

# ORDINANCES OF THE TOWN OF LYNDON

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**TOWN OF LYNDON****CHAPTER 1****GENERAL ORDINANCE PROVISIONS**

1. This and all following ordinances shall be known as "Ordinances of the Town of Lyndon", and so far as their provisions are the same in effect as those of previously existing ordinances, shall be construed as a continuance of those ordinances. They shall not affect any act done, any right accrued, or penalty incurred, any suit, prosecution, or proceeding pending or the tenure of any person holding office at the time when they take effect. Subject to the said limitations, all ordinances of the Town heretofore in force are hereby repealed; but this repeal shall not apply to or affect any ordinance heretofore adopted which accepts or adopts the provisions of any statute of the State. No ordinance which has been heretofore repealed shall be revived by the repeal mentioned in this chapter.

2. All enactments by the Selectmen for the Town of Lyndon shall be termed ordinances; proceedings and decisions of a temporary nature shall be termed resolutions; and the enacting clause, which shall be but one recited in each, shall be, for ordinances:

**"BE IT ORDAINED BY THE SELECTMEN OF THE TOWN OF LYNDON AS FOLLOWS:"**

For resolutions:

**"BE IT RESOLVED BY THE SELECTMEN OF THE TOWN OF LYNDON AS FOLLOWS:"**

3. The Selectmen shall meet regularly during each month on such day as they by resolution may from time to time designate, to pass and to otherwise act upon ordinances and for the transaction of other business, and may hold special meetings for the passing of resolutions and transaction of other business at such times and places within the corporate limits as they may agree upon.

4. No ordinance, resolution, amendment, change or repeal of an ordinance or resolution shall be acted upon until it has been reduced to writing. No ordinance or resolution shall be passed except by a majority vote of the Board of Selectmen.

No ordinance, amendment, change or repeal of an ordinance shall become effective until notice has been given by posting and by publication as provided in State statutes.

5. The Town Clerk shall be Clerk of the Board of Selectmen. It shall be his/her duty to attend all meetings of the Board and to make and keep a record of those meetings. The Clerk shall keep these and all other ordinances and resolutions hereafter passed in a book so designated, in order of their passage. The book will be kept in the office of the Town Clerk, subject to the inspection of any person interested therein, and all ordinances enacted shall, after posting and

publication, be available in suitable form for the use of all the officers of the Town government and for general distribution.

6. All fines and penalties for the violation of any ordinance, or the order of any board lawfully established thereunder, or the order of any person or persons who have been given lawful authority to issue such order, or the order of the Selectmen, shall when recovered, inure to the Town, and be paid into the Town treasury, unless otherwise directed by the laws of the State.

7. In accordance with V.S.A. 24, Sections 1971-1981, civil ordinances may be enforced using the Vermont Traffic and Municipal Ordinance Bureau. Under procedures adopted in that law, all provisions of all ordinances contained herein shall be considered civil matters that fall under the authority of the Vermont Traffic and Municipal Ordinance Bureau. Waiver fines are established under the various provisions contained herein as appropriate. As required by applicable sections of the same law, the following appointments are made:

A. Custodial Official: The Town Custodial Official shall be the Town Clerk, and the Clerk shall retain responsibility for obtaining, accounting for, and distributing tickets to the authorized "issuing officials", and receiving and distributing information regarding scheduled court dates as required.

B. Issuing Officials: Issuing officials are authorized to issue municipal complaints, via tickets, on behalf of the municipality. Town issuing officials include the Selectmen; the Municipal Assistant; Town Grand Jurors; Town constables; the Town Health Officer; and the Town Zoning Administrator.

C. Appearing Officials: Town officials authorized to represent the municipality in the Traffic and Municipal Ordinance Bureau include all Issuing Officials and the Town Agent.

8. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications hereto which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**TOWN OF LYNDON****CHAPTER 2****TRAFFIC AND PARKING ORDINANCE**

1. The speed limit of motor vehicles on any street or highway within the geographical boundaries of the Town of Lyndon shall not be more than thirty-five (35) miles per hour unless the road is posted otherwise, and no person shall operate a motor vehicle on any street or highway in excess of thirty-five (35) miles per hour or the posted speed.
2. When it appears that traffic will be congested by reason of a public occasion, the Selectmen of the Town of Lyndon may make special regulations as to the speed of motor vehicles, may exclude motor vehicles from certain public highways, and may make such traffic rules and regulations as the public good requires, provided however that signs indicating the special regulations must be conspicuously posted in and near all affected areas.
3. No person shall park a motor vehicle along the south side of Hill Street extension between the northeast corner of the St. Elizabeth Catholic Cemetery and the intersection of Hill Street extension and Lily Pond Road. In addition, no person shall park a motor vehicle along the west side of Lily Pond Road from the same intersection to the first residential driveway south of that intersection.
4. No person shall park a motor vehicle on the east side of Lily Pond Road from the intersection of Lily Pond Road and Route 114 to the intersection of Lily Pond Road and TH-39.
5. Any person who violates any provision in this ordinance shall be fined not more than \$100 (Waiver fine up to \$90).

**TOWN OF LYNDON****CHAPTER 3****ROADS****ARTICLE I: ROAD OBSTRUCTIONS**

1. No person, whether as landowner, lessee, agent, employee, servant or volunteer, shall deposit, or cause to be deposited, material of any kind within a highway right-of-way, or obstruct a ditch, culvert or drainage course without a written permit from the Board of Selectmen, in accordance with Title 19, §43 of V.S.A.
2. Material for the purpose of this ordinance shall include, but not be limited to, snow, ice, rocks or dirt which have been pushed, plowed or deposited by any means within a highway right of way.
3. Any person who violates the provisions of this ordinance shall pay a fine of one hundred dollars (\$100) for each violation (Waiver fine \$90), together with the costs of prosecution, including service fees, court costs and attorney fees. Each day during which such violation exists shall be a separate offense for the purpose of this ordinance.
4. The provisions of this ordinance are in addition to, and not in substitution of, any other rights and remedies, criminal or civil, which the Board of Selectmen may have according to the Vermont State Statutes.

## **ARTICLE II: ROAD CONSTRUCTION**

All private or Class IV roads will be brought up to the following standards in order for Selectmen to consider taking them over as a town highway or to reclassify them as Class III highways.

1. The road project must be under the direction of the Selectmen and Town Road Foreman.
2. A fifty (50) foot right-of-way must be staked out for inspection by the Board of Selectmen and Town Road Foreman prior to application for an Act 250 permit and before actual construction begins.
3. The Selectmen and Town Road Foreman must inspect the road project during construction.
4. The road bed will be raised above the surrounding terrain unless the topography of the land is such that this cannot be done, in which case the banks will be uniformly sloped.
5. Size specifications:
  - A. Road width minimum will be 20' with 3 foot shoulders on either side (26 foot wide base of bank gravel with 20 foot wide top of crusher run, 8" rise on shoulders), except all cul-de-sacs (turn arounds) will have a minimum diameter of 75 feet. If minimal in diameter, then the turn around is to be completely open.
  - B. Sub-base will be 12" of packed bank run gravel. If the area is wet, it will remain the Selectmen's discretion as to requiring additional gravel.
  - C. Top coat will be a minimum of 8" of packed crusher run gravel not exceeding 1 and 1/4" in size.
6. Adequate drainage, provided by installation of properly headed culverts, will be required at the discretion of the Selectmen and the Road Foreman. Culverts will be a minimum of 15 inches in diameter unless directed otherwise by the Selectmen. Drainage ditches will be constructed as required, with design and location as directed by the Road Foreman.
7. All banks must be topsoiled, seeded, and mulched. Seed will be the conservation mix, fertilized with 1000 pounds of 10-10-10 per acre.
8. A title to the road will be deeded to the Town. It will be a minimum of 50' width right-of-way, except that cul-de-sacs will be a minimum of 100 feet in diameter for the right-of-way. It will also include all necessary slope and drainage rights.
9. The grantor will be responsible for bank erosion for a period of one year following the Town's acceptance of the completed road project.

