

TOWN OF BURKE
WASTEWATER ORDINANCE
WEST BURKE VILLAGE MUNICIPAL WASTEWATER SYSTEM

TABLE OF CONTENTS

TABLE OF CONTENTS	1
ARTICLE 1 - GENERAL PROVISIONS.....	5
SECTION 1. AUTHORITY.....	5
SECTION 2. PURPOSE	5
SECTION 3. OVERVIEW FOR OWNERS	5
SECTION 4. GENERAL PROVISIONS.....	6
SECTION 5. DEFINITIONS	7
SECTION 6. ABBREVIATIONS.....	12
ARTICLE 2 - USE OF THE MUNICIPAL WASTEWATER SYSTEM.....	13
SECTION 7. UNLAWFUL ACTS; COMPLIANCE WITH REGULATIONS REQUIRED	13
1. Unlawful discharges prohibited	13
2. Treatment required.....	13
3. On-site Sewage Treatment and Disposal Systems; compliance with applicable regulations required	13
SECTION 8. CONNECTION TO THE MUNICIPAL WASTEWATER SYSTEM.....	13
1. Board responsibility.....	13
2. Service area established.....	14
3. Existing On-site Wastewater Systems	14
4. New, and replacement of failed, On-site Wastewater Systems	14
5. Application for connection to the Municipal System	14
6. Unauthorized construction is prohibited.....	14
7. Design Flow Basis for Wastewater Capacity Allocation.....	14
a. Flow determined by Vermont rules	15
b. Minimum Flows for residential users	15
SECTION 9. BUILDING SEWERS AND CONNECTIONS	15
1. System Description.....	15
2. Unauthorized connection prohibited.....	15
3. Costs of connection; fees to be paid prior to connection	15
4. Separate Building Sewers required.....	16
5. Use of pre-existing Building Sewers	Error! Bookmark not defined.

6. Technical standards.....	16
7. Elevation	16
8. Clear water connections prohibited.....	16
9. Plumbing code applies	16
10. Notification to Board and Approval to Connect;	16
11. Sewer clean-outs	17
12. Plumbing connections	17
13. Pipe testing required.....	17
14. Excavation protection and safe egress required	17
15. Movement of traffic during construction	17
ARTICLE 3 - CAPACITY ALLOCATION	18
SECTION 10. ALLOCATION OF CAPACITY; TOWN RESERVE.....	18
1. Town ownership of Town Reserve and Uncommitted Reserve Capacity	18
2. Town Reserve Capacity	18
3. Uncommitted Reserve Capacity	18
4. Allocation of Uncommitted Reserve Capacity	18
SECTION 11. CAPACITY ALLOCATION PROCEDURES	18
1. Application form.....	18
2. Application for Preliminary Approval and Capacity Allocation	18
3. Duration of approval.....	19
4. Findings required	19
5. Issuance of approval	19
6. Application for Final Approval and Capacity Allocation	20
7. Final Approval and Capacity Allocation	21
8. Expiration and Extension of Final Approval and Capacity Allocation.....	21
9. Allowance for financial hardship.....	22
10. Amendment of Preliminary or Final Capacity Allocation	22
11. Recording of Approval.....	23
12. Approval to Connect.	23
SECTION 12. TRANSFER OF CAPACITY ALLOCATION; SUBDIVISIONS.....	23
1. Preliminary and Final Approval and Capacity Allocations non-transferable	23
2. Transfer Upon Sale of Property	23
3. Final Approval and Capacity Allocation transfer in Subdivisions.....	24
4. Expiration; capacity reverts to Town upon expiration.....	24
ARTICLE 4 - USER CHARGES and FUND MANAGEMENT.....	24
SECTION 13. USER CHARGES and FEES.....	24

1. Authority to Establish User Charges and Fees.....	24
2. Sewer Connection Fee.....	25
3. Basis for User Charges.....	25
4. Determination of User Charges for Allocated Capacity.....	25
5. Capital Construction and Operations and Maintenance Charges.....	26
SECTION 14. DEDICATED FUND FOR MAJOR EXPENSES.....	26
1. Dedicated fund authorized.....	26
2. Required content of a dedicated fund policy.....	26
3. Authority of the Board.....	27
4. Withdrawals from the Dedicated Fund.....	27
SECTION 15. APPLICABILITY OF CHARGES; BILLING.....	27
1. Applicability of Charges.....	27
2. Surcharges for High Strength Waste.....	27
3. Use of Excess Revenues.....	28
4. Payment of Charges; delinquency; billing.....	28
ARTICLE 5 - USE OF THE PUBLIC SEWER.....	29
SECTION 16. WASTE RESTRICTIONS.....	29
1. Prohibited discharges to Sewers.....	29
2. Dilution prohibited.....	29
3. Discharge of certain waters or wastes prohibited.....	29
4. Discharge of certain substances prohibited.....	30
5. Authority of Board to reject wastes or impose additional controls.....	31
SECTION 17. PRE-TREATMENT and FLOW EQUALIZATION.....	32
1. Pre-treatment and flow equalization installations.....	32
2. Interceptors may be required.....	32
3. Construction of interceptors.....	32
4. Owners responsible for maintenance of interceptors and pre-treatment.....	32
SECTION 18. MONITORING, TESTING and MAINTENANCE.....	32
1. Access for monitoring of wastes.....	32
2. Control manholes.....	32
3. Monitoring of discharges; record keeping.....	33
4. Methods for measurements, tests, and analyses.....	33
5. Maintenance.....	33
a. The Town maintains the septic tank effluent pump stations for properties connected to the Municipal System. This maintenance includes:.....	33
i. Inspecting and cleaning the effluent filter(s).....	33
ii. Checking pump controls.....	33

iii. Checking septic sludge and scum layers.....	33
iv. Coordinating pump-out of the septic tank. The Town pays for the pump-out.....	33
b. The Owner is responsible for the following:	33
i. Maintaining power to the septic tank.....	33
ii. Contacting the operator if the alarm is activated.	33
iii. Only flushing or allowing down the drain normal household waste.	33
SECTION 19. ACCEPTANCE OF HIGH-STRENGTH WASTE.....	34
ARTICLE 6 - ADDITIONAL PROVISIONS	34
SECTION 20. PROTECTION FROM DAMAGE	34
SECTION 21. POWERS AND AUTHORITY OF INSPECTORS.....	34
1. Right of Entry	34
2. Liability and Indemnification	35
3. Access to Easements	35
SECTION 22. VIOLATION; PENALTIES	35
1. Notice of violation	35
2. Violation—Penalty	35
3. Remedies nonexclusive.....	36
SECTION 23. SEVERABILITY	36
APPENDIX A: West Burke Village Wastewater Service Area	37
SCHEDULE OF USER RATE CHARGES AND FEES.....	38
Reference: Determining Municipal System Capacity and Applicable Charges.....	39
Reference: Wastewater Capacity Allocation Process and Duration.....	40

TOWN OF BURKE
WASTEWATER ORDINANCE
WEST BURKE VILLAGE MUNICIPAL WASTEWATER SYSTEM

The Town of Burke (“Town”) Selectboard hereby ordains:

ARTICLE 1 - GENERAL PROVISIONS

SECTION 1. AUTHORITY

This is a civil ordinance adopted and enforced pursuant to the authority conferred by 24 V.S.A. Chapters 59¹, 95², 97³, and 101⁴ and such other enactments as are material hereto.

