

**AN ACT To Repeal and Replace
The Charter of The Ogunquit Sewer District**

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

P&SL 1963, c. 87, as amended, is repealed and the following enacted in its place:

OGUNQUIT SEWER DISTRICT

CHARTER

Revised Version 2022

Sec.1. Charter; Savings Clause; Territorial limits; incorporation. This document shall be known as the Ogunquit Sewer District Charter, Revised Version 2022, also called “the Charter”. It replaces the Charter of 1963, as amended to date. The creation by this Act of a revised Charter for the Ogunquit Sewer District (the “district”) shall not prejudice any claims of creditors towards the district existing prior to this Act or relieve the district of any liability already created or assumed or affect any existing causes of action in favor of or against the district, or the existing rights or obligations of other persons; but, for all purposes, the district shall be regarded as the same district which existed prior to this Act.

The inhabitants and territory within the Town of Ogunquit in York County constitute a public sewerage district and a body politic and corporate under the name of “Ogunquit Sewer district.” The purpose of the district, subject to the provisions of Section 12 is to take over, control, operate and manage the sanitary sewer system previously owned by the Town of Ogunquit and as further improved and expanded by the Ogunquit Sewer district with all appurtenances thereto; to extend, increase, enlarge and improve the sewer system; to extend the present system or systems so as to furnish sewerage facilities to those parts of the district and as determined appropriate by the trustees of the district to parts of adjoining municipalities not served with such facilities or served by a failing or failed subsurface waste water disposal system or septic system, at the time service is extended thereto; to provide for removal and treatment of sewage when, as and if such treatment becomes necessary; and generally to construct, maintain, operate and provide a system of sewage collection and pumping, sewage disposal and sewage treatment for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

Sec. 2. Powers. The district has all powers, rights, privileges and immunities of similar corporations or necessary for the accomplishment of the district’s purposes.

Sec. 3. Authority to construct and maintain. Within the territory and the territory of any adjoining municipality, the Ogunquit Sewer district is authorized to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the same or to contract for the same 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 Charter, to and into tidal waters, rivers, watercourses or treatment works or into any drain or sewer now or hereafter built that empties into tidal waters, rivers, watercourses or treatment works, the discharge from the tidal waters, river, watercourses or treatment works to be at such points consistent with the requirements of public health that are found convenient and reasonable for the district and the flow of existing watercourses; to construct and maintain treatment works, pumping situations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying, distributing and disposing of sewage matter and industrial waste and, subject to Section 12, of surface and waste water, all as may be necessary or proper: and in general, do any or all other things necessary or incidental to accomplish the purposes of this Charter.

Sec. 4. Sewer extensions. Sewer extensions are governed by the Maine Revised Statutes, Title 38, section 1042.

Sec. 5. Authority to acquire and hold property; right of eminent domain conferred. Upon acceptance of this Charter, and subject to Section 12, title to all public sewers in the Town of Ogunquit other than sewers used exclusively for storm or surface water drainage remain with and forth with pass to and are vested in the district, and the district shall maintain and operate the same. Upon approval, title to all plans, maps, specifications and data relating to the existing public sewers and, subject to any obligation of the Town of Ogunquit to the United States of America or any agency of the United States of America, all plans, maps, specifications and data relative to any proposed improvement or expansion of the sanitary sewer system of Town of Ogunquit remain with and pass to the district. The district is authorized and empowered to acquire and hold real and personal property necessary or convenient for the purposes of this Charter, and is expressly granted the right of eminent domain, and for the purposes of this Charter, is authorized to take and hold, either by exercising its right of eminent domain, or by purchase, lease or otherwise, as for public uses any land, real estate, easements or interests in that land, real estate or easements, and any sewers, drains or conduits and any sewer or drainage rights necessary for constructing, establishing, maintaining and operating sewers, drains, reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations and other appliances and property used or useful for collecting, holding, purifying, distributing and disposing of sewage matter and commercial and industrial waste and surface and waste waters. Nothing in this Section may be construed as authorizing the district to 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 thereof in the performance of a public duty, unless expressly authorized by a special Act of the Legislature. The reference to “other public utility” in this Charter shall not be construed to imply that the district is a public utility for purposes of Maine Revised Statutes, Title 35-A.

Sec. 6. Procedures under eminent domain, condemnation, damages and appeals. In exercising from time to time the right of eminent domain conferred upon it, the district, by its

board of trustees, shall proceed in accordance with and is subject to the limitations set forth in the eminent domain procedures set forth in Maine Revised Statutes, Title 38, section 1040.

