

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND FIFTEEN

—
 H.P. 841 - L.D. 1223

An Act To Revise the Charter of the Kennebunk Sewer District

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation must take effect before the expiration of the 90-day period in order for necessary improvements to be made to the Kennebunk Sewer District system; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Territorial limits; corporate name; purposes. The inhabitants and territorial limits within that part of the Town of Kennebunk situated between the Atlantic Ocean and the southeasterly side of the Maine Turnpike and the territory of the Town of Kennebunk situated on the northwesterly side of the Maine Turnpike and described on the October 2004 Town of Kennebunk tax maps as follows: Map 020, Lot 001; P/O Map 020, Lot 002; Map 027, Lot 014; Map 020, Lot 018; P/O 018, Lot 071; P/O 018, Lot 067; Map 018, Lot 072; P/O 028, Lot 005; Map 027, Lot 005; Map 027, Lot 004; Map 027, Lot 011; P/O 029, Lot 010; P/O 021, Lot 098; Map 020, Lot 001; Map 020, Lot 002; Map 027, Lot 022; Map 027, Lot 020; Map 027, Lot 019; Map 020, Lot 003; and Map 020, Lot 024 are made and declared to be a public sewerage district and a quasi-municipal corporation under the name "Kennebunk Sewer District," referred to in this Act as "the district," and is a system of public sewerage constructed, maintained and operated for the public health and welfare and for the benefits of the inhabitants and property in the district served by the sewerage facilities, in the manner and with the rights, duties and immunities as described in this Act and all applicable statutes.

The district is authorized to provide services outside the territory of the district to school buildings and facilities owned by Maine Regional School Unit 21 or its successors

and to municipal buildings and facilities owned by the Town of Kennebunk and may own such easements, rights of way, sewer lines and other facilities as are necessary or convenient to provide that service, but is not responsible for the costs of locating and constructing sewer facilities located outside the boundaries of the district for that purpose. Any sewer facilities located outside the boundaries of the district for that purpose may be used only by Maine Regional School Unit 21 or its successors and the Town of Kennebunk.

Sec. 2. Authority to construct and maintain. Inside the territory and outside the territory to serve buildings and facilities owned by Maine Regional School Unit 21 or its successors and the Town of Kennebunk, the district has the authority to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the pipes, drains, sewers and conduits or to contract for the pipes, drains, sewers and conduits to be done, in, along and through any public or private ways and public grounds, and in, along and through lands of any person or corporation as provided in this Act, to and into tidal waters, rivers, watercourses and treatment works or into any drain or sewer now or hereafter built that empties into tidal waters, rivers, watercourses and treatment works. The discharge from the pipes, drains, sewers and conduits must be at such points consistent with the requirements of public health as found convenient and reasonable for the district and the flow of existing watercourses. The district shall construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying and disposing of sewerage matter and commercial and industrial waste as may be necessary or proper. The district has the authority to do any or all other things necessary or incidental to accomplish the purposes of the district.

Sec. 3. Exemption from taxation. The district is a public municipal corporation within the meaning of the Maine Revised Statutes, Title 36, section 651, and the property of the district is exempt from taxation to the extent provided in that section.

Sec. 4. Board of trustees. All affairs of the district are managed by a board of trustees composed of 5 members who must be residents of the district and elected as provided in this Act. The trustees holding office on the effective date of this Act shall continue to hold office until their terms expire.

1. Nominations and elections; vacancies; terms. Nominations and elections of trustees must be conducted in accordance with the laws relating to municipal elections in the Maine Revised Statutes, Title 30-A, chapter 121, and all elections must be conducted by secret ballot in accordance with Title 30-A, section 2528.

If a vacancy arises in the membership of the board of trustees, the district shall call a special election, except that, upon request by the board, the municipal officers may fill the vacancy by appointment.

The preparation and correction of lists of the persons qualified to vote in the district is the responsibility of the registrar of the Town of Kennebunk as defined in Title 21-A, section 1, subsection 38 and must be performed under the same procedure governing the preparation and correction of lists of persons qualified to vote in town elections. All meetings of the district are presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings. All warrants issued for elections

by the trustees must show that only the voters residing within the territorial limits of the district are entitled to vote.

At each annual municipal election of the Town of Kennebunk, the voters of the district shall elect a trustee for the term of 3 years. If the Town of Kennebunk does not hold an annual election, the district shall arrange for an annual election to fill the trustee position that ends in that year and to fill any vacancy in the office of trustee. When a trustee ceases to be a resident of the district, the trustee shall vacate the office of trustee and the vacancy is filled as provided in this subsection, as applicable. All trustees are eligible for reelection or reappointment, but a person who is a municipal officer, as defined in Title 30-A, section 2001, subsection 10, of any town located, in whole or in part, within the district is not eligible for appointment, nomination or election as a trustee of the district.