SECTION 2. PURPOSE

The Selectboard of the Town of Burke, Vermont finds that 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 West Burke Village Municipal Wastewater System (hereinafter “Municipal System”) through this Wastewater Ordinance.

SECTION 3. OVERVIEW FOR OWNERS

This Ordinance establishes rules for Property Owners, their agents or employees, when applying for Preliminary Allocation of Capacity for Individual Sewer or Development Sewer Systems, and requires Owners to obtain Vermont Wastewater Disposal and Potable Water Supply Permits (“Wastewater Permits”). Prior to beginning construction an Owner must provide the Board a copy of the Wastewater Permit and record the same in the Burke land records, whereupon the Board will issue a Final Approval of Allocation of Capacity, and only thereafter may an Owner begin construction of the Individual Sewer or Development Sewer for their Property. After construction but prior to connecting their Individual Sewer or Development Sewer to the Municipal System, the Owner must provide notice to the Board that construction has been completed in compliance with both the Final Approval and the Wastewater Permit, and provide an opportunity for the Board to inspect the Sanitary Sewer. The Board must approve the connection by issuing a Connection Approval, prior to the new Individual Sewer or Development Sewer being connected. After the Owner’s new Individual Sewer or Development Sewer has been connected to the Municipal System and before covering the system, an Engineer’s inspection and agreement to issue a Certification of Completion, must be obtained, and once the Certificate of Completion has issued, a copy must be provided to the Board and another copy recorded in the Burke land records. Failure to follow these rules is grounds for the Board to require the new Individual Sewer or Development Sewer to be excavated and inspected and tested, and if not constructed in compliance with the Preliminary Allocation and Wastewater Permit, to be reconstructed so that it complies with those. The Owner is responsible for installing and maintaining the interior plumbing, Building Drain, Building Sewer System (including a septic tank), and House Connection, and upon completion, the Board will take control of the Building Sewer and House Connection, including pumping the sewer tank as needed.

¹ Municipal & County Government; Adoption and Enforcement of Ordinances and Rules

² Municipal & County Government; Water Mains and Sewers

³ Municipal & County Government; Sewage System

⁴ Municipal & County Government; Sewage Disposal System

SECTION 4. GENERAL PROVISIONS

1. All terms, conditions, rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the "Wastewater Ordinance," hereinafter also referred to as the "Ordinance."
2. This is an Ordinance regulating the use of the Municipal Wastewater System; private sewage disposal, as relates to the use of the Municipal Wastewater System; the allocation of wastewater treatment capacity; the installation and connection of building wastewaters; the discharge of waters and wastes into the Municipal Wastewater System; and providing for enforcement actions and penalties for violations thereof; in the Town of Burke, Vermont.
3. The Town of Burke Town Clerk shall file certified copies of this Ordinance, as well as certified copies of any additions and amendments to this Ordinance as may be hereafter adopted, in the municipal records and with the Board and the Health Officer.
4. The principal objective of the Municipal Wastewater System is to provide safe and sanitary management of domestic sewage, as permitted by the State of Vermont, under efficiently managed conditions.
5. 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.
6. The provisions of this Ordinance shall be reviewed periodically by the Selectboard to assess the continued applicability of these provisions, consider recommendations for their improvement, and to determine if, and what, changes are advisable due to advances in the technical methods or processes of wastewater treatment and sewage collection available to the Town.
7. 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.
8. As required by 24 VSA Chapter 59, this Ordinance is hereby designated a civil ordinance.
9. 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 to contract with persons for the collection, transmission and treatment of sewage.

SECTION 5. DEFINITIONS

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

"Allocation of Capacity or Allocation" shall mean the flow resulting or projected to result from full use of a development at its build out capacity, for which the Board has approved for the project, either as a Preliminary Approval and Capacity Allocation, a Final Approval and Capacity Allocation or a completed project.

"Application for Preliminary Approval and Capacity Allocation or Application" shall mean the completed, signed and dated form, with all exhibits or attachments, submitted by the Owner or the Owner's duly authorized agent, to the Board. The Board shall make available to the public, the application forms, with instructions for how to complete the form and a list of the required exhibits and/or attachments.

"Applicants" shall mean Owners of real property within the Service Area wishing to use the Municipal System who apply to the Board on a form prescribed by the Town for Preliminary Approval and Allocation of Capacity.

"Approval to Connect" shall mean approval of the Board or Manager, to connect a Individual Sewer or Development Sewer to the Sewer Main.

"Board or Wastewater Board" shall mean the Selectboard of the Town of Burke, comprised as the Board of Sewage System Commissioners as provided in Title 24 Section 3602 Vermont Statutes and/or the group of individuals who shall be designated from time to time by the Selectboard to serve as board members with all the powers of the Board as provided herein, or their authorized designee, deputy, agent or representative. Said authorized individual shall be known as the "Manager."

"BOD₅" (*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 waste, and other drainage pipes inside the Owner's 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 Septic Tank where the solids are retained, then releases Effluent to the nearest end of the House Connection. The Septic Tank together with the sewer pipes that enter and exit the tank comprise the Building Sewer. These are owned and controlled by the Town, who shall be responsible for maintenance, upkeep and Tank emptying, unless the Board and Owner agree otherwise in writing appended to the Permit and Capacity Allocation.

“Capital Construction Charge” shall mean a share of the cost of total Sewer debt which is due within the fiscal period, as set forth in the Schedule of User Charges and Fees.

“Certification of Completion” shall mean an Engineer’s written statement that a Sewage Works has been installed according to the terms of the Final Approval and Capacity Allocation for an Owner’s project.

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

"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.

"Connection 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.

"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.

“Development Sewer System or Development Sewer” shall mean the Sewer for the Development including separate Building Drains, Building Sewers, including any Septic Tanks, together with the House Connections which carry Sewage, and/or effluent to the Sewer Main.

“Dwelling Unit” shall mean Living Unit as defined below.

“Effluent or Septic Tank Effluent” shall mean wastewater that discharges from a Septic Tank.

“Effluent Pump” shall mean a pump for moving Effluent through a Low Pressure Sewer to the Municipal Wastewater System. An Effluent Pump and Low Pressure Sewer shall be part of the House Connection and the Board shall be responsible for maintenance and repairs of the same, unless the Board and the Owner agree otherwise in writing.

“Final Approval of Capacity Allocation or Final Approval” shall mean approval by the Board of a new Individual Sewer or Development Sewer System or major repairs to an existing Individual Sewer or Development Sewer, prior to covering the same with soil and commencing the use thereof.

“Final Inspection” shall mean inspection by an Engineer of a new Individual Sewer or

Development Sewer or major repairs to an existing Individual Sewer or Development Sewer, and agreement to provide Certification of Completion, prior to covering the same with soil and commencing the use thereof.

"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.

"Garbage Disposal" shall mean a device used to grind food waste into a slurry that with the addition of water, can be flushed down a drain into the Sewage Works.

"Ground Water" shall mean ambient water located beneath the surface of the ground.

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

"House Connection" shall mean that part of the Sewage Treatment System that starts at the Building Sewer and connects to the Main Sewer. The House Connection shall be owned and controlled by the Town. See "Building Sewer."

"Individual Sewer System or Individual Sewer" shall mean the Building Drain and Building Sewer, including any Septic Tank, together with the House Connection which carries Sewage, and/or effluent to the Sewer Main.

"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.
- For existing development not connected to the Municipal Wastewater System; the commencement of construction of the Sewage Works.

"Leachfield, or Subsurface Sewage Disposal System" shall mean that portion of any sewage treatment system where effluent is leached into the ground for subsurface disposal.