Sec. 7. Limitations on crossing a public utility. If a sewer line of the district crosses the property or line of any other public utility, unless consent is given by the other public utility as to place, manner and conditions of the crossing within 30 days after consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district. If a sewer line of the district crosses the property or line of a railroad corporation, the procedure is the same as for crossing the property of a public utility, except that the Department of Transportation shall determine the place, manner and conditions of the crossing. Nothing in this Section may be construed as authorizing the district to 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 act of the Legislature.

Sec. 8. Rights of abutters or others to enter sewer system. Any person may enter his private sewer into any sewer of the district while the same is under construction and before completion of said sewer at the point of entry, and before an entrance charge is established, on obtaining a permit in writing from the trustees; but after the sewer is completed to the point of entry and an entrance charge established on that location, no person shall enter his private sewer into such sewer until he has paid the entrance charge and obtained a permit in writing from the trustees as aforesaid. All such permits shall be recorded by the clerk of the district in its records before the same are issued.

Sec. 9. Contracts authorized. In order to carry out its purposes, the district is authorized to contract with persons, corporations, districts and other municipalities both inside and outside the boundaries of the district, with the State and the United States Government or any agency of either and with private contractors, to provide for disposal of sewage and commercial and industrial waste and storm and surface water through the district's system and through the system of a person, corporation, district or other municipality; and every other district and municipality of the State is authorized to contract with the district for the collection, distribution, treatment and disposal of sewage and commercial and industrial waste and storm and surface water.

Sec. 10. Lease of property. The district's lease of its property is governed by the Maine Revised Statutes, Title 38, section 1045.

Sec. 11. Conditions for carrying out work. If the district enters, digs up or excavates a public way or other land for the purpose of laying or maintaining its sewers, drains or pipes, constructing or maintaining manholes or catch basins or their appurtenances or for any other purpose, the work must be done expeditiously, and on completion of the work the district shall restore the way or land to the condition it was in prior to such work or to a condition equally as good. If the character of the work is such as to endanger travel on any public way, the municipal officers of the municipality in which the work is being done may order a temporary closing of the way and of any intersecting way upon request of the district, and the way remains closed to public travel until the municipal officers determine it restored to a condition safe for traffic.

Sec. 12. Surface water facilities; joint facilities; separation of same. Any other provision of this Charter to the contrary notwithstanding, the district is under no duty or obligation to construct, maintain, improve, extend or provide drains, pipes, catch basins or any other facilities for storm or surface water drainage, and all drains, pipes, catch basins or other facilities owned by the Town of Ogunquit and used exclusively for storm or surface water drainage remain the property of the Town of Ogunquit, and no drain, pipe, catch basin or other facility may be transferred to the district to be maintained and operated by the district without the joint approval of the over seers of the Town of Ogunquit and the trustees of the district. Any sewer or drain owned by the Town of Ogunquit at the time of acceptance of this Charter and used for both sanitary sewage disposal and storm and surface water drainage passes to and is vested in the district, and the district is entitled to charge the Town of Ogunquit for the use of the same for storm or surface water drainage at such rates as the trustees may determine. No additional catch basins or other facilities draining into any such combined sewer or drain may be constructed without the approval of the trustees. If and when the district constructs and provides a sewer or drain that permits separation of sanitary sewage previously disposed of through any such combined sewer or drain, the district, by vote of the trustees, shall transfer and convey back to the Town of Ogunquit the facilities for storm and surface water drainage.

Sec. 13. Free access to premises. The officers or agents of the district shall have free access to all premises served by its 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 the provisions of this Charter and the rules and regulations prescribed by the trustees hereunder.

Sec. 14. Connection of private sewers. Notwithstanding anything to the contrary in the Maine Revised Statutes, Title 38, section 1046, subsection 3, every building within the district intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste that is accessible to a sewer or drain of the district must have a sanitary sewer or drainage system that must be connected with the sewer or drain of the district by the owner or person against whom taxes on the premises are assessed in the most direct manner possible within 90 days after receiving a request for connection from the district or within such further time as the trustees of the district may grant and, if feasible, with a separate connection for each building. An existing building that is already served by a private sewer system is not required to connect with any 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 any applicable law or ordinance applicable to the connection with a sewer or drain or a sewer district or any applicable requirements of the state plumbing code, as determined by the municipal plumbing inspector or the plumbing inspector's alternate or, in the event that both are trustees or employees of the district, the Department of Health and Human Service, Division of Health Engineering. Notwithstanding anything to the contrary in the Maine Revised Statutes, Title 38, Section 1046, a building is considered to be accessible to a sewer or drain of the district for the purposes of this Section if that building or any private sewer or drain directly or indirectly connected to the building, or carrying sewage or commercial or industrial waste from the building, is at any point or may at some point come within 150 feet of a sewer or drain of the district, except that nothing in this Section requires the owner of any building to acquire any real

property or easement for the sole purpose of making that connection.

