

DELEGATION AGREEMENT BETWEEN THE VERMONT AGENCY OF NATURAL RESOURCES AND THE TOWN OF COLCHESTER

Term of Delegation

1. This agreement between the Town of Colchester ("Town") and the Secretary of the Vermont Agency of Natural Resources ("Secretary") is retroactive to November 22, 2015. This agreement shall not expire. The Town shall provide written notification to the Secretary if the Town proposes to terminate this delegation agreement. Such notification shall be made 90 days prior to the date the Town requests the delegation agreement be terminated.

Purpose and Authority

2. Pursuant to 10 V.S.A. § 1976, and Subchapter 6 of the Wastewater System and Potable Water Supply Rules ("Wastewater Rules"), the Secretary delegates to the Town the authority to implement and administer the provisions of 10 V.S.A. Chapter 64 (*Potable Water Supply and Wastewater System Permit*), the Wastewater Rules (Chapter 1 of the Environmental Protection Rules, effective September 29, 2007, and subsequent revisions), and the enforcement provisions of 10 V.S.A. Chapter 201, subject to the limitations and requirements set forth below.
3. The delegation of the provisions of 10 V.S.A. Chapter 64 does not include delegating to the Town the rights and responsibilities of § 1976 (Delegation), § 1975 (Designer licenses), and § 1978 (Rules).
4. Pursuant to § 1-602 of the Wastewater Rules, the Secretary has reviewed the application for delegation from the Town and finds that the Town has satisfied all statutory and regulatory requirements for delegation.

Intent

5. The sole intent of this agreement is to delegate authority to the Town of Colchester to administer within the Town the Wastewater and Potable Water Supply permit program as described in Wastewater Rules, and to enforce violations of this program. No section of this agreement shall be interpreted in such a way as to violate or conflict with the statutes and rules that form the basis for this delegation.

Assigned Responsibility

6. The Secretary delegates to the Town the responsibility for inspection, permitting, and enforcement for all buildings or structures, campgrounds, lots, wastewater systems and potable water supplies within the Town, in accordance with the provisions of the Wastewater Rules. The Town shall comply with all statutory, regulatory, and procedural requirements for the delegated program, including those requirements specified under 10 V.S.A. § 1976 and Subchapter 6 of the Wastewater Rules.
7. Pursuant to § 1-605 of the Wastewater Rules, the Secretary may institute enforcement proceedings when the Town does not or cannot address non-compliance and after consultation with the Town, or when the Secretary determines that enforcement is necessary to protect human health and the environment. Under these circumstances, the Secretary would have the ability to take all actions authorized under 10 V.S.A. Chapter 201, including the ability to inspect wastewater and potable water supply systems within the municipality, and the ability to enforce violations of applicable statutes and regulations.
8. This delegation does not relieve the Town from compliance with all applicable state and federal laws and regulations.

Retained Jurisdiction

9. The Secretary retains sole jurisdiction to hear and determine requests for declaratory rulings pursuant to § 1-403 of the Wastewater Rules.

Internal Appeals of Permitting Decisions (Requests for Reconsideration)

10. The Town shall be responsible for administering the provisions for reconsideration pursuant to § 1-401 of the Wastewater Rules. The Town agrees to provide the Secretary a copy of each petition for reconsideration, and to provide the Secretary an opportunity to comment on any proposed decision prior to its issuance.

Revocation of Permits

11. The Town shall be responsible for administering the provisions for revocation of permits pursuant to § 1-404 of the Wastewater Rules. The Town agrees to provide the Secretary a copy of each petition for revocation, and to provide the Secretary an opportunity to comment prior to any hearing. If a hearing is conducted, the Town will provide the Secretary an opportunity to comment on the proposed final decision prior to its issuance.

Reporting & Training

12. Town personnel reviewing the technical portions of the applications shall be Licensed Designers in the State of Vermont. These Licensed Designers shall perform the same overall functions that the Assistant Regional Engineers perform for the District offices. These Licensed Designers for the Town shall apply the technical interpretations and policy decisions made by the Secretary in accordance with the Wastewater Rules, with consultation as needed with the District 4 Regional Engineer.
13. The Town shall require its Licensed Designers and administrative support staff to participate in Department of Environmental Conservation ("DEC") training programs and meetings related to the administration of the Wastewater Rules. In addition, the Town will report annually the dates and topics of any additional training programs attended by its inspectors. The Town shall also inform the Secretary of the training and qualifications of any Licensed Designers hired to administer this program.
14. The Secretary shall ensure that the Town's personnel, Licensed Designers, and administrative support staff directly involved in the administration of this program are given notice of and access to the same agency training and seminars provided to the regional offices so that Colchester personnel may operate with the same body of information and interpretation as State officials. The Secretary shall provide any guidance documents and other literature that are provided to the regional offices and necessary for program implementation.

