

LEGAL NOTICE

The Chatham Board of Selectmen will hold a public hearing on Tuesday, November 2, 2010 on proposed changes to the Town of Chatham Sewer Bank Allocation & Permit Policy. The meeting will begin at 4:00 pm in the downstairs meeting room at 549 Main St.

The proposed changes are shown below. Additions are shown as underlined text; deletions are shown as ~~strikethrough text~~.

~~LEGAL NOTICE~~ REVISED

TOWN OF CHATHAM "SEWER BANK" ALLOCATION & PERMIT POLICY

At their meeting on Tuesday, ~~November 17, 1998~~ {new date}, the Board of Selectmen voted to adopt the following Revised policy governing the allocation and permitting of the ~~50,000 gallons per day (gpd)~~ "Sewer Bank" authorized pursuant to the Administrative Consent Order ACO-SE98-1002 (~~A.C.O.~~). This Revised policy received the Commonwealth of Massachusetts Department of Environmental Protection's (DEP) approval on ~~March 10, 1999~~ {new date} and the Town is now in the position to issue sewage flows from the sewer bank and may approve sewage flow transfers from a property connected to the Town sewer system to another property.

~~Beginning 9:00 a.m., Tuesday, June 1, 1999, the Town will be accepting applications for sewage flow withdraws from the sewer bank and applications for sewage flow transfers. Sewer Bank a~~Applications can be picked up and returned to~~delivered at~~ the Water and Sewer Departments Office located at ~~127 Old Harbor Road~~ 221 Crowell Road, Chatham, MA. 02633.

~~The Massachusetts Department of Environmental Protection (DEP) has restricted sewage flow to the Chatham Wastewater Treatment Facility at 100,000 gallons annual daily average. DEP issued this 1987 restriction under the original Administrative Consent Order, Docket Number 700 to prevent the possible contamination of the Town's public water supplies. The wastewater treatment facility has subsequently undergone renovations to incorporate a nitrogen control system into the treatment process. DEP has issued the revised Administrative Consent Order ACO-SE98-1002 that allows the Town to increase the sewage discharge flow from the treatment facility by 50,000 gallons annual daily average.~~

The initial Sewer Bank (50,000 gpd) was created in response to the 1998 revised ACO which increased the allowable discharge from the Chatham Water Pollution Control Facility (WPCF) from 100,000 gpd to 150,000 gpd annual average daily flow. In 2009 the DEP issued a new Groundwater Discharge Permit for the WPCF which increased the flow from 150,000 to 200,000 gpd annual average daily flow. (This increase is to be reflected in an amended ACO to be issued by DEP.)

The original Sewer Bank (50,000 gpd) has been expended, with the exception of a 5,000 gpd safety factor which will remain under this Revised Sewer Bank Policy. This revised Sewer Bank Policy is intended to govern the allocation of the 50,000 gpd resulting from the change in allowable WPCF discharge from 150,000 to 200,000 gpd annual average.

PART #1: ALLOCATION OF SEWER BANK

Whereas the increase in sewage discharge flow does not remove the Administrative Consent Order, nor can it solve the entire Town's overall sewage flow needs, the following policy for allocation of the increased sewage flow has been established:

- ~~10,000 gpd of the wastewater treatment facility's permitted discharge flow shall be reserved as a contingency for unforeseen public health or environmental emergencies;~~
- ~~12,000- 15,000 gpd shall~~ may be used to connect properties located adjacent to the wastewater collection system to correct septic system problems posing ~~immediate~~ environmental or public health problems, or to prevent potential environmental or public health problems from ~~existing~~ septic systems;

Note: Public health or environmental problems or emergencies will be determined by a Sewer Bank Committee comprised of the following: the Water and Sewer Departments' Manager, ~~Water Quality Laboratory~~ Director of Health & Environment, ~~Board of Health Agent,~~ Town Planner, and Director of Community Development, or their designees.

