TOWN OF FAIR HAVEN
FAIR HAVEN, VERMONT
WATER ORDINANCE

#2009-04-21

Adopted: 4/21/09 Effective: 6/21/09

Regulating the Use of Fair Haven's Municipal Water System

This ORDINANCE establishes the policies, rules, and regulations necessary to govern and operate the municipal water system of the Town of Fair Haven, Vermont (24 V.S.A, Chapter 89, Section 3315). This ORDINANCE supersedes all previous rules, regulations and ordinances and applies to all users regardless of the municipality in which they are located. All existing agreements between individual property owners and the Town of Fair Haven, Vermont shall remain in effect provided such agreement is recorded in the Town of Fair Haven Clerk's Office. A copy of this ORDINANCE is available at the Town Clerk's Office. Questions about this ORDINANCE should be directed to the Fair Haven Town Manager.

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ARTICLE 1

General Provisions

SECTION 1.01 – GENERAL PROVISIONS

All rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the "WATER ORDINANCE" hereinafter referred to as this ORDINANCE. This ORDINANCE is adopted under 24 V.S.A., Chapter 89, Section 3313, by the Board of Selectmen of the Town of Fair Haven.

The Fair Haven Town Clerk shall file certified copies of this ORDINANCE, as well as certified copies of any additions and amendments to this ORDINANCE as may be hereafter adopted, in the municipal records and with the BOARD and the Health Officer.

The principal objective of the Water Works is to provide a State permitted potable water supply under timely and efficiently managed conditions.

The provisions of this ORDINANCE may be reviewed at intervals not exceeding five (5) years by the BOARD with the objective of assessing the continued applicability of these provisions; to consider any recommendations proposed for their improvement; and to determine if, and what, changes are advisable due to advances in the technical methods or processes of potable water treatment, storage, and transmission available to the TOWN.

The BOARD shall be responsible for enacting regulations and policies governing the operation of the Water Department. The BOARD shall make and establish all needful water rates for the control and operation of the water system. It shall carry out the duties specifically required of it under the regulations and policies which it enacts.

The BOARD may contract to sell water to such customers outside the TOWN as it may deem beneficial to the TOWN, providing that there is, at the time such contract is made, water in excess of that necessary for use within the limits of the TOWN.

The BOARD may prescribe emergency rules governing the supply and use of water as it may deem appropriate to accommodate water supply emergencies. Such rules shall be adopted at any duly held meeting of the BOARD.

If there is a conflict between the terms of this ORDINANCE and any other applicable regulation, by-law, ordinance or statute, the more strict shall apply.

ARTICLE 2

Definitions

SECTION 2.01 – DEFINITIONS

Unless specifically defined in this Article, words and phrases used in this ORDINANCE shall have their common ordinary meaning, and are intended to give this ORDINANCE its most reasonable application.

"Best interest" shall be defined by the BOARD and may include meeting economic development or community institutional needs.

"BOARD" shall mean the Board of Selectmen of Fair Haven, comprised as the Water Commissioners as provided in 24 V.S.A., Chapter 89. (See "Water Commissioners")

"Business days" shall mean Monday through Thursday, excluding legal holidays and the day before any day when the TOWN Office is not open to the public.

"Chief Operator" shall mean that person appointed by the BOARD to act as the BOARD's agent in managing the day to day operations of the Water Department. It shall be the duty of the Chief Operator to insure that the regulations and policies of the Water Department are implemented and enforced. Decisions of the Chief Operator may be appealed within thirty (30) days to the BOARD.

"Clerk" shall mean the Town Clerk of the Town of Fair Haven.

"Committed Reserve Capacity" shall mean the total amount of development water supply (gallons per day) for all projects/buildings approved by the BOARD and the DEPARTMENT, for supply, storage, and distribution, but not yet connected to the water system at the time of the calculation.

"Completed Construction" shall mean -

1. For <u>building</u> development; completion of construction of all foundations, framing, siding and roofs.

2. For <u>subdivision</u> development; completion of infrastructure and subdivision improvements.

"Customer" means any individual, group, society, association, firm, company, or corporation who receives water service from the TOWN and is a property owner, whether or not that individual is the ultimate user.

"Delinquency" means a failure of the Customer to tender payment for a valid bill or other charge by a "due date" at least thirty (30) days after mailing, which due date shall be clearly printed on the bill or other charge, or, in the absence of such a printed due date, the date thirty (30) days after postmarking of such bill or charge.

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

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

"Development Water Supply Demand" shall mean the water demand resulting from full use of the development at its build-out capacity, which demand shall be calculated using demand quantities, adopted as rules by the DEPARTMENT, as promulgated at the time a connection permit application is made. The flow quantities shall be as shown in the current Vermont Environmental Protection Rules, Chapter 21, Water Supply Rule.

"Disconnection" means the deliberate interruption by the TOWN of water service to the Customer, for reason of delinquent payment.

"Existing Use" means a Water Department sanctioned use of the municipal water system through permanent water supply lines which has occurred on a customer's property on or after January 1, 1980. NOTE: The mere existence of a water supply line does not, in and of itself, constitute "use" as herein defined.

"Flow Basis" shall mean the calculated water demand as determined using the Environmental Protection Rules, Chapter 1, current edition.

"Health Officer" shall mean the legally designated Health Officer or Deputy Health Officer of the TOWN.

"Hearing Officer" shall mean the person appointed by the TOWN, pursuant to 24 V.S.A., Chapter 129, Section 5147, to act as a fact finder and to hear and investigate evidence, and to make recommendations to the BOARD for final determination of a dispute.

"House Connection" shall mean that part of the water system that runs from the municipal water main to the property line or right-of-way limit and includes all necessary fittings.

"Initiate Construction" shall mean -

1. For <u>building</u> development; the completion of the foundation.

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

"Municipality" shall mean the Town of Fair Haven, Vermont.

"One-Time Water System Fee" or "System Fee" shall mean the financial amount due, as determined by the BOARD, charged to property owners for the benefit to connect to the TOWN's water system.

"Owner" shall mean any person, who owns or possess any property connected to the municipal water system or proposes to connect to the municipal water system as applicant.

"Payment of a Bill and/or Other Charge" means receipt at the Town Office of cash, check or money order which is subsequently honored.

"Permit to Operate" shall mean a permit issued by the Department pursuant to authority granted in 10 V.S.A., Chapter 47.

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

"Physician's Certificate" shall mean a written statement by a duly licensed medical practitioner certifying that a Customer or resident within the Customer's household would suffer an immediate and serious health hazard by the disconnection of the TOWN's service to that household.

"PLANT" - shall mean the municipal water treatment PLANT owned by the TOWN.

"PLANT Water Supply" shall mean water passing through the treatment PLANT in gallons per day on a monthly average daily flow basis for the most recent twelve (12) months.

"Public Water Supply System or Facilities" shall mean all facilities for supply, treatment, pumping, storage, transmission, distribution, and metering of water and is controlled, owned and operated by the TOWN.

"Reserve Capacity" shall mean the permitted water treatment capacity minus the actual PLANT water supply monthly average daily flow during the preceding twelve (12) months.

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

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

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

"Tapping / Inspection Fee" shall mean the fee incurred by a customer when the Town makes the physical water service tap or connection to the existing municipal water main.