"Living Unit" is defined by the Regulations as: A building or structure or a portion of a building or structure that has a toilet, sink, kitchen, and one or more bedrooms, and that is reasonably private and separated from other living units. A second, detached building or structure that contains a toilet, sink, or one or more bedrooms, but does not contain a kitchen, is not a separate living unit. Examples of buildings or structures that contain more than one living unit are duplexes and single-family residences with an accessory apartment.

"Low Pressure Sewer" shall mean the sewer pipe that receives 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.

“Manager, Operator, or Superintendent” shall mean the Board’s authorized designee, deputy, agent or representative.

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

“Municipal Wastewater System, Municipal System or Wastewater System,” shall all mean the wastewater collection and treatment sewer system owned and maintained by the Town of Burke. The Sewage collection system may include Building Sewers, House Connections, STEP systems, force mains, pump stations, Main Sewers, and low-pressure Sewers.

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

"Onsite Sewage Treatment and Disposal System" or “Onsite 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. On-site Systems include systems serving single homes as well as Cluster Systems.

“Operations and Maintenance Charge” shall mean the share of the costs to operate and maintain the system, which may include the establishment of a Dedicated Fund, as set forth in the Schedule of User Charges and Fees.

“Owner” shall mean any person, who owns or possess any property connected to the Municipal wastewater system or proposes to connect to the municipal wastewater system.

“Preliminary Approval and Capacity Allocation or Preliminary Allocation” shall mean the approved Application for Preliminary Allocation of Capacity with allocation of capacity approved by the Board.

“Permitted Capacity” shall mean the total allowable discharge capacity of the Wastewater System as determined by applicable permits issued by the State of Vermont.

“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.

“Regulations” shall mean the Vermont Wastewater System and Potable Water Supply Rules.

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

“Septic Tank” shall mean a tank for collecting sewage from the building, and releasing effluent to the Municipal Wastewater System.

“Sewage” or “Wastewater” shall mean a combination of the water-carried wastes, or wastewater, from residences, non-residential uses, institutions, and industrial establishments.

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

“Sewer Main or Sewer” shall mean the low-pressure sewer pipes laid longitudinally along the streets or other rights-of-way for carrying sewage, together with manholes.

“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.

“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.

“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 or Leachfield” shall mean that portion of any sewage treatment system where effluent is leached into the ground for subsurface disposal.

“Superintendent, Manager or Operator” shall mean the employee of the Town of Burke, or a contracted consultant, who shall be designated by the Selectboard to operate and maintain the public sewage facilities, oversee wastewater connections, and 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.

“Town” shall mean the Town of Burke, Vermont.

“Town Reserve Capacity” shall mean the portion of the Permitted Capacity of the Municipal 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 Municipal System: (1) Town Reserve Capacity (if any), (2) the wastewater flow of all projects approved by the Board but not yet discharging to the Municipal System, (3) the wastewater flow of projects for which an approved Preliminary Approval and Capacity Allocation has been in effect for one (1) year or less unless, the period of approval has been extended, (4) the wastewater flow of projects approved through Final Approval and Capacity Allocation and in effect for three (3) years or less, and (5) the wastewater flow of all Individual Sewers and any other sewer systems, connected to the Municipal System.

“User” shall mean persons and/or property owners responsible for payment of charges and fees for connection to the Town of Burke Municipal Wastewater System and disposal of wastewater in the Municipal System as well as any and all other fees associated with being connected to the Municipal System.

“Wastewater Board or Board” shall mean the Selectboard of the Town of Burke, comprised as the Board of Sewage System Commissioners as provided in Title 24 Section 3602 Vermont Statutes and/or the group of individuals who shall be designated from time to time by the Selectboard to serve as board members with all the powers of the Board as provided herein.

“Wastewater Service Area” shall mean the areas of the Town of Burke that are authorized to be served by the Municipal Wastewater System. The Service Area is depicted on the map entitled “Town of Burke Wastewater Service Area” attached hereto as Appendix A.

“Wastewater System, Municipal Wastewater System or Municipal System” shall all mean the wastewater collection and treatment sewer system owned and maintained by the Town of Burke. The Sewage collection system may include Building Sewers, House Connections, STEP systems, Wastewaters, force mains, pump stations, Main Sewers, and low-pressure Sewers.

“Wastewater Permit or Permit” shall mean a wastewater disposal and potable water supply permit as approved by the Vermont Agency of Natural Resources. Every Individual Sewer or Development Sewer that is to be newly built, or replaced, shall have a Wastewater Permit in place prior to commencement of construction of the system.

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

SECTION 6. ABBREVIATIONS

For the purposes of this Ordinance, the following abbreviations shall have the meaning set forth

below. References to standards of organizations included herein shall refer to the most recent edition or publication.

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/l	shall mean milligrams per liter. 1 mg/l equals 1 ppm.
NPC	shall mean National Plumbing Code.
ppm	shall mean parts per million. 1 ppm equals 1 mg/l.
STEG	shall mean Septic Tank Effluent Gravity System.
STEP	shall mean Septic Tank Effluent Pump System.
WEF	shall mean Water Environment Federation

ARTICLE 2 - USE OF THE MUNICIPAL WASTEWATER SYSTEM

SECTION 7. UNLAWFUL ACTS; COMPLIANCE WITH REGULATIONS REQUIRED

1. **Unlawful discharges prohibited.** 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 or sewage except through a Municipal Wastewater System or an On-site Sewage Treatment and Disposal System.
2. **Treatment required.** 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 in accordance with subsequent provisions of this chapter and the laws of the State of Vermont.
3. **On-site Sewage Treatment and Disposal Systems; compliance with applicable regulations required.** The type, capacities, location, and layout of any On-site 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.

SECTION 8. CONNECTION TO THE MUNICIPAL WASTEWATER SYSTEM

1. **Board responsibility.** The Town of Burke owns and operates a municipal wastewater treatment system (the "Municipal Wastewater System" or "Municipal System"), being also a sewage treatment or disposal plant, and a sewage collection and transmission system, all as defined in 24 V.S.A. Section 3601. The Municipal 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 Board of Sewer Commissioners a/k/a Board is, or the individuals designated by the Selectboard to serve as Board Members are, obligated by law to comply with conditions of those permits.

2. **Service area established.** The boundaries of the Wastewater Service Area (Service Area) are depicted on the map entitled “West Burke Village Wastewater Service Area” attached hereto as Appendix A.
3. **Existing On-site Wastewater Systems.** Within the Service Area boundaries, any On-site Wastewater System lawfully operating as of the Effective Date of this Ordinance, including any system serving multiple properties (a Cluster System), may continue to be so operated.
4. **New, and replacement of failed, On-site Wastewater Systems.** Within the Service Area boundaries, a properly permitted new or replacement On-site Sewage Treatment and Disposal System or Cluster System may be constructed provided the system receives an applicable State permit.
5. **Application for connection to the Municipal System.** Any Owner of a parcel of land located wholly or partially within the Wastewater Service Area boundaries who wishes to connect to the Municipal 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 Preliminary Approval and Capacity Allocation for connection to the Municipal System prior to March 1, 2026, for initial construction of their Individual Sewer or Development Sewer being awarded, may have their Sewer Connection Fee waived, and the Town may, in its discretion, schedule and pay for the physical construction of the Owner’s Building Sewer, House Connection, or the municipal sewer extension,
 - b. Any Owner who applies for and receives approval for a Final Approval and Capacity Allocation for connection to the Municipal System after March 1, 2026 shall pay all applicable fees and charges, and shall be responsible for scheduling of and payment for physical construction of the Building Sewer and House Connection, as set forth in Subsection (8), below.
6. **Unauthorized construction is prohibited.**
 - a. No Person shall initiate repairs to an existing Individual Sewer or Development Sewer or construction of a new Individual Sewer or Development Sewer for which a Preliminary Approval and Capacity Allocation is required, when a Wastewater Disposal and Potable Water Supply Permit has not been issued by the Vermont Agency of Natural Resources and for which Final Approval and Capacity Allocation has not been obtained.
7. **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 Municipal System, daily flows into the Municipal System from any connected or prospective use shall be established per the Design Flows specified in Subchapter 8, General Technical Standards for Wastewater Systems and Potable Water Supplies of the State of Vermont Agency of Natural Resources Department of Environmental Conservation Drinking Water and Groundwater Protection Division Environmental Protection Rules Chapter 1 Wastewater System and Potable Water Supply Rules Effective: November 6, 2005, 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. **Minimum Flows for residential users.** The minimum allocated capacity for Living Units within the Service Area shall be 245 gallons per day as required by the Regulations.

