

# Resolution

## Water Ordinance

**WHEREAS**, the Milton Selectboard warned a public hearing on October 9, 2008, with the hearing held October 20, 2008 to take public comments with regard to the new Water Ordinance; and

**WHEREAS**, The Milton Selectboard after consideration of public comments received has decided to adopt the new Water Ordinance as proposed and to repeal the former **Water Ordinance**.

**NOW THEREFORE, BE IT RESOLVED** the Milton Selectboard adopts the new Water Ordinance as proposed to become effective November 29, 2008 and repeals the former Water Ordinance.

Date: October 20, 2008

Milton Selectboard:

\_\_\_\_\_  
Jeffrey Turner, Chair

*Diana Palm*

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Diana Palm, Vice Chair

*Louis H. Mossey III*

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Louis Mossey, III- Clerk

*J. V. Manley*

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James V. Manley

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Randall Barrows

Filed with the Town Clerk

Oct 21, 2008, 2008

Signed:

*Loretta R. Demino*

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Asst. Clerk

## Water

Pursuant to Title 24 Chapter 59 of the Vermont Statutes Annotated and the Charter of the Town of Milton, the Selectboard of the Town of Milton does hereby ordain the following:

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### **Section 1 Purpose**

1. An ordinance regulating the use of the public water supply system, allocation of water supply capacity, the installation and connection of water services and providing penalties for violations thereof in the Town of Milton, County of Chittenden, State of Vermont.
2. The Town owns and operates a water distribution and transmission system as defined in Chapter 21 Vermont Water Supply Rule. Water is purchased from the Champlain Water District and is distributed to the users of the Milton Water System in accord with a water supply permit issued by the State of Vermont Department of Environmental Conservation under the authority granted in 10 VSA, Chapter 47. The Town is obligated by law to comply with conditions of the permit, and to operate and manage the water system as governmental functions under and pursuant to 24 VSA, Chapters 97 and 101. The Design Capacity of the water system is determined by the capabilities of the Champlain Water District to treat and transmit, and the Milton Water Systems capacity to store and distribute water for potable and emergency uses. The design capacity of the water system shall be updated upon completion of projects which improve the capacity of the water system to provide potable and emergency water uses. The Design Capacity of the water system is the property of the Town. The Town in the manner described below shall allocate the uncommitted Reserve Design Capacity of the water system.

### **Section 2 Definitions**

Unless the context specifically indicates otherwise, the meanings of terms used in this ordinance shall be as follows, listed alphabetically:

**ASTM** shall mean American Society for Testing and Materials.

**AWWA** shall mean the American Water Works Association.

**Agency** shall mean a division of the Federal Government or State of Vermont which may have primacy over the regulations governing the operation of the Milton Water System.

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**Application Fee** shall mean a fee assessed to reflect the Town's cost to review, approve and reserve applications to reserve uncommitted reserve hydraulic capacity.

**Authorized Representative** any duly authorized agent or designee of the Town of Milton.

**Capacity Allocation** shall mean (a decision of) Reserve Capacity set forth by the Selectboard to commit a specified amount of water treatment capacity (measured in gallons per day or gpd) to a specific Water Service Area or Areas or a specific project.

**CWD** shall mean the Champlain Water District or any duly authorized agent or employee of the Champlain Water District.

**Capital Improvement** shall mean significant improvements to public infrastructure having a purchase, lease or construction cost of more than \$5,000 and an expected working life of more than five (5) years.

**Chapter 21** shall mean the most current version of the State of Vermont Water Supply Rules.

**Commercial** shall mean a water use consistent with non-manufacturing business activities.

**Commercial Building** shall mean any building or structure constructed for the primary purpose of housing a commercial, industrial, business, multi-family or mixed use that does not serve the function of a single family dwelling, excluding home occupations as defined in the Town of Milton Zoning Regulations.

**Commercial or Industrial Unit** shall mean a single, commercial or industrial unit, whether rented or owned by the business or occupant, which has independent ingress and egress or has common ingress and egress with other units within a building or structure, but with separate commercial or industrial facilities. Example may include, but not limited to, stores located in shopping centers or separate office or condominium units within a single building or structure.

**Committed Reserve Design Capacity** shall mean the total amount of total development water use (gallons per day) at all projects/buildings approved by the Town and the State of Vermont for connection to the water system, but not yet consuming water at the time of the calculation.

**Completed Construction** shall mean

- (1) For building development; completion of construction of all foundation, framing, siding, roofs and internal improvements; or
- (2) For subdivision development; the completion of all buildings on all lots.

