

ONSITE WASTEWATER MANAGEMENT ORDINANCE

SECTION 1.0 AUTHORITY

This ordinance 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 shall be known and cited as the "Rhode Island ISDS Maintenance Act of 1987". Nothing in this act replaces or precludes any obligation of the owner to notify the RI Department of Environmental Management, the RI Department of Health, the Coastal Resources Management Council, or their successors of ISDS failures.

SECTION 2.0 FINDINGS

The Jamestown Town Council hereby finds the following evidence in support of the establishment of an On-Site Wastewater Management Program and Ordinance.

RIDEM's Rules and Regulations for ISDS are designed to provide *minimum* standards for the location, design, construction and maintenance of individual sewage disposal systems.

The cumulative effect of substandard, malfunctioning, improperly designed or sited, and poorly maintained ISDS contributes to the pollution of surface and groundwater. The Comprehensive Plan specifically states that a Wastewater Management Ordinance should be adopted in order to prevent groundwater and surface water contamination in unsewered areas.

Undersized, grandfathered, non-conforming lots present a problem in terms of increased nutrient and pathogen levels associated with high-density residential development. The report, *Water Quality and Hydrogeology of Northern Conanicut Island, Rhode Island* found that ISDS in high-density areas of the Island are contributing to groundwater pollution and recommends the creation of a Wastewater Management District.

When properly designed, sited, installed and maintained, ISDS provide a cost-effective and environmentally sound alternative to sewers in those portions of Town that are outside the designated sewer area as shown in the Comprehensive Plan.

SECTION 3.0 PURPOSE

The Town Council hereby finds that individual sewage disposal systems (ISDS) are prone to failure with age, out-moded design, overuse, or improper installation, repair and maintenance. ISDS failure poses a risk to public health and is a source of contamination to surface and groundwater and to the salt and estuarine waters of Jamestown. The purpose of this ordinance is to establish an On-Site Wastewater Management Program (OWMP). Under this program, all ISDS in Jamestown are to be properly operated, regularly inspected, and routinely maintained in order to prevent system malfunction and insure maximum system longevity. This program provides a framework for the efficient inspection, repair and maintenance of ISDS in the Town of Jamestown and recognizes the homeowner's responsibility to ensure that their system is well maintained and properly functioning.

SECTION 4.0 DEFINITIONS

Any term not defined herein, and pertaining to ISDS shall be governed by the definition as it appears in the current *Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems* (ISDS Regulations). Any other term not defined herein shall be governed by the definition as it appears in the Jamestown Zoning Ordinance.

Access Riser: A structurally sound and water tight inspection port, which at its lowest point attaches to a septic tank or other component of an ISDS and extends upward to the ground's surface, allowing visual inspection and where necessary physical access to the ISDS for the purposes of maintenance and repair.

Contaminant: Any physical, chemical, biological or radiological substance which enters the hydrological cycle through human action and may cause a deleterious effect on ground and/or surface water resources; it shall include but not be limited to hazardous waste, nutrients, pathogens and sanitary sewage.

Critical Resource Area: Sensitive land and water resources that provide unique habitat and/or important ecological or economic function(s). Such areas include, but are not necessarily limited to wellhead protection areas, watersheds of drinking water reservoirs, coastal and freshwater wetlands, coastal ponds and estuaries, aquaculture areas, and habitat for rare threatened or endangered species.

RIDEM: RIDEM is defined as the State of Rhode Island, Department of Environmental Management or its successor organization.

Director: The Director of the RI Department of Environmental Management or any subordinate(s) to whom the Director has delegated the powers and duties vested in her/him pursuant to RI General Laws, Chapters 46-12 and 42-17.1, as amended, or any other duly authorized agent.

Effluent: Sewage, water or other liquid, partially or completely treated or in its natural state, flowing out of any component of a ISDS or flowing over the ground's surface or beneath the ground in groundwater.

Handbook: The current edition of The Rhode Island Department of Environmental Management's Septic System *Check-Up: The Rhode Island Handbook for Inspection*

Hazardous Waste: (1) Wastes which include, but are not limited to, those which are toxic, corrosive, flammable, or reactive; and/or (2) Wastes as defined in the RI Hazardous Waste Management Act,

Section 23-19.1-4 or in any regulation or amendment adopted pursuant thereto; and/or (3) as defined under section 3.25 of the RI Department of Environmental Management "Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal."

ISDS Inspections: One of four types of ISDS inspections undertaken to gather baseline information, assess maintenance needs, and to determine the condition of an ISDS, or the cause of ISDS failure.

