

## LUNENBURG SEWER BYLAW

### **DEFINITIONS**

**Available Capacity** - Available Capacity is flow that is available via intermunicipal agreement or other sources that has not been previously allocated by the Sewer Commission.

**Bi-sected lots** - a bisected lot is a property for which the line defining the sewer service area passes through the lot.

**Commission** - The duly elected or appointed Board of Sewer Commissioners

**Protective bylaw** - The Protective Bylaw is the Zoning Bylaw of the Town of Lunenburg

**Reserve Capacity** - The flow capacity reserved for use by property owners along the sewer ways.

**Sewer Service Area** - The geographical areas of the Lunenburg Sewer Service Area with boundaries as delineated on a map approved by the Sewer Commission and by Town Meeting vote.

**Sewer Service Area Map** – The map approved by the Sewer Commission and by Town Meeting vote delineating the Sewer Service Area and Sewer Service Zones.

**Sewer Service Zone** - An area located within the Sewer Service Area and as shown on the Sewer Service Area Map.

### **1.0 PURPOSE**

It is the purpose of this by-law to regulate the connections to and extensions of the Town's sewer system, in order to preserve and manage limited treatment capacity pursuant to inter-municipal agreements.

Providing solutions for wastewater problems (i.e. failed septic systems with poor site conditions for upgrades) within the Sewer Service Area will be given priority.

### **2.0 SEWER SERVICE AREA**

The Town of Lunenburg, acting by and through the Lunenburg Sewer Commission may lay out, plan, construct, maintain and operate a system or systems of common sewers within the Sewer Service Area. The provision of sewer service within the Sewer Service Area shall be under the jurisdiction and control of the Sewer Commission. No person shall extend or construct a sanitary sewer intended to be connected to any municipal common sewer to serve property, or any portion of a property, located outside the designated Sewer Service Area.

The Sewer Service Area and Sewer Service Zones are delineated on the Sewer Service Area Map as approved by the Town Meeting. The Sewer Service Area Map may be amended from time to time by vote of Town Meeting. [The inclusion of a property, or portion of a property, in the Sewer Service Area may establish eligibility to connect to the sanitary sewer but shall not create an entitlement thereto. All sewer connections shall be subject to, and shall comply with, the provisions of this by-law, including but not limited to available capacity, capacity limitations and Sewer Commission approval\(s\), where required. Neither the boundaries of the Sewer Service Area nor the requirement that a property be located within said Sewer Service Area to be eligible to connect may be waived.](#)

Prior to the initiation of a sewer project in any Sewer Service Zone as identified on the Sewer Service Area Map, and prior to submitting an appropriation request to the Town, the Sewer Commission shall survey the landowners in

said Sewer Service Area to determine whether a minimum of 2/3 of all affected owners support the installation of sewer service.

### **3.0 CONNECTION ELIGIBILITY**

Developed parcels of land or portions of parcels of land located within a Sewer Service Zone that abut a public way in which a sewer has been laid shall be eligible to connect existing buildings to the sanitary sewer unless said property is subject to a waiver deed restriction.

Any undeveloped single family lot, undeveloped commercial or industrial lot, or any undeveloped parcel of land created out of a pre-existing developed lot, provided it has with at least 50 feet of frontage along the sewer way located within the sewer district and provided it conforms to the requirements of the Lunenburg Protective Bylaw, shall be eligible to connect and shall be limited to 330 gallons per day of capacity. Additional capacity for said parcels may be granted by a majority vote of the Sewer Commission, subject to available capacity.

Sewer connections shall be located entirely on the property they are to serve. The connection must enter the property directly from the public way in which the sewer is located. No connections shall be allowed via an easement. A sewer line must remain within the parcel that it serves.

Notwithstanding the above, sewer connections may be installed in easements across adjoining properties, at the discretion of the Commission, through the issuance of a waiver under Section 10.0 of this bylaw.

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No property or portion of a property, located outside of Sewer Service Zones shall be allowed to extend or construct a sanitary sewer.

Any lot bisected by a Sewer Service Zone boundary line may only install a sewer connection that serves buildings that are located within the sewer service zone lines.

### **4.0 SEWER EXTENSIONS**

Owners of parcels of land or portion of parcels of land located within the Sewer Service Area not presently served by sewer may extend the existing sewer system to serve such parcels only at the discretion of the Sewer Commission subject to available capacity and only if otherwise in compliance with law and with the conditions of all permits.

Prior to granting approval for any sewer extension, the Commission may require the applicant to supply, at his/her own cost and expense, maps, plans, reports, specifications and other data which properly describe proposed work.

~~All development and construction shall be monitored in accordance with the "Monitoring and Inspection Procedures and Fee System of the Lunenburg Sewer Commission."~~

Upon approval, prior to commencement of work, the applicant may be required to post bonds, undertakings, guaranties and insurance policies in forms and amounts acceptable to the Commission to guarantee completion of the proposed work and restoration and to indemnify and save harmless the Town of Lunenburg and its officers, agents, servants and employees from damage or loss arising out of or in connection with the work.

