

Jamestown, Rhode Island, Code of Ordinances

Chapter 74: ARTICLE V. ON-SITE WASTEWATER MANAGEMENT

DIVISION 1. - GENERALLY

DIVISION 2. - INSPECTION AND MAINTENANCE

DIVISION 3. - MISCELLANEOUS REGULATIONS FOR OWTS OPERATION AND SITING

DIVISION 4. - ENFORCEMENT

DIVISION 5. - FINANCING

DIVISION 1. GENERALLY

Sec. 74-221. Authority.

This article has been drafted in accordance with and under the authority of G.L. 1956, ch. 45-24.5 (G.L. 1956, 45-24.5-1 et seq.) entitled "Towns and Cities; Wastewater Management Districts." The authorizing state chapter shall be 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, the Rhode Island Department of Health, the Coastal Resources Management Council, or their successors of On-site Wastewater Treatment System ("OWTS") failures.

(Code 2003, § 74-221; Ord. of 4-23-2001, § 1; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-222. Findings.

The town council hereby finds the following evidence in support of the establishment of an onsite wastewater management program and this article.

RIDEM's Rules and Regulations for OWTS are designed to provide minimum standards for the location, design, construction and maintenance of onsite wastewater treatment systems.

The cumulative effect of substandard, malfunctioning, improperly designed or sited, and poorly maintained OWTS 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, nonconforming 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 OWTS 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, OWTS 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.

(Code 2003, § 74-222; Ord. of 4-23-2001, § 2; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-223. Purpose.

The town council hereby finds that OWTSs are prone to failure with age, out-moded design, overuse, or improper installation, repair and maintenance. OWTS failure poses a risk to public health and is a source of contamination to surface water and groundwater and to the salt and estuarine waters of the town. The purpose of this article is to establish an onsite wastewater management program (OWMP). Under this program, all OWTS in the town are to be properly operated, regularly inspected, and routinely maintained in order to prevent system malfunction and ensure maximum system longevity. This program provides a framework for the efficient inspection, repair and maintenance of OWTS in the town and recognizes the homeowner's responsibility to ensure that their system is well maintained and properly functioning.

(Code 2003, § 74-223; Ord. of 4-23-2001, § 3; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-224. Definitions.

Any term not defined herein, and pertaining to OWTS 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 On-site Wastewater Treatment Systems (OWTS Regulations). Any other term not defined herein shall be governed by the definition as it appears in the town 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 OWTS and extends upward to the ground's surface, allowing visual inspection and where necessary physical access to the OWTS for the purposes of maintenance and repair.

Alternative technology: Any OWTS technology that has demonstrated through field testing, calculations and other engineering evaluations to comply with performance standards consistent with DEM OWTS Regulations, and for which a certification from DEM has been issued.

Cesspool: Any buried chamber, including, but not limited to, any perforated metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges

of wastewater from a building sewer for the purpose of collecting solids and discharging liquids to the surrounding soil.

Contaminant: Any physical, chemical, biological or radiological substance which enters the hydrological cycle through human action and may cause a deleterious effect on groundwater 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. 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.

Director: The director of the state department of environmental management or any subordinate to whom the director has delegated the powers and duties vested in him pursuant to Rhode Island General Laws, chapters 46-12 and 42-17.1 (G.L. 1956, ch. 46-1 and G.L. 1956, ch. 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 OWTS or flowing over the ground's surface or beneath the ground in groundwater.

Failed OWTS: Any OWTS that does not adequately treat and disperse wastewater so as to create a public or private nuisance or threat to public health or environmental quality, as evidenced by, but not limited to, one or more of the following conditions:

- 1) Failure to accept wastewater into the building sewer;
- 2) Discharge of wastewater to a basement; subsurface drain; stormwater collection, conveyance, or treatment device; or watercourse unless expressly permitted by the department;
- 3) Wastewater rising to the surface of the ground over or near any part of OWTS or seeping from the absorption area at any change in grade, bank or road cut;
- 4) The top of the inlet or the top of the outlet for a septic tank, distribution box, or pump tank is submerged;
- 5) The liquid depth in a cesspool is less than six inches from the inlet pipe invert;
- 6) Pumping of the cesspool or septic tank is required more than two times per year;
- 7) OWTS is shown to have contaminated a drinking water well or watercourse;
- 8) If a septic tank, pump tank, distribution box, or cesspool is pumped and groundwater seeps into it;
- 9) Any deterioration, damage, or malfunction relating to any OWTS that would preclude adequate treatment and dispersal of wastewater; or

1. Excessive solids are evident in the distribution box or distribution lines.

Handbook: The current edition of the state 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;
- 2) Wastes as defined in the Rhode Island Hazardous Waste Management Act, G.L. 1956, 23-19.1-4 or in any regulation or amendment adopted pursuant thereto; and/or
- 3) As defined under section 3.25 of the state department of environmental management "Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal."