"Tax Collector" shall mean the person appointed by the Town to collect all municipal taxes including delinquent taxes and delinquent municipal utility charges.

"Tenant" means one who occupies or temporarily possesses land or structures the title to which is held by another, such as one who rents or leases from a landlord.

"TOWN" shall mean the Town of Fair Haven, the Board of Selectmen, the Water Commissioners, or their designated agents and representatives.

"Uncommitted Reserve Capacity" shall mean the portion of the reserve capacity remaining after subtracting the development water demand of all projects approved by the DEPARTMENT and/or BOARD but not yet connected to the water works.

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

"Water Department" is that subdivision of the TOWN government which is responsible for providing municipal water service.

"Water Main" shall mean the TOWN-owned water pipe laid longitudinally along streets or other rights-of-way and which all owners or abutting properties have equal rights and which is controlled by public authority and designed to carry water.

"Water Service Area" shall mean that area of properties connected to the TOWN water works.

"Water Treatment Plant" shall mean any arrangement of devices and structures used for treating water.

"Water Works" see Public Water Supply.

ARTICLE 3

Abbreviations

SECTION 3.01 – ABBREVIATIONS

For the purpose of this ORDINANCE, the following abbreviations shall have the meaning ascribed to them under this ARTICLE. References to standards of the following organizations shall refer to the latest edition of same.

ANSI shall mean American National Standards Institute.

ASME shall mean American Society of Mechanical Engineers.

ASTM shall mean American Society for Testing and Materials.

AWWA shall mean American Water Works Association.

cm. shall mean centimeter.

CS shall mean Commercial Standards.

Degrees C shall mean degrees Centigrade.

Degrees F shall mean degrees Fahrenheit.

gpd shall mean gallons per day.

kg. shall mean kilograms.

l. shall mean liters.

m. shall mean meter.

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

mgd shall mean million gallons per day.

NPC shall mean National Plumbing Code.

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

sq.m. shall mean square meters.

V.S.A. shall mean the Vermont Statutes Annotated.

WTF means Water Treatment Facility

ARTICLE 4

Water Meters

SECTION 4.01 – WATER METERS

All water, except as otherwise provided, will be sold by meter. Meters shall be read by the TOWN's authorized agents on a frequency established by the BOARD. Refer to Article 12 for Prohibitions and Penalties for Violation of Rules.

Except when otherwise provided, meters shall be furnished and owned by the TOWN and shall be located in satisfactory locations to protect against frost and other damage. In no case shall the TOWN deliver water through any meter over which it does not have exclusive control.

SECTION 4.02 – DAMAGED METERS

Should a meter be damaged by frost or be damaged in any other manner for which the customer is responsible, the customer shall be charged the cost of removing, repairing and replacing the meter.

SECTION 4.03 – MALFUNCTIONING METERS AND METER READING DISCREPANCIES

Meters which malfunction without fault of the customer shall, under normal circumstances, be removed and replaced at the TOWN's expense.

When a meter does not register, the TOWN will charge the customer for a quantity of usage comparable to the customer's prior usage during the same season of the past year, so long as all other conditions remain the same.

If a customer believes the water usage recorded by his/her meter is too high, the customer may request a meter test. A written report on the test shall be provided to the customer within ten (10) days of receipt by the TOWN's Water Department. The TOWN shall determine which of the following applies:

A. If the service meter registers less than 2% fast, the customer will be charged the cost of removing, transporting, testing and replacing the meter.

B. If the service meter registers more than 2% fast, the water bill for the past six months will be adjusted and a credit shall be given to the customer.

C. If a residential service meter registers more than 10% slow, the customer will be charged, in addition to the cost of removing, transporting, testing and reinstalling the meter, an adjusted charge for the past six (6) months.

D. If a service meter used for other than strictly residential service is more than 5% slow, the customer will be charged, in addition to the cost of removing, transporting, testing and reinstalling the meter, an adjusted charge for the past six (6) months.

SECTION 4.04 – METER ACCESSIBILITY

Inspectors of the Water Department or persons so authorized by the BOARD must have free access to every building and other installation for the purpose of inspecting, removing, or replacing water meters.

SECTION 4.05 – REMOTE READERS

Wherever practical, meter remotes shall be installed in order to facilitate the reading of meters. Remotes shall not be required in buildings accessible to the public and to TOWN employees during normal business hours.

Should circumstances change so that a meter in a public building is not accessible to the TOWN's authorized agents during normal business hours (8:00 a.m. to 4:00 p.m. Monday through Friday) the installation of a meter remote will be required at the customer's expense.

ARTICLE 5

Capacity Allocation and Connection

SECTION 5.01 – OWNERSHIP AND PERMIT TO OPERATE

The TOWN owns and operates a water treatment PLANT (PLANT) and a water distribution system as defined in 10 V.S.A., Chapter 56. The PLANT has a permitted capacity, and is operated in accordance with a Permit to Operate issued by the Vermont Department of Environmental Conservation (DEPARTMENT) under authority granted in 10 V.S.A., Chapter 56. The BOARD is obligated by law to comply with conditions of that permit, and to operate and manage the PLANT and water system as governmental functions under and pursuant to 10 V.S.A., Chapter 56, and the Federal Safe Drinking Water Act and subsequent regulations.

SECTION 5.02 – WATER SYSTEM EXPANSION PAID BY DEVELOPER

Any extension of the water system to provide for new users shall be funded in the following way:

A. The engineering, design, construction and development costs of public water system expansions and extensions which have been approved by the BOARD shall be borne by the developers and property owners requiring, requesting or directly benefiting from such extensions and/or expansions, unless the voters of the TOWN shall vote at a duly warned annual or special meeting to assume all or a portion of the costs, such costs will be paid from the collection of taxes unless the voters of the TOWN approved some other means of raising the required monies.

SECTION 5.03 – INTRODUCTION TO RESERVE CAPACITY ALLOCATION

The permitted capacity of the PLANT and water system is the property of the TOWN. The uncommitted reserve capacity of the PLANT and water system shall be allocated by the

BOARD in the manner described below. This ORDINANCE is adopted pursuant to the provisions of 24 V.S.A., Chapter 89, in the manner provided in 24 V.S.A., Chapter 59 (or in the manner provided for in 24 V.S.A., Chapter 117), 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 water treatment and distribution within the TOWN, nor shall it be construed to impair or inhibit the ability of the TOWN's PLANT to contract with persons for the treatment and distribution of water.

The TOWN maintains a running summary of committed reserve capacity and uncommitted reserve capacity.

SECTION 5.04 – RESERVE CAPACITY ALLOCATION

A. Allocation Flow Basis
Approvals of allocated flows shall be based on the applicant's water "flow basis" not actual flows. Any differential between actual flows and the development water flow basis that occurs is not available to the applicant for re-allotment to another project or a project expansion.

B. Allocation Principles
Subsequent to application of the allocation priority, uncommitted reserve capacity in the PLANT may be allocated to specific projects according to the following procedure:

1. Once water capacity allocation applications have been received at the TOWN Office, the BOARD may review the applications on a first come, first serve basis. The total remaining uncommitted reserve capacity shall be allocated by the BOARD, in a manner consistent with the TOWN's allocation priorities. The total uncommitted reserve capacity shall be reviewed by the BOARD every six (6) months and committed reserve shall be regularly recorded and updated for use in allocation decisions.

