

Orleans Annual Town Meeting – May 9, 2022

ARTICLE 18. ADOPT SEWER ASSESSMENT GENERAL BYLAW

To see if the Town will vote to adopt Chapter 6, Sewer Assessment, as follows:

A. General

The Town of Orleans (“Town”), acting through its Board of Water and Sewer Commissioners (“Commission”) and as approved by the Select Board shall assess twenty (20) percent of the cost of the wastewater treatment facility, effluent disposal, wastewater collection system and pumping stations upon those properties that benefit from the project. In assessing twenty (20) percent of the costs for the wastewater treatment facility, effluent disposal, wastewater collection system and pumping stations, the Town shall determine what portion of such costs shall be assessed as betterment assessment and what portion shall be assessed as a privilege fee.

Eighty (80) percent of the costs of the wastewater treatment facility, effluent disposal, wastewater collection system and pumping stations, and one hundred (100) percent of the cost of non-traditional technologies shall be paid by property taxes.

Property owners which abut the wastewater system are responsible for one hundred (100) percent of the cost to connect to the Town’s wastewater system. Refer to the Sewer Use Rules and Regulations, as may be amended from time to time, for additional information and requirements.

B. Statutory authority

The authority to assess betterments, as well as the permitted methodologies for doing so, are described in MGL c. 80, Betterments, and MGL c. 83 Sewers, Drains and Sidewalks, and any other enabling legislation. See also the Orleans Town Charter Chapter 6, Section 6-8-3.

C. Assessment based on uniform unit method

1. The Commission in assessing betterment assessments shall assess the owners of land abutting a public sewer in each phase on construction for which public sewer is installed by the Town by a rate based upon the uniform unit method. Sewer assessments shall be determined utilizing sewer unit values.
2. A single Sewer Unit shall be equal to the residential water usage for the residential properties abutting the wastewater system in each phase as defined in the Sewer Use Rules and Regulations, as amended.

D. Sewer unit calculation

1. The Commission shall assess sewer betterments based upon water usage. An average daily water usage for each phase of sewer construction for the

residential properties shall be calculated based upon the prior three (3) year average ending with the most recent billed water cycle immediately preceding the date of the project's substantial completion.

2. Residential and Non-Residential properties shall be assigned a sewer unit(s) based on their daily water usage relative to the average of residential uses, provided that the number of sewer units for any residential or non-residential property shall not be less than one (1) sewer unit.
3. Properties abutting a sewered street shall be assessed by a rate proportional to the value assigned to the sewer unit(s) at the time of the assessment.
4. Residential undeveloped properties. Sewer units shall be calculated on the basis of the highest and best use permitted as a right of the zoning then in effect. Potential single family, multi-family, and other similar uses shall be converted into sewer units on the basis of residential equivalents. Refer to Paragraph H.4 for volume calculation.
5. Non-residential, undeveloped properties. Sewer units shall be calculated on the basis of the highest and best use permitted as a right of the zoning then in effect. Potential non-residential, commercial, industrial, semipublic and other similar uses shall be converted into sewer units on the basis of residential equivalents. Refer to Paragraph H.4 for volume calculation.
6. If a property abuts a private or unaccepted way within which a public sewer has been installed, the Board shall assess the betterment assessment against said property.

E. Method of assessing betterments; order of assessment

The Commission shall levy, by preparing an order of assessment, assessments against all properties abutting a sewered street. In the order of assessment, the Town shall designate the owner of each parcel, as of the preceding January 1, as liable to assessment under the provisions of the General Laws.

F. Time of assessment

The time of assessment for lands abutting the sewered street shall be in accordance with the provisions of M.G.L. c. 80, §1.

G. Betterment payment

1. General. Except as herein provided, the provisions of the General Laws relative to the assessments, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefore and to interest thereon, shall apply to assessments made under this article, and the Tax Assessor and Town Treasurer/Collector shall have all the powers conveyed by the General Laws.
2. Betterment Payment Options
 - a. Lump-sum betterment. The lump sum betterment payment for an

assessed property shall be equivalent to the product of the total number of sewer units designated upon said property and the appropriated value for one sewer unit at the time of assessment.

- b. Apportionment of betterment payment. Property owners shall have the option to finance betterment payments through apportionment for up to thirty (30) years. The interest rate charged by the Town shall be two (2) percent greater than the project bond interest rate being paid by the Town for the construction of the wastewater system project.

H. Sewer privilege fees

1. For the purpose of the Sewer Assessment Bylaw, a privilege fee shall be equivalent to one hundred (100) percent, adjusted by the Consumer Price Index (Engineering News Record Index) at the time of the assessment, of the calculated betterment assessment value pertinent to each property as determined under Section D. of this Sewer Assessment Bylaw. Sewer privilege fees shall be levied at the time of connection to the public sewer system. Property owner options for payment of said fees shall be per Section G. of this Sewer Assessment Bylaw.
2. For those properties not abutting the sewer line, but tying into the system at a future date, the time of assessment of privilege fee shall be the date upon which that property owner applies to connect into the sewer system. Payment shall be made prior to the issuance of approval by the Board of Water and Sewer Commissioners of the Town or authorized representative.
3. Private sewer extension. If a developer or a person other than the Town, or duly authorized representative of same, constructs a sewer extension to the Town's wastewater system, the Town shall assess a sewer privilege fee in lieu of betterment assessment against each property tying into said sewer extension. The time of assessment of privilege fee shall be the date upon which the developer or person applies to connect into the sewer system. Payment shall be made prior to the issuance of approval by the Board of Water and Sewer Commissioners of the Town or authorized representative.
4. Calculation of wastewater flows shall be based on one of the following as approved by the Commission:
 - a. Documented facilities with at least two (2) years of water use data in Orleans;
 - b. Documented similar facilities with at least two (2) years of water use data; or
 - c. Sixty (60) percent of 310 CMR 15 – The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage.

