

DIVISION 9. ONSITE WASTEWATER MANAGEMENT ORDINANCE*

This division has been drafted in accordance with and under the authority of the State of Rhode Island General Laws, Title 45, Chapter 24.5 of the General Laws entitled "Towns and Cities; Wastewater Management Districts". The authorizing state chapter is known and cited as the "Rhode Island Septic System Maintenance Act of 1987". Nothing in this act replaces or precludes any obligation of the owner to notify the Rhode Island Department of Environmental Management, or their successors or any other state agencies with jurisdiction such as the department of health, the coastal resources management council of septic system failures.
(Ord. of 10-15-01).

Sec. 19-152. Findings.

The South Kingstown Town Council hereby finds the following evidence as documented in the Comprehensive Plan and the South Kingstown Onsite Wastewater Management Plan in support of the establishment of an onsite wastewater management district. All documentation and findings included in the South Kingstown Onsite Wastewater Management Plan are incorporated herein by reference.

*Editor's note – An ordinance adopted on Oct. 15, 2001, added §§ 19-161—19-169. Inasmuch as those section numbers already exist in the Code, at the editor's discretion, §§ 19-151—19-159 to avoid duplication.

- (1) The natural resource element of the Comprehensive Plan:
 - a. Recognizes septic systems and cesspools as a significant sources of contamination to the town's ground and water surface waters; mandates adoption of a town-wide wastewater management district that allows the town to inspect individual sewage disposal systems (hereinafter "ISDS" or "septic system") and ensure their maintenance. Such a program will decrease the amount of ground and surface water contamination from septic systems that do not function properly. The plan further states that the district shall first be implemented in the Salt Pond area;
 - b. Recognizes that in South Kingstown almost fifty (50) percent of the unsewered, residentially zones land under two (2) acres has constraints relative to the proper functioning of ISDS.
- (2) According to the facilities element of the Comprehensive Plan, in 1990 sixty (60) percent of the residents relied on ISDS. Due to a limited sewer expansion plan and the location of potentially developable land outside expansion areas, the percentage of ISDS users relative to sewer users will continue to increase.

(3) According to the town's 2000 database there are an estimated five thousand nine hundred seventy-three (5,973) individual sewage disposal systems. Based on a record of which houses were constructed prior to 1970, approximately two thousand three hundred sixty (2,360) systems or thirty-nine and one-half (39.5) percent predate ISDS regulations.

(4) South Kingstown's ground and surface waters are important natural and recreational resources that are vital to the town's economic, environmental and public health.

(5) The people of South Kingstown rely on groundwater for a safe drinking water supply. According to the town's 2000 database, approximately thirty (30) percent of the population rely on private wells. No feasible supply alternatives are available. Certain land uses, including substandard, improperly functioning and poorly maintained ISDS pose a threat to the quality of ground and surface waters.

(6) Septic systems located in sandy soils with fast percolation rates, particularly in areas of high water tables, pose a significant threat to groundwater and receiving surface water.

(7) In some areas of town, soils with slow percolation rates, high water tables and improperly designed, installed and maintained ISDS result in surface breakouts of sewage and threaten public health and the quality of receiving surface waters.

(8) Many of the ISDS in coastal portions of the town were initially designed for smaller summer homes that were subsequently expanded and converted to year round use, without the necessary improvements to the ISDS.

(9) The town currently has three (3) public supply wells located in the glacial outwash deposits around Factory Pond, which is located in the watershed of Green Hill Pond.

(10) Green Hill Pond has been closed to shellfishing due to high levels of indicator fecal coliform. At times coliform levels have exceeded levels designated as safe for swimming.

(11) According to a 1998 Green Hill Pond Fact Sheet (URI Cooperative Extension) and the 2001 Source Water Assessment Program, septic systems and cesspools are estimated to contribute approximately eighty (80) percent of nitrates in recharge water in the Green Hill Pond Watershed. Roughly the same proportion can be expected in other unsewered areas with similar land use, geology and soils.

(Ord. of 10-15-01)

Sec. 19-153. Purpose.

(1) *Purpose.* The town council hereby finds that ISDS are prone to failure due to age, outmoded design, overuse, improper installation, lack of needed repair and poor maintenance. ISDS failure poses a risk to public health and is a source of contamination to surface and groundwater. The purpose of this ordinance is to establish an onsite wastewater management district (OWMD) consistent with the South Kingstown Onsite Wastewater Management Plan approved by both the town council in June 1999 and

RIDEM in October 1999. Within this district all ISDS in South Kingstown shall be properly operated, regularly inspected, and routinely maintained in order to prevent system malfunction and insure maximum system longevity.

(2) *Framework.* This ordinance and the associated onsite wastewater management regulations approved by the town council, provide a framework for the efficient inspection, repair and maintenance of ISDS in the town and recognize the property owner's responsibility to ensure that their system is well maintained and properly functioning.