2. Organization; conduct of business. After each annual municipal election of the Town of Kennebunk, the trustees shall organize by electing a chair, vice-chair, treasurer and clerk. The trustees may adopt a corporate seal and, when necessary, may choose other needful officers and agents for the proper conduct and management of the affairs of the district and fix any compensation for such officers or agents, who serve at the pleasure of the board of trustees. The treasurer shall furnish bond or insurance in such a sum and with such sureties as the trustees approve, the cost of the bond or insurance to be paid by the district.

The trustees may adopt and establish bylaws and rules and regulations consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the district and perform other acts within the powers delegated by law to the trustees.

The trustees are sworn to the faithful performance of their duties, which include the duties of any member who serves as clerk or clerk pro tem.

At the close of each fiscal year, the trustees shall make a detailed report of their activities, of the receipts and expenditures of the district, of its financial and physical condition and of other matters and things pertaining to the district and shall file the report with the municipal authorities.

Business of the district must be conducted in accordance with the applicable provisions of the Freedom of Access Act.

3. Meetings of district. The trustees may call meetings of the district at any time. Notice of the meeting, signed by the chair or clerk of the board, must be conspicuously posted at the Kennebunk Town Hall not less than 7 days before the meeting and must state the business to be transacted at the meeting.

On written petition of 10% of the voters of the district, the trustees shall call a meeting of the district within 60 days.

All persons resident in the district and qualified to vote for Governor under the laws of this State are entitled to vote in any meeting of the district.

4. Meetings of trustees. The trustees may call meetings of the board of trustees at any time. Notice of the regularly scheduled meetings of the board, signed by the chair or clerk of the board, must be posted at the offices of the district and the Kennebunk Town

Hall not less than 7 days before the meeting and must state the business to be transacted at any such meeting.

Special meetings of the board may be called as are regularly scheduled meetings, but on one day's notice.

In the event of an emergency meeting, local representatives of the media must be notified of the meeting, whenever practical. Notification must include time and location and must be in the same manner as used to notify the members of the board. The minutes of an emergency meeting must state the reason for the meeting.

5. Decisions of the board. All decisions of the board of trustees must be made by a majority of those present and voting, except that a vote to approve the issuing of any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance must be approved by a majority of the entire board. A quorum of the board consists of the total number of authorized trustees divided by 2 and, if necessary to obtain a whole number, the resulting number rounded up to the next whole number.

Trustees are subject to the conflict of interest provisions of Title 30-A, section 2605.

6. Trustee compensation. The trustees receive compensation as recommended by the trustees and approved by majority vote of the municipal officers of the Town of Kennebunk, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws. Compensation for duties as trustees must be based on an amount specified in the bylaws for each meeting actually attended plus reimbursement for travel and expenses, with the total not to exceed a specific amount as specified in the bylaws. Compensation schedules in effect on January 1, 2013 continue in effect until changed.

7. Trustee retirement. A person who has not been a trustee prior to January 1, 1987, or who is not a full-time employee, is not eligible to become a member of the Maine Public Employees Retirement System as a result of the person's selection as a trustee.

8. Expenses. The trustees may obtain an office and incur necessary expenses.

9. Recall. The trustees may be recalled in accordance with the following provisions.

A. The qualified electors of the district may petition for the recall of a trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition must be signed by electors equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within the district. The recall petition must state the reason for removal.

B. Within 3 business days after the petition is offered for filing, the municipal clerk shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the

certificate must state the particulars creating the insufficiency. The petition may be amended to correct an insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, the petition must again be carefully examined to determine sufficiency and a certificate stating the findings must be attached. Immediately upon finding an original or amended petition sufficient, the municipal clerk shall file the petition and call a special election to be held not less than 45 days nor more than 90 days from the date the municipal clerk certifies the petition as sufficient. The municipal clerk shall notify the trustee against whom the recall petition is filed of the special election.

C. The trustee against whom the recall petition is filed is a candidate at the special election without nomination, unless the trustee resigns within 10 days after the original filing of the petition. There is no primary. Candidates for the office may be nominated under the usual procedure of nomination for trustees by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and having their names placed on the ballot at the special election.

