

C-3

**Proposed Local Law No. \_\_\_\_ of 2018  
Amending Chapter 228 entitled "Wastewater System"  
by adding Article II entitled "Sewer Rents"**

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Harrison, at its meeting to be held at 7:00 P.M., on Thursday, November 1, 2018, at the Municipal Building, 1 Heineman Place, Harrison, New York, will hold a public hearing pursuant to Article 2, Section 10 and Article 3, Section 20 of the Municipal Home Rule Law, by amending Chapter 228, entitled "Wastewater System" by adding Article II entitled "Sewer Rents" as follows:

New material underlined, deletions in [brackets].

This local law shall be known as the "Establishment of a Sewer Rent Law" Law.

§228-8 – Purpose.

Article 14-F of the General Municipal Law authorizes the imposition of sewer rents as a means of raising funds (a) to operate, maintain and repair a municipal sanitary sewer system, and (b) for the payment of indebtedness which has been or shall be incurred for the construction of the sanitary sewer system or such part of parts thereof, and (c) where not prohibited by General Municipal Law §453 (3) to expand such system. This law creates a sewer rent to be imposed upon the properties that discharge sewage into the Town of Harrison's sanitary sewer system. The rents will be used to operate maintain and repair that sewer system and if deemed appropriate by the Town Board and not prohibited by General Municipal Law §453 (3), to expand such system and for the payment of indebtedness which has been or shall be incurred for the construction of the sanitary sewer system or such part or parts thereof. The Town Board finds that a sewer rent more equitably distributes the cost of the sanitary sewer system because it is a function of usage computed based upon water consumption and is charged to all the users of that system including tax exempt properties.

§228-9 - Creation of Article II entitled "Sewer Rents" in Chapter 228 of the Harrison Code.

The Town Board on behalf of the Town of Harrison Consolidated Sewer District hereby adds the following new Article II entitled "Sewer Rents" to Chapter 228 of the Code of the Town of Harrison.

§228-10 - Legislative Intent.

The Town Board finds that it is in the public interest to raise funds (a) to operate maintain and repair the Town's sanitary sewer system, (b) for the payment of indebtedness which has been or shall be incurred for the construction of the sanitary sewer system or such part or parts thereof

and (c) if deemed appropriate by the Town Board and not prohibited by General Municipal Law §453 (3), to expand such system through a sewer rent rather than by taxation because a sewer rent more equitably distributes the cost since it is a function of usage computed based upon water consumption and is charged to all the users of the Town's sanitary sewer system, including tax exempt properties.

#### §228-11 - Definitions.

As used in this Chapter, the following terms shall have the meanings indicated in this section:

REVENUE - the amount of money that the Town Board determines must be collected in a given fiscal year in order to operate maintain and repair the sanitary sewer system and if deemed appropriate by the Town Board and not prohibited by General Municipal Law §453 (3), to expand such system.

SANITARY SEWER SYSTEM - the conduits, drains, pipes, interceptors, laterals, mains, pumps, trunk lines and the other appurtenances or facilities owned operated and maintained by the Town of Harrison (whether located within or outside the Town municipal boundaries) that are used to collect, treat and/or transport sewage.

SEWAGE - water-carried human or animal, wastes and any other liquid waste, whether or not it contains organic matter, together with such ground water infiltration, surface water garbage, refuse, decayed wood, sawdust shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dye stuffs, acids, chemicals, and all other discarded matter as may be present or carried by the water.

SEWER RENT DISTRICT- The Town of Harrison Town Wide Sewer Maintenance District as it currently is constituted and as it may be expanded or contracted from time to time and all parcels of land within the Town of Harrison that may not currently be included in the Harrison Town Wide Maintenance District but have a connection to any municipal sewer system.

SEWER RENT - The Town Board may set the rental rate by resolution and shall set all such rental rates by resolution. The "current" rate will be that rate adopted in the most recent Town Board resolution fixing that rate and shall be available in the Clerk's Office and shall be posted in the office of the Town Department or the official who receives applications requiring a fee.

SEWER RENT FUND - the fund into which the sewer rents are deposited.

SYSTEM USERS - the owners of real property, other than the Town of Harrison, and its Authorities, that discharge into the sanitary sewer system whether such property is located within or outside the Town's municipal boundaries.

WATER CONSUMPTION - the total volume of water delivered by water sources to a property owned by a system user.

WATER SOURCE - any entity that delivers water to a property owned by a system user.

WJWW - Westchester Joint Water Works.

§228-12 – Rates; billing; adjustments.