Sec. 15. Sanitary provisions, standards, rules, regulations, bylaws and penalty for violations. The district is authorized to adopt standards, establish and amend reasonable rules, regulations and bylaws for the proper management of the affairs of the district and perform other acts within the powers delegated by law to the trustees. Any person who places, discharges or leaves an offensive or injurious matter or material on or in the conduits, catch basins or receptacles of the district contrary to its rules or regulations, or willfully injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the district for the purposes of this Charter is liable to pay twice the amount of the damages to the district, to be recovered in a civil action; and such person, on conviction of any of the acts or willful injury described in this Section and any person who violates Sections 13 or 14, may be punished by a fine of up to \$1000 per day. The district may seek in a civil action injunctive relief from an industrial or commercial 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 per day for each violation by an industrial or commercial user of a pretreatment standard or requirement.

Sec. 16. Trustees and officer; tenure of office; annual meetings; election to office; organization; vacancies; bylaws; compensation. All of the affairs of the district are managed by a board of 3 trustees, residents of the district, who are chosen as provided in this Section.

The district is managed by a board of trustees, the members of which are elected at an annual election to be held at the same time as and in conjunction with the Town of Ogunquit's annual election. In the event that the Town of Ogunquit 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 vacancies in the office of trustee. The trustees serve staggered 3-year terms so that, except in the event of vacancies, only one trustee position is the subject of an annual election. The 3-year term of office for each trustee commences on the date of the district's annual meeting following the trustees election and ends 3 years later on the day immediately preceding the date of the district's annual meeting.

Vacancies in the office of trustee must be filled by appointment by the remaining trustees until the next annual election. If at an annual election there exists a vacancy in an unexpired term, a trustee must be elected to fill the vacancy for the unexpired term and the voters of the district shall cast their ballots as prescribed in this Section, voting for as many candidates as there are offices to be filled.

Trustees must be residents of the district. When a trustee ceases to be a resident of the district, that trustee vacates the office as trustee. All trustees, if residents of the district are eligible for reelection or reappointment.

The nomination of all candidates for trustee to be elected as provided by this Charter must be by nomination papers signed in the aggregate for each candidate by no fewer than 25 qualified voters resident in the district. Each voter signing a nomination paper shall make that voter's signature in person, and each voter may subscribe to as many nominations as there are trustees to

be elected in the district and no more. The nomination papers, before being filed, must be submitted to the clerk of the Ogunquit Sewer district, who shall certify on the nomination papers that number of the signatures that are names of qualified voters resident in the district. One of the signers to each separate paper shall swear to the truth on the paper, and the certificate of that oath must be annexed to or made upon the nomination papers. The nomination papers must be filed with the clerk of the Ogunquit Sewer District not less than 14 days, exclusive of Sundays previous to the day of the election. With the nomination papers must also be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the provisions of this Section, are determined to be valid. If not in apparent conformity, they may be seasonably amended under oath. If a candidate who has been duly nominated under the provisions of this Section dies before the day of election, or withdraws in writing, or removes that candidate's place of residence from the district, the vacancy may be supplied in the manner provided in this Section for the nominations, except that the time limit for filing the nomination papers does not apply. The name so supplied for the vacancy must, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or if the ballots have been printed, new ballots containing the new nomination must, if practical, be furnished, or slips containing the new nomination must be printed under the direction of the district clerk and must be pasted upon the ballots and over the name of the candidate whose nomination has been vacated pursuant to this Section, and becomes part of the ballots as if originally printed on the ballots. The ballot in the district must contain the names of all candidates so nominated in the district alphabetically arranged, printed in one column under the heading "For Trustee of Ogunquit Sewer District." Above the heading must be printed "Vote for..... (the number to be elected to be inserted). Make a cross or a check mark to the right of the name(s) voted for." As many blank spaces must be left after the names of the candidates as there are trustees to be elected in which the voter may, by writing, insert the name of any person or persons for whom the voter desires to vote. In preparing the voter's ballot the voter shall mark a cross (X) or a check mark (V) against and to the right of the names on the ballot as the voter desires to vote for, not to exceed the number of trustees so to be elected in the district. The result of the election must be declared by the trustees of the district and due certificate of the result filed with the clerk of the Town of Ogunquit.

As soon as convenient after the regularly scheduled annual election, and after the appointment of a new trustee to fill a vacancy on the board of trustees, the board of trustees shall organize by election from their own members a chair, treasurer and clerk. The trustees may adopt and establish bylaws, consistent with the laws of the State of Maine and the United States, as may be necessary for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.