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

SECTION 5.05 – APPLICATION PROCESS INTRODUCTION

Application for a new water connection to the water system or for the change of an existing connection must be made by the applicant or his/her authorized agent and will be subject to all provisions and specifications that the TOWN may require.

Persons who own property or plan to purchase property connected to the municipal water system which they plan to develop or to further develop, thereby creating a new use or expanding/decreasing an existing use, shall submit a letter outlining those plans to the BOARD along with the appropriate application forms available at the TOWN Offices.

The TOWN shall at no time authorize more new water services than it can supply. The TOWN shall be under no obligation to commit to any development any portion of its capacity, but may allocate its capacity amongst the various types of uses as the TOWN deems most appropriate.

Boundaries of areas served by the municipal water system shall be defined by the TOWN and the furnishing of water outside of the boundaries shall be at the discretion of the BOARD.

Applicants who purchase or otherwise take possession of property which is currently served by the municipal water system and who wish to continue to receive this service at that location shall complete and submit the form prescribed by the BOARD for this purpose along with the fee.

SECTON 5.06 – APPLICATION PROCESS SUBMITTALS

A. Owners (also referred to herein as "applicants") wishing to use the TOWN's water system, or water works, shall apply to the BOARD on forms prescribed by the BOARD. Such applications shall:

   1. Be accompanied by a calculation of the applicant's water flow basis to be generated by the project/development. If the applicant's water flow basis exceeds 1,000 gpd, the calculations shall be certified by a Vermont registered Professional Engineer, unless this requirement is waived by the BOARD.

   2. Be accompanied by plans and specifications for construction.

   3. Include payment of fees as set forth in the TOWN's Schedule of Rates and Fees.

B. The water capacity allocation application/permit process consists of three (3) phases:

   1. Preliminary Water Capacity Allocation Application for Approval.
   2. Final Water Capacity Allocation Permit approval.
   3. Water Connection Permit approval.

C. The Preliminary Water Capacity Allocation Application for Approval makes a reserve capacity commitment for one (1) year.

D. The Final Water Capacity Allocation Permit approval makes a reserve capacity commitment for two (2) years.

E. The Water Connection Permit approval maintains the reserve capacity commitment for two (2) years.

SECTION 5.07 – PRELIMINARY CAPACITY ALLOCATION APPROVAL REQUIREMENTS

Upon receipt of an acceptable application and supportive documents, the BOARD may issue the preliminary approval of allocation upon making affirmative findings that:

A. There is sufficient capacity to accommodate the flow basis of the proposed connection.

B. The proposed use of the water allocation complies with the allocation priorities and principles and is not in conflict with any other enactment adopted by the BOARD.

SECTION 5.08 – PRELIMINARY CAPACITY ALLOCATION APPROVAL CONDITIONS

The BOARD after making the approval findings in SECTION 5.07 may approve the Preliminary Water Capacity Allocation, which approval shall be a binding commitment of capacity to the applicant contingent on compliance with any conditions or comments attached to the preliminary permit and the subsequent issuance of a Final Water Capacity Allocation Permit. The Preliminary Water Capacity Allocation Approval conditions may include:

A. Specification that the period of time during which the Preliminary Water Capacity Allocation Approval shall remain valid is one (1) year from the date of the TOWN's preliminary allocation approval date. The BOARD may issue time extension(s) upon the request of the Owner. For each extension granted, the maximum extension is one (1) year, and requires an additional application fee.

B. Incorporation of specific conditions which must be fulfilled by the applicant in order to maintain validity of the Preliminary Water Capacity Allocation Approval.

C. Provision for revocation by the action of the BOARD on failure of the Owner to fulfill requirements of the Preliminary Water Capacity Allocation Approval.

D. Specification that the recipient of the Preliminary Water Capacity Allocation Approval may not, by any means, transfer this approval to any other person or connect to the water system. If there is a change from the original application, then the Owner must reapply and the revised project will be considered a new project.

SECTION 5.09 – FINAL CAPACITY ALLOCATION PERMIT APPROVAL REQUIREMENTS

Prior to Final Water Capacity Allocation Permit approval, the following requirements shall be met by the Owner:

A. The Owner's plans and specifications for connection to and, if necessary, extension of the municipal water system have been submitted and are acceptable to the BOARD. The requirement for plans and specifications may be waived by the BOARD until the Water Connection Permit application is submitted to the TOWN.

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

C. All local fees or taxes set by the BOARD have been paid in full to the TOWN. The BOARD shall establish the fees in the TOWN's Schedule of Rates and Fees.

1. Financial Hardship Case.
The due date for the applicable fees may be extended by the BOARD. Said applicant may file its request in writing to the BOARD, for BOARD review. All

fees, however, shall be paid by the Owner at the time when the Water Connection Permit application is submitted to the TOWN.

D. The Owner shall schedule and pay the TOWN for the physical construction of its service connection to the TOWN's water system.

SECTION 5.10 – FINAL CAPACITY ALLOCATION PERMIT APPROVAL CONDITIONS

A Final Water Capacity Allocation Permit is an agreement between the TOWN and the Owner. The Owner who is issued this permit does not own the capacity and forfeits all rights to capacity if Preliminary Capacity Allocation Approval and/or Final Capacity Allocation Permit conditions are not met.

The BOARD may approve the project as proposed, recommend or require changes, or reject the application for cause. The BOARD on making affirmative findings that all conditions of the Preliminary Water Capacity Allocation Approval prerequisites in SECTION 5.08 of this Article have been fulfilled shall issue the Final Water Capacity Allocation Permit, which may be conditioned as follows:

A. The committed reserve capacity allocation is not transferable to any other person or project unless requested by the original applicant and approved by the BOARD, however, a new application must be submitted.

B. Specification that the period of time during which the Final Water Capacity Allocation Permit approval shall remain valid is two (2) years from the date of the TOWN's final allocation permit approval date. The BOARD may issue time extension(s) upon the request of the Owner. For each extension granted, the maximum extension is one (1) year, and requires an additional application fee.

C. Incorporation of specific conditions which must be fulfilled by the applicant to maintain validity of the final allocation permit approval.

D. Provision for revocation by the action of the BOARD on failure of the Owner to fulfill requirements of the Final Water Capacity Allocation Permit approval.

E. No approval of any application is considered to be final until all appropriate fees are paid in full. Nonetheless, the effective date is the date of approval. Failure of the applicant to pay the appropriate fees immediately shall not serve to extend the effective period of the approved application.

SECTION 5.11 – FINAL CAPACITY ALLOCATION PERMIT EXPIRATION / EXTENSIONS

Committed Reserve Capacity allocated in conjunction with the Final Water Capacity Allocation Permit for building development shall revert to the TOWN if the permit recipient has failed to "initiate construction" within two (2) years of the issued date on said permit.

