

Acts of 1967

Chapter 831

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Sixty-seven

AN ACT RELATIVE TO THE ESTABLISHMENT OF
THE LANCASTER 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. The inhabitants of the town of Lancaster liable to taxation in said town and residing within the territory comprised within the following lines, to wit: — Beginning at a point on the westerly line of Route 110 in Lancaster at the intersection with Route 110 of the boundary line between the town of Lancaster and the town of Bolton; thence north, fifty-seven degrees west, three thousand feet more or less, to the center of the Nashua river; thence southwesterly, by the Nashua river, to a point in the center of the Nashua river at the Intersection of the north branch and the south branch of the Nashua river; thence northwesterly, by the north branch of the Nashua river to a point in the river opposite the mouth of the brook flowing into the river from Thayer pond, so called; thence southwesterly, to a point on the southerly side of the river at the middle of the said brook; thence southwesterly, by the said brook to Thayer pond, so called; thence by the northerly and westerly edges of Thayer pond, so called, to the middle of the brook flowing into Thayer pond at the westerly side thereof; thence westerly, by the north branch of said brook to a point where said north branch intersects the center line of Goss lane; thence due west, one hundred and fifty feet more or less, of said intersection; thence southwesterly, by a line one hundred and fifty feet more or less, westerly of and parallel to, the center line of Goss lane, to a point, one hundred and fifty feet more or less, westerly of the intersection of the center line of Goss lane and the center line of Sterling road; thence due south of the center line of Sterling road, for a distance of one hundred and fifty feet more or less; thence northeasterly by a line, one hundred and fifty feet more or less, southerly of, and parallel to, the center line of Sterling road, to a point, one hundred and fifty feet more or less, southwesterly of the intersection of the center line of Sterling road and the center line of Parker road; thence southerly by a line, one hundred and fifty feet more or less, westerly of and parallel to, the center line of Parker road, to the intersection of said line with the easterly boundary of St. Johns Cemetery; thence southeasterly by the said boundary to the intersection of said boundary with the northerly edge of Parker road; thence due south to the boundary line between the towns of Clinton and Lancaster; thence northeasterly and easterly by the boundary between Clinton and

Lancaster to the point where said boundary line meets the boundary line between the towns of Clinton and Bolton thence northerly, by the boundary between the towns of Bolton and Lancaster to the point of beginning, shall constitute a sewer district and are hereby made a body corporate by the name of the Lancaster 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 2. Any meeting of the voters of the territory included within the boundaries set forth in section one to be held prior to the acceptance of this act and any meeting of the voters of the district to be held prior to the qualification of a majority of the sewer commissioners shall be called on petition of ten or more legal voters therein, by a warrant from the selectmen of said town, or front a justice of the peace, directed to one of the petitioners, requiring him to give notice of the meeting by posting copies of the Warrant in two or more public places in the district seven days at least before the time of the meeting. Such justice of the peace, or one of the selectmen, shall preside at such meeting until a clerk is chosen and sworn, and the clerk shall preside until a moderator is chosen. At any meeting held hereunder prior to the acceptance of this act, after the choice of a moderator for the meeting, the question of the acceptance of this act shall be submitted to the voters, and if it is accepted by a majority of the voters present and voting thereon it shall thereupon take effect, and the meeting may then proceed to act on the other articles in the warrant. After the qualification of a majority of the sewer commissioners, meetings of the district shall be called by warrant under their hands, unless some other method be provided by by-law or vote of the district.

SECTION 3. The district shall elect by ballot, at any district meeting not later than the second annual meeting after the commencement of construction hereunder of a system of sewerage and sewage disposal, a board of three sewer commissioners who shall be citizens of the district, to hold office, if elected at an annual meeting, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years, from such annual district meeting, and until their successors are qualified, or, if elected at a special meeting, 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 and until his successor is qualified.

SECTION 4. Said board of sewer commissioners, acting for and on behalf of said district, may take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any lands, water 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 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 sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of this act; provided, that they shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any 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 5. Until the board of sewer commissioners has first been elected as provided in this act, but not in any event later than the second annual meeting after the commencement of the work of construction authorized hereby, the district may carry on such by a duly authorized committee of the district. The committee shall serve without pay and shall have all the powers and authority given to the board of sewer commissioners in this act or by General Law. Whenever the phrase "said board of sewer commissioners or "said board" hereinafter occurs, it shall mean and include the board of sewer commissioners, or the committee of the district provided for in this section, as the case may be.

SECTION 6. 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 said chapter seventy-nine.

Section 7 as amended by the Acts of 1970, C 659.

SECTION 7. The district shall, by vote, determine what proportion of the cost of said system or systems of sewerage and sewage disposal the district shall pay; provided, that it shall pay not less than one fourth nor more than two thirds of the whole cost. In providing for the payment of the remaining portion of the cost of said system or systems, or for the use of said system or systems, the district may avail itself of any or all of the methods permitted by general laws, and the provisions of said general laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made under this act, except that interest shall be at the rate of six per cent per annum. At the same meeting at which it determines the proportion of the cost which is to be borne by the district it may by vote determine by which of such methods the remaining portion of said cost shall be provided for. The collector of taxes of said town shall certify the payment or payments of such assessments for apportionments thereof to the sewer commissioners, who shall preserve a record thereof. Whenever a tax is duly voted by the district for the purposes of this act, the clerk shall send a certified copy of the vote to the assessors of said town, who shall assess the same on property within the district in the same manner in all respects in which town taxes are required by law to be assessed; provided, that no estate shall be subject to any tax assessed on account of the system of sewerage under this act, if, in the judgment of the board of sewer commissioners herein provided for, after a hearing, due notice whereof shall have been given, such estate is so situated that it will receive no aid from the said sewerage system, or if such estate is so

situated that the buildings thereon, or the buildings that might be constructed thereon, could not be connected with the said 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 such tax. A certified list of the estates exempt from taxation under the provisions of this section shall annually be sent by said board of sewer commissioners to said assessors, at the same time at which the clerk shall send a certified copy of the vote as aforesaid. The assessments shall be committed to the town collector who shall collect said tax in the manner provided by law 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 overdue taxes in the manner in which interest is authorized to be collected on town taxes.