10. Other requirements, unique to a particular section of road, may be required as deemed necessary by the Selectmen and Road Foreman. These would include, but not be limited to, guardrails, bridges, and road name and traffic signs. Selectmen may, at their discretion, require wider road construction if such is found to be in the best interest of the Town.

11. In the event that the State of Vermont upgrades its minimum standards to a higher level than spelled out in this ordinance, the Town of Lyndon standards are likewise elevated to match these requirements.

12. The Board of Selectmen, acting in the best interests of the Town, reserves the right to reject any road proposal.

**ARTICLE III: USE OF SNOWMOBILES ON TOWN ROADS**

1. Operation of snowmobiles on asphalt, hardtop Town roads or on Town sidewalks is specifically prohibited. Violators of this provision of the ordinance will be fined forty dollars (\$40) (Waiver fine \$30) for each violation.
2. Operation of snowmobiles on Town gravel surfaced roads is only permitted on those sections of roads identified in paragraph 3 below. Such operations will be limited to speeds not greater than 20 MPH and single file travel on the highway. The Town assumes no responsibility for accidents and/or injuries involving snowmobilers, and Town members of the VAST organization shall insure that appropriate signage is posted and maintained.
3. Snowmobile operation is permitted on the following sections of Town highways:
  - A. SA-9 (McGoff Hill), from Lyndon State College to South Wheelock Road.
  - B. SA-5 (Darling Hill Road), as posted, from a point 1248 feet north of the intersection of SA-5 and Route 114, north for a distance of 3116 feet. The northern limit is approximately 2.3 miles from the Lyndon/Burke town line.
  - C. TH-40 (known as Burrington Bridge Road and Murray Hill), as posted, from a point approximately 1.5 miles east of the intersection with Route 114, east for a distance of 1208 feet to the Lyndon/Kirby town line.
  - D. TH-46 (known as Cold Hill and Bradley Hill), as posted, from a point 1.5 miles west of the intersection with South Wheelock Road, west for a distance of .4 miles to the Lyndon/Wheelock town line.
  - E. TH-9 (Mathewson Hill), as posted, from a point .4 miles north of the intersection with Route 122, continuing north for a distance of .3 miles. The northern end is 1.5 miles south of the Lyndon/Wheelock town line.
  - F. TH-45 (Wall's Road or Maple Road), as posted, from a point 405 feet south of the intersection with TH-40, south for a distance of 905 feet. The southern end is 1.3 miles north of the intersection with SA-2, Red Village/East Lyndon Road.
  - G. TH-31 (Vail Drive), from 75 feet south of Bridge 46 to 75 feet north of the same bridge, located about .2 miles south of the intersection of TH-31 and Route 122.

## **ARTICLE III-A: ESTABLISHING TRANSIT ZONES FOR ALL TERRAIN VEHICLES ON CERTAIN TOWN ROADS**

**1. AUTHORITY.** Under authority granted in 24 V.S.A. Chapter 59, 24 V.S.A. § 2291(4), and 23 V.S.A. §3510, the Selectboard of the Town of Lyndon hereby adopts the following ordinance regulating the manner and location of operation of all-terrain vehicles in approved transit zones within the town.

**2. PURPOSE.** The purpose of this ordinance is to protect the health and safety of operators of all-terrain vehicles and of the residents of the Town and to protect the animals, property and environment of the Town. To accomplish this purpose The Duck Pond Ridge Runners ATV Club has agreed to be responsible for posting and maintaining signage required by the Select Board.

### **3. DEFINITIONS.**

- A. "All-terrain vehicle," or "ATV," means any non-highway recreational vehicle, except snowmobiles, when used for cross-country travel on trails or on any one of the following or a combination thereof: water, snow, ice, marsh, swampland and natural terrain.
- C. "Operate" shall include any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they be in motion or at rest.

### **4. OPERATION.**

- A. All-terrain vehicles may be operated only on the following town highways:
1. Unplowed Class IV roads.
  2. On Buchler Road from the Wheelock Town Line to the intersection of Fall Brook Road, approximately .3 miles (three-tenths), to access the Class IV section of Fall Brook Road.
- B. Vehicles may operate from 8:00 a.m. to 8:00 p.m. from May 25<sup>th</sup> to October 10<sup>th</sup>
- C. All ATVs must be registered and operated according to the requirements of 23 V.S.A. Chapters 29(1) and 31.
- D. All vehicles must be insured at State minimum liability ratings.
- E. No one under 16 years of age may operate a vehicle unless accompanied by a licensed adult driver.
- F. The Speed Limit while operating in this transit zone will be 20MPH and all ATV's must be in single file, follow all traffic rules and control devices that apply to the Town highways.

G. DOT approved helmets are required while vehicles are in motion.

**5. PENALTIES.**

First offense .....\$ 50.00, waiver fee \$ 25.00  
Second offense.....\$100.00, waiver fee \$ 50.00  
Third and each subsequent offense.....\$200.00, waiver fee \$100.00

**6. ENFORCEMENT.** This is a civil ordinance and shall be enforced by law enforcement officials through the Judicial Bureau.

**7. SEVERABILITY.** If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

**8. EFFECTIVE DATE.** This ordinance shall become effective 60 days after its adoption by the Lyndon Select Board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

**ARTICLE IV: UNLAWFUL POSSESSION OF TOWN ROAD SIGNS**

Unauthorized removal and/or possession of any Town warning, caution, or road name sign and/or post is hereby prohibited. For the purpose of this Article 4, the word "unauthorized" shall include any removal or possession that has not been approved by the Selectboard, the Road Foreman, the Municipal Assistant, or the Town Clerk. Any person who violates this provision shall pay a fine of five hundred dollars (\$500) (Waiver fine: \$450) for each violation, together with the costs of prosecution including service fees, court costs, and attorney fees.

# TOWN OF LYNDON

## CHAPTER 4

### PET CONTROL ORDINANCE

1. The term "pet" under this chapter of the ordinances refers to dogs, wolf-hybrids, cats, and ferrets.
2. All pets in the Town of Lyndon shall be inoculated against rabies by a licensed veterinarian in accordance with the applicable provisions of the Vermont State Statutes.
3. No person having the ownership or control of a dog or wolf-hybrid in the Town of Lyndon shall allow that animal to continually howl, bark, whine, or otherwise act so as to continually disturb the peace of one or more persons living in the Town of Lyndon. Violators will first be warned by the Dog Warden/Animal Control Officer or a Town Issuing Official, and if the violation occurs again, the person shall be assessed a penalty of \$30 for each offense (Waiver fine \$25).
4. No person owning or controlling a dog or wolf-hybrid in the Town of Lyndon will allow that animal to act in a vicious, destructive, or harmful manner against other persons, property or animals in the Town of Lyndon.
  - A. Violations of this provision will result in an assessed penalty of \$150 (Waiver fine \$130), and the Selectmen may order the destruction of the animal in accordance with V.S.A. 20, Chapter 193. The person owning the animal shall be required to pay the costs incurred to humanely destroy it.
  - B. Upon written complaint by a legal resident of the Town that a dog or wolf-hybrid is alleged to be vicious, the Selectboard shall hold a hearing on the facts of the complaint. If the Selectmen find the animal to be vicious, they may make such order as necessary, including destruction of the animal, to protect the public.
5. All dogs and wolf-hybrids shall be confined to the limits of the property owned or leased by any dog or wolf-hybrid owner or keeper, unless that animal is on a leash in the hands of a mature person capable of handling said animal. Violators of this provision will be charged a \$25 penalty by the Dog Warden/Animal Control Officer or a Town Issuing Official for the first offense, as well as a boarding fee of \$6 per day or portion of a day if the animal is impounded. Penalties for subsequent violations of this provision are as follows with no waiver fines established:
  - A. Second offense within a twelve month period: \$50 plus boarding fees.
  - B. Third offense within a twelve month period: \$100 plus boarding fees.
  - C. Fourth offense within a twelve month period: \$200 plus boarding fees.