D. The trustee against whom a recall petition has been filed shall continue to perform the duties of the trustee's office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election is declared elected for the remainder of the term. If the incumbent receives the highest number of votes, the incumbent continues in office. If another candidate receives the highest number of votes, the other person succeeds the incumbent within 10 days after receiving notification.

E. After one recall petition and special election, no further recall petition may be filed against the same trustee during the term for which the trustee was elected.

Sec. 5. Coordination with municipal planning. The following provisions facilitate coordination of municipal planning and sewer extension planning.

1. Growth management. The trustees shall cooperate with municipal officials in the development of municipal growth management and other land use plans and ordinances.

2. Development that affects the district. Municipal officers shall cooperate with the trustees during the consideration of development applications that may affect the operations of the district.

Sec. 6. Powers. Except as otherwise provided by law, for the purposes of its incorporation, the district may locate, construct and maintain pipes, drains, sewers, conduits, treatment plants, pumping stations and other necessary structures and equipment for the collection, interception and treatment of sewerage, commercial and industrial waste and storm and surface water for the health, welfare, comfort and convenience of the inhabitants of the district.

All incidental powers, rights and privileges necessary to accomplish the objectives of this chapter are granted to the district.

Sec. 7. Right of eminent domain. The authority and procedures for the exercise of eminent domain by the district must conform to the Maine Revised Statutes, Title 38, sections 1152, 1152-A, 1153 and 1154. In addition, the district may not take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of the public utility in the performance of a public duty, unless expressly authorized by a special Act of the Legislature.

Sec. 8. Crossing other public utilities and railroad corporations. If the district, in constructing, maintaining or replacing any of its facilities, must cross property of another public utility or railroad corporation, the district must obtain the consent of the other public utility or railroad corporation and undertake the work in accordance with conditions established by agreement. If, within 30 days after requesting consent, the district fails to reach an agreement with the public utility or railroad corporation, the district may petition as follows.

1. Public utility. In the case of crossing property of a public utility, the district may petition the Public Utilities Commission to determine the time, place and manner of crossing. All work done on the property of the public utility must be done under the supervision and to the satisfaction of the public utility or as prescribed by the Public Utilities Commission.

2. Railroad corporation. In the case of crossing the property of a railroad corporation, the district may petition the Department of Transportation to determine the time, place and manner of crossing. All work done on the property of the railroad corporation must be done under the supervision and to the satisfaction of the railroad corporation or as prescribed by the Department of Transportation.

All work under this section must be done at the expense of the district.

Sec. 9. Sewer extensions. Sewer extensions are governed by this section.

1. Written assurance from municipality. The district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:

- A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and
- B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

If the municipal officers fail to issue a response to a written request from the district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.

Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension, the trustees shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass.

2. Review of municipal decision. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the Department of Agriculture, Conservation and Forestry for a review of the municipal officers' decision. Notwithstanding the Maine Revised Statutes, Title 5, chapter 375, subchapter 4, the following procedures apply to the review by the Department of Agriculture, Conservation and Forestry.

A. The Department of Agriculture, Conservation and Forestry may request any additional information from the sewer district, the municipality or the Department of Environmental Protection. All information requested must be submitted within 30 days of the request, unless an extension is granted by the Department of Agriculture, Conservation and Forestry.

B. Within a reasonable time, the Department of Agriculture, Conservation and Forestry shall hold a hearing. The Department of Agriculture, Conservation and Forestry shall give at least 7 days' written notice of the hearing to the district, the municipality and the party that requested the hearing. The hearing is informal and the Department of Agriculture, Conservation and Forestry may receive any information it considers necessary.

C. Within 15 days of the hearing and within 60 days of the request for review, the Department of Agriculture, Conservation and Forestry shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the Department of Agriculture, Conservation and Forestry constitutes final agency action.

D. Notwithstanding subsection 1, if the Department of Agriculture, Conservation and Forestry determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the Department of Agriculture, Conservation and Forestry shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use and the sewer district may construct the sewer extension.

Sec. 10. Conditions for carrying out work. When the district enters, digs up or excavates a public way or other land for the purpose of laying its sewers, drains or pipes or constructing or maintaining manholes or catch basins or their appurtenances or for any other purpose, the work must be done expeditiously. Upon completion of the work, the district shall restore the way or land to the condition it was in prior to the work or to a condition equally as good. Whenever the character of the work is such that it endangers travel on a public way, the municipal officers of the Town of Kennebunk may order a temporary closing of the way and of any intersecting way upon request of the district. The way must remain closed to public travel until the municipal officers determine it restored to a condition safe for traffic.