The trustees from time to time may choose and employ, and fix the compensation of, any other necessary officers and agents who serve at their pleasure. The treasurer shall furnish bond or appropriate insurance coverage in such sum and with such sureties as the trustees approve, the cost of the bond or insurance coverage to be paid by the district.

Members of the board of trustees are eligible to serve in any office under the board. The trustees of the district shall receive compensation as recommended by the trustees and approved by majority vote of the municipal officers in municipalities representing a majority of the

population within the district, 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.

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. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the Town of Ogunquit's report.

The annual meeting of the district, which is different than the Town of Ogunquit's annual meeting, must be held at an hour, date and place designated by resolution of the board of trustees. At the annual meeting of the district, the trustees shall elect a chair, a treasurer and a clerk to serve for the ensuing year and until their successors are elected and qualified.

The board of trustees shall adopt a budget for the next fiscal year of the district following an opportunity for public comments on the budget.

Sec. 17. Recall. Trustees of the district may be recalled in accordance with the following provisions.

1. Petition. The qualified electors of the district may petition for the recall of any trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk of the Town of Ogunquit, 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 a number of electors of the district equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within the Town of Ogunquit. The recall petition must state the reason for which removal is sought.

2. Calling a special election. Within 3 days after the petition is offered for filing, the municipal clerk of the Town of Ogunquit 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 any 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 of the Town of Ogunquit shall file the petition and call a special election within the district to be held in accordance with applicable provisions of Section 16 not less than 40 days nor more than 45 days from the filing date. The municipal clerk of the Town of Ogunquit shall notify the trustee against whom the recall petition is filed of the special election.

3. Candidates. 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. A primary may not be held. Candidates for the office may be nominated in accordance with applicable procedures established under Section 16 by filing nomination papers with the clerk of the Town of Ogunquit, not later than 5 p.m., 14 days preceding the election and have their names placed on the ballot at the special election.

4. Election. The trustee against whom a recall petition has been filed shall continue to perform the duties of the office until the result of the special election is officially declared. The ballot for the special election must contain the names of all qualified candidates and include the following heading:

“Recall Election for Trustee of the Ogunquit Sewer District. Vote for one by placing a cross or check mark beside the name of the person for whom you are voting”

The person receiving the highest number of votes at the special election is elected for the remainder of the term. If the incumbent receives the highest number of votes, the incumbent continues in office. If another person receives the highest number of votes, that person succeeds the incumbent, if qualified, within 10 days after receiving notification.

5. Further recalls prohibited. After one recall petition and special election, a further recall petition may not be filed against the same trustee during the term for which that trustee was elected.

Sec. 18. Special meeting; qualifications of voters of district. Special meetings of the district may be called by the board of trustees at any time and notice of those special meetings stating the place and time of the special meeting and the business to be transacted must be signed by the chair or clerk of the board of trustees and must be conspicuously posted in at least 2 public places within the district, not less than 7 days inclusive of Sundays, before the meeting. Any such meeting may be adjourned from time to time by vote of the qualified voters present at the meeting, though less than a quorum, and without notice of the time and place of the adjourned session, other than announcement at the meeting. Eleven persons qualified to vote in the meetings constitute a quorum. All special meetings of the district are presided over by a moderator chosen in the same manner and having the same authority as moderators of town meetings. All persons resident in the district and qualified to vote for the Governor under the laws of this State are entitled to vote in any special meeting of the district. The registrar of voters of the Town of Ogunquit shall furnish a current list of qualified voters to the trustees by which the trustees shall determine the qualified voters for the purposes of the special meeting.

Sec. 19. Property tax exempt. The property, both real and personal, rights and franchises of the district shall be forever exempt from taxation.

Sec. 20. Authorized to borrow money, to issue bonds and notes. To procure funds for the purposes of this Charter and for such other expenses as may be necessary for the carrying out of the purposes, the district without a district vote but by action of its board of trustees is authorized to raise funds from sources other than operational activities by receiving government aid and also by borrowing money in accordance with this Section. The district may issue its notes and bonds in one series or in separate series from time to time, as long as the aggregate outstanding

principal balance at any one time does not exceed \$12,000,000, unless a higher debt obligation limit is established in accordance with Maine Revised Statutes, Title 38, section 1054, provided that the district may employ the procedures set forth in section 2354 of Title 30-A as an alternative to the procedures in chapter 121 of Title 30-A.

All bonds, notes or other evidences of indebtedness must have inscribed upon their face the words "Ogunquit Sewer District" and must be signed by the treasurer and countersigned by the chair of the board of trustees of the district and, if coupon bonds are issued, the interest coupons attached must bear the facsimile of the signature of the treasurer. Bonds must be issued in accordance with the following provisions.

