

Proposed Process for Initial Draft Sewer Assessment Ordinance

By way of introduction, Staff intends to solicit public comment and input on an initial draft of the sewer assessment ordinance before bringing the ordinance to the Town Council for consideration. The initial draft of the ordinance is being introduced to the Town Council through Town Manager Mark Ells' Communications at the December 17, 2020. The communications plan for resident input is currently under development. After receipt of public input and after any revisions are made, the ordinance will be placed on a Town Council agenda for a first read.

2021-XXX ORDER AMENDING CHAPTER 184 SEWERS AND WATER OF THE GENERAL ORDINANCES

ORDERED: That Chapter 184 General Ordinances of the Code of the Town of Barnstable be amended by inserting the following new Article II, Sewer Assessments, and renumbering the current Articles II and III as Articles III and IV:

“ARTICLE II

SEWER ASSESSMENTS

Section 1: Purpose and Authorization

The purpose of this ordinance is to assess all properties receiving benefit or advantage from public sewerage construction within a limited and determinable area, as set forth in the Comprehensive Wastewater Management Plan approved by vote of the Town Council on November 7, 2019, and in accordance with Section 1 of Chapter 83 of the General Laws and any other applicable general or special law.

Section 2: Definitions

For the purpose of this Ordinance, the following words shall be considered to have the following meanings:

- (1) Commercial Use: Occupancy of premises for financial gain including profit such as business and industrial uses.
- (2) Commercial Sewer Unit: shall be equivalent to **X gallons** of actual or expected daily sewerage flow.
- (3) Dwelling Unit: One or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping, and eating.

(4) Force Main: A line without access from individual properties providing access from pumping station to pumping station or to trunk and sewer main.

(5) General Benefit Facilities: Improvements, such as pumping stations, trunk and force mains, acquisition of land or interests in land, which will provide benefit or advantage to an area exceeding that served by the Special Benefit Facilities. Ordinarily, General Benefit Facilities will serve a major part of a Pumping District.

(6) Lateral Line: Sewer conduit from a house to a street.

(7) Multifamily Use: Occupancy of premises with two or more dwelling units.

(8) Pumping District: An area, as identified by the Department of Public Works, which consists of a collection of sewer mains that connect to generally used infrastructure, such as pump stations, trunk mains and force mains, that moves sewage from said collection of sewer mains to a treatment facility.

(9) Residential Sewer Unit: Shall be equivalent to a single family residential lot, as permitted under the Zoning Ordinances of the Town of Barnstable for the district in which the property is located.

(10) Semi-public Use: Occupancy of premises by private non-profit organizations, including without limitation private schools, hospitals, and religious institutions.

(11) Sewer Main: The line serving as a conduit for sanitary sewerage from the lateral lines from each individual property.

(12) Special Benefit Facilities: The sewer main to which a lateral line from an individual abutting property can be connected, acquisition of land or interests in land, pumping stations that are required to service a specific project area and any other costs of improvements required to service a specific project area.

(13) System Development Charge: A one-time fee that will be charged to new customers of the Town's sewer system to pay for the investments made into the "backbone" of the system for the capacity consumed by the new user.

(14) Trunk Main: The line serving as a conduit for sanitary sewerage from a number of sewer mains and lateral lines. Trunk mains shall be considered as those lines ten (10) inches and over in diameter.

(15) Unit Method: A means by which sewerage construction costs shall be equally divided between the total number of existing and potential Sewer Units to be served after having proportioned the costs resulting from the construction of Special and General Benefit Facilities.

(16) Zoning Ordinance: The Zoning Ordinance in effect in the Town of Barnstable at the time the sewerage assessment is levied.

Section 3: Basic Requirements

The Town Manager shall assess sewerage construction costs to all properties receiving benefit or advantage on the basis of the Unit Method. He shall separate the costs of the General Benefit Facilities from those of the Special Benefit Facilities. The proportional cost of the Special and General Benefit

Facilities shall be assessed against all properties abutting a sewer street upon such sewer becoming operational. The cost of the General Benefit Facilities attributable to properties not abutting a sewer street shall not be assessed until such properties are serviced by public sewerage.

Section 4: Determination of Sewer Units

Section 4A: Each parcel of land in a Pumping District shall be converted into permanent Residential or Commercial Sewer Units by the DPW for the purpose of proportionally dividing the construction costs equitably among such parcels of land.

Section 4B: Residential Lots

A residential lot that contains one Dwelling Unit and is smaller than that required by the Zoning Ordinance shall be assessed as one Sewer Unit. If such residential lot contains more than one Dwelling Unit, the number of assessed Residential Sewer Units shall equal the number of Dwelling Units. A Dwelling Unit that occupies two residential lots in such a way that only one Dwelling Unit is allowed shall be assessed as one Residential Sewer Unit.

Section 4C: Residential Lots Capable of Division or Sub-Division

Residentially zoned land which is capable of being divided or sub-divided according to the Zoning Ordinance shall be assessed as currently used plus one additional Sewer Unit for each lot which could be created in accordance with the Zoning Ordinance, provided that such additional assessment shall not be made until two (2) years have passed from the date of the Planning Board endorsement of an Approval Not Required Plan dividing the land or from the date of final approval by the Planning Board of a Definitive Subdivision Plan of the subject land, whichever is applicable.

Section 4D: Improved Commercial, Industrial, Business, and Semi-public Lots and Uses

Improved commercial, industrial, business, and semi-public lots and uses shall be assessed according to the reasonably expected sewerage flow to be generated from the use. **X gallons** of actual or expected daily sewerage flow shall equal one Commercial Sewer Unit.

