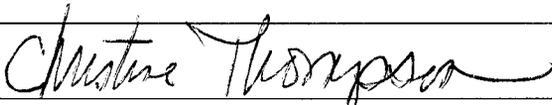


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**Universal Jurisdiction's Impact on
Town Authority over Water and Wastewater after July 1, 2007**

Background

In 2002, the legislature passed Act 133 that comprehensively consolidated, updated, and revised the state laws regarding wastewater systems and potable water supplies. In order to assure more consistency in the standards for designing wastewater and water systems, the statute provided that all local ordinances and/or bylaws that regulated water and wastewater would be superseded (i.e. no longer in effect) as of July 1, 2007. The statutory provision, however, did not eliminate all of a town's authority.

This document describes some of the common situations that may occur and what the town's authority is in those situations. Town officials are encouraged to read Subchapter 5 of the Wastewater System and Potable Water Supply Rules which are available on the web at:

<http://www.anr.state.vt.us/dec/ww/rules.htm#os>

As always, municipal officials and members of the public can contact the wastewater division staff at the Agency of Natural Resources Regional Offices with any questions they may have.

Municipal sewer issues

1. Whether or not a town takes delegation to run the state Wastewater System & Potable Water Supply program, the town can still:

A. Require a permit to connect to the municipal system and can determine whether or not to grant the connection based on a municipal sewer ordinance.

Note: Such a permit only authorizes the connection; it cannot approve the line that runs from the building or structure to the municipal line.

B. Require payment of connection and usage fees.

C. Require pre-treatment for wastes that are high strength or that might otherwise adversely affect the treatment facility

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- D. Specify where the connection to the municipal line is made.
 - E. Require projects that have access to the sewer line to connect to the sewer line.
 - F. Require submission of any plans prepared by a designer required under the state permitting program.
 - G. Require notification prior to cover-up of the system.
2. Whether or not a town takes delegation, the town cannot:
- A. Impose any construction requirements for the connection other than where the line from the building or structure can connect to the municipal line.

Isolation distance issues

- 1. Whether or not a town takes delegation, the town cannot:
 - A. Increase or decrease any technical standard contained in the Rules.
 - B. Prohibit off-lot water or wastewater systems.
 - C. Require ownership or control of well protection zones.
- 2. A town may adopt a local ordinance that prohibits all types of construction in an area. This prohibition may prevent installation of a water or wastewater system. Note: The prohibition against development without meeting FEMA standards is required by the federal government when dealing with the Federal flood insurance program. The revised Rules include language regarding the FEMA siting and construction standards.

Soil-based system issues

- 1. A town may require submission of the plans used to obtain a state permit.
- 2. A town may require town observation of test pits and/or perform pre-cover-up inspections. Note: The town may not prohibit construction or use of any system subject to these requirements, but may submit any observations to the state. The state may investigate any situation if

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substantial evidence is provided that demonstrates non-compliance with the Rules.

Town health officer issues

1. The town retains all of the existing health authority.
2. The town may issue orders requiring abatement of a health hazard.
3. The state will investigate complaints received from towns related to failed systems when the towns provide substantial evidence of a failed system.

Note: while the health officer authority remains, it does not override any requirements for a state permit.

Funding for replacement systems

1. Funding assistance is available from various sources provided the eligibility requirements are met. Information regarding which people to contact regarding loans will be available on the Agency's web site soon.

Zoning permits

The following language was added to 24 V.S.A., Chapter 117 in the 2007 legislative session. It was enacted in order to give towns the authority to coordinate state and local permits.

Sec. 4a. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

(13) Wastewater and potable water supply systems. A municipality may adopt bylaws that prohibit the initiation of construction under a zoning permit unless and until a wastewater and potable water supply permit is issued under 10 V.S.A. chapter 64.