1. Authorization of bonds. The district may provide by resolution of its board of trustees, without district vote, for the borrowing of money and the issuance from time to time of bonds for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness;

B. Paying any necessary expenses and liabilities incurred, including organizational and other necessary expenses and liabilities, whether incurred by the district or a municipality in the district, the district being authorized to reimburse a municipality in the district for any such expenses incurred or paid by the municipality;

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 to cover interest payments during the period of construction and for such period thereafter as the trustees may determine;

D. Providing such 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; or

E. Any combination of these purposes.

Bonds may be issued as general obligations of the district or as special obligations payable solely from particular funds. The principal of and premium, if any, and interest on all bonds are payable solely from the funds provided for that purpose from revenues. For purposes of this Charter, "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, sale or other disposition of properties. All bonds issued by the district are legal obligations of the district and the district is declared to be 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 of a municipality encompassed by the district and without any proceedings or conditions other than those specifically required by this Charter or other applicable law. Bonds issued do not constitute a debt or liability of the State or of a municipality encompassed by the district or a

pledge of the faith and credit of the State or a municipality. 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 of trustees, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized 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 issue of these notes is governed by the applicable provisions of this Charter relating to the issue 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 of such notes 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 issue of other notes, as long as the period from the date of an original note to the maturity of a note issued to renew or pay the same or the interest on the note does not exceed one year.

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

3. Maturity; interest; form; temporary bonds. The bonds issued under this Charter must be dated, must mature at such time or times not exceeding 40 years from their date or dates and must bear interest at such rate or rates as may be determined by the board of trustees, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such terms and conditions as may be fixed by the board of trustees prior to the issuance of the bonds. The board of trustees 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 must be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least 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 an 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 of this Charter or any recitals in any bonds issued under this Charter, all such 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 of trustees may determine, and 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 of trustees may sell the bonds in such manner, either at public or private sale, and for such price as the board may determine to

be for 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 have been authorized and must be disbursed in such manner and under such restrictions, if any, as the board of trustees may provide 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 a trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board of trustees may determine proper, and these additional bonds must be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of trustees 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 of trustees may provide for the replacement of any bond that is mutilated, destroyed or lost.

4. Pledges and covenants; trust agreement. In the discretion of the board of trustees of the district, an issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be a trust company inside or outside the State.

The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the district and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district, and the proceeds of the bonds, but 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 as may be 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 insurance of its sewer system or 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; and defining defaults and providing for remedies in the event of a default, that 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 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 may determine 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 a 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 pledged and thereafter received by the district are immediately subject to the lien of the pledge without any physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and 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 a notice of the lien of the pledge.

The resolution authorizing the issuance of bonds under this Charter, or a trust agreement

securing those bonds may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves as may be provided in the resolution or trust agreement, must be set aside at 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 Charter as the payment 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 are 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 must be a fund for the benefit of all bonds without distinction or priority of one over another.

5. Trust funds. Notwithstanding any other law, all money received pursuant to the authority of this Charter is deemed to be trust funds, to be held and applied solely as provided in this Charter. 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, that money is paid shall act as trustee of that money and must hold and apply the same for the purposes of this Charter, subject to such regulations as may be provided in the resolution or trust agreement or as may be required by this Charter.

6. Remedies. A holder of bonds issued under this Charter or of any of the coupons appertaining to the bonds, and the trustee under a 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 all rights under the laws of the State or granted under this Charter or under the resolution or trust agreement, and may enforce and compel the performance of all duties required by this Charter or by the resolution or trust agreement to be performed by the district or by an 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 district by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying 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 of trustees 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 refunding, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of the refunding bonds, the security for the refunding 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 the Maine Revised statutes, Title 38, chapter 11 relating to the issue of bonds other than refunding bonds.

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this Charter

and their transfer and the income from bonds, notes or other evidences of indebtedness, including any profit made on the sale of bonds, notes or other evidences of indebtedness are exempt from taxation within the State.

9. Bonds declared legal investments. Bonds and notes issued by the district under this Charter are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, 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, 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 made securities that may properly and legally be deposited with and received by any state, municipal or public officer, or an agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

Sec. 21. Investments. Investments by the district are governed by Maine Revised Statutes, Title 38, section 1055.

Sec. 22. Rates and tolls; application of revenues. All individuals, firms and corporations, whether public, private or municipal shall pay to the treasurer of the district rates, tolls, rents, entrance charges and other lawful charges established by the board of trustees in accordance with this Charter for the service used or available to them. The sewer rates may be adjusted for the quality and character of the material discharged into the sewer system and may include discounts and late charges, rates for the district's connection fees, impact fees and readiness to serve charge against owners or persons in possession or against whom the taxes are assessed of all buildings or premises intended for human habitation or occupancy, whether occupied or not, that abut on a street or location through which the district has constructed a sewer line or that are within 150 feet of a sewer line constructed by the district. Even if the buildings or premises are not actually connected to the sewer line.