Sec. 11. Contracts. The district, through its trustees, in order to carry out the purposes of its incorporation, may contract with a person, district, utility or corporation or with a municipality, the State or other governmental entity whether located inside or outside the boundaries of the district.

Sec. 12. Lease of property. The district may enter into a lease and leaseback transaction with respect to some or all of its real or personal property, other than land, and may take all other necessary action, including, but not limited to, the granting of mortgages and liens, to effectuate the transaction. For purposes of this section, "lease" includes a lease of any length, including leases that may be defined as sales for income tax purposes.

Sec. 13. Enforcement. The district has enforcement powers as specified in this section.

1. Violation of standards by an industrial user. The district may seek in a civil action injunctive relief from an industrial user that violates a pretreatment standard or requirement, administered by the district. The district may seek a civil penalty of up to \$1,000 per day for each violation by an industrial user of a pretreatment standard or requirement.

2. Injury to property of the district. A person may not place, discharge or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of the district contrary to its regulations or knowingly injure any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the district.

A person who violates this subsection is liable to pay twice the amount of the damages to the district to be recovered in any proper action and is subject to a civil penalty not to exceed \$2,500 for each violation, payable to the district. The civil penalty is recoverable in a civil action.

3. Required connection. Except as provided in subsection 4, upon receiving a request from the district to connect a building located in the territory of the district that is accessible to a sewer or drain of the district and that is intended for human habitation or occupancy or that has facilities for discharge or disposal of wastewater or commercial or industrial waste, the owner of that building shall arrange to have the building connected through a sanitary sewer or drainage system to the district's accessible sewer or drain in the most direct manner possible. If feasible, each building requiring connection must have its own separate connection. The connection must be completed within 90 days of the receipt by the owner of the request, or within any extended period requested by the owner and agreed to by the trustees. For purposes of this subsection, "owner" includes the owners of record or any person against whom property taxes on the building are assessed.

A person who receives a notice in accordance with this subsection to connect to a building and fails to connect to the building in accordance with this subsection is subject to a civil penalty not to exceed \$2,500, payable to the district. This penalty is recoverable in a civil action.

4. Connections not required. An existing building that is already served by a private sewer system is not required to connect with a sewer or drain of the district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate applicable law or ordinance applicable to the connection with a sewer or drain of the district or any applicable requirements of the state plumbing

code, as determined by the municipal plumbing inspector or the municipal plumbing inspector's alternate, or, in the event that both are trustees or employees of the sewer district, the division of health engineering within the Department of Health and Human Services.

5. Permissive connection. A person not otherwise required to connect a private sewer into a sewer of the district may connect to the district's sewer if that person obtains a permit from the district and pays any charges required by the district. The clerk of the district shall record the permit in the district records.

Sec. 14. Inspection of sewers. The officers or agents of the district have free access to all premises served by the district's sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge and to enforce this Act and the rules prescribed by the trustees.

Sec. 15. Rights and obligations of abutters and others to enter. A person may not connect a private sewer to a district sewer until:

1. Inspection. The private sewer has been inspected by a designated agent of the district and that agent has certified in writing that the private sewer has been constructed in compliance with and meets all requirements and conditions of the district's regulations;

2. Payment. The person has paid or has made arrangements acceptable to the district to pay all assessments, impact fees or other charges the district imposes when a private sewer is connected to any of the district sewers; and

3. Permit. The person has obtained a permit in writing permitting the connection from the trustees. Before a permit is issued, the clerk or the clerk's designee for the district shall record the permit in the district's records.

Every building in the district intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste accessible to a sewer of the district must, in the most direct manner possible, connect to the district sewer within 90 days after receiving from the district a request to connect or within such further time as the trustees of the district may grant. Whenever feasible, each building must have a separate connection to the district's sewer. A building is considered accessible to a sewer of the district if the building is at any point within 200 feet of a district sewer or if any private sewer or drain directly or indirectly connected to the building or carrying wastewater or commercial or industrial waste from the building comes within 200 feet of a district sewer. This section does not require the owner of a building to acquire any real property or easement for the sole purpose of making the connection.

Sec. 16. Rates and fees. A person, firm and corporation, whether public or private or municipal, shall pay to the treasurer of the district rates established by the trustees for the sewer or drainage service used or available with respect to their real estate so long as those rates are consistent with this section. For the purposes of this section,

"rate" means a rate, toll, rent, assessment, impact fee, supplemental charge or other lawful charge established by the district.