The Final Water Capacity Allocation Permit shall expire two (2) years from the date of its approval. A revised development plan and Final Water Capacity Allocation Application may be

approved by the BOARD in the same manner as the original. Such revised plans must also be approved under local bylaws and by the applicable State Laws and Regulations. If the BOARD approves a revised permit, it may issue the revised permit with reduced or increased capacity allocation determined in accordance with the allocation priorities and principles. Where reduced capacity is granted in a revised Final Water Capacity Allocation Permit, the unused capacity shall revert to the TOWN. The BOARD shall determine the amount of unused capacity returned. With any approval of a revised final allocation permit the BOARD may consider extension of the original two (2) year permit expiration date.

If a permit expires after two (2) years or after any extension of time provided by the BOARD, the unused portion of the committed capacity allocation at the time of expiration shall revert to the TOWN and **there shall be no refund** of system fees, application or other fees paid.

Regardless of the permit expiration period above the BOARD may extend the Final Water Capacity Allocation Permit expiration date over a longer period if this action is in the TOWN's best interest.

SECTION 5.12 – FINAL ALLOCATION PERMIT REGARDING SUBDIVISIONS

For subdivision projects the permit holder of a proposed subdivided parcel must indicate the development planned for each lot. If all prerequisites defined for the Final Water Capacity Allocation Permit approval herein are met, permits shall be issued to the subdivision Owner for each lot with a specific reserve capacity allocation associated with the proposed development. These Final Water Capacity Allocation Permits shall expire after two (2) years from the date of permit approval unless the developer has sold the lot for development or has completed construction in accordance with the approved development plan. The expiration at two (2) years from original issuance shall not be modified by any revisions to the subdivision or development plan subsequent to the preliminary approval.

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 water demand planned for each lot subsequent to preliminary approval.

When the owner of a subdivision sells individual lots within the two (2) year time frame, the Final Water Capacity Allocation 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 municipal water system. The transferred permit shall be considered a new Final Water Capacity Allocation Permit issued on the date of property transfer and the constraints of this ORDINANCE shall apply to this permit. The permit shall expire as provided in the approved permit.

SECTION 5.13 – TRANSFER OF ALLOCATION

Reserve capacity is initially allocated by the BOARD to a specific applicant, project and parcel of land, however, the allocation does not automatically run with the land during project construction.

The capacity allocation belongs to the TOWN and is not transferable until the project/building/ development is constructed and connected to the TOWN's main water line. The transfer of the capacity allocation is prohibited unless approved in writing by the BOARD at the original Owner's request.

The BOARD may approve transfer of capacity from one project to another and one Owner to another provided the new project and new Owner meet all the requirements for the Final Water Capacity Allocation Permit approval originally issued and the original Owner applies for such transfer.

SECTION 5.14 – CONNECTION PERMIT APPROVAL REQUIREMENTS

The construction of the water service connection/tap and, if necessary, the municipal water line extension, must meet the TOWN requirement for TOWN oversight.

The Owner shall complete and submit a Water Connection Permit Application to the TOWN along with the applicable fees at least forty-five (45) calendar days in advance of any proposed water connection construction. This permit will expire two (2) years after of date of BOARD approval. If construction of and connection to the municipal water system is not complete after two (2) years, reserve capacity shall revert back to the TOWN and **there shall be no refund** of system fees, application or other fees paid. The BOARD may issue time extension(s) upon the request of the Owner. For each extension granted, the maximum extension is one (1) year and requires an additional application fee.

The construction of the water service tap to the municipal water main shall be performed by the TOWN. Additional constraints may be found in this ORDINANCE, where applicable.

The TOWN shall have the authority to inspect activities pertaining to the construction of other portions of waterline extensions, whether or not such extensions will become part of the municipal water system, as they deem is in the best interest of the TOWN. Given the nature of the connection or extension project, the BOARD may contract engineering services for consultation and inspection services during construction, at the expense of the Owner.

Fees are set by the BOARD and have to be paid in full to the TOWN, prior to granting Water Connection Permit approval and therefore, prior to commencing construction.

The applicant shall file the Connection Permit 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.

SECTION 5.15 – CHANGE OF USE

Any person proposing a change of use, whether or not this change effects the property's existing daily water flow basis, shall be required to complete the three (3) phase application/permit process stated in this Article unless waived in part or in full by the BOARD. If the applicant is required to obtain these permits, the BOARD may decide to waive some or all of the fees if they determine that the change of use does not require additional allocation when compared to the property's existing flow basis. No such change or connection shall be made without the necessary permits or written approval from the BOARD.

ARTICLE 6

Construction Phase

SECTION 6.01 – CONSTRUCTION PHASE

After all permits for construction are obtained and all construction approvals are obtained, construction may proceed.

SECTION 6.02 – PRE-CONSTRUCTION MEETING

It shall be the responsibility of the Owner to schedule a pre-construction meeting between the Owner or the Owner's agent, the contractor(s) and the TOWN's authorized agent at least fifteen (15) days prior to beginning any excavation relating to installation of any water lines or appurtenance(s). It is understood that the Contract Agreement between the TOWN and the contractor, if applicable, is executed prior to the pre-construction meeting.

A. The purpose of this meeting, which shall be held at the site of the planned project with the approved Connection Permit on hand, is to review with the contractor(s) the TOWN's requirements and to familiarize the contractor(s) with the site conditions, which may, in the opinion of the TOWN's agent, bear review.

B. If there is a change in contractor(s) after the date of the pre-construction meeting, the Owner shall schedule another pre-construction meeting before commencing/continuing with construction.

C. During the pre-construction meeting the TOWN's authorized agent shall keep a record of all the items discussed and/or required by the TOWN.

D. The Owner shall attest that it recognizes the authority of the TOWN's authorized agent at the site to halt work if he/she determines that the work is not being performed in a manner consistent with the standards of the Water Department or in accordance with the standards or written specifications to which the Owner has agreed.

   1. The Owner shall further attest that it shall not hold the TOWN liable for work stoppages occasioned by such actions.

E. The Owner shall attest that he/she shall not hold the TOWN liable for loss or damage that may directly or indirectly result from the performance of the permitted activity.

F. The Owner shall attest that he/she agrees to pay all costs and expenses related to the permitted work including, but not limited to, street damage, damage to underground and aboveground utility lines, which result from the performance of the permitted activity.

G. Winter Shut-Down: The validity of the Water Connection Permit approval shall be superseded by the Water Department's winter shut-down policy unless an exemption is granted by the BOARD.

H. The applicant shall be responsible for scheduling the installation of water system appurtenances with the TOWN at least fifteen (15) days before beginning the permitted activities.

SECTION 6.03 – CONSTRUCTION

The applicant shall pay the entire cost of design and construction of water lines, appurtenances, and extensions of the water system, regardless of whether such construction or extension is ultimately accepted by the TOWN after installation.

A. Construction of water lines and appurtenances shall be performed according to the applicable TOWN permits and all subsequent written changes or additions thereto which the TOWN and the permittee have agreed.

   1. At a minimum, all construction piping shall be built to the specifications of the TOWN, and if applicable, the Vermont Department of Environmental Conservation, U.S. Environmental Protection Agency, and any other State or Federal agencies having jurisdiction of same.

B. Construction of water lines and appurtenances must be inspected and approved in writing by the TOWN before being covered.

