

## **ARTICLE I SEWER & WATER SERVICES**

### **§ 80-01. Legislative intent.**

It is the legislative intent of the Village Board of the Village of South Blooming Grove to enact a local law to govern the sewer and water districts that were conveyed to the village from the Town of Blooming Grove, pursuant to Article 2 of the New York State Village Law, on January 1, 2008. The Town of Blooming Grove created and governed these districts pursuant to the comprehensive statutory scheme set forth in Article 12, Article 12-A and Article 12-C of the New York State Town Law prior to the incorporation of the Village. The Village Board, pursuant to authority vested in it by Section 2-254(6) of the New York State Village Law, which grants to the Village Trustees all the powers and duties formerly held by the Town Board necessary to continue the service performed by the former Town districts and pursuant to Municipal Home Rule Law Section 10, which grants the Village Trustees the power to adopt and amend local laws not inconsistent with the constitution or general laws, wishes to continue these vital services to the residents of these districts.

### **§ 80-02. Application of article.**

Notwithstanding any other provisions of this chapter, the Village Board of the Village of South Blooming Grove may, in the manner provided by this article, maintain or extend in said village, sewer or water districts as defined in this article and provide improvements or services, or both, in any such district, wholly at the expense of the district. Any sewer or water district as defined in this article extended pursuant to this article or otherwise may be extended pursuant to the provisions of this article or any other applicable provision of law. No such district shall be extended in a city, town, or in an incorporated village provided, however, that such a district may be extended wholly or partly within an incorporated village on consent of the village expressed in a local law, ordinance or resolution, subject to a referendum on petition under section twenty-four of the municipal home rule law or a permissive referendum under Article Nine of the village law, as the case may be.

### **§ 80-03. Definitions.**

For the purposes of this article the following definitions shall apply:

1. The term "improvement district" shall include only a sewer, or water district in the Village of South Blooming Grove,
2. The term "typical property" shall mean a benefited property having an assessed value that approximates the assessed value of the mode of the benefited properties situated in the district or extension that will be required to finance the cost of the proposed improvements or extension;
3. The term "typical one or two family home" shall mean a benefited property improved by a one or two family dwelling and having as assessed value that approximates the assessed value of the mode of the benefited properties improved by one or two family dwellings situated in the district or extension that will be required to finance the cost of the proposed improvements or extension;
4. The terms "cost of the district or extension to the typical property" and "cost of the district or extension to the typical one or two family home" shall mean the amount that is estimated that the owner of such a typical property or home within the district or extension will be required to pay for debt service, operation and maintenance and other charges, such as user charges, related to the improvements in the first year following formation of the district extension or, if greater, in the first year in which both principal and interest on any indebtedness and operation and maintenance costs will be paid;

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5. The term "mode" shall mean, in connection with assessed value of property, the most frequently occurring assessed value as shown on the latest completed final assessment roll.
6. The term "benefited property" shall mean a property having received a benefit in the way of municipal water service or municipal sewer service. The benefited properties must be situated within the borders of the Village and situated in the district or extension.

### § 80-04. Powers of Village Boards with respect to sewer and water districts.

The Village Board of the Village of South Blooming Grove, except as otherwise provided by law, shall have authority to and may exercise the following powers with respect to the village's sewer and water districts, heretofore or hereafter the conveyance of said districts as memorialized in a Resolution dated December 3, 2007 being number #\_\_\_ of 2007 and as a function of New York State Village Law, subject to the provisions of this article:

#### 1. Sewer district

The Village Board of the Village of South Blooming Grove may:

- (a) lay out, open, design, construct, alter and maintain sanitary sewers system or any necessary work appurtenant thereto, for the benefit of any sewer district in said village, provided, however, that any such improvement shall be consistent with, so far as possible, any comprehensive plan for sewers developed and maintained pursuant to section ninety-nine-f of the General Municipal Law;
- (b) contract with any person or corporation, municipal or otherwise, for supplying the inhabitants of such district with sanitary sewer facilities;
- (c) contract for the purchase from any person or corporation, municipal or otherwise, of any trunk sewer, lateral sewer, sewer system or disposal plant, rights of way and appurtenances, for the purpose of supplying the inhabitants of any such district with sanitary sewer facilities, provided that prior to the purchase of a lateral sewer a petition for such purpose stating the maximum amount to be expended therefore shall be filed with the Village Clerk, signed by the owners of taxable real property fronting or abutting upon either side of any street or highway, or part of a street or highway, in said district wherein said lateral is constructed to the extent of at least one-half of the entire frontage on both sides of said street or highway, or part aforesaid, as shown upon the latest completed assessment roll of said village, and the procedure thereon and for the financing of such purchase and the levy of assessments therefore shall be the same as provided in this article for the construction of a lateral sewer in a sewer district;
- (d) regulate the construction of all private sewers and prescribe the manner in which sewer connections shall be made, provided, however, that such construction shall be consistent with, so far as possible, any comprehensive plan for sewers developed and maintained pursuant to section ninety-nine-f of the General Municipal Law;
- (e) Cause sewer pipes to be laid, re-laid or repaired in or below the surface of any public highway, road, street or avenue, as a necessary use of the highway and for highway purposes, without obtaining any easement therefore from the owner of the fee of the land in said public highway, road, street or avenue. The Village Board shall cause such highway, road, street or avenue to be restored to its usual condition at the expense of the district benefited. No sewer pipes shall be laid under any highway, road, street or avenue without the consent of the governing board of such highway be a state or county highway or a highway constructed pursuant to section one hundred ninety-four or one hundred ninety-five or article six of the highway law, in addition to such consents, the consent of the commissioner of transportation;
- (f) enter into a contract or contracts with another sewer district or with any incorporated city or village or with one or more corporations or individuals for the joint disposal of sewage, and the expense of such joint disposal of sewage shall be apportioned between the contracting parties in proportion to the areas served, volumes of sewage disposed of or the benefits received by each contracting party;

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(g) adopt, from time to time, ordinances, rules and regulations for the operation of the sewer district and the use of the sewer system therein, and enforce compliance with such ordinances, rules and regulations;

(h) establish, from time to time, charges, fees or rates to be paid by the owners of real property within such district for the connection of house service lines or mains with such sewer system. Such connection charge may include any expense incurred for the purpose of providing service, whether such expense is incurred for construction within the property line or within the street lines. In addition, such connection charge may include a fee for the inspection of such connection, the expense of performing service in relation thereto or for any other special benefit received;

(i) establish, from time to time, charges, fees or rates for the use of such sewer system, to be designated "sewer rents". Such rents may be based upon the metered consumption of water on premises connected with the sewer system, making proper allowance for commercial use of water, the number and kind of plumbing fixtures connected with the sewer system, the number of persons served by the sewer system, or upon any other equitable basis, as the Village Board may determine. The provisions of this paragraph shall apply only to the sewer district in which sewer rents have been established and are being imposed, pursuant to the provisions of this paragraph. The provisions of this paragraph shall not prevent the village from acting pursuant to the provisions of paragraph (l) of this subdivision;

(j) establish, from time to time, charges, fees or rates for services rendered or work performed for the particular or special benefit of any individual parcel or portion of real property within such sewer district;

(k) provide by ordinance, rule or regulation for the time within which rates, charges, fees or sewer rents may be paid, and may provide a penalty not exceeding ten per centum of the amount due when such rates, charges, fees or sewer rents are in arrears for thirty days or longer, and may provide for the payment of such charges, fees, rates or sewer rents in advance. The Village Clerk shall annually file with the Village Board statements showing the unpaid rates, charges, fees or sewer rents in such district. Such statements shall contain a brief description of the property against which such sewer rents were imposed, the names of the persons or corporations liable to pay for the same and the amount chargeable to each. The Mayor / Village Treasurer shall transmit such statement to the board of trustees, which shall levy such sums against the property liable and shall state the amount of the tax in a separate column in the annual tax rolls of such village under the name of "sewer charges". Such tax shall be paid to the Village of South Blooming Grove. All of the provisions of the existing tax laws of the state of New York covering the enforcement and collection of unpaid village taxes or assessments for special improvements in the several villages of the state of New York not inconsistent herewith shall apply to the collection of such unpaid sewer charges. All fees, charges, rates and sewer rents may be used for the payment of the cost of the management, maintenance, operation and repair of the sewerage system including treatment and disposal works, or for the enlargement or replacement of the same. The term "sewer rents", as used in this paragraph, has reference only to sewer rents established pursuant to paragraph (i) of this subdivision;

2. Notwithstanding any other provisions of law, the Village Board may establish and impose sewer rents pursuant to the provision of article fourteen-f of the general municipal law as a source of revenue, other than assessments upon benefited real property, for financing district expenditures. Such sewer rents may be expended as provided in article fourteen-f of the General Municipal Law and, to the extent that such sewer rents provide a source of revenue for such expenditures, assessments shall not be levied upon property especially benefited by the sewer system or the part or parts thereof for which such rents are established and imposed. This paragraph does not affect any provisions of law relating to the authorization or construction of any improvement in a sewer district.

(a) The Village Board shall also have power to institute an industrial or commercial cost recovery system for payment to the United States by the commercial users of the private on-site wastewater disposal system of that portion of the cost of construction of such system which is applicable to the treatment of commercial wastes to the extent attributable to the federal share of the cost of construction.

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(b) The Village Board shall also have the power to submit, on behalf of individual property owners who have requested such assistance in writing, an application for federal assistance and state assistance towards the eligible cost of construction of private on-site wastewater disposal systems.

(c) Upon approval of an application for federal assistance towards the eligible cost of construction of private on-site wastewater disposal systems the Village Board may enter into a contract with the federal government for payment of such assistance.

### 3. Water districts

The village board may construct, maintain, extend, repair and regulate water works, wells, reservoirs, or basins for the purpose of supplying the inhabitants of any water district in the Village of South Blooming Grove, with pure and wholesome water for domestic and commercial uses, and for protection against fire; provided, however, that any such improvement shall be consistent with, so far as possible, any comprehensive plan for public water supply systems developed and maintained pursuant to section ninety-nine-f of the general municipal law. The Village Board may cause water pipes and necessary appurtenances thereto to be laid, re-laid or repaired in or under the surface of any highway within such village, for the purpose of transporting water to a water district in said village, and shall cause such highway to be restored to its usual condition at the expense of the district benefited, or may cause water pipes and necessary appurtenances thereto to be constructed along an easement acquired for such purpose, pursuant to law. No water pipes shall be laid under any highway, road, street, or avenue without the consent of the governing board of such highway be a state or county highway, or a highway constructed pursuant to section one hundred ninety-four or one hundred ninety-five or article six of the highway law, in addition to such consents, the consent of the state superintendent of public works. The Village Board may also acquire by purchase any existing water system, or a portion or portions thereof, in the county in which such village is located, for the purpose of supplying the inhabitants of a village water district in such village, but the cost of acquisition thereof shall not exceed the maximum amount stated in the petition or in the final order, if the Village Board proceeded under this article. For the purpose of promoting the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the village and of its inhabitants and for the maintenance of peace and good order and for the benefit of trade, or for any of such purposes, the Village Board may lay, construct and maintain mains and conduits, subject to the supervision of the Village Board of trustees, in, on, along or under the surface of any highway, road, street or avenue within the water district, as a necessary use thereof for highway purposes and without obtaining any easement therefore from the owner of the fee of the land in such highways, roads, streets or avenues, and the Village Board may erect and place hydrants, valves, valve boxes, pipes and necessary appurtenances thereto, in, on, along or under the surface of such highways, roads, streets and avenues, or any of them, or in or along any easements acquired for such purpose as provided in this subdivision. The village board may also exercise similar powers in, on, along or under the surface of any private highways, roads, streets or avenues within the water districts, as a necessary use thereof for the purpose of promoting the public welfare, provided that there be dwelling houses erected and used for residential purposes on the lands abutting on such private highway, road, street or avenue. The owners of the land in such private highways, roads, streets or avenues may be compensated for the use thereof in damages which shall be assessed and determined as provided in article eight of the highway law upon the opening of a new highway where easements have not been granted. If the Village Board shall cause or permit any excavation to be made in any highway, road, street or avenue for the performance of work pursuant to the provisions of this article, the village board shall cause such highway, road, street or avenue to be restored to its usual condition at the expense of the district benefited. Supply pipes connecting with district mains shall be installed and repaired at the property owner's expense under the direction of an employee of the village or the district after a permit therefore has been granted, except that the Village Board may, by resolution, provide that that portion of a supply pipe within the bounds of a public highway shall be installed, maintained and repaired by the water district. The costs of installation, maintenance and repair shall be district charges to be assessed, levied and collected as provided in sections eighty, subdivision twenty-six and

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eighty, subdivision twenty seven of this article. The Village Board may also fix a uniform service charge for the installation of such portion of a supply pipe, regardless of the location of the water main and regardless of the soil, rock or other physical conditions within the highway, and provide for the time and manner of payment of such charge by the property owner served by the supply pipe. If a property owner shall fail to pay the uniform service charge, a statement showing the name of the property owner and the amount unpaid and containing a brief description of the real property shall be transmitted to the board of supervisors of the county and such amount shall be levied and collected as an assessment against the real property, all in the manner provided in paragraph (d) of this subdivision in the case of unpaid water rents. Such service charges, when collected, may be used for any water district purpose, except as otherwise provided by law. Any member of the Village Board, if there be one, or a duly authorized agent of either, may at any time enter a building or upon premises where water is used from supply pipes connected to a district system, for the purpose of examining such pipes and the manner of installation thereof.