(Ord. of 10-15-01)

Sec. 19-154. Onsite wastewater management district definitions.

(1) *District definition.* The district shall include all unsewered areas of the Town of South Kingstown in accordance with the map titled "Wastewater Management Phasing" dated December 1, 2000, located in the office of the public services department.

(2) *Other definitions.* Any term not defined herein shall be governed by the definition as it appears in the current RIDEM rules and regulations establishing minimum standards relating to the location, design, construction and maintenance of individual sewage disposal systems (hereinafter RIDEM ISDS regulations), and the South Kingstown regulations governing the onsite wastewater management district. In the case of conflict the RIDEM regulations shall apply. Any other term not defined therein shall be governed by the definition as it appears in the South Kingstown Zoning Ordinance.

(Ord. of 10-15-01)

Sec. 19-155. The ISDS commission and program administration.

(1) *Program administrator.* The public services director shall serve as the program administrator. It shall be the duty of the program administrator or his/her designee to:

- (a) Supervise the administration of a program of surface water and groundwater protection through maintenance and inspection of ISDS as authorized by this ordinance and Title 45, Chapter 24.5 of the Rhode Island General Laws.
- (b) Serve as enforcement officer pursuant to the authority granted under subsection (h) herein, as well as the authority to levy fines for violations of this ordinance.
- (c) Contract, through the town manager, for services with ISDS inspectors, installers, maintenance providers and others as necessary.
- (d) Order the maintenance of ISD systems based upon inspection results.

- (e) Provide technical assistance to property owners on all matters pertaining to ISDS maintenance, repair, upgrade and replacement.
- (f) Provide technical and administrative support to the ISDS commission.
- (g) Oversee the implementation of the onsite wastewater management plan.
- (h) Maintain ISDS inspection, maintenance and upgrades records.

(2) *ISDS commission.* The South Kingstown Conservation Commission shall serve as the ISDS commission. It shall be the duty of the ISDS commission to:

- (a) Develop rules and regulations for the implementation of this ordinance subject to approval by the town council with or without amendment.
- (b) Render advisory opinions to the program administrator regarding the requirements of this ordinance and advise the zoning board of review on applications for the locations of septic systems under Article 5 of the zoning ordinance.
- (c) Develop and conduct an onsite wastewater management educational program.
- (d) Review and render advisory recommendations to the program administrator for petitions to amend inspection and maintenance schedules.
- (e) Review ISDS repair and installation plans and provide technical assistance to system owner and advisory recommendations to the planning and zoning boards as applicable.
- (f) Assist the town manager in the development of the qualification requirements of the onsite wastewater management specialist.

(3) *Technical support.* It shall be the duty of the planning department and the department of public services to provide technical and administrative support to the program administrator or his/her designee and the ISDS commission.

(4) *Fees and fines collection.* It shall be the duty of the tax collector to collect any fees and fines relative to properties regulated under this ordinance.

(5) *Jurisdiction.* Under this ordinance the town, through the public services department, shall have jurisdiction to ensure the operation and maintenance of all existing and future ISDS within the town. This ordinance authorizes the passage of authorized representatives of the town onto private property for the inspection of ISDS.

(6) *Location, setbacks, and need for enhanced wastewater treatment.* Location of ISDS, setbacks for sensitive resources, performance standards for various

resource areas and requirements for enhanced onsite wastewater treatment are governed by the South Kingstown Zoning Ordinance.
(Ord. of 10-15-01)

Sec. 19-156. Education program and phased implementation.

- (1) *Establishment of a public education program.* A public education program shall be established and overseen by the ISDS commission in conjunction with the public services department and planning department, to inform people about the findings, benefits and goals of onsite wastewater management in South Kingstown. The educational program shall include, but not be limited to the following:
 - (a) Proper inspection, operation and maintenance of ISDS.
 - (b) Operation and management framework of the program.
 - (c) Proper disposal of hazardous waste, including household hazardous waste.
 - (d) Water conservation.
 - (e) Protection of sensitive resources.
 - (f) Use of environmentally sensitive cleaning products.
 - (g) Use of alternative and innovative septic systems and associated technologies.
 - (h) Availability of financial assistance.
 - (i) Costs to homeowners to ensure compliance with WWMO provisions.
- (2) *Phased implementation.* The implementation of section 19-157, ISDS inspection and maintenance, shall occur over a period of seven (7) years in accordance with the map titled "Wastewater Management Inspection Schedule." Dated June 15, 2001, located in the offices of the planning department and public services department. Phasing shall begin in the Green Hill Pond watershed, and then proceed in order to the watersheds of the other coastal ponds and Narrow River, the Groundwater Protection Overlay District (GPOD) and lastly to the remainder of the town. The program administrator shall have the authority to alter the phased inspection schedule by ordering the inspection of any ISDS when it has been determined that the ISDS is in need of immediate improvements.
(Ord. of 10-15-01)

Sec. 19.157. ISDS inspection and maintenance.

