

**2023-145 ORDER AMENDING ARTICLE II, SEWER ASSESSMENTS, CHAPTER 184  
SEWERS AND WATER OF THE GENERAL ORDINANCES INTRO: 03/16/2023, 04/06/2023**

Upon a motion duly made and seconded it was

**ORDERED:** That Article II, Sewer Assessments, Chapter 184 Sewers and Water, of the General Ordinances of the Code of the Town of Barnstable shall be amended as follows:

**AMENDMENT SECTION 1** – deletes section 184-9.7 in its entirety and inserts a new section in its place:

Current language to be deleted:

Sewer connection costs.

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. Alternatively, property abutters may elect to privately arrange and pay for the connection to the completed section of sewer.

New language to be inserted:

Sewer connection costs.

Property owners must select and contract with a contractor to connect their property to the completed section of sewer. Property owners may elect to privately pay directly to the contractor the entire cost of connection or may choose to enter into an agreement with the Town under which the Town will pay the connection costs upon completion and will then finance and assess 100% of the costs plus interest back to the property owner as an additional and separate sewer assessment. The apportionment of such assessment and the applicable interest rate thereon shall be in accordance with Section 184-9.8 hereof.

**AMENDMENT SECTIONS 2, 3 and 4** – new added language to section 184-9.9 in bold, deletion noted:

**Deferral and suspension** of charges.

A. In accordance with and subject to the provisions of Section 16G of Chapter 83 of the General Laws, the Department of Public Works shall, upon application of the owner of real property served by the common sewers, if such owner is receiving an exemption from property taxes under clause Forty-first A of Section 5 of Chapter 59 of the General Laws with respect to such property, defer charges for said use of the common sewers. An application for deferral may be filed with the Department of Public Works within the time limit established for the filing of an application for exemption under said clause Forty-first A.

B. The provisions of section 16G of Chapter 83 of the General Laws, with respect to the ability of certain eligible property owners to defer payments of sewer **use charges** (delete: “assessments”), are hereby accepted by reference as a part of the general ordinances of the Town.

**C. In accordance with and subject to the provisions of Section 13B of Chapter 80 of the General Laws, the Town Manager shall, upon the application of the owner of real property on which a sewer assessment has been imposed, if such owner is receiving an exemption from property taxes under clause Forty-first A of Section 5 of Chapter 59 of the General Laws with respect to such property, enter into a deferral and recovery agreement with such owner on behalf of the Town. Any such application shall be filed with the Town Manager within six months after notice of the assessment has been sent. In the case of each such deferral and recovery agreement entered into by the Town**

**Manager and the property owner, the Town Manager shall record in the Barnstable County Registry of Deeds a statement of his or her action which shall constitute a lien upon the land covered by such agreement for such sewer assessment. Such statement shall name the name the owner or owners and shall include a description of the land. The filing fee for any such statement recorded by the Town Manager shall be paid by the owner or owners of such real property.**

**D. The provisions of Section 13B of Chapter 80 of the General Laws are hereby accepted by reference as a part of the general ordinances of the Town.**

**E. In accordance with and subject to the provisions of Section 5 of Chapter 61 of the General Laws, land classified as forest land under said Chapter 61 is subject to a sewer assessment to such pro rata extent that the service or facility financed by such assessment is used for improving the forest production use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in forest production use and shall become due and payable as of the date when the use of the land is changed. Interest shall be computed from the date of the change in use.**

**F. In accordance with and subject to the provisions of Section 18 of Chapter 61A of the General Laws, land classified as agricultural or horticultural under said Chapter 61A, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in agricultural or horticultural use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.**

**G. In accordance with and subject to the provisions of Section 13 of Chapter 61B of the General Laws, land classified as recreational under said Chapter 61B, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the recreational capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in classified recreational use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.**

**SECTION 4:** By further amending § 184-9.9 by adding the following new Subsections C, D, E, F and G:

- C. In accordance with and subject to the provisions of Section 13B of Chapter 80 of the General Laws, the Town Manager shall, upon the application of the owner of real property on which a sewer assessment has been imposed, if such owner is receiving an exemption from property taxes under clause Forty-first A of Section 5 of Chapter 59 of the General Laws with respect to such property, enter into a deferral and recovery agreement with such owner on behalf of the Town. Any such application shall be filed with the Town Manager within six months after notice of the assessment has been sent. In the case of each such deferral and recovery agreement entered into by the Town Manager and the property owner, the Town Manager shall record in the Barnstable County Registry of Deeds a statement of his or her action which shall constitute a lien upon the land covered by such agreement for such sewer assessment. Such statement shall name the name the owner or owners and shall include a description of the land. The filing fee for any such statement recorded by the Town Manager shall be paid by the owner or owners of such real property.

