the System, the Town shall be given ten (10) working days' notice in order that such work may be supervised or inspected by the Town's designee. All connections will be made during normal workday hours, and no connections may be allowed Saturday, Sunday, or holidays observed by the Town. If the Town has not been properly notified, the Town may at its discretion require the completed work to be uncovered for examination, inspection and/or testing and sampling, at the Owner's expense.

10. **Sewer clean-outs.** Clean outs shall be installed where the distance from the building to the Public Sewage System is greater than one hundred (100) feet or where bends greater than forty-five (45) degrees are used in the Building Sewer. Clean outs may be made by installing a "Y" and one-eighth (1/8) bends of the same diameter as the Building Sewer. The clean outs shall ordinarily be installed at the point of connection between the Building Sewer and the Building Drain, at curves on the Building Sewer and on the straight part of the Building Sewer. The clean out shall be brought up from the Building Sewer to four (4) inches (10.2 cm) This seems to be the only metric conversion. Needed? below ground level

to be properly capped. Locations of all clean outs shall be recorded on a plan and filed with the Town.

11. **Plumbing connections.** Before any portion of the existing plumbing system outside of the building is connected to the Building Sewer, the Owner shall demonstrate, to the satisfaction of the Town, that it is clean and conforms in every respect to this Ordinance and that all joints are watertight. The time frame for notification prior to inspection shall be as set forth in Subsection (9) above.

12. **Licensed plumbers required.** Where pipe is installed for Building Sewers, such work shall be performed by a plumber licensed by the State of Vermont.

13. **Pipe testing required.** All installed piping shall be subject to testing by the Town to ensure compliance with applicable standards. The plumber or contractor shall, at their own expense, provide all necessary tools, labor, materials, and assistance required to conduct such tests. Any defective materials or workmanship identified shall be repaired or replaced as directed by the Town. Upon completion, the plumber shall provide test records accompanied by a certification stating that the installation was completed in accordance with the current plumbing code and that the infrastructure has successfully passed all required air testing to verify the integrity of the piping and joints.

14. **Excavation protection and safe egress required.** All excavations for Building Sewer installation shall be adequately guarded with physical barricades and sufficient lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to their prior condition in a manner satisfactory to the Town at the Owner's sole cost and expense.

15. **Movement of traffic during construction.** Neither the Owner nor their contractor shall block any driveway, street, road, or means of egress to a public facility at any time without permission of the Town and other controlling agencies. Every effort shall be made to permit the movement of vehicular traffic at all times. Whenever it becomes necessary to cross or interfere with roads, walks, or drives, whether public or private, the Owner and contractor shall maintain, at their own expense, and subject to the approval of the Town, safe bridges or other means of egress.

ARTICLE 3 CAPACITY ALLOCATIONS

Section 3.1. Allocation Of Capacity; Town Reserve

1. **Town ownership of Town Reserve and Uncommitted Reserve Capacity.** The Town Reserve Capacity and Uncommitted Reserve Capacity of the System and Sewers is the property of the Town of Highgate and shall be allocated by the Board in the manner set forth herein.

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.

3. **Uncommitted Reserve Capacity.** Uncommitted Reserve Capacity shall be allocated on a first come, first served basis pursuant to the procedures outlined in this Ordinance.

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.

Section 3.2 Capacity Allocation Procedures

1. **Application form.** Owners of real property within the Service Area (also referred to herein as "Applicants") wishing to use the System shall apply to the Board on a form prescribed by the Town.

2. **Application for Preliminary Approval and Capacity Allocation.** An Applicant may apply for Preliminary Approval and Capacity Allocation through submittal of all of the following information on a form prescribed by the Town:

    a. A description of the development to be served, including any current wastewater permit(s) for the property issued by the Department, and any current allocated capacity within the System.

    b. Calculation of the wastewater flow to be generated by the building, project or development, pursuant to Section 2.2(8) of this Ordinance.

    c. Calculation of the volume, flow rate, strength, infiltration/inflow and any other characteristics that demonstrate compliance with this Ordinance.

    d. Unless waived by the Board, certification of the above information by a Vermont-registered (replace with "licensed"? consistent with Section 2.3-4) Professional Engineer.

    e. Plans and specifications for the construction of building sewers (i.e., from the buildings to house connections/main sewers) and any municipal sewer extensions, including pump stations, required to service the Development/proposed connection. Such plans and specifications shall be prepared by a Vermont registered Professional Engineer. The Board may, at its discretion, waive the requirement for submission of plans and specifications until such time as Final Approval for sewer connection is granted.

    f. Payment of the sewer connection and capacity allocation fee(s) as set forth in the Schedule of Rates and Fees.