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

- 1) First maintenance (baseline) inspection: The initial inspection performed on an OWTS 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 OWTS 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 OWTS that typically takes place at the point of sale, but is not required by this article. 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 OWTS components including flow trial and dye tracing as appropriate.
- 4) Diagnostic inspection: A detailed inspection of an OWTS to determine the cause of a malfunction so that a repair solution may be developed.

Onsite 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 the town's groundwater and surface water reservoirs through the proper management, design, maintenance and installation of OWTS.

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.

RIDEM: The State of Rhode Island, Department of Environmental Management or its successor organization.

Substandard system: Any OWTS installed without state approval; any OWTS installed prior to April 9, 1968; cesspools; and steel septic tank systems.

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.

(Code 2003, § 74-224; Ord. of 4-23-2001, § 4; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-225. Program administration.

- a) *Boundaries and jurisdiction.* The wastewater management area shall encompass the entire town. Under this article the town shall have jurisdiction to ensure the operation and maintenance of all existing and future OWTS.
- b) *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 article.
- c) *Power and duties of the public works department under this article.*
 - 1) 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 article and title 45, chapter 24.5 of the Rhode Island General Laws (G.L. 1956, ch. 45-24.5).
 - 2) Develop rules and regulations for the implementation of this article, which must be reviewed and approved by the town council.
 - 3) Render decisions regarding the rights and obligations of any person or owner of property that is subject to the requirements of this article.
 - 4) Contract for services with independent septage haulers, OWTS installers, OWTS inspectors and others as necessary.
 - 5) Provide for the passage of authorized persons onto private property, when necessary and in accordance with the notice provisions of this article, for the periodic inspection, pumping, maintenance and repair of OWTS.
 - 6) Order the maintenance of OWTS based upon inspection results.

- 7) Provide technical and administrative assistance to homeowners on all matters pertaining to OWTS maintenance, repair, upgrade and replacement.

(Code 2003, § 74-225; Ord. of 4-23-2001, § 5; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-226. 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:

- (1) Proper operation and maintenance of OWTS;
- (2) Proper disposal of hazardous waste, including household hazardous waste;
- (3) Water conservation and the development of a water conservation program;
- (4) Operation and management framework of the program;
- (5) Protection of critical resource areas;
- (6) Use of environmentally sensitive cleaning products;
- (7) Use of alternative and innovative OWTS and associated technology; and
- (8) Availability of any grant and/or loan funds for OWTS repair.

(Code 2003, § 74-226; Ord. of 4-23-2001, § 10; Ord. of 7-5-2011, § 1(Exh. A))

Secs. 74-227—74-245. Reserved.

DIVISION 2. INSPECTION AND MAINTENANCE

Sec. 74-246. Purpose of OWTS inspections.

The purpose of OWTS inspections is to assess the current condition of the OWTS 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 OWTS inventory and to track system inspections, maintenance and upgrades.

(Code 2003, § 74-246; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Editor's note—

An ordinance adopted July 5, 2011, § 1(Exh. A), changed the title of § 74-246 from "Purpose of ISDS inspections" to "Purpose of OWTS inspections."

Sec. 74-247. Who may inspect.

All OWTS shall be subject to first maintenance (baseline) inspections by a private, town-approved OWTS inspector. When appropriate, an inspector may also be a designee of

the public works department. Town-approved OWTS inspector(s) shall determine the maintenance and pumping requirements for each OWTS 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").

- (1) 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 OWTS.
- (2) To inspect an alternative technology OWTS, in addition to the above, an inspector 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.
- (3) 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 OWTS. 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 article.

(Code 2003, § 74-247; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-248. Type of inspections.

At a minimum, all inspections shall follow the criteria outlined in the handbook. This article shall require two types of OWTS inspections: a) first maintenance inspection (baseline) and, b) routine maintenance inspection. The town may request c) functional inspection and d) diagnostic inspection if the inspector identified the results of a prior inspection as inconclusive.

- (1) A first maintenance inspection of each OWTS 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.

- (2) Routine maintenance inspections are generally conducted after the first maintenance inspection and may occur between pump-outs.
- (3) Functional inspection: Inspection of an OWTS that typically takes place at the point of sale. 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 OWTS components including flow trial and dye tracing as appropriate.
- (4) Diagnostic inspection: A detailed inspection of an OWTS to determine the cause of a malfunction so that a repair solution may be developed.