SECTION 9. BUILDING SEWERS AND CONNECTIONS

1. **System Description.** Wastewater from structures connected to the Municipal System flows out of the buildings through the Building Drain, to the Building Sewer, which includes the Septic Tank, and then Effluent flows through the House Connection to the point where the whole is connected to the Sewer Main. The Sewer Main carries the Effluent to the Town's Subsurface Sewage Disposal System.
2. **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 Municipal Wastewater System or appurtenance thereof without first obtaining a permit, in writing, from the Board, and paying to the Town any fee required and imposed by the Town against the Owner.
3. **Costs of connection; fees to be paid prior to connection.**
 - a. With the exception of connections approved under section 7.5.a. above, all costs and expenses incidental to the installation, and connection of the Building Sewer shall be borne by the Owner of the property served or to be served.
 - b. With the exception of connections approved under section 7.5.a. above, all costs and expenses incidental to the installation of the House Connection shall be borne by the Owner of the property. However, the Board shall be responsible for all costs and expenses associated with the collection, maintenance, and repair of the House Connection following installation and Final Approval.
 - c. 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 Board or in accordance with its requirements).
 - d. However, as a part of the initial construction of its Sewage Works for the Service Area, the Board may, at its expense, initially construct a portion or the whole of any

Building Drain, Building Sewer or House Connection to the extent and manner determined by the Board as necessary to connect to the Municipal Wastewater System.

- e. The Board may, at its sole discretion, contract engineering services for consultation and inspection services during construction, at the expense of the Owner.
 - f. All applicable fees shall be paid in full to the Board prior to connection.
4. **Separate Building Sewers required.**
- a. A separate and independent Building Sewer, including a sewer tank, shall be provided for each building. Groupings of more than one building on one Building Sewer shall not be permitted.
 - b. This requirement may be waived by the Board, in its discretion, where the Board finds that strict application of this policy is infeasible or if shared connections are not harmful to the interests of the Town for buildings where there is no room to build a separate Building Sewer for each building.
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 WEF Manual of Practice No. 9 shall apply.
6. **Elevation.** The Building Sewer shall be brought to the building at an elevation sufficient to protect from freezing and in conformance with the approved wastewater permit.
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 Municipal System.
8. **Plumbing code applies.** All new construction, starting at the end of the Building Drain, including the Building Sewer and the House Connection as well as connection of the House Connection to the Sewer Main 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 WEC 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 Board before installation.
9. **Notification to Board and Approval to Connect;** Prior to any connection of any portion of a newly constructed Individual Sewer or Development Sewer or an portion of a Individual Sewer or Development Sewer, whether a Building Drain, Building Sewer and/or House Connection, to the Municipal System, the Board shall be given seven (7) calendar days' notice in order that such work may be supervised or inspected by the Manager. All connections will be made during normal workday hours, and no connections may be allowed Saturday, Sunday, or legal holidays. Prior to making the connection the Board must give its Approval to Connect, which may be given by the Manager in person at

the construction site. The Board may, but is not required to, waive the requirement that the connection be supervised by the Manager if the Owner has a qualified professional making the connection, in which case the Board may give Final Approval in writing ahead of time. If the Board has not given Approval to Connect prior to connection and covering the Individual Sewer or Development Sewer or any newly constructed Building Drain, Building Sewer or House Connection, the Board may at its discretion require the completed work to be uncovered for 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 Municipal Wastewater System is greater than one hundred (100) feet or where bends greater than forty-five (45) degrees are used in the Building Sewer or House Connection, or as required by the State wastewater rules. Clean outs may be made by installing a "Y" and one-eighth (1/8) bends of the same diameter as the Building Sewer or the House Connection. The clean outs shall ordinarily be installed at the point of connection between the Building Drain and the Building Sewer, at curves on the Building Sewer and on the straight part of the Building Sewer between the structure and the septic tank. The clean out shall be brought up from the Building Sewer to four (4) inches (10.2 cm) 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 Individual Sewer or Development Sewer, Building Sewer or House Connection is connected to the Sewer Main, the Owner shall demonstrate, to the satisfaction of the Board, 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. Where pipe is installed for Building Sewers, such work shall be performed by a plumber licensed by the State of Vermont if required by State law.
12. **Pipe testing required.** The party responsible for the installation of the pipe, shall furnish all necessary tools, labor, materials, and assistance to apply appropriate tests to the pipes and shall remove or repair any defective materials when ordered to do so by the Board, at their own expense.
13. **Excavation protection and safe egress required.** All excavations for Individual Sewer or Development Sewer installations shall be undertaken in compliance with the applicable laws and regulations including but not limited to occupational safety laws and regulations and shall be adequately guarded with physical barricades and sufficient lights so as to protect the public from hazards. 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.
14. **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 perform traffic control and provide adequate safety measures, at their own expense, and subject to the approval of the Town, which approval may be contingent on the Owner providing safe temporary bridges and/or other safety measures.

ARTICLE 3 - CAPACITY ALLOCATION

SECTION 10. 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 Municipal System and Sewers is the property of the Town of Burke and shall be allocated by the Board in the manner set forth herein.
2. **Town Reserve Capacity.** The Town may maintain a portion of the Permitted Capacity as Town Reserve Capacity for specific purposes it has determined are in the public interest. The Town Reserve Capacity shall not be allocated pursuant to the procedures outlined in this Section without action of the Town.
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 Municipal System shall be allocated according to the following procedure:
 - a. Once sewer connection applications have been received at the Board 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 Uncommitted Reserve Capacity shall be reviewed by the Board annually at a regular meeting of the Board.
 - 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 11. CAPACITY ALLOCATION PROCEDURES

1. **Application form.** Owners of real property within the Service Area wishing to use the Municipal System ("Applicants") shall apply to the Board on a form prescribed by the Town.
2. **Application for Preliminary Approval and Capacity Allocation.** An Applicant shall complete a form prescribed by the Board and shall provide all of the following information and documentation and pay all fees as follows:
 - 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 Municipal System.
 - b. Calculation of the wastewater flow to be generated by the building, project or

