

## **TOWN OF ASHFIELD – SEWER VOLUME-BASED OPERATING FEE REGULATIONS**

REGULATIONS GOVERNING THE APPLICATION AND SETTING OF THE SEWER VOLUME-BASED OPERATING FEES FOR THE SEWER COLLECTION SYSTEM IN THE TOWN OF ASHFIELD, FRANKLIN COUNTY, COMMONWEALTH OF MASSACHUSETTS.

Be it ordained by the Board of Sewer Commissioners of the Town of Ashfield, of the Commonwealth of Massachusetts, as follows:

### ARTICLE 1 – GENERAL PROVISIONS

- 1.1 These regulations set forth a fee structure to pay for the volume-based portion of the expenses required to operate the Town of Ashfield’s wastewater facilities. These regulations are a companion to two other regulations: the Sewer Debt Service Fee Regulations which describe the fees required to pay the annual debt service of the wastewater facilities and the Sewer Fixed-Cost Operating Fee Regulations which describe the fees required to pay for the operating expenses of the wastewater facilities that are not affected by volume. Together these three regulations constitute the User Charge System for the Town of Ashfield’s wastewater facilities.
- 1.2 Unless the context specifically indicates otherwise, the meaning of the words and phrases used in these regulations shall be as follows:
  - 1.2.1 “Board of Sewer Commissioners” is the governing authority for and has jurisdiction over the wastewater collection and treatment system in and for the Town of Ashfield. This phrase shall also mean the Sewer Committee duly authorized by the Annual Town Meeting, May 6<sup>th</sup>, 1995, to have all the powers and authority conferred upon the Board of Sewer Commissioners until such time as the Board of Sewer Commissioners is elected.
  - 1.2.2 “Commercial Property” means any improved property that has a user class beginning with the number 3 or the numbers 03 and that is not classified as a dual-use property.
  - 1.2.3 “Dual-Use Property” means all property with a user class beginning with the number 0 where the secondary use is responsible for greater than ten (10) percent of the property’s wastewater flow.
  - 1.2.4 “Dwelling” means any privately or publicly owned permanent structure that is occupied in whole or in part as a residence by one (1) or more persons.
  - 1.2.5 “Dwelling Unit” means one (1) or more living and sleeping rooms providing complete living facilities for the use of (1) or more individuals constituting a single housekeeping unit, with permanent provision for living, sleeping, eating, cooking, and sanitation.
  - 1.2.6 “Improved Property” means any property that has built upon it any house or building that is suitable for human occupancy, employment, recreation, or other purposes.
  - 1.2.7 “Industrial Property” means any improved property that has a user class beginning with the number 4 or the numbers 04 and that is not classified as a dual-use property.
  - 1.2.8 “May” is permissive (see Shall 1.2.15).
  - 1.2.9 “Non-metered Property” means properties not currently served by the Ashfield Water District.
  - 1.2.10 “Owner” means every person who alone, jointly, or severally with others (a) has legal title to any property, or (b) has care, charge, or control of any property or as agent, executor, executrix, administrator, administratrix, trustee, lessee, or guardian of the estate of the holder of legal title. Each such person thus representing the holder of legal title is bound to comply with the provisions of these regulations as if he were owner.

- 1.2.11 “Person” means any individual, firm, company, association, society, corporation, partnership, group, copartnership, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine. Where indicated by the context, the singular shall include the plural.
- 1.2.12 “Property” means an area of land held in the name of one title holder, with defined boundaries and recorded with the appropriate Registry of Deeds.
- 1.2.13 “Public Sewer” means the sewer main in which all owners of abutting properties have equal rights and that is controlled by a governmental agency or public entity.
- 1.2.14 “Residential Property” means any improved property that has a user class beginning with the number 1 or the numbers 01 and that is not classified as a dual-use property.
- 1.2.15 “Shall” is mandatory (see May 1.2.8).
- 1.2.16 “User Class” means the Massachusetts Department of Revenue primary land use code of an owner’s property as determined by the Town’s Assessors and recorded in their public records. The effective date for determining a property’s user class shall be the January 1 preceding the commencement of the current fiscal year of the sewer debt service charges.
- 1.2.17 “Wastewater Facilities” means the structures, equipment, and processes required to collect, transport, and treat and dispose of domestic and industrial wastes.