(b) Purchase and sale of water. The Village Board may contract with any person or corporation, municipal or otherwise, or with a village, town or county on behalf of a water district, for a supply of water, for a term not to exceed forty years, and shall have the power and authority to resell said water to the inhabitants and consumers in said water district and may use such portion thereof within the district as it may see fit and proper for public purposes and provide for the payment as a village charge of that portion of the cost of said water used by the village. The village board may also sell water for the benefit of such water district to "unprotected areas" of the village, but the village board shall not supply water of such water district to that portion of any fire district, fire protection district, fire alarm district or any such "unprotected area" which shall be included within the boundaries of another water district that is located outside the boarders of the village or to any resident or business that is solely located outside the boarders of the Village of South Blooming Grove. The Village Board, in its discretion, may permit the use of water from hydrants of a water district for fire purposes without charge in all or any part of the area of a fire district, fire protection district, fire alarm district, or "unprotected area", which is wholly or partly included within the area of such water district. The Village Board may permit any person or corporation owning real estate outside of the water district to use water from a district system for a rental, subject to the restrictions to be prescribed by said board, provided, however, that no such use shall be permitted outside of the boarders of the village in which such district is located. The Village Board shall not sell nor permit the use of water under this section outside of the district if such use will reduce the supply of water so that it will not be sufficient for the district affected or its inhabitants.

(c) Ordinances, rules and regulations. The Village Board shall have the power to adopt, from time to time, ordinances, rules and regulations for the operation of the water district and the use of water therein, and in addition to the remedies provided in within this article for the enforcement thereof or for the punishment of violators, the village board may enforce compliance with such ordinances, rules and regulations by cutting off the supply of water.

(d) Water rates. The Village Board shall establish, from time to time, the water rates to be paid by consumers and may provide for the payment of said water charges in advance. The board may provide that a discount shall be allowed for the prompt payment of water rates within the time required by the board for the payment thereof. Such water charges shall be a lien upon the real property upon which or in connection with which the water was used. The village board may provide by ordinance or resolution that unpaid water charges in arrears for thirty days or longer shall be subject to a penalty not exceeding ten per centum of the amount due, and may further provide for cutting off the supply of water if such water charges are not paid within sixty days from the date due. At the same time as the filing of the estimates specified in this article, or in case the Village Board shall elect by resolution a subsequent date, which in no event shall be later than November first in any year, the Village Clerk shall annually file with the Village Board, and with the Mayors / Supervisors of adjoining villages / towns in which permits have been issued to property owners, statements showing the unpaid water charges in the respective districts and villages and which have not appeared on any such statements previously filed. Such statements shall contain a brief description of the property upon which the water was used, the names of the persons or corporations liable to pay for the same and the amount chargeable to each. The Mayor of the village in which the districts are located and the

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Mayors of adjoining villages, or supervisors of towns, in which permits have been issued shall transmit such statements to the board of supervisors of the county at its next regular meeting. The board of supervisors shall levy such sums against the property liable and shall state the amount of the tax in a separate column in the annual tax rolls of the various villages / towns under the name of "Water Rents." Such tax shall be paid to the Mayors / Supervisor of the respective villages / towns. The Mayors / Supervisors of adjoining villages / towns shall pay the same out of the first money collected which is available for village purposes to the Village of South Blooming Grove in which the water districts are located. All of the provisions of the existing tax laws of the state of New York covering the enforcement and collection of unpaid village taxes or assessments for special improvements in the several villages of the state of New York not inconsistent herewith shall apply to the collection of such unpaid water rents. Such water rates when collected, shall be applied toward the maintenance, operation, enlargement and improvement of the water system and for the payment of the principal and interest of bonds issued for the purposes of such district of the facilities.

### **4. Contracts.**

All contracts authorized by the provisions of this article shall be executed by the signatures of a majority of the members of the Village Board. Every contract on behalf of an sewer or water district shall specify the particular district on behalf of which the village board shall be acting. No contract shall be awarded for the performance or supplying of services in a district if the total annual expense of providing such services shall exceed the maximum amount, if any, stated in the petition for the extension of the district, or in the final order, if the Village Board is proceeding under this article, unless such maximum amount shall have been increased pursuant to section two hundred two-d of this chapter.

### **5. Sale or lease of property.**

(a) Except as otherwise provided in this article, real or personal property owned by, but not required for the purposes of, any sewer or water district may be sold or leased by the Village Board, provided, however, that if the property sold or leased has a value in excess of one thousand dollars, a public hearing shall be held as herein provided. Notice of such hearing shall be published at least once in the official newspaper of the Village not less than ten or more than twenty days prior to the day specified for the hearing. The notice shall specify the time when and place where such hearing will be held, and shall describe the property proposed to be sold or leased and the proposed terms of the sale or lease. The receipts from the sale or lease of such property shall be paid to the Village of South Blooming Grove and credited to the district and may be expended for any purpose which would properly be charged against the entire district.

(b) Notwithstanding any other provision of this chapter, the village board with the approval of the majority of the Village Board may sell all or any part of the property and facilities of an sewer or water district to a county, a city, a village, a town, a public authority, a village on behalf of the sewer or water district, a county on behalf of a county district, or a joint water works system established pursuant to Article 5-B of the General Municipal Law, provided, however, that such sale shall have been approved by a majority vote of the Village Board voting thereon. Such referendum shall be held in the manner prescribed in Article 9 of The Village Law and eligibility to vote shall be determined as prescribed in Article 9 of The Village Law chapter in the case of districts. In the event that all or any part of the property and facilities of an sewer or water district is purchased by a county, a city, a village, a town, a village on behalf of the sewer or water district or a county on behalf of a county district, the Village Board may by agreement with the purchaser provide that payment of the purchase price, in whole or in part, shall be made by having the principal of and interest on obligations issued to finance the cost of the property and facilities so sold, assumed by the purchaser. The Village Board with the approval of the majority of the Village Board may lease for a term not to exceed forty years all or any part of the property and facilities of the water or sewer district to a county, a city, a village, a town, a public authority, a village on behalf of the sewer or water district or a county on behalf of a county district, or a joint water works system established pursuant to Article 5-B of the General Municipal Law, provided, however, that such lease shall be subject to a permissive referendum held in the manner prescribed in Article 9 of The Village Law, in the case of districts the petition shall be sufficient if signed, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions, by the owners of taxable real property

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situate in the district, as shown upon the latest completed assessment-roll of the village in which the district is located, in number equal to at least five per cent of the total number of such owners, or by one hundred of such owners, whichever is the lesser. For the purposes of this section, a corporate owner of such taxable real property shall be considered one owner for the purposes of a petition requesting a referendum and shall be entitled to one vote to be cast by an officer or agent of the corporation or other duly authorized person designated by appropriate resolution of such corporation. The proposition submitted must be approved by the affirmative vote of a majority of the owners of taxable real property situate in the district as shown upon the latest completed assessment-roll of the village, voting on such proposition. The provisions of this paragraph (b) as to leasing of facilities shall apply to joint water districts existing by virtue of and governed by the provisions of this article.

(c) The proceeds of the sale of a part of the property and facilities of a district or of the lease of all or a part of the property and facilities of a district shall be deposited in a reserve fund established for the purpose of retiring outstanding obligations issued on behalf of the district to finance the cost of the property and facilities sold or leased and shall be expended only for such purpose, except as provided below. If the proceeds exceed the sum of all installments of principal of and interest on such indebtedness due to or become due, or the payment of principal of and interest on obligations is assumed as provided in paragraph (b) above, or if, when all such outstanding obligations shall have been retired, any moneys remain unexpended in the reserve fund, such excess moneys may be used for any purpose properly chargeable against the entire district.

(d) If it is proposed that all of the property and facilities of the district be sold, the proposition submitted to referendum shall provide as a part thereof, for dissolution of the district as well as for sale of such property and facilities. If the proposition for sale and dissolution is approved, the moneys received from such sale must be set aside in a reserve fund and used to amortize outstanding obligations, as provided in paragraph (c) of this section. Any excess over and above the amount necessary to be set aside in a reserve fund and used to retire indebtedness, as aforesaid, together with any other moneys of the district, shall be disposed of to the credit of real property within the district by any equitable method described in the proposition submitted to referendum.

(e) If no provision for distribution of excess proceeds is made in the proposition, then such proceeds shall be apportioned on the basis of assessed valuation among the several parcels of land situated in the district, as shown on the last completed assessment roll of the village or county, as the case may be. The amounts so apportioned shall be credited to each such parcel of real property in reduction of the county and village taxes on so many successive tax rolls as may be necessary to exhaust such amounts. If there be any real property in the district which is wholly exempt from general taxation but which, while exempt from general taxation paid as an assessment for benefit a proportionate share of the cost of the improvement, the amount apportioned to such real property shall be refunded to the owner or owners thereof as shown on the last completed assessment roll at the time of distribution.

**6. Change of name.** The Village Board may adopt a resolution changing the name of the sewer or water districts. Within ten days after the adoption of such resolution a certified copy thereof shall be filed in the office of the Village Clerk, in the office of the clerk of the county in which the village is located and in the office of the state department of audit and control at Albany, New York.

### **§ 80-05. Existing water and sewer districts preserved.**

All Water and Sewer Districts now existing solely within the borders of the Village of South Blooming Grove, shall continue now as originally established by the Town of Blooming Grove and shall have all the powers and be governed in the same manner as provided by the Village Board of Trustees of the Village of South Blooming Grove. In the event that any bonds shall have been issued by the Town of Blooming Grove prior to the taking effect of this local law, taxes or assessments shall be levied and collected for the payment of the principal and interest of said bonds, by the Village of South Blooming Grove and the village will become responsible for the collection of these levies and the payment of the bonds that were bonded on behalf of the water and sewer districts, as they become due pursuant to and in accordance with the statutes and

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practice relating to such matters in force immediately prior to the time this local law takes effect, except as the method of levying such taxes or assessments may have been changed in accordance with the provisions of chapter three hundred thirty-three of the laws of nineteen hundred thirty-four, and the village board shall have all the powers with respect to such matters.