Section 4E: Commercial, Industrial, Business, and Semi-public Lots Capable of Division or Sub-Division

Commercial, industrial, business, and semi-public lots which could be divided or sub-divided according to the Zoning Ordinance shall be assessed as currently used plus one additional Commercial Sewer Unit for each lot which could be created in accordance with the Zoning Ordinance, provided that such assessment shall not be applied until two (2) years have passed from the date of the Planning Board endorsement of an Approval Not Required Plan dividing the land or from the date of final approval by the Planning Board of a Definitive Subdivision Plan of the subject land, whichever is applicable.

Section 4F: Changes in use or Intensity of Use

In the event that existing uses on a parcel of land are changed or intensified under any circumstance, including without limitation changes in zoning, new construction, changes in use or reconfiguration, resulting in greater actual or potential sewerage output than that established at the time of original or

subsequent, then-existing assessment, the Town Manager or his or her designee shall proportionally assess the more intensive use and the re-assessed amount shall become the new, permanent assessment.

Section 5: Cost Determination and Apportionment Using the Unit Method

Section 5A: Sewer Cost Determination and Apportionment for Residential Land and Uses

Sewer assessments shall be based on one hundred percent (100%) of the cost of Special and General Benefit Facilities, as determined in accordance with the formulas set forth below. The actual assessment per Residential Sewer Unit for a residential lot or use shall be the allocated cost or Seventeen Thousand Dollars (\$17,000.00) (the “initial maximum amount”), whichever is lower. This initial maximum amount will remain in effect until June 30, 2022. Thereafter, the initial maximum amount shall be adjusted annually as of July 1 of each year by the percentage change in the construction cost index as calculated by Gordian for the immediately preceding year ending June 30. In the event that Gordian ceases to publish such index, the Department of Public Works (“DPW”) will select an Index which most closely resembles the Gordian index and the substitute index shall then be used for so long as the DPW in its judgment determines that the substitute index accurately reflects market conditions.

Section 5B: Cost and Assessment of General Benefit Facilities

1. The cost of General Benefit Facilities and of Special Benefit Facilities shall be determined separately from each other.
2. The cost of General Benefit Facilities for a Pumping District shall be divided by the number of Sewer Units in such Pumping District. The result of such calculation shall be the General Benefit Facility Unit Cost.
 - a. The General Benefit Facility Unit Cost shall be assessed to Sewer Units which abut existing streets that will receive a direct benefit and advantage upon connection to the sewer system.
 - b. The General Benefit Facility Unit Cost shall not be assessed to Sewer Units that do not currently abut existing streets to be sewerred but shall be assessed at such later time as such Sewer Units shall directly benefit from the General Benefit Facilities.

Section 5C: Cost and Assessment of Special Benefit Facilities

1. The cost of Special Benefit Facilities for a Sewer District shall be divided by the number of Sewer Units in such Sewer District. The result of such calculation shall be the Special Benefit Facility Unit Cost.
 - a. The Special Benefit Facility Unit Cost shall be assessed to Sewer Units which abut existing streets that will receive a direct benefit and advantage upon connection to the sewer system.
 - b. The Special Benefit Facility Unit Cost shall not be assessed to Sewer Units that do not currently abut existing streets to be sewerred but shall be assessed at such later time as such Sewer Units shall directly benefit from the Special Benefit Facilities.

Section 6: Estimated Assessments

The Town may assess and collect estimated sewer assessments in connection with the construction of water pollution collection, pumping, treatment and disposal facilities. The total amount of such estimated

sewer assessments shall not exceed the lesser of (i) one-half of the Town's liability under all contracts it has entered into for the construction of such facilities or (ii) any cap on sewer assessments as determined under Section 5. The total of such estimated assessments shall be determined by the same method to be used for the determination of the actual assessments upon the completion of the work. When the final costs of construction of the facilities have been determined, the Town may assess and collect actual sewer assessments for the balance owed. The interest rate on estimated sewer assessments will be the rate as determined under Section 9.

Section 7: Sewer Connection

An abutter to a completed section of a sewer line may connect to the completed line before the entire sewer project is completed and assessed, provided that he makes an initial partial payment in such amount as determined by the Town and not less than One Hundred Dollars (\$100) and pays the balance of the assessment when levied. The cost of connecting the abutter to the completed section of sewer will be assessed back to the property abutter at one hundred percent (100%) of the cost. Property abutters may elect to pay the entire cost of connection upon completion or may choose to have it added to their sewer assessment.

Section 8: System Development Charge

A one-time System Development Charge of One Thousand Six Hundred Dollars (\$1,600) will be charged to a property abutter at the time of connection to the sewer system through June 30, 2022. Commencing on July 1, 2022, the Town Manager, or his or her designee, will annually conduct a System Development Charge update and any change in the amount of the System Development Charge will be as approved by the Town Manager. Property abutters may elect to pay the entire cost of the System Development Charge at the time of connection to the sewer system, or may choose to have it added to their sewer assessment.

Section 9: Interest Rate on Apportioned Sewer Assessments

At the time of assessment, the property owner will have the option to pay the full amount of the assessment within thirty (30) days, or to make a partial payment on the assessment and apportion the unpaid balance over future tax bills for a period of their choosing, up to 30 years, or to apportion the full assessment over future tax bills for a period of their choosing, up to 30 years. The Town will apply an interest rate to the sewer assessment at an annual fixed rate of two percent (2.0%) above the borrowing costs the Town incurs on the loan. If multiple loans are issued, a blended rate will be used to calculate the Town's borrowing cost.”