D. Fifth offense within a twelve month period: the Dog Warden/Animal Control Officer or a Town Issuing Official will notify the Selectmen of the offense, providing records of previous offenses and actions taken. The Selectmen may order the dog/wolf-hybrid to be destroyed in a humane manner in accordance with the authority given in V.S.A. 20, Section 3807. The owner shall be required to pay the costs incurred for such destruction.

6. A dog or wolf-hybrid does not have to be caught or impounded for an owner/keeper to be penalized for a violation of the provision defined in paragraph 5. Nor does the dog/wolf-hybrid have to be caught/impounded for an owner/keeper to be penalized in the amounts outlined in paragraph 5, depending on the number of previous violations. If a Selectman, the Municipal Assistant, the Dog Warden/Animal Control Officer, or any other Town Issuing Official observes a dog or wolf-hybrid running at large in violation of the provision of paragraph 5, and if the owner/keeper of the dog or wolf-hybrid can be positively identified, the penalties cited in paragraph 5 shall apply.

7. Dogs and wolf-hybrids will be licensed, and the license will be attached to the animal's collar in accordance with V.S.A. 20, Sections 3581 and 3582. A dog or wolf-hybrid owner or keeper found in violation of these provisions of the law will be assessed a penalty of \$60 (Waiver fine \$50) and be required to (1) show evidence of rabies vaccination, and (2) properly license the dog/wolf-hybrid within five (5) calendar days. Because of the threat of rabies, the owner will be required to keep the dog/wolf-hybrid confined until licensed. This provision applies regardless of whether or not the unlicensed animal is found on the owner/keeper's property. If the owner/keeper does not license the animal within five calendar days, the Selectmen shall issue an order to destroy the animal. The owner shall be required to pay the costs incurred for destruction.

8. Dogs and/or wolf-hybrids found running at large in violation of paragraph 5 will be impounded while the animal control officer attempts to find the owner. If the animal has a license attached to a collar, the animal control officer will contact the person who secured and registered the license in the Town Office, and the penalties of paragraph 5 shall apply. If the animal is not licensed and/or the animal control officer cannot locate the owner, the animal will be released for adoption seven days from the time that the dog was impounded. The adoption fee shall be ten dollars (\$10) and will be paid to the animal control officer at the time of adoption. Once an animal has been adopted, the person adopting the animal shall be considered the owner of same and be responsible for compliance with all provisions of this ordinance.

9. Cats that appear to be abandoned or stray (based on taking up residence on a non-owner's property for at least five days) will be considered to have an unknown rabies vaccination history in accordance with V.S.A. 20, Section 3806. Such cats will be delivered by the Animal Control Officer or affected property owner to the local veterinarian and should be reported to the Town Clerk's Office. The Town Clerk will post a notice in an attempt to find the owner. Any individual who claims ownership must produce proof of rabies vaccination and pay all costs associated with boarding and medical treatment. Cats not claimed will be offered for adoption. The individual adopting a cat shall be responsible for paying for appropriate vaccinations. Cats that cannot be adopted will be humanely euthanized.

# TOWN OF LYNDON

## CHAPTER 5

### SEWER AND WASTEWATER

#### ARTICLE I: WASTEWATER RESERVE CAPACITY ALLOCATION

##### 1. Ownership & Permit

The Town of Lyndon owns and operates a sewage treatment and disposal plant (PLANT) and a sewage collection and transmission system (SEWERS) as defined in 24 V.S.A., Section 3501 (6) and 3601. The PLANT has a permitted capacity, and is operated in accord with a discharge permit issued by the Vermont Department of Environmental Conservation (DEPARTMENT) under authority granted in 10 V.S.A., Chapter 47. The board of sewage disposal commissioners (BOARD) is obligated by law to comply with conditions of that permit, and to operate and manage the PLANT and SEWERS as governmental functions under and pursuant to 24 V.S.A., Chapters 97 and 101.

##### 2. Introduction to Reserve Capacity Allocation

The permitted capacity of the PLANT and SEWERS is the property of the Town of Lyndon. The uncommitted reserve capacity of the PLANT and SEWERS shall be allocated by the BOARD in the manner described below. 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 sewerage.

The Town has a design treatment capacity of 750,000 gallons per day and, at the time of the original adoption of this ordinance, operated the treatment PLANT at an average of 541,250 gallons per day from "current users". At the time of the adoption of this ordinance committed reserve capacity equaled 13,780 gallons and the uncommitted reserve capacity equaled 194,970 gallons; these amounts are subject to change.

##### 3. Definitions

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

- A. "Person" shall have the meaning prescribed in 1 V.S.A., Section 128.
- B. "Department" shall mean the Vermont Department of Environmental Conservation.

- C. "Discharge Permit" shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.
- D. "BOARD" shall mean the Board of Selectmen of the Town of Lyndon acting as a Board of Sewage Disposal Commissioners under 24 V.S.A., Section 3614.
- E. "Impact Fee" shall mean a fee imposed on applicants for capacity allocation equal to the capital cost per gallon of sewage treatment and disposal capacity attributable to the project or development. This fee shall be consistent with the intent of impact fees authorized under 24 V.S.A., Chapter 131.
- F. "Connection Fee" shall mean a fee imposed on applicants for the municipality's cost of performing, supplying materials, supervising, inspecting and administering a connection to the sewage system including any necessary sewer service extension, upgrading sewers or for any portion of these activities.
- G. "Plant Wastewater Flow" is the wastewater passing through the treatment plant in gallons per day on an annual average basis (365 day average) except where flows vary significantly from seasonal development. In the latter case, plant wastewater flow is determined as the average throughout the high seasonal use period, as determined by the BOARD.
- H. "Permitted Wastewater Flow" is the maximum plant wastewater flow authorized in the Discharge Permit on an annual average (365 day average) basis.
- I. "Development Wastewater Flow" is the flow resulting from full use of the development at its peak capacity, which flow shall be calculated using flow quantities, adopted as rules by the DEPARTMENT, as promulgated at the time a connection permit application is made.
- J. "Reserve Capacity" is the permitted wastewater flow minus the actual plant wastewater flow during the preceding 12 months.
- K. "Uncommitted Reserve Capacity" is that portion of the reserve capacity remaining after subtracting the development wastewater flow of all projects approved by the DEPARTMENT but not yet discharging to the SEWER.
- L. "Committed Reserve Capacity" is the total amount of total development wastewater flow (gallons per day) from all projects/buildings approved by the BOARD and the DEPARTMENT for discharge to the treatment PLANT, but not yet discharging at the time of the calculation.
- M. "Sanitary Wastewater" is wastewater of the same character and range of strength as expected from homes.

N. "Sewer Service Area" is that area of a municipality that is with 250 feet horizontally from existing municipal collection lines and manholes.