- development, pursuant to Section 8.7 of this Ordinance.
- c. Calculation of the volume, flow rate, strength, infiltration/inflow, characteristics, and any additional information requested by the Board, in order to demonstrate compliance with this Ordinance.
 - d. Unless waived by the Board, certification of the above information by a Vermont-registered Professional Engineer or a Vermont-licensed Wastewater System Designer.
 - e. Payment of all applicable fees as set forth in the most current Schedule of Rates and Fees for the Municipal System.
3. **Duration of approval.** The Board's Preliminary Approval and Capacity Allocation shall, upon payment of the associated fee(s) by the Owner, constitute a binding commitment of reserve capacity for a period of one (1) year from the date of approval, unless the Owner shall obtain Final Approval of Allocation of Capacity prior to the end of the one (1) year period.
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 Municipal System; 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 Municipal System without treatment, interfere or otherwise disrupt the proper quality and disposal of Municipal System sludge, or be injurious in any other manner to the Municipal 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.
 - d. Any special conditions the Owner must meet when constructing their Individual Sewer or Development Sewer.
5. **Issuance of approval.** The Board, after making the approval findings above, shall issue a Preliminary Approval and Capacity Allocation, which Allocation shall be a binding commitment of capacity to the Owner 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 extend the duration of the Preliminary Approval and Capacity

Allocation upon written request of the Owner, for a period of up to one (1) additional year, provided such request is received by the Board no less than thirty (30) days in advance of the expiration of the Preliminary Allocation. Any such extension shall require payment of an additional fee as set forth in the most current Schedule of Rates and Fees .

- ii. The maximum length of time per extension shall be one (1) year, with a maximum cumulative period of Preliminary Allocation of three (3) years during which the Preliminary Allocation shall be valid before re-application is required.
- iii. Any extension of a Preliminary Allocation beyond one (1) year of the original date of the Board's approval shall require ongoing payment by the Owner of the applicable Capital Construction Charge portion of the User Fees, as set forth in Section 13.3, 13.4, and 13.5, commencing one (1) month after the date of issuance of the extension, unless the Board waives or modifies the fees based on a determination of financial hardship pursuant to Section 10.9.

- b. Incorporation of specific conditions which must be fulfilled by the Owner to maintain validity of the Preliminary Allocation.
- c. Provision for revocation by the action of the Board upon failure of the Owner to fulfill requirements of the Preliminary Allocation.
- d. Specification that the recipient of the Preliminary Allocation may not transfer, by any means, the Preliminary Allocation 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 Owner must re-apply for Preliminary Allocation, and the revised project shall be considered a new project.
- f. Notwithstanding the foregoing in this Subsection (5), the issuance of a Preliminary Allocation shall not constitute a binding commitment of capacity to the Owner and may be revoked by the Board before a Final Approval and Capacity Allocation is granted if Uncommitted Reserve Capacity ceases to be available for reasons beyond the Board's control.

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

- a. Applicable local, State and Federal permits have been secured for the project;
- b. All applicable fees as set forth in the most current Schedule of Rates and Fees have been paid in full to the Board.
- f. Plans and specifications for the construction of their Individual Sewer or Development Sewer or Sewers including the Building Sewer (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 or a Vermont-licensed Wastewater System Designer, meeting the conditions set forth in Section 11.4 above, have been submitted and are acceptable to the Board.

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7. Final Approval and Capacity Allocation.

- a. A Final Approval and Capacity Allocation is an agreement between the Board and the Owner. The Owner who is issued the Final Approval does not own the Capacity. The Owner forfeits all rights to capacity if the conditions of the Final Approval are not met within the time frames set forth below.
- b. Unless waived or modified pursuant to Section 11.9, a Final Approval and Capacity Allocation shall require on-going payment by the Owner of the Capital Construction Charge portion of the User Fees, as set forth in Sections 12.3, 12.4, and 12.5, commencing one (1) month after the date of issuance of the Final Approval and Capacity Allocation.
- c. The Board, upon making affirmative findings that all conditions of the Preliminary Allocation and all conditions of Section 11.5 have been met, if applicable, 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 Owner 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 Board 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 Owner shall be responsible to schedule and pay for the physical construction of its Building Sewer, House Connection, and if necessary, the extension of the Individual Sewer or Development Sewer, 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 Owner or any failure of the Owner 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 Burke shall revert to the Town if the Owner 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 11.8.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 the Municipal System.
 - b. The Board may extend the expiration date of the Final Approval and Capacity Allocation, upon written request of the request of the Owner, 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 fee as set forth in the most current Schedule of Rates and 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 11.5.a, 11.7.b, or 11.8.b may be extended or waived by the Board if the Owner demonstrates an inability to pay the associated fees. The Owner may file its request in writing to the Board for Board consideration and action. However, all fees as set forth in the most current Schedule of Rates and Fees shall be paid by the Owner prior to connection to the Municipal System.

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

- a. Any Owner 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%) 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 Owner 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 Owner.
 - 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.

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 paid, and with reference to the location where approved plans and specifications are filed.

12. Approval to Connect.

Prior to connecting the Individual Sewer or Development Sewer to the Municipal System, the Owner or its agent or employee shall notify the Board that the Individual Sewer or Development Sewer has been constructed in accordance with the Final Allocation, the Wastewater Permit, the Regulations and the requirements of this Ordinance.

SECTION 12. TRANSFER OF CAPACITY ALLOCATION; SUBDIVISIONS

- 1. Preliminary and Final Approval and Capacity Allocations non-transferable.** Except as provided under Section 12.2 and Section 12.3 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. Transfer Upon Sale of Property.** An Owner may, upon sale of a property that benefits from a Preliminary Allocation or Final Approval of Allocation of Capacity, transfer the Allocation of Capacity to the new owners of said property. All terms and conditions of a Preliminary Allocation or Final Approval of Allocation of Capacity shall transfer to the new owners of the property and construction of the Individual Sewer or Development Sewer must be completed within the time allowed under the Final Approval of Allocation

of Capacity.

3. Final Approval and Capacity Allocation transfer in Subdivisions.

- a. Any Owner of 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 Burke therefor.
- 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 Municipal 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 Owner has sold or otherwise conveyed the lot for Development or has completed construction in accordance with the approved plan. If the Owner 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 Owner, assuming the Final Approval and Capacity Allocation has still not been used by the subdivided lot that was originally allocated the capacity.

4. Expiration; capacity reverts to Town upon expiration.

- a. A Subdivision or Development plan that is modified after Final Approval of Capacity Allocation shall not modify the Allocation of Capacity.
- b. 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 - USER CHARGES and FUND MANAGEMENT

SECTION 13. USER CHARGES and FEES

1. Authority to Establish User Charges and Fees

- a. The Board shall have the authority to establish reasonable charges (also known as

rents, rates, or sewage disposal charges) through a User Charge System for the purpose of producing adequate revenues to cover the costs of construction, operation, and maintenance of the Municipal System.

- b. The Board also shall have the authority to establish a schedule of fees, including but not limited to fees for applications for Capacity Allocation; extensions or revisions thereof; and Connection to the Municipal System.
- c. A Schedule of User Charges and Fees shall be adopted by Resolution of the Board. User Charges and Fees may be adjusted from time to time by Resolution of the Board.

2. Sewer Connection Fee.

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

3. Basis for User Charges.

- a. The User Charge shall be based on an annual estimate by the Board of the projected annual cost of operations and maintenance, and repayment of any bonded indebtedness related to construction of the Municipal System, as further described under Section 13.5.
- b. Adjustments for additions and/or omissions, or other changes, shall be made by the Board to the User Charge System as necessary to ensure that charges remain equitable and sufficient to cover such costs, either during a year or from year to year.

