

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF EAST GREENBUSH AS FOLLOWS:

**Chapter 34
SEWER RENTS**

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**ARTICLE I
Definitions**

§ 34-1. Defined terms.

Unless otherwise stated in the section where the term is used in this chapter, the meaning of terms used in this chapter shall be as stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. "Shall" is mandatory; "may" is permissive.

CAPITAL COSTS — Those fixed costs which must yearly be borne by the district in making annual payments on indebtedness, which shall include land acquisition, required reserves for repairing or replacement and any other cost which is fixed, recurring and not includable for operation and maintenance.

CONSOLIDATED SEWER DISTRICT — The Town of East Greenbush Consolidated General Sewer District or any extension thereto.

DISTRICT, SEWER — The Consolidated General Sewer District of the Town of East Greenbush, or any extension thereto.

EQUIVALENT DWELLING UNIT — A unit of measurement determined by the type of real property classification used within the formula to compute the annual payment of capital costs. The town board may from time to time amend the chart delineating the real property classification and corresponding equivalent dwelling unit by resolution adopted after a public hearing.

OPERATION AND MAINTENANCE COSTS — Those variable charges which the district each year incurs for the operation and maintenance of the sewerage works. This charge shall include all those costs authorized by the State of New York and is to be yearly approved by the Town Board during the budget process and adopted after a public hearing.

OUTSIDE USER AGREEMENT — A written agreement between the Town or a sewer district and an outside new user which agreement provides for connection to the sewerage system by the outside new user without extending any sewer district to accommodate the connection.

POTW TREATMENT PLANT — That portion of the POTW designed to provide treatment to wastewater, and to treat sludge and residuals dried from such treatment.

PUBLICLY OWNED TREATMENT WORKS (POTW) — A treatment works, as defined by § 212 of the Act, (33 U.S.C. § 1292), which is owned, in this instance, by the Town and/or any sewer district. This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, the POTW treatment plant itself, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, and such ground, surface, and stormwater as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered "sewage," within the meaning of this definition.

SEWER RATES AND CHARTS — The cost chargeable to each applicant for capital and operation and maintenance costs.

SEWERAGE SYSTEM — All facilities for collecting, regulating, pumping, and transporting wastewater to and away from the POTW treatment plant.

TOWN — The Town of East Greenbush, Rensselaer County New York.

TOWN BOARD — Town Board of the Town of East Greenbush.

USER — Any person who contributes, causes, or permits the contribution of wastewater into the POTW, including a parcel owner.

USER, INDUSTRIAL — A discharger to the POTW who discharges nondomestic wastewaters.

VACANT PROPERTY — Any unimproved or undeveloped real property in a district which is not used for agricultural purposes. All such vacant real property shall be charged for that portion of the sewer charge devoted to capital costs, and shall include no charge for operation and maintenance expenses.

ARTICLE II Charges

§ 34-2. Charges generally.

- A. The sewer service charge of the Consolidated General Sewer District shall be set by the Town Board on a benefit basis as fairly as possible, in proportion to wastewater generation and capacity needs among all the parcels in the District.
- B. The annual cost of sewer service for parcels within the service area will consist of two components: debt service on the capital costs, and the operation and maintenance charges as follows:
 - (1) Operation and maintenance charge: All parcels within the service area discharging or depositing sewage into the public sewers shall pay operation and maintenance charges which shall be imposed annually among all parcels or any additional parcels contained within the Consolidated General Sewer District as follows: \$2.87 per 100 cf metered water use; \$3.84 per 1000 gallons metered water use; \$40.17 minimum use up to 1400 cf or 10,500 gallons; and \$45.91 flat rate for unmetered water use per quarter. Each customer will pay for 100 cf or 1000 gallons consumed, but if less than 1400 cf or less than 10,500 gallons then the minimum rate shall apply no matter the volume consumed. In addition those parcels connecting to the public sewers shall pay a connection fee. The connection fee shall be established by the Town Board and established annually.
 - (2) Capital debt charge: All parcels within the service area shall be assessed a capital debt charge which shall be imposed annually among all parcels or any additional parcels contained within the District as follows: \$100.00 per equivalent dwelling unit for 2022 and then adjusted annually thereafter, if necessary. The number of Equivalent Dwelling Units for each parcel is determined from the Schedule of Assessment Units for each property type and is established each year by the Town Board. Payment of the capital

debt charge must be paid regardless of connection status to the public sewer.