- D. The provisions of Section 13B of Chapter 80 of the General Laws are hereby accepted by reference as a part of the general ordinances of the Town.
- E. In accordance with and subject to the provisions of Section 5 of Chapter 61 of the General Laws, land classified as forest land under said Chapter 61 is subject to a sewer assessment to such pro rata extent that the service or facility financed by such assessment is used for improving the forest production use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in forest production use and shall become due and payable as of the date when the use of the land is changed. Interest shall be computed from the date of the change in use.
- F. In accordance with and subject to the provisions of Section 18 of Chapter 61A of the General Laws, land classified as agricultural or horticultural under said Chapter 61A, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in agricultural or horticultural use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.
- G. In accordance with and subject to the provisions of Section 13 of Chapter 61B of the General Laws, land classified as recreational under said Chapter 61B, is subject to a sewer assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the recreational capability of said land or for the personal benefit of the owner thereof. However, upon application of the property owner, any such assessment shall be suspended during the time the land is in classified recreational use and shall become due and payable as of the date when the use of such land is changed. Interest shall be computed from the date of the change in use.

**AMENDMENT SECTION 5** – deletes section 184-9.10 in its entirety and inserts a new section in its place:

Current language to be deleted:

Abatements.

A property owner aggrieved by a sewer assessment imposed under this Article II may apply for abatement thereof by filing a request for abatement with the Town Manager on a form provided by the Department of Public Works within six months of the date of notice of such Assessment. The Town Manager shall make a final ruling on the application within 45 days from the date of filing. The filing of the application does not stay the payment of the sewer assessment, which must be paid as assessed. If the abatement request is allowed, the appropriate refund will be made by the Town. A property owner who is aggrieved by the refusal of the Town Manager to abate an assessment in whole or in part may within thirty days after notice of the decision of the Town Manager appeal Page 9 of 21 therefrom by filing a petition for the abatement of such assessment in the superior court in accordance with Section 7 of Chapter 80 of the General Laws.

New language to be inserted:

Abatements.

- A. Petition for Abatement. The owner of any property on which a sewer assessment has been imposed under this Article II may file with the Town Manager a petition for abatement of such assessment on a form provided by the Department of Public Works within six months of the date of notice of such assessment. The Town Manager shall act on such petition within four months of the date of its filing. If the Town Manager fails to act within that time, the petition is deemed to be denied. The Town Manager shall give written notice to the petitioner of his or her decision within ten days after it has been made. The filing of such petition does not stay the payment of the sewer assessment, which must be paid as assessed. If the abatement petition is allowed, the appropriate refund will be made by the Town in accordance with M.G.L. c. 80, § 5.
- B. Appeal of Denial of Abatement. A property owner who is aggrieved by the refusal of the Town Manager to abate a sewer assessment in whole or in part may, within thirty days after notice of the decision of the Town Manager, file an appeal in the Superior Court pursuant to M.G.L. c. 80, § 7, or, alternatively, appeal such decision within said thirty day period to the Barnstable County Commissioners pursuant to M.G.L. § 10. If the Town Manager fails to act on a petition within four months of the date of its filing, the property owner shall have sixty days after the expiration of such four month period to file an appeal.

New language to be inserted:  
Abatements.

- C. Petition for Abatement. The owner of any property on which a sewer assessment has been imposed under this Article II may file with the Town Manager a petition for abatement of such assessment on a form provided by the Department of Public Works within six months of the date of notice of such assessment. The Town Manager shall act on such petition within four months of the date of its filing. If the Town Manager fails to act within that time, the petition is deemed to be denied. The Town Manager shall give written notice to the petitioner of his or her decision within ten days after it has been made. The filing of such petition does not stay the payment of the sewer assessment, which must be paid as assessed. If the abatement petition is allowed, the appropriate refund will be made by the Town in accordance with M.G.L. c. 80, § 5.
- D. Appeal of Denial of Abatement. A property owner who is aggrieved by the refusal of the Town Manager to abate a sewer assessment in whole or in part may, within thirty days after notice of the decision of the Town Manager, file an appeal in the Superior Court pursuant to M.G.L. c. 80, § 7, or, alternatively, appeal such decision within said thirty day period to the Barnstable County Commissioners pursuant to M.G.L. § 10. If the Town Manager fails to act on a petition within four months of the date of its filing, the property owner shall have sixty days after the expiration of such four month period to file an appeal.

**AMENDMENT SECTION 6** – inserts the following new section 184-9-11:  
**Municipal lien.**

Deferred Recording Procedure. The provisions of Section 12 of Chapter 80 of the General Laws, with respect to deferring the recording of the required information for sewer assessments authorized by M.G.L. c. 83 until after the project is completed, assessments are made, and bills issued, and then only for those properties where the assessment was not paid in full within the

thirty day period for paying without incurring interest, are hereby accepted by reference as a part of the general ordinances of the Town

**Open public hearing seeing no one, no one on zoom, close public hearing**

**VOTE: PASSES UNANIMOUS AS WRITTEN**