

VILLAGE OF CAYUGA HEIGHTS

LOCAL LAW 2 OF THE YEAR 2017

**A LOCAL LAW TO RE-ESTABLISH AND MODIFY THE
METHOD FOR CALCULATION OF SEWER RENTS
AND TO REPLACE LOCAL LAW #8 OF 2011**

Be it enacted by the Board of Trustees of the Village of Cayuga Heights as follows:

SECTION I PURPOSE AND INTENT.

It is the intent of this Local Law to provide a mechanism for the calculation of sewer charges (hereinafter referred to as “sewer rents”) for the use by various types of users of the sewer treatment system owned and operated by the Village of Cayuga Heights (the “Village”).

It has come to the attention of the Village that when Local Law #8 of 2011 was enacted, and thereby Article XII of the Village’s Articles was deleted in its entirety, Section 3 of said Article XII should not have been deleted, because said Section 3 provided a mechanism for the calculation of the number of sewer units that is attributable to the use by various types of user, which has been the basis for calculation of sewer rents. Further, the Village has determined that the method for the calculation of sewer rents provided in said deleted Section 3 of Article XII is not an appropriate measure of the use of the sewer system and should be modified.

Additionally, the Village has determined that certain other terms of Local Law #8 of 2011 could be improved to more clearly and completely describe the bases, procedure and mechanisms for calculation and collection of sewer rents and related matters.

The Village finds and determines that the most equitable manner of collecting funds from users of the Village’s sewer system is to charge for such usage on the basis of the consumption of water by such users of the Village’s sewer system. Sewer rents are to be established and imposed for the use of the Village’s sewage treatment and disposal facilities and the appurtenances thereto, including the pumping station, and the extension, enlargement and replacement of, and addition to, such facilities, and the operation, maintenance and repair of the Village’s entire sewer system, including the Village’s waste water treatment plant and sewer collection system.

Consequently, the Village has determined that the entirety of Local Law #8 of 2011 should be replaced. Therefore, the purpose of this Local Law is to replace Local Law #8 of 2011 to re-establish and modify the method for calculating sewer rents for different types of users of the Village’s sewer treatment system and to more clearly and completely state the bases, procedure and mechanisms for calculation and collection of sewer rents and related matters, in order to produce revenue to be used as referenced herein.

SECTION II AUTHORITY.

This Local Law is enacted pursuant to the grant of powers to local governments provided in (i) Section 10 of the Municipal Home Rule Law to adopt and amend local laws not inconsistent with the provision of the New York State Constitution and not inconsistent with any general law relating to its property, affairs, government or other subjects provided for in said Section 10 of the Municipal home Rule Law, (ii) General Municipal Law Article 14-F, (iii) General Municipal Law Sections 451 and 452, and (iv) Village Law Article 14.

SECTION III REPLACEMENT OF LOCAL LAW #8 OF 2011.

As of the effective date of this Local Law, the entirety of Local Law #8 of 2011, is hereby deleted and replaced by the following terms and provisions:

SECTION 1. Establishment of Rents and Amounts.

The Village hereby establishes and imposes sewer rents for the use of the Village's sewer system or any part or parts thereof. The calculation of sewer rents to be paid by all users the Village's sewer system shall be based upon the consumption of water on the premises served by the Village's sewer system. Pursuant to the aforementioned laws, the Village Board shall from time to time by local law establish the rate at which such sewer rents are calculated. Such local laws shall be adopted after a public hearing upon five days' public notice.

SECTION 2. Calculation of the Sewer Rent for Various Types of Users of the Village's Sewer System.

- A. The charges for sewer rents shall equal the current rate charged by the Village for sewer usage multiplied by the quantity of sewer usage calculated for different types of users of the Village's sewer system as follows:
 - 1. Any property improved by not more than one single-family residential structure connected, or to be connected, to the Village's sewer system shall be charged for a quantity of sewer usage equal to the quantity of water usage that is attributed to such property for billing purposes in accordance with the formula employed by the Southern Cayuga Lake Inter-Municipal Water Commission ("SCLIWC"), *including* the formula's method for calculating the minimum base charge for water usage, but *excluding* the component of such formula relating to meter size;
 - 2. Any property improved by a two-family residential structure, an apartment building or buildings or any other multiple residential dwelling, other than a fraternity house, sorority house or dormitory, connected, or to be connected, to the Village's sewer system shall be

charged for a quantity of sewer usage equal to the quantity of water usage that is attributed to such property for billing purposes in accordance with the formula employed by the SCLIWC, *including* the formula's method for calculating the minimum base charge for water usage, but *excluding* the component of such formula relating to meter size, except that such charges for sewer usage will be calculated for *each* dwelling unit on such property, notwithstanding that SCLIWC's formula for billing purposes treats residential properties with two dwelling units as having one dwelling unit; and