3. **Duration of approval.** A Preliminary Approval and Capacity Allocation shall, upon approval and payment of the associated fee(s), constitute a binding commitment of reserve capacity for a period of one (1) year from the date of approval by the Board.

4. **Findings required.** Upon receipt of an acceptable, complete application and supporting documents, including payment of all required fees, the Board may issue a Preliminary Approval and Capacity Allocation 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 Owner to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the System and Sewers; and that the proposed wastewater shall not alone or in combination

with other wastes cause a violation of the Department's permit, pass through the System without treatment, interfere or otherwise disrupt the proper quality and disposal of System sludge, or be injurious in any other manner to the System or Sewers; and that there is sufficient Un-committed Reserve Capacity to accommodate the strength and volume of the proposed connection; and

c. The proposed use of municipal wastewater capacity complies with the allocation procedures set forth in this Ordinance and is not in conflict with any other provisions adopted by the Board.

5. **Issuance of approval.** The Board, after making the approval findings above, shall issue a Preliminary Approval and Capacity Allocation, which approval shall be a binding commitment of capacity to the Applicant contingent upon compliance with any conditions attached thereto, and subsequent issuance of a Final Approval and Capacity Allocation. The Preliminary Approval and Capacity Allocation conditions may include:

   a. Specification that the Preliminary Approval and Capacity Allocation shall remain valid for one (1) year from the date of the Board's approval.

      i. The Board may issue a time extension upon written request of the Applicant for a period of up to one (1) additional year, provided such request is received by the Town no less than thirty (30) days in advance of the expiration of the Preliminary Approval. The Board may at its discretion refuse issuance of the extension if the applicant has not demonstrated progress towards the utilization of the capacity allocation reserved. Any such extension approved shall require payment of an additional fee as set forth in the Schedule of Fees.

      ii. The maximum length of time per extension shall be one (1) year, with a maximum cumulative period of Preliminary Approval of three (3) years during which the Preliminary Approval and Capacity Allocation shall be valid before re-application is required.

      iii. Any extension of a Preliminary Approval and Capacity Allocation beyond two (2) years of the original date of the Board's original approval of the Preliminary Approval and Capacity Allocation shall require ongoing payment by the Applicant of the applicable Sewer Use Fees, as set forth in Section 12, 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. 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 upon 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 persons, and may not connect to the Sewer until Final Approval is granted.

e. Specification that in the event of a material change in the original application, the Applicant must re-apply for Preliminary Approval, and the revised project shall be considered a new project.

f. Notwithstanding the foregoing in this Subsection (5), the issuance of a Preliminary Approval shall not constitute a binding commitment of capacity to the Applicant and may be revoked by the Town before a Final Approval and Capacity Allocation is a. granted if Uncommitted Reserve Capacity ceases to be available for any reason. A Preliminary Approval may be used by an Applicant as evidence that there is sufficient System capacity for a proposed Development.

6. **Application for Final Approval and Capacity Allocation.** Prior to final approval of Allocated Capacity, the Applicant shall provide the Board with written demonstration of the following:

   a. Applicable local, State and Federal permits have been secured for the project.

   b. Capacity Allocation Fees, and all other fees or charges applicable to the application, have been paid in full to the Town.

   c. Plans and specifications for connection to and, if necessary, extension of the municipal sewers, meeting the conditions set forth in Section 10.5 above, have been submitted and are acceptable to the Board.

7. **Final Approval and Capacity Allocation.**

   a. A Final Approval and Capacity Allocation is an agreement between the Town and the Applicant. The Applicant who is issued the Final Approval does not own the capacity. The Applicant forfeits all rights to capacity if the conditions of the Final Approval are not met within the timeframes set forth herein.