- ~~18,000~~ 7,500 gpd ~~shall~~ may be used for connecting ~~existing and future~~ public facilities, such as, schools, Police Station, Town Offices Annex, Airport Terminal, Fire Station, and public restroom facilities, or other municipal or governmental facilities;
- ~~5,000- 2,500 gpd shall~~ may be ~~allocated~~ used for the expansion of existing connections ~~as follows: 1210 gpd for residential properties and 3790 gpd for commercial properties,~~ under the following conditions:

1. No more than one application per property parcel shall be accepted;
2. Within this category ~~No~~ existing connection shall be permitted to increase their existing sewage discharge flow(s) by more than ~~10% or add more than~~ 110 gpd (equivalent of one bedroom), with flow calculated using Title 5 design criteria;

~~No person or entity shall be granted a permit or permits which exceed 10% of the original set-aside allocation for each category;~~

- 25,000 gpd may be used for the purpose of furthering Economic Development. The applicant shall have the burden of establishing by a fair preponderance of the evidence, the following:
 - 1) That the existing business or proposed development is in the public interest benefiting not only the applicant, but also the general public;
 - 2) That the existing business or proposed development provides necessary public services; and
 - 3) That the existing business or proposed development would be more economically viable if additional flow were allocated to the property.

The Sewer Bank Committee shall make findings on each of the above criteria and shall transmit those findings and recommendation to the Water and Sewer Commissioners for their ratification. Should the Commissioners, by majority vote, fail to ratify the recommendation of the Sewer Bank Committee, the Committee shall notify the applicant. The applicant shall have the right to a public hearing before the Commissioners to present a case for an allocation under the Economic Development category.

The above allocations may be adjusted from time to time by the Sewer Bank Committee ~~a committee comprised of the following: the Manager of the Water and Sewer Departments, Director of Community Development, Board of Health Agent, Town Planner, and Water quality Laboratory Director, or their designees.~~

~~When the wastewater treatment facility's annual daily average discharge equals or exceeds 135,000 gallon per day, no new connection or no increase in sewage flow under existing permits shall be allowed, except the 10,000 gpd of flow~~

~~reserved for unforeseen public health or environmental emergencies may be used as required.~~

If an approved sewage flow increase is not used (all federal, state, and local permit approval's issued and ~~facility~~ construction started) within one year from the date flow increase was approved, the sewage flow increase shall revert ~~back~~ to the Town automatically unless the Board of Selectmen, in its sole discretion, grants an extension of time for good cause shown prior to the expiration of the one year period from the approval of the sewer bank withdrawal.

Under no circumstances shall the Town allow new connections to or extensions of it's sewer system, nor allow increase in flow from existing connections when the wastewater treatment facility's annual daily average discharge equals or exceeds ~~145,000~~ 195,000 gallons per day.

~~To begin the process of issuing sewer bank allocation or sewage flow transfer permits, the Water and Sewer Department shall issue a public notice in a newspaper with general circulation in the Town of Chatham informing the property owners of the opportunity to submit an application for sewage flow under this policy. In addition, the Town shall post a notice in Town Hall Office, Water and Sewer Departments' Office, and Town Annex.~~

PART #2 - SEWAGE FLOW TRANSFER

NOTE: *Sewage Flow Transfer Applications will not be accepted. Sewage flow transfers are under an ~~18 month~~ moratorium voted d by a majority of the Selectmen ~~on November 2, 1999.~~*

Any person desirous of transferring existing sewage flow from one property to another shall file an application for such transfer with the Water and Sewer Department Manager. Which application, when complete and technically accurate, shall be acted upon by the Manager within 45 days. The applicant shall have the burden of establishing by a fair preponderance of the evidence, the following:

- 1) That the transfer ~~;~~ is in the public interest benefiting not only the applicant, but also the general public
- 2) That the transfer is more environmentally advantageous than the status quo or the installation of an onsite septage disposal system at the property receiving the enhanced sewage flow

- 3) That such transfer shall not adversely impact the economic well-being of those who receive reduced sewage flow allotments from the transferring property

The Manager shall make findings on each of the above criteria and shall, within 45 days, transmit those findings and ~~his~~ recommendations to the Water and Sewer Commissioners for their ratification. –Should the Commissioners, by a majority vote, fail to ratify the recommendation of the Manager, within 14 days, they shall notify the applicant and the applicant shall have the right to a public hearing before the Water and Sewer Commissioners to request their approval of the proposed transfer.

Under this policy, the transfer of existing sewage flow(s) from one property to another property held under the same ownership may be allowed, subject to the following:

- 1) Ten percent (10%) of the transferred sewage flow shall be given to the Town for redistribution or for retention should the Town deem it to be in its best interest
- 2) The property transferring the sewage flow shall retain for its use the greater amount of the following:
 - a) Sewage flow required for each proposed use remaining on the property plus 25% (based on current Title 5 design criteria); or
 - b) 350 gallons per day
- 3) No sewage flow transfers shall be allowed when the Wastewater Treatment Facility's annual daily average discharge equals or exceeds ~~139~~5,000 gallons per day.