4. Determination of User Charges for Allocated Capacity

- a. The User Charge System shall impose a charge per gallon of Allocated Capacity assigned to each Individual Sewer per the User's individual Final Approval and Capacity Allocation, as determined in Section 11.7 of this Ordinance and maintained by the Town, or as set forth in a Preliminary Approval and Capacity Allocation.

- b. The Total Allocated Capacity of the Municipal System shall be the sum of all specifically Allocated Capacity, including allocations granted through:
 - i. Permits issued to connected Users of the Municipal System; and
 - ii. Capacity reserved through issuance of a Preliminary Approval and Capacity Allocation for one (1) year or more; and
 - iii. Capacity reserved through issuance of a Final Approval and Capacity Allocation.
5. **Capital Construction and Operations and Maintenance Charges.** The User Charge System may consist of two components: a capital construction charge, and an operations and maintenance charge.
- a. Capital Construction Charge
 - i. The Capital Construction Charge shall be based on the share of the cost of total Sewer indebtedness which is due within the fiscal period as set forth in the Schedule of User Charges and Fees.
 - b. Operations and Maintenance Charge.
 - i. The Operations and Maintenance Charge shall be based on the share of the costs to operate and maintain the Municipal System.
 - ii. The Operations and Maintenance Charge shall be based on a yearly estimate by the Board of the projected annual costs to operate and maintain the Municipal System, including but not limited to costs for contract operations, permit compliance, regular maintenance, utilities, materials, inspections, or legal and professional services.
 - iii. If a Dedicated Fund has been established pursuant to Section 13 below, the Board may at its discretion allocate all or a portion of an annual contribution to the Dedicated Fund to the total annual estimated cost on which the Operations and Maintenance Charge is based.

SECTION 14. DEDICATED FUND FOR MAJOR EXPENSES

1. **Dedicated fund authorized.** A separate dedicated fund and associated accounts (i.e., a reserve fund) is authorized and may be utilized for major rehabilitation, major maintenance, emergency repairs, upgrade expenditures associated with the Municipal System, and/or other purposes as identified by the Board and approved by the Town (the "Dedicated Fund"). The establishment of such a Dedicated Fund and associated accounts shall be done through a written policy adopted by the Board and approved by the Town, and any such fund shall be established and maintained in accordance with 24 V.S.A. § 3616.
2. **Required content of a dedicated fund policy.** Prior to depositing funds in any Dedicated Fund, the Board in consultation with the Town shall enact a policy, which shall contain at least the following:
 - a. identification of the major rehabilitation, major maintenance, upgrading needs

- anticipated, and/or other purpose as identified by the Board;
 - b. estimated expenditures and estimated year of expenditure,
 - c. the type of account used to accumulate the dedicated funds,
 - d. estimated payment amount(s) and sources of funding, and
 - e. estimated time payments are to stop.
- 3. **Authority of the Board.** The Board, subject to approval of the Town, shall have the authority to increase, decrease, stop and / or maintain regular deposits to the Dedicated Fund.
- 4. **Withdrawals from the Dedicated Fund.** The Board shall have the authority to withdraw amounts from the Dedicated Fund only for a purpose for which the fund was established. However, when Dedicated Fund assets are not disbursed fully for the expenditures for which the fund was established, excess money shall remain available in the Dedicated Fund for other future related expenditures similar in nature.

SECTION 15. APPLICABILITY OF CHARGES; BILLING

- 1. **Applicability of Charges.**
 - a. The User Charges shall be applicable to:
 - i. All connected Users of the Municipal System.
 - ii. All properties owned and operated by the Town that are connected to the Municipal System shall be subject to the User Charges established in this Ordinance.
 - b. The Capital Construction Charge portion of the User Charge shall be applicable to:
 - i. All holders of a Preliminary Approval and Capacity Allocation for one (1) year or more, as of the date of approval, per Section 10.5.a.3 of this Ordinance.
 - ii. All holders of a Final Approval and Capacity Allocation, as of the date of approval, per Section 10.7.b of this Ordinance.
 - c. The Town shall be responsible for payment of the User Charges applicable to:
 - i. Properties owned and operated by the Town connected to the Municipal System, based on the properties' Allocated Capacity;
 - ii. Town Reserve Capacity;
 - iii. Capacity reserved through issuance of a Preliminary Approval and Capacity Allocation for a period of less than one (1) year; and
 - iv. Uncommitted Reserve Capacity.
 - d. In the event the Board has waived or modified User Charges applicable to a Preliminary or Final Approval and Capacity Allocation under Section 10.9, the Board shall be responsible for payment of the unpaid share of User Charges associated therewith.
- 2. **Surcharges for High Strength Waste**
 - a. Users that discharge any abnormal wastes, including but not limited to toxic

pollutants, high strength wastes (i.e., regular, meaning at least three days in a seven-day period, discharge of Sewage of greater than 200 mg/L of BOD₅)⁵ or other Sewage that is detrimental or potentially damaging to the Municipal System in violation of Article 5 below shall be required to pay a surcharge directly related to the anticipated costs to be incurred by the Town to manage the abnormal wastes including management of both the liquid effluent and wasted sludge portions of such high strength wastes.

- b. This section shall not be construed as to create a right to such discharge.
 - c. The Board shall adopt a surcharge system and policy for handling abnormal wastes at such time as the need develops. The surcharge system shall use the parameter of 200 mg/L of BOD of as a comparative base.
 - d. Nothing in this section shall exempt a User from compliance with other conditions or requirements for use of the Municipal System imposed pursuant to this Ordinance.
3. **Use of Excess Revenues.** Excess Operations and Maintenance Charge or Capital Construction Charge revenues, or other excess income, may be placed into the Dedicated Fund, or otherwise applied to reduce the Capital Construction Charge or Operations and Maintenance Charges, as determined by the Board.
4. **Payment of Charges; delinquency; billing**
- a. **Billing frequency.** User Charges shall be invoiced no less than quarterly by the Town. User Charges shall be payable on or before the thirtieth (30th) day following the date of the invoice, or a later date as shown on the invoice.
 - b. **Penalty for late payment.** In the event that such charge is not paid when due, a penalty of one percent (1%) per month for the first three (3) months and one and one half percent (1½%) per month thereafter shall be added to the total amount due.
 - c. **Delinquency.**
 - i. If any account remains delinquent after thirty days, the Board may take any action that is consistent with the provisions of 24 V.S.A. Chapter 129, Uniform Water and Sewer Disconnect, as presently constituted and as amended from time to time, to obtain payment of delinquent charges or to discontinue service.
 - ii. Such charges shall be a lien upon the real estate under 32 V.S.A. § 5061 and may be enforceable and collected in the same manner and to the same effect as taxes are a lien on real estate are collected as provided in 24 V.S.A. § 3614 and 5151
 - d. **User Charges for new connections.** New sewer connections made during a billing period shall be billed on the following basis:
 - i. Capital Construction Charges for the entire billing period in which the
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- ii. connection occurs, regardless of date of hookup within the period;
 - ii. Operations and Maintenance Charges pro-rated for the period from the date of hookup to the end of the billing period.
- e. **Owners responsibility for payment; assignment of billing.** All User Charges and other applicable fees will be billed to the owner of record of the building or buildings served by the Municipal System, unless the owner of record provides written documentation to the Town accepting responsibility for payment but identifying other person(s) for receipt of billings.