   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 Sewer Use Fees, as set forth in Section 12, commencing one (1) month after the date of issuance of the Final Approval and Capacity Allocation.

c. The Board, upon making affirmative findings that all conditions of the Preliminary Approval and all conditions of Section 10.5 have been met, shall issue the Final Approval and Capacity Allocation, which may be conditioned as follows:

i. Specification of the allowed volume, flow rate, strength frequency and any other characteristics of the proposed discharge

ii. Incorporation of specific conditions which must be fulfilled by the Applicant to maintain the validity of the Final Approval.

iii. Provision that construction of the House Connection and, if necessary, the extension of the Sewers, must be overseen by the Town to assure compliance with the approved plans and specifications and with good construction practice, in a manner acceptable to the Board.

iv. Provision that the Applicant shall be responsible to schedule and pay for the physical construction of its Building Sewer, House Connection, and if necessary, the extension of the System, unless explicitly provided otherwise by the Board.

v. Provision for revocation by the action of the Board upon the discovery of any misrepresentation by the Applicant or any failure of the Applicant to fulfill requirements of the Final Approval.

vi. Provision that any Final Approval and Capacity Allocation in conjunction with issuance of a zoning permit by the Town of Highgate shall revert to the Town if the Applicant has failed to initiate construction within two (2) years of the date of the Final Approval and Capacity Allocation, as further set forth under Section 10.8.c, below.

8. **Expiration and Extension of Final Approval and Capacity Allocation.**

a. Unless otherwise amended or extended by the Board pursuant to this Ordinance, a Final Approval and Capacity Allocation shall expire three (3) years from the date of issuance if the Development for which the Final Approval was obtained has not connected to, or is not yet discharging Sewage into, the System.

b. The Board may extend the expiration date of the Final Approval and Capacity Allocation, upon written request of the request of the Applicant, for a period of up to one (1) additional year, provided such request is received by the Town no less than thirty (30) days in advance of the expiration of the Final Approval and Capacity Allocation. The maximum length of time per extension is one (1) year, with a maximum cumulative total of two (2) years (i.e. a maximum of two (2) one-year extensions), during which the Final Approval and Capacity Allocation

shall be valid before re-application is required. Each extension shall require payment of an additional application fee as set forth in the Schedule of Fees.

c. Notwithstanding the foregoing, the Board may extend the expiration date of the Final Approval and Capacity Allocation for a longer period upon written findings that this action is in the best interest of the Town. Such extensions may be granted based on factors and circumstances including, but not limited to an appeal of the Development Review Board or other land use permit necessary for construction of the associated project, 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.

d. If a Final Approval and Capacity Allocation expires after three (3) years, or after any extension of time approved by the Board, whichever is longer, the unused portion of the Capacity Allocation at the time of expiration shall revert to the Town and become part of the Uncommitted Reserve Capacity, and there shall be no refund of allocation, permit, or other fees paid.

9. **Allowance for financial hardship.** The payment of fees pursuant to Sections 10.5.a, 10.7.b, or 10.8.b above may be modified, extended, or waived by the Board if the Owner, upon application to the Board, demonstrates an inability to pay due to circumstances beyond the applicant's control such as, but not limited to, an extended period of appeals of development approvals or impacts of a natural disaster. The Applicant may file its request in writing to the Board for Board consideration and action. However, all Capacity Allocation and Sewer Connection fees shall be paid by the Owner prior to connection to the System.

10. **Amendment of Preliminary or Final Capacity Allocation and Approval**

    a. Any Applicant may, at any time, make an application to the Board to issue a revised Preliminary or Final Approval and Capacity Allocation. Any such revised applications shall be made in conjunction with an application for approval or amendment of an approval under all applicable local, State, and Federal bylaws and regulations, subject to the following limitations:

        i. Requested modifications generally shall be in keeping with the nature of the proposed uses and intensity of development in the original application, and shall not involve materially significant changes.

        ii. Any request to increase the Capacity Allocation by more than the greater of five percent (5%) or two hundred forty-five (245) gpd as determined under Section 7 shall require a new application.

b. The Board may, at its sole and absolute discretion, determine that an application for revision constitutes a materially changed application, and require the Applicant to submit a new application for Preliminary Approval and Capacity Allocation. Such determination shall not invalidate a pending or issued Preliminary or Final Approval unless the underlying application is withdrawn by the Applicant.

c. If the Board approves a revised Preliminary or Final Approval and Capacity Allocation, the Board may issue a revised Capacity Allocation with a reduced or increased capacity allocation determined in accordance with the procedures set forth in this Ordinance. Where a reduced Capacity Allocation is granted, any unused capacity from the original approval shall revert to ownership by the Town and become part of the Uncommitted Reserve Capacity. The Board shall determine the amount of unused capacity returned.

