

AN ORDINANCE TO LEVY A SPECIAL
ASSESSMENT TO FINANCE CONSTRUCTION OF
A SEWER MAIN IN ALPINE DRIVE

Pursuant to 24 V.S.A., Chapter 87, the written Consents to Assessment authorized therein, and such other statutes as may be applicable, the Board of Selectmen of the Town of Sherburne, acting as a Board of Sewage Disposal Commissioners, and in its capacity as Board of Selectmen, as applicable, hereby levy and impose the following Special Assessment upon each Owner's Property described below, for the construction of a sewer main in Alpine Drive:

Section I. Definitions:

As used herein, the following terms shall have the following meanings:

(a) Alpine Drive Sewer Main. The sewer main and pump station and related facilities to be constructed in Alpine Drive above manhole station 5+20 for disposal of wastewater to the Rutland City Wastewater Treatment Plant via the Alpine Pipeline, so-called.

(b) Alpine Drive Sewer Main Cost. The total amount necessary to pay the Town's share of the cost of construction of the Alpine Drive Sewer Main.

(c) Board of Sewage Disposal Commissioners, or Board. The Town Selectmen as so constituted under 24 V.S.A. §3506 and §3614.

(d) Capacity. The number of people a building is designed to accomodate for its proposed use.

(e) Connection Fee Ordinance. "Sherburne Ordinance Regarding Alpine Drive Sewer Main Connection Fees" adopted on the same date as this ordinance.

(f) Construction of a Sewer Main. The design of a sewer main, pump station and related facilities, its construction, the acquisition of land, easements, rights, personal property and equipment necessary or incidental thereto, debt service charges (interest on amounts borrowed), and all other direct and indirect costs and charges necessary or incidental to the acquisition and construction of such sewer main.

(g) Connect a Building to the Alpine Drive Sewer Main. Includes a direct connection to the Alpine Drive Sewer Main, and an indirect connection to a private line or lines discharging to the Alpine Drive Sewer Main.

(h) Discharge to the Alpine Drive Sewer Main. Includes a discharge directly to the Alpine Drive Sewer Main, and an indirect discharge to a private line or lines discharging to the Alpine Drive Sewer Main.

(i) Dwelling Unit. A building or portion thereof used by one family and providing housekeeping facilities for the family.

(j) Equivalent Unit (EU). A discharge to the Alpine Drive Sewer Main of the amount of sewage generated

by a standard residential unit as defined by the Alpine Pipeline Company.

(k) Family. One or more persons living together in the same dwelling unit and sharing the same kitchen and other facilities as a single housekeeping unit.

(l) Owner. An Owner of record of property which is both in the Town and in the watershed of Otter Creek, or of any interest in such property, (other than a mortgagee or lien holder), who has executed and filed with the Town, prior to the adoption date of this Ordinance, a Consent to this Special Assessment pursuant to 24 V.S.A. §3254, and the successors in title to the Owner's Property described in such Consent.

(m) Owner's Property. A parcel of an Owner which is both in the Town and in the watershed of Otter Creek and described in such Owner's Consent to this Special Assessment; all lands described therein shall be deemed an "Owner's Property" whether or not contiguous.

(n) Person. An individual, corporation, partnership, or any other incorporated or unincorporated entity.

(o) Sewer Main. Such equipment, pipe line system, and facilities as are needed for and appurtenant to the disposal of sewage.

(p) Used. Includes and shall be considered as followed by "or intended, arranged, or designed to be used".

SECTION II. Apportionment of Cost of Construction of Alpine Drive Sewer Main:

1. Apportionment of Town's share of Construction Cost. The Alpine Drive Sewer Main cost shall be apportioned among all the Owners, as defined in Section I(1) above.

2. Amount of Assessment. Each assessment (to be paid as provided in Section IV) of an Owner shall be determined by multiplying the Alpine Drive Sewer Main Cost by a fraction; the numerator of the fraction shall be the number of Equivalent Units for which such Owner has consented to assessment in such Owner's Consent to this Special Assessment; the denominator shall be the sum of the total number of Equivalent Units for which all Owners, as defined herein, have consented to assessment in such Consents to this Special Assessment.