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3. Any other property, including but not limited to any property improved by a fraternity house, sorority house, dormitory, or any commercial, business or industrial property, including but not limited to any school, place of worship, office, gas station or store, shall be charged for a quantity of sewer usage equal to the quantity of water usage that is attributed to such property for billing purposes in accordance with the formula employed by SCLIWC, *including* the formula's method for calculating the minimum base charge for water usage, but *excluding* the component of such formula relating to meter size, and excluding any portion of the property's waste water that is not discharged into the Village's sewer system in accordance with a special permit for such property.

SECTION 3. Cooperation by Owners and Occupants of Real Property and Other Users of the Village's Sewer System.

The Village Engineer may require each owner and/or occupant of real property within the Village connected to the Village's sewer system, as well as any other user of the Village's sewer system, to furnish such information as may be necessary and reasonable in order to carry out the provisions of this Local Law. Any duly authorized officer, employee, contractor, or agent of the Village or other person duly authorized by the Village, including employees and contractors of, and persons authorized by, the Southern Cayuga Lake Intermunicipal Water Commission, shall have authority to enter upon any property connected to the Village's sewer system, or any property the waste from which is transported through the Village's sewer system or treated at the Village's waste water treatment plant, at reasonable hours for the purpose of reading meters, inspecting, disconnecting or repairing such meters or connections to the Village's sewer system, or for any other purposes reasonably necessary to carry out the provisions or purposes of this Local Law.

SECTION 4. Payment and Collection; Liens for Unpaid Sewer Rents.

- A. All sewer rents and charges due in accordance with this Local Law shall be payable to the Village quarterly and shall be delivered to the Village Clerk at the Village Offices at 836 Hanshaw Road, Ithaca, New York 14850, except for such rents and charges

which are due and payable to any other entity to whom billing authority for sewer rents or other charges has been given or delegated by the Village.

- B. The Village Clerk or other person authorized by the Village Board shall keep a record of all properties within the Village which are connected to the Village water system. The Village Clerk, or such other authorized person, also shall keep a record of the connections to the Village's sewer system that exist to transport or treat waste water generated on properties outside of the Village. The Village shall mail sewer bills to the owner of such properties within the Village, or to such other person to whom a water bill for such properties is addressed, billed, or mailed by the Village or other entity performing water billing services for the Village, at the address appearing on said water bill. For usage of the Village's sewer system to transport or treat waste water generated on properties outside of the Village, the Village shall mail sewer bills to the municipality in which such properties are located. If a property is connected to the Village's sewer system but is not connected to the Village operated water system, unless the property owner has directed the Village in writing to use a different address, the Village shall mail the sewer rent bill to the address to which real estate tax bills for the property are sent. The failure of any owner or other user to receive a bill shall not excuse nonpayment thereof, nor shall it operate as a waiver of the penalty herein prescribed. Notwithstanding any other provision in this Local Law, all sewer rents,

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- C. surcharges or other fees or charges relating to sewer service shall be a charge against the owner of the premises connected with the Village's sewer system, and such owner shall be liable for the payment of all such rents and charges, including penalties and interest.
- D. In the event any sewer rent is not paid within thirty (30) days of the date of the bill, there shall be added a penalty of ten percent (10%) for late payment.
- E. If sewer rents or other charges payable hereunder are not paid within sixty (60) days from the date on which they are due, the Village Clerk or other person designated by the Village Mayor may cause a notice to be delivered or mailed to the owner, or to any other person designated by the owner, addressed to the address to which bills are to be sent, and to the occupant of the premises, addressed at the premises, stating the amount due and demanding payment thereof within a period of not less than ten (10) days of the date of the notice and stating that if such payment is not made, the sewer service shall be discontinued, without further notice, and, at the expiration of such period, the Village Clerk, or any employee or officer of the Village designated by the Village Mayor, or the Village Board, or any person referred to in Section 3 above, may enter on said premises and cause the sewer service to be disconnected.
- F. Sewer rents and any other charges payable hereunder shall constitute a lien on the real

property served by the sewer system. The priority of such lien, and the enforcement thereof, shall be in accordance with Article 14-F of the General Municipal Law, which presently provides that 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 enforced by or for the state or a political subdivision or district thereof.