1. Uniform rates. Rates must be uniform within the district whenever the cost to the district of installation and maintenance of sewers, treatment facilities or their appurtenances and the cost of service is substantially uniform, except that:

A. The district may establish a higher rate in sections where, for any reason, the cost to the district of construction and maintenance, or the cost of service, exceeds the average as long as the higher rates are uniform throughout the sections where the rates apply; and

B. Trustees may reduce the impact fee or connection fee, as those terms are defined in the Maine Revised Statutes, Title 30-A, section 5061, for sewer service to newly constructed affordable housing in accordance with Title 30-A, chapter 202-A.

2. Multidistrict rates. Notwithstanding any other provision of law, the district that shares, supplies or contracts for services with another district shall establish rates mutually agreeable to the trustees of each participating district.

3. Readiness to serve. The district's rates may include readiness to serve rates charged against owners of real estate abutting or accessible but not connected to sewers or drains of the district, whether or not the real estate is improved.

4. Interest on late payments. The district may charge and collect interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

5. Adoption of rate schedule. Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule. The trustees shall publish the proposed rates and notice of the hearing not less than once in a newspaper having a general circulation in the district not less than 7 days prior to the hearing. The district shall mail to each ratepayer a notice of the public hearing and the proposed rate at least 14 days prior to the hearing.

6. Revenue from rates. The sewer rates, tolls, rents, impact fees, entrance charges and other lawful charges established by the board of trustees in accordance with this Act must be fixed and adjusted with respect to the aggregate of the rates, tolls, rents, impact fees and entrance charges so as to produce revenue at least sufficient, together with any other money available to produce revenue, to:

A. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;

B. Pay the principal of and premium, if any, and interest on all bonds and notes issued by the district as they become due and payable;

C. Create and maintain such reserves as may be required by the trustees or any trust agreement or resolution securing bonds and notes;

D. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district;

E. Pay or provide for any amounts that the district may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes; and

F. Provide revenue in order to pay all or part of the present or projected cost to improve, enlarge or expand the district's system, including payment of interest accruing on any indebtedness for such purposes.

7. Civil action for unpaid rates. If rates under this section are not paid, and the district does not collect unpaid rates pursuant to the Maine Revised Statutes, Title 38, section 1050, the district may maintain a civil action against the person who has not paid rates for the amount of the unpaid rates plus 10% interest.

Sec. 17. Waiver of sewer district lien foreclosure. The district may use the following provisions to waive a lien foreclosure.

1. Waiver. The treasurer of the district, when authorized by the trustees, may waive the foreclosure of the district lien mortgage created pursuant to this Act by recording in the York County Registry of Deeds a waiver of foreclosure before the period for the right of redemption from the lien mortgage has expired. The lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rates are not affected by the filing of a waiver under this section.

2. Form. The waiver of foreclosure under subsection 1 must be substantially in the following form.

The foreclosure of the sewer lien mortgage on real estate for charges against.....(NAME) to Kennebunk Sewer District dated.....and recorded in the York County Registry of Deeds in Book....., Page..... is hereby waived.

The form must be dated, signed by the treasurer of the district and notarized. A copy of the form must be provided to the party named on the lien mortgage and each record holder of a mortgage on the real estate.

Sec. 18. Collection of unpaid rates. The district may secure payment of the district's rates pursuant to this section.

1. Lien. There is a lien on real estate served or benefited by the sewers of the district to secure the payment of the district's rates. The lien established under this section takes precedence over all other claims on such real estate, except claims for taxes.

2. Collection. The treasurer of the district may collect rates and all rates must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the district in a civil action in any court of competent jurisdiction for any rates remaining unpaid. In addition to other methods established by law for the collection of rates and without waiver of the right to sue for the collection of rates, the lien created under subsection 1 may be enforced in the following manner.

A. Notwithstanding the Maine Revised Statutes, Title 38, section 1050, subsection 3, when rates have been committed to the treasurer of the district for collection, the treasurer may, after the expiration of 3 months and within one year after the date

when the rates became due and payable, give to the owner of the real estate served, send by certified mail, return receipt requested, to the owner's last known address or, upon exhausting these options, leave at the owner's last and usual place of abode a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of the rates due, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rates and demanding the payment of the rates within 30 days after service or mailing, with \$1 added to the demanded rate for the treasurer and an additional fee to cover mailing the notice by certified mail, return receipt requested. The notice must contain a statement that the district is willing to arrange installment payments of the outstanding debt.