- A. Annually, the Town Board, by resolution shall set the rate per gallon or per cubic foot, as the case may be, of water consumption to be used in determining the sewer rent for the following fiscal year. That rate shall be calculated by dividing the revenue by the water consumption of all system users in the previous fiscal year. The resolution establishing and imposing the sewer rent shall be adopted only after a public hearing held upon five days' public notice or such other period as may be mandated by General Municipal Law §452 (2) or any statute that may replace it.
- B. A system user shall pay a sewer rent equal to the rate set pursuant to section 228-12(A) multiplied by 90% of the system user's water consumption.
- C. Billing.
1. So long as WJWW is the billing agent for the sewer rent, the sewer rent due from system users whose water source is WJWW shall be the date on which those invoices sent to them by WJWW that contain a charge for the sewer rent are due and payable. For all other system users and if WJWW ceases to be the billing agent for the sewer rent, the sewer rent shall be due and payable on the first day of February, May, August and November of each year.
  2. In the case of system users whose water source is WJWW, invoices for sewer rent shall be sent to the address to which WJWW sends its invoices for water usage. For all other system users and if WJWW ceases to be the billing agent for the sewer rent, invoices for sewer rent shall be sent to the same address that the Town sends bills for real estate taxes to such system users.
  3. The failure to receive a bill for the sewer rent shall not be grounds for waiving penalties or interest imposed as the result of a late payment.
- D. Any system user who maintains that his/her/its sewer rent should be reduced for any given year may make one application to the Town Board for a reduction in that year's sewer rent. Such application must be in writing and be supported by evidence that proves either:
1. That the system user's water consumption was less than the water consumption that was used to calculate the system user's sewer rent for that year; or
  2. That the amount of the system user's water consumption that actually was discharged into the sanitary sewer system was less than the amount of water consumption used to calculate the system user's sewer rent.

E. If the Town Board reduces a sewer rent pursuant to §228-12(D)(2), that system user's sewer rent shall be recalculated based upon the portion of that system user's water consumption that actually was discharged into the sanitary sewer system and not the 90% of that system user's water consumption.

§228-13 - Late payments; penalties liens; enforcement.

- A. A penalty of one (1%) percent of the amount shown as due for sewer rent on an invoice shall be charged for any payment of sewer rent that is made after the date on which it is due and payable. An additional one (1%) percent penalty shall be added to the amount shown as due for sewer rent on an invoice for the sewer rent for each calendar month starting with the first calendar month after the date on which such invoice was due and payable.
- B. Sewer rents imposed upon real property owned by a sewer user shall constitute a lien upon that real property or such part or parts thereof for which sewer rents shall have been established and imposed. The lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other lawful charge imposed by or for the state or a political subdivision or district thereof.
- C. The Town Board, acting on behalf of a sewer district may bring and maintain an action (a) as upon contract for sewer rents in arrears including penalties and interest, or (b) to foreclose liens for such sewer rents. As an alternative to such action, the Town Board may cause a statement to be prepared annually setting forth the amount of the sewer rents in arrears, including penalties and interest, the real property affected thereby and the name of the person in whose name such real property is assessed. The Town Board shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as town 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 taxes. The failure of the Town Board to follow the alternative enforcement mechanism described in the preceding sentence in any given year shall not preclude it from following that procedure in other years.

§228-14 - Use of the sewer rent fund.

- A. The sewer rents including penalties and interest shall be credited to a special fund, to be known as the "sewer rent fund."
- B. As mandated by General Municipal Law §453, moneys in such fund shall be used in the following order:
1. For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of the sanitary sewer system or such part or parts thereof for which sewer rents have been established and imposed (other than indebtedness and the interest thereon)

which is to be paid in the first instance from assessments upon benefited real property).

2. For the payment for the costs of operation, maintenance and repairs of the sanitary sewer system or such part or parts thereof for which sewer rents have been established and imposed.
3. For the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations or for the extension, enlargement, or replacement of, or additions to, the sanitary sewer system, or part or parts thereof.

C. As mandated by General Municipal Law §453, sewer rents shall not be used (1) to finance the cost of any extension of any part of the sanitary sewer system (other than any sewage treatment and disposal works with necessary appurtenances including pumping stations) to serve areas not current served by sewers if such part has been constructed wholly or partly at the expense of real property especially benefited, or (2) for the payment of the interest on, and the amortization, of or payment of, indebtedness which is to be paid in the first instance from assessments upon benefited real property.

§228-15 - Initial Sewer Rent Effective Date.

Notwithstanding the effective date of the local law adding this chapter to the Code of the Town of Harrison, the initial sewer rents shall be imposed starting on January 1, 2019.

§228-16 – Severability.

Should any provision of this Local Law be declared invalid or unconstitutional by any court of competent jurisdiction such declaration of unconstitutionality or invalidity shall not affect any other provisions of this Local Law which may be implemented without the invalid or unconstitutional provisions.

This Local Law shall become effective upon filing with the Secretary of State.

ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

BY ORDER OF THE TOWN/VILLAGE BOARD OF THE TOWN/VILLAGE OF HARRISON.

Jacqueline Greer  
Town Clerk

Dated: Harrison New York  
October 17, 2018