

Village of Port Chester, New York

Local law No. 2 of the Year 2014

A local law amending The Code of the Village of Port Chester

A LOCAL LAW AMENDING THE CODE OF THE VILLAGE OF
PORT CHESTER WITH REGARD TO THE ESTABLISHMENT
OF SEWER RENTS

SECTION 1: The Code of the Village of Port Chester is hereby amended by adding provisions to Chapter 268, previously reserved, to be entitled “Sewer Rents”, to read as follows:

Section 268-1. Purpose; authority

Pursuant to Article 14-F of the General Municipal Law, there is hereby established and imposed a plan of sewer rents applicable to the Village of Port Chester’s sanitary sewer system. Such plan shall consist of annual charges against properties that utilize the Village’s sewers. The annual sewer rents as provided for in this chapter shall be applied to pay the costs of the operation, maintenance, upkeep, repair and replacement of the sanitary sewer system. The purpose of the local law is to preclude the cost of the sanitary sewer system from being funded solely from the property tax and to more equitably distribute such cost on all properties, including tax exempt properties.

Section 268-2. Definitions

For the purpose of this Section, the definitions set forth herein shall be controlling:

(a)SANITARY SEWER SYSTEM – The system for the collection of sewage, including all sewer mains, pumping stations, appurtenances or other facilities, which are owned, operated and maintained by the Village of Port Chester, whether in or outside the Village.

(b)SEWER RENTS – A schedule of annual charges established and imposed by the Village of Port Chester for the use of the sanitary sewer system.

(c)SYSTEM USERS – The record owners of real properties that have sanitary facilities which discharge into the sanitary sewer system, whether the properties are located in or outside of the Village of Port Chester.

(d)TOTAL WATER CONSUMPTION – Shall mean the total volume of water delivered to a property by the water source for which a sewer user is responsible. The total volume of water shall be the sum of the volume of water metered by, or otherwise calculated by the water source.

(e)WATER CONSUMPTION – The consumption of water, measured in hundreds of cubic feet (“CCF”); one CCF equals 748 gallons.

(f)WATER SOURCE – Shall mean any entity that delivers water to a property such as United Water Westchester or its’ successors in interest or assigns.

Section 268-3. Obligation to pay sewer rent

All system users, as defined herein, shall be liable for fees and sewer rent as enacted.

While system owners may charge a tenant (s) for sewer rent, owners are liable to the Village for payment for sewer rents. The failure of tenants to reimburse or indemnify a system user shall not be a defense to the obligation to pay sewer rent. All sewer rents and penalties shall be a charge against the property for which the system user and any successor in interest shall be liable therefor.

Section 268-4. Sewer rent; adjustments; changes

A. Sewer Rent. System users shall pay an amount based on the actual water consumption as determined by the water source using a water meter or other measuring device, or an estimated amount if the water source is unable to obtain a reading.

B. Adjustment. System users may apply to the Village for an adjustment of the amount of water consumption. Such application shall in writing, accompanied by any prescribed filing fee, and include all evidence to support the degree and amount of water usage that is claimed to be applied for uses that do not result in discharges into the sanitary sewer system. The Board may grant an adjustment on an appeal as provided hereinafter, but in no event shall such adjustment exceed ten (10) percent of the water consumption.

C. Changes. The initial rate of the sewer rent shall be established by resolution of the Board of Trustees after public hearing on five days’ notice. Subsequent changes to the rate of the sewer rent and amount of penalty shall be made in the same manner.

Section 268-5. Annual costs of the sanitary sewer system

The annual operation and maintenance costs of the sanitary sewer system shall be determined as part of the Village’s budget process. The annual costs shall include, but not be limited to:

- (1) Personnel services, including salaries and fringe benefits
- (2) Contractual services
- (3) Repairs and replacement to the sanitary sewer system
- (4) Materials and supplies
- (5) Utilities
- (6) Building repair and maintenance
- (7) Equipment
- (8) Testing and sampling

(9) Insurance

(10) Indebtedness (11) Auditor's

Fees (12) Reserve Fund (13)

Contingency

Section 268-6. Billing and payments.

A. System users shall be billed by the Village or entity to which billing authority has been designated on a frequency established by the Village.

B. Sewer rents shall be paid to the Village of Port Chester.

C. Sewer rent bills shall be sent to system users to the address to which real estate bills would be sent.

(1)The failure of a system owner to receive a bill shall not excuse non-payment thereof, nor shall it act as a waiver of a penalty imposed herein prescribed.