11. **Recording of Approval.** A Final Approval and Capacity Allocation shall be recorded in the land records of the Town, along with evidence or a statement from the Town indicating all fees have been paid, and with reference to the location where approved plans and specifications are filed.

Section 3.3 Transfer of Capacity Allocation; Subdivisions

1. **Preliminary and Final Approval and Capacity Allocations non-transferable.** Except as provided under Section 3.3(2) and Section 3.3(3) below, Preliminary or Final Capacity Allocation shall not be transferable to any other person, property or project. Transfer of a Capacity Allocation shall require submittal of a new application and approval by the Board.

2. **Final Approval and Capacity Allocation transfer in Subdivisions.**

   a. Any Applicant for a Final Approval and Capacity Allocation for a Subdivision must indicate the Development planned for each lot and the permits to be issued by the Town of Highgate therefore.

   b. If all prerequisites defined for Final Approval and Capacity Allocation herein are met, approval shall be issued to the Subdivision Owner for each lot, and a specific Capacity Allocation shall be associated with the proposed Development.

   c. In the event a lot in a Subdivision benefited by a Final Approval and Capacity Allocation is sold or transferred, the portion of the Final Approval and Capacity Allocation attributable to the lot shall transfer when the property transfers. At

such time, the Owner of said lot becomes bound to comply with all permits issued and the plans and specifications for connecting to the System.

d. Any Final Approval and Capacity Allocation so transferred shall be considered a new Final Approval and Capacity Allocation, and it shall be deemed to be issued on the date of the property transfer or sale. Such Final Approval and Capacity Allocation shall expire three (3) years from the date of issuance unless the Applicant has sold or otherwise conveyed the lot for Development or has completed construction in accordance with the approved plan. If the Applicant has sold or otherwise conveyed the lot for Development, then the Final Approval for that lot shall expire two (2) years after the date of sale or conveyance to the first new owner other than the Applicant, assuming the Final Approval and Capacity Allocation has still not been used by the subdivided lot that was originally allocated the capacity.

3. **Expiration; capacity reverts to Town upon expiration.**

a. The expiration of a Final Capacity Allocation at three (3) years from the original date of issuance shall not be modified by any revisions to the Subdivision or Development plan subsequent to the Preliminary Approval.

b. Upon expiration, the Board or Town staff may in such case notify the Vermont Department of Environmental Conservation of the expired Final Approval and Capacity Allocation.

c. Any reserve capacity allotted to lots that are unsold or on which building construction has not been completed at the time of expiration shall revert to the Town, without refund of any fees paid, and become part of the Uncommitted Reserve Capacity.

ARTICLE 4 SEWER USE CHARGES

Section 4.1 Costs.

1. **Extensions.**
    a. The cost of any extension of the System to provide for new users shall be borne by the persons served by the expansion.
    b. Any payments required to extend the System shall not be construed as payments towards treatment capacity that may be provided for the development.

Section 4.2 Fees.

1. Fees shall be set or amended by the Board as authorized by this Ordinance or other Town ordinances regulating utilities.

ARTICLE 5 DEFINITIONS

Section 7.1 Definitions

Unless specifically defined in this Ordinance, words and phrases used in this Ordinance shall have the following meaning:

"Allocated Capacity" shall mean the flow resulting or projected to result from full use of a development at its build out capacity, for which a Final Approval and Capacity Allocation has been issued by the Board or for which an approved Preliminary Approval and Capacity Allocation has been in effect for a period of one (1) year or more.

"Board" shall mean the Selectboard of the Town of Highgate, comprised as the Sewage Disposal Board of Commissioners as provided in Title 24 Section 3614, Vermont Statutes.

"BOD_5" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° Centigrade, expressed in milligrams per liter.

"Building Drain" shall mean that part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it through the building wall to the Building Sewer. The Building Drain extends five feet beyond the outer face of the building wall.