- C. The Town Board shall prepare a sewer budget in accordance with Town Law that will specify debt service charges proposed for the succeeding budget year. In accordance with Town Law, sewer rolls for the consolidated sewer district will be prepared and adopted by the Town Board annually which set forth capital charges and operation and maintenance expenses. Adoption of the amount of the annual capital charges, the annual amount of operation and maintenance expenses, and any revision to the Schedule of Assessment Units for each property type shall occur at a public hearing noticed in a manner required by the Town Law in November of each year. Capital charges and operation and maintenance expenses approved by the town board of the Town of East Greenbush will be posted annually in the Town Clerk's Office, Town of East Greenbush, New York as well as the Town of East Greenbush website

§ 34-3. Billing period.

- A. Annual operation and maintenance charges described in §34-2B(1) of this article will be invoiced quarterly in February, May, August and November of each year. The invoicing schedule may, from time to time, be altered as determined by the Town Board.

Capital project debt service charges described in §34-2B(2) of this article shall be billed annually in January of each year.

§ 34-4. Capital recovery.

The Town may institute an equitable procedure for recovering the costs of any capital improvements for those parts of the sewerage system within the Town which collect and pump wastewaters from those persons discharging such wastewaters into the collection system.

§ 34-5. Collection of charges.

- A. Delinquent payments.
- (1) If there shall be any payments which are due the Town, or any department thereof, pursuant to any article or section of this chapter, which shall remain due and unpaid, in whole or in part, for a period of 30 calendar days after the due date stated on the bill, or if no due date is stated thereon, 30 calendar days from the date of billing by the Town, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to 10% of the original bill.
 - (2) In the event that there are any payments which are due the Town, or any department thereof, pursuant to any article or section of this chapter which shall have been delinquent as of September 30 of any year, the Town shall report the names of the defaulting persons to the Town Assessor on or before September 30 of the same year. The Town Assessor is hereby directed to cause a statement to be prepared setting forth i) the amount of each lien for payments due the Town under this chapter including penalties and interest, ii) the real property affected thereby, and iii) the name of the person or

persons in whose name such real property is assessed. Such statement shall be presented to the board or body empowered to levy county taxes on or before November 15 of the same year. Such board or body shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as county taxes, and such amounts shall be set forth in a separate column in the annual tax rolls. The amounts so levied shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of Town and County Property Taxes.

- (3) Sewer rents shall be liens against real property within the General Consolidated Sewer District to the extent set forth in Section 452 of the General Municipal Law. Sewer rents provided herein are charges in addition to any sewer assessments that may be levied from time to time against real property in the sewer district.
- (4) Where charges are delinquent and the violator is not a resident of the Town, or property is located outside the geographical boundaries of the Town, then the Town Attorney is authorized to seek recovery of charges, including punitive damages, in a court of competent jurisdiction or make arrangements with the appropriate county where the user is located to add the amount of the sewer assessment or other charges which shall be in default, plus penalty and interest, as provided for in the chapter, to the real property taxes due the county in the next ensuing year.

§ 34-6. Fiscal year for system.

The Town's sewer districts shall be operated based on a fiscal year commencing on the first day of January and ending on the 31st day of December.

§ 34-7. New development fees.

The Town Board or other town officials shall have the authority to impose fees on both inside new users and outside new users provided that the associated new development requires modification to the town's existing sanitary sewer infrastructure.

§ 34-8. Use of revenues.

Revenues derived from any source shall be credited to a special fund for the applicable sewer district. Moneys in this fund shall be used exclusively for the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction of the sewer district or its extension pursuant to New York State Town Law or to modify the town's existing sanitary sewer infrastructure.

§ 34-9. Records and accounts.

- A. The Town shall maintain and keep proper books of records and accounts for sewers tributary to the POTW treatment plant, separate from all other records and accounts, in which shall be made full and correct entries of all transactions. The Town will cause an

annual audit of such books of record and account for the preceding fiscal year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized officials, and the public, on request. The costs of an audit shall be borne by the sewer district to which the audit relates.

- B. In conjunction with the audit, there shall be an annual review of the sewer system charge to determine if it is adequate to meet expenditures for all programs for the coming year.
- C. The Town shall maintain and carry insurance on physical properties of sewers tributary to the POTW treatment plant, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewerage systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

§ 34-10. District operations open to the public.

It shall be the policy of the Town Board to conduct all business with full disclosure to the public.

§ 34-11. Validity through public inspection.

The Town shall formulate procedures to make available to the public for inspection such statements of policy and interpretations used by the Town in administration of this chapter.

§ 34-12. Severability. Each provision of this chapter is severable from the others, so that if any provision or portion of a provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision, or portion of a provision, shall be severed from this chapter which shall nonetheless remain in full force and effect.-

§ 34-13. Repealer. Chapter 34 of the Code of East Greenbush and Local Law No. 5 of 2021 of the Town of East Greenbush, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed and replaced by this Local Law.

§34-14. Effective Date.

This local law shall take affect immediately upon filing with the Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.