B. After the expiration of 30 days and within one year after giving notice pursuant to paragraph A, the treasurer of the district shall record in the York County Registry of Deeds a certificate signed by the treasurer setting forth the amount of the rates due, describing the real estate on which the lien is claimed and stating that a lien is claimed on the real estate to secure payment of the rates and that a notice and demand for payment has been given or made in accordance with this section and stating further that the rates remain unpaid. At the time of the recording of the certificate in the registry, the treasurer shall file in the office of the district a true copy of the certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode.

C. The filing of the certificate in the York County Registry of Deeds creates a mortgage held by the district on the real estate described in the certificate that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the district all the rights usually possessed by mortgagees, except that the district as mortgagee does not have any right to possession of that real estate until the right of redemption has expired.

D. If the mortgage created under paragraph C, together with interest and costs, has not been paid within 18 months after the date of filing the certificate in the York County Registry of Deeds in accordance with paragraph B, the mortgage is foreclosed and the right of redemption expires. The filing of the certificate in the registry is sufficient notice of the existence of the mortgage. In the event that the rate, with interest and costs, is paid within the period of redemption, the treasurer of the district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages.

E. The owner of the real estate shall pay the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by the Maine Revised Statutes, Title 33, section 751, plus \$13, plus all certified mail, return receipt requested, fees.

F. Not more than 45 days or less than 30 days before the foreclosing date of the mortgage created under paragraph C, the treasurer of the district shall notify the party named on the mortgage and each record holder of a mortgage on the real estate in a writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address of the impending automatic foreclosure

and indicating the exact date of foreclosure. For sending this notice, the district is entitled to receive \$3 plus all certified mail, return receipt requested, fees, which must be added to and become a part of the amount due under paragraph E. If notice is not given in the time period specified in this paragraph, the person not receiving timely notice has up to 30 days after the treasurer provides notice as specified in this paragraph in which to redeem the mortgage. The notice of impending automatic foreclosure must be substantially in the following form:

STATE OF MAINE
KENNEBUNK SEWER DISTRICT
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE
SEWER LIEN

M.R.S.A., Title 38, section 1050

IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU WILL LOSE YOUR PROPERTY UNLESS YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE KENNEBUNK SEWER DISTRICT.

TO:.....

You are the party named on the Sewer Lien Certificate filed on....., 20.. and recorded in Book, Page in the York County Registry of Deeds. This Kennebunk Sewer District filing created a sewer lien mortgage on the real estate described in the Sewer Lien Certificate.

On, 20.., the sewer lien mortgage will be foreclosed and your right to redeem the mortgage and recover your property by paying the district's charges and interest that are owed will expire.

IF THE LIEN FORECLOSES, THE KENNEBUNK SEWER DISTRICT WILL OWN YOUR PROPERTY, SUBJECT ONLY TO MUNICIPAL TAX LIENS.

If you cannot pay the outstanding charges, costs and interest that are the subject of this notice or the subject of installment payment arrangements that you have made with the district, please contact me immediately to discuss this notice.

.....
District Treasurer

G. The district shall pay the treasurer \$1 for the notice, \$1 for filing the lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the lien certificate must be paid by the district to the register of deeds.

H. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the York County Registry of Deeds for more than one year, terminates all title of the district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more

prior to the foreclosure date of this discharge lien, unless the district has conveyed any interest based upon the title acquired from any of the affected liens.

Sec. 19. District to bill only property owners. The district may bill only the owner of the property receiving service.

Sec. 20. Bonds and notes. The district may authorize bonds and notes.

1. Authorization of bonds. The district may provide by resolution of its board of trustees, without district vote, except as provided in subsection 10, for the borrowing of money and the issuance from time to time of bonds, subject to the debt limitation set in this section, for any of its corporate purposes, including, but not limited to:

- A. Paying and refunding its indebtedness;
- B. Paying any necessary expenses and liabilities, whether incurred by the district or the Town of Kennebunk, the district being authorized to reimburse the Town of Kennebunk for any such expenses incurred or paid by it;
- C. Paying costs directly or indirectly associated with acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating sewage and treatment plants or systems and making renewals, additions, extensions and improvements to the same and covering interest payments during the period of construction and for the period after construction as the trustees may determine;
- D. Providing reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds; and
- E. Any combination of the purposes in paragraphs A to D.