"Building Sewer" shall mean that part of the sewage system which receives the sewage from the Building Drain and conveys it to the nearest end of the House Connection unless a House Connection is not available, whereby the Building Sewer shall be extended to the nearest available "Y" branch on the Main Sewer.[GB1]

"Capacity Allocation Fee" shall mean the financial amount due, as determined by the Board, that is imposed on an Owner for a Preliminary or Final Capacity Allocation.

"Capital Construction Charge" shall mean the share of the cost of total Sewer debt which is due within the fiscal period, divided by the total number of gallons of Permitted Capacity.

"Clerk" shall mean the Town Clerk of the Town of Highgate.

"Cluster System" shall mean an on-site wastewater disposal system serving two (2) or more properties.

"Completed Construction" shall mean (1) for building development, completion of construction of all foundations, framing, siding, and roofs; (2) for subdivision development, completion of infrastructure and subdivision improvements.

"Department" shall mean the Vermont Department of Environmental Conservation.

"Development" shall mean the construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial, industrial, manufacturing, farming, educational, medical, charitable, civic, recreational, religious uses, subdivisions, and the intent to subdivide.

"Failed System" shall mean any situation in which the continued operation of an on-site sewage 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; or the malfunctioning of an on-site wastewater treatment system or system component that results in wastewater backing up into, or not adequately flowing from, an occupied structure; or the on-site wastewater disposal system or system component emits offensive odors or becomes objectionable so as to be dangerous or prejudicial to health.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

"Health Officer" shall mean the legally designated Health Officer or Deputy Health Officer of the Town of Highgate, Vermont.

"House Connection" shall mean that part of the Sewage Treatment System that runs from the Main Sewer to the property line or right-of-way limit and includes all necessary fittings. See "Building Sewer."

"Industrial Wastes" shall mean the liquid waste from an industrial manufacturing process, trade or business. Industrial wastes do not include sanitary sewage.

"Initiate Construction" shall mean:

For building development; the completion of the foundation.

For subdivision development; substantial commencement of any site improvement(s) pursuant to the approved subdivision and infrastructure plans.

"Low Pressure Sewer" shall mean the sewer pipe that receives ground-up raw wastewater from a grinder-pump pump station and/or the effluent from a septic tank effluent pump system and transports the pressurized wastewater to an unpressurized sewer structure such as a gravity sewer, an open tank, or a force main.

"Main Sewer" shall mean the gravity and low-pressure sewers laid longitudinally along the center line or other part of the streets or other rights-of-way and which all owners or abutting properties have equal rights and which is controlled by public authority.

"Municipality " shall mean the Town of Highgate, Vermont.

"Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

"On-Site Sewage Treatment and Disposal System" or "On-Site Wastewater Treatment and Disposal System" shall mean a septic tank and leaching field system, or an alternative technology system, utilizing natural soil to treat and disperse Sewage effluent in such a manner as to protect public health, and both groundwater and surface water from contamination.

"Owner" shall mean any person, who owns or possess any property connected to the municipal wastewater collection system or proposes to connect to the municipal wastewater system as an Applicant.

"Permitted Capacity" shall mean the total allowable discharge capacity of the Wastewater System as determined by most recently issued State of Vermont Indirect Discharge permit.

"Person" shall mean any individual, firm, company, association, society, corporation, institution, partnership, group, governmental entity or other entity.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Private Wastewater System or Facilities" shall mean all facilities for collecting, pumping, treating, and disposing of wastewater that is not owned or operated by the Town of Highgate.

"Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public wastewaters, with no particle greater than one-half inch (1/2") (1.27 centimeters) in any dimension.

"Public Sewage System or Facilities" shall mean all municipal facilities for collecting, pumping, treating and disposing of Sewage and is controlled, owned and operated by the Town of Highgate.

"Sanitary Sewer" shall mean a sewer/house connection which carries Sewage and to which storm, surface, and ground waters are not admitted.

"Sanitary Wastewater" shall mean wastewater of the same character and range of strength as expected from residential uses including but not limited to homes, apartments and mobile homes.

"Secretary" shall mean the Secretary of the Agency of Natural Resources of the State of Vermont or her/his representatives.

"Sewage" or "Wastewater" shall mean a combination of the water-carried wastes, or wastewater, from residences, non-residential uses, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present. The word "sewage" shall be synonymous with the word "wastewater."

