



**Boston Water and
Sewer Commission**
980 Harrison Avenue
Boston, MA 02119-2540

POLICY ON THE ASSESSMENT OF BETTERMENT CHARGES FOR THE EXTENSION OF THE SEWERAGE SYSTEM

The purpose of this Policy is to allow residential properties on private ways open to public use or travel which are not connected to the Commission's sewerage system to connect to the system, and to allow residential properties on such private ways whose connection to the Commission's sewerage system is in a state of disrepair or is inadequate to meet the needs of such properties, to be repaired or made adequate. This Policy establishes procedures for the Commission to assess betterment charges against such properties in accordance with the Commission's Enabling Act and the laws of the Commonwealth, and to take ownership of the betterments so constructed. This Policy affirms that building sewers connected to the extension of the sewerage system contemplated by this Policy, will remain under the ownership of the property owner.

I. DEFINITIONS

a. Benefit.

Benefit shall mean an advantage accruing to a property by means of the construction of an extension to the sewerage system. There are two types of benefits, a general benefit and a specific benefit.

b. General Benefit.

General Benefit shall mean the advantage accruing to a property which is already connected to the sewerage system. An example of such an advantage would be better flow of sewage from that property or less likelihood of a sewer back-up due to increased capacity of the system.

c. Special Benefit.

Special Benefit shall mean the advantage accruing to a property which for the first time may be connected directly to the sewerage system due to the construction of the extension of the system.

d. Petition.

Petition shall mean a petition for extension of the sewerage system on a Private Way signed by not fewer than fifty percent (50%) of the owners of land abutting said Private Way. The Petition shall contain the information set forth in Section 3.b.

e. Private Way.

Private Way shall mean a privately owned way open for or dedicated to use or travel by members of the general public in accordance with Massachusetts General Laws Chapter 41 Section 77. Only Private Ways serving residential property are included in the scope of this Policy.

f. **Public Way.**

Public Way shall mean a way open for travel owned in fee or easement by the City of Boston, the Metropolitan District Commission, the Massachusetts Port Authority or any other public entity.

II. AREAS OF RESPONSIBILITY

a. **Responsibility of the Executive Director.**

The Executive Director shall review all Petitions for sewerage system extensions and the analysis of such Petitions by the Chief Engineer. The Executive Director's review shall include an analysis of whether the work will benefit the people of the City of Boston and that the extension of the sewerage system, when completed, will result in an increase in their commerce, welfare, prosperity and an improvement in their living conditions.

b. **Responsibility of the Chief Engineer.**

The Chief Engineer shall review all Petitions for sewerage system extensions. The Chief Engineer's review shall include an analysis of the need for the extension and its compatibility with the existing system, and shall insure that any design of such extension complies with all engineering and design requirements of the Commission. In addition, the Chief Engineer may make recommendations to extend the sewerage system on Private Ways based on his analysis that the overall sewerage system would be improved by construction of such an extension.

c. **Responsibility of the General Counsel.**

The General Counsel shall be responsible for ensuring that all Petitions meet the requirements of this Policy, that all public hearings are duly advertised, and that the imposition of betterment assessments complies with the laws of the Commonwealth and this Policy. In addition, the General Counsel shall be responsible for drafting the Order of Assessment and filing it in the Suffolk County Registry of Deeds, and for performing tax takings on behalf of the Commission for parcels where betterment assessment charges remain unpaid in accordance with the tax taking practices of the Commission.

d. **Responsibility of the Chief Financial Officer.**

The Chief Financial Officer shall be responsible for ensuring that all betterment assessments are properly computed, assessed and billed, whether on the regular monthly bill or on a special bill.

e. **Responsibility of the Chief Administrative Officer.**

The Chief Administrative Officer shall be responsible for the collection of all betterment assessments. Such assessments shall be collected in accordance with procedures for collecting past-due water and sewer charges. All such charges not paid shall be referred to the Law Department for collection by tax taking in accordance with Commission practice.