3. Limitation on Assessment. In no event however shall the assessment per EU of an owner exceed \$4000.00.

4. Return of Assessments Paid, Reserve Fund. Any Connection Fees received within five (5) years of the effective date of this Ordinance pursuant to the Connection Fee Ordinance shall be repaid to the Owners consenting to this Special Assessment, or the successors in title to the Owner's Property; the portion of such Connection fees to be repaid to each Owner shall be in the proportion the amount such Owner has then paid under

this Special Assessment bears to the total Alpine Drive Sewer Main Cost. In no event, however, shall an Owner be repaid more than the Assessment paid by the Owner. Any connection fees received under such Connection Fee Ordinance after expiration of such five (5) year period or after each Owner has been repaid his or her Assessment may in the sole discretion of the Board be held, invested and reinvested by the Town in a special reserve fund, to be used at such time or times as the Board in its sole discretion deems necessary or advisable to maintain, reconstruct, extend, or otherwise improve the Alpine Drive Sewer Main. The Selectmen may, in their sole discretion, abolish such reserve fund at any time and transfer any amounts therein into the Town General Fund, and thereafter may place any such further Connection Fees received into the General Fund.

SECTION III. Discharge of Equivalent Units:

1. Method of Establishing Number of EU's Discharged. The amount of sewage discharged from buildings on the Owner's Property to the Alpine Drive Sewer Main shall be measured in Equivalent Units. If there is a dispute as to the number of EU's discharged from a building, the Board upon notice and hearing shall determine such building's EU discharge.

2. Discharge limitations. The Owner shall not:

(a) Connect or permit the connection of any build-

ing on the Owner's Property to the Alpine Drive Sewer Main, or change the use of any building on the Owner's Property connected to the Alpine Drive Sewer Main, or extend or enlarge any such building or increase the capacity thereof, if the amount of sewage to be discharged after such connection, use change, extension, enlargement or increase in capacity (expressed in EU's as provided herein), when added to the amount of sewage discharged to the Alpine Drive Sewer main from other buildings on the Owner's Property (also expressed in EU's) would exceed the total EU's specified in such Owner's Consent to this Special Assessment with respect to such property. The foregoing shall not apply if and to the extent the Owner pays the connection fee for such additional EU's under the Connection Fee Ordinance.

(b) Connect or permit the connection of any building on the Owner's Property to the Alpine Drive Sewer Main while delinquent in paying any installment or assessment herein, or any collection fees or interest.

(c) Connect or permit the connection of any building not on the Owner's Property to the Alpine Drive Sewer Main.

SECTION IV. Amount and Payment of Assessment.

1. Establishment of Assessment Due Dates and Amounts. Each Owner's Assessment, determined in accordance with Section II, shall be paid as follows:

(a) In an initial installment equal to the estimated Assessment as determined by the Board, payable by the effective date of this Ordinance, and within thirty (30) days after final determination by the Board of the actual Alpine Drive Sewer Main Cost following construction, a final installment of any difference required to equal the final Assessment amount as defined in Section II.

(b) In the event the final Assessment amount is less than the initial installment, the Owner shall be reimbursed the difference including interest accrued within thirty (30) days of said determination.

2. Billing for Assessment. Each Owner shall be billed for such Assessment, payable in accordance with 1(a) and (b) above. The delivery of a bill less than thirty (30) days prior to a due date shall extend the due date to thirty (30) days after delivery.

3. Payment of Installments not Contingent on Use. All installments required of an Owner by this Special Assessment shall be made when due, regardless of whether or not the number of Equivalent Units now or at any time hereafter discharged from an Owner's Property to the Alpine Drive Sewer Main is equal to or less than the number of EU's for which such Owner has consented to be assessed with respect to such property.

4. Interest and Collection Fees. Any installment

or assessment not paid when due, shall bear interest from the due date at such rate or rates as shall from time to time be charged on delinquent taxes in the Town, except that in any period when no interest charge on overdue taxes is in effect in the Town, any such overdue amount shall bear interest at the highest rate a municipality may then charge by law on overdue taxes (presently specified in 32 V.S.A. §5136). In addition, on any such installment or assessment the Tax Collector (or treasurer, as the case may be) shall be entitled to a collection fee to the same extent as in the case of overdue municipal taxes (presently specified in 32 V.S.A. §1674).

SECTION V. Lien Status of Assessment:

The assessments to which the Owner hereby consents and all installments thereof, and collection fees and interest thereon, shall constitute a lien on the Owner's Property in the same manner and to the same extent as taxes assessed in the grand list of a municipality, and all procedures and remedies for the collection of taxes shall apply to such assessments, installments, collection fees and interest.

SECTION VI. Fees, Delegation to Administrative Officer:

The Board may prescribe procedures (including reasonable fees) for applying to connect to the Alpine Drive Sewer Main. The Board may delegate to an Administrative Officer the processing of applications

under this Ordinance, and the granting or denial thereof; any person aggrieved by a decision of the Administrative Officer may appeal to the Board.