(Code 2003, § 74-248; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-249. 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 OWTS owners of the need to schedule an inspection of their OWTS. The initial inspection to be scheduled will be the first maintenance (baseline) inspection. Subsequent inspections will generally be routine maintenance inspections. Inspections must be scheduled within 45 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.

(Code 2003, § 74-249; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-250. 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 OWTS inspector with all available, pertinent information, including but not limited to, the use, age, location, maintenance history and design of the OWTS. 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 OWTS. The OWTS inspector shall provide the public works department and the property owner with a completed copy of the inspection report. The public works department shall be responsible for maintaining OWTS inspection, maintenance and upgrade records.

(Code 2003, § 74-250; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-251. OWTS maintenance schedule and OWTS owner's responsibility.

The schedule and activities for OWTS maintenance shall be described on the OWTS inspection report that OWTS 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 OWTS owner(s) shall assume all responsibility for hiring a septage hauler or maintenance contractor to complete the maintenance and inspection requirements contained in the OWTS 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 30 days of the date stipulated in the OWTS inspection report.

(Code 2003, § 74-251; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Editor's note—

An ordinance adopted July 5, 2011, § 1(Exh. A), changed the title of § 74-251 from "ISDS maintenance schedule and ISDS owner's responsibility" to "OWTS maintenance schedule and OWTS owner's responsibility."

Sec. 74-252. Change in inspection or maintenance schedule.

The public works department upon written notification to the property owner and the appropriate OWTS inspector, shall have the power to set or change the inspection schedule and/or maintenance requirements of an OWTS, where such a change is deemed necessary for the proper functioning of the OWTS. 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 OWTS and fulfill the intent of this article.

(Code 2003, § 74-252; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-253. Immediate need to pump.

If an inspection reveals that an OWTS needs immediate pumping, the OWTS 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 five 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.

(Code 2003, § 74-253; Ord. of 4-23-2001, § 6; Ord. of 7-5-2011, § 1(Exh. A))

Secs. 74-254—74-270. Reserved.

DIVISION 3. MISCELLANEOUS REGULATIONS FOR OWTS OPERATION AND SITING ^[4]

Sec. 74-271. Septage disposal.

Septage or contents pumped from an OWTS shall be discharged at a state-approved septage dumping facility.

(Code 2003, § 74-271; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-272. Septic tank additives and improper discharges to OWTS.

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 OWTS is prohibited. Backwash from a water filtration system into a septic tank is harmful to the operation of the OWTS and is best discharged to a separate infiltration line. There shall be no discharge to an OWTS from rainspouts, basement sumps, floor drains, or any other drains, other than those carrying household wastewater.

(Code 2003, § 74-272; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Editor's note—

An ordinance adopted July 5, 2011, § 1(Exh. A), changed the title of [§ 74-272](#) from "Septic tank additives and improper discharges to ISDS" to "Septic tank additives and improper discharges to OWTS."

Sec. 74-273. Garbage disposal.

Garbage disposal discharges to a new OWTS 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 OWTS that are linked to garbage disposals may require more frequent maintenance.

(Code 2003, § 74-273; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-274. Location, setbacks and use of innovative and alternative systems.

Location of OWTS, 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.

(Code 2003, § 74-274; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-275. Occupancy and use.

In order to ensure the proper functioning of an OWTS, 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 one week per year.

(Code 2003, § 74-275; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-276. 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, OWTS and septic tanks installed after the effective date of this ordinance [from which this article is derived], 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 OWTS or for systems where the septic tank is being replaced. New OWTS 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 OWTS constructed prior to the effective date of this ordinance [from which this article is derived] should also be retrofitted with these devices.

(Code 2003, § 74-276; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-277. Watertight septic tanks.

Any existing tank that leaks may be declared a failed system. All septic tanks installed after the effective date of the ordinance from which this article is derived 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 procedures for testing tanks as watertight shall be available from the public works department.

(Code 2003, § 74-277; Ord. of 4-23-2001, § 7)

Sec. 74-278. Cesspools.

According to RIDEM's OWTS regulations, cesspools are not an approved method of sewage disposal and all existing cesspools are considered to be substandard. As such, all cesspools should be brought in compliance with all state and local standards as specified in [section 74-279](#) of this article.

(Code 2003, § 74-278; Ord. of 4-23-2001, § 7; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-279. Substandard systems.