In this Charter, the words "other lawful charges" or "other charges" include, but are not limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State of municipal taxes.

Rates, tolls, rents and entrance charges must be uniform within the district if the cost to the district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform; but nothing precludes the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and entrance charges in sections where, for any reason, the cost to the district of construction and maintenance or the cost of service exceeds the average, but the higher rates, tolls, rents and entrance charges must be uniform throughout the sections where they apply. Rates, tolls, rents and entrance charges for services provided in adjoining municipalities shall be established by the trustees based on costs associated with said services, and are not subject to a requirement of uniformity.

Prior to the adoption of a new rate schedule, the board of trustees shall hold a public hearing regarding the proposed rate schedule. The board of trustees shall publish the proposed rates and notice of the hearing at least 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 new rate at least 14 days prior to the hearing.

Notwithstanding any other provision of law, districts that share, supply or contract with another district for service shall establish rates, tolls, rent and entrance charges mutually agreeable to the board of each participating district.

The sewer rates, tolls, rents and entrance charges, assessments and other lawful charges established by the board of trustees in accordance with this Charter must be fixed and adjusted to produce in the aggregate revenue at least sufficient, together with any other money available, to:

1. Current operating expenses. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;
2. Payment of interest and principal. Pay the principal of, premium, if any, and interest on all bonds and notes issued by the district under this Charter and the Maine Revised Statutes, Title 38, chapter 11 as the same become due and payable;
3. Sinking fund for retirement of obligations; repairs; replacement; renewals. Create and maintain sinking funds and other reserves for retirement of obligations as may be required by any trust agreement or resolution securing bonds and notes and provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district;
4. Pay for repairs, etc. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district; and
5. Payment of obligations. Pay or provide for all amounts that the district may be obligated to pay or provide for by law or contract, including a resolution or contract with or for the benefit of the holders of its bonds and notes.

Sec. 23. Assessments for sewer construction against lots benefited. When the district has constructed a common sewer or constructed or acquired other improvements associated with a common sewer, the trustees may, if they so determine, in order to recover the expenses of the construction, determine what lots or parcels of land, whether or not buildings or other structures are located on the lots or parcels of land or whether or not they are otherwise improved, are benefited by such sewer, construction or acquisition. The district shall then estimate and assess upon such lots and parcels of land, and against the owner of the lots or parcels of land, or person in possession or against whom taxes on the lots or parcels of land are assessed, whether the person to whom the assessment is so made is the owner, tenant, lessee or agent, or against the heirs or devisees of a deceased owner without designating any of them by name and whether the same is occupied or not, a sum reflecting an appropriate portion of the expenses of constructing the common sewer or acquisition of other improvements, the amount assessed not to exceed the

amount of such benefit as the district determines just and equitable towards defraying the expenses of constructing and completing such sewer, construction or acquisition of other improvements, together with such sewage disposal units and appurtenances as may be necessary. The trustees shall file with the clerk of the district a plan showing the location of such sewer or construction or showing acquisition of other improvements sewage disposal units and their assessment roll containing a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel, and the name of the person against whom the assessment is made. The clerk of the district shall record the same in a book kept for that purpose, and each person so assessed must be notified of the assessment by having an authentic copy of the assessment roll, with an order or notice signed by the clerk of the district, stating the time and place for a hearing upon the subject matter of the assessments, given to each person so assessed or left at the person's usual place of abode in the district at least 10 days before the hearing, or by mailing the same to each person so assessed by certified mail addressed to the persons last known address and by publishing the same once a week, for 3 successive weeks in any newspaper of general circulation in the district, the mailing and the last such publication to be at least 30 days before the hearing. A return made upon a copy of such notice by a notary public or the production of the paper containing such notice or the certificate of the clerk of mailing or publication is conclusive evidence that the notice has been given. At the hearing the trustees shall have the power to revise, increase or diminish any of the assessments, and any revisions, increases or diminutions be in writing and recorded by the clerk of the district. The trustees also have the power to make supplemental assessments for additional expenses it incurs in the construction of common sewers or acquisitions of other improvements. Supplemental assessments may be made within 5 years from the date of any assessment roll whenever it appears any lot or parcel of land benefited has been omitted from the assessment or improperly assessed or any part of the original assessment is invalid or void for any reason. Supplemental assessments may be made according to the procedures and the principles for assessments

Sec. 24. Right of appeal regarding assessments for sewer construction. Any person aggrieved by the decision of said trustees as it relates to any assessment for sewer construction shall have the same rights of appeal as are provided in the case of laying out of town ways.

