

## Chapter 33 of the Acts of 1998

### AN ACT RELATIVE TO THE BOUNDARIES OF THE CHERRY VALLEY SEWER DISTRICT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Chapter 729 of the acts of 1963 is hereby repealed.

**SECTION 2.** The inhabitants of the town of Leicester liable to taxation in said town, and residing within the territory enclosed by the following boundary lines shall constitute a sewer district:

Beginning at the Southeast corner of the Leicester Water Supply District as shown on the Leicester, Massachusetts Sewerage Plan prepared by William E. Stanley, Sanitary Engineer, Belmont, MA, dated May 21, 1959;

Thence extending approximately 2,700 ± feet in the northerly direction along the easterly boundary of the Leicester Water Supply District to a point located at the junction of the northern line of Main Street and western line of Waite Street;

Thence extending approximately 300 feet ± in a northeasterly direction along the western line of Waite Street to a point;

Thence extending approximately 1,875 ± feet in an easterly direction along a line parallel to the center line of Main Street to a point;

Thence extending approximately 3,300 ± feet in a northeasterly direction to a point;

Thence extending approximately 3,150 ± feet in an easterly direction to a point;

Thence extending approximately 5,600 ± feet to a stone monument identified as the boundary marker for the Cherry Valley and Rochdale Water District;

Thence extending approximately 4,208 ± feet in a southwesterly direction to a point;

Thence extending approximately 3,920 ± feet west to a point located on the westerly line of Henshaw Street;

Thence extending in a northerly direction along a line parallel to the center line of Henshaw Street to the point of beginning.

Said sewer district is hereby made a body corporate by the name of the Cherry Valley Sewer District, hereinafter called the district, for the purpose of laying out, constructing, maintaining and operating a system or systems of common sewers for a part or the whole of the territory herein described with such connections and other works as may be required for a system of sewage disposal and may construct such sewers in said district as may be necessary, and for the purpose of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of said district, subject to all general laws now or hereafter in force relating to such districts, except as otherwise provided herein. The district shall have power to prosecute and defend all actions relating to its property and affairs.

**SECTION 3.** The commissioners of the Cherry Valley Sewer District elected prior to the effective date of this act shall by warrant call a special district meeting within 60 days following the effective date of this act for the purpose of electing their successors. At the special district meeting, the district shall elect by ballot a board of three sewer commissioners who shall be registered voters of the town of Leicester and residents of the district, to hold office, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years, from the next succeeding annual district meeting, and until their successors are qualified, and thereafter, at each annual district meeting when the term of a member expires, the district shall elect one member of the board to serve for three years or until his successor is qualified.

**SECTION 4.** Thereafter meetings of the district shall be called by warrant of the commissioners at the time stated in the warrant, or on petition of voters of the town of Leicester residing within the district addressed to the commissioners, as specified in section 119 of chapter 41 of the General Laws. The clerk of the district shall give notice of the meeting by posting copies of the warrant in two or more public places in the district and by delivering a copy to the town clerk of said town of Leicester, seven days at least before the time of the meeting. At all district meetings the district clerk shall preside until a moderator is chosen. The meeting may then proceed to act on the articles contained in the warrant.

**SECTION 5.** All the authority granted to the district by this act, and not otherwise specifically provided for, shall be vested in the board of sewer commissioners, who shall be subject however to such instructions, rules and regulations as the district has previously or may impose by its vote. A majority of the board of sewer commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in the board of sewer commissioners from any cause may be filled for the remainder of the unexpired term by the district at any legal meeting called for the purpose. No money shall be drawn from the district treasury except by a written order of a majority of the board of sewer commissioners. The board of sewer commissioners shall annually make a full report to the district in writing of their doings and expenditures.

**SECTION 6.** The board of sewer commissioners shall annually appoint a clerk and a treasurer and may appoint a superintendent of sewers who shall not be a member of the board, and shall define their duties. It may remove the clerk, treasurer or superintendent at its pleasure. The

treasurer shall not be a sewer commissioner, and shall give bond to the district in such amount as may be approved by said sewer commissioners and with a surety company authorized to transact business in the commonwealth as surety.

**SECTION 7.** The board of sewer commissioners may, in its discretion, prescribe for the users of said sewer system such annual use charges based on the benefits derived therefrom as it may deem proper, subject, however, to such rules and regulations as may be fixed by vote of the district.

**SECTION 8.** For the purpose of paying the necessary expenses and liabilities incurred under the provisions of this act, the district may borrow such sums as may be necessary and may issue from time to time bonds or notes in accordance with the General Laws.

**SECTION 9.** The district shall raise annually by taxation a sum which, with the income derived from user and connection fees, shall be sufficient to pay the current annual expenses of operating its sewer works and the interest accruing on any bonds or notes issued by the district, together with such payments of the principal thereof as may be required. The district is further authorized by a majority vote of its voters, present and voting at a legal meeting called for the purpose, to raise by taxation any sum of money for the purpose of enlarging, repairing, maintaining, or extending its sewer works or of providing additional equipment and fixtures connected therewith.