### **§ 80-06. Appropriation for preparation of maps, plans and reports.**

The village board may adopt a resolution, subject to a permissive referendum in the manner provided in article nine of the village law, appropriating a specific amount to pay the cost of preparing a general map, plan, and report for providing the facilities, improvements, or Services in any portion of the village not included within the boundaries of any incorporated village, town, city or existing improvement district in which such facilities or services are provided, except that all or part of an incorporated village may be included therein on consent of the village expressed in a local law, ordinance, or resolution, subject to a referendum on petition under section twenty-four of the municipal home rule law or a permissive referendum under article nine of the village law, as the case may be. All such maps, plans and reports shall conform to the requirements of section eighty, subdivision seven of this article. The village board may determine that such maps, plans and reports shall be prepared by or under the supervision of village officers and employees to be designated by the Village Board, or by persons to be employed for the purpose, or the Village Board may contract for the preparation thereof within the limitations of the amount appropriated. Except as otherwise provided herein, the expense incurred for the preparation of such maps, plans and reports shall be a village charge, and shall be assessed, levied and collected in the same manner as other village charges. If the Village Board shall thereafter extend such district and construct the improvements or contract for the required services pursuant to the provisions of this article, the expense incurred by the village for the preparation of the maps, plans and reports therefor shall be deemed to be part of the cost of such improvement, or the rendering of such services, and the village shall be reimbursed in the amount paid therefor, or such portion of that amount which the Village Board, at the public hearing held pursuant to section eighty, subdivision eight of this article, shall allocate against such district.

### **§ 80-07. Maps, plans and reports.**

The governance or extension of the village sewer or water districts shall be based upon a map, plan and report prepared in such manner and in such detail as determined by the village board and such map, plan and report shall be filed in the office of the village clerk. In the sewer, or water districts such maps, plans and reports shall be prepared by a competent engineer, duly licensed by the State of New York, showing the boundaries of the proposed district and a general plan of the proposed sewer, or water system, as the case may be, and a report of the proposed method of operation. If a sewer or water district is maintained, such map shall show all outlets and the terminus and course of each proposed main sewer or drain together with the location and a general description of all sewage disposal plants, pumping stations and other public works, if any, and shall be consistent with, so far as possible, any comprehensive plan for sewers developed and maintained pursuant to section ninety-nine-f of the General Municipal Law. If a water district is maintained said map and plan shall show the source of water supply and a description of the lands, streams, water or water rights to be acquired therefor, the mode of constructing the proposed water works and the location thereof, including reservoirs, water purification or treatment works, water mains, distributing pipes and hydrants, and shall be consistent with, so far as possible, any comprehensive plan for public water supply systems developed and maintained pursuant to section ninety-nine-f of the general municipal law. If, however, the supply of water to be used in said water district is to be purchased from a municipal or other corporation, or any person, then said map and plan shall set forth and show only the water mains, distributing pipes, hydrants, reservoirs, if any, and location of each. Before any sewer system is extended in any such district, the Village Board shall cause a copy of the map and plan of the proposed sewer system proposed extension thereto to be submitted to the state department of health, and, if approved, it shall



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be filed in the office of the state department of health and the Village Clerk. The State Department of Health may require profiles to be submitted for any sewers or drains shown on such map and plan. Such map and plan may be amended with the approval of the state department of health and if approved, shall be filed in the office of the State Department of Health and the Village Clerk.

### § 80-08. Notice of hearing; cost to typical property.

1. Subsequent to the date of the filing of the map, plans and report in the Office of the Village Clerk as required in section eighty, subdivision seven of this article the Village Board may adopt an order and enter the same in the minutes of its proceedings reciting a description of the boundaries of the proposed district extension in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the improvement, the estimated cost of hook-up fees, if any, to, and the cost of the district extension to, the typical property and, if different, the typical one or two family home, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the village clerk's office for public inspection and specifying the time when and the place where said board will meet and hold a public hearing to hear all persons interested in the subject thereof, concerning the same. If such order proposes only the performance or supplying of certain services, it may state the maximum amount to be expended annually for such services. The board shall cause a copy of such order to be published at least once in the official paper, the first publication thereof to be not less than ten nor more than twenty days before the day set therein for the hearing as aforesaid, and shall also cause a copy thereof to be posted on the sign-board of the village if one is maintained not less than ten nor more than twenty days before the day designated for the hearing as aforesaid. Such order may further state such place other than the village clerk's office where the map, plan and report may be examined in advance of the hearing, if the village board determines that, in the public interest, some other additional place is necessary or desirable. If a sewer or water district, such order may contain a statement that the village shall assess the cost of constructing the water system board in proportion as nearly as may be to the benefit which each lot or parcel will derive there from. Prior to the publication of the order, the board shall cause to be prepared, and file for public inspection with the Village Clerk, a detailed explanation of how the estimated cost of hook-up fees, if any, to, and the cost of the district extension to, the typical property and, if different, the typical one or two family home, was computed.

2. (a) If the permission of the State Comptroller is not required pursuant to section eighty, subdivision ten of this article because it is proposed or required that the village in which the district extension is located shall finance the cost thereof by the issuance of bonds, notes, certificates or other evidences of indebtedness of the village therefor or debt service is proposed to be assumed pursuant to section eighty, subdivision four of this chapter but the cost to the typical property or, if different, the cost to the typical one or two family home is not above the average cost threshold described in such section, a certified copy of the order of the village board adopted pursuant to this section shall also be filed with the State Comptroller on or about the date of the publication of a copy of such order.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the State Comptroller shall not be precluded from requiring the submission of additional information or data in such form and detail as the state comptroller shall deem sufficient or from causing an investigation to be made with respect to the extension of a district or an increase in the maximum amount to be expended.

### § 80-09. Extension of districts.

1. After the hearing held upon notice as hereinbefore provided and upon the evidence given thereat, the Village Board shall determine by resolution:

(a) whether the notice of hearing was published and posted as required by law, and is otherwise sufficient;

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(b) whether all the property and property owners within the proposed district extensions are benefited thereby;

(c) whether all the property and property owners benefited are included within the limits of the proposed district extension;

(d) whether the extension of such district is in the overall public interest of the Village as a whole, when considered with respect to the Village's Master Plan, if any, the Village's zoning and land use regulations, population, housing density, special district capacities or limitations, as exist at the time of the petition, and as are expected to exist at the time that all Village properties are built-out in accordance with existing zoning, the Village's need to incur costs for any future expansion that may be required by one or more district extensions and such other factors as the Village Trustees wish to consider, in their sole discretion, and that any and all factors to be considered as aforesaid shall be considered with respect to the petition's impact on the Village as a whole, and the consideration of such factors shall not be limited to their impact only on the districts.

2. (a) If the Village Board shall determine that the notice of hearing was not published and posted as required by law or that it is otherwise insufficient, or if it is determined that it is not in the public interest to accomplish the extension of the district as proposed, the Village Board shall adopt a resolution stating the reasons for its determination not to extend the district and enter the same in the minutes of its proceedings.

(b) If the Village Board shall determine that the notice of public hearing was published and posted as required by law and is otherwise sufficient, and that it is in the public interest to extend such district, either in whole or in part, but shall find that any part or portion of the property or property owners within the proposed extension are not benefited thereby or that certain property or property owners benefited thereby have not been included therein, the Village Board shall specify the necessary changes of the boundaries of the proposed district extension to be made in order that all of the property and property owners and only such property and property owners as are benefited shall be included within such proposed district extension, and the board shall call a further hearing at a definite place and time not less than fifteen nor more than twenty-five days after such determination. Notice of such further hearing shall be published and posted in the manner provided in section eighty, subdivision eight hereof except that such notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district extension. Such further hearing shall be conducted in the same manner as the original hearing.

3. If and when the Village Board shall determine in the affirmative all of the questions set forth in subdivision one of this section, the board may adopt a resolution approving the extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing of the service therein, which resolution shall be subject to a permissive referendum under article nine of the village law, except as hereinafter provided. The proposition submitted must be approved by the affirmative vote of a majority of the owners of taxable real property situate in the proposed extended district as shown upon the latest completed assessment-roll of the village, voting on such proposition. A petition requesting a referendum shall be sufficient if signed, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner prescribed by the election law for the authentication of nominating petitions, by the owners of taxable real property situate in the proposed extended district, as shown upon the latest completed assessment-roll of said village, in number equal to at least five per cent of the total number of such owners, or by one hundred of such owners, whichever is the lesser. For the purposes of this section, a corporate owner of such taxable real property shall be considered one owner for the purposes of a petition requesting a referendum and shall be entitled to one vote to be cast by an officer or agent of the corporation or other duly authorized person designated by appropriate resolution of such corporation. The Village Clerk shall cause to be prepared and have available for distribution proper forms for the petition and shall distribute a supply to any person requesting same.

4. (a) If after the expiration of the time for filing a petition requesting that the matter be submitted to a referendum of the property owners of the proposed extended district, no such petition has been filed with the Village Clerk, he shall file a certificate stating such fact in the

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office of the county clerk and, where the permission of the State Comptroller is required for the extension of a district and the construction of an improvement or the providing of a service therein, in the office of the department of audit and control at Albany, New York.

(b) If such a petition was filed and after the referendum held pursuant to this section, the village clerk shall prepare and file a certificate stating that a petition was filed and a referendum was held pursuant to the provisions of this section and certifying the result of the vote on the proposition submitted at such referendum in the office of the county clerk and, where the permission of the State Comptroller is required for the extension of a district and the construction of an improvement or the providing of a service therein, in the office of the department of audit and control at Albany, New York.

### § 80-10. Application for permission of State Comptroller to extend districts.

1. Unless it is proposed or required that the village in which such district or extension is located shall finance the cost thereof by the issuance of the bonds, notes, certificates or other evidences of indebtedness of the village therefor, or shall assume the debt service on obligations issued to finance the cost of facilities, pursuant to eighty, subdivision four of this chapter, and, if the State Comptroller shall have computed average estimated costs for similar types of districts, the cost of the district or extension to the typical property or, if different, the cost of the district or extension to the typical one or two family home as stated in the notice of hearing is above the average estimated cost to the typical properties or homes for the district or extension of similar types of The state comptroller, the permission of the state, may annually compute districts as comptroller shall not be required for the district or extension of a district and the construction of an improvement or the providing of a service therein, including an increase in the maximum amount proposed to be expended for the improvement in a district, except as otherwise provided by section eighty, subdivision twenty-seven of this chapter. The state comptroller annually shall provide to villages notice of the average cost thresholds as may be computed in accordance with this section.

2. Where the permission of the State Comptroller is not required pursuant to this section and if the certificate of the village clerk required to be filed pursuant to section eighty, subdivision two of this article establishes that no petition was filed requesting a referendum or that such petition was filed and the result of the vote on the proposition submitted at the referendum held pursuant thereto was in the affirmative, the village board shall adopt a final order on the district or extending the district.

3. (a) Except as otherwise provided in subdivision one of this section, within ten days after the adoption of a resolution by a village board approving the extension of a district and the construction of an improvement or the providing of a service therein, the village clerk of the village shall file a certified copy of such resolution, in duplicate, in the office of the state department of audit and control at Albany, New York, together with an application, in duplicate, for permission to extend such district as the case may be. Such application shall be executed and verified by the Mayor, or such other officer of the village as the Village Board shall determine, and shall include the following:

(1) A certified copy of the notice of public hearing, with proof of publishing and posting thereof as required by this article, and, in the instance of a sewer, or water district, of the map, plan and report filed in the Village Clerk's office pursuant to section eighty, subdivision seven;

(2) An itemized statement of the then outstanding indebtedness of the village for all purposes, as evidenced by bonds, bond anticipation notes, capital notes, deferred payment notes and budget notes; the amount of budgetary appropriations for the payment of any such outstanding indebtedness, whether or not such appropriations have been realized as cash; the amount of indebtedness proposed to be contracted for the improvement, and the amounts, purposes and probable dates of issuance of any bonds, bond anticipation notes, capital notes, deferred payment notes and budget notes which the village has authorized to be issued but which in fact have not been issued on the date of such application;

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(3) A statement of the aggregate assessed valuation of the real property situated in the proposed district extension thereof, as such assessed valuations are shown on the last completed assessment roll of the village prior to the date of such application;

(4) A statement of the average full valuation of the taxable real property of the village. Such average full valuation shall be determined in accordance with the provisions of the first paragraph of subdivision seven-a of section 2.00 of the local finance law;

(5) A statement as to the manner in which it is proposed to finance the cost of the improvement.