- G. The Village may bring an action (1) as upon contract, for sewer rents, surcharges thereto, and all other charges incurred by the owner of property in connection with sewer service, which are in arrears, together with interest and penalties thereon, or (2) to foreclose liens for such sewer rents and surcharges. Also, in the alternative, the Village Board may cause any unpaid sewer rents, surcharges or other charges to be levied and collected in the same manner and at the same time as the Village or County tax in accordance with the provisions of Article 14-F (Subdivision 4 of § 452) of the General Municipal Law, or any amendment thereof.

SECTION 5. Collection of Other Costs.

Any costs and expenses or other charges other than those hereinbefore described, incurred by the Village because of any repair or other work to the Village's sewer system or otherwise for which the owner of any property served by or connected with the Village's sewer system is obligated under this Local Law or any other local law, ordinance, statute or provision of law, shall be collected in the manner provided for the collection of sewer rents in this Local Law, and shall be a lien upon the property and enforceable in accordance with the provisions of this Local Law, or any other applicable provision of law.

SECTION 6. Charges for Trucked or Hauled Waste.

The Village shall charge for treatment of trucked or hauled waste accepted for treatment and disposal at the Village's waste water treatment plant on the basis of the actual quantity of such waste, however, if such actual quantity is less than 10,000 gallons, then there shall be imposed a minimum charge equal to sewer rents calculated on the basis of 10,000 gallons of water consumption. Any such treatment of trucked or hauled waste must be separately permitted by the

Village Board and must comply with all rules and regulations of the Village and the State of New York.

SECTION 7. Correction of errors.

If any owner of real property on which a sewer rent has been imposed deems himself or herself aggrieved because such real property is not served by the sewer system or an error has been made in computing such sewer rent, he or she may file an application for a refund of all or part of such sewer rent. Such application shall be verified by the owner and shall set forth the amount of refund sought and the grounds therefor. Such application shall be presented to the Village's Board of Trustees, which may refund all or part of such sewer rent. Any such application shall be filed within sixty (60) days of the time the applicant learns of the claimed error, and in any event within four (4) months of the date of the bill claimed to be in error. The Village Board may, for good cause shown, extend the time for the filing of such application if circumstances demonstrate that the charges are patently unfair and that the applicant had a reasonable basis for not timely filing the application for correction of the error.

SECTION 8. Sewer Rent Fund.

Any revenues derived by the Village from sewer rents, including penalties and interest, shall be deposited in a special fund to be known as the "Sewer Rent Fund." Monies in such fund shall be used for the payment of the necessary management, maintenance, operation, repair and financing of any sewer improvement or service provided by the Village, including any payment required to be made by the Village to any contracting municipality for such purposes, including interest and penalties. Except as otherwise stated in this Local Law, at any time, any surcharges on said sewer rents shall be used for the costs of sewer operations as above defined and shall be specifically designated for such purpose in the Sewer Rent Fund. Moneys in the fund shall be used to pay the Village's share of the operating and maintenance costs and capital costs, to the extent authorized by law and the Village Board, related to collection, transmission and treatment of sewage and for any other purpose authorized by General Municipal Law § 453 as the same may be amended from time to time.

SECTION 9. Applicability.

This Local Law shall apply to all properties in the Village as well as to all users of the Village's sewer system and the municipalities in which such users are located. Sewer rents shall not be charged against properties granted special permit under Article VIII of the Village's Articles or against properties connected to any other municipal system, except against those properties where the Village pays the rent of such a connection.

SECTION IV SUPERSEDING EFFECT.

All Local Laws, Articles, resolutions, rules, regulations and other enactments of the Village of Cayuga Heights in conflict with the provisions of this Local Law are hereby superseded to the extent necessary to give this Local Law full force and effect. Without limiting the foregoing, to any extent that the terms of Local Law #8 of 2011 of the Village of Cayuga Heights are deemed to be in conflict with the terms of this Local Law, the terms of this Local Law shall govern and control.

SECTION V PARTIAL INVALIDITY.

In the event that any portion of this Local Law is declared invalid by a court of competent jurisdiction, the validity of the remaining portions shall not be affected by such declaration of invalidity.

SECTION VI EFFECTIVE DATE.

This Local Law shall be effective immediately upon filing in the office of the New York State Secretary of State, except that it shall be effective from the date of its service as against a person served with a copy thereof, certified by the Village Clerk, and showing the date of its passage and entry in the Minutes of the Village Board of Trustees.