Bonds may be issued as general obligations of the district or as special obligations payable solely from particular funds. The total outstanding and unpaid indebtedness of the district may not at any one time exceed the sum of \$30,000,000. The principal of and premium if any and interest on all bonds are payable solely from the funds provided for that purpose from revenues. "Revenues" means and includes the proceeds of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by the district from the operation of its sewer system and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation and sale of or other disposition of properties. All bonds issued by the district are legal obligations of the district. The district is a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701. Bonds may be issued without obtaining the consent of a commission, board, bureau or agency of the State or the Town of Kennebunk and without any proceedings, limitations or conditions to meet other than those specifically required under this Act. Bonds issued under this Act do not constitute a debt or liability of the State or the Town of Kennebunk or a pledge of the faith and credit of the State or the municipality, but the bonds are payable solely from the funds provided for that purpose, and a statement to that effect must be recited on the face of the bonds.

2. Notes. The district may also provide by resolution of its board, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized under this section and of notes in anticipation of the revenues to be collected or received in any

year or in anticipation of the receipt of federal or state grants or other aid. The issuance of these notes is governed by the applicable provisions of this section relating to the issuance of bonds, except that notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals must mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issuance of other notes, except that the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest on the note may not exceed one year.

The district is authorized to enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type the district is authorized to carry out and to accept grants and borrow money from the government, agency, municipality, corporation, commission or board necessary or desirable to accomplish the purposes of the district.

3. Maturity; interest; form, temporary bonds. The bonds issued under this section must be dated, mature at a time or times not exceeding 40 years from their date or dates and bear interest at a rate or rates determined by the board. The bonds may be made redeemable before maturity, at the option of the district, at a price or prices and under any terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company inside or outside the State. Bonds are executed in the name of the district by the manual or facsimile signature of the officer or officers authorized in the resolution to execute the bonds. One signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the district designated in the resolution. If the officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery.

Notwithstanding any of the other provisions in this Act or any recitals on any bonds issued under this section, all bonds are deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board may determine. Provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board may sell bonds in that manner, either at public or private sale, at a price as it determines to be in the best interest of the district. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds are authorized and must be disbursed in such a manner and under such restrictions as the board provides in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds and any trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board determines proper. The additional bonds must be issued under such restrictions and limitations

prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board may provide for the replacement of any bond that is mutilated, destroyed or lost.

4. Pledges and covenants; trust agreement. The issuance of notes or bonds constitutes a pledge of net revenues of the district for the prompt payment of associated debt service or bonds when due.

In the discretion of the board, any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee that may be any trust company inside or outside the State.

A. The resolution authorizing the issuance of the bonds or the trust agreement must, unless for another specified source of revenue, pledge or assign, in whole or in part, the revenues and other money held or to be received by the district and any account and contract or other rights to receive the same, whether then existing or coming into existence and whether then held or acquired by the district, and the proceeds from the bonds, but the resolution or trust agreement may not convey or mortgage the sewer system or any other properties of the district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the district and the board of trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and assurance of its sewer system or any of its other properties; the fixing and revising of rates, fees and charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; the defining of defaults and providing for remedies in the event of defaults, which may include the acceleration of maturities; the establishment of reserves; and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the corporate trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of trustees determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and received by the district are immediately subject to the lien of the pledge without any physical delivery or segregation of the pledge or further action under the Uniform Commercial Code or otherwise. The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice of the lien of the pledge.

B. The resolution authorizing the issuance of bonds under this Act, or any trust agreement securing those bonds, must, unless for another specified source of revenue,

provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves for the payment as may be provided in the resolution or trust agreement, is set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the principal becomes due and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money to the credit of the fund is subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.

5. Trust funds. Notwithstanding any other provision of law, all money received pursuant to the authority provided under this Act is deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or bank, trust company or other fiscal agent to which, the money is paid acts as trustee of the money and shall hold and apply the same for the purposes of this Act, subject to such regulations as may be provided in the resolution or trust agreement or as may be required under this Act.

6. Remedies. A holder of bonds issued under this Act or of any of the coupons appertaining to the bonds or a corporate trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce any and all rights under the laws of the State or granted under this Act or under the resolution or trust agreement. The holder of bonds and the trustee under any trust agreement may enforce and compel the performance of any duty required by this Act or by the resolution or trust agreement to be performed by the district or by any officer of the district, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the district.

7. Refunding bonds. The board by resolution, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of those bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service, including costs of issuance, or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issuance of refunding bonds, the maturities and other details of the refunding bonds, the security for refunding the bonds, the rights of the holders of the refunding bonds and the rights, duties and obligations of

the district in respect of the same are governed by the applicable provisions of this section relating to the issuance of bonds other than refunding bonds.