O. "PLANT" is the municipal sewage treatment plant owned by the Town of Lyndon.

P. "SEWERS" are the sewage collection and transmission system owned by the Town of Lyndon.

Q. "Development" - the construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial, industrial activity.

(1). "Initiate Construction" -

- a. For building development, the completion of the foundation.
- b. For subdivision development, the sale of the individual lots.

(2). "Completed Construction" -

- a. For building development, completion of construction of all foundations, framing, siding and roofs.
- b. For subdivision development, the sale of the individual lots.

#### 4. Reserve Capacity Allocation

##### A. Allocation Flow Basis

All allocations to projects shall be based on development wastewater flow. Any differential between actual flows and development wastewater flows that occurs is not available to the development owner for re-allotment to another project or a project expansion.

##### B. Allocation Priorities

Allocation of uncommitted reserve capacity shall comply with the following priority intended to govern the gross allocation of reserve capacity before the allocation principles are applied to specific projects.

Residential, commercial, institutional, and industrial facilities existing within the sewer service area on the date of adoption of this ordinance which are required to be connected to the municipal sewer by the municipal sewer use ordinance, or by virtue of existing pollution from the facilities to waters of the State, shall be entitled to first priority in allocation of uncommitted reserve capacity. New development within or outside the sewer service area will have second priority of uncommitted reserve capacity provided that the development is in the best interest of the Town as determined by the BOARD. 60,000 gallons per day of uncommitted reserve capacity is set aside to fulfill sewer obligations defined by contract,

dated April 30, 1984, between the Town and the Northeastern Vermont Development Association regarding development of the St. Johnsbury-Lyndon Industrial Park.

### C. Allocation Principles

Subsequent to application of the allocation priority, uncommitted reserve capacity in the wastewater treatment facility may be allocated to specific projects according to the following procedure.

Once sewer permit applications have been returned to the Town office and marked with the time and date by the person receiving the application, the BOARD may review the applications on a first come, first served basis. The total remaining uncommitted wastewater reserve capacity shall be allocated by the BOARD in such a way that there are no limitations on what total reserve amounts can be allocated in any one year as long as uncommitted capacity exists, and no limitation of the type of development receiving the allocation. The total reserve capacity will be determined each six months and committed reserve will be continuously recorded for use in allocation decisions.

The BOARD retains the right to review applications and make allocations on other than a first come, first served basis if they find such action is in the Town's best interest.

### 5. Cost Recovery for SEWERS Expansion

A. Any extension of the sewer service area to provide for new users shall be funded in the following way: The proposed users to be served by the expansion will pay the entire cost of the expansion and upgrading of the SEWERS determined necessary and adequate by the BOARD.

B. Any payments made as required by Section 5(A) shall not be construed as payments towards treatment capacity that may be provided for the development.

### 6. Application Requirement

Persons wishing to use the PLANT and SEWERS shall apply to the BOARD on a form prescribed by the BOARD and available at the Town Clerk's Office. Such application shall:

A. Be accompanied by a calculation of the development wastewater flow to be generated by the project/development;

B. Include calculations for the volume, flow rate, strength and any other characteristics determined appropriate by the BOARD;

C. Unless waived by the BOARD all calculations required in (A) and (B) above for developments generating over 1000 gallons per day shall be certified by a Vermont registered engineer.

D. Be accompanied by plans and specifications for the construction of building sewers (from the buildings to Town sewers) and any Town sewer extensions, including pump stations, required to service the development prepared by a Vermont registered engineer. This requirement to submit plans and specs may be waived by the BOARD until final connection approval.

## 7. Preliminary Connection Approval Findings

Upon receipt of the connection application and supportive documents, the BOARD may make preliminary approval of uncommitted reserve capacity 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 applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the PLANT and SEWERS and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit, pass through the PLANT without treatment, interfere or otherwise disrupt the proper quality and disposal of PLANT sludge or be injurious in any other manner to the PLANT or SEWERS and that there is sufficient uncommitted reserve capacity to accommodate the strength and volume of the proposed development;
- C. The proposed use of wastewater capacity complies with the allocation priorities and principles and is not in conflict with any other enactment adopted by the BOARD.

## 8. Conditions of Preliminary Connection Approval

The BOARD, after making the approval findings above, may issue a preliminary connection approval, which approval shall be a binding commitment of capacity to the project contingent on compliance with any conditions attached to the preliminary approval and the subsequent issuance of a final connection approval. The preliminary approval conditions may include:

- A. Specification of the period of time during which the interim connection approval shall remain valid. Unless otherwise specified, this time is 120 days. Application may be made to the BOARD for time extensions.
- B. Incorporation of specific conditions which must be fulfilled by the applicant to maintain validity of the preliminary connection approval.
- C. Provision for revocation by the action of the BOARD on failure of the applicant to fulfill requirements of the preliminary connection approval.

D. Specification that the recipient of the preliminary connection approval may not transfer, by any means, the preliminary connection approval to any other person or connection location to the SEWERS.

**PRIOR TO FINAL CONNECTION APPROVAL THE FOLLOWING COMMITMENTS SHALL BE MET BY THE APPLICANT:**

A. Applicable local, State and Federal permits have been secured for the development/project;

B. Connection fees, impact fees, permit fees and other local fees or taxes set by the BOARD have been paid in full to the Town of Lyndon. Impact fees will be partially based on the volume and strength of the proposed wastewater flow.

C. The plans and specs for connection to and, if necessary, extension of the Town SEWERS are acceptable to the BOARD.

9. Final Connection Approval Requirements

The BOARD, on making affirmative findings that all conditions of the preliminary connection approval and final connection approval prerequisites in Section 8 have been fulfilled, shall issue the final connection approval permit, which approval may be conditioned as follows:

A. The permit shall specify the allowed volume, flow rate, strength frequency and any other characteristics of the proposed discharge determined appropriate by the BOARD.

B. The capacity allocation is not transferable to any other person or project unless requested by the original owner and approved by the BOARD.

C. The construction of the connection and, if necessary, the municipal SEWER extension, must be overseen to assure compliance with the plans and specs and good construction practice in a manner acceptable to the BOARD.

D. Capacity allocated in conjunction with the final connection permit for building development shall revert to the Town if the permit recipient has failed to initiate construction within one year of the issued date on the permit.

E. The permit shall expire three years from the date of issuance based on the original development plan at the time of permit approval. The unused portion of the committed capacity allocation will revert to the Town and there will be no refund of connection, impact, permit or other fees. Generally, the unused capacity reverting to the Town is associated with buildings that do not at least have foundations, framing and roofs.

Regardless of the permit expiration period above, the BOARD may order construction of the development over a longer period if this action is in the Town's best interest.

F. For subdivision projects the permit holder (developer) of a proposed subdivided parcel must indicate the development planned for each lot. If all prerequisites defined for final connection approval herein are met, final connection permits will be issued to the subdivision owner for each lot with a specific reserve capacity allocation associated with the proposed development. These final connection permits will expire after three years from the date of initial issuance unless the developer has sold the lot for development or has completed construction in accord with the approved development plan. The expiration at three years from original issuance will not be modified by any revisions to the subdivision or development plan subsequent to the initial approval. The BOARD shall then notify the Vermont Agency of Natural Resources of the expired subdivision permit.

The reserve capacity allotted to lots that are either unsold or do not have building construction completed at the time of permit expiration shall revert to the Town without refund of any fees paid. Reserve capacity shall also revert to the Town from any reductions made to the development wastewater flow planned for each lot subsequent to initial approval.