1. *First Maintenance (baseline) Inspection:* The initial inspection performed on an ISDS and site. The tank is usually pumped as part of this inspection to better evaluate the existing condition of the system. First Maintenance Inspections involve the location of system components and more detailed data gathering that is not usually necessary for subsequent routine inspections.
2. *Routine Maintenance Inspection:* An inspection of an ISDS and system site to determine the need for pumping, establish future inspection schedules and to assess whether any repairs are necessary.
3. *Functional Inspection:* Inspection of an ISDS that typically takes place at the point of sale, but is not required by this ordinance. It may include, but is not limited to, an assessment as to whether or not the system conforms to current design standards, an evaluation of in-home plumbing, and an analysis of ISDS components including flow trial and dye tracing as appropriate.
4. *Diagnostic Inspection:* A detailed inspection whose purpose is to determine the cause of failure of an ISDS.

On-Site Wastewater Management Program (OWMP) A town-wide program of various zoning and subdivision regulations, ordinances, educational programs, management practices and financial incentives that are designed to help protect the integrity of Jamestown's ground and surface water reservoirs through the proper management, design, maintenance and installation of ISDS.

Person: Any individual, group of individuals, firm, corporation, association, partnership, or private entity, including a district, county, city, town, or other government unit or agent thereof, and in the case of a corporation, any individual having active and general supervision of the properties of such corporation.

Wastewater: Any human or animal excremental liquid or substance, putrescible animal or vegetable matter, garbage, or filth, including the discharge of toilets, laundry tubs, washing machines, sinks, dishwashers, the contents of septic tanks, cesspools, or privies, and backwash from a water filtration system.

SECTION 5.0 PROGRAM ADMINISTRATION

5.1 Boundaries and Jurisdiction: The Wastewater Management Area shall encompass the entire Town of Jamestown. Under this ordinance the Town shall have jurisdiction to ensure the operation and maintenance of all existing and future ISDS.

5.2 Administrative Responsibility: The day to day operation of this program including technical and administrative assistance shall be the responsibility of the Public Works Department. The Director of the Public Works Department or his designee shall be the Administrative Officer of the OWMP. The Tax Collector shall be responsible for collecting all fees and fines associated with this ordinance.

5.3 Power and Duties of the Public Works Department under this Ordinance:

It shall be the duty of the Public Works Department to:

- a) Supervise the administration of a program of surface water and groundwater protection through maintenance and inspection of Individual Sewage Disposal Systems as authorized by this ordinance and Title 45, Chapter 24.5 of the Rhode Island General Laws.
- b) Develop rules and regulations for the implementation of this ordinance, which must be reviewed and approved by the Town Council.
- c) Render decisions regarding the rights and obligations of any person or owner of property that is subject to the requirements of this ordinance.
- d) Contract for services with independent septage haulers, ISDS installers, ISDS Inspectors and others as necessary.
- e) Provide for the passage of authorized persons onto private property, when necessary and in accordance with the notice provisions of this ordinance, for the periodic inspection, pumping, maintenance and repair of ISDS.
- f) Order the maintenance of ISDS based upon inspection results.
- g) Provide technical and administrative assistance to homeowners on all matters pertaining to ISDS maintenance, repair, upgrade and replacement.

SECTION 6.0 ISDS INSPECTION AND MAINTENANCE

6.1 Purpose of 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 repair 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.

6.2 Who May Inspect: All ISDS shall be subject to First Maintenance (baseline) inspections by a private, town-approved ISDS inspector. When appropriate, an inspector may also be a designee of the Public Works Department. Town-approved ISDS inspector(s) shall determine the maintenance and pumping requirements for each ISDS based upon criteria 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).

- a) In order to be approved by the Town to inspect conventional systems, an inspector must satisfactorily complete the training course in the complete use of The Handbook and conventional septic system inspection offered through the University of Rhode Island's Onsite Wastewater Training (OWT) Center or similar program approved by the Town. A property owner who completes the homeowner maintenance workshop offered through the University of Rhode Island's Onsite Wastewater Training Center or other program approved by the Town may conduct Routine Maintenance Inspections on their own conventional ISDS.
- b) To inspect alternative and innovative systems an inspector, in addition to the above, must also have demonstrated knowledge in alternative and innovative technology and must satisfactorily complete the course in alternative and innovative system operation and maintenance offered through the University of Rhode Island's Onsite Wastewater Training (OWT) Center or similar program approved by the Town.
- c) The Public Works 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. The Town reserves the right to remove an inspector from the list if the inspections and subsequent reports are not performed in accordance with the criteria outlined in the Handbook and this ordinance.