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this Act, their transfer and the income from the bonds, notes or other evidences of indebtedness, including any profit made on the sale of bonds, notes or other evidences of indebtedness, must at all times be free from taxation within the State.

9. Bonds declared legal investments. Bonds and notes issued by the district are securities in which all public officers and public bodies of the State and its political subdivisions, insurance companies and associations and other persons carrying on an insurance business; trust companies, banks, bankers and banking associations; savings banks and savings associations, including savings and loan associations; credit unions; building and loan associations; investment companies; executors, administrators, trustees and other fiduciaries; pension, profit-sharing and retirement funds; and other persons carrying on a banking business, and all other persons who are authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are securities that may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

10. Certain bond issues; special meeting; vote. If the trustees vote to authorize bonds or notes for any of the corporate purposes of the district, excluding notes payable within one year, notes in anticipation of bonds authorized pursuant to this Act, notes in anticipation of the revenues to be collected or received in any year and notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which singly or in aggregate included in any one financing is \$1,000,000 or more, the trustees must call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the purpose and the amount of debt so authorized. Notice of the special district meeting, stating the approximate amount of the debt and the purpose for which it is being issued, must be published not less than 7 full days prior to the date of the meeting in a newspaper having general circulation in the district and must be mailed to each ratepayer in the district not later than the date of the publication. A debt may not be incurred under the vote of the trustees until the expiration of 28 full days following the date of the special district meeting.

Except for debt to fund that part of any project that has been approved for grant financing by the State Government or Federal Government to meet the requirements of the United States Clean Water Act, including any related facilities not eligible for that financing but essential to the operation of the approved project as an integral system, for debts in excess of the amount specified in this section, the following petition and referendum procedure applies. If, on or before the 28th day following the date of the special district meeting, a petition signed by at least 5% of the registered voters of the district is filed with the clerk of the district requesting reference of the vote of the trustees to referendum, the clerk of the district shall call and hold a special election of the voters of the district for the purpose of submitting to referendum vote a question of approving the vote of the trustees. The vote of the trustees is suspended until it has received approval by vote of a majority of the voters of the district voting on the question at the special election.

Sec. 21. Authority to increase debt limits. Notwithstanding any provision of this Act to the contrary, the district may increase its debt limit by referendum in accordance with this section. The district is not required to use the procedure provided by this section and may seek to increase its debt limit by any other lawful means, including pursuant to any other means described in this Act or by seeking legislative amendment to this Act.

1. Referendum. If the district chooses to increase its debt limit pursuant to this section, the board shall propose a new debt limit and submit the proposal for approval at a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections in the Maine Revised Statutes, Title 30-A, chapter 121, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the district if the usual voting place for persons located within the district is located outside the territory of the district. For the purpose of registering voters, the registrar of voters must be in session on the regular work day preceding the election. The question presented must conform to the following:

"Do you favor changing the debt limit of the Kennebunk Sewer District from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the board and entered upon the district's records. Due certificate of results must be filed by the clerk with the Secretary of State.

2. Approval. A debt limit proposal becomes effective upon its acceptance by a majority of the legal voters within the district voting at the referendum. Failure of approval by the majority of legal voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The cost of referenda are borne by the district.

Sec. 22. Mutual funds; sewer districts. The district may invest its funds, including sinking funds, reserve funds and trust funds, to the extent that the term of any instrument creating the funds does not prohibit the investment, in shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. This section is in addition to, and not in limitation of, any power of the district to invest its funds.

Sec. 23. Competitive bidding. A contract in excess of \$2,000 between the district and a contractor for the construction of facilities located on private property for the exclusive use of a private individual and for which the private individual is required to pay the total cost directly to the district must be awarded by a system of competitive bidding. Unless there are valid reasons to the contrary, the contracts must be awarded to the lowest responsible bidder.

Sec. 24. District personnel records. The personnel records of the district are confidential to the same extent as municipal records pursuant to the Maine Revised Statutes, Title 30-A, section 2702, subsection 1. The records are reviewable by employees of the district to the same extent and in the same manner as provided for municipal personnel records pursuant to Title 30-A, section 2702, subsection 2.

Sec. 25. P&SL 2005, c. 13, as amended, is repealed.

Sec. 26. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved but only for the purpose of permitting its submission to the legal voters within the territory described in section 1 at the election called for that purpose by January 1, 2018. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session on the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor adopting the Kennebunk Sewer District charter, 2015 revision?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of Kennebunk and due certificate of the results filed by the town clerk with the Secretary of State.

This Act takes effect for all other purposes immediately upon its approval by a majority of the legal voters voting at the election.