The subdivision owner shall file the final connection permits in the land records of the Town along with copies of all fees paid and reference to the location of the approved connection plans and specifications. When the owner/developer of a subdivision sells individual lots with the three year time frame, the final connection permit shall transfer when the property transfers and the new owner becomes bound to comply with all permits issued and the plans and specifications for connecting the Town SEWERS. The transferred permit will be considered a new permit issued on the date of property transfer and the constraints of 9(E) will apply to this permit.

G. In cases where a final connection permit expires and a new person applies for capacity on the same or a different project, the BOARD may consider previous fees paid by the original person when setting fees for the new person applying for capacity.

H. The chief wastewater treatment plant operator or Municipal Assistant shall be notified one week in advance of any proposed sewer connection authorized by a final connection permit. The connection to the municipal sewer shall not be performed unless the municipal official or designated representative is present and shall not be covered until approved by the official. Additional constraints may be found in the Sewer Use Ordinance.

## 10. Transfer of Allocation

A. Initially reserve capacity is allocated by the BOARD to a specific person, project and parcel of land. The allocation is not made solely to a parcel of land and therefore does not run with the land during project completion. After completion of the project or permit expiration, however, the allocation (adjusted to the actual development constructed, if necessary) will run with the land.

B. The transfer of the capacity allocation is prohibited unless approved in writing by the BOARD at the original owners request.

C. The BOARD may approve transfer of capacity from one project to another and one owner to another provided the new project and owner meets all the requirements for the final connection approval originally issued and the original owner requests such transfer.

11. Authority to Require Connection

Nothing herein shall be construed as limiting or impairing the authority of the Town or the BOARD to require connections to the PLANT and SEWERS under the general laws of the State or local ordinances.

12. Adoption of Ordinance

This ordinance originally became effective at midnight, September 2, 1990. To the extent that any provision herein shall be inconsistent with or contrary to any provision of the Town Sewer Use Ordinance, then the provisions of this ordinance shall apply. The adoption of this allocation ordinance shall not interfere with the authority and responsibility of the legislative body as Sewer Commissioners, in matters relating to the management and operation of the Public Sewer System as provided in Chapters 97 and 101 of 24 V.S.A.

**ARTICLE II: REGULATION OF SEWER USE**

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF IN THE TOWN OF LYNDON.

1. Definitions: unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- A. "BOD" (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 degrees C, expressed in milligrams per liter.
- B. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- C. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- D. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
- E. "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.
- F. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- G. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- H. "Person" shall mean any individual, firm, company, association, society, corporation, or group.
- I. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- J. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will

be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

K. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

L. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

M. "Selectmen" shall mean the duly elected Board of Selectmen of the Town of Lyndon.

N. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

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

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

Q. "Sewer" shall mean a pipe or conduit for carrying sewage.

R. "Shall" is mandatory; "May" is permissive.

S. "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.

T. "Storm Drain" (sometimes termed "Storm Sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

U. "Superintendent" shall mean the Superintendent of Sewage Works and/or of Water Pollution Control of the Town of Lyndon, or his authorized deputy, agent, or representative.

V. "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.

W. "Town" shall mean the Town of Lyndon to include the incorporated Village of Lyndonville.

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

Y. "Secretary" shall mean the Secretary of the Agency of Environmental Conservation, State of Vermont, or his representatives.

## 2. Use of Public Sewers Required.

A. All new buildings needing sewage facilities constructed, or in the process of being constructed, after the effective date of this ordinance shall be required to connect to the Town sewer line within (60) days of occupancy if the building is within 250' of said sewer line. All permits and fees in effect at the time shall be required.

B. If at any time in the future a new Town sewer line is constructed or an existing Town sewer line is extended, any building in which sewage is generated and located within 250' of said sewer line shall be required to connect to said sewer line within (60) days of occupancy. A permit will be required and all fees shall be paid.

C. Exceptions to sections A. and B of this subsection: any existing building or any new building which may be built in the future, shall be exempt from sections A and B of this subsection if they are separated from a Town sewer line by a state highway or railroad track, unless the Town at it's sole option and discretion shall have made available proper connection by virtue of extending the sewer line across such state highway or railroad track. In all such cases, property so affected shall immediately be denied all benefit of this exception and sections A and B of this subsection shall apply.

D. As respects any or all sections of this ordinance, should conditions be present such as unusual easement expense, terrain, soil conditions, weather, or any other unforeseen hardship on the part of the Town or building owner, the Town selectmen shall pass final judgment.

E. All costs and expenses incurred in the construction of a sewer line to comply with the regulations of this section shall be borne by the building owner to his lot line. All costs and expenses incurred from said lot line to the Town sewer line shall be the responsibility of the Town.

## 3. Private Sewage Disposal.

Where a public sanitary or combined sewer system is not available under the provisions of Section Two (2) the building sewer shall be connected to a private sewer disposal system which meets all requirements of the local and state boards of health which are in effect or may hereinafter be required.

## 4. Building Sewers, Connections and Maintenance.

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent. Any person proposing a new discharge into the system, or a substantial change in volume associated with a change of use, or a change in the character of pollutants that are being discharged into the system, shall notify the Superintendent at least forty-five (45) days prior to the proposed change or connection.

B. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of one thousand dollars (\$1000) for a residential building sewer permit shall be paid to the Town at the time the application is filed. Fees for commercial and industrial permits shall be determined by the Selectmen on a case-by-case basis with consideration being given to amount and type of discharge. Commercial and industrial permit fee payment shall be a condition of permit approval. In the event of a substantial change as defined in Section 4A above, the Selectmen retain the right to impose additional fees accordingly.

C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Any sewer line constructed shall become the property of the Town as far as the property line of the private building which will utilize such service, and such part shall be maintained by the Town.

D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available, or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

F. 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. In the absence of code provision's or in amplification thereof the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. '9 shall apply.

G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

H. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, 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 a public sanitary sewer.

I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

J. No sewer connection shall be opened, no pipe laid, and no joints made except under the inspection of the Superintendent or his duly authorized representative.

K. Any work not conforming to the provisions of Sec. J. shall be removed.

L. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

M. Any sewer line from private land or buildings to existing public sewer lines shall be maintained at the expense of the person or persons requiring the service. If it should become necessary to maintain sewer lines within the highway' right of way limits, permission must first be obtained from the Plant Superintendent and Selectmen before any digging or maintenance operations begin.

#### 5. Use of the Public Sewers.

A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1). Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, or lubricating oils.
- (2). 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 sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazards in the receiving waters of the sewage treatment plant.
- (3). Any waters or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (4). 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, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, disposable diapers, etc. either whole or ground by garbage grinders.

D. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

The substances prohibited are:

- (1). Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit or sixty-five (65) degrees Centigrade.
- (2). Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit or between zero (0) and sixty-five (65) degrees Centigrade.

- (3). Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- (4). Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5). Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (6). Any waters or wastes containing phenols or other tastes or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage to meet the requirements of the state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
- (7). Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
- (8). Any waters or wastes having a pH in excess of 9.5.
- (9). Materials which exert or cause:
  - (a). 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).
  - (b). Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (c). Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works, may cause the effluent limitations of the discharge permit to be exceeded.
  - (d). Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (10). Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are

amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Part D. of this section and which, in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1). Reject the wastes,
- (2). Require pretreatment to an acceptable condition for discharge to the public sewers, and/or
- (3). Require control over the quantities and rates of discharge.

F. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

G. Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

H. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial 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. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent.

Where industrial pre-treatment permits are issued by the State of Vermont, monitoring records must also be submitted to the Secretary in accord with such permit. Such

records of any other monitoring shall be made available upon request by the Superintendent to the Secretary or other agencies having jurisdiction over discharges to the receiving waters.