C. The Customer shall not connect any plumbing connected to the TOWN water service to a well, spring or other source of water. Connections to the TOWN water system shall be entirely separate from any other water service.

D. Ground wire attachments causing electrolytes shall not be connected in such a manner as to cause damage to the TOWN's water system.

E. Upon completion and approval of the installation and payment of all applicable charges by the applicant to the TOWN, and upon the legal transfer of rights-of-way where required, the installation, as far as the curb stop at the Customer's property line or other point agreed upon by the TOWN, will be maintained by the TOWN.

F. The Owner shall be responsible for maintaining in good repair all plumbing on the Customer's side of the curb stop, or other point agreed upon by the TOWN and the applicant. This shall include the maintenance and cost of maintenance for repairing breaks and/or leaks in, or replacement of, the service line on the Customer's side of the curb stop, for repairing or replacing faulty household plumbing, and for repairing or replacing fixtures which, when not functioning properly, discourage, or tend to discourage the inspection, removal or replacement of the water meter by authorized persons.

G. The Owner shall be responsible for all costs of such maintenance whether the maintenance is undertaken at the Owner's discretion or upon the order of the Chief Operator.

SECTION 6.04 – AUTOMATIC FIRE SUPPRESSION "SPRINKLER" SYSTEMS

Applicants who propose to install a sprinkler system shall submit a letter requesting approval to do so stating the estimated maximum flow requirements of the system and outlining the details of the sprinkler system. Sprinkler systems may be approved contingent upon meeting applicable State codes. In addition, the applicant shall submit an application for water service.

The TOWN may decline to supply service, in whole or in part, to any sprinkler system if in the determination of the BOARD the system would place undue demands upon any portion of the TOWN's water system.

The applicant shall furnish the TOWN with a complete set of drawings which show the locations of the premises to be sprinklered and the location of all valves, pipes, hydrants, tanks, sprinkler heads and other appurtenances. These plans will remain as the property of the TOWN. The applicant shall also furnish drawings of any later revisions to piping or appurtenances when they are made.

All sprinkler systems shall be subject to periodic inspections by the TOWN for the purpose of determining water usage only. The Owners of these systems will give the TOWN inspectors all reasonable assistance in making the inspection and will give all required information about the system. Inspections will be made with as little inconvenience to the Owner as possible.

SECTION 6.05 – FIRE HYDRANTS

The TOWN may install public fire hydrants wherever and whenever it deems necessary.

The TOWN will consider written requests for the installation of public fire hydrants by property owners connected to the system.

The TOWN will consider official requests for the installation of public fire hydrants by the Fair Haven Fire Department.

The TOWN may require any applicant for new or expanded service to install public fire hydrants in its project as a condition for receiving approval to connect to the water system. The number and location of the hydrants shall be determined by the TOWN. All hydrants erected as a portion of a waterline replacement or extension shall be inspected and approved by the TOWN before water service is restored or provided to the replaced or extended section of waterline.

All fire hydrants and their connections become the property of the TOWN once they have been inspected, approved and accepted, provided the water supply piping the hydrants are connected to also becomes part of the TOWN property.

No person or persons shall obstruct the access to any fire hydrant by placing or permitting snow, debris, or building materials, or other obstruction to remain on or about the hydrant.

All use of fire hydrants shall be under the direct supervision of Fire Department, Water Department, or other authorized TOWN personnel and shall be for bona fide purposes of these departments of the TOWN ONLY, unless written consent of the BOARD is obtained.

All hydrants found to be inoperative shall be flagged/bagged, in a manner acceptable to the Fire Department, to indicate that condition. When hydrants are found to be inoperative the Fire Department shall be notified in writing within twenty-four (24) hours.

SECTION 6.06 – TOWN INTERRUPTION OF SERVICE

The TOWN is not liable for any damage caused by interruption of service.

A. The TOWN will exercise reasonable diligence and care in delivering a continuous supply of water at a proper pressure and will attempt to avoid shortage or disruption of service. No responsibility will be assumed for any damage to any apparatus in any house or building due to shutting off water without notice either for:

   1. Repairs;
   2. Pipeline breaks; or
   3. Necessary operations

B. No person shall be entitled to damages, nor to have any portion of a payment refunded for any stoppage occasioned by accident to any portion of the water works.

C. While it is the intention to give notice, as far as reasonable, in advance of any work which must be done that will necessitate interruption of the supply, such notice is to be considered a courtesy only, and not a requirement on the part of the TOWN. Failure of a tenant or property owner to receive notice of interruption of service shall entail no liability on the part of the TOWN or its employees. Property owners should install range boilers, hot water tanks, and all other equipment connected with the water system in such a manner that damage will not occur if the water is shut off without notice.

D. The TOWN will endeavor to maintain a high standard of water quality, but it cannot guarantee the purity and potability of the water supplied. The TOWN will comply with Vermont Department of Health, Vermont Department of Environmental Conservation and U.S. Environmental Protection Agency monitoring and reporting requirements.

SECTION 6.07 – STEAM THAWING OF FROZEN WATER SERVICE LINES

A. When a service line freezes, it may not be possible to determine where the freezing has occurred until the shut-off has been tested and the pipe has been thawed.

   1. Electrical thawing is prohibited by the TOWN.

B. If the TOWN determines that the service line was frozen only on the customer's side of the shut-off, the TOWN will pay one-half the cost of thawing the pipe once and only once. The customer shall be responsible for one-half the cost of labor and equipment provided by the TOWN on the first such occurrence only.

1. Thereafter, it will be the customer's responsibility to pay the full costs of steam thawing the service line, including labor and equipment provided by the TOWN. Additionally, it shall be the customer's responsibility to excavate the pipe as soon as possible and/or to take such steps as will prevent the freezing from re-occurring.

C. If the TOWN determines that the service line was frozen only on the TOWN's side of the shut-off the customer shall be responsible for one-half of the cost of steam thawing the service line. The customer will be responsible for one-half the cost of labor and equipment provided by the TOWN.

D. If the TOWN determines that the service line was frozen on both sides of the shut-off the customer shall be responsible for one-half of the cost of steam thawing the service line. The customer will be responsible for one-half the cost of labor and equipment provided by the TOWN.

E. The TOWN recommends that, when service pipes have frozen, the customer run water continuously through the pipes until the conditions which caused the freezing have changed, in order to prevent the re-freezing of the pipes. Under this circumstance, the TOWN shall issue a written permit to the customer allowing this to be done.

1. Where the freezing is determined to have been on the customer's side of the shut-off the Owner will be liable for the water charge for the water run for this purpose.
2. Where the freezing is determined to have been on the TOWN's side, the Owner will receive credit for the additional water charge for the water run for this purpose.
3. Where the freezing is determined to have occurred on both sides of the shut-off the Owner will be responsible for half the additional water charge applicable, when water is run for this purpose.

F. Where necessary, the TOWN will determine the additional amount of water run to prevent re-freezing.

SECTION 6.08 – LEAK IN PRIVATE LINE

If based upon a water meter reading or other information, the TOWN has a reasonable basis to believe there is a water leak in a private water line; the TOWN may schedule a hearing with the BOARD to turn off or disconnect the water to said line.