- (1) *ISDS inspections.* The purpose of ISDS inspections is to assess the current condition of the ISDS in order to determine:

- (a) What maintenance is required;
- (b) When the maintenance should be undertaken;
- (c) The date of the next inspection; and
- (d) The need for system upgrade or replacement

Maintenance requirements shall be based upon inspection results. Information from the inspections will also be used to complete a town-wide ISDS inventory and to track system inspections, maintenance and upgrades. All inspections shall follow the criteria and procedures outlined in the Rhode Island Department of Environmental Management's Septic System Check-Up: The Rhode Island Handbook for Inspection (hereinafter referred to as "the handbook").

- (2) *Who may inspect.* All ISDS shall be subject to inspections by a private, town-approved ISDS inspector. Where appropriate, an inspector may also be a designee of the program administrator. Town-approved septic system inspector(s) shall determine the maintenance and pumping requirements for each ISDS based upon criteria outlined in the handbook. In order for an inspector to be approved by the town, he/she must satisfactorily complete a training course in inspection methodology consistent with use of the handbook. The ISDS commission and the public services department shall maintain a list of town-approved inspectors and make such list available to property owners for the purpose of arranging the inspection of their own ISDS.
- (3) *ISDS maintenance and owner's responsibility.* The inspector shall give the property owner and the program administrator an inspection report that details the ISDS condition, components, inspection schedule and maintenance requirements. The ISDS owner(s) shall assume all responsibility for hiring a septage hauler or maintenance contractor to complete the maintenance and inspection requirements contained in the ISDS inspection report within the time frame required. As proof of compliance, the property owner shall submit a receipt for pumping and other documented system maintenance to the program administrator within thirty (30) days of the date stipulated in the ISDS inspection report.
- (4) *Change in inspection or maintenance schedule.* The program administrator, upon written notification to the property owner and the appropriate ISDS inspector, may change the inspection schedule and/or maintenance requirements of an ISDS, where such a change is deemed necessary for the proper functioning of the ISDS. Reasons for a schedule change include, but are not limited to, change in household occupancy, seasonal use, rental status, water consumption, system functioning, site characteristics and proximity to sensitive resources such as drinking water supplies poor soils with septic system constraints and coastal and freshwater wetlands. Likewise, the property owner(s) may petition the program administrator to alter the inspection and/or maintenance schedule. The owner must demonstrate, to the satisfaction of the program administrator, through the use of appropriate site data and household information, that such a change in the requirements would still ensure the proper operation of the ISDS and not impair the intent of this ordinance.

- (5) *Failure to inspect, repair, pump or maintain an ISDS.* Failure to inspect, repair, pump or otherwise maintain an ISDS within the time frame provided under this ordinance and associated regulations and to submit proof of such to the program administrator shall constitute a violation of this ordinance.
- (6) *Immediate need to pump.* In an event of a system failure or malfunction where there is an immediate need to pump that poses a public health or environmental hazard, the ISDS inspector shall immediately notify the property owner and the program administrator. The program administrator shall immediately serve upon the owner a notice and order directing the owner that he/she has five (5) days to pump the system and to present evidence to the program administrator. Such evidence may be in the form of a receipt from an approved septage hauler. Failure to comply with this administrative order shall constitute a violation under this ordinance.
- (7) *Accessibility, effluent filters and inspection reports.* Although not required, it is recommended that all ISDS that presently have no access risers be equipped with three (3) access risers to grade located at the inlet, center and outlet of the septic tank and an effluent filter be installed at the outlet end of the septic tank. Although not required, it is recommended that all ISDS that have only an existing center access riser be equipped with access risers at the inlet and outlet ends of the septic tank and an effluent filter be installed at the outlet end of the septic tank. Access risers shall be watertight and should be consistent with state standards. These measures will help locate ISDS, facilitate the inspection and pumping of a septic tank and ultimately and longevity of the ISDS. The ISDS commission and program administrator will provide technical information and support regarding the installation of these structures on both new and existing ISDS.
- (8) *Watertight septic tanks.* Per RIDEM regulations, any existing tank that leaks may be declared a failed system. All septic tanks installed after the effective date of this ordinance shall be certified watertight in accordance with ASTM minimum standards or those developed by the ISDS commission. Tank installation must be done in accordance with manufacturer's requirements. In addition, tanks installed after the effective date of this ordinance must be site tested to ensure that they are watertight. The accepted procedure(s) for site testing tanks as watertight shall be available from the South Kingstown Public Services Department.
- (9) *Cesspools:* Cesspools are a substandard and inadequate means of onsite wastewater treatment. All cesspools are considered to be malfunctioning systems and shall be replaced with an onsite wastewater system which conforms with current state and local standards within twelve (12) months after the sale of a property or within five (5) years of the date of the first maintenance (baseline) inspection, whichever date comes first.