SECTION VII. Applicability of Laws and Regulations:

Any connection or discharge to the Alpine Drive Sewer Main by the Owner shall be subject to all applicable federal, state and municipal laws, and lawful ordinances and regulations, now or hereafter enacted, and applicable Alpine Pipeline Company (or its successor company) permits and approvals.

SECTION VIII. Construction with other Laws and Ordinances:

In accordance with 24 V.S.A. §3256, nothing contained herein shall prohibit the financing of the Alpine Drive Sewer Main or any improvements thereto by other means.

SECTION IX. Board's Authority to Adopt Rules and Regulations:

The Board may adopt reasonable rules and regulations to clarify or implement the provisions of this Special Assessment.

SECTION X. Notices:

All notices and billings shall be deemed delivered by the Town when deposited in the United States Mail, first class, postage prepaid.

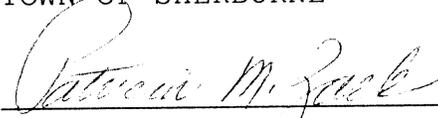
SECTION XI. Severance Clause:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Special Assessment,

or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Special Assessment, or any part thereof.

ADOPTED this 29TH day of APRIL, 1985.

TOWN OF SHERBURNE







BOARD OF SELECTMEN

Citizens have the right to petition for a vote on the question of disapproving this Ordinance at an annual or special meeting as provided in Title 24, Section 1973. Citizens may contact David W. Lewis, Town Manager, who is knowledgeable of the Ordinance and is available to answer questions at the Sherburne Town Office, P. O. Box 129, River Road, Killington, VT 05751, or call 422-3241. The full text of the Ordinance is described above and may be examined at the Town Office from 9 a.m. to 3 p.m. Monday through Friday.

SHERBURNE ORDINANCE REGARDING
ALPINE DRIVE SEWER MAIN
CONNECTION FEES

Pursuant to the authority of 24 V.S.A., Chapters 97 and 101, and such other statutes as may be applicable, the Selectmen of the Town of Sherburne, acting as a Board of Sewage Disposal Commissioners, and in its capacity as Board of Selectmen, as applicable, does hereby adopt the following Ordinance regarding connections to the Alpine Drive Sewer Main to assist in defraying the Town's share of the cost of construction and maintaining of said Sewer Main:

SECTION I. Definitions:

As used herein, the following terms shall have the following meanings:

(a) Alpine Drive Sewer Main. The sewer main and pump station and related facilities in Alpine Drive above manhole station 5+20 for disposal of wastewater to the Rutland City Wastewater Treatment Plant via the Alpine Pipeline, so-called.

(b) Board of Sewage Disposal Commissioners, or Board. The Town Selectmen as so constituted under 24 V.S.A. §3506 and §3614.

(c) Capacity. The number of people a building is designed to accomodate for its proposed use.

(d) Connect a Building to the Alpine Drive Sewer Main. Includes a direct connection to the Alpine Drive

Sewer Main, and an indirect connection to a private line or lines discharging to the Alpine Drive Sewer Main.

(e) Discharge to the Alpine Drive Sewer Main.

Includes a discharge directly to the Alpine Drive Sewer Main, and an indirect discharge to a private line or lines discharging to the Alpine Drive Sewer Main.

(f) Dwelling Unit. A building or portion thereof used by one family and providing housekeeping facilities for the family.

(g) Equivalent Unit (EU). A discharge to the Alpine Drive Sewer Main of the amount of sewage generated by a standard residential unit as defined by the Alpine Pipeline Company

(h) Family. One or more persons living together in the same dwelling unit and sharing the same kitchen and other facilities as a single housekeeping unit.

(i) Owner. An Owner of record of property which is both in the Town and in the Watershed of Otter Creek, or of any interest therein, (other than a mortgagee or lien holder), and such Owner's successors in title, but excluding an "Owner" as that term is defined in Section I(1) of the Special Assessment. However, with respect to any Equivalent Units discharged to the Alpine Drive Sewer Main by an Owner as defined in such Special Assessment, in excess of those such Owner is permitted

to discharge by such Special Assessment, such Owner shall be deemed an Owner under this Ordinance.

(j) Person. An individual, corporation, partnership, or any other incorporated or unincorporated entity.

(k) Sewer Main. Such equipment, pipe line system, and facilities as are needed for and appurtenant to the disposal of sewage.

(l) Special Assessment. An "Ordinance to Levy A Special Assessment to Finance Construction of a Sewer Main in Alpine Drive" adopted on the same date as this Ordinance.

(m) Used. Includes and shall be considered as followed by "or intended, arranged, or designed to be used".