OWTS installed without state approval, OWTSs installed prior to April 9, 1968, cesspools, and steel septic tank systems are considered substandard systems under this article.

- (1) Removal and replacement of substandard systems: All substandard systems are considered to be malfunctioning systems and shall be replaced with an onsite wastewater system which conforms with current state and local standards by the following dates:
 - a. December 31, 2012—Substandard systems located within 200 feet of the inland edge of all shoreline features bordering tidal water areas (i.e., the Rhode Island Coastal Resource's Management Council's (CRMC) Jurisdiction), substandard systems located within the RIDEM defined wellhead protection areas of all public, community or noncommunity drinking water wells and within 200 feet of a freshwater surface water body (ponds or streams, not including wetlands) and, all substandard systems that are found in already sewered areas;
 - b. January 1, 2016—All remaining substandard systems in The Town of Jamestown.
- (2) Hardship extension: Property owners of a substandard system may qualify for a hardship extension of up to five years if the Substandard system is not failed and their household income is less than 80 percent of the appropriate household size area median income determined by federal housing and urban development standards for the community in which the substandard system is located. The public works department shall develop an application for hardship extension.

(Ord. of 7-5-2011, § 1(Exh. A))

Secs. 74-280—74-295. Reserved.

DIVISION 4. ENFORCEMENT

Sec. 74-296. Purpose.

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

(Code 2003, § 74-296; Ord. of 4-23-2001, § 8; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-297. 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.

(Code 2003, § 74-297; Ord. of 4-23-2001, § 8)

Sec. 74-298. Failure to pay bill.

Failure to pay a bill incurred by the public works department for the pumping, inspection, or maintenance of the OWTS or any annual fee for program administration assessed by the town, shall constitute a lien on the owner's property. The OWTS owner shall be responsible for any associated interest, administrative and court costs.

(Code 2003, § 74-298; Ord. of 4-23-2001, § 8; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-299. Notice of violation.

If upon inspection, any owner of a OWTS 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 OWTS 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 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.

(Code 2003, § 74-299; Ord. of 4-23-2001, § 8; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-300. Failure to repair.

If the owner of a failed OWTS does not accomplish the repairs within the time schedule established, the public works director will take the enforcement action provided for in this article and/or the building official will take the enforcement action provided for in the Rhode Island State Building Code.

(Code 2003, § 74-300; Ord. of 4-23-2001, § 8; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-301. 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 OWTS 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 ten workdays following the request, and earlier whenever possible. A written consent agreement, signed by the town and the OWTS owner, shall outline the specifics of any agreement developed as a result of an administrative conference. The appeal period set forth in [section 74-302](#) shall be stayed pending the outcome of an administrative conference.

(Code 2003, § 74-301; Ord. of 4-23-2001, § 8; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-302. 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:

- (1) The appeal must be taken within 20 days of notification of the decision.
- (2) 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.
- (3) The appeal shall be filed with the office of the town clerk.

- (4) 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.
- (5) An appeal shall stay all proceedings in furtherance of the action being appealed. Under no circumstances, however, shall an OWTS that presents an immediate public health and/or environmental threat be allowed to continue to do so during the appeal process.

(Code 2003, § 74-302; Ord. of 4-23-2001, § 8; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-303. 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 article, 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.

(Code 2003, § 74-303; Ord. of 4-23-2001, § 8)

Sec. 74-304. Appeals to the district court.

- (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 30 days after the decision has been recorded in the town clerk's office.
- (b) Within 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 G.L. 1956, § 42-35-15.

(Code 2003, § 74-304; Ord. of 4-23-2001, § 8)

Sec. 74-305. Penalties.

Any person neglecting or refusing to comply with a written notice of violation issued under the provisions of this article may be fined not more than \$500.00 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.

(Code 2003, § 74-305; Ord. of 4-23-2001, § 8)

State law reference— Limitation on penalties generally, G.L. 1956, § 45-6-2.

Secs. 74-306—74-320. Reserved.

DIVISION 5. FINANCING

Sec. 74-321. Fee structure.

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). 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.

(Code 2003, § 74-321; Ord. of 4-23-2001, § 9)

Sec. 74-322. 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 OWTS.

(Code 2003, § 74-322; Ord. of 4-23-2001, § 9; Ord. of 7-5-2011, § 1(Exh. A))

Sec. 74-323. Severability.

If any provision of this article 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 article and its application to any person, agency, or circumstance shall not be affected thereby. The invalidity of any section or sections of this article shall not affect the validity of the remainder of this article.

(Ord. of 7-5-2011, § 1(Exh. A))