## ARTICLE 2 – APPLICATION OF CHARGES

- 2.1 All owners of property connected to the public sewer and discharging wastewater to said sewer shall pay a volume-based operating fee based upon the proportional share of the loading upon the wastewater treatment facilities. Loadings are calculated based on the wastewater volumes, domestic wastewater strengths, (such as Biochemical Oxygen Demand [BOD] and Total Suspended Solids [TSS]), and any additional pollutant concentrations so designated within the pretreatment program of the receiving wastewater treatment facility as specified herein.
- 2.2 All rates shall be on a basis of dollars per thousand gallons of wastewater treated at the Ashfield treatment facility.
- 2.3 The total allocable costs to the volume-based operation fee shall include all costs associated with operation, maintenance, and replacement expenses that are affected by volume. Operation and maintenance costs shall be those expenditures incurred during the useful life of the wastewater facilities for materials, labor, utilities, and other items which are necessary for managing and maintaining the facilities in order to achieve the capacity and performance for which it was designed and constructed. Replacement costs shall reflect expenditures related to obtaining and installing equipment, accessories, or appurtenances necessary to maintain the functional capacities of the wastewater facilities during their useful life. These costs shall not include expenses associated with major rehabilitation or reconstruction upon expiration of the useful life of the wastewater facilities.
- 2.4 The system costs to be covered by the volume-based operating fee described herein shall be equivalent to the total allocable costs as detailed in Section 2.3 less one-half of any applicable sewer related revenue generated by the Ashfield Board of Sewer Commissioners in the previous fiscal year (the other one-half of any applicable sewer related revenue shall be used as described in the Sewer Fixed-Cost Operating Fee Regulations). Said revenue shall include any and all building sewer installation permit fees collected by the Board of Sewer Commissioners but shall specifically exclude all connection fees and permanent privilege fees.

- 2.5 Any charges collected due to provisions of these regulations shall not prevent the Board of Sewer Commissioners from establishing fees and fines for other purposes connected with the sewer.

### ARTICLE 3 – VOLUME BASED FEE

- 3.1 The volume-based fee shall be based on the EPA “surcharge method”. Said rate shall be the sum of the following:
- (a) A rate based on the volume of wastewater introduced into the wastewater facilities. Said volume shall be dependent upon water usage and shall include any infiltration and inflow into the wastewater facilities.
  - (b) A surcharge based on wastewater strength parameters which shall include excessive domestic water strength and high concentrations of additional pollutants as defined for the receiving wastewater treatment facility. (See Sewer Use Regulations.)
- 3.2 To determine the volume and loading imposed upon the wastewater facilities by each individual property, wastewater volumes shall be estimated on a property-by-property basis. These estimates shall be derived by using a percentage of water use (as recorded by the properties’ water meters) that is introduced to the wastewater facilities. This percentage shall be determined based upon the property classification as described in Section 3.4 of these regulations.
- 3.3 It shall be the responsibility of the Ashfield Board of Sewer Commissioners to incorporate the necessary tasks for fulfilling the implementation of the volume-based operating fee system. Appropriate costs for implementing and maintaining the volume-based operating fee system shall be covered under operation and maintenance cost as described in Section 2.3 of these regulations.
- 3.4 To determine the wastewater volumes introduced from each property, each property shall be classified as one of the following:
- 3.4.1 Metered Residential: All residential properties introducing domestic, non-industrial wastewater to the wastewater facilities that are metered for water use. This class includes both single and multi-family dwellings. All owners of metered residential properties are responsible for a wastewater volume equivalent to 100 percent of the volume of water used as reported by the Ashfield Water District meter readings.
  - 3.4.2 Metered Commercial: All commercial properties that introduce domestic, non-industrial wastewater to the wastewater facilities that are metered for water use. All owners of metered commercial properties shall be responsible for a wastewater volume equivalent to 100 percent of the volume of water used as reported by the Ashfield Water District meter readings.
  - 3.4.3 Metered Industrial: All properties that introduce industrial wastewater and are metered for water use. All owners of metered industrial properties shall be responsible for a wastewater volume equivalent to 100 percent of the volume of water as reported by the Ashfield Water District meter readings.
  - 3.4.4 Non-Metered: All properties that are not metered for water use regardless of the volume of wastewater discharged into the wastewater facilities. Owners of non-metered properties shall not be charged for a wastewater volume in the manner described for other property classes but instead shall be assessed a flat rate annual charge as described in Section 4.1 or 4.2 of these regulations. Owners of non-metered properties may install their own water meters as described in 4.3.
  - 3.4.5 Partially-Metered: All properties that have both metered and non-metered water sources. Owners of partially-metered properties shall be charged for water use based on their metered

classification (Residential, Commercial, or Industrial) or the Non-Metered classification whichever is greater. Owners of Partially-Metered property may install their own water meters as described in 4.3.