SECTION II. Discharge of Equivalent Units:

1. Method of Establishing Number of EU's Discharged. The amount of sewage discharged from buildings on an Owner's property to the Alpine Drive Sewer Main shall be measured in Equivalent Units. If there is a dispute as to the number of EU's discharged from a building, the Board upon notice and hearing shall determine such building's EU discharge.

2. Discharge Limitations. An Owner shall not:

(a) Connect or permit the connection of a building to the Alpine Drive Sewer Main unless the connection fee described in Section III(1) is first paid.

(b) Extend, enlarge, change the use of, or increase the capacity of a building if the amount of sewage discharged to the Alpine Drive Sewer Main would exceed the discharge (expressed in EU's) upon which the connection fee required by Section III(1) was calculated, without first paying the connection fee specified in Section III(1) for such additional Equivalent Units.

(c) Connect a building or discharge or permit a discharge from a building to the Alpine Drive Sewer Main prior to making a payment required by Section III and receiving written approval from the Alpine Pipeline Company or any successor company for such connection or discharge.

SECTION III. Connection Fees:

1. Amount of Connection Fee. An Owner as defined herein connecting a building to the Alpine Drive Sewer Main shall pay a Connection Fee per EU to be discharged in the manner hereafter set forth:

(a) One and one-half times the final assessment amount per EU to be discharged as determined in Section IV(1) of the Special Assessment, plus an amount equal to interest computed at the rate or rates in effect from time to time as set forth in Section III(5) from January 1, 1986 to the date of payment.

(b) Such Connection Fee shall be paid within 15 days of notice of approval of the connection of a build-

ing to the Alpine Drive Sewer Main. In the event such amount is not paid within that period of time, the approval shall be null and void. Such amount shall be non-refundable in the event such approval becomes null and void for failure to connect the building within the time set forth in Section III(2).

2. Duration of Connection Approval. Upon approval of the connection with a building to the Public Sewer, such building's connection shall be made within 24 months of the issuance of the approval. If the connection is not made within that time, then the approval as to that building shall be null and void, and such connection shall be subject to reapplication under the terms and conditions set forth in this Ordinance.

3. Change of Use of a Building. An Owner shall not extend, enlarge, change the use of, or increase the capacity of a building if the amount of sewage to be discharged to the Alpine Drive Sewer Main (expressed in EU's) would exceed the number upon which the Connection Fee paid under (1) above was calculated, with out first paying the Connection Fee specified in (1) above as if such additional Equivalent Units were part of a new connection.

4. Use of Connection Fees. Any amounts received in any year by the Town under this Section may be used as set forth in the Special Assessment.

5. Interest and Collection Fees. Any payment or charge not paid when due shall bear interest from the due date at such rate or rates as shall from time to time be charged on delinquent taxes in the Town, except that in any period when no interest charge on overdue taxes is in effect in the Town, any such overdue amount shall bear interest at the highest rate a municipality may then charge by law on overdue taxes (presently specified in 32 V.S.A. §5136). In addition, on any such installment or charge the Tax Collector (or treasurer, as the case may be), shall be entitled to a collection fee, to the same extent as in the case of overdue municipal taxes (presently specified in 32 V.S.A. §1674).

SECTION IV. Lien Status of Charges:

The Owner of any tenement, house, building, or lot shall be liable for the charges specified in Section III above. Such charges, collection fees and interest thereon, shall be a lien upon such real estate in the same manner and to the same effect as taxes are a lien upon real estate under 32 V.S.A. §5061.

SECTION V. Applicability of Other Laws and Regulations:

Any discharge to the Alpine Drive Sewer Main referred to herein by the Owner shall be subject to all applicable federal, state and municipal laws, and lawful ordinances and regulations, now or hereafter enacted,

and applicable Alpine Pipeline Company permits and approvals, or any successor company permits or approvals.

SECTION VI. Disputed Issues:

The Board shall decide any dispute arising as to any issue herein after notice and hearing.

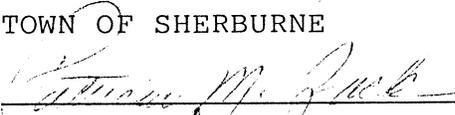
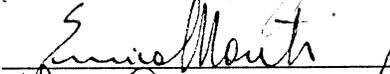
SECTION VII. Notices:

All notices and billings shall be deemed delivered by the Town when deposited in the United States Mail, first class, postage prepaid.

SECTION VIII. Severance Clause:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof.

ADOPTED this 29TH day of APRIL, 1985.

TOWN OF SHERBURNE



BOARD OF SELECTMEN