A. The Owner of the property shall be provided with a written notice of the date, time and place of the hearing, mailed at least thirty (30) days prior to the hearing by Certified Mail, Return Receipt Requested, to the last known address of the Owner.

B. If the mailing address of the Owner and the property address are different, the TOWN shall also deliver a notice in hand to an adult at the property affected or leave a copy of the notice at the building if in hand notification to an adult cannot be accomplished.

C. The notice of hearing shall indicate that the TOWN has recommended that the water to the property be disconnected. The notice shall also indicate that the Owner has until the date of the hearing to repair or otherwise correct the leak.

D. If repairs are made to the satisfaction of the TOWN's Chief Operator, he/she shall notify the BOARD and the hearing shall be cancelled. In that event, notice of cancellation shall be mailed to the Owner by first class mail.

E. If the Owner does not believe that there is a leak or there are other circumstances that the Owner or occupants believe the BOARD should consider, the Owner and occupants shall be entitled to attend the hearing of the BOARD and be heard. In the alternative, the Owner and occupants may also submit a written response to the BOARD.

F. If a hearing is conducted and the BOARD is not satisfied that the leak has been repaired or corrected; it shall issue an order instructing TOWN employees to shut off the water at the curb stop to such property on the second business day following the date of the order. A copy of the order shall be mailed or delivered to the Owner and occupants in the manner described in subsection 6.08.A, above.

G. If water is shut off in accordance with such an order, the Owner will be required to satisfy the TOWN that the leak has been repaired or otherwise corrected and pay any outstanding balance on the account before the TOWN authorizes the water to be turned back on.

H. If the Owner or occupant is dissatisfied with any decision made by the TOWN in connection with a water leak, the Owner or occupant may request a hearing before the BOARD. However, such a request shall not stay a disconnect order previously issued by the BOARD, nor shall it delay a previously scheduled hearing.

Section 6.09 –BACKFLOW PREVENTION (amended 6/20/2010)
All water service connections, both existing and new shall be constructed and maintained in accordance with the Town of Fair Haven "Water System Backflow Prevention Policy" and the Backflow policy of the State of Vermont Water Supply rule Chapter 21.

1. The Town of Fair Haven shall be responsible for the protection of the public potable water distribution system from the contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the Town an approved backflow prevention assembly is required at the consumer's water service connection; or, within the consumer's private water system for the safety of the water system, the Town or its designated agent shall give notice in writing to said consumer to install such an approved backflow prevention assembly(s) at a specific location(s) on his premises. The consumer shall install such an approved backflow prevention assembly(s) at the consumer's own expense within the time schedule required by the notice; and, failure, refusal or inability on the consumer to install, have tested and maintained said assembly(s) shall

constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

2. Existing residential property shall be required to install a backflow prevention assembly(s) if the water is shut off to perform rehabilitation/modification on there existing water line on their property. This also applies to, vacant residences that have had their service disconnected.

3. This does not apply to discontinued service for non payment of water bills or seasonal shut offs.

ARTICLE 7

Water Fund Management

SECTION 7.01 – SINKING FUND / CAPITAL RESERVE FUND SET ASIDES FOR MAJOR EXPENDITURES

The following provides for and restricts the use of set-aside (sinking/capital reserve) funds to finance future major maintenances/replacement costs and PLANT/distribution system expansion/upgrade costs.

SECTION 7.02 – SINKING FUND / CAPITAL RESERVE FUND ESTABLISHMENT

A separate sinking fund and/or capital reserve fund may be utilized for major maintenance/replacement expenditures and for expansion/upgrading expenses associated with the water distribution and treatment system in the TOWN. Sinking fund / capital reserve fund establishment for maintenance/replacement expenditures shall be based upon at least the following in writing: major maintenance/replacement identification, estimated expenditures, estimated year of expenditure, payment amount, type of account used to accumulate sinking fund / capital reserve fund assets, source of funding and when payments are to stop. All sinking funds / capital reserve funds shall be established and maintained in accordance with 24 V.S.A., Chapter 89, Section 3313.

SECTION 7.03 – SINKING FUND / CAPITAL RESERVE FUND MANAGEMENT

The TOWN reserves the right to increase, decrease, stop and/or maintain regular deposits to a sinking fund / capital reserve fund not exceeding 15% of the normal total budgeted expenses for maintenance/replacement in that year. The water fees charged for expansion costs shall be deposited into a separate account and a record shall be kept to show payment date, person making payment, and payment amount. The water BOARD holding office has the authority to withdraw sinking fund / capital reserve fund amounts only for the purpose of paying for major maintenance/replacement expenditures and for expansion/upgrading expenses for which the fund was established. When sinking fund / capital reserve fund assets are not disbursed fully for major maintenance/replacement expenditures and/or PLANT/distribution system

expansion/upgrade, excess money shall remain in the fund for future related expenditures similar in nature.

SECTION 7.04 – SINKING FUND / CAPITAL RESERVE FUND ASSETS

When sinking fund / capital reserve fund assets are not disbursed fully for major maintenance/replacement expenditures and/or plan expansion, excess money shall remain in the fund for future related expenditures similar in nature. Revenues established for PLANT expansion dedicated funds may be generated from system fees paid by prospective users to defray and pay expansion costs. This fund shall not exceed the estimated future expansion cost for the Water Treatment Plant. When the TOWN so votes, the expansion/upgrade sinking fund / capital reserve fund may be used to finance major maintenance/replacement expenditures, but under no circumstances shall the major maintenance/replacement sinking fund / capital reserve fund be used to finance water system expansion/upgrade expenses.

SECTION 7.05 – OTHER EXPANSION FUNDS

Revenues established for PLANT/distribution system expansion/upgrade dedicated funds may also be generated from system fees paid by prospective users to defray and pay maintenance/replacement/expansion costs.

ARTICLE 8

Water Charges

SECTION 8.01 – WATER BASE AND USE RATE

The Water Base Rate and the Water Use Rate shall be charged to customers on the TOWN's water system for the purpose of the payment associated with the costs of operating, maintaining and repairing said system including loan repayment expenses as appropriate. These fees shall be based upon rate structure(s) decided by the BOARD. Fees may be updated on an annual basis or as the BOARD deems necessary. Fees shall be posted on the duly adopted "Schedule of Rates and Fees" which is available at the TOWN offices.

SECTION 8.02 – CHARGING CONNECTED VACANT PROPERTIES

Vacant properties that are connected to the public water system may be charged the Water Base Rate established in SECTION 8.01 whether or not the property is occupied.

SECTION 8.03 – CUSTOMER RESPONSIBILITY

Water bills are rendered in the name of the customer. A customer who has tenants metered separately shall receive one (1) bill for each tenant so metered. If more than one tenant is on the same meter, the customer shall receive one bill which will include all tenants on that meter.

A. The customer is responsible for the payment of water bills, without regard as to whether the customer is the ultimate user. By applying for water service, the customer agrees to pay all bills as they become due, and failing to do so, agrees to pay all costs of collection, including attorney's fees.

B. The customer is responsible for notifying the TOWN, at the TOWN office, of any changes in mailing address.

C. Failure to receive a bill does not relieve the customer of the obligation for payment or for payment of penalties for late payment.