Transfers between properties held under different ownership require the prior approval of the Water & Sewer Commissioners, in addition to meeting the above conditions.

PART #3 CHANGES IN USE

1. Changes in use of an existing connection's ~~allocated flow(s)~~ that do not result in any increase in wastewater flow to the sewer system are permitted with the approval of the appropriate Town Departments. The request shall be made in writing to the Water and Sewer Departments' Manager indicating existing use(s) and flow(s) and the proposed use(s) and flow(s).

2. Should a change in use result in a decrease in the wastewater flow needs for property, the owner may elect to return unused flow to the town. Following a review, by town staff and the owner, of the historic and current flow based on historic and current use and agreement on the amount of unused flow, the property owner may, by affidavit, return the unused flow to the town. Such affidavit shall indicate the owner is willingly returning the unused flow and recognizes the limitations placed on future uses of the property. The Water & Sewer Commissioners reserve the right to require annual renewal of the affidavit.⁴ Such unused flow returned to the town is subject to further use by the town at its discretion. The owner of the property may apply for an increase in flow if they wish to revert to the property's original use and flow is available in the appropriate category.

PART #4 APPLICATION

To conform with Section 1 of Article III, Building Sewers and Connections, of the Town of Chatham Regulation of Sewer Use Rules and Regulations of the Sewer Department, adopted by the March 13, 1972 and revised at the May 11, 2004, May 9, 2005, and May 12, 2008 Annual Town Meetings, which requires a written permit from the Water and Sewer Department Manager (Superintendent) before any person discharges sewage to or changes the sewage discharged into the Town's sewer system, applications shall be reviewed by the Water and Sewer Departments' Manager for completeness and technical accuracy in order in which they are received. No application shall be acted upon until the Manager has determined it to be complete and technically accurate. If an application is incomplete or incorrect the Manager shall notify the applicant in writing. Complete and technically accurate applications shall be acted upon by the Water and Sewer Departments' Manager in the order in which they are received.

The Water and Sewer Departments' Manager shall review the application to verify the following:

1. Requested flow is based on current Title 5 design criteria;
2. Existing flow(s) from the property do not exceed any previously issued sewer connection permit's flow(s); and
3. The property's sewer discharge is in compliance with the Town's "Regulating of Sewer Use Rules and Regulations" adopted by the March 13, 1972, Annual Town Meeting.

⁴ As an example, for a change from hotel/motel/restaurant to single family homes where the property is sub-divided and, therefore, can not revert to the prior use, only a one time affidavit would be required. For a change in use where the permanent nature of the change is not obvious, i.e. from office space (75gpd/1000sf) to retail space (50gpd/1000sf) and where conditions could allow revision to the original use a yearly affidavit may be required.

4. All other required Town permit applicants must be submitted to the appropriate department(s) or board(s) and receive approval or will receive approval, pending approval of an allocation from the sewer bank, sewage flow transfer or sewage flow change in use. Approval of a sewer permit will not supersede the issuance of any other required Town permit.” This policy shall be implemented on a one year basis at which time it shall be reviewed by the Board of Selectmen acting as the Water and Sewer Commissioners.

By the execution and submittal of a request for a sewer bank allocation or sewage flow transfer by the applicant, the applicant agrees to the following process and actions in the event any unauthorized changes in currently permitted uses are discovered or the sewage flow from the property exceeds the amount stated on the permit issued by the Town.

If a quarterly or monthly meter reading reveals that 85% of the water usage exceeds the sewage flow stated on the permit (as averaged over the billing period) or if any unauthorized increase or change in sewage flow is detected, the Manager of the Water and Sewer Departments shall notify the property owner in writing. Upon receipt of the notice, the property owner shall take whatever corrective action is deemed necessary to reduce the sewage flow in accordance with the limits of the permit within 30 days. Monthly water meter readings shall be initiated by the Water and Sewer Departments where violations occur. Failure to take appropriate corrective action within 30 days to reduce the sewage discharge to within the permitted limit or limits, the property will be physically disconnected at the property line from the Town’s water and sewer system, and/or other serious sanctions will be imposed to assure satisfactory compliance with the terms and conditions of the permit.