6.3 Type of Inspections: At a minimum, all inspections shall follow the criteria outlined in The Handbook. This ordinance shall require two types of ISDS inspections: a) First Maintenance Inspection (baseline) and, b) Routine Maintenance Inspection.

- a) A First Maintenance Inspection of each ISDS shall be conducted in order to obtain baseline information and to determine maintenance requirements and the condition of the system. The septic tank is usually pumped as part of this inspection to better evaluate the condition of the system. First Maintenance inspections involve some data gathering and location of system components that is not usually necessary for subsequent routine inspections.
- b) Routine Maintenance Inspections are generally conducted after the First Maintenance Inspection and may occur between pump-outs.

6.4 Inspection Frequency and Notification: In general, inspection frequency shall be based on the procedures outlined in The Handbook and shall consider, but not be limited to, system age, household occupancy, tank size, sludge and scum measurements and when the system was last pumped. The Public Works Department shall send written notice to ISDS owners of the need to schedule an inspection of their ISDS. The initial inspection to be scheduled will be the First Maintenance (baseline) Inspection. Subsequent inspections will generally be Routine Maintenance Inspections unless there is a system failure. Inspections must be scheduled within forty-five days of the date of notice. After a system has been inspected the owner will receive a report from the Inspector detailing the maintenance requirements and the timeframe for the next inspection.

6.5 Inspection Reports: Standard inspection forms shall be those used in The Handbook, which may be modified by the Public Works Department as needed. The property owner shall provide the ISDS inspector with all available, pertinent information, including but not limited to, the use, age, location, maintenance history and design of the ISDS. The completed inspection report shall detail the results of the inspection, pumping or other maintenance requirements, the timeframe for the next inspection and/or upgrade requirements for the ISDS. The ISDS inspector shall provide the Public Works Department and the property owner with a written copy of the inspection report. The Public Works Department shall be responsible for maintaining ISDS inspection, maintenance and upgrade records.

6.6 ISDS Maintenance Schedule and ISDS Owner's Responsibility: The schedule and activities for ISDS maintenance shall be described on the ISDS inspection report that ISDS inspector gives to the property owner and the Town. Such maintenance requirements shall complement and may supersede any town-imposed, pre-existing, lot-specific maintenance agreements due to such things as the granting of variances or special use permits. 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 system maintenance to the Public Works within thirty (30) days of the date stipulated in the ISDS inspection report.

6.7 Change in Inspection or Maintenance Schedule: The Public Works Department upon written notification to the property owner and the appropriate ISDS inspector, shall have the power to 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. This may occur due to circumstances including, but not limited to, change in household occupancy, seasonal use, rental status, water consumption, system functioning, site characteristics and proximity to a critical resource. Likewise, the property owner may petition the Public Works Department to alter the inspection and/or maintenance schedule. The owner must demonstrate, 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 fulfill the intent of this ordinance.

6.8 Immediate Need to Pump: If an inspection reveals that an ISDS needs immediate pumping, the ISDS Inspector shall immediately notify the property owner and the Public Works Department. The Public Works Department will attempt to contact the owner by phone and will send the owner a written notice by certified mail informing the owner that he/she has (5) working days to pump the system and to present evidence of such pumping to the Town. Such evidence may be in the form of a receipt from an approved septage hauler. When a system failure poses an immediate public health and/or environmental hazard, and where the Public Works Department has been unable to contact the owner by phone, the Public Works Department may arrange for the system to be pumped immediately and at the owner's expense.

SECTION 7.0 MISCELLANEOUS REGULATIONS FOR ISDS OPERATION AND SITING

7.1 Septage Disposal: Septage or contents pumped from an ISDS shall be discharged at a State-approved septage dumping facility.

7.2 Septic Tank Additives and Improper Discharges to ISDS: The use of septic tank additives shall follow RIDEM's policy, which prohibits the use of chemical additives. The use of biological additives does not alleviate the need for a homeowner from the obligations of this ordinance. The disposal of hazardous wastes, to an ISDS is prohibited. Backwash from a water filtration system into a septic tank is harmful to the operation of the ISDS and is best discharged to a separate infiltration line. There shall be no discharge to an ISDS from rainspouts, basement sumps, floor drains, or any other drains, other than those carrying household wastewater.

7.3 Garbage Disposal: Garbage disposal discharges to a new ISDS shall be permitted only on systems that are equipped with an oversized tank, capable of handling the excess solids, and with an effluent filter located on the tank's outlet. Existing ISDS that are linked to garbage disposals may require more frequent maintenance.