**Cross Connection** shall mean any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other contains water of unknown or questionable safety, steam, gases or chemicals whereby there may be a flow from one system to the other.

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**Customers** shall mean any person, firm, trust, association, corporation, limited liability company or partnership that is provided water service or fire protection by the Town of Milton.

**Customers Subject to Water Charges** shall mean All owners of residential, commercial and industrial structures, building or condominium units, whether or not separately metered shall pay the Town's minimum water service charge and the Town's fire protection charges as provided herein.

**Development** shall mean the construction of improvements on a tract of land for any purpose, including, but not limited to, residential, commercial, industrial activity.

**Development Water Flow** shall mean the estimated flow resulting from full use of the development at its peak capacity, which flow shall be calculated using flow quantities, adopted as rules by the State of Vermont, as promulgated at the time a connection permit application is made.

**Equivalent Unit or Equivalent User Unit or EDU** shall mean a single family dwelling such as a house, apartment, trailer, or condominium unit having a metered water usage of up to a limit set by resolution of the Selectboard.

**EPR** shall mean the most current version of the State of Vermont Environmental Protection Rules.

**Expanded Service Area or Expanded Water Service Area** shall mean the water service areas outside the planned service areas as denoted by this Ordinance.

**Failed System** shall mean any private water treatment system, such as a traditional well system, that no longer effectively supplies **potable water** as defined by the rules by the State of Vermont.

**First Come, First Served Basis** shall mean the review of complete applications for approval of Reserve Design Capacity allocation in the order in which they were received, as date stamped and time registered in the Town Manager's office.

**Fees** shall mean as defined in section 4.I.5 of this Ordinance.

**Functioning System or Functioning Water supply system** shall mean any private water treatment system, such as a traditional well system, that effectively provides a source of potable water.

**Industrial** shall mean water use characteristics significantly greater than residential water use. (1)

**Initiate Construction** shall mean

- (1) For individual buildings, the completion of the foundation; or
- (2) for multi-building development; completion of at least twenty percent (20%) of the initial phase of infrastructure improvements.

**Legislative Body** shall mean the Selectboard of the Town of Milton.

**Major Contributing Industry** shall mean one that (1) has a water use of 50,000 gallons or more per average work day; or (2) has a water use greater than five (5) percent of flow carried by the municipal

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water distribution system; or (3) has a significant impact, either singly or in combination with other contributing industries, on a publicly owned water treatment and distribution facilities.

**Maximum Water Flow** shall mean the maximum water flow in gallons per day provided by the purveyor of water, I.E. Champlain Water District.

**Permit to Operate** shall mean a permit issued to the Town for operation of the municipal water system by the State of Vermont, pursuant to authority granted in 10 VSA, Chapter 47.

**Person** shall have the meaning prescribed in 1 VSA, Section 128.

**pH** shall mean the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution.

**Potable Water** shall mean water free from impurities in amounts sufficient to cause or disease or harmful physiological effects, and having bacteriological, chemical, physical and radiological quality conforming to applicable State and Federal standards.

**Public Water System** shall mean a water distribution system in which all owners of abutting properties have equal rights, and is controlled by public authority.

**Reserve Design Capacity** or **Reserve Hydraulic Capacity** shall mean the maximum water flow minus the actual system water flow during the preceding 12 months (annual average flow).

**Residential** shall mean water consumption consistent with human household activities.

**RPE** shall mean an individual registered, in the appropriate discipline, as a Professional Engineer in the State of Vermont.

**Secretary** shall mean the Secretary of the Agency of Natural Resources, State of Vermont or its successor, or his / her representative.

**Selectboard** shall mean the legislative body of the Town of Milton acting as or designating a Board of Water Commissioners under 24 V.S.A., Section 3614.

**Shall** is mandatory and **may** is permissive.

**Single Family Dwelling** shall mean a residential STRUCTURE designed and constructed to house one (1) or more PERSONS living as a single housekeeping unit. A State licensed or registered residential care home or group home, serving not more than six (6) PERSONS who are developmentally disabled or physically handicapped, shall be considered by right to constitute a SINGLE FAMILY DWELLING, except that no such home shall be so considered if it locates within one thousand (1,000) feet of another such home. A State registered or licensed day care facility serving six (6) or fewer children shall be considered by right to constitute a SINGLE FAMILY DWELLING.

