

TOWN OF BERLIN, VERMONT

MUNICIPAL WATER & WASTEWATER ALLOCATION ORDINANCE

DECEMBER 18, 2020
EFFECTIVE DATE

Brendy Fox
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BERLIN SELECTBOARD

Adopted: OCTOBER 19, 2020

Revised: _____

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Collection System ordinances, as applicable, and the allocation formula established in Section 1-103 of this ordinance.

SEC. 1-103. ALLOCATION OF UNCOMMITTED RESERVE CAPACITY

- A. Each June, the Public Works Board will determine the Uncommitted Water and Wastewater Reserve Capacity to be available for the next fiscal year.
- B. The Public Works Board must allocate Uncommitted Water and/or Wastewater Reserve Capacity by location, type of use and rate in accordance with the following:
 - 1. If any existing water or wastewater treatment system fails, the Board may make an emergency allocation to alleviate a public health hazard or environmental harm irrespective of the allocation formula.
 - 2. The Board must allocate at least 30% of the Uncommitted Water and Wastewater Reserve Capacity to serve Berlin's designated New Town Center.
 - 3. The Board must allocate at least 10% of the Uncommitted Water and Wastewater Reserve Capacity to residential projects that meet the definition of affordable housing in 24 V.S.A. § 4303(1).
- C. The Public Works Board allocates capacity to a specific project on a parcel of land identified by tax map parcel number. After the project is connected to the water and/or wastewater collection system, any unused allocation will revert to the Town.

SEC. 1-104. EFFECTIVE DATE

- A. This ordinance will become effective upon the Town of Berlin obtaining a New Town Center Designation from the State of Vermont and not less than 60 days following the date of adoption as set forth in Section 1-100, unless a permissive referendum is called for pursuant to 24 V.S.A. Sec. 1973, which provides as follows:
 - 1. An ordinance or rule adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose, pursuant to a petition signed and submitted in accordance with subsection (2) of this section.
 - 2. A petition for a vote on the question of disapproving an ordinance or rule must be signed by not less than five per cent of the qualified voters of the municipality, and presented to the legislative body or the clerk of the municipality within 44 days following the date of adoption of the ordinance or rule by the legislative body.
 - 3. When a petition is submitted in accordance with subsection (2) of this section, the legislative body must call a special meeting within 60 days from the date of receipt of the petition, or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will disapprove the ordinance or rule.

SEC. 1-100. AUTHORITY

- A. This Ordinance has been duly adopted by the Town of Berlin Selectboard, on _____, 2021, and will become effective as specified in Section 1-104.

SEC. 1-101. DEFINITIONS

- A. "Public Works Board" means the Public Works Board of the Town of Berlin, as convened under 24 V.S.A., Section 3614.
- B. "Committed Water Reserve Capacity" means the amount of total assigned ERUs for all projects/buildings approved by the Town for connection to the Water System, but not yet connected at the time of the calculation.
- C. "Committed Wastewater Reserve Capacity" means the amount of total average daily flow (gallons per day) and loading from all projects/buildings approved by the Town for connection to the Wastewater Collection System, but not yet connected at the time of the calculation.
- D. "Person" means any individual, firm, company, association, society, corporation, or group, or as prescribed in 1 V.S.A., Section 126.
- E. "Uncommitted Water Reserve Capacity" means the authorized capacity of the Town of Berlin Water System minus total assigned ERUs for all projects/buildings approved by the Town for connection to the Water System, including those not yet connected to the Water System at the time of the calculation.
- F. "Uncommitted Wastewater Reserve Capacity" means the Town discharge limit to the City Wastewater Collection System (as established by City-Town agreement) minus the most recent 12 months estimated average daily flow and loading of all projects approved by the Town and City, including those not yet connected to the Wastewater Collection System.
- G. "Must" is mandatory; "May" is permissive.

SEC. 1-102. REQUEST FOR CAPACITY

- A. Persons wishing to use uncommitted capacity of the Town Wastewater Collection System must apply to the Public Works Board in accordance with the provisions of Section 1-104 of the Town of Berlin Municipal Wastewater Collection System Ordinance.
- B. Persons wishing to use uncommitted capacity of the Town Water System must apply to the Public Works Board in accordance with the provisions of Section 1-104 of the Town of Berlin Water Ordinance.
- C. The Public Works Board must approve the request for use of uncommitted capacity in accordance with the provisions of the Water System and/or Wastewater

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SEC. 1-105. SUNSET PROVISION

- A. This ordinance will remain in effect while the Town of Berlin has a New Town Center designation from the State of Vermont.

SEC. 1-106. SEVERABILITY

- A. In the event that any section, provision or other portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, such determination will not affect the validity of any other section, provision or portion of this Ordinance, which will be given effect without such invalid sections, provisions or portions thereof.

SEC. 1-107. CIVIL ORDINANCE

- A. Pursuant to 24 V.S.A. Sec. 1971, this ordinance is designated a civil ordinance.