(The particular analysis involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken.) Normally, but not always, BOD and Suspended Solids Analyses are obtained from 24 hour composites of all outfalls whereas pH's are determined from periodic grab samples.

I. Any non-residential entity discharging into the public sewer shall provide 45 days prior notification to the Superintendent for any of the following:

- (1). Any proposed new discharge into the system, or a substantial change in volume associated with a change of use, or a change in the character of pollutants that are being discharged into the system over that already being discharged into the Town's treatment works.
- (2). Any proposed new discharge into the public sewer of pollutants from any source which would be a new source as defined in Section 306 of the Clean Water Act if such source were discharging pollutants.
- (3). Any proposed new discharge into the public sewer of pollutants from any source which would be subject to Section 301 of the Clean Water Act if it were discharging such pollutants.

J. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance 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 said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

K. That any entity held in violation of the provisions of this ordinance may have its disposal authorization terminated.

L. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an 'industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment, therefore, by the industrial concern provided that such agreements do not contravene any requirements of existing federal laws and are compatible with any User Charge and Industrial Cost Recovery System in effect.

## 6. Power and Authority of Inspectors.

A. The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The Superintendent or his representatives 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 facilities for wastes treatment.

B. While performing the necessary work on private properties referred to in Section A above, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the owner or occupant.

C. The Superintendent or Town Health Officer and other duly authorized employees 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 purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

## 7. Penalties.

A. Any person found to be violating any provision of this ordinance shall be served by the Town with written notice stating the nature of the violation and providing reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.

B. Any person who shall continue' any violation beyond the time limit provided for in *Section A above* shall be fined in the amount not exceeding two hundred and fifty dollars (\$250.00) (Waiver fine of \$200) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

C. 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.

## 8. Validity.

A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

B. The invalidity of any section, clause, sentence, 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.

C. Any disagreements between the Superintendent or duly authorized representative and building owner are subject to review by the Selectmen.

#### 9. Rates.

A. The Board of Selectmen shall establish the user charge and industrial cost recovery system in accordance with appropriate federal and state rules and regulations pertaining to the costs associated to the user of the sewer by a residential or commercial user and also those establishments producing industrial wastes.

B. The Board of Selectmen shall, in establishing the rates referred to in Section A above, make specific reference to the sewer use rate structure in force at the time of any connection. The sewer use rate structure shall incorporate the requirements of 40 CFR 35.935-13 and V.S.A. Chapter 79.

C. User charges shall include the cost of operation and maintenance plus debt retirement. These charges may be based on a volume unit using metered water flows to determine the unit.

**TOWN OF LYNDON****CHAPTER 6****RENTAL HOUSING HEALTH AND SAFETY ORDINANCE**

1. The Town Health Officer shall have and exercise all of the powers and duties set forth in 18 V.S.A., Section 602a. The Town Health Officer shall enforce the provisions of Subchapter 16 of Chapter 5, Environmental Health, of the Vermont Health Regulations, also known as the Rental Housing Health Code (the "Code").

2. Whenever the Town Health Officer discovers that the condition of a rental dwelling unit or units does not comply with the requirements of the Code, the Town Health Officer shall issue an Order to the owner of the property in which the dwelling unit(s) is located. The Order shall specify (1) the violations, (2) the corrections required to make the property comply with the Code, (3) the date within which the corrections must be completed, and (4) shall provide notice of the Town Health Officer's intention to take one or more of the actions set forth in Section 3 hereof if the corrections are not made within the time specified in the Order. The Town Health Officer shall serve a copy of the Health Code Order on the owner of the affected property and to all tenants affected by the Order, by hand or by first class mail (postage prepaid, return receipt requested) sent to the addressees' last known addresses.

3. Whenever an Order that has been issued by the Town Health Officer, Town Fire Chief, or any other person authorized to conduct health or safety inspections, and such Order is neither complied with nor appealed within the time prescribed by the Order or any amendment thereto, the Town Health Officer or Fire Chief shall post a Notice of Health and Safety Code Violations in a public place located on the premises where the violation has occurred and at the Town Offices, and may record the Notice of Health and Safety Code Violations in the Town land records.

4. The Notice of Health and Safety Code Violations shall identify the location of the property including street name and number if applicable, the owner of the property, the name, address and telephone number of a person that can provide additional information about the violations, and a statement that any person not excepted from the application of Section 7 who removes the notice is liable to pay a fine of one hundred dollars (\$100).

5. Prior to concluding an agreement to rent a dwelling unit that is subject to any Health or Safety Order or located on property that is subject to an Order, the owner of the premises must first obtain from the Town Health Officer or Fire Chief a Certificate of Compliance with the Order. The Certificate will be issued after an inspection, or some other means of determining compliance, is performed by the Town Health Officer or Fire Chief, or by the officer who issued the Order if it was not issued by a Town Officer. If the property is in compliance with the Order, and if a Notice of Health and Safety Code Violations has been recorded in the Town land records, the Town Officer shall record in the Town land records a Certificate of Compliance with Health and Safety Code Order, identifying the location of the property

including the street name and number if applicable, the owner of the property, the person who verified compliance, and the date of such verification.

6. Any person who fails to comply with the provisions of the preceding Section or with a Notice of Health and Safety Code Violations shall pay a fine, plus the costs of prosecution, including service fees, court costs and attorneys fees, as follows:

A. For a first offense, or any other offense not identified in Subsections B and C below, three hundred dollars (\$300) (Waiver Fine: \$250),

B. For a second offense within a two year period, four hundred dollars (\$400) (Waiver Fine: \$350), and

C. For a third offense within a three year period, five hundred dollars (\$500) (Waiver Fine: \$450).

7. Any person who removes a Notice of Health and Safety Code Violations shall pay a fine of one hundred dollars (\$100) (Waiver Fine: \$90). This Section 7 shall not apply to the Town Health Officer, Fire Chief, the Town Clerk, the Municipal Assistant, or a person designated by any of these four municipal officials.

8. The provisions of this ordinance are in addition to, and not in substitution of, any other rights and remedies, criminal or civil, which the Board of Selectmen may have according to the law of the State of Vermont.

**(Note: this example letter is not included in the ordinance).**

In the matter of Rental Housing  
Code Violations at an apartment  
house owned by Earl Adams at  
101 North St., in the Town  
of Lyndon.

EMERGENCY ORDER

I, John Doe, Health Officer for the Town of Lyndon, hereby find that:

- 1) A four unit apartment house located at 101 North St. in the Town of Lyndon is owned by Earl Adams.
- 2) Except for unit 3 which is vacant, all the apartments are occupied by legal tenants.
- 3) On January 23, 1995, I inspected the 3 units that are occupied and found the following violation of the Vermont Rental Housing Health Code:

Section 2.3 Heating - The inside temperature in the living room of each of the apartments was measured at 52 degrees F even though the thermostats were all set as high as possible. The outdoor temperature was 25 degrees F.

- 4) These conditions represent an imminent and substantial public health hazard to the occupants of the apartment house.