ARTICLE 5 - USE OF THE PUBLIC SEWER

SECTION 16. WASTE RESTRICTIONS

1. **Prohibited discharges to Sewers.** No person shall discharge or cause or allow to be discharged any Stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or industrial waste to any Individual Sewer.
2. **Dilution prohibited.** It shall be illegal, for the purpose of meeting requirements of this Sewer Ordinance, to dilute wastes in lieu of proper pretreatment.
3. **Discharge of certain waters or wastes prohibited.** No person shall discharge or cause or allow to be discharged any of the following described waters or wastes to any public sewer(s) or sewage works:
 - a. Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, create any hazard in the receiving waters of the Municipal System.
 - c. Any waters or wastes having a pH lower than five point five (5.5) or higher than nine (9), or having any corrosive property capable of causing damage or hazards to structures, equipment, or personnel operating or maintaining the Municipal System.
 - d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in Sewers, or other interference with the proper operation of the sewage works such as, but not limited to, oil and grease, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, garbage, whole blood, paunch manure, hair, skin or flesh, entrails, flushable wipes, paper dishes, cups, or milk containers, either whole or ground by garbage grinders.
 - e. Any wastewater containing toxic pollutants in sufficient quantity, either single or by interaction with other pollutants, to injure, pass through, or cause interference with any sewage treatment process, constitute a hazard to humans or animals, or

- create a toxic effect in the receiving waters of the Municipal System.
- f. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or sufficient to prevent entry into the Sewers for maintenance and repair. For the purposes of this paragraph, an odor shall be considered as creating a public nuisance when it exists at a sufficient intensity or duration to cause residents within 500 feet of the source of the odor to file complaints to the Town.
 - g. Any substance which will cause the Municipal System to violate its State Disposal System Permit or the receiving water quality standards.
 - h. Water sufficiently hot to cause the influent at the Sewers to exceed one hundred four (104) degrees F (forty (40) degrees C) or cause inhibition of the Municipal System.
 - i. Quantities of flow, concentrations or both constitute a "Slug" as defined herein.
 - j. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable State or Federal regulations.
 - k. Any wastewater which causes a hazard to human life as defined by the Environmental Protection Agency, or which creates a public nuisance
 - l. Wastes from the preparation, cooking, and dispensing of food that have been shredded. The installation of any garbage grinder shall not be permitted.
4. **Discharge of certain substances prohibited.** The following described substances, materials, waters or waste shall be limited in discharges to the Sewers to concentrations or quantities which will not harm either the Sewers, the Municipal System and its sewage treatment process or equipment, will not have an adverse effect on the receiving waters and/or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Board may set limitations lower than the limitation established in these regulations if more active limitations are necessary to meet the above objectives. In determining such limitations, the Board will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the Sewers, materials and construction of the Municipal System and its sewage works, degree of treatability of the waste in the Municipal System, prevailing State and Federal regulations, and other pertinent factors. The limitation or restrictions on materials or characteristics of substances, materials, waters, waste or wastewaters discharged into the Sewers which shall not be violated without approval of the Board are as follows:
- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (sixty-five (65) degrees C).
 - b. Any water or wastes containing fats, wax, grease, or oils whether emulsified or not, in excess of twenty-five (25) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (zero (0) and sixty-five (65) degrees C).
 - c. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
 - d. Any waters or wastes containing iron, chromium, copper, zinc, and similar

- objectionable toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite Sewage at the Municipal System's disposal field exceeds the limits established by the Board for such materials
- e. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Board as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal, or other public agencies having jurisdiction for such discharge to the receiving waters.
 - f. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board in compliance with applicable State or Federal regulations.
 - g. Any waters or wastes having a pH in excess of 9.0.
 - h. Materials which exert or cause:
 - i. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - ii. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - iii. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the Municipal System, or that cause provisions of the discharge permit to be exceeded.
 - iv. Unusual volume of flow or concentration of wastes constituting "Slugs" as defined herein.
 - i. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or which are amenable to treatment only to such degree that the Municipal System effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
5. **Authority of Board to reject wastes or impose additional controls.** If any waters or wastes are discharged, or are proposed to be discharged to the Municipal System, which waters contain the substances or possess the characteristics enumerated in (3) or (4) above, and which in the judgment of the Board or its Manager, may have a deleterious effect upon the Sewers, Municipal System, or receiving waters, which otherwise create a hazard to life, health or constitute a public nuisance, the Board may:
- a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the Municipal System; and/or
 - c. Require control over the quantities and rates of discharge.

SECTION 17. PRE-TREATMENT and FLOW EQUALIZATION

1. **Pre-treatment and flow equalization installations.** If the Board permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Board, and subject to the requirements of all applicable codes, ordinances, and laws and to all applicable permits governing the Municipal System. Such pretreatment installations must be consistent with the requirements of any state pre-treatment permit issued to the industry.
2. **Interceptors may be required.** Grease, oil, hair, and sand interceptors shall be provided when, in the opinion of the Board, these are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, large particulate matter greater than one-half (1/2) inch (1.27 centimeters) in diameter, sand and other harmful ingredients. All interceptors shall be of a type and capacity approved by the Board and shall be located as to be readily and easily accessible for cleaning, maintenance, repair, replacement and inspection.
3. **Construction of interceptors.** Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. Interceptors shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
4. **Owners responsible for maintenance of interceptors and pre-treatment.**
 - a. Where installed, all grease, oil, hair, and sand interceptors shall be maintained by the Owner, at the Owner's sole cost, expense and risk, in continuously efficient operation at all times. Materials collected shall not be reintroduced into the Municipal System. The Owner shall provide the Town with records of cleaning, maintenance, and inspection as deemed necessary by the Board or its Manager.
 - b. Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, such facilities shall be maintained continuously in satisfactory and effective operation by the Owner at the Owner's sole cost, expense and risk.

SECTION 18. MONITORING, TESTING and MAINTENANCE

1. **Access for monitoring of wastes.** Authorized representatives of the Town shall, upon provision of reasonable notice to the Owner, be permitted to enter into, upon, or through the premises of any property discharging into the Municipal System to have access to and copy any record, to inspect any monitoring equipment or method, and to sample any discharge into the Municipal System.
2. **Control manholes.**
 - a. When required by the Board, the Owner of any property serviced by a Building Sewer carrying non-residential wastes shall install a suitable control manhole

together with such necessary meters, and other appurtenances in the Building Sewer to facilitate observation, sampling and measurement of the wastes.

- b. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved at the Owner's cost, expense and risk, and shall be maintained by the Owner so as to be safe and accessible at all times.

3. Monitoring of discharges; record keeping.

- a. All non-residential discharges into the Municipal System shall perform such monitoring of their discharges as the Board or its Manager may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Board.
- b. Such records shall be made available, upon request, by the Board, to other agencies having jurisdiction over the Municipal System.
- c. Where pretreatment permits are issued by the State of Vermont, monitoring records must also be submitted to the Secretary in accordance with such permit.

4. Methods for measurements, tests, and analyses.

- a. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the Municipal System to the point at which the Building Sewer is connected.
- b. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the Sewers and Municipal System and to determine the existence of hazards to life, limb, and property.
- c. All analyses shall be completed by an accredited laboratory.

5. Maintenance.

- a. The Town maintains the septic tank effluent pump stations for properties connected to the Municipal System. This maintenance includes:
 - i. Inspecting and cleaning the effluent filter(s).
 - ii. Checking pump controls.
 - iii. Checking septic sludge and scum layers.
 - iv. Coordinating pump-out of the septic tank. The Town pays for the pump-out.
- b. The Owner is responsible for the following:
 - i. Maintaining power to the septic tank.
 - ii. Contacting the operator if the alarm is activated.
 - iii. Only flushing or allowing down the drain normal household waste.
 - iv. Avoid driving over the septic tank. Only mowing or shoveling near or on

lids. Vehicles and heavy equipment are not to be driven over the covers of the tanks.