7.4 Location, Setbacks and Use of Innovative and Alternative Systems: Location of ISDS, setbacks from critical resource areas, treatment goals and standards for various resource areas and requirements for enhanced onsite wastewater treatment are governed by the Jamestown Zoning Ordinance.

7.5 Occupancy and Use: In order to ensure the proper functioning of an ISDS, it is recommended that the occupancy or use of the house should not exceed the capacity of the system as calculated using RIDEM standards. This includes properties that are occupied in excess of 1 week per year.

7.6 Accessibility, Effluent Filters, Inspection Ports and Tipping D-Box: To help facilitate the inspection and pumping of a septic tank and ultimately the longevity of the system, ISDS and septic tanks installed after the effective date of this ordinance, shall be equipped with effluent filters and access risers to grade. Access risers shall be watertight and a minimum of 22 inches in diameter. They shall be located at the inlet and outlet ends of the septic tank. The effluent filter shall be located at the outlet end of the tank. Center access tanks shall not be used for new ISDS or for systems where the septic tank is being replaced. New ISDS installations must also include a tipping d-box or similar device approved by RIDEM for the purpose of equalizing flow distribution to all lines of the leachfield. These items shall be installed in accordance with specifications available from the Public Works Department. Where technically feasible, all ISDS constructed prior to the effective date of this ordinance should also be retrofitted with these devices.

7.7 Watertight Septic Tanks: 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 RIDEM minimum standards or those developed by the Public Works Department with approval by the Town Council. Tank installation must be done in accordance with manufacturer's requirements. In addition, tanks must be site tested or vacuum tested to ensure that they are watertight. The accepted procedure(s) for testing tanks as watertight shall be available from the Public Works Department.

7.8 Cesspools: According to RIDEM's ISDS Regulations, cesspools are not an approved method of sewage disposal and all existing cesspools are considered to be substandard. As such, the Town encourages all cesspools to be brought into compliance with state and local standards by December 31, 2006.

SECTION 8.0 ENFORCEMENT

The purpose of this subsection is to provide an efficient means of alleviating the public health and environmental problems associated with failed ISDS and non-compliance with the inspection and maintenance requirements of this ordinance. It is also designed to provide the owners of failed systems with the opportunity for technical and administrative assistance in repairing their failed systems.

8.1 Failure to Pump, Maintain or Inspect: If proof of system pumping, maintenance or inspection is not received by the Public Works Department within 30 days of the time frame within which the required activity was to occur, the Public Works Department may, after written notice to the owner and after no response or appeal within two weeks on the part of the property owner, hire a private septic system maintenance contractor or inspector to complete the required activity and the owner will be billed by the Town. The owner will be notified by certified mail, return receipt requested, of the intended date and time of such actions. The bill will include the actual cost of pumping, maintenance or inspection as well as associated administrative costs.

8.2 Failure to Pay Bill: Failure to pay a bill incurred by the Public Works Department for the pumping, inspection, or maintenance of the ISDS or any annual fee for program administration assessed by the Town, shall constitute a lien on the owners property. The ISDS owner shall be responsible for any associated interest, administrative and court costs.

8.3 Notice of Violation: If upon inspection, any owner of a ISDS is determined to be in violation of these regulations, a written notice shall be issued by the Public Works Department explaining the nature of the violation, required actions, any assistance that is available from the Town, a reasonable time frame for compliance, and the possible consequences for noncompliance. If an inspection reveals a malfunctioning or failed ISDS the Town-approved inspector shall immediately notify the owner and the Public Works Department and send a copy of the inspection report to both parties. In the event that pumping records might indicate a failed system, the Public Works Department shall notify the owner in writing. A copy of any reports regarding a failed or malfunctioning system shall be sent to the Building Official. A copy of said notice shall also be sent to RIDEM. The owner shall be given thirty (30) days to apply to RIDEM for a permit to repair or replace the system as necessary. A copy of the application to RIDEM shall be provided to the Building Official and the Public Works Department. The homeowner shall notify the Town as to the expected timetable for repairs to be completed.

8.4 Failure to Repair: If the owner of a failed ISDS does not accomplish the repairs within the time schedule established, the Public Works Director will take the enforcement action provided for in this ordinance and/or the Building Official will take the enforcement action provided for in the RI State Building Code.