Therefore, by the authority granted to me by Title 18 V.S.A. Sections 107, 127, and 602A, and Subchapter 16 of the Vermont Health Regulations - the Rental Housing Health Code, and by the Ordinances of the Town of Lyndon, it is hereby ORDERED:

1. Within 24 hours of receipt of this order, Earl Adams shall have had the furnace repaired in order for the temperatures in each apartment to reach a minimum of 65 degrees F.
2. If Earl Adams or his agent does not comply with this Order within the time allowed, the Town Health Officer may post a Notice of Health Code Violations on a public location on the premises and at the Lyndon Town Offices, and may record the Notice of Health Code Violations in the Town land records.
3. Any persons other than the Town Health Officer, the Municipal Assistant, the Town Clerk, or the designee of any of the three, who removes a Notice of Health Code Violations shall pay a fine of one hundred dollars (\$100) (Waiver Fine: \$90).
4. Prior to renting a unit in the four unit apartment house located on 101 North Street, Lyndon, Earl Adams must obtain a Certificate of Compliance with Health Code Order from the Town Health Officer. If Earl Adams fails to comply with this provision, he shall pay a fine of three

hundred dollars (\$300) (Waiver Fine: \$250), together with the costs of prosecution, including service fees, court costs and attorneys fees. The fine for a second

Attachment 1

offense within a two year period is four hundred dollars (\$400) (Waiver Fine: \$350). The fine for a third offense within a three year period is five hundred dollars (\$500) (Waiver Fine: \$450).

A copy of this Order is being sent to the tenants currently residing in the units in the apartment building.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

John Doe, Health Officer  
Town of Lyndon

**TOWN OF LYNDON**  
**SOLID WASTE MANAGEMENT**  
**CHAPTER 7**

**An Ordinance regulating the disposal of solid wastes.**

WHEREAS, the Town of Lyndon has, by virtue of authority granted in 10 V.S.A. § 564 and 24 V.S.A. §§ 1971 and 2202a(a), the powers to adopt, amend, repeal and enforce ordinances, and to manage and regulate solid waste disposal within its boundaries;

WHEREAS, the Town of Lyndon has for some time provided (a) waste management services for the benefit of its residents, based on the payment of a Sanitation Fee;

WHEREAS, the voters approved at the 1992 Annual Town Meeting that the Selectboard may set the rate to be paid by property owners for waste management services;

WHEREAS, the manner of managing solid waste is a matter of public interest and concern;

NOW THEREFORE, to protect public health and safety and to promote the responsible use of resources and protection of the environment, the Selectboard of the Town of Lyndon hereby adopts this ordinance to regulate the management of solid waste in the Town of Lyndon.

**ARTICLE I. Definitions.**

- A. "Air contaminants" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof
- B. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface water.
- C. "Emission" means a release into the outdoor atmosphere of air contaminants.
- D. "Enforcement Officer" means a person authorized to issue a complaint citation as provided herein, acting in accordance with 24 V.S.A.1977.
- E. "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- F. "Hazardous waste" means waste that is identified as hazardous in, and regulated by, the Vermont Hazardous Waste Management Regulations including, but not limited to, waste that contains toxic, corrosive, reactive, explosive, or flammable ingredients.

- G. "Open fire" means burning of solid waste in the open where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney, or other enclosure.
- H. "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont or any agency, department or subdivision of the state, a federal agency, or any other legal or commercial entity.
- I. "Recyclable" means any type of refuse designated by the Town of Lyndon selectboard or by the Northeast Kingdom Waste Management District to be separated for recycling.
- J. "Solid waste" means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from residential, municipal government, industrial, commercial, mining or agricultural operations and from community activities such as 1.) parades 2) activities on public property and any similar activities, but does not include animal manure and absorbent bedding used for soil enrichment or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, 10 V.S.A. Chapter 47. or motor vehicles. For the purposes of this ordinance, solid waste shall also include marketable recyclables.
- K. "Solid waste facility" means any site or structure used for receiving treating, storing, processing, recycling or disposing, of solid waste which has been certified by the Vermont Agency of Natural Resources under 10 V.S.A. Chapter 159 section 6605. A facility may consist of a single or several treatment, storage, recycling or disposal units.
- L. "Natural wood" means any of the following, provided such material has not been treated with chemicals, preservatives, paint or oil:
  - a. trees, including logs, boles, trunks, branches, limbs and stumps;
  - b. lumber, including timber, logs, or slabs dressed for use; and
  - c. pallets and skids.
 Processed wood products such as plywood, particle board, fiber board and press board and other processed wood products are not "natural wood".

## **ARTICLE 2. Illegal Disposal.**

- A. It shall be unlawful to dispose of any hazardous waste except in a solid waste facility certified to accept such hazardous waste.
- B. It shall be unlawful to deposit, dump, dispose of, or allow the disposal of any solid waste on any land or into any water, public or private, including but not limited to municipally or state-owned lands and waters except as follows:
  - a. The composting of organic material if authorized by the Vermont Solid Waste Management Rules, provided no nuisance is caused.
  - b. Open burning or incineration as allowed by Article 3.
  - c. The disposal of solid waste in a privately owned or maintained container with the express consent of the owner of the container or the person bearing the cost of its being maintained.

d. Disposal of other materials as approved by the Vermont Department of

Environmental Conservation, the Town of Lyndon Selectboard, and/or the Northeast

Kingdom Waste Management District, as applicable.

- C. Further, it shall be unlawful to deposit, dump or leave solid waste in any publicly owned or maintained waste container, other than solid waste created or originating in public buildings or on their grounds or highways or generated during the use of said public buildings, grounds or highways.
- D. Further, it shall be unlawful to deposit or leave solid waste for pickup by the municipal collection service before the afternoon prior to the scheduled pick-up.
- E. Further, it is unlawful for wastes generated outside the Town of Lyndon to be placed for collection within the Town's boundaries
- F. Nothing in this article shall be interpreted as affecting the operation or use of a licensed junkyard as defined in 24 V.S.A. §§ 2241-2291 or a solid waste facility .
- G. Any person who violates the prohibitions contained in this article shall immediately remove the solid waste so deposited dumped or left and shall be subject to the penalties in Article 6.

### **ARTICLE 3. Open Fires and Incineration.**

- A. Except as provided by this Article, the burning of any solid waste either by open fire or in a furnace, stove or other device is prohibited in the Town of Lyndon, unless the practice has been approved by the Department of Environmental Conservation.
- B. To the extent allowed by the Vermont Air Pollution Control Regulations, a specific permit may be granted by the fire warden for the following types of open burning:
  - a. The open burning of leaves, brush, garden wastes, slash, slabwood and other such natural wood wastes resulting from property maintenance, logging operations and clearing operations.
  - b. The open burning of natural wood, grass, leaves and similar materials for agricultural improvement, forest or wildlife habitat management or festive celebrations.
  - c. After providing notice to the Vermont Department of Environmental Conservation, the burning of solid or liquid fuels or structures for bona fide fire training provided that materials other than natural wood are removed from any structures to the greatest extent possible prior to the training.
  - d. With the prior approval of the Department of Environmental Conservation burning authorized by the Selectboard as necessary for the protection of the public health liability or welfare, or to thwart a hazard.
  - e. With the prior approval of the Department of Environmental Conservation burning of natural-wood demolition or construction materials and natural-wood commercial wastes, such as pallets or skids, The open burning of natural wood by the Town of Lyndon in accordance with 10 V.S.A. § 565.
- C. The fire warden shall not issue a permit unless he or she is satisfied that no hazardous

condition will be created by such burning and the emission of air contaminants will not create a danger to the health and property of the citizens of the Town of Lyndon. Permits which are issued under the provisions of this ordinance shall be for a specified date, time and location, and only for materials specified in the permit.

- D. The provisions of this ordinance shall not apply to the burning of natural wood or any virgin fuel such as oil, coal, propane, natural gas or similar fuels in a stove or furnace used to produce heat or in a stove for the purpose of preparing food.
- E. Any person who violates the prohibitions contained in this Article shall immediately cease burning and immediately dispose of the solid waste.