(b) Whenever such an application shall be filed in the office of the department of audit and control, the State Comptroller shall within five days thereafter give notice thereof to the board of supervisors of the county in which such proposed district extension is located by filing with the clerk of such board of Mayors one copy of such application. At any time within fifteen days of the filing of the application, the board of supervisors may file an objection, in writing, in the office of the department of audit and control.

(c) Thereafter and subsequent to the filing in the office of the county clerk and the department of audit and control of the certificate required to be filed by the Village Clerk pursuant to subdivision four of section eighty, subdivision nine of this article, the State Comptroller shall determine whether the public interest will be served by the extension of the district and also whether the cost thereof will be an undue burden upon the property of the proposed district extension. The state comptroller may make such determinations upon the original or any amended application, or in his discretion may require the submission of additional information or data in such form and detail as he shall deem sufficient, or may cause an investigation to be made, to aid him in making the determinations above mentioned.

4. Upon the expiration of fifteen days from the date of the filing of such application with the clerk of the board of supervisors, the comptroller shall make an order, in duplicate, granting or denying permission for the extension of the district and shall file one copy of such order in the office of the state department of audit and control at Albany, New York, and the other in the office of the Village Clerk of the village in which the proposed district extension is located. The Village Clerk shall present such order to the Village Board at the next meeting Village thereof. If the certificate required to be filed by the Village Clerk pursuant to the provisions of subdivision four of section eighty, subdivision nine of this article states that the proposition submitted at such referendum was disapproved, the comptroller shall return the application to the Village Clerk without taking any action thereon.

5. If the state comptroller shall deny permission for the extension of the district, the village board shall forthwith adopt an order terminating its proceedings in connection with the proposed extension of such district. If the state comptroller shall grant permission therefor, the Village Board shall adopt a final order establishing the district extension as the boundaries shall be finally determined.

### **§ 80-11. Increase of maximum amount to be expended.**

1. At any time after the extension of an improvement district thereof pursuant to the provisions of this article or any other applicable provision of law, the maximum amount proposed to be expended for the improvement in such district, as stated in the notice of public hearing on the extension of such district, may be increased by an order of the Village Board provided that the Village Board shall, after a public hearing is held in the manner prescribed by section eighty, subdivision eight of this article, determine that it is in the public interest to authorize the increase of such maximum amount, and provided the comptroller of the state of New York shall have made as may be required pursuant to subdivision one of section eighty, subdivision ten of this article, after such public hearing, an order approving the increase of such maximum amount as stated in the said notice of hearing. The order of the comptroller shall be prepared in duplicate and one copy thereof filed in the office of the department of audit and control and the other copy in the office of the Village Clerk of the village. The order of the Village Board increasing the maximum amount to be expended shall be subject to a permissive referendum in the manner provided in subdivision three of section eighty, subdivision nine of this article. The comptroller may not make an order approving the increase in such maximum amount until after the expiration of the time for filing a petition requesting that

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the matter be submitted to referendum or, if such a petition is filed, unless the vote on the proposition submitted at referendum was affirmative.

2. If the notice of public hearing for the extension of the district proposes only the performance or supplying of certain services, and states the maximum amount to be expended annually for such services, the maximum amount to be expended annually may be increased by an order of the Village Board provided the Village Board shall, after a public hearing, determine that it is in the public interest to authorize the increase of such maximum amount. The Village Board shall give notice of such hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the place where such hearing will be held and stating the increase proposed in the maximum amount to be expended annually. Such notice shall be published once at least ten days prior to the date specified for such hearing. The approval of the State Comptroller to such increase in the maximum amount to be expended annually shall not be required.

### **§ 80-12. Extension of sewer and water districts.**

Upon a petition as hereinafter provided, the Village Board of the Village of South Blooming Grove may extend the village's sewer, water district. No such district shall be extended in a city or in an a town or in a bordering incorporated village provided, however, that such a district may be extended wholly or partly within an incorporated village on consent of the both Village Boards expressed in a local law, ordinance or resolution, subject to a referendum on petition under section twenty-four of the municipal home rule law or a permissive referendum under Article 9 of the village law, as the case may be.

### **§ 80-13. Petition.**

In the case of a water district, or sewer district, a petition for the extension of a district shall be signed by the owners of taxable real property situated in the proposed district or extension thereof, owning in the aggregate at least one-half of the assessed valuation of all the taxable real property of the proposed district or extension thereof, as shown upon the latest completed assessment-roll of Village of South Blooming Grove; provided, however, that if there be any resident owners, the petition shall include the signatures of resident owners owning taxable real property aggregating at least one-half of the assessed valuation of all the taxable real property of the proposed district extension owned by resident owners, according to the latest completed assessment-roll. If a portion only of a parcel of such real estate appearing upon the assessment-roll is situated within the proposed district extension thereof, then the village board may determine the relative value of the part thereof within the proposed district extension thereof, based upon the valuation of the entire parcel as the same appears upon the assessment-roll. Such petition shall describe the boundaries of the proposed district extension in a manner sufficient to identify the lands included therein as in a deed of conveyance, and shall be signed by the petitioners, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions. If such petition shall request the construction or acquisition of an improvement, it shall state the maximum amount proposed to be expended therefor. If the petition shall not request the construction or acquisition of an improvement but shall propose the performance or supplying of certain services, it may state the maximum amount to be expended annually for such services.

### **§ 80-14. Preparation of maps and plans for sewer, or water districts before petition.**

The Village Board of the Village of South Blooming Grove may adopt a resolution, which may be subject to a permissive referendum under article nine of the village law, appropriating a specific amount to pay the cost of preparing a general map and plan for providing sewer, or water facilities and services in any portion of the village not included within the boundaries of any of the existing village districts, which such facilities or services are provided, except that all

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or part of an incorporated village may be included therein on consent of the village expressed in a local law, ordinance or resolution, subject to a referendum on petition under section twenty-four of the municipal home rule law or a permissive referendum under article nine of the village law, as the case may be. All such maps and plans shall conform to the requirements of section eighty, subdivision fifteen of this article, and shall be filed with the village clerk. The Village Board may determine that such maps and plans shall be prepared by or under the supervision of village officers and employees to be designated by the Village Board, or by persons to be employed for that purpose, or the village board may contract for the preparation thereof, within the limitations of the amount appropriated. Except as otherwise provided herein, the expense incurred for the preparation of such maps and plans shall be a village charge, and shall be assessed, levied and collected in the same manner as other village charges. If the Village Board shall thereafter extend a sewer, or water district, pursuant to the provisions of section eighty, subdivision thirteen of this article, the expense incurred by the village for the preparation of the maps and plans therefor shall be deemed to be part of the cost of such improvement, and the village shall be reimbursed the amount paid therefor, or such portion of that amount which the village board, at the public hearing held pursuant to section eighty, subdivision seventeen of this chapter, shall allocate against such district.

### **§ 80-15. Maps and plans for sewer, and water districts.**

A map and plan prepared by a competent engineer, duly licensed by the State of New York, showing the boundaries of the proposed district and a general plan of the proposed sewer, or water system shall accompany every petition for the extension of a sewer, or water district, as the case may be.

A) If a sewer district is proposed, such map shall show all outlets and the terminus and course of each proposed main sewer together with the location and a general description of all sewage disposal plants, pumping stations and other public works, if any, and shall be consistent with, so far as possible, any comprehensive plan for sewers developed and maintained pursuant to section ninety-nine-f of the general municipal law.

B) If a water district is proposed, said map and plan shall show the source of water supply and a description of the lands, streams, water or water rights to be acquired therefor, the mode of constructing the proposed water works and the location thereof, including reservoirs, water purification or treatment works, water mains, distributing pipes and hydrants, and shall be consistent with, so far as possible, any comprehensive plan for public water supply systems developed and maintained pursuant to section ninety-nine-f of the general municipal law. If, however, the petition shall specify that the supply of water to be used in said water district shall be purchased from a municipal or other corporation, or any person, then said map and plan shall set forth and show only the water mains, distributing pipes, hydrants, reservoirs, if any, and location of each.

C) Before any sewer system is constructed in any such district, the Village Board shall cause a copy of the map and plan of the proposed sewer system and sewage disposal plant or proposed extension thereto to be submitted to the State Department of Health, and, if approved, it shall be filed in the office of the state department of health and the Village Clerk. The State Department of Health may require profiles to be submitted for any sewers shown on such map and plan. Such map and plan may be amended with the approval of the state department of health, and if approved, it shall be filed in the office of the State Department of Health and the Village Clerk.

### **§ 80-16. Notice of hearing on petition; cost to typical property;**

#### **Definitions.**

1. a. whenever a petition shall be presented to the village board of the Village of South Blooming Grove, pursuant to this article, for the extension of a sewer, or water district, the Village Board shall adopt an order and enter the same in the minutes of its proceedings, reciting in general terms the filing of such petition, the boundaries of the proposed extension to the district, the improvements proposed, the maximum amount proposed to be expended for the improvement as stated in the petition or the maximum amount to be expended for the

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performance or supplying of services if a maximum amount is stated in the petition, the estimated cost of hook-up fees, if any, to, and the cost of the extension to, the typical property and, if different, the typical one or two family home, and specifying the time when and place where said board will meet to consider the petition and to hear all persons interested in the subject thereof, concerning the same. The board shall cause a copy of such order, certified by the Village Clerk, to be published at least once in the official paper, the first publication thereof to be not less than ten nor more than twenty days before the day set therein for the hearing as aforesaid, and shall also cause a copy thereof to be posted on the signboard of the Village maintained pursuant to New York State statute, not less than ten nor more than twenty days before the day designated for the hearing as aforesaid. In the event that the village maintains a website, such information may also be provided on the website. Prior to the publication of a copy of the order, the board shall cause to be prepared, and file for public inspection with the village clerk, a detailed explanation of how the estimated cost of hook-up fees, if any, to, and the cost of the district extension to, the typical property and, if different, the typical one or two family home was computed.

b. (1) If the permission of the state comptroller is not required pursuant to section eighty, subdivision seventeen of this article because it is proposed or required that the village in which the district extension is located shall finance the cost thereof by the issuance of bonds, notes, certificates or other evidences of indebtedness of the village therefor or debt service as proposed to be assumed pursuant to section eighty, subdivision four of this article but the cost to the typical property or, if different, the cost to the typical one or two family home is not above the average cost threshold described in that section, a certified copy of the order of the village board adopted pursuant to this section shall also be filed with the State Comptroller on or about the date of the publication of a copy of such order.

(2) Notwithstanding the provisions of subparagraph one of this paragraph, the State Comptroller shall not be precluded from requiring the submission of additional information or data in such form and detail as the State Comptroller shall deem sufficient or from causing an investigation to be made with respect to the extension of a district or an increase in the maximum amount to be expended.

2. For purposes of this article the following definition shall apply:

a. the term "typical property" shall mean a benefited property having an assessed value that approximates the assessed value of the mode of the benefited properties situated in the district or extension that will be required to finance the cost of the proposed improvements;

b. the term "typical one or two family home" shall mean a benefited property improved by a one or two family dwelling and having an assessed value that approximates the assessed value of the mode of the benefited properties improved by one or two family dwellings situated in the district extension that will be required to finance the cost of the proposed improvements;

c. the terms "cost of the district extension to the typical property" and "cost of the district extension to the typical one or two family home" shall mean the amount that it is estimated that the owner of such a typical property or home within the district extension will be required to pay for debt service, operation and maintenance and other charges, such as user charges, related to the improvements in the first year following formation of the district extension or, if greater, in the first year in which both principal and interest on any indebtedness and operation and maintenance costs will be paid.

d. the term "mode" shall mean, in connection with assessed value of property, the most frequently occurring assessed value as shown on the latest completed final assessment roll.