- v. Keep tank lid covers and access to covers clear for maintenance.
- vi. Check to see if the circuit breaker(s) to the system are tripped after power outages or storms.
- vii. Not flushing or allowing down the drain any of the following:
 - 1. Paints, solvents, or other chemicals.
 - 2. "Septic safe" wipes, grease, nylons, dental floss, or other wastes that won't break down.
- viii. Do not open the control panel.
- ix. Do not open the lid covers.

SECTION 19. ACCEPTANCE OF HIGH-STRENGTH WASTE

Nothing in this Ordinance shall be construed as authorizing any special agreement between the Town and any Owner through which an industrial waste of unusual strength or character may be accepted by the Town for treatment.

ARTICLE 6 - ADDITIONAL PROVISIONS

SECTION 20. PROTECTION FROM DAMAGE

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

SECTION 21. POWERS AND AUTHORITY OF INSPECTORS

1. Right of Entry.

- a. The Health Officer and other duly authorized employees, agents or representatives of the Town bearing proper credentials and identification shall be allowed to enter all properties connected to the Municipal System for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Ordinance.
- b. The Health Officer or the Manager shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the Sewers or waterways or the Municipal System.

- c. Delays by the Owner in providing reasonable access to duly authorized employees, agents or representatives of the Town enforcing the provisions of this Ordinance may be considered a violation of this Ordinance, subject to penalties outlined in Section 22 of this Ordinance.
2. **Liability and Indemnification.** While performing necessary work on private properties referred to in (1), the Health Officer and duly authorized employees, agents or representatives of the Town shall observe all safety rules applicable to the premises established by any company operating on a premises inspected; and the individual or entity shall be held harmless for injury or death to the Town employees, agents or representatives, and to the extent provided by law, the Town shall indemnify the individual or entity against liability claims and demands for injury or property damage asserted against the individual or entity arising from the gauging and sampling operation, except as such may be caused by negligence or failure of the individual or entity to maintain safe premises or conditions, including conduct of agents or employees of the company.
3. **Access to Easements.** The Health Officer and other duly authorized employees, agents or representatives of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. Routine maintenance requirements on the premises of a property discharging into the Municipal System may include, but not be limited to, regular pumping of the STEP systems and maintenance of the pump system. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the property involved.

SECTION 22. VIOLATION; PENALTIES

1. **Notice of violation.** Any person found to be violating any provision of this Ordinance except Section 20, Protection from Damage, shall be served by the Town with written notice stating the nature of the violation and providing a time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. **Violation—Penalty.**
 - a. Any person who shall continue any violation beyond the time limit provided for in Section 22.1 shall be guilty of a misdemeanor, and on conviction thereof shall be fined the maximum amount allowable under 24 V.S.A. Chapter 59 for civil ordinance violations, as amended. Each day in which any such violation shall continue shall be deemed a separate offense.

b. In addition to any fine imposed under Section 22.2, any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such offense, including but not limited to sampling, testing, inspection, repair, maintenance and replacement expenses.

3. **Remedies nonexclusive.** Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action including injunction or other proceeding to prevent, restrain or abate violations of any provisions of this Ordinance, including termination of sewer service.

SECTION 23. SEVERABILITY

1. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.
2. The invalidity of any section, clause, sentence, phrase, term or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

Adopted this ___ day of March, 2026. Effective date: June ____, 2026.

TOWN OF BURKE SELECTBOARD

Attest: _____
Linda Corey Hackett, Town Clerk

APPENDIX A: West Burke Village Wastewater Service Area

SCHEDULE OF USER RATE CHARGES AND FEES

1. This schedule applies to all Users of the Village of West Burke Municipal Wastewater System. The Board may amend this schedule from time to time, without amending the Wastewater Ordinance by following the applicable procedures for amending the schedule.
2. **Charges for Sewer Service:**
 - a. **Usage Charge:**
 - i. Capital Construction Charge: \$XX.XX (currently \$0.00)
 - ii. Operations and Maintenance Charge: \$XX.XX per unit
 - iii. Total User Charge: \$XX.XX
 - b. High Strength Waste Surcharge: [*per unit of BOD₅*]
 - c. Charges are billed on a [not more than quarterly] basis and are due and payable within thirty (30) days after date of mailing of billing.
 - d. Delinquency Charges: Accounts not paid within thirty (30) days of billing will be subject to a \$X.00 late fee plus an interest charge of X percent (X%) per month on the unpaid balance over thirty (30) days due.
 - e. For complete information about the payment of bills, see Section 14 and 24 V.S.A. Chapter 129.
3. **Special Fees and Charges**
 - a. **Reestablishment of Service Fee:** \$XXX (after non-payment only)
 - b. **Application for Approval and New/Increased Capacity Allocation**
 - i. Preliminary Allocation Application Fee: \$XX.XX
 - ii. Final Allocation Application Fee (for one- or two-step applications): \$XX.XX
 - c. **New Sewer Service Connection Fee**
 - i. \$XXX residential
 - ii. \$XXX commercial
 - iii. \$XXX small user fee (churches, fire station, library, post office, etc.)
 - d. **New Sewer Service Connection Fee:** [*Paid before system construction*]
 - i. Miscellaneous Fees:
 - ii. \$XX recording fee for transfer of capacity allocation to subdivided lot
 - iii. \$XX fee for certification of capacity allocation for real estate transactions, etc.

Reference: Determining Municipal System Capacity and Applicable Charges

Category	Definition	Ordinance Section	Gallons per Day	Applicable Charges
A Permitted Capacity		Section 7.1		
B Town Reserve Capacity		Section 9.2		Town pays full User Charge
C Allocated Capacity:				
Connected Users	Those physically connected to the Municipal System and discharging wastewater	Section 12.4.b	X,XXX	Connected Users pay full User Charge
Final Capacity Allocation holders	A Final Capacity Allocation has been issued by the Board		Y,YYY	Owner pays Capital Construction Charge portion of User Fee, unless waived by Board
Preliminary Capacity Allocation holders, held for 1 year or longer	A Preliminary Capacity Allocation has been extended, beginning one year from original date of issuance		Z,ZZZ	Town pays Operations + Maintenance portion of User Fee, and makes up any waived Capital Construction Charges
D Uncommitted Reserve Capacity	Available on a first come, first served basis		D = A-B-C	Town pays equivalent User Charge

Reference: Wastewater Capacity Allocation Process and Duration

	Ordinance Sections	Duration	Renewal	Maximum Term	Fees Due
<p>Preliminary</p> <p>*Voluntary step; Owners may seek & pay for final approval without preliminary approval</p>	Section 10.2 through 10.5	1 year	1 year, maximum of 2 extensions	3 years	<ul style="list-style-type: none"> • Preliminary application fee • Extension application fee, annually • Capital Construction Charge, if duration is extended past initial year, beginning one month after issuance of first extension
<p>Final</p> <p>Applies when Preliminary Approval was issued OR when an Owner chooses to purchase final capacity & pay fees</p>	Section 10.6 through 10.10	3 years	1 year, maximum of 2 extensions	5 years	<ul style="list-style-type: none"> • Final application fee • Extension application fee, annually • Capital Construction Charge beginning one month after issuance of Approval