(2)A system user that intends to convey property shall notify the Village or entity to which billing authority has been delegated sufficiently in advance of the closing title for a final reading and new ownership information.

D. System users may be afforded the option of receiving e-bills or direct deposit of payments. System users may request that a tenant receive bills, and such additional notice may be given as an accommodation.

E. Any adjustments granted, issued or agreed upon with regard to actual water consumption shall be indicated to system users and reflected in the next succeeding bill.

Section 268-7 Late payments, penalties, liens, enforcement

A. All bills shall become due and payable without penalty within twenty-five (25) days of issuance.

B. A penalty of one percent will be charged for any bill that remains unpaid after twenty-five (25) days. An additional penalty of one percent shall be added for each succeeding month or any portion of a month in which the sewer rent continues to remain unpaid.

C. Unpaid sewer rents, penalties and interest shall constitute a lien upon the real property as provided by General Municipal Law, Section 452. This lien shall have priority and be senior to every other lien with the exception of the lien of an existing tax, assessment or other lawful charge imposed by the state of a political subdivision or district thereof.

D. Delinquent accounts shall be collected and enforced in a manner authorized by General Municipal Law, Section 452. The Board of Trustees acknowledges that it may bring and maintain an action as upon contract

for sewer rents in arrears, including penalties and interest or to foreclose liens for such sewer rents. As a first preference, the Board desires to take advantage of the alternative process through the tax collection and enforcement process that is authorized as an alternative. The Board shall annually cause a statement to be prepared setting forth the amount of each lien for sewer rents in arrears, the real property affected thereby and the name of the person in whose name such real property is assessed. Such statement shall be presented to the Board of Trustees on or before a date to be specified by it. The Board shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as city, village, county or town taxes, as the case may be and such amounts shall be caused to be set forth in separate column in the annual tax rolls. The amounts so levied shall be so collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of city, village, county or town taxes, as the case may be.

Section 268-8. Collection of sewer rents; sewer rent fund.

All revenues from sanitary sewer rents including penalties shall be kept in a separate bank account to be designated as “sewer rent fund” All such funds, together with any interest thereon, shall be used in accordance with General Municipal Law, Section 453.

Section 268-9. Appeals

A system user may apply to the Board of Trustees for review of any determination made by the Village or entity to which billing authority has been designated. Determinations by the Board of Trustees are subject to judicial review pursuant to Article 78 of the New York Civil Practice Law and Rules.

Section 268-10. Properties located outside the Village

System users for properties located outside the territorial limits of the Village of Port Chester are liable for charges in accordance with this chapter unless the subject of an existing agreement with the Village.

Section 268-11. Exemption

The property of the Village of Port Chester is solely exempt from the obligation to pay sewer rent.

Section 268-12. Agreement with water source

Together with United Water Westchester, the Village of Port Chester has petitioned the New York State Public Service Commission for authorization to contract with the water company to utilize its water consumption data, perform billing functions, as well as provide any other services necessary to administer this chapter.

Section 268-13. Severability

Should any section or provisions of this Local Law be adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this Local Law, and it shall be construed to have been the legislative intent to enact this Local Law without such unconstitutional or invalid parts therein.

SECTION 2: This local law shall be effective upon filing in the Office of the Secretary of State.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. **2** of the 2014 of the Village of Port Chester was duly passed by the Village Board of Trustees on **February 18, 2014** in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20___ of the Village of Port Chester was duly passed by the Village and was (approved) (not approved) (repassed after disapproval) by the ___ and was deemed duly adopted on in accordance with their applicable provisions of law.

3. (Final adoption by referendum)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of Year 20___ of the Village of Port Chester was duly passed by the _____ on ___, 20___ and was (approved) (not approved) (repassed after disapproval) by the _____ on ___, 20___. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on ___, 20___, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20___ of the Town of Rye was duly passed by the _____ on _____ 20___, and was (approved) (not approved) (repassed after disapproval) by the _____ on _____, 20___. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of ___, 20___, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20___ of the City of ___ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of the majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____, 20___ became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law hereto, designated as local law No. ___ of 20___ of the County of Westchester, State of New York, having been submitted to the electors at the General Elections of November _____, 20___, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of the said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Village Clerk

Date: February 20, 2014

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