- 3.4.6 Dual-Use: Dual-use properties or any property having multiple connections to the public sewer shall be charged for wastewater volume by determining the sum of the wastewater volumes of the individual classifications that make up the property.
- 3.5 The total wastewater volumes introduced into the wastewater treatment facilities includes infiltration/inflow (I/I). Costs associated with treatment services provided to that volume of wastewater in excess of the total estimated wastewater volume loading attributable to all properties shall be assumed to be due to I/I. Said costs shall be proportionally distributed to all properties based upon each property’s percentage share of the total estimated wastewater volume as described in Section 3.7 of these regulations.
- 3.6 The volume-based rate shall be determined based on the total volume billed in the previous fiscal year and the annual volume based cost approved at the annual town meeting. The volume-based rate shall be calculated as follows:

$$\text{Volume-Based Rate} = \frac{\text{Total Volume-Based Cost (\$)}}{\text{Total Volume Billed in the Previous Fiscal Year (in 1000 gallons)}}$$

#### ARTICLE 4 – NON-METERED FEES

- 4.1 Owners of Non-Metered residential properties shall be charged a flat rate volume-based operating fee per dwelling unit. This rate shall be based on the average annual dwelling unit sewer water use estimated to be 50,000 gallons per year. This is based on water use of 130 gallons [80% of 160] per day per dwelling unit. As shown in Example 1, the flat annual rate charged would then be \$240 per dwelling unit.

**EXAMPLE 1:**

Volume-based rate:	\$4.75 / 1,000 gallons
Residential water use:	48,000 gallons
I/I Volume:	1,000 gpd
Total Wastewater Volume	25,000 gpd

$$\text{Annual User Charge} = (\text{Volume-based rate}) \times 48,000 \times \left(1 + \frac{1000}{25,000-1000}\right)$$

=\$240

<sup>1</sup>Individual property wastewater volume as described in Section 3.4.

<sup>2</sup>Infiltration/Inflow wastewater volume as described in Section 3.5.

<sup>3</sup>Total wastewater volume received at Ashfield Wastewater Treatment Plant.

4.2 Owners of all Non-Metered commercial and industrial properties shall be charged a volume-based operating fee based on average wastewater estimates as contained in Section 15.203 of “The State Environmental Code, Title 5: Minimum Requirements for the Siting, Construction, Inspection, Upgrade, and Expansion of On-Site Sewage Disposal System and for the Transport and Disposal of Septage” using the following formula:

Title 5 wastewater flow estimate  
based on property use (in gallons per day)

$$\text{Wastewater volume} = \frac{\text{-----}}{2}$$

(Title 5 estimates maximum wastewater flow, dividing by 2 converts the value found in Title 5 to an average flow.)

4.3 Owners of all Non-Metered property may install water meters to change their property’s classification under 3.4 of these regulations. The design and installation of said meters shall be approved by the Superintendent. All costs and expenses incidental to the installation of said water meters shall be borne by the property owner. All property owners installing said meters shall make the meters accessible for reading by the Superintendent on a quarterly basis.

#### ARTICLE 5 – SURCHARGE FEES

- 5.1 Wastewater strengths (concentrations) covered under this category shall pertain to biochemical oxygen demand (BOD) and total suspended solids (TSS). Limitations imposed upon the strengths of these wastewater components have been established in the Ashfield Sewer Use Regulations, Section 5.2.7.
- 5.2 Property owners who introduce wastewater into the treatment works exhibiting domestic wastewater strength levels beyond the adopted standard shall notify the Superintendent, as specified in Section 4.2 of the Sewer Use Regulations. These owners shall be assessed a surcharge rate as described in Section 5.3 of these regulations.
- 5.3 The surcharge rate shall be allocated to those owners of property as described in Section 2.3 of these regulations. The actual rate shall be based upon the added costs associated with treating wastewater exhibiting excessive strengths determined in accordance with guidelines established herein. Said surcharge rate shall apply to that volume of wastewater introduced into the wastewater treatment facilities which has been analytically proven to exhibit excessive domestic and/or industrial wastewater strengths.

#### ARTICLE 6 – APPEAL PROCESS

6.1 Any person receiving a bill for the fees described in these regulations may request a hearing before the Board of Sewer Commissioners by filing, within thirty (30) days (excluding Saturday, Sunday, and any legal holidays in the Commonwealth) after the mailing date of the bill containing said fees, in the office of the Board of Sewer Commissioners, a written request for a hearing on the matter. Upon receipt of such request, the Board of Sewer Commissioners shall set a time and place for such