8.5 Administrative Conference: A person is encouraged to resolve issues at an informal administrative level before appealing a decision of the Public Works Department. Any owner of an ISDS who is aggrieved by any action or finding of the Public Works Department shall have the right to an administrative conference. Representatives at the administrative conference shall include the Public Works Director or his designee, the Building Official, the Town Administrator and a designated member of the Town Council. An administrative conference shall be convened within 10 workdays following the request, and earlier whenever possible. A written consent agreement, signed by the Town and the ISDS owner, shall outline the specifics of any agreement developed as a result of an administrative conference. The appeal period set forth in section 8.6 shall be stayed pending the outcome of an administrative conference.

8.6 Appeals: Any party aggrieved by a decision of the administrative officer shall have the right to appeal that decision to the Zoning Board sitting as the Building Code Board of Appeals by the following procedure:

- a) The appeal must be taken within twenty (20) days of notification of the decision.
- b) The appeal shall be in writing and shall state clearly the factual and/or legal issue(s) or decision that is being appealed, the reason for the appeal, and the relief sought.
- c) The appeal shall be filed with the Office of the Town Clerk.
- d) Upon receipt of an appeal, the Building Code Board of Appeals shall require the administrative officer to transmit forthwith to the Building Code Board of Appeals all papers, documents and plans, or a certified copy thereof, constituting the record of the action which is being appealed.
- e) An appeal shall stay all proceedings in furtherance of the action being appealed. Under no circumstances, however, shall an ISDS that presents an immediate public health and/or environmental threat be allowed to continue to do so during the appeal process.

8.7 Building Code Board of Appeals Standard of Review: In exercising its powers the Building Code Board of Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm wholly or partly and may modify the order, requirement, decision, or determination appealed from and may make any orders, requirements, decisions, or determinations that ought to be made, and to that end has the powers of the administrative officer from whom the appeal was taken.

8.8 Appeals to the District Court:

Appeals of decisions of the Building Code Board of Appeals

- a) An aggrieved party may appeal a decision of the Building Code Board of Appeals to the Second Division of the District Court by filing a complaint setting forth the reasons of appeal within thirty (30) days after the decision has been recorded in the Town Clerk's Office.
- b) Within thirty (30) days after being served with a copy of the complaint, the Building Code Board of Appeals shall file certified copies of the building code documents acted upon by it and constituting the record of the case appealed from, together with such other materials as may be pertinent, with the Clerk of the Court.
- c) The Court shall review the matter in accordance with the provisions of Section 42-35-15 of the Rhode Island General Laws.

8.9 Penalties

Any person neglecting or refusing to comply with a written notice of violation issued under the provisions of this Ordinance may be fined not more than \$500 per violation. Each day of a continuing violation shall constitute a separate and distinct violation. All fines shall be used for the administration and implementation of the OWMP.

SECTION 9.0 FINANCING

9.1 Fee Structure: The Town Council shall have the authority to raise funds for the administration, operation, contractual obligations, and services of the On-Site Wastewater Management Program

(OWMP). Any funds collected or raised for purposes of implementing the OWMP shall be kept as a dedicated account separate from the Town's general fund.

9.2 Grant and Loan Program: The Town under the authority of the State Legislature shall have the authority to issue bonds or notes or to receive grants 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.

SECTION 10.0 EDUCATION

A public education program shall be developed by the Department of Public Works and approved by the Town Council, to inform people about the benefits and goals of the OWMP. The educational program shall include, but not be limited to the following:

- a) Proper operation and maintenance of ISDS
- b) Proper disposal of hazardous waste, including household hazardous waste.
- c) Water conservation and the development of a water conservation program.
- d) Operation and management framework of the program.
- e) Protection of critical resource areas.
- f) Use of environmentally sensitive cleaning products.
- g) Use of alternative and innovative ISDS and associated technology.
- h) Availability of any grant and/or loan funds for ISDS repair.

SECTION 11.0 SEVERABILITY

If any provision of this ordinance or any rule or determination made hereunder, or application hereof to any person, agency, or circumstances is held invalid by a court of competent jurisdiction, the remainder of this ordinance and its application to any person, agency, or circumstance shall not be affected thereby. The invalidity of any section or sections of this ordinance shall not affect the validity of the remainder of this ordinance.

SECTION 12.0 EFFECTIVE DATE

This ordinance shall take effect upon its passage.

A copy of this Ordinance is available in the Town Hall, 93 Narragansett Avenue, between 8:00 p.m. and 4:30 p.m., Monday through Friday.

This meeting location is accessible to the physically challenged. Hearing or speech impaired individuals requiring the services of an interpreter should call 1-800-745-5555 or 423-1212 not less than three business days prior to the meeting.

By Order of the Jamestown Town Council

Arlene D. Kalooski
Jamestown Town Clerk