**SECTION 10.** Whenever a tax is duly voted by the district for the purpose of this act, the district clerk shall deliver a certified copy of the vote to the assessors of the town of Leicester, who shall assess the same in the manner in which town taxes are required by law to be assessed; provided, however, that no estate shall be subject to any tax assessed on account of the system of sewer supply under this act, if, in the judgment of the board of sewer commissioners hereinbefore provided for, after a hearing, due notice of which shall have been given, such estate is so situated that the buildings thereon, or the buildings that might be constructed thereon, could not be supplied with sewer connections from the system in any ordinary or reasonable manner; but all other estates in the district shall be deemed to be benefited and shall be subject to the tax. A certified list of the estates exempt from taxation under the provisions of this section shall annually be sent by the board of sewer commissioners to the assessors, at the same time at which the district clerk shall send a certified copy of the vote as aforesaid. The assessment shall be committed to tax collectors for the town of Leicester, who shall collect the tax in the manner provided for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of the district. The district may collect interest on taxes when overdue in the manner in which interest is authorized to be collected on town taxes.

**SECTION 11.** The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of said system of sewerage and sewage disposal or to the extension thereof, to the payment of interest upon bonds or notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

**SECTION 12.** Said board of sewer commissioners, acting for and on behalf of said district, may take by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise, any lands, sewer rights, rights of way or easements, public or private, in said district, necessary for accomplishing any purpose mentioned in this act, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public way, or within the location of any railroad, and may enter upon and dig up any private land, public way or railroad location, for the purpose of laying such drains and sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of this act; provided, however, that they shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with such corporation, or, in case of failure to agree, as may be approved by the department of public utilities.

**SECTION 13.** Any person injured in his property by any action of said board of sewer commissioners under this act may recover damages from said district under chapter 79 of the General Laws.

**SECTION 14.** All contracts made by the board of sewer commissioners shall be made in the name of the district and shall be signed by the board, and the district may enter into agreements and contracts with other districts, sewer departments, municipalities or individuals for the purpose of making connections for the collection, purification and disposal of sewage.

**SECTION 15.** The by-laws and rules and regulations of the former Cherry Valley Sewer District, which were in effect at the time of the effective date of this act shall remain in full force and effect upon the passage of this act. The board of sewer commissioners may, from time to time, prescribe new rules and regulations for the connection of estates and buildings with main drains and sewers, and for inspection of the materials, the construction, alteration and use of all connections and drains entering into such main drains or sewers, and may prescribe penalties, for each violation of any such rule or regulation.

**SECTION 16.** Owners of real estate in areas previously located within the district boundaries under chapter 729 of the acts of 1963, if not served by a suitable means of sewerage disposal, may reenter the district by submitting a petition to the board of sewer commissioners to have their real estate included within the district. The petition shall be in writing, accurately describing the land and signed by the owners, or a majority of the owners, of the land. The commissioners shall allow the petition within 30 days of receipt and the district clerk shall within ten days thereafter file with the town clerk of Leicester and with the secretary of state an attested copy of said petition and the commissioners vote and, thereupon said real estate shall become and be part of the district and shall be holder under this act in the same manner and to the same extent as the real estate described in section 1. Petitioners reentering the district shall pay no fee for reentry, however, they shall bear all costs associated with the annexation, including but not limited to permit and connection fees, engineering and legal costs, installation of pipes and other equipment, and alterations to the existing distribution system necessitated by the annexation, but excepting increases in the capacity of the district's inceptor and lateral sewers which may be necessitated by such reentry. The applicant shall also comply with all rules and regulations

governing annexations as may be promulgated by the board of sewer commissioners, from time to time.

**SECTION 17.** Owners of real estate not previously located within the district, but abutting in said district may submit a petition in writing addressed to said board of sewer commissioners requesting that certain real estate, accurately described therein, located in said town of Leicester and abutting on said district and not otherwise served by a suitable means of sewerage disposal be included within the limits thereof. The petition shall be signed by the owners of such real estate, or a majority thereof, and within 30 days of receipt thereof the sewer commissioners shall cause a duly warned meeting of the district to be called, at which meeting the voters may vote on the question of including said real estate within the district. If a majority of the voters present and voting thereon vote in the affirmative the district clerk shall within ten days file with the town clerk of said town and with the state secretary an attested copy of said petition and vote; and thereupon said real estate shall become and be part of the district and shall be holden under this act in the same manner and to the same extent as the real estate described in section 1.

Notwithstanding the foregoing, the board of sewer commissioners shall have no obligation to call a meeting, unless the petitioner first demonstrates to the board of sewer commissioners that the real estate to be annexed can be supplied by the district in an ordinary and reasonable manner without adverse impact on the district's existing sewerage system, and that sufficient capacity, allotted to the district, exists at the waste water treatment plant to supply the real estate.

Petitioners seeking entry into the district shall bear all costs associated with the annexation, including but not limited to permit and connection fees, engineering and legal costs, installation of pipes and other equipment, and alterations to the existing distribution system necessitated by the annexation, including increases in the capacity of the district's inceptor and lateral sewers which may be necessitated by the entry. The applicant shall also comply with all rules and regulations governing annexations as may be promulgated by the board of sewer commissioners, from time to time.

**SECTION 18.** The provisions of chapters 41, 44, and 83 of the General Laws shall, so far as apt, apply to the district.

**SECTION 19.** This act shall take effect upon its passage.

Approved February 20, 1998.

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