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**Substantial Change** shall mean a permanent increase in the Water use volume from an existing connection:

- a. equivalent to one (1) gallon less than the flow quantities established in the current edition of the State of Vermont, Agency of Natural Resources Environmental Protection Rules, Standard Flow Quantities and Chapter 21, Water Supply Rules required for a single family dwelling, or
- b. greater than fifty (50%) percent of the historical use registered on the meter used for normal billing or a. above, whichever is less, or,
- c. the conversion of an existing single family home to a multiple occupancy residential, mixed use, commercial, retail or industrial structure.

**System Water Flow** shall mean the water passing through the water distribution system as measured at the master meter vault in gallons per day on an annual average basis (365-day average).

**Town** shall mean the Town of Milton or any duly authorized agent or employee of the Town of Milton.

**Traverse** shall mean to cross via an easement through, or to pass within a Town right-of-way along the edge of, the property in question.

**Uncommitted Reserve Design Capacity** shall mean that portion of the Reserve Design Capacity remaining after subtracting committed Reserve Design Capacity approved by Selectboard but not yet connected to the water distribution system.

**Water Connection Fee or Connection Fee** shall mean a fee imposed on applicants which is based on the Towns cost to fund upgrades, capital improvements and extensions to the Water System in order to maintain capacity for new connections. This shall include the cost of performing, supplying materials, supervising inspection and administering a connection to the water system including any necessary water service extension, upgrading water works or for any portion of these activities.

**Water Distribution System** shall mean a pipe or conduit, or network of such pipes or conduits or other structures for carrying portable water to individual approved uses.

**Water Service** shall mean the providing of water to a customer, whether or not through an individual meter, as well as fire protection charges for structures within five hundred foot radius to a fire hydrant.

**Water Service Area** shall mean the area shown on the attached plan, entitled "Water Service Areas, Milton, Vermont" as emended by resolution of the Selectboard.

**Water Supply & Wastewater Disposal Permit** shall mean a permit issued by the State of Vermont to an individual property owner, pursuant to authority granted in 10 VSA, Chapter 47.

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**Water System** shall mean all facilities for distributing, pumping, storing, treating, and purveying of water.

**Water Tap** shall mean that part of the public water distribution system that runs from the water distribution main to the edge of the public right-of-way and includes all necessary fittings.

**Water Works** shall mean all facilities for distributing, pumping, storing, treating, and purveying of water.

### **Section 3    General**

#### **A.    Use of Public Water System**

1. The use of the Public Water System is required for all new houses, replacement structures, buildings, Developments, Planned Residential (PRD) or Planned Unit Developments (PUD), or other structures used for human occupancy, employment, industry, recreation or business, situated within a Town of Milton Water Service area and abutting on any street, alley, easement, or right-of-way in which there is located a public water distribution line of the Town of Milton Water System.
  - a. New connections within an approved Water Service Area may be exempt from mandatory connections to the water system only if the proposed connection is not fronted or adjacent to a municipal water main.
  - b. This condition may be waived if sufficient reserve hydraulic water capacity is not available at the time that a site, sketch, or preliminary request is submitted to the Town to construct said structures.
  - c. Notwithstanding Section 3.A.1 of this Ordinance, the owner of property that is traversed by the a municipal water main, AND is served by a functioning on-site potable water system shall not be required to connect to the municipal water system until such time as the onsite water system is determined to be a failed system. Proof of such failure shall be provided to the Town by the owner of the property that the on-site water system is no longer providing adequate potable water.
2. Responsibility for maintenance and repair of connections to the public water system, from the curb stop or valve located at the edge of public right of way, to the premises is the responsibility of the property owner. In the event that water connection repairs or maintenance are required within the public right-of-way, the Town shall perform the necessary repairs or maintenance. All costs arising from such repairs or maintenance within public right of way or prior to the curb stop, shall be the responsibility of the Town.
3. No person shall uncover, make any connections or opening into, use, alter or disturb any public water system works or appurtenance thereof, without first obtaining written permission from the Town or its authorized representative. Any person proposing a water use new to the system or a substantial change in the volume or character of water use new to the system shall

