

TITLE 17

CHAPTER 14

Sewer Discharge Capacity Allocation

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§ 3410. Definition

As used in this ordinance, the following definitions shall apply:

- (a) "Affordable Housing": Affordable housing shall be that housing, whether it be owner or renter occupied, that is affordable and available to individuals for households within Rutland County where the annual ownership or rental costs shall not exceed 30% of the median income level for the most recent reporting period within the County. In addition, subject to the discretion of the board of aldermen, affordable housing may include that housing which is available for financing under the current guidelines and rules promulgated by the Vermont Housing Finance Agency single family home ownership program.
- (b) "Allocation and "gallorage" shall have the same meaning as those terms are used in the agreement dated January 18, 1984, by and between the City of Rutland and the Town of Rutland, and the Otter Creek wasteload allocation resolution adopted May 4, 1981, by the board of aldermen.
- (c) "Board of sewer commissioners" shall mean the board of aldermen of the City of Rutland convened as a board of sewage commissioners under 24 V.S.A., section 3614 and the powers granted to the BOA under chapter 24, section 24-7 of the revised charter of the City of Rutland, Vermont.
- (d) "Committed reserve capacity" shall mean the total amount of total equivalent daily flow (gallons per day) from all persons, projects, and/or buildings approved by the board and department for discharge to the treatment plant, but not yet discharging at the time of the calculation. (See also "Reserve Capacity").
- (e) "Connection charge" shall mean a fee, hereby imposed, as set by the board of aldermen for each direct and indirect connection or attachment to sewers or plant, which fee approximately equals the costs incurred by the city in administering and inspecting such connections.

- (f) "Discharge Permit" shall mean a permit issued pursuant to authority granted in 10 V.S.A., chapter 4.
- (g) "Equivalent daily flow" shall mean the project wastewater flow converted to equivalent gallons of sanitary wastewater based on the pounds of UOD/gallon of sanitary wastewater using generally accepted engineering procedures and formulas as determined by the city engineer.
- (h) "Impact fee" shall mean a fee imposed on applicants for capacity allocation equal to the capital cost per gallon of sewage treatment and disposal capacity attributable to the project.
- (i) "Person" shall have the meaning prescribed in 1 V.S.A. section '128.
- (j) "Reserve capacity" shall mean the permitted sewage treatment plant capacity minus the actual plant wastewater flow averaged over the preceding twelve months. As used in this ordinance, "reserve capacity", "uncommitted reserve capacity", and "committed reserve capacity", shall mean the City of Rutland's portion thereof as described in the Otter Creek wasteload allocation resolution adopted May 4, 1981 by the board of aldermen.
- (k) "Sludge" shall mean the solid or semi-solid waste product of the sewage treatment process which is not discharged together with plant effluent but is instead disposed of in another manner.
- (l) "Uncommitted reserve capacity" shall mean the reserve capacity minus the committed reserve capacity. (See also "Reserve Capacity").
- (m) "Wastewater flow" shall mean the discharged liquid wastes from a property to a combined or sanitary sewer; such flow to be calculated as the average gallons per day on a yearly basis (365 days) as determined by reference to Table 7-A Flow Quantities adopted by the Vermont Agency of Natural Resources, department of environmental conservation, as promulgated at the time a connection permit application is made.

§ 3411. Ownership and permit

The City of Rutland owns and operates a sewage treatment plant (plant) and sewage collection system (sewers) as defined in 24 V.S.A., section 3501(6) and 3601. The plant is operated in accord with a discharge permit issued by the Vermont Agency of Natural Resources (agency) under authority granted in 10 V.S.A., chapter 47, which discharge permit establishes the plant treatment capacity. The city is obligated by law to comply with conditions of that permit, and to operate and manage the plant and sewers as governmental functions under and pursuant to 24 V.S.A., chapters 97 and 101.

§ 3412. Authority to allocate

The unreserved and unallocated capacity of the plant and sewers to adequately collect, treat and discharge sewerage is the property of the city, and shall be allocated by the board of aldermen in the manner prescribed herein. This ordinance is adopted pursuant to the provisions of 10 V.S.A., Section 1263(g)(1), in the manner provided in 24 V.S.A., 4403-4404, and shall not be construed as an abandonment or relinquishment of the responsibility of the city to regulate, control, and supervise all means and methods of

sewage collection, treatment and disposal within the city, nor shall it be construed to impair or inhibit the ability of the city to contract with persons for the collections, transmission and treatment of sewage.

§ 3413. Application for allocation

- (a) Persons wishing to use uncommitted capacity of the plant and sewers, including any change in permitted volume or character of pollutants that are being discharged, shall apply to the board of aldermen. At the discretion of the commissioner of public works, applications may be required to be accompanied by a certification of a licensed or registered engineer attesting to the wastewater flows and ultimate oxygen demand (UOD) to be generated by the project which will be introduced into the plant and sewers.
- (b) Applications for reserve capacity shall be considered by the board of aldermen in the order in which they are received; providing, however, that the granting of any connection permit shall be conditioned upon the applicant either paying for or reimbursing the city for the cost of any sewer or plant improvements, replacements or enlargements necessary to implement or use such connection.

§ 3414. Requirements for approval

The board of aldermen may grant and approve a request for use of uncommitted capacity if all of the following facts are found:

- (a) (1) The proposed wastewater is of domestic sanitary origin, or;
 - (2) The proposed wastewater is not of domestic sanitary origin but the 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 plant and sewers and that the proposed wastewater will not along or in combination with other wastes cause a violation or the discharge permit or other pre-existing allocation, pass through the plant without treatment, interfere or otherwise disrupt the proper quality and disposal of plant sludge or be injurious in any other manner to the plant or sewers, and;
- (b) The priority and eligibility standards set forth in Section 3417 hereof have been met, and;
- (c) There is sufficient uncommitted reserve capacity to accommodate the volume and strength of the wastewater from the proposed connection.