### **§ 80-17. Extension of districts.**

1. After a hearing held upon notice as hereinbefore provided and upon the evidence given thereat, the Village Board shall determine by resolution:

(a) whether the petition is signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient;

(b) whether all the property and property owners within the proposed district extensions are benefited thereby;

(c) whether all the property and property owners benefited are included within the limits of the proposed district or extension;

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(d) whether it is in the public interest to grant in whole or in part the relief sought, when considered with respect to the Village's Master Plan, if any, the Village's zoning and land use regulations, population, housing density, special district capacities or limitations, as exist at the time of the petition, and as are expected to exist at the time that all Village properties are built-out in accordance with existing zoning, the Village's need to incur costs for any future expansion that may be required by one or more district extensions and such other factors as the Village Trustees wish to consider, in their sole discretion, and that any and all factors to be considered as aforesaid shall be considered with respect to the petition's impact on the Village as a whole, and the consideration of such factors shall not be limited to their impact only on the districts; and

(e) whether the entire extension is solely within the borders of the Village of South Blooming Grove.

2.(a) If the Village Board shall determine that the petition is not signed, and acknowledged or proved, or authenticated, as required by law or that it is otherwise insufficient, or if it is determined that it be not in the public interest to grant in whole or in part the relief sought, the Village Board shall deny the petition.

(b) If the Village Board shall determine that the petition is signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient and that it is in the public interest to grant the relief sought, either in whole or in part, but shall find that any part or portion of the property or property owners within the proposed district extension are not benefited thereby or that certain property or property owners benefited thereby have not been included therein, or that portions of the property or property owners within the proposed district extension are not solely within the borders of the village, the Village Board shall specify the necessary changes of the boundaries of the proposed district extension to be made in order that all of the property and property owners and only such property and property owners as are benefited shall be included and are solely within the Village borders and within such proposed district extension, and the Board shall call a further hearing at a definite place and time not less than fifteen nor more than twenty-five days after such determination. Notice of such further hearing shall be posted and published in the manner provided in section eighty, subdivision sixteen hereof except that such notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district extension. Such further hearing shall be conducted in the same manner as an original hearing upon a petition. If and when the Village Board shall determine in the affirmative all of the questions set forth in subdivision one of this section, the board may adopt a resolution approving the extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing of the service therein, but no such resolution so approving shall be adopted unless the petition shall comply with the requirements of section eighty, subdivision thirteen as to sufficiency of signers as the boundaries of the proposed district extension shall be finally determined.

3.(a) Within ten (10) days after the adoption of a resolution by a Village Board approving the extension of a district and the construction of an improvement or the providing of a service therein, the Village Clerk of the Village of South Blooming Grove shall file a certified copy of such resolution, in duplicate, in the office of the state department of audit and control at Albany, New York, together with an application, in duplicate, for permission to extend such district. Such application shall be executed and verified by the Mayor, or such other officer of the village as the Village Board shall determine, and shall include the following:

(1) A certified copy of the petition (omitting, however, the signatures, and acknowledgments or proofs, or authentications) and in the instance of a sewer, or water district, of the map and plan accompanying the same;

(2) an itemized statement of the then outstanding indebtedness of the village for all purposes, as evidenced by bonds, bond anticipation notes, capital notes and budget notes; the amount of joint indebtedness contracted or incurred for a joint service or a joint water, sewer project and the amount of such indebtedness allocated and apportioned to the village, as defined in title one-a of the local finance law; the amount of the indebtedness proposed to be contracted for the improvement; the amount of budgetary appropriations for the payment of any such indebtedness, whether or not such appropriations have been realized as cash, and the amounts, purposes and probable dates of issuance of any bonds, bond anticipation notes, capital notes and budget notes which the village has authorized to be issued by which in fact have not been issued on the date of such application;



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(3) A statement of the aggregate assessed valuation of the real property situated in the proposed district extension thereof, as such assessed valuations are shown on the last completed assessment roll of the village prior to the date of such application;

(4) A statement of the average full valuation of the taxable real property of the village. Such average full valuation shall be determined in accordance with the provisions of the first paragraph of subdivision seven-a of section 2.00 of the local finance law;

(5) A statement as to the manner in which it is proposed to finance the cost of the improvement;

(b) Whenever such an application shall be filed in the office of the department of audit and control, the State Comptroller shall within five (5) days thereafter give notice thereof to the board of supervisors of the county in which such proposed district extension is located by filing with the clerk of such board of supervisors one copy of such application. At any time within fifteen (15) days of the filing of the application, the board of supervisors may file an objection, in writing, in the office of the department of audit and control. In addition, the State Comptroller shall determine whether the public interest will be served by the extension of the district and also whether the cost thereof will be an undue burden upon the property of the proposed district extension. The State Comptroller may make such determinations upon the original or any amended application, or in his discretion may require the submission of additional information or data in such form and detail as he shall deem sufficient, or may cause an investigation to be made, to aid him in making the determinations above mentioned.

4. Upon the expiration of fifteen (15) days from the date of the filing of such application with the clerk of the board of supervisors of the county and upon reaching a determination, the comptroller shall make an order, in duplicate, granting or denying permission for the extension of the district and shall file one copy of such order in the office of the State Department of Audit and Control at Albany, New York, and the other in the office of the Village Clerk of the village in which the proposed district extension is located. The Village Clerk shall present such order to the Village Board of the village at the next meeting thereof.

5. If the State Comptroller shall deny permission for the extension of the district, the Village Board shall forthwith adopt an order denying the petition. If the State Comptroller shall grant permission therefor, the Village Board may adopt an order establishing the district extension as the boundaries shall be finally determined.

6. Except as otherwise provided by section eighty, subdivision twenty-seven of this article, the permission of the State Comptroller shall not be required for the extension of a district and the construction of an improvement or the providing of a service therein, including an increase in the maximum amount proposed to be expended for the improvement in a district, unless it is proposed or required that the village in which such district extension is located shall finance the cost thereof by the issuance of the bonds, notes, certificates or other evidences of indebtedness of the village therefor or it is proposed that debt service on obligations issued to finance the costs of facilities acquired be assumed, pursuant to section eighty, subdivision four of this article, and, if the State Comptroller shall have compute average estimated costs for similar types of districts, the cost of the district extension to the typical property or, if different, the costs of the district extension to the typical one or two family home, as stated in the notice of hearing, is above the average estimated cost to typical properties or homes for the State comptroller may annually compute extension of similar types of districts as. The state comptroller annually may provide to villages notice of the average cost thresholds as may be computed in accordance with this section.

### **§ 80-18. Powers of Village Boards with respect to certain contracts.**

Upon the adoption of a resolution, the Village Board of the Village of South Blooming Grove may enter into such contracts, as it may deem necessary, with any person, corporation or association for the purpose of ensuring that the cost of any sewer or water district will not constitute an undue burden upon the property within such district and may require the filing of a surety bond or bonds or the deposit of cash or securities with the village board to ensure the performance of such contracts.

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### **§ 80-19. Recording of determination; review by certiorari.**

1. The Village Clerk shall cause a certified copy of the determination or order of the Village Board adopted pursuant to the provisions of this article, extending, any district, consolidating districts or increasing the maximum amount proposed to be expended for the improvement in any district or extension thereof, or determining to construct any improvement authorized by this article, to be duly recorded in the office of the clerk of the county in which the village is located, within ten days after the adoption of such order or determination by the Village Board, and when so recorded such determination or order shall be presumptive evidence of the regularity of the proceedings for the extension, or consolidating of such district, of the proceedings instituted for the construction of such improvement and of all other action taken by said Village Board in relation thereto. Within ten days after the adoption of a determination or order by the Village Board extending, or consolidating districts, the village clerk shall cause a certified copy thereof to be filed in the office of the State Department of Audit and Control at Albany, New York.

2. Any interested person aggrieved by any final determination or order made pursuant to the provisions of this article may review the same by certiorari provided that the application for such order of certiorari is made within thirty days from the date of the recording of the certified copy of the order or determination in the office of the clerk of the county. The said determination or order shall be final and conclusive unless application has been made for review by certiorari within thirty days from the time of recording thereof. No review shall be had unless at the time of the application for a certiorari order the interested person seeking the review shall give an undertaking approved by the supreme court, or a justice thereof, as to form, amount and sufficiency sureties, that, in the event of failure to modify said final determination or order he or they will pay to the Village Board, all such costs and expenses as are incurred by it on account of the said certiorari proceedings, as shall be determined by the court. In the event that upon such review there shall be any modification by the court of said final determination or order the court shall direct the modification thereof by order which shall be final and conclusive and such Village Board shall cause such order to be recorded and filed in the same places and manner as was the determination or order appealed from.

### **§ 80-20. Modification of plans for sewer and water districts.**

1. When the Village Board of the Village of South Blooming Grove, governs a sewer, or a water district and adopted a plan of sewerage, or water for such district, such plan shall not be modified by the board, nor by any officer of the village, except after public notice given by publication in the official paper of intention to modify the same, which notice shall specify the particulars in which it is proposed to modify it, and a time and place when the board will consider any objections which may be made thereto, which time shall not be less than ten nor more than twenty days after the first publication of said notice. When any change shall be made in the plan proposed and once adopted, a revised or additional map and profile shall be made showing the change, and all such maps and profiles shall be carefully preserved in the office of the Village Clerk and open to inspection by all persons interested.

2. In the case of water districts, amendments or modifications of plans must have the written approval of the department of health prior to adoption. At the request of an owner of a parcel of property within the village, if the private well water on such property is contaminated, a water district plan may be amended, from time to time, to include said parcel of property. If an owner of a parcel of property within the village requests exclusion from the district, such request shall be granted without the state department of health approval. The removal of a parcel of property from a district shall in no way affect the owner's liability for charges which have accrued against the owner's property, prior to said exclusion, for the procurement, installation, modification, replacement and removal of a water quality treatment unit or device or for expenses of operation and maintenance including monitoring, testing, regenerating and treating. Should a public or private water system, supplier or authority commence supplying water to any parcel of property within a water district, such parcel of property shall no longer be considered part of the water district, and all services to such parcels shall be terminated. Termination of services shall include, the removal of all water units or devices and

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a charge for the cost of doing so to the benefited property, except when such unit or device was acquired and owned by the property owner or when the district determines that such unit or device is obsolete and no longer useful for any district purpose.