A property owner may request, in writing, a review by the public services director for an alternative to replacing a cesspool. Upon receipt of the request, the public services director shall endeavor to work out with the property owner an economically feasible plan to bring the onsite wastewater system into compliance

with state and local standards, which alternative may include an extension of time in which to comply with this section, the imposition of interim measures that ensures the protection of the environment and the public health, safety and welfare, and/or a remediation plan. The public services director may request an advisory opinion from the ISDS commission regarding these matters. The public services director may allow an alternative to replacing a cesspool upon a finding that all of the following standards are satisfied:

- (a) Requiring the replacement of the cesspool in strict conformance with this section would not be economically feasible, considering all the relevant facts and circumstances of the individual case;
- (b) The system does not present an immediate public health and/or environmental threat; and
- (c) The alternative system provides a level of environmental protection that is at least equivalent to that required by RIDEM.

The decision of the public services director shall be in writing and shall state specific reasons for the denial or approval.

- (10) *Remediation plans.* The owner(s) of any lot or parcel of land containing more than one (1) detached dwelling unit may be required by the program administrator to develop a remediation plan. Where there are existing cesspools or substandard systems, that program administrator and/or his designee shall work with the owners and/or lessees to develop a remediation plan that ensures the protection of the environment and the public health safety and welfare which may include gray water systems and shared systems. The ISDS commission and/or program administrator shall offer technical assistance in the development of the remediation plan.
(Ord. of 10-15-01)

Sec. 19-158 Enforcement.

- (1) *Notice of violation.* If an owner of an ISDS is determined to be in violation of this ordinance the program administrator or his designee shall issue a written notice of violation (NOV) via certified mail to the owner. The notice shall explain the nature of the violation, required actions, any assistance that is available from the ISDS commission or program administrator, a reasonable time frame for compliance, and the possible consequences for noncompliance.
- (2) *Administrative review meeting.* A property owner is encouraged to resolve issues at an informational administrative level before appealing a decision of the program administrator. Any owner of an ISDS who received an NOV shall have the right to an administrative conference with the program administrator to determine how best to bring the system into compliance. The program administrator may seek an advisory opinion from the ISDS commission relative to available methods for bringing the system into compliance. In the case of a NOV, an administrative meeting, if desired, shall be requested in writing within ten (10) days following the date of notice. A written consent agreement signed

by the public services director and the ISDS owner shall outline the specifics of the any agreement developed as the result of the administrative meeting.

- (3) *Penalties.* Any person who fails to comply with a written notice of violation issued under the provisions of this division may be fined not more than five hundred dollars (\$500.00) per violation. Each day of a continuing violation may be construed to constitute a separate and district violation. All fees/fines shall be paid to the town for the administration and implementation of the OWMP. The Town of South Kingstown shall maintain its right to legal and equitable remedies that may be available in order to enforce compliance with the provisions of this ordinance.
- (4) *Failure to pay.* Failure to pay any fees or fines assessed by the town for the administration of the wastewater management district shall constitute a lien on the owner's property. In addition to the bill and any associated fines, the ISDS owner shall be responsible for any interest, administrative and court costs associated with the collection of the funds.
- (5) *Appeals.* Any aggrieved party, as defined in Title 42, Chapter 24.5 of the Rhode Island General Laws, as amended, shall have the right to appeal a decision made under the provisions of this ordinance to the district court in accordance with the appeal process provided in the Rhode Island Administrative Procedures Act.
(Ord. of 10-15-01)

Sec. 19-159. Financing.

- (1) *Program financing.* The town council shall have the authority to raise funds for the administration, operation, contractual obligations, and services of the onsite wastewater management program (OWMP).
- (2) *Fee structure.* The program administrator and town manager may propose a fee schedule, for approval by the town council, to be assessed each owner of an ISDS. Said fee shall be based on the total number of ISDS in the OWMD and the administrative and technical costs associated with providing the services herein. Any funds collected or raised for purposes of implementing the onsite wastewater management program shall be kept as an enterprise account, separate from the town's general fund.
- (3) *Grant and loan program.* The town under the authority of the state legislature shall have the authority to issue bonds or notes, to receive grants or to assess ISDS owners for the purpose of establishing a revolving fund. This fund may be used to make low interest loans or grants available to qualified property owners for the improvement, correction, or replacement of a failed ISDS. The ISDS commission in conjunction with the public services department shall establish specific criteria to define eligibility for grants or loans. These criteria are subject to approval by the town council.
(Ord. of 10-15-01)