f. **Responsibility of the Board of Commissioners.**

The Board of Commissioners shall have final approval with respect to extending the sewerage works system within the City of Boston. The Chairman of the Board of Commissioners or the

Chairman's designee shall conduct a public hearing on the Petition. The Board of Commissioners shall review the Petition and the analyses of the Chief Engineer and the Executive Director, and data, views and argument presented at the public hearing, and shall make a timely preliminary decision regarding the petition at a duly noticed meeting of the Board of Commissioners. The Board of Commissioners shall make a final decision regarding the petition at the duly noticed meeting of the Board of Commissioners at which the contract for construction of the extension of the sewerage system is voted upon.

III. PROCEDURE FOR APPROVAL OF BETTERMENTS

a. Requesting the Construction of a Betterment.

The decision to extend the sewerage works system within the City of Boston shall be by the approval of the Board of Commissioners following a public hearing, upon the recommendation of the Executive Director in consultation with the Chief Engineer. A request to extend the system shall initially be made:

- (i) by a recommendation of the Chief Engineer after a study of the sewerage system, taking into account the need for a sewer in the way, the need for increased capacity of an existing private sewer, or the need to replace an existing sewer for environmental or public health reasons; or
- (ii) by Petition of not fewer than fifty percent (50%) of the owners of land abutting the private way.

b. Nature of Petition.

In the case of (3) (a) (ii), the Petition shall state with some specificity the reason for the request, the nature of the work to be done, an estimate of the cost of the work (if known) and an agreement that any such work shall be done pursuant to state and federal law, the Commission's Enabling Act and the policies of the Boston Water and Sewer Commission. The Petition shall acknowledge that facilities constructed under this Policy will be the sole property of the Boston Water and Sewer Commission. The Engineering Customer Services Department shall develop a form of Petition outlining the criteria established in this Policy, subject to review of the General Counsel.

c. Evaluation of the Petition.

Upon receipt of the Petition, the Executive Director shall forward the Petition to the Chief Engineer and a copy of the Petition to the General Counsel. The General Counsel shall review the Petition to ensure conformity with the requirements of this Policy. If the General Counsel finds the Petition to be deficient under this Policy, then the General Counsel shall inform the Executive Director and the Chief Engineer immediately, and the Petition shall be rejected, with written notice sent to the petitioners detailing the reasons why the Petition was rejected. If the Petition conforms to the requirements of this Policy, the General Counsel shall so inform the Executive Director and the Chief Engineer. The Chief Engineer shall examine the need for the extension or improvement of the sewerage system, and in the case of an existing sewer, shall inspect said facility. The Chief Engineer shall make a report of findings, including an estimate

of the cost of the design and construction of the system extension (Report), and shall deliver the Report to the Executive Director and to the petitioners.

d. Public Hearing.

In the case of a recommendation of the Chief Engineer pursuant to Section 3(a)(i) of this Policy and in the case of a Petition submitted pursuant to Section 3(a)(ii) of this Policy, within thirty days of the transmittal of the Chief Engineer's recommendation or the Report, as the case may be, the Executive Director shall cause to be advertised a public hearing concerning the extension of the sewerage system, in accordance with the Rules of Procedure of the Boston Water and Sewer Commission. Notice of the hearing shall be sent by first class mail, postage prepaid to all owners of land abutting the private way. The hearing shall be chaired by the Chairman of the Board of Commissioners, or the Chairman's designee, and Staff shall present its findings regarding the Petition or the recommendation for extension of the sewerage system, including a summary of the Report or the recommendation of the Chief Engineer. Any member of the public may present data, views or argument relevant to the proposed extension of the sewerage system.

e. Approval of the Petition.