5. In addition, the developer and/or property owners connecting to private sewer extensions shall bear the burden of all costs, including engineering, survey and design, construction, land acquisition and legal services, related to the following:
 - a. Preparation of design plans and specifications for the private sewer extensions to be accepted as part of the Town's wastewater system, shall be prepared by a Civil or Environmental professional engineer registered in the Commonwealth of Massachusetts. The design plans and specifications shall be in accordance with the Town's Sewer Use Rules and Regulations, as amended.
 - b. Application fees for a building sewer installation permit shall be in accordance with the Town's Sewer Use Rules and Regulations, as amended.
 - c. Inspection fees related to the installation of the private sewer extension tying into the Town's wastewater system shall be in accordance with the Town's Sewer Use Rules and Regulations, as amended.
6. Costs associated with the design and construction of a private sewer extension shall be considered separate to the sewer privilege fee. Payments or method of payment related to these costs shall not be reflected within the sewer privilege fee.

I Compensatory Sewer privilege fees

1. Undeveloped Property. In the situation where a betterment has been assessed to an undeveloped property based upon the number of sewer units required by Section D., paragraph 4 and paragraph 5 of this Sewer Assessment Bylaw and said property is ultimately developed to accommodate a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.
2. Developed Property. In the situation where a betterment has been assessed to a developed property based upon the number of sewer units required by this Sewer Assessment Bylaw, and the usage of said property is changed or increased, which results in a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.
3. The compensatory sewer privilege fee shall be equivalent to that sum of money that would have been charged, as a betterment assessment upon the property at the time of the original assessment and adjusted by the Consumer Price Index (Engineering News Record Index) at the time of the assessment, under the conditions to which they have changed or increased, less than the amount of the original assessment. The time of assessment of the compensatory sewer privilege fee shall be the date upon which the developer or person applies to connect into the sewer system.

Payment shall be made prior to the issuance of approval by the Board of Water and Sewer Commissioners of the Town or its authorized representative.

4. All rules and regulations governing the payment and method of payment related to betterment assessments, as designated in this Sewer Assessment Bylaw, and the Town's Sewer Use Rules and Regulations, as amended, shall apply.
5. The Commission is authorized to take any other action necessary or appropriate to accomplish the establishment and recovery of such betterment assessments.

J. Regulations

The Commission is authorized to promulgate regulations to carry out the purpose and intent of this Sewer Assessment Bylaw.

K. Sewer connection costs

All costs of connecting individual properties to the Town's wastewater system shall be at the sole cost and expense of the property owner. See also the provisions of Paragraph A above.

L. Hardship

Hardships shall be applied for and approved in accordance with the applicable statutory real estate property tax exemptions.

M. Appeals

Property owners may appeal to the Commission for exemption from, modification of, or reconsideration of any decision pertaining to this Sewer Assessment Bylaw.

Petition for abatement; filing, etc. shall be made in accordance with MGL Chapter 80, Section 5 and the Town's Sewer Use Rules and Regulations, as amended.

The Commission shall render a decision within seventy (70) days of receipt of the appeal, unless continued by the Commission. If no decision is rendered, then the appeal is approved.

N. Severability

If any provisions of this Sewer Assessment Bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Sewer Assessment Bylaw which can be given effect without such invalid provisions or applications.

Or take any other action relative thereto. (Board of Water & Sewer Commissioners)

(Simple Majority Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

The adoption of the Sewer Assessment Bylaw will authorize the Town to assess the owners of land abutting a public sewer installed by the Town by a rate based upon the following uniform unit method:

Sewer assessments shall be determined utilizing sewer unit values.

A single Sewer Unit shall be equal to the residential water usage for the residential properties abutting the wastewater system in each phase of construction as defined in the Sewer Use Rules and Regulations. For the purpose of any such Bylaw such single Sewer Unit shall be considered "a single-family residence" as that term is used in MGL c. 83, §15; however, based on the average daily water usage of a single-family residence, as calculated in accordance with paragraphs 1-5 set out below, a single-family residence may be assessed one or more Sewer Units.

- 1) The Commission shall assess sewer betterments based upon water usage. An average daily water usage for each phase of sewer construction for the residential properties shall be calculated based upon the prior three (3) year average ending with the most recent billed water cycle immediately preceding the date of the project's substantial completion.
- 2) Residential and Non-Residential properties shall be assigned a sewer unit(s) based on their daily water usage relative to the average residential use, provided that the number of sewer units for any residential or nonresidential property shall not be less than one (1) sewer unit.
- 3) Residential undeveloped properties. Sewer units shall be calculated on the basis of the highest and best use permitted as of right of the zoning then in effect. Potential single family, multifamily, and other similar uses shall be converted into sewer units on the basis of residential equivalents using volume calculations.
- 4) Non-Residential, undeveloped properties. Sewer units shall be calculated on the basis of the highest and best use permitted as of right of the zoning then in effect. Potential non-residential, commercial, industrial, semipublic and other similar uses shall be converted into sewer units on the basis of residential equivalents using volume calculations.
- 5) If a property abuts a private or unaccepted way within which a public sewer has been installed, the Commission shall assess the betterment assessment against said property.

The Town petitioned the state legislature for a special act to approve the proposed sewer betterment allocation method and to rescind Ch. 381 of the Acts of 2008 to change the timing of the assessment. At the time the warrant went to press, the special act (H.2196) had passed the House and is currently in the Senate Committee on Bills in the Third Reading.

SB:	4 – Yes	0 – No	0 – Abstain
FC:	6 – Yes	0 – No	2 – Abstain