§ 3415. Interim and final approval

The board of aldermen, on making the affirmative findings above, may issue an interim connection approval which shall:

- (a) Specify the volume, flow rate, strength and any other characteristics determined appropriate by the board of aldermen.

- (b) Prohibit the sale or other transfer of the interim connection approval by the applicant to any other person or location without written approval of the board of aldermen, except as an appurtenance to the land and an integral part of the project approved in accordance with Section 3414 above.
- (c) Specify the period of time during which the interim connection approval shall remain valid and any specific conditions which must be fulfilled by the applicant to maintain validity of the interim connection approval, which conditions shall, as a minimum, include:
 - (1) payment of all connection charges upon the granting of interim connection approval for the project;
 - (2) payment of any other sewage charges, including but not limited to impact fees, shall be made no later than 30 days from the due date; and
 - (3) completion of all construction associated with the project within a prescribed period of time from the date of the interim approval, which period of time shall be six months or as set by the board of aldermen, subject to renewal on application.
- (d) Be revocable upon failure of the applicant to fulfill requirements of the interim connection approval or upon expiration of the time limit of 3415(c)(3).
- (e) Become final and irrevocable upon compliance with the above conditions.

§ 3416. Authority to require connection

Nothing herein shall be construed as limiting or impairing the authority of the city or its board of aldermen to require connections to the plant and sewers under the general laws of the state.

§ 3417. Annual allocations

Allocations may be recalculated at the start of each calendar year based upon the uncommitted reserve capacity at that time. Allocations not assigned to a specific project will not be carried over from one allocation period to the next. Any allocation of uncommitted reserve capacity shall be made and promulgated by the board of aldermen in accordance with the following policies outlined in the sections (a), (b) and (c) that follow:

- (a) Within Rutland City. There is reserved for the benefit of all property within the plant's design service and located within the City of Rutland 65% of existing uncommitted reserve capacity, to be allocated as follows:
 - (1) No less than 23% of the above mentioned 65% shall be dedicated for unforeseen reserves and contingencies;
 - (2) Applications for reserve capacity allocation for industrial and commercial use within the city shall be afforded the highest priority.
 - (3) Applications for reserve capacity which directly or indirectly serve to redevelop properties within the city which have been determined by the building inspector to be lighted, abandoned, unsightly or deteriorated shall be afforded special preference.

(4) Applications for reserve capacity for residential purposes within the city shall be allocated in the following order of priorities:

- a. Owner occupied: Attached
- b. Owner occupied: Detached
- c. Multi-family, Existing: 6 or fewer units
- d. Multi-family, Existing: more than 6 units
- e. Multi-family, New: 12 or fewer units
- f. Multi-family, New: more than 12 units

(5) Applications for reserve capacity to serve moderate income and elderly residential projects within the city shall be dedicated to the extent of 4% of the total existing uncommitted reserve plant capacity available for allocation with the City of Rutland.

(6) Applications for reserve capacity for municipal, publicly owned, and non-profit projects or developments providing essential or desirable public services within the city shall be dedicated to the extent of 4% of the total existing uncommitted reserve capacity available for allocation within the City of Rutland.

(b) Outside of Rutland City. There is reserved for the benefit of all property within the plant's design service area and located without the City of Rutland 25% of uncommitted plant reserve capacity to be allocated in accordance with the following priorities:

- (1) Prior commitments made by the City of Rutland for extraterritorial sewage disposal services.
- (2) Applications for reserve capacity which directly or indirectly result in the retention or expansion of existing industrial facilities located outside the City of Rutland;
- (3) Applications for reserve capacity which directly or indirectly result in the creation of new industrial facilities which cannot reasonably or adequately be located within the boundaries of the City of Rutland. Such determination shall initially be made by the development review committee who shall forward their recommendation to the board of aldermen for the purposes of making a final determination;
- (4) Applications for reserve capacity which directly or indirectly results in the construction of new affordable housing units as defined in Section 3410 herein.
- (5) Applications for reserve capacity which, in the determination of the board of aldermen, will address unique circumstances in which regional environmental, public health or economic concerns can be resolved through the provision of municipal sewage treatment services as determined by the Board of Aldermen.
- (6) Applications for reserve capacity which directly or indirectly result in the expansion, retention or creation of new publicly-owned, municipal or non-profit facilities which provide essential or desirable public services;

(c) Outside of Rutland City – Sales. In addition to the reservation established in the preceding sub-sections, there is reserved for the benefit of all property within the plant's design service area and located outside the boundaries of the City of Rutland 10% of plant uncommitted reserve capacity which may be sold by the board of aldermen. Said shall be allocated at a rate not to exceed 25% of said 10% of such reserve capacity per calendar year. Such sales shall be consistent with but not limited by the following considerations:

- (1) The next financial benefit to be derived by the City of Rutland as a result of the city providing sewage treatment services;
- (2) The number and type of employment opportunities within the region that will result from the provision of municipal sewage treatment services;
- (3) The capacity of the City of Rutland's capital and transportation facilities to support the proposed development for which an application to purchase reserve capacity is made;
- (4) The potential of the applicant for receiving of all municipal, state and federal permits and approvals required for the project or development for which an application to purchase reserve capacity is made.

§ 3418. Basis of calculation

The capacity allocations made herein by reference to gallonage quantities shall be converted to equivalent daily flow based upon pounds UOD/day using generally accepted engineering procedures and formulas, as determined and promulgated by the city engineer.

§ 3419. Severability

The declaration of invalidity of any section, term of provision or this ordinance shall not affect any other section, term or provision.