### § 80-21. Performance of the work.

If the Village Board shall upon the petition determine to grant the relief sought by the petitioners and extend a district either in whole or in part, or if the Village Board shall determine to extend a district on its own motion without a petition but after a public hearing and subject to a permissive referendum as provided in this article, the Village Board shall, after such determination becomes effective, require the village engineer, or an engineer employed for that purpose, to prepare definite plans and specifications for the improvement, a careful estimate of the expense, and, with the assistance of the village attorney, or an attorney employed for that purpose, a proposed contract or contracts for the execution of the work, and to file the same with the Village Clerk within a time to be prescribed by the said village board. Thereupon the said board shall examine such definite plans, specifications, estimates and the proposed contract or contracts, and may make such modifications and changes in the plans, specifications, estimates and contract or contracts as to the board shall seem expedient, and thereupon the board may adopt or reject the same. If the estimated expense of the improvement does not exceed the amount specified for public work in subdivision one of section one hundred three of the General Municipal Law, the Village Board may adopt such plans and specifications and cause said improvement to be made or may enter into a contract or contracts therefor without giving public notice thereof. If the estimated expense exceeds such amount, upon adopting the plans and specifications, the board shall invite sealed proposals for furnishing the material and labor necessary by the publication of a notice at least once in the official paper and in such other newspaper as to the board may seem expedient, requiring all persons who shall offer to do said work to file a sealed proposal or offer to do the work, and with it a certified check for a sum equal to five per centum of the estimated expense of the improvement, payable to the order of the Village of South Blooming Grove, the district, or a bond with sufficient sureties, to be approved by the Mayor, in a penal sum equal to five per centum of the estimated expense of the improvement, conditioned that if his proposal is accepted he will enter into a contract for the same, and that he will execute such further security as may be required for the faithful performance of the contract. If a person or corporation making such proposal shall fail to enter into a contract pursuant to the requirements of the board, or shall fail to give the further security which may be prescribed in said notice, within the time to be limited therein, then the check deposited as aforesaid and the moneys standing to the credit of the same shall be forfeited to the village as liquidated damages and not as a penalty, and the Mayor shall collect the same or enforce the payment of the bond for the benefit of the village. The notices inviting sealed proposals shall specify a time when and place where they will be received and considered and they shall be received and considered publicly at such time and place. There shall be at least ten and not more than thirty days between the first publication of the notice and the time when the proposals will be received, and during that time the plans and specifications for the work shall be exhibited publicly in the office of the village clerk. It shall be the duty of the Village Clerk to provide that all persons desiring to examine the same shall have reasonable opportunity to do so, and that there shall be no discrimination in favor of any person or persons in the opportunity to make proper examination of said plans and specifications. The village board may award one contract for the entire work or separate contracts for portions thereof. The board shall determine the lowest responsible bidder or bidders whose bid and check or bond shall have been made and filed in conformity with this section and with the notice published by the board as aforesaid, and the contract or contracts shall be awarded to the lowest responsible formal bidder therefor, unless in the judgment of the board it shall be in the interests of the village to reject all bids and to advertise anew. In that event, the board shall proceed accordingly. In no event shall any contract be awarded if the total expense of the improvement shall exceed the maximum amount stated in the petition or in the final order, if the Village Board proceeded under the sections of this article. Nothing in this section shall be construed to prevent the village from performing any such work or part thereof by or through its

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regular employees and the cost thereof shall be considered as part of the expense of the improvement.

### **§ 80-22. Contracts by the Village of South Blooming Grove's water districts**

The Village Board may enter into an agreement with a public water authority, which possesses express reciprocal powers whereby the award of contracts or orders for engineering services, and for work performed, or materials or supplies furnished in connection with the construction, development, extension or improvement of a water supply or distribution system, or any part or parts thereof, for or on behalf of the village's water district may be made by the Village Board, and such an agreement may contain provisions equitably allocating costs. If such agreement shall authorize a public water authority to purchase supplies or equipment or to construct public works, such authority shall be subject to all provisions of law to which a village would be subject in relation to advertising and awarding any such contracts for supplies, equipment or public works. The Village Board, may enter into an agreement with a public water authority which possesses express reciprocal powers whereby the award of contracts or orders for engineering services, and for work performed, or materials or supplies furnished in connection with the construction, development, extension or improvement of a water supply or distribution system, or any part or parts thereof, for or on behalf of such public water authority may be made by the village, and such an agreement may contain provisions equitably allocating costs.

### **§ 80-23. Proceedings for lateral sewers, or water mains.**

#### **1. Powers of Village Board.**

Whenever a sewer, or water district shall have been operated by the Village Board of the Village of South Blooming Grove and a trunk system of sewers, or water mains shall have been constructed therein or contracted for, the Village Board, upon a petition, or by a resolution adopted on its own motion, and in the manner hereinafter provided:

(a) May construct lateral sewers, or water mains, respectively, in or along any portion of any street or highway or easement acquired for such purpose, in any sewer district or in any water district in which the expense of establishing the district and of providing improvements therefor must be apportioned and assessed, pursuant to section eighty, subdivision twenty five of this chapter, upon the several lots or parcels of land deemed benefited, in proportion to the amount of benefit which the improvement conferred upon the same.

(b) May construct lateral water mains in or along any portion of any street or highway or easement acquired for such purpose, in any water district in which the expense of the district and of providing improvements therefor must be assessed, levied and collected, pursuant to section eighty, subdivision twenty five of this chapter, from the several lots or parcels of land within the district in the same manner and at the same time as other village charges.

(c) May construct lateral water mains in or along any portion of any street or highway or easement acquired for such purpose, in any water district in which the expense of the district and of providing improvements therefor was apportioned and assessed, prior to January first, two thousand and eight, upon the several lots or parcels of land included in said district in proportion to the area of such lot or parcel of land to the total area of the district.

2. Petition or resolution and hearing thereon. Such petition for the construction of lateral sewers, or water mains shall be signed by the owners of real estate fronting or abutting upon either side of the street, highway or easement, or portion thereof, in which it is proposed to construct the improvement, to the extent of at least one-half of the entire frontage on both sides of said street, highway or easement, or portion thereof. If the proposed improvement will serve the property on only one side of a street, highway or easement, or portion thereof, such petition shall be signed by the owners of real property fronting or abutting upon the side to be served of said street, highway or easement to the extent of at least one-half of the entire frontage on such side of said street, highway or easement, or portion thereof. If any of such real estate shall be owned by persons residing in or along such street, highway or easement, or portion thereof, the petition shall not be acted upon by the Village Board unless such petition shall be signed by resident owners owning not less than one-half of the aggregate frontage

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owned by resident owners residing in or along such street, highway or easement, or portion thereof specified in such petition; provided, however, that if such petition shall be signed by the owners of at least eighty per cent of the aggregate frontage on such street, highway or easement, or portion thereof specified in such petition, then the foregoing requirement as to the signatures of resident owners shall not apply thereto. Such petition shall be signed by the petitioners, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions, and shall state the maximum amount proposed to be expended for the improvement. A resolution adopted pursuant to subdivision one of this section shall state the improvement proposed, the maximum amount proposed to be expended and the area benefited. When any such petition containing the required signatures shall have been presented or a resolution adopted by the Village Board on its own motion, the Village Board shall adopt an order and enter the same in the minutes of its proceedings, reciting in general terms the filing of the petition or adoption of such resolution as the case may be, the improvement proposed, the maximum amount proposed to be expended for the improvement as stated in the petition or the resolution, and specifying the time when and place where said board will meet to consider the petition or the resolution and to hear all persons interested in the subject thereof concerning the same. The board shall cause a copy of such order, certified by the Village Clerk, to be published at least once in the official paper, the first publication thereof to be not less than ten nor more than twenty days before the day set therein for the hearing as aforesaid, and shall cause a copy thereof to be posted on the sign-board of the village maintained pursuant to subdivision six of section thirty of this chapter not less than ten nor more than twenty days before the day designated for the hearing as aforesaid. The order of the village board providing for a public hearing on a petition or resolution for the construction of lateral water mains pursuant to paragraphs (b) and (c) of subdivision one shall include, in addition to all other matters required to be specified therein, a statement that the cost of such improvement, if constructed, shall be borne by the district at large.

**3. Construction of improvement.** If the Village Board shall determine, after such hearing and upon the evidence given thereat, that it is in the public interest to make the improvement, the board shall direct the engineer to prepare definite plans and specifications, and to make a careful estimate of the expense, and with the assistance of the village attorney, or an attorney employed for that purpose, to prepare a proposed contract for the execution of the work. Thereupon the said board shall examine such definite plans, specifications, estimate and the proposed contract, and may reject the same or make such modifications and changes therein as shall seem necessary and desirable. If the estimate of the cost of the improvement as prepared by said engineer exceeds the maximum amount proposed to be expended for said improvement as stated in the petition or resolution, the Village Board shall adopt an order calling a further public hearing at a definite place and time not less than fifteen nor more than twenty-five days after such determination. A notice of such further hearing shall be published and posted in the manner hereinabove in this section provided and there shall be included in such notice a statement that the improvement cannot be constructed within the maximum amount proposed to be expended as stated in said petition or resolution, the cost of said improvement as estimated by the engineer, a brief description of the improvement and the place and time at which the board will conduct such further hearing. A copy of such notice shall also be sent by regular mail to the last known address of each person who has signed the petition, but failure to receive said notice shall in no way affect the validity of any proceedings hereunder. Such further hearing shall be conducted in the same manner as an original hearing upon a petition or resolution. If after such further hearing said board shall determine that it is in the public interest to construct said improvement within the cost estimated by the engineer it shall adopt such definite plans, specifications, estimate and the proposed contract and cause the improvement to be constructed all in the manner hereinbefore in this chapter provided for the construction of trunk sewers, and water systems. In any case where such public hearings were held as a result of the adoption of a resolution by the Village Board in lieu of taking action pursuant to petition, the resolution provided for shall be subject to a permissive referendum under article nine of the village law, except as hereinafter provided. The proposition submitted must be approved by the affirmative vote of a majority of the owners of real property situate in the proposed benefited area described in the

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resolution as shown upon the latest completed assessment roll of the village, voting on such proposition. A petition requesting a referendum shall be sufficient if it is initiated and signed, and acknowledged or proved, or authenticated, in the same manner as a petition for improvements pursuant to this section. Where such petition or resolution is for the construction of a lateral sewer, or water main through different streets or highways or easements or portions of streets or highways or easements, such lateral sewer, or water main shall be deemed one sewer, or water main, and such streets or highways or easements or portions thereof, one continuous street or highway or easement for purposes of this section.

4. **Effect of section limited.** This section shall not apply to the construction of any lateral sewer, or water main described in any map or plan which shall have accompanied the original Town of Blooming Grove petition or original Town of Blooming Grove resolution for the original establishment of the village's sewer, or water districts, provided that the cost of constructing such lateral sewer, or water main together with the cost of every other improvement constructed pursuant to such petition or resolution shall not exceed the maximum amount proposed to be expended as stated in such petition or resolution.

### § 80-24. Sewer and Water connections.

Whenever the Village Board of the Village of South Blooming Grove shall govern one or more sewer or water districts, or both, the village board shall adopt a resolution or ordinance prescribing how sewer or water connections shall be made therein. After the Village Board shall have adopted such resolution or ordinance prescribing how sewer and water connections shall be made, the board may adopt orders, from time to time, directing the owners of the respective lots and parcels of land in front of which it is desired that a sewer or water connection be made, to make the same to conform to such resolution or ordinance and specifying the time within which the same must be done. Before any highway in which sewer or water mains have been laid, shall be paved or otherwise improved, the Village Board may, in its discretion, direct the owners of adjoining lots or parcels of land to make connections with such sewers or water mains, at the curb line or at the sewer or water main if extensions to the curb line have not been provided, under the supervision of the Village Board, and in the manner required by the resolution or ordinance, at such a distance apart as the board may prescribe. The Village Clerk shall publish a notice thereof in the official paper at least twice, the first publication of which shall be at least fifteen days before the time specified for the completion of the work. If, within the time prescribed in the order and notice, the connections required to be made shall not have been so made, then the board may cause the same to be done and audit and pay the expense of doing the same and assess the expense thereof against the property benefited.

### § 80-25. Expenses of improvement; how raised.

1. The expense of any public improvement made under authority of this article shall include the amount of all contracts, the costs of all lands and interests therein necessarily acquired including the total payments of principal remaining on obligations assumed pursuant to section eighty, subdivision four, the costs of erection of necessary buildings for operation or administration of the improvement, printing, publishing, interest on loans, legal and engineering services and all other expenses incurred or occasioned by reason of the improvement or project. The village board, upon the submission of a verified statement of the cost of preparation of the map and plan accompanying a petition for the establishment of the village's sewer, water districts, and upon the submission of a verified statement of the cost to petitioners for legal services rendered in a proceeding for extension of any village sewer, water districts, may refund to the petitioners the reasonable cost thereof and include the amount or amounts refunded as a part of the cost of the improvement. In addition, the village board may apportion against and charge to the cost of making any improvement an allowance for any services rendered by the village attorney, village engineer or any salaried village employee, or village contracted vendor, when such services have been necessary to or occasioned by reason of the making of the particular improvement.