### **5.0 RESERVE CAPACITY**

At the time of finalization of the betterment for a sewer project, the 100% build out utilization capacity shall be established consistent with the number of assessments and capacity allotment. Ninety percent (90%) of this total capacity shall be held in reserve by the Sewer Commission for future use by the assessed properties that are equitably entitled to such capacity.

#### **6.0 ALLOCATION OF CAPACITY FOR CHANGE OR EXPANSION OF USE IN EXISTING FACILITIES**

The Sewer Commission may allow for increased allocation for the change of use, or expansion of use which results in an increased sewage design flow, in existing facilities within the Sewer Service Area subject to available capacity and subject to the assessment of privilege fees by the Sewer Commission under General Laws Chapter 83, Sections 17 and 20. A change of use or expansion of a preexisting use shall be defined as any undertaking on a property whether involving material changes to structures or not, which results in an increase of design flow on the property from the existing conditions pursuant to 310 CMR 15.000.

#### **7.0 APPROVAL REQUIRED FOR CHANGE OR EXPANSION OF PROPERTY USE**

Any proposed change or expansion of property use (as defined in Section 6.0) which results in an increase in flow allocation or change in type of flow (i.e. residential to commercial, or commercial to industrial) for a property within the Sewer Service Area shall be reviewed by the Sewer Commission. An application completed by the property owner on a form approved by the Commission shall accurately and completely indicate the existing use and the proposed use and the associated flows calculated pursuant to the State Sanitary Code. 310 CMR 15.000 Title V. At the discretion of the Sewer Commission, applications may be approved by the Sewer Commission based on available capacity.

#### **8.0 ABANDONMENT OF SEPTIC SYSTEMS AT PROPERTIES TO BE SERVED BY MUNICIPAL SEWER**

Within thirty (30) days of connection to the sewer system, the on-site subsurface sewage disposal system shall be abandoned in accordance with the Lunenburg Board of Health regulations and the State Sanitary Code, Title V.

#### **9.0 REGULATORY AUTHORITY REGULATION CHANGES**

The Sewer Commission is expressly authorized to promulgate rules and regulations effectuating the purposes of this by-law; provided, however, that neither the Commission's failure to promulgate a rule or regulation nor a legal declaration of the invalidity thereof shall act to suspend or invalidate the effect of the provisions hereof. Amendment(s) to the rules and regulations may be contemplated during regular, open meetings of the Commission. Prior to the adoption of any amendment, a public hearing shall be conducted with notice of said hearing published in a local newspaper at least five (5) business days in advance. At the discretion of the Commission, the hearing may be continued from time to time as necessary. Following adoption, the amendment(s) shall be posted on the Commission's Town website.

~~The Sewer Commission will establish a draft of proposed changes during regular, properly posted open meetings. Once there is consensus on the proposed changes, a formal hearing will be scheduled and will take place over 2 regularly scheduled meetings. Both hearings will be televised. A notice of the hearing will be put in a local newspaper at least 5 business days prior to the hearing dates. At the discretion of the Sewer Commission, the hearing may be continued to the next consecutive open, regularly scheduled meeting. Once the hearing is closed, the final changes will be drafted and voted on. The proposed and approved changes will be posted on the Commission's Town website.~~

#### **10.0 WAIVERS**

Except as otherwise stated herein, the Sewer Commission reserves the right to waive, in its sole discretion, any provision(s) of this by-law and/or the rules and regulations adopted hereunder in situations that meet all the following criteria:

- (1) emergency circumstances threaten the safe and continued use of a property that a waiver may resolve;
- (2) alternatives to the waiver present an undue hardship to any person or entity affected thereby;
- (3) the Commission deems it to be in the best interest of the Town of Lunenburg and not otherwise inconsistent with the purpose and objectives hereof.

Notwithstanding the above, no waiver shall be granted for a new commercial property.

Each request for a waiver shall be made in writing to the Commission, shall require a public hearing to be conducted with notice of said hearing published in a local newspaper at least five (5) business days in advance and, shall require an affirmative vote of approval by a super-majority in number of the Commission. In no event shall the Commission waive any requirement of the Massachusetts General Laws or any regulation adopted by the Commonwealth thereunder. There shall be no entitlement to a waiver; and the grant of a waiver in one instance shall not require the Commission to grant a waiver in any other.”

~~ORIGINAL NEW SECTION 10.0 AMENDED AT TOWN MEETING: Except as otherwise stated herein, the Sewer Commission reserves the right to waive, in its sole discretion, any provision(s) of this by-law and/or the rules and regulations adopted hereunder due to emergency circumstances; as may cause undue hardship to any person or entity affected thereby; or as the Commission may deem to be in the best interests of the Town of Lunenburg and not otherwise inconsistent with the purpose and objectives hereof. Each request for a waiver shall be made in writing to the Commission and shall require an affirmative vote of approval by a majority in number of the Commission. In no event shall the Commission waive any requirement of the Massachusetts General Laws or any regulation adopted by the Commonwealth thereunder. There shall be no entitlement to a waiver; and the grant of a waiver in one instance shall not require the Commission to grant a waiver in any other.~~