Sec. 25. Assessments for sewer construction; lien; sheriff's sale. All assessments and supplemental assessments made under Section 23 create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same. The lien takes effect when the trustees file with the clerk of the district the completed assessment roll, and continues for one year thereafter or for one year after the termination of any appeal; and within 10 days after the date of hearing on the assessment, the clerk of the district shall make out a list of all assessments, the amount of each, and the name of the person against whom the same is assessed, and the clerk shall certify the list and deliver it to the treasurer of the district. If the assessments are not paid within 3 months from the date thereof, the treasurer may bring civil action for the collection of the assessment in the name of the district against the person against whom the assessment is made. The action is begun by writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which must be served as other writs of attachment to enforce liens on real estate. The declaration in such action shall contain a statement of such assessment, a description of the real estate against which the assessment is made, and an allegation that a lien is claimed on the real estate to secure the payment of the assessment. If

service is not made upon the defendant or it appears that any other persons are interested in the real estate, the court shall order further notice of the action as appears proper, and shall allow other persons to become parties to the action. If it appears upon trial of the action that the assessment was legally made against the real estate, and is unpaid, and that there is an existing lien on the real estate for the payment of the assessment, judgment must be rendered for the assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made, and execution issued on the assessment to be enforced by sale of the real estate in the manner provided for a sale on execution of real estate attached on original writs; as long as in making the sale, the officer shall follow the procedure in selling and conveying and there must be the same rights of redemption as are provided in the Maine Revised Statutes, Title 36, Section 941.

Sec. 26. Additional method of collection of assessments. If assessments under section 23 are not paid and the district does not proceed to collect unpaid assessments by a sheriff's sale of the real estate upon which the assessments are made under section 25, or does not collect or is in any manner delayed or defeated in collecting the assessments by a sheriff's sale of the real estate under section 25. then the treasurer, in the name of the district, may maintain a civil action against the party so assessed for the amount of the assessment or supplemental assessment, as for money paid, laid out and expended, in any court of competent jurisdiction, and in a suit may recover the amount of the assessment, with interest at the rate of 10% per year on the same from the date of the assessment or supplemental assessment, and costs.

Sec. 27. Assessments paid by other than owner, how recovered. When any assessment under Section 23 is paid by any person against whom the assessment has been made, who is not the owner of the lot or parcel of land, then the person so paying the same has a lien upon the lot or parcel of land with the buildings on the lot or parcel for the amount of the assessment so paid by the person, and incidental charges, which lien continues for one year and which lien may be enforced in a civil action as for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under the Maine Revised Statutes Title 36, Section 941.

Sec. 28. Landlord access to tenant bill payment information. Landlord access to payment information related to sewer service is governed by the Maine Revised Statutes, Title 38, section 1051.

Sec. 29. Lien securing collection of rates; lien certificates for collection of assessments on rates; procedure. Liens on lots or parcels of land created by Section 25, in addition to other methods established by law, may be enforced in the following manner.

There is a lien to secure the payment of rates established under Section 22 and assessments established under Section 23 of this Charter assessed by the district on real estate within the district. This lien arises and is perfected as services are provided and takes precedence of all other claims on such real estate, excepting only claims for taxes. The treasurer of the district has the authority and power to collect the rates, and all rates must be committed to the treasurer.

In addition to other methods previously established by law for the collection of the rates, the lien

created may be enforced in the following manner, as long as in making the assessment there is a description of the real estate served by the several sewers of the district, that is sufficiently accurate to identify the real estate against which any of the several rates may be charged. The treasurer, when a rate, assessment or supplemental assessment has been committed to the treasurer for collection, may, after the expiration of 8 months and within 1 year after commitment to the treasurer of the rate, give to the person against whom the rate, is assessed, or leave at the person's last and usual place of abode, or send by certified mail, return receipt requested, to the person's last known address, a notice in writing signed by the treasurer stating the amount of rate, assessment or supplemental assessment describing the real estate on which the rate is being assessed, alleging that a lien is claimed on the real estate to secure the payment of the rate and demanding the payment of the rate within 10 days after the service of such notice. After the expiration of the 10 days and within 10 days after the expiration, if the rate, assessment or supplemental assessment remains unpaid, the treasurer shall record in the registry of deeds of York County a certificate signed by the treasurer setting forth the amount of the rate, assessment or supplemental assessment a description of the real estate on which the rate is assessed and an allegation that a lien is claimed on the real estate to secure the payment of the rate, assessment or supplemental assessment, that a demand for payment of the rate has been made in accordance with the provisions of this Charter and that the rate remains unpaid. In all cases, the certificate so filed need not contain the allegation that payment of the rate has been demanded. At the time of the recording of the certificate in the registry of deeds as provided in this Section, in all cases such treasurer shall file in the office of the district a true copy of the certificate and also at the time of recording, the treasurer shall mail by certified mail, return receipt requested to each record holder of a mortgage on the real estate, addressed to the mortgage holder at the mortgage holder's last and usual place of abode, a true copy of the certificate. The fee to be charged to the rate-payer or person assessed for the notice and filing must include the costs of mailing copies of the certificate to the record holders of a mortgage on the real estate and the then-current fee charged by the register of deeds for the filing.