SECTION 8.04 – COLLECTION OF DELINQUENT WATER CHARGES

In the event any water charge is not paid by the bill's due date or within thirty (30) days from the bill's postmark date, an interest charge shall be added to the water charge. The amount of the interest charge on the overdue accounts shall be the same as those applied to delinquent taxes as set forth in 32 V.S.A., Chapter 17, Section 1674, and Chapter 133, Section 5136. The TOWN has the authority to place a lien on the real estate or may defer the property for tax sale if delinquent water charges remain unpaid. Refer to SECTION 9.07 of this ORDINANCE for further information on liens and tax sales.

ARTICLE 9

Disconnection of Service

SECTION 9.01 – DELINQUENT ACCOUNTS / DISCONNECTION OF SERVICE

Under the Uniform Water and Sewer Disconnect, 24 V.S.A., Chapter 129, water accounts which are not paid within thirty (30) days of the bill's postmark date become delinquent and may be disconnected. Disconnections are subject to certain restrictions as specified in the Vermont Statutes.

SECTION 9.02 – NOTICE REQUIREMENTS BEFORE DISCONNECTION

Before disconnection can occur, the ratepayer must be given notice of delinquency and advised of the possibility of having its service interrupted. The notice must meet the following requirements as stipulated in 24 V.S.A., Chapter 129:

A. It must be sent within forty (40) days after delinquency.

B. It must be sent not more than twenty (20) days, nor less than fourteen (14) days prior to the planned disconnection of service.

C. It must be on pink paper.

D. It must be on the Uniform Notice Form provided for by law, informing the ratepayer of their delinquency, collection and reconnection fees, methods of arranging payment of the bill and appeal rights.

E. A copy of the notice shall be sent to the occupant of the residential dwelling that will be affected by the disconnection if the occupant is different than the Customer.

F. The notice may provide for the disconnection of service for an aggregate delinquency, comprised of more than one (1) delinquent charge, so long as the notice is sent within forty (40) days after one (1) such charge becomes delinquent.

SECTION 9.03 – TIME AND MANNER OF DISCONNECTION

A. The TOWN shall disconnect water service only between the hours of 8:00 a.m. and 2:00 p.m. of the business day specified on the Uniform Notice Form or within the same hours during the four (4) business days thereafter. See Article 2 for the definition of "business days".

B. When service is disconnected at the premises of the Customer, which shall include disconnection at or near the premises of the Customer, the individual making the disconnection shall give written notice "Notice: Your Water Service Has Been Disconnected" to a responsible adult on the premises that service has been disconnected. If no responsible adult is present, the individual shall leave the notice on the premises in a conspicuous and secure place. The notice shall state what the Customer must do to have service restored.

SECTION 9.04 – WHEN DISCONNECTION IS PROHIBITED

The TOWN shall not cause the disconnection of water service in any of the following circumstances:

A. The delinquent bill or charge, or aggregate delinquent bills or charges, do not exceed Fifteen Dollars ($15.00).

B. The delinquency is due solely to a disputed portion of a charge which is the subject of an appeal.

C. The delinquency is due to a failure to pay a deposit, line extension, special assessment, special construction charge, or other non-recurring charge.

D. The disconnection would represent an immediate and serious hazard to the health of the Customer or a resident within a Customer's household, as set forth in a physician's certificate which is on file with the TOWN. Notice by telephone or otherwise that such certificate will be forthcoming will have the effect of receipt, providing the certificate is in fact received within seven (7) calendar days thereafter. The certificate will be

considered valid and in force for thirty (30) days or the duration of the hazard, whichever is less. See Article 2 for the definition of "Physician's Certificate".

E. The Customer has not been given an opportunity to enter into a reasonable agreement to pay the delinquent bill, as provided in Section 9.05 below, or, having made such agreement, has abided by its terms.

SECTION 9.05 – AGREEMENT FOR PAYMENT OF DELINQUENT BILL OR OTHER CHARGE

Any rate payer who seeks to avoid disconnection by entering into a written agreement with the TOWN to pay a delinquent bill or other charge shall be given an opportunity to do so as follows:

A. Such an agreement may be entered into at any time, either before or after the disconnection of the customer's service.

B. As a matter of business practice, the TOWN will not enter into any such agreement for payment of the full amount of the delinquent bill over any period in excess of six (6) months, nor will the TOWN enter into any agreement which does not also require the customer to pay all future charges as they become due.

C. In the event that an agreement is reached after collection trips have been made, or service has been reconnected, the charges for such action may be added to the delinquent bill or charge to which the agreement relates.

D. Interest shall accrue on the entire delinquent amount to which the agreement relates.

E. It shall be the responsibility of the customer to obtain and execute a written agreement on the form specified by the BOARD.

F. Failure to satisfy the terms of such agreements shall be deemed to constitute a failure by the customer to abide by the terms of the said agreement, and will subject the customer to disconnection without further notice, in addition to any other collection action which the TOWN may take.

SECTION 9.06 – RESTORATION OF WATER SERVICE

If water service has been disconnected for delinquency of payment of a valid bill or other charge, the TOWN shall, within twenty-four (24) hours, restore service upon the customer's request when the cause for disconnection has been removed, or when an agreement has been reached between the customer and the BOARD regarding the dispute which led to the disconnection.

Restoration of service, to the extent feasible, shall be done so as to avoid charging a customer overtime wages and other abnormal expenses.

In cases where disconnection or interruption of service is made for reasons of health or safety of the Customer or of the general public, no collection or reconnection fees shall be charged.

SECTION 9.07 – TAX SALES AND LIENS ON REAL PROPERTY

Upon delinquency of payment of a valid bill for service provided to the Owner of the real estate or other charge for water service properly charged to the Owner of the real estate, the BOARD may file notice of a lien or notice of a tax sale upon the real estate with respect to which the water service was rendered, provided in 24 V.S.A., Chapter 89, Section 3306. Such notices shall be in the standard form furnished by the TOWN and recorded with the Clerk of the TOWN. A copy of the notice shall be mailed to the Owner and all lien holders or mortgagees of the property. Before filing the lien or deferring the property for tax sale, the BOARD shall give the Owner of said property an opportunity to be heard.

If the Owner fails to enter into any agreement for payment of a delinquent bill, or if the Owner fails to abide by the terms of said agreement, the BOARD has the authority to place the real estate up for tax sale, in accordance with 32 V.S.A., Chapter 133, Section 5252, regardless of the total dollar amount of the delinquency and the period of time for which the Owner has been delinquent, as the BOARD deems necessary.

If the Owner fails to comply with the TOWN's delinquent billing policy, the BOARD shall defer said property for tax sale.

The TOWN also has the authority to foreclose on liens in the same manner as provided by law for the foreclosure of mortgages on real estate, when such lien has been in effect for more than two (2) years, 24 V.S.A., Chapter 89, Section 3306 and 32 V.S.A., Chapter 133, Section 5061. While foreclosure of a lien is generally only undertaken when the value of the real estate is worth less than the dollar amount of the lien, the BOARD may use their discretion to determine what is in the best interest of the TOWN.

Upon full payment of all delinquent bills and other charges, the BOARD shall notify the Clerk of the TOWN in which the lien was filed that the lien has been discharged.