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- apply for a water connection permit, in accordance with the application section of this ordinance, at least forty-five (45) days prior to the connection.
4. Any person proposing a substantial change, as defined in Section 2 of this Ordinance, in the volume or character of use, shall apply for connection review and water allocation in accordance with the applicable sections of this Ordinance at least forty-five (45) calendar days prior to the proposed change or connection. Such changes shall be reviewed in accordance with applicable sections of this Ordinance.
    - a. It shall be unlawful to;
      - i. Extend, tap or in any way injure or tamper with a water main service pipe.
      - ii. Remove any seal placed by authorized Town Personnel upon a valve, meter or appurtenance;
      - iii. Turn on or shut off water to any premises without appropriate written authorization from the designated Town official. All tapping and all turning of water mains, valves, hydrants and curb stops, owned by the Town, shall be done under the direction of the Selectboard or its authorized representative;
      - iv. Cause or have caused the deliberate or unintentional contamination of publicly owned water mains or water supply, by cross connection or other means, or as set forth by adopted rules and regulations for the control of cross connections within the Town.
  5. All persons taking water shall keep the fixtures and service pipe within their own premises in good repair and fully protected from frost and shall prevent the waste of water. The Town shall not be liable for leakage of hydrants, pipes or fixtures upon the premises of the taker, nor for any obstructions or restrictions therein caused by frost or otherwise, nor for any damage resulting from the forgoing. The Town reserves the right to demand any unmetered use, whether intentional or unintentional, to be corrected within a reasonable amount of time, in accordance with the applicable sections of this Ordinance.
  6. It shall be unlawful for any person to open or close any public or private fire hydrant or blow off, or draw water from a hydrant or blow off, except;
    - a. the Town Manager, Public Works Director, Town Engineer, Water and/or Wastewater Superintendent, or persons acting under their authority, supervision or direction, or
    - b. members of any Fire Department when in the act of fighting fires, or
    - c. Private person's or organizations with expressed written consent of the Town Manager or the Town's authorized representative.
  7. Actual repair or replacement costs shall be charged to the owner or operator of any motor vehicle which shall cause such damage to any fire hydrant; blow off, or above ground appurtenance.



## Water

8. In the event of emergency or shortage of water capacity, the Town shall have the right to:
  - a. Temporarily cut off water supply in order to make necessary repairs, connections, etc. The Town shall make reasonable efforts to notify the affected water system customer of such discontinuance of service.
  - b. Reserve sufficient supply of water at all times in its reservoirs to provide for fires or other emergencies, and may restrict or regulate the quantity of water used by customers in case of scarcity or whenever the public welfare may require such restriction or regulation.
  - c. Deny requests for new connections and uses until sufficient reserve capacity are available.
  - d. The Town shall not be liable for any injury, loss or damage of whatever nature, caused or occasioned by the failure to maintain a constant or uniform pressure within the water main or by a stoppage of water by frost or other causes, insufficient supply of water or for accident or damage of any kind caused or created out of furnishing or failing to furnish water.
9. In case of a water quality emergency, the consumer shall be notified immediately by the Town in accordance with EPA Standard Drinking Water Standards and State of Vermont, Chapter 21, Water Supply Rule. While the Town is ultimately responsible for water quality "to the last tap" on the municipal system, credit shall not be issued for water used that is not fit for consumption by human or animal. Water quality notices shall be lifted only after the requirements of the Water Supply Rule have been achieved.
10. It is a violation of the Town of Milton Water Ordinance for any person or corporation to violate a Town of Milton Water System conservation order, or a conservation order issued by the Champlain Water District.

**B. Powers and Authority of Inspectors**

1. Duly authorized employees of the Town, bearing proper credentials and identification, shall be allowed to enter all properties for purposes of meter reading, repairing, inspection, observation, measurement, calibration and testing in accordance with the provision of this ordinance. The Town or its representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on providing safe, potable water to its users.
2. Duly authorized representatives of the Town, bearing proper credentials and identification, shall be permitted to enter all private properties through which the Town holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, calibration, and maintenance of any portion of the water works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

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3. While performing the necessary work on private properties, duly authorized representatives of the Town shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to the Town's employees and the Town shall indemnify the owner against claims and demands for personal injury or property damage asserted against the owner and growing out of the operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.

**C. Customers' Premises**

1. The customer's installation shall comply with the rules and regulations of all authorities having jurisdiction. This includes the Milton Public Works Specifications.
2. The Town shall not be liable for any loss; cost damage or expense to any person and/or property resulting from the use or presence of water from the service upon the customer's premises.
3. The Town shall not be liable for any loss, cost, damage or expense to any customer occasioned by any failure to supply water, or by any interruption of the supply of water, if said failure or interruption shall be due to war, flood, wind, storm, drought, strike, or any cause beyond the control of the Town or any cause except willful default or negligence on its part.
4. The Town shall at all reasonable times, be permitted access to the customer's meter and remote reading receptacle.
5. The Town shall have at all reasonable times, be permitted entry to the customer's premises for the purpose of erecting, inspecting, connecting, disconnecting, reading, repairing, or removing any or all of the customers metering apparatus used in connection with the supply of water, and for said purpose the customer shall authorize and request his landlord, if any to permit the Town to enter said premises.
6. The customer shall provide for safe keeping of the meter and equipment, and shall not permit interference therewith except by authorized employees of the Town or it's designees with specific written permission from the Town.
7. If the customer has a private water system the piping shall be a complete, separate and independent plumbing system. Water from a private water system shall not back feed into the Town Water System. The Town reserves the right to inspect premises at any time for compliance with this regulation.