The Board of Commissioners at a regular or special meeting of the Commission shall make a preliminary decision concerning the Petition or the recommendation of the Chief Engineer. The preliminary decision of the Board shall be communicated, in writing, to all owners of land abutting the Private Way. A final determination by the Commission that the extension or improvement is to be built shall be made not later than the time the contract for construction of the extension is awarded. Within ninety days of the final determination, an Order of Assessment shall be filed in the Suffolk County Registry of Deeds. The Order of Assessment shall detail the nature of the Board's action and state that betterments are to be assessed for the system extension. The Order of Assessment shall specify the Private Way in which the sewer is to be located, identify the properties specially benefited by the extension, identify the owners of said properties as appearing on the City of Boston Assessor's records on the preceding January 1, and estimate the dollar amount of the betterment to be assessed against each such property in accordance with Section (4)(b) of this Policy.

IV. FINANCING THE PROJECT

The betterment cost to be apportioned among properties specially benefiting from the betterment (the Betterment Assessment) shall be seventy five percent (75%) of the estimated cost to the Commission of designing and constructing the work at the time the final approval of the sewerage system extension or improvement is made by the Board of Commissioners. The Betterment Assessment shall be assessed in accordance with the Enabling Act, St. 1977 Chapter 436 Section 6(h), which incorporates the provisions of Sections 14 through 24 and 27 through 29 of Chapter 83 of the Massachusetts General Laws, governing the assessment of betterments for the improvement of the sewerage system and Chapter 80 of the Massachusetts General Laws, governing the assessment of betterments generally.

a. Procurement Practices.

Any system extension work is a capital construction project of the Commission. The Boston Water and Sewer Commission shall follow all applicable federal and state laws, its own Policy on Procurement, and procurement and engineering practices with respect to the design, engineering and construction of the project. Costs associated with the project shall be segregated by the Commission, for the purpose of assessing the Betterment Assessment. Design and construction of the betterment shall be included in the Capital Improvement Program budget of the Commission.

b. Determination of Betterment Assessment.

Within six months following the completion of construction of the project extending the sewerage system, the Board of Commissioners shall assess the Betterment Assessment against those parcels which have accrued a Special Benefit as a result of the extension of the system. Each parcel that is specially benefited by the extension shall be assessed its proportion of the Betterment Cost by the uniform unit method described in Massachusetts General Laws Chapter 83 Section 15. Under this method, the costs to be assessed shall be divided among the total number of existing and potential sewer units to be served. Each such sewer unit shall be equal to a single family residence. Existing sewer units shall be calculated on the basis of existing structures. Potential sewer units shall be calculated on the basis of zoning then in effect. Parcels shall be allocated existing sewer units, potential sewer units, or both. No parcel which, by reason of its grade or level or any other cause, cannot be drained into such sewer shall be assessed until such incapacity is removed. A parcel directly connected to the sewerage system or to a private sewer system not the subject of the sewerage system which is the subject of the Petition shall be deemed not to benefit from the extension of the system and shall not be assessed a Betterment Cost; provided, however, that should the property at a later point in time seek to connect to the extension of the sewer system it shall be charged a connection fee commensurate with the Betterment Cost which would have been assessed had the property been benefited by the construction of the betterment. In no event shall the amount of the betterment assessed against a parcel exceed the amount estimated in the Order of Assessment filed in the Registry of Deeds under Section 3(e).

c. Apportionment of Payment.

A property owner has the option of paying the assessed amount to the Commission apportioned over a period of 20 years. The payment shall include interest at the rate of 2 % over the interest rate chargeable to the Commission. A property owner whose payment is apportioned may pay the total amount of the outstanding Betterment Cost at any time.

d. Betterments to Constitute a Lien.

All betterments shall constitute a lien on the property assessed from the time the Order of Assessment is filed with the Suffolk County Registry of Deeds until the time the assessment is paid in full. Demands shall be sent and takings made not later than October 1 in the second year following the filing of the Order of Assessment or, in the case Betterment Assessments apportioned over a period of 20 years, not later than October 1 in the year in which the final payment becomes due.

Policy approved and adopted by the Commissioners at a meeting of the Board on September 16, 1999. This policy shall become effective on the date indicated and shall remain in effect until amended or superseded by a vote of the Commissioners of the Boston Water and Sewer Commission.