The filing of the certificate in the registry of deeds is deemed to create and shall create a mortgage on the real estate to the district having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for municipal property taxes, and shall give the district all the rights usually incident to a mortgage, except that the mortgagee shall not have any right of possession of the real estate until the right of redemption provided for in this Section has expired.

If the mortgage, together with interest and costs has not have been paid within 18 months after the date of filing of the certificate in the registry of deeds as provided in this Section, the mortgage is deemed to have been foreclosed and the right of redemption to have expired.

The treasurer shall notify the party named on the certificate and each record holder of a mortgage on the real estate no more than 45 days nor less than 30 days before the date of foreclosure of the mortgage created under this Section. The notification shall be in writing left at the owner's and all mortgagees' last and usual abode or sent by certified mail, return receipt requested, to the owners and mortgagees at their last known addresses. The notice shall indicate the exact date of foreclosure and include the warnings and other information substantially in the following form:

STATE OF MAINE
OGUNQUIT SEWER DISTRICT
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE OF SEWER LIEN
P. & S. L. 2000, c. _____

IMPORTANT: DO NOT DISREGARD THIS NOTICE YOU WILL LOSE YOUR PROPERTY UNLESS YOU TIMELY PAY THE SEWER CHARGES, COSTS AND INTERESTS THAT HAVE BEEN LIENED BY THE OGUNQUIT SEWER DISTRICT

TO:

You are the party named on the Sewer Lien Certificate filed on _____, 20____, and recorded in the York County Registry of Deeds in Book _____, Page _____. The 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 rights to redeem the mortgage and recover your property by paying the sewer charges, costs and interest that are owed will expire.

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

If you cannot pay the outstanding sewer charges, costs and interest that are the subject of this notice, please contact me to discuss this notice.

District Treasurer

The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage herein provided for. In the event that the rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of the district shall discharge the mortgage in the same manner as is now provided for discharge of real estate mortgages.

The fee to be charged by the district to the ratepayer for such notice and filing shall not exceed \$3 in addition to the fee to be charged to the district by the register of deeds for filing and recording the same.

Sec. 30. Waiver of Sewer District Lien Foreclosure. The district's waiver of a lien foreclosure for any lien created pursuant to this Charter is governed by Maine Revised Statutes, Title 38, section 1049.

Sec. 31. Construction of this Charter; bylaws and regulations authorized; incidental powers and rights. This Charter shall be construed as authorizing a charge by the district for the use of sewers, sewer systems and treatment works in addition to any other assessments now lawfully imposed by general law. The trustees may adopt such rules and regulations as may be necessary or convenient to carry out the provisions of this Charter. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this Charter as set forth

herein are granted to the district; including the right of the trustees to determine when and where sewerage facilities are most needed, and when and how sewers shall be built.

In addition, the district is authorized to imposed charges, in addition to any other assessments lawfully imposed by general law, for the use of sewers, sewer systems and treatment works, and the trustees may adopt rules and regulations as may be necessary or convenient to carry out the purposes of the district. All incidental powers, rights and privileges necessary to the accomplishment of the purposes of the district are granted to the district and its trustees, including the right of its trustees to determine when and where sewerage and treatment facilities and disposal unties are needed and when and where they are constructed.

The provisions of this Charter shall be severable and if any phrase, clause, sentence or provisions of this chapter, or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application thereof to other persons or circumstances shall not be affected thereby.

Sec. 32. Coordination with municipal planning. The district shall coordinate municipal planning and sewer extension planning in accordance with the Maine Revised Statutes, Title 38, section 1037

Sec. 33. Town of Ogunquit; sewer system; storm water system. The authority to construct and maintain a sanitary sewer system and to provide for the removal and treatment of sewage, and to construct, maintain, operate and provide a system of sewage collection and pumping, sewage disposal and sewage treatment, having been granted to the district, the Town of Ogunquit shall not be authorized to construct and maintain sanitary sewers or sewerage treatment facilities. This provision shall not limit the authority of the Town of Ogunquit to construct and maintain storm water sewers and a storm water sewer system.

STATEMENT OF FACT

This bill repeals and replaces the Ogunquit Sewer District Charter, so as to update the Charter to conform with Title 38, chapter 10 and to reflect current and more efficient and effective practices.