"Sewage Treatment System" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

"Sewer" shall mean a pipe or conduit, including manholes, for carrying sewage.

"Sewer Connection Fee" shall mean the financial amount due, as determined by the Board, charged to property owners for the benefit to connect to the municipal wastewater system.

"Sewer Use Charge" shall mean the periodic charge established by the Board per gallon of Allocated Capacity.

"Sewers" shall mean the Sewage collection and transmission system owned by the Town of Highgate. The Sewage collection system can include house connections, STEP systems, Wastewaters, force mains, pump stations, Main Sewers, and low-pressure Sewers.

"Shall" is mandatory; "may" is permissive.

"Slug" shall mean any discharge of water, Sewage, or Industrial Waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

"STEP Tank " shall mean a Septic Tank Effluent Pump Station which collects sewerage from the building, settles the solids (primary settling) and allows for the septic tank effluent to be pumped into the sewer service force main.

"Storm Drain" shall mean a sewer which carries storm and surface waters and drainage, but excludes Sewage and Industrial Wastes.

"Stormwater shall mean excess water from rainfall and snow melt that does not evaporate or penetrate into the ground, which flows overland and is collected and transported to waters of the State of Vermont or the United States by a stormwater treatment, management or conveyance system, together with any material that becomes dissolved or suspended in such water during overland flow.

"Subdivision" shall mean a tract of land, which has been divided or is intended to be divided into two (2) or more lots for any purpose, in accordance with the Town's current Land Use and Development or Subdivision Regulations.

"Subsurface Sewage Disposal System" shall mean any Sewage treatment system whereby the septic tank or System effluent is leached into the ground by subsurface disposal or spray disposal.

"Superintendent" shall mean that employee or duly authorized agent of the Town of Highgate who shall be designated by the Selectboard to operate and maintain the public sewage facilities, oversee wastewater connections, and undertake other activities stated within this Ordinance.

"Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

"System" shall mean the municipal wastewater treatment system owned and maintained by the Town of Highgate.

"Town" shall mean the Town of Highgate, Vermont.

"Town Reserve Capacity" shall mean the portion of the Permitted Capacity of the System reserved by the Board pursuant to Article 3, Section 9.2 of this Ordinance.

"Uncommitted Reserve Capacity" shall mean the portion of the Permitted Capacity remaining after subtracting from the Permitted Capacity of the System: (1) Town Reserve Capacity, (2) the Development wastewater flow of all projects approved by the Board but not yet discharging to the System (i.e., connected users), (3) the development wastewater flow represented by projects approved through Final Approval and Capacity Allocation, and (4) the development wastewater flow represented by projects for which an approved Preliminary Approval and Capacity Allocation has been in effect for one (1) year or more.

"Wastewater Board" (or "Board of Wastewater Commissioners") shall mean members of the Highgate Selectboard and/or the group of individuals who shall be designated from time to time by the Selectboard to have that title, or their authorized designee, deputy, agent or representative.

"Wastewater Service Area" shall mean the areas of the Town of Highgate that are initially served by the municipal wastewater system as depicted on the map entitled "Town of Highgate Wastewater Service Area" attached hereto as Appendix B.

"Wastewater System" shall mean any piping, pumping, treatment or disposal system used for the conveyance, treatment and disposal of domestic, commercial or industrial waterborne wastes.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 7.2 Abbreviations

ANSI..... shall mean American National Standards Institute.

ASCE..... shall mean the American Society of Civil Engineers.

ASME ..... shall mean American Society of Mechanical Engineers.

ASTM ..... shall mean American Society for Testing and Materials.

AWWA ..... shall mean American Water Works Association.

CS ..... shall mean Commercial Standards.

Degrees C .... shall mean degrees Centigrade.

Degrees F ..... shall mean degrees Fahrenheit.

gpd ..... shall mean gallons per day.

IDP ..... shall mean Indirect Discharge Permit

LPS ..... shall mean Low Pressure Sewer.

mg/I ..... shall mean milligrams per liter. 1 mg/I equals 1 ppm.

NPC ..... shall mean National Plumbing Code.

ppm ..... shall mean parts per million. 1 ppm equals 1 mg/I.

STEG ..... shall mean Septic Tank Effluent Gravity System.

STEP ..... shall mean Septic Tank Effluent Pump System.

WEF ..... shall mean Water Environment Federation