ARTICLE 10

Appeals

SECTION 10.01 – APPEALS

A customer may appeal with respect to the proper amount of its bill or the applicability of this ORDINANCE to it relating to the provision of water service. No appeal may be maintained with respect to the level or design of water rates themselves. During appeal, disconnection shall be postponed.

The BOARD may appoint one or more of its number to act as Hearing Officer(s) for the purpose of appeal. Alternately, the BOARD may appoint a responsible citizen to act as a Hearing Officer.

The Hearing Officer is appointed pursuant to 24 V.S.A., Chapter 129, Section 5147 to act as a fact finder and to hear and investigate evidence, and to make recommendations to the BOARD for final determination of a dispute.

Claims, complaints and appeals will first be referred to the Town Manager. If a mutually satisfactory settlement cannot be reached, the claimant will be so informed, in writing by Certified Mail, Return Receipt Requested. The claimant will be notified at that time that he/she will have the opportunity to present his or her claim to the BOARD, either in writing or in person, within thirty (30) days of such notification. If such a claim is not presented, the BOARD will act on the recommendation of the Hearing Officer.

Upon appeal to the BOARD, the BOARD shall fairly and promptly hear any and all written requests for appeals by the customer after notice to all interested parties.

Upon just cause shown, the BOARD may grant exception to any customer.

ARTICLE 11

Unauthorized Use of Water

SECTION 11.01 – UNAUTHORIZED USE OF WATER

A. The TOWN may take legal action against any person who shall use municipal water without authorization from the TOWN by:

1. Tapping or making any connection with any street main or service or distribution pipe.
2. Opening or closing any valve or hydrant connected with said system.
3. Obtaining the use of water without authorization in any way or by any device, including the operation of curb valves by repairmen or plumbers for any purpose.

B. Water shall not be allowed to run to waste through any faucet or fixture to prevent freezing or be kept running for any longer than necessary for its proper use without written approval from the TOWN or the Chief Operator. The TOWN is required to restrain and prevent any and all waste of water and to that end may, when necessary, turn off water or take such other action as, in its judgment, appears proper. If the TOWN or the Chief Operator does authorize the use of running water to prevent freezing, no adjustment in fees will be made unless the TOWN has determined that the freezing issue is on the TOWN's side of the customer's water shut-off, refer to SECTION 6.07 of this ORDINANCE.

ARTICLE 12

Prohibitions and Penalties for Violation of Rules

SECTION 12.01 – PROHIBITIONS

A. No person shall deny access to any inspector of the TOWN or any person authorized by the TOWN to conduct an inspection or perform such other duties as set forth in this ORDINANCE.

B. No person shall violate any emergency rule adopted by the BOARD as provided in Article 1 of this ORDINANCE.

C. No person shall damage, remove, or tamper with any meter through which water service is being provided. No person shall break the seal of any such meter.

D. No person shall damage, remove, or tamper with any meter remote or wire connecting the meter and remote at a service location. No person shall break the seal of any such remote.

E. No person shall knowingly cause water to be taken at any service location or elsewhere, in any manner inconsistent with the application for service governing such location, any contract for the supply of water application to such location, any terms and conditions based upon service at such location by the BOARD or this ORDINANCE.

F. No person shall take or use water from the TOWN's water system at any location or in any manner that is not authorized by the BOARD. No person may make, and no customer shall suffer or permit any person to make, any connection to that system, unless such connection is authorized by the BOARD.

G. No person shall obstruct the access to any fire hydrant.

H. No person shall make any connection to any hydrant on the TOWN's water system, and no person may cause any such hydrant to be opened, except as authorized by this ORDINANCE, or otherwise by the BOARD.

I. No person shall make any material misstatements of fact in any application for water service.

J. No person shall complete construction of any service connection with the TOWN's water system in any manner other than that set forth in any plans and specifications submitted to and approved by the BOARD. No person shall fail to disclose any deviations or variations from such plans to the BOARD at the first date such variations or deviations become known to such person.

K. No person shall violate and no customer shall suffer or permit any person to violate at the customer's service location, any provision of this ORDINANCE, or shall violate any order, direction, or emergency rule adopted by the BOARD.

SECTION 12.02 – PENALTIES FOR VIOLATION OF THIS ORDINANCE

A. This is a civil ORDINANCE. Enforcement procedures for this civil ORDINANCE shall be in accordance with the provisions of 24 V.S.A., Chapter 59, Sections 1974(a) and 1977 et seq.

B. Any person violating any of the provisions of this ORDINANCE, shall become liable to the TOWN for any expenses, loss or damage caused by such offense and shall be served by the BOARD with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease the violation.

C. Any violation of this ORDINANCE shall be a civil matter enforceable to the extent as referenced in Paragraph A of this SECTION. A civil penalty shall be assessed for each offense. The amount of the civil penalty shall be determined by the hearing officer, not to exceed five hundred dollars ($500.00) per offense. Each day the violation continues shall constitute a separate offense. The offender can choose to pay the waiver fee on the complaint or request a hearing to contest the violation with the Judicial Bureau. The waiver fee shall be determined by the hearing officer and shall be less than the civil penalty.

D. Notwithstanding any of the foregoing provisions, the TOWN may institute any appropriate action including injunction, or other proceeding to prevent, restrain or abate violations hereof, and any other legal and equitable relief to seek compensatory damages and compensation for other fees and expenses as provided in this ORDINANCE.

ARTICLE 13

Amendments, Changes and Petitions

SECTION 13.01 – AMENDMENTS AND CHANGES

The BOARD may make such amendments, changes, etc., to the ORDINANCE that appear in its judgment to be necessary for the efficient operation and/or in the best interests of the water system.

All Rules, Regulations, Ordinances, Policies, Procedures, or other regulatory provisions in conflict herewith are hereby repealed.

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.

SECTION 13.02 – PETITIONS

Citizens have the right to petition for a vote on this ORDINANCE and amendments at an annual or special meeting as provided in 24 V.S.A., Chapter 59. If a petition is received in accordance with 24 V.S.A., Chapter 59 a special meeting shall be called within sixty (60) days of the receipt of the petition to determine whether the voters will approve/disapprove the ORDINANCE and/or amendment hereto.

ARTICLE 14

Ordinance in Force

SECTION 14.01 – ORDINANCE IN FORCE

This ORDINANCE shall be in full force and effect from and after its passage, approval, recording and publication as provided by law, replacing the Water Ordinance enacted September 14th, 1993.

Duly enacted and ordained by the Board of Water Commissioners of the Town of Fair Haven, Rutland County, State of Vermont, on the 21st day of April, 2009, at a duly called and duly held meeting of said BOARD. This ORDINANCE shall become effective sixty (60) days from the date hereof.

BOARD OF WATER COMMISSIONERS
TOWN OF FAIR HAVEN

Donald Adams

Jeffrey A. Shea

Julie A. Elles

Raymond Bunker

Claire L. Stanley

I, the undersigned duly elected Town Clerk for the Town of Fair Haven, do acknowledge by my signature that this document is the Rules and Regulations as adopted by the Board of Water Commissioners on April 21, 2009.

Dated this 21st day of April, 2009.

Suzanne Dechame
Town Clerk's Signature

Suzanne Dechame
Town Clerk's Printed Name