**Section 4 Connection Requirements****A. General Connection Requirements**

1. All capacity committed prior to adoption of this Ordinance shall accomplish connection in accordance with the conditions indicated at the time of issuance of the approvals, provided all

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capacity and connection fees have been received by the Town prior to the adoption of this ordinance . In applications where all fees have not been paid, said applications shall be assessed in accordance with the conditions of this ordinance.

2. Nothing herein shall be construed as limiting or impairing the authority of the Town or the Selectboard to require connection to the water system under the general laws of the state ordinances.
3. Any transfer, sale or use of access rights that is inconsistent with this Ordinance shall also be subject to the enforcement actions noted in Section 5 of this Ordinance.
4. Application for water service shall be made on printed forms provided by the Town and shall be filed at the Town of Milton Municipal Offices during business hours. Applicants shall agree to conform to any and all applicable ordinances and regulations concerning the use of water.
5. Whether or not a signed application for water service is made by the customer and accepted by the Town, the rendering of the service by the Town and its use by the customer, shall be deemed a contract between the parties, subject to all provisions of the rate(s) applicable to service.
6. All costs and expenses incident to the installation, connection, maintenance and repair of the water mains or service on their premises shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation, connection, maintenance and repair of the water main or service.
7. The size, location, alignment, and materials of construction of a water main or service, and the methods to be used in excavating, placing of the pipe, jointing, testing and back-filling the trench, shall all conform to the requirements of the Public Works Specifications and other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Water Work Association (AWWA) and Chapter 21, Water Supply Rules, shall apply.
8. The connection of the water main or service into the public water system shall conform to the requirements of the Public Works Specifications, or other applicable rules and regulations, and shall also conform to the rules and requirements of the Town, or the procedures set forth in appropriate specifications of the AWWA, and Chapter 21 shall apply. Such connections shall be made pressure tight. Any deviation from the described procedures, location and materials must be approved by the Town at least two (2) Town working days prior to installation.
9. All excavations for water service or main installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

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10. The applicant for the approved water connection permit shall provide at least two (2) full working days advance written notice to the Town, excluding Saturday, Sunday and Town holidays, as to when the water main or service is ready for connection and inspection to the public water system. The connection shall be made under the supervision of an engineer provided by the applicant and/or a qualified inspector designated by the Town. Any work not conforming to the provisions of this Section shall be removed and corrected at the expense of the property owner.

**B. Water Service Extensions and Acceptance**

1. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any applicant whereby a use of unusual quantity may be accepted by the Town subject to payment therefore, by the applicant provided that such agreements do not contravene any requirements of existing regulations and are compatible with any User Charge and cost recovery system in check.
2. A separate and independent water connection shall be provided for every water service.
3. The Town may install service lines to a curb-stop located within the highway or dedicated right of way.
4. Water taps and service connections to Town water mains shall be made by qualified personnel only and must be pre-approved by the Town or its authorized representative prior to commencement of any installation. Service connections made by the Town shall be charged in accordance with policies and amendments established by the Selectboard.
5. Services 4" and larger shall require a tapping sleeve and valve in accordance with the most current Town of Milton Public Works Specifications.
6. All new water services shall be a minimum of ¾" inside diameter of the pipe.
7. The customer shall pipe to the point of his property line designated by the Town. Connection to the main or service stub may be performed by the applicant under the direct supervision of the Town or its authorized representative.
8. The customer's service from the Town shutoff to the meter shall be a kind, type and size approved by the most current addition of the Town of Milton Public Works Specifications.
9. It shall be the responsibility of the property owner to install and maintain the service line from the curb-stop or valve to the water meter, regardless of size. Installations must conform to the Town of Milton, Public Works Specifications, and all applicable local, state and federal regulations. Except in emergency cases, as determined by the Selectboard or its authorized representative, the Town shall not install or maintain the service line from the curb stop to the water meter. Any work performed by the Town on private property shall require written authorization from the property owner.

Adopted October 20, 2008