2. The expense of the extension of a sewer, water districts and of constructing a trunk sewer or water system therein and of constructing lateral sewers, and water mains

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pursuant to paragraph (a) of subdivision one of section eighty, subdivision twenty three, and of constructing street improvements shall be borne by local assessment upon the several lots and parcels of lands which the Village Board shall determine and specify to be especially benefited by the improvement or extension, and the village board shall apportion and assess upon and collect from the several lots and parcels of land so deemed benefited, so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same.

3. In all districts in which assessments have heretofore been levied upon an ad valorem basis, assessments shall hereafter be levied upon the same basis. In all districts in which assessments have heretofore been levied upon a benefit basis, assessments shall hereafter be levied upon the same basis.

4. The expense of any extension to an existing water, or sewer districts shall include all the costs and expenses occasioned by reason of such extensions and in addition thereto such proportion of the cost of any reservoir or reservoirs, standpipes, water purification works, pumping stations and main water lines, holding tanks, valves, purification systems, new wells heads, or required structure, including lands, of the original district and such proportion of the cost of the outfall and trunk sewer and sewage disposal or treatment works including lands of the original district, as the Village Board shall determine. If the expense of constructing an improvement in a district shall be borne by local assessment upon the lands deemed especially benefited by the improvement and in proportion to the amount of benefit which the improvement conferred upon the same, the expense of an extension to such district shall be borne by local assessment upon the several lots and parcels of land within the extension which the village board shall determine and specify to be especially benefited by the improvement, and the Village Board shall apportion and assess upon and collect from the several lots and parcels of land so deemed benefited, so much upon each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same. If the expense of constructing or providing an improvement in a district shall be assessed, levied and collected from the several lots or parcels of land within the district in the same manner and at the same time as other village charges, the expense of an extension to such district shall also be assessed, levied and collected from the several lots and parcels of land within such extension in the same manner and at the same time as other village charges

5. Notwithstanding the provisions of subdivision four of this section, whenever pursuant to section eighty, subdivision twenty nine of this article, all expenses of a district, including all extensions thereto, shall thereafter be charged against the entire area of the district as extended, then the cost of all improvements for the original district and any extensions thereto, together with the cost of any further improvements authorized pursuant to section eighty, subdivision twenty three or eighty, subdivision twenty seven of this article, shall be assessed against the area of the entire district, as extended, utilizing a single consolidated assessment roll.

### **§ 80-26 Expense of maintenance for village sewer and water districts**

After the improvement is constructed and completed, the Village Board shall maintain it and the expense of such maintenance shall be a charge upon the district or upon the lots or parcels of land against which the expense of the improvement was charged.

1. If the expense of such improvement is required by section eighty, subdivision twenty five to be assessed, levied and collected from the several lots and parcels of land in the same manner and at the same time as other village charges, the expense of maintenance of such improvement shall be assessed, levied and collected in like manner.

2. If the expense of such improvement is required by section eighty, subdivision twenty five to be apportioned and assessed upon such lots or parcels of land in proportion to the amount of benefit which the improvement shall confer upon the same, the expense of maintenance of such improvement shall be apportioned and assessed in like manner.

3. Every district in which the expense of the improvement is required to be apportioned or assessed in proportion to the amount of benefit conferred, shall annually prepare detailed

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estimates in writing of the anticipated revenues and expenditures for such district and special improvement for the purpose of determining the amount of money required to meet the expense of maintaining the improvement for the fiscal year commencing on the first day of January next succeeding. Such estimate may contain for contingent purposes, an amount not to exceed ten per centum of the amount estimated as necessary to meet the expense of maintaining the improvement exclusive of the amount necessary to pay debt service and judgments.

4. After such annual estimates have been prepared, the Village Board shall annually assess the amount of the estimate of expenditures, less the estimate of revenues as set forth in the estimate so prepared, on the lots and parcels of land against which the expense of the improvement was charged, in proportion as nearly as may be to the benefit which each lot or parcel will derive therefrom and shall prepare an assessment roll which shall describe each such lot or parcel of land in such manner that the same may be ascertained and identified and shall show the name or names of the reputed owner or owners thereof, and the aggregate amount of the assessment levied upon such lot or parcel of land, no assessment roll shall be required. The village board shall file such estimates and the assessment roll with the Village Clerk between the first and the fifteenth days of September in each year, if required, shall be prepared and filed with the village clerk.

5. The Village Board shall hold a public hearing thereon in the manner and upon the public notice prescribed in this article and New York State Village Law. After such public hearing, it shall be the duty of the village board to adopt such assessment roll as originally prepared or to amend or change such assessment roll or to prepare a new roll, but no such amended, changed or new roll shall be adopted unless the Village Board shall hold a hearing thereon in the manner and upon the notice prescribed for the original hearing. Such original, amended, changed or new roll shall be adopted at least thirty days before the 1<sup>st</sup> of November of each year.

6. The Village Board shall cause to be prepared estimates required to meet expenses for annual monitoring, testing, operation and maintenance of the sewer and water districts, at the same time as provided in this article or as govern under article five (5) of New York State Village Law for the preparation of the tentative budget for the village. Such annual estimates shall contain the anticipated revenue and expenditures for such district for the ensuing year. It shall also show the amount of expenses, which shall be apportioned or charged against each lot, or parcel within such district in proportion as nearly as may be to the benefit which each such lot or parcel will derive from the service or improvement. After such annual estimates have been prepared, the Village Board shall cause a notice to be published in the official newspaper, or if none has been designated, a newspaper having general circulation in the village, that the same may be examined in the village clerk's office and that a public hearing will be held thereon by the Village Board, specifying the time when and the place where such hearing will be held. Such public hearing may be held on the same day as the hearing on the preliminary budget. Such notice shall be published at least five days before such hearing. After such hearing the Village Board shall adopt such estimates or it may amend and modify the same. If the amount apportioned against any one parcel is increased after the public hearing, the village board shall hold another public hearing on like notice. The Village Board shall adopt such annual estimates and the apportionment against each such parcel no later than the date of adoption of the annual village budget. After such adoption such annual estimates shall be filed in the office of the Village Clerk, and the Mayor shall transmit the same to the tax levying body, which shall levy the amount apportioned against each parcel or lot at the same time and in the manner provided by law for the levy of village taxes. Such amount so levied shall be collected and enforced at the same time and in the manner that village taxes are collected and enforced.

### **§ 80-27. Increase or improvement of facilities.**

1. Whenever it shall determine it to be in the public interest, after a public hearing as hereinafter provided, the Village Board may acquire or construct on behalf of a water, sewer districts additional facilities therefor and appurtenances thereto, other than the construction of a lateral sewer, or water main authorized to be constructed pursuant to section eighty,



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subdivision twenty three, and including additional lands or interests in lands, or may improve or reconstruct existing facilities and appurtenances. The Village Board shall cause a map and plan of the proposed improvement together with an estimate of the cost to be prepared by a competent engineer duly licensed by the state of New York. When the map and plan and estimate of cost has been completed, the Village Board shall call a public hearing thereon and cause a notice thereof to be published and posted in the manner prescribed in section eighty, subdivision sixteen. Such notice shall describe in general terms the proposed improvement or the location of the lands to be acquired, shall specify the estimated expense thereof and state the time when and place where the board will meet to hear all persons interested in the subject matter thereof. If the Village Board shall decide, after such hearing and upon the evidence given thereat, that it is in the public interest to acquire or construct the proposed improvement, the board shall direct the engineer to prepare definite plans and specifications, and to make a careful estimate of the expense, and, with the assistance of the village attorney or an attorney employed for that purpose, to prepare a proposed contract for the execution of the work. Thereupon the said board shall examine such definite plans, specifications, estimate and the proposed contract, and may reject the same or make such modifications and changes therein as shall seem necessary and desirable, and adopt the same and cause the improvement to be constructed or acquired all in the same manner as hereinbefore provided for the construction of trunk sewers, drains and water systems. In case the purchase of lands only is involved, the Village Board, if it is determined to be in the public interest, may proceed to purchase such lands. In like manner, the Village Board may, after a public hearing held upon due notice, replace obsolete, inadequate, damaged, destroyed or worn-out apparatus and equipment or acquire additional apparatus and equipment. Any cost or expense incurred pursuant to the authority granted by this section shall be a charge against the district and assessed, levied and collected in the same manner as other charges against the particular district. Nothing herein contained shall be construed to prevent the financing of such cost or expense pursuant to the provisions of the local finance law.

2. The permission of the State Comptroller shall not be required for such expenditure, nor shall the Village Board be limited by the maximum amount proposed to be expended as stated in the petition, or in the final order, if the village board proceeded under this article, or, in the case of a water districts or sewer district, the notice of hearing, for the establishment or extension of the district and the construction of the original improvement, but the Village Board shall not incur any expense in excess of the amount stated in the notice of hearing.

3. The powers hereinbefore provided in subdivisions one and two of this section may be exercised by the Village Board on behalf of two or more districts jointly, provided that such districts are wholly situated in the village, and whether or not the districts were established for the same purpose. The notice of hearing shall be published and the hearing held in the manner provided in subdivision one of this section. The cost, including both debt service and operation and maintenance, shall be annually apportioned among the districts by the Village Board, and the amounts so apportioned shall be levied and collected in each district as provided in sections eighty, subdivision twenty five and eighty, subdivision twenty six hereof.

### **§ 80-28. Increase of maximum amount to be expended.**

1. At any time after the conveyance of the village's sewer, or water district the maximum amount proposed to be expended for the improvement in such district, as stated in the petition for the extension of such district, may be increased by an order of the Village Board provided a petition requesting such increase signed as required by section eighty, subdivision thirteen of this article is presented to the village board and provided the village board shall, after a public hearing ordered and held in the manner prescribed by sections eighty, subdivision sixteen and eighty, subdivision seventeen of this article, determine that it is in the public interest to authorize the increase of such maximum amount, and provided the comptroller of the state of New York shall have made as may be required pursuant to subdivision six of section eighty, subdivision seventeen of this article, after such public hearing, an order approving the increase of such maximum amount as stated in the petition. The order of the comptroller shall be prepared in duplicate and one copy thereof filed in

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the office of the department of audit and control and the other copy in the office of the Village Clerk of the village.

2. If the petition for extension of the district proposes only the performance or supplying of certain services, and states the maximum amount to be expended annually for such services, the maximum amount to be expended annually may be increased by an order of the village board provided the Village Board shall, after a public hearing, determine that it is in the public interest to authorize the increase of such maximum amount. The Village Board shall give notice of such hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the place where such hearing will be held and stating the increase proposed in the maximum amount to be expended annually. Such notice shall be published once at least ten days prior to the date specified for such hearing. The approval of the state comptroller to such increase in the maximum amount to be expended annually shall not be required.

### § 80-29. Consolidation of sewer or water districts by the Village Board.

**1. Resolution.** The Village Board of any village may, and within Twenty days after the date of filing with the Village Clerk of a petition signed, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions, by at least ten per cent of the total number of owners of taxable real property situated in each district affected, as shown upon the last completed assessment roll of the village, shall, adopt a resolution calling a public hearing upon:

a. The consolidation of two or more sewer or water districts established or created for the same purpose, and the determination of the basis for the future assessment of all costs of operation, maintenance, and improvements where one or more of such districts is taxed on an ad valorem basis and one or more of which is taxed on a benefit basis, provided that such districts are wholly located within such village;

b. The consolidation of two or more sewer or water districts created for different purposes into a single sewer or water district which may provide all the services which such sewer or water districts were providing or authorized to provide, and the determination of the basis for the future assessment of all costs of operation, maintenance, and improvements where one or more of such districts is taxed on an ad valorem basis and one or more of which is taxed on a benefit basis, provided that the boundaries of such districts are coterminous and such districts are wholly located within such village;

**2. Notice.** The village clerk shall give notice of such hearing by the publication of a notice in at least one but not more than two newspapers designated by the Village Board. Such notice shall specify the time when and the place where such hearing will be held and, in general terms, describe the proposed consolidation, if such be the case, and shall specifically state the proposed disposition of the property and indebtedness of the original districts, if any, will be abolished, and where appropriate, the proposed basis of the future assessment of all costs of operation, maintenance and improvement. The first publication of such notice shall be at least ten days prior to the time fixed for such public hearing.