Sections 7A, 7B, and 7C, as amended by the Acts of 1977, C 535.

SECTION 7A. Notwithstanding the provisions of the foregoing section or of section fifteen of chapter eighty—three of the General Laws or of any other general or special law to the contrary, the district, acting through its board of sewer commissioners, may provide that assessments made under the provisions of section fourteen of said chapter eighty— three shall be made upon the owners of lands within such territory or any part thereof at a rate based upon a uniform unit method.

SECTION 7B. For the purposes of this act, the uniform unit method of sewerage construction cost apportionment shall be deemed to mean that sewerage construction costs shall be divided between the total number of existing and potential sewer units to be served. Each sewer unit shall be equal to a single family residence. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing end potential multifamily, commercial, industrial and semipublic uses shall be converted into sewer units on the basis of residential equivalents.

SECTION 7G. The board of sewer commissioners of the district may separate the costs of general benefit facilities, such as pumping stations, trunk and force mains, from that of special benefit facilities, such as the sewer mains serving adjacent properties. A portion of costs of the general benefit facilities may be apportioned by the uniform unit method on all developed and undeveloped areas to receive benefit or advantage within the pumping district or combination of districts, provided the district, acting through its board of sewer commissioners, so authorizes. The proportional cost of the special benefit and general benefit facilities may be assessed against all properties abutting a sewer street.

Section 8 as amended by the Acts of 1999, C 124.

SECTION 8. For the purpose of paying the necessary expenses and liabilities incurred under this act, the district may from time to time, borrow such sums as may be necessary, and may issue bonds or notes therefor, which shall bear on their face the words, Lancaster Sewer District Loan, Act of 1967. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than thirty years from their dates. Indebtedness incurred under this act shall be in excess of the statutory limit, but shall, except as provided herein, be subject to chapter forty-four of the General Laws.

SECTION 9. 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 10. Said board of sewer commissioners may annually appoint a clerk 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 or superintendent at its pleasure. Said board may, in its discretion, prescribe for the users of said sewerage systems such annual rentals or 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 10A as amended by the Acts of 1970, C 659.

SECTION 10A. The district shall elect by ballot at each annual district meeting a treasurer who shall not be a member of the board of sewer commissioners, and shall serve until his successor is elected and qualified. The treasurer shall perform those duties required by law to be performed by the treasurers of districts and those duties prescribed by the board of sewer commissioners. Pending the first election, a treasurer may be elected at a special meeting or, at any time there is no treasurer in office, a temporary treasurer may be appointed pursuant to section one hundred and twenty-two of chapter forty-one of the General Laws.

SECTION 11. 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, but no contract shall be made or obligation incurred by said board for any purpose in excess of the amount of money appropriated by the district therefor.

SECTION 12. Said board may, from time to time, prescribe rules and regulations for the connection of estates and buildings with sewers, and for inspection of the materials, the construction, alteration and use of all connections entering into such sewers, and may prescribe penalties, not exceeding twenty dollars, for each violation of any such rule or regulation. Such rules and regulations shall be published at least once a week for three successive weeks in some newspaper published in the town of Lancaster, if there be any, and if not, then in some newspaper published in the county of Worcester, and shall not take effect until such publications have been made.

Section 12A as amended by the Acts of 1970, C 659.

SECTION 12A. The district may enter into an agreement with the metropolitan district commission for the use of the sewerage facilities of said commission to receive and treat the sewage of the district, and shall pay to said commission such proportion of the cost of construction of additional works required for the sewage of the district by said commission and such annual charges for the transportation and treatment of sewage as shall be agreed upon by the district and said commission. If the district and said commission shall be unable to agree as to the proper and just sum or sums which shall be paid by the sewer district to the said commission, either party may petition the supreme judicial court which shall appoint three commissioners to determine, subject to the approval of the court, such proportion of the cost of the construction and such annual

charges. Such proportion of the cost of construction may consist of a sum in gross or yearly payments to be made to the said commission as said commissioners, or a majority of them, shall decide.

SECTION 13. No act shall be done under authority of the preceding sections except in the making of surveys and other preliminary investigations, until the plans for said system of sewerage and sewage disposal have been approved by the state department of public health. Upon application to said department for its approval it shall give a hearing, after due notice to the public. At such hearing, plans showing the work to be done in constructing said system of sewerage and sewage disposal shall be submitted for approval by said department.

SECTION 14. Upon a petition in writing addressed to said board of sewer commissioners requesting that certain real estate, accurately described therein, located in said town and abutting on said district and not otherwise served by a suitable means of sewage disposal be included within the limits thereof, and signed by the owners of such real estate, or a majority thereof, said 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 one.

SECTION 15. This act shall take full effect upon its acceptance by a majority of the voters of the territory prescribed in section one voting thereon at a meeting held pursuant to section two within ten years after its passage.

Approved December 27, 1967.

Amended August 10, 1970.

Amended September 12, 1977.

Amended November 10, 1999.