- a hearing and shall inform the petitioner thereof, either by serving the petitioner personally or by certified mail, return receipt requested, at least seven (7) days before the hearing.
- 6.2 The hearing shall commence not later than fifteen (15) days after the date on which the written request for a hearing was filed, provided that upon application of the petitioner, the said Board may postpone the date of the hearing for a reasonable time beyond the fifteen (15) day period.
- 6.3 The Board of Sewer Commissioners may themselves conduct the hearing and take evidence, or the said Board may designate any of their members or any officer or employee of the Town to:
- 6.3.1 Issue in the name of the Board of Sewer Commissioners notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to the matter involved in such a hearing.
- 6.3.2 Take the evidence.
- 6.3.3 Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board of Sewer Commissioners for action thereon.
- 6.4 At any hearing held pursuant to these regulations, testimony taken shall be under oath and shall be recorded. A transcript or tape shall be made available to any member of the public or any party to the hearing upon a written request and payment of the charges thereof.
- 6.5 Within ten (10) days of the commencement of the hearing and after the Board has reviewed the evidence, the Board of Sewer Commissioners shall vote to sustain, modify, or withdraw the fees originally billed and shall notify the petitioner, either by serving the petitioner personally or by certified mail, return receipt requested, of its decision within three (3) days after said vote.
- 6.6 If a written request for a hearing is not filed within thirty (30) days (excluding Saturday, Sunday, and legal holidays in the Commonwealth) after the fees have been billed (as described in 6.1) or if, after a hearing, the fees have been sustained in any part, any sustained fees shall be due and payable immediately.
- 6.7 A pending appeal under Article 6 does not stay the collection of the original fees billed. To avoid the fees becoming a lien on the property, as described in Massachusetts General Law Chapter 83, Section 16B, all fees originally billed must be paid within 30 days.
- 6.8 All persons losing the right of appeal under 6.6 shall maintain their right to an abatement hearing as described in MGL Chapter 83, Section 16E.

#### ARTICLE 7 – VALIDITY

- 7.1 The invalidity of any section, clause, sentence, or provisions of these regulations shall not affect the validity of any part of these regulations that can be given effect without such invalid part or parts.

#### ARTICLE 8 – CHANGES IN THESE REGULATIONS

- 8.1 The Board of Sewer Commissioners may rescind or modify or add to these regulations at any time when, in their opinion, such action is in the best interests of the Town of Ashfield, provided they comply with all provisions of the Massachusetts General Laws, as amended.
- 8.2 In accordance with EPA regulations, the Town of Ashfield Board of Sewer Commissioners shall submit to the EPA, on a bi-annual basis, the user charge rates and methodologies utilized to calculate same for the purpose of review to determine adherence of the user charge system described herein to the applicable regulations.

ARTICLE 9 – REGULATIONS IN FORCE

9.1 These regulations shall be in full force and effect from and after passage, approval, or publication as provided by law.

9.2 Passed and adopted by the Board of Sewer Commissioners of the Town of Ashfield, State of Massachusetts, on the Seventeenth day of June, 1996.

Bill Perlman, Chairman

Don Robinson

Diane Muller

Attest: Anne Yuryan  
(Town Clerk)

Amendments adopted September 16, 1996

Amendments adopted November 20, 2014

APPENDIX A – PROJECTED PLANT FLOW VOLUME

A.1 The following table shows the projected annual wastewater volumes for the four fiscal years beginning July 1, 1995. This chart shall be updated on an annual basis by the Board of Sewer Commissioners and shall show at least the projected volumes for the next five years. This chart contains estimated volumes only and shall not be legally binding. All estimates are based on a flow of 24,700 gallons per day (130 gpd per sewer unit) for the eventual 190 sewer units.

<b>FISCAL YEAR</b>	<b>ESTIMATED CONNECTED EDU's</b>	<b>PERCENT USERS CONNECTED</b>	<b>ESTIMATED NUMBER OF USERS</b>	<b>WASTE-WATER VOL. Gallons/Day</b>	<b>INFILTRATION Gallons/Day</b>	<b>PLANT FLOW Gallons/Day</b>
1997	140	88%	115	15,753	1,500	17,253
1998	144	90%	118	16,164	1,500	17,664
1999	149	93%	121	16,575	1,500	17,075
2000	154	96%	126	17,260	1,500	18,760

APPENDIX B – PROJECTED VOLUME RATES

B.1 The following table shows the projected volume rates for the five fiscal years beginning July 1, 1995. This chart shall be updated on an annual basis by the Board of Sewer Commissioners and shall show at least the projected volume rates for the next five years. This chart contains estimated volume rates only and shall not be legally binding.

<b>FISCAL YEAR</b>	<b>VOLUME COST BUDGET</b>	<b>VOLUME COST OFFSETS</b>	<b>NET VOLUME COSTS</b>	<b>PLANT FLOW 1000 Gal/Yr</b>	<b>RATE PER 1000 GALLONS</b>
1997	\$24,400	\$1,000	\$23,400	6,298	\$3.72
1998	\$29,543	\$5,750	\$23,793	6,448	\$3.69
1999	\$30,429	\$150	\$30,279	6,598	\$4.59
2000	\$31,342	\$150	\$31,192	6,848	\$4.56