**3. Hearing.** The Village Board shall meet at the time and place specified in such notice and hear all persons interested in the subject matter thereof concerning the same. If the Village Board shall determine upon the evidence given thereat, that it is in the public interest to consolidate all of the districts specified in said notice, or two or more thereof, if such be the case, to assess future costs of operation, maintenance and improvements on a particular basis where appropriate or to abolish the offices of commissioners the board may adopt a resolution subject to a permissive referendum, so consolidating such districts, if such be the case, if any, and, where applicable, setting forth the basis for the future assessment of all costs of operation, maintenance and improvements.

**4. Notice of adoption of resolution.** Within ten days after the adoption by the village board of a resolution consolidating sewer or water districts, the Village Clerk shall give notice thereof at the expense of the village, by the publication of a notice in at least one but not more than two newspapers designated by the Village Board. In addition, the Village Clerk shall

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post or cause to be posted on the bulletin board in his office a copy of such notice. In the event that the village maintains a website, such information may also be provided on the website. Such notice shall set forth the date of adoption of the resolution and contain an abstract of such resolution, describing in general terms, the districts so consolidated, if any, shall be abolished, the basis for the future assessment of all costs of operation, maintenance and improvements where applicable, and that such resolution was adopted subject to a permissive referendum.

5. **Petition.** The resolution of the Village Board shall not take effect until thirty days after its adoption; nor until approved by the affirmative vote of a majority of the qualified electors of such districts voting upon such proposition, if within thirty days after its adoption, there be filed with the village clerk a petition signed, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions, by at least twenty-five electors qualified to vote upon a proposition to raise and expend money, of each district affected, by such electors situated in any of the sewer or water districts equal to the product obtained by multiplying the number of districts by fifty, or by fifty per centum of all of such electors situated in one district, protesting against such resolution and requesting that it be submitted to the qualified electors of the districts affected, for their approval or disapproval. The Village Clerk shall cause to be prepared and have available for distribution proper forms for the petition and shall distribute a supply to any person requesting the same.

6. **Notice of election.** If such a petition shall be filed with the village clerk, the Village Board shall adopt a resolution specifying a date not less than twenty nor more than thirty days thereafter for the holding of a special election, fixing the hours of opening and closing of the polls, designating the voting places and setting forth, in full, the proposition to be voted upon. The Village Board shall designate a separate voting place for each district affected and not less than two or more than four persons to act as election inspectors and ballot clerks, for each voting place. Each of such persons shall be a qualified elector of the district in which such voting place is located and such election inspectors and ballot clerks shall receive for their services an amount to be fixed by the Village Board but not to exceed ten dollars each. The polls shall remain open from six o'clock in the evening until nine o'clock in the evening and such additional consecutive hours prior thereto as the Village Board may determine.

7. **Election.** The voting upon such proposition shall be by ballot and the Village Clerk shall cause such ballots to be prepared. No person shall be entitled to vote upon any such proposition unless he or she has the following qualifications: (a) is an elector of the village, and (b) is the owner of taxable property situate within one of the districts assessed upon the last preceding village assessment roll. Every person entitled to vote upon such a proposition shall vote at the voting place designated by the Village Board for the district in which he shall reside and at none other.

8. **Canvass.** Upon the closing of the polls at any such election, the election inspectors and ballot clerks shall immediately canvass the ballots cast and shall complete such canvass without adjournment. As soon as possible after completion, they shall file with the Village Clerk a certificate setting forth the holding of such election, the number of votes cast, the number of votes cast for and against such proposition, together with the name and address of every person voting at such election.

9. **Adoption.** A proposition for the consolidation of districts created for the same purpose shall require for its adoption, the affirmative vote of a majority of the qualified electors voting thereon in each district affected. Any other proposition submitted pursuant to this section shall require for its adoption the affirmative vote of a majority of the electors voting thereon. If any proposition so submitted shall not be adopted, the village board shall not adopt a similar resolution consolidating such districts, within one year from the date of the original resolution.

10. **Expense.** The expense of conducting any such election, including the publication of notices, the printing of ballots, the compensation of election inspectors and ballot clerks and all other expense occasioned by the election shall be a charge against the districts affected and paid by such districts in equal amounts, regardless of size, population or assessed valuation.

11. **Consolidation of districts.** The consolidation of such districts shall become effective on the thirty-first day of December next succeeding, provided, however, that if any such

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resolution shall be adopted subsequent to the first day of October in any year, such consolidation shall become effective on the thirty-first day of December of the next succeeding calendar year. Unless the resolution adopted by the Village Board for the consolidation of the districts shall specify otherwise, all the property of the original districts shall become the property of the consolidated district and the consolidated district shall assume and pay the indebtedness of each of the original districts as if such indebtedness has been incurred subsequent to the consolidation.

12. **Merger of proceedings.** Nothing in this article shall be deemed to prevent the merger of a proceeding to extend the boundaries of one or more sewer or water districts to make them coterminous with the boundaries of another sewer or water district and a proceeding to consolidate two or more sewer or water districts created for different purposes into a single sewer or water district where such extension is undertaken for the purpose of such consolidation.

### § 80-30. Consolidation of the district and its extensions.

#### 1. Determination and notice of public hearing.

Whenever the Village Board of the Village of South Blooming Grove:

- a. calls a public hearing on the extension of a district on its own motion, pursuant to section eighty, subdivision eight of this chapter; or
- b. calls a public hearing on the extension of a district on petition, pursuant to section eighty, subdivision sixteen of this article; or
- c. calls a public hearing on the consolidation of districts, pursuant to section eighty, subdivision twenty nine of this article, then such Village Board may, in its discretion, include in the order or resolution calling such public hearing, a determination that all the expenses of the district, including all extensions heretofore or hereafter established, shall be a charge against the entire area of the district as extended. Any notice of public hearing published shall, in addition to all other information required by section eighty, subdivision eight of this chapter, eighty, subdivision sixteen or eighty, subdivision twenty nine of this article, include a statement of the determination made pursuant to this subdivision.

#### 2. Method of assessment.

- a. When the village board makes the determination set forth in subdivision one of this section in a proceeding to extend a district which finances the costs of operation, maintenance and improvements on a benefit basis, the district shall continue to be financed on a benefit basis.
- b. When the village board makes the determination set forth in subdivision one of this section in a proceeding to extend a district which finances the costs of operation, maintenance and improvements on an ad valorem basis, the district shall remain on an ad valorem basis, unless the village board, in its discretion, includes in the order a further determination that to remain on the ad valorem basis would result in unfair or inequitable assessments and that, as a result, all assessments levied after the extension shall be raised on a benefit basis.
- c. When the village board makes the determination set forth in subdivision one of this section in a proceeding to consolidate districts, the consolidated district shall be assessed as provided in section **eighty, subdivision twenty nine** of this article, except that the Village Board may in its discretion, include in the resolution adopted pursuant to subdivision **one of section eighty, subdivision twenty nine** of this article, a further determination that to remain on the ad valorem basis after the consolidation would result in unfair or inequitable assessments and that, as a result, all assessments levied after the consolidation shall be raised on a benefit basis. Whenever a village board makes a determination to change the basis of assessment as authorized by this subdivision, any notice of public hearing shall contain a statement of such determination.

#### 3 Determinations after hearing.

After the public hearing, in addition to those determinations required by section eighty, subdivision seventeen or eighty, subdivision twenty nine of this article or section eighty, subdivision nine of this chapter, the village board shall determine whether it is in the public interest to assess all expenses of the district, including all extensions heretofore or

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hereafter established, as a charge against the entire area of the district as extended, and, if provided for in the order or resolution calling the public hearing, whether to change the basis of assessment from ad valorem to benefit. In addition, in a proceeding to extend a district on petition, pursuant to this article, the Village Board shall determine whether:

a. it is in the public interest to extend the district only if all expenses of the district shall be assessed against the entire district as extended; or

b. it is in the public interest to extend the district without regard to whether the cost of the extension shall be assessed against only the area of the extension or the entire district as extended.

#### 4. Permissive referendum.

Any resolution which, in addition to making the determinations required by section eighty, subdivision seventeen or eighty, subdivision twenty nine of this article, or eighty, subdivision nine of this chapter, determines that all expenses of a district, including all extensions thereto, heretofore or hereafter established, shall be assessed as a charge against the entire area of the district as extended and, where appropriate, that future assessments in the extended or consolidated district shall be raised on a benefit rather than ad valorem basis, shall, notwithstanding any other provision of this chapter, be subject to permissive referendum as follows:

a. In a proceeding to extend a district on Village Board motion, pursuant to this article, notice of adoption, petition and referendum shall be as provided in such article, except that the notices and ballot shall include the further determination or determinations made pursuant to this section.

b. In a proceeding to extend a district on petition, pursuant to this article, notice of adoption, petition and referendum shall be as provided for extension of districts pursuant to this article, except that only the determination or determinations made pursuant to this section shall be subject to referendum and stated in the notices and ballot; provided, however, that if the village board has determined that it is in the public interest to extend the district only if all of the expenses of the district shall be assessed against the entire district as extended, then, notwithstanding any provision of section eighty, subdivision seventeen of this article, it shall not adopt an order establishing the extension until it has been certified that the proposition authorizing all costs of the district to be levied against the entire area of the district has been approved at a referendum held thereon or that no petition requesting a referendum was filed; provided further, that if the Village Board has determined that it is in the public interest to extend the district without regard to whether expenses of the district shall be assessed against only the area of the extension or the entire district as extended, then it may adopt an order extending the district whenever all the requirements of this article have been satisfied, except that any assessments shall be levied only in accordance with the provisions of subdivision five of this section.

c. In a proceeding to consolidate districts pursuant to section eighty, subdivision twenty nine of this article, the notice of adoption, petition and referendum shall be as provided in such section, except that the notices and ballot shall include the further determination or determinations made pursuant to this section.

#### 5. Effect.

a. In a proceeding to extend a district, whether pursuant to this article, the extension shall, subject to the provisions of subdivision four of this section, be deemed established as provided in such articles, and the consolidated assessment roll shall be prepared for the next year in which assessments are levied against the extended district; provided, however, that in a proceeding to extend commenced under this article in which the village board has determined that it is in the public interest to establish such extension without regard to whether all expenses of the district are to be assessed against the area of the extension of the entire district as extended, a consolidated assessment roll shall not be utilized until it has been certified that the proposition authorizing all costs of the district to be levied against the entire area of the district has been approved at a referendum held thereon or that no petition requesting a referendum was filed.

b. In a proceeding to consolidate districts pursuant to section eighty, subdivision twenty-nine of this article, the determinations made pursuant to this section shall take effect at the same time provided for the consolidation in such section.

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### **§ 80-31. Judicial review.**

Any persons aggrieved by any decision or determination made by the Village Board pursuant to this article may bring a proceeding to review such determination in the manner provided by Article 78 of the Civil Practice Law and Rules.

### **§ 80-32. Application.**

No statement in this article shall be construed to interfere with any additional requirements that may be imposed by any federal, state or local health authority having jurisdiction.

### **§ 80-33. Supersession of other laws.**

This chapter supersedes, and is in derogation of, Chapter 188 of the Code of the Town of Blooming Grove, County of Orange, and State of New York except as regards Town Sewer & Water District facilities within the Village. In addition, it is not intended that this chapter supersede the authority of the County of Orange to regulate or control county sewer district facilities, or equipment located within the Village of South Blooming Grove.

### **§ 80-34. Authority.**

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

### **§ 80-35. Repeal.**

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

### **§ 80-36. Effective Date.**

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.