**ARTICLE 4. Integrated Solid Waste Management Program.**

A. Purpose and applicability:

Acting on prior action of the electorate, a program to improve solid waste management in the Town of Lyndon is hereby established.

B. Residential Wastes:

This program is designed to collect at the roadside ordinary household-generated solid waste. The following wastes are excluded from this section:

- wastes generated by commercial activities;
- bulky items such as tables, couches, and chairs;
- hazardous wastes;
- heavy metal items such as stoves and refrigerators
- automobiles and parts thereof such as tires;
- used automotive fluids such as oil, transmission fluid, brake fluid and anti-freeze; and
- household fixtures such as furnaces, toilets, cabinets, and the residue from renovations of a structure.

Placing excluded items listed above at the roadside for collection shall constitute Illegal Dumping in the context of this ordinance. Items excluded in this section may be managed by the Northeast Kingdom Waste Management District or through special events paid through the sanitation fees.

C. Residential Recycling:

The Town of Lyndon offers its residents, through the sanitation fee, two options for the management of residentially generated recyclables.

- a. Residents may self-haul recyclables to the Northeast Kingdom Waste Management District (NEKWMD) facility located at 224 Church Street in Lyndonville. This facility accepts residential recycling on Wednesdays and Saturdays, and/or by special arrangement. Materials accepted at the NEKWMD facility include newspapers, magazines, corrugated cardboard, sorted office paper/junk mail, brown kraft bags, boxboard, tin cans, aluminum cans, glass, #1 & #2 plastics, used motor oil, used oil filters, fluorescent light bulbs, aerosol cans, automotive batteries, scrap metal, tires, computers/televisions, and household hazardous wastes. Fees apply for some materials, and some materials are collected seasonally.
- b. Residents may place at the roadside the following items for monthly roadside pick-up: newspapers/magazines, corrugated cardboard, sorted office paper/junk mail, brown

kraft bags, boxboard, tin cans, aluminum cans, glass, #1 & #2 plastics. The Town of Lyndon and Village of Lyndonville are divided into four sections and are serviced on Thursdays. The NEKWMD may be contacted to determine in which zone a particular residence is located and on which Thursday they are serviced. The pick-up arrangements in section 2 below apply. Recyclables placed at the roadside shall be segregated by specific waste type and separated into bags or containers so as to facilitate handling the materials more quickly and efficiently.

D. Pickup Arrangements:

The Selectboard is authorized to contract with one or more commercial waste collection firms to pick up household solid waste placed at the roadside. The frequency of pickup under this program will be once weekly unless notice of a change is made public.

Routes

will be established such that an area of the town will be picked up on a specific weekday.

A map showing the routes will be maintained in the office of the Town Clerk. Persons depositing waste for pick up are required to place the waste in secure plastic garbage bags or secure containers. In the event that bags or containers are disturbed prior to pickup the owner and/or the residents of the property from which the waste originated are

responsible for cleanup. Further, it shall be unlawful to deposit or leave solid waste for pickup by the municipal collection service before the afternoon prior to the scheduled pick-up.

E. Establishing the Fee:

Rates and charges for sanitation service shall be fixed by the Selectboard who shall have power to amend, alter and abolish such rates and fees and to establish new rates and fees from time to time as they deem appropriate. As part of the budget development process on

or before January 1 of each year the Selectboard is authorized to establish or amend the per-household fee for the next calendar year. No hearing is required. A single family residential property owner may request a seasonal service rate equal to one-half the annual

fee on the basis of seasonal occupancy. Such request must be in writing. The residence must be vacated for a period of not less than six (6) consecutive months to qualify for a seasonal rate. A multi-family or commercial business property owner may request in writing to be not included in the sanitation program on the basis of providing self-service, but such owner will be required to pay an annual administration fee of \$10.00 per

household or business unit.

F. Billing Procedure:

Annually, on or about June 30, the Town shall bill each property owner of record based on

the number of household units in the property as of April 1, in the amount of the Sanitation Fee pertaining to the property for the current calendar year, and stating the date

upon which the payment of the Sanitation Fee is due.

G. Failure to Pay Fee:

In the event that the Sanitation Fee is unpaid for 30 days past due, the Town is authorized to advise the waste collection firm serving the residence to suspend the pick up service.

The property owner will be given notice concurrently. Placing household waste at the roadside after receipt of such notice will constitutes Illegal Dumping in the context of this

ordinance. Delinquent sanitation accounts will be charged interest at the rate of one percent per month for the first three months and thereafter the interest rate will be one and

one-half percent per month. In addition, there will be due a penalty of eight percent of the annual fee.

H. Lien on Property:

All sanitation charges due the Town, in case of non-payment thereof on or before sixty days from the time the same became due and payable, shall be and remain a lien on the premises involved in the nature of a tax upon the real estate so supplied with sanitation service. Such lien shall be enforceable in the same manner and to the same effect as the lien for taxes under the laws of the State.

I. Penalty:

The penalty for violation of this Article 4 shall be \$100.00. A waiver fee of \$50.00 may be

paid into the town treasury in lieu of an appearance before the judicial bureau.

**ARTICLE 5. Accumulation of Discarded Household Waste.**

It shall be a violation of this ordinance for a person to accumulate or allow the accumulation of discarded household waste that can be seen from a highway or from adjoining property. For the purposes of this section discarded household waste includes but is not limited to bagged and unbagged refuse, debris, scrap metal, tires, appliances, furniture, building materials other similar waste matter and unregistered and inoperable vehicles including campers and snowmobiles and ATVs, that are left open to such view. Either or both of an owner or an occupant of property on which discarded household waste is allowed to accumulate in violation of this section may be independently liable for such violation and subject to penalty. The temporary storage of an unregistered and inoperable vehicle for a period not exceeding one month shall not constitute a violation of this ordinance.

**ARTICLE 6. Penalties and Civil Enforcement.**

This ordinance is a civil ordinance and enforcement shall follow the procedures described in 24 V.S.A. § 1974a, including but not limited to:

A. A civil penalty of not more than \$500.00 may be imposed for a violation of this ordinance unless stated to be otherwise for a specific violation. Each day the violation continues shall constitute a separate violation. A waiver fee of \$100.00 may be paid into the town treasury in lieu of an appearance before the judicial bureau unless stated to be otherwise.

B. Violations of this ordinance where the penalty is \$500.00 or less shall be brought before the

judicial bureau. If the penalty for all continuing violations is greater than \$500.00, or injunctive relief other than as provided in subsection (c.) is sought, the action shall be brought in superior court.

- C. The judicial bureau hearing officer, on application of the Town of Lyndon, may order that the ordinance violation cease.

**ARTICLE 7. Designation of Enforcement Personnel.**

A. For purposes of this ordinance, the Selectboard does hereby designate the following persons

as enforcement officers:

- a. Members of the Selectboard
- b. The Municipal Administrator
- c. The appointed representatives to the board of supervisors of the Northeast Kingdom Waste Management District
- d. The town health officer
- e. The town agent
- f. The town constable(s)
- g. The fire chief
- h. Law enforcement officers

B Enforcement officers are authorized and directed to investigate complaints, seek correction

of violations and otherwise enforce this ordinance.

C. Enforcement officers shall issue a municipal ticket and are to be the appearing officer at any hearing.

**ARTICLE 8. Repeal of Inconsistent Provisions.**

All ordinances or parts of ordinances, resolutions, regulations or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**ARTICLE 9. Severability.**

This ordinance and its various parts, sentences, sections and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

**ARTICLE 10. Effective Date.**

This ordinance shall become effective 60 days after the adoption date shown below.

Adopted this 17th day of November, 2003.