Permit Fees and Enforcement Fines

15. The Town shall collect and retain all permit review fees and enforcement related fines associated with operating this program, for those projects reviewed, permitted, and enforced by the Town. The State of Vermont shall retain permit fees and enforcement fines for permits and enforcement cases completed by the State, due to the inability, refusal, or lack of authority by the Town to carry out the particular tasks conducted by the State.

Revocation of Delegation

16. Prior to the expiration of this agreement, the Secretary may revoke this delegation as prescribed in § 1-607 of the Wastewater Rules.

Effect of Delegation

17. All permit reviews and site inspections performed by the Town pursuant to this agreement shall have the same force and effect as though conducted by Assistant Regional Engineers of the State.
18. This agreement shall not be construed to diminish the Town's authority under other laws.

Reopening Agreement

19. The Secretary may amend this agreement for good cause.

Program Implementation

20. The Town shall include in each permit standard conditions that are provided by the Secretary. The Secretary may revise, delete, or add conditions as needed.
21. The Town shall provide to the Secretary copies of each permit or denial that is issued.
22. The Town shall be responsible for all costs of administering this program, including staff salaries and benefits, transportation costs, and internal administrative expenses, other than for the costs for those services the Secretary has agreed to provide pursuant to this agreement.
23. The Town agrees that until all documents are scanned and available in an electronic format, Town personnel will travel to the Essex Regional office to review files as needed.
24. For each proposed project, the Town will encourage the permit applicant to contact a permit specialist at the Essex Regional Office to request that a project review sheet be completed to indicate what state permits or permit amendments may be required for the project.
25. For each proposed project, the Town shall submit to the Essex Regional Office a request for the assignment of a PIN number, using the electronic form provided by that office. The Town will then enter the PIN into their electronic tracking system. The Town shall also provide any other required information in an acceptable electronic format necessary to maintain the Environmental Notice Bulletin ("ENB"). This information must be submitted in time for the weekly update of the ENB.

26. The Town shall make electronic copies of all documents, including plans, and shall make these documents available in a web based format, so that they may be examined from remote locations by attorneys, designers, and others needing access to the records.
27. The Town shall preserve all public records. Microfilm copies are acceptable if approved by the Secretary.
28. The Town shall maintain and operate an electronic tracking system that will contain the same, or equivalent, information as the agency tracking system.
29. The Town may issue permits that allow for the use of Innovative/Alternative technology, but only for those technologies that have received the necessary authorization for general, pilot, or experimental use from the Secretary.
30. The Town shall refer any project that requires a permit or permit amendment as a public water system to the Drinking Water and Groundwater Protection Division of Environmental Conservation ("DEC"). Any such water supply permit shall be referenced in the municipal permit.
31. The Secretary shall make available, in a web based format, the agency's records required to administer the delegated program. These records will be provided as soon as they are fully converted to electronic format.
32. Pursuant to 10 V.S.A. § 1976, as of July 1st, 2007, those provisions of the Town's ordinances and zoning bylaws that regulate potable water supplies and wastewater systems will be superseded by the provisions of 10 V.S.A. Chapter 64 and the rules adopted thereunder, except for those portions of the Town's ordinances or bylaws that apply to those potable water supplies and wastewater systems that are exempt from the permitting requirements of Chapter 64, and except for those procedural requirements in the Town's ordinances and bylaws that are consistent with Chapter 64 and the Wastewater Rules. Existing and future ordinances and bylaws of the Town that apply to exempt systems and that are procedurally consistent with Chapter 64 and the Rules will not be superseded during the period of delegation.

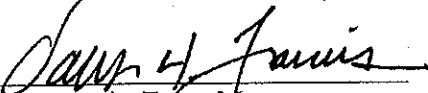
Annual Report

33. Pursuant to § 1-606 of the Wastewater Rules, an annual report shall be submitted by the Town to the DEC by February 15th of each calendar year.

Audit of the Delegated Program

34. The Town shall give the Secretary authority to enter the Town's property during normal working hours to review documents related to the delegation of the program and to assure compliance with the rules. The Secretary may also perform audits for quality control, information gathering, or in response to a complaint. The Town shall maintain all program records so that such an audit will not be delayed.

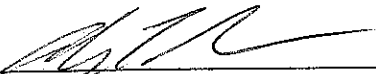
For the Town of Colchester:



Dawn Francis, Town Manager

January 29, 2016

For the Secretary of the Agency of Natural Resources:



Alyssa B. Schuren, Commissioner
Department of Environmental Conservation

February 25
~~January~~, 2016