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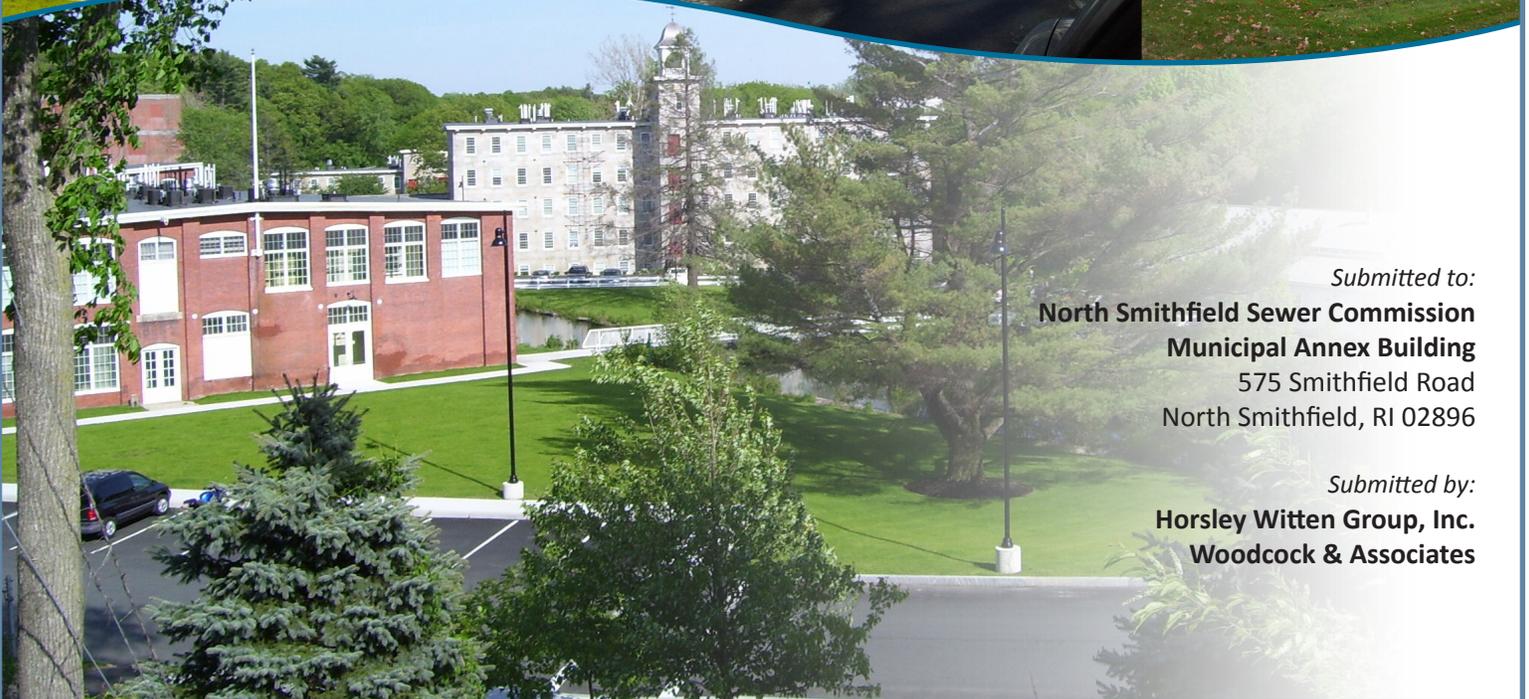


North Smithfield Sewer Assessment Methods and Fee Structure

Final Report

North Smithfield, Rhode Island

April 2015



Submitted to:
**North Smithfield Sewer Commission
Municipal Annex Building
575 Smithfield Road
North Smithfield, RI 02896**

Submitted by:
**Horsley Witten Group, Inc.
Woodcock & Associates**

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April 9, 2015

North Smithfield Sewer Commission
Municipal Annex Building
575 Smithfield Road
North Smithfield, RI 02896

Re: Final Report: North Smithfield Sewer Assessment Methods and Fee Structure

Dear Commissioners:

Horsley Witten Group, Inc. (HW) is pleased to submit our Final Report on the North Smithfield Sewer Assessment Methods and Fee Structure project. The report covers the following areas:

- principles of the sewer assessment process;
- legal authorities of the Town of North Smithfield to assess sewer fees;
- Town fee assessment practices with both in-district and out-of-district connections;
- assessment practices in selected Rhode Island communities; and
- credit for privately installed sewers.

Also included are 16 recommendations that we believe will address the key concerns discussed and identified through our study of the ordinance, administration of the assessment fees, and development and operation of the sewer system. These are summarized in the Executive Summary and explained in greater detail in Section 6 of the report. A number of attachments are included containing what we hope are useful background references that will aid the Sewer Commissioners in their future deliberations.

HW is scheduled to present the results of our work at the next Sewer Commission meeting on April 15th and will receive comments from those in attendance. Please feel free to send comments in advance if you wish, and we will try to respond to them at the meeting. Following the meeting, we will provide a brief summary of any comments or questions received along with our responses, thus concluding our work on this project.

Should you wish to move forward with implementation of the recommendations, we offer the following thoughts about possible next steps:

1. The ordinance language reinstating a credit provision for privately installed sewers should be undertaken first. Several cases are pending, and a retroactive amendment that enables disposition of these cases has been the subject of discussion for at least three years. We have outlined suggested provisions or caveats in our recommendation that can become the framework for an amendment. This task should involve at least two meetings with the

public, one to present an initial draft and receive input, and a second to present revised wording and agreement. From there, the amendment would be presented for final consideration by the Sewer Commission and a recommendation to the Town Council for adoption.

2. The second phase would address recommendations for gathering the financial data necessary for calculating and establishing future assessment fees. These would include a review of the capital improvement program, what new sewers are proposed in the near future, estimates of revenues expected from existing assessment accounts and projected future connections, any potential costs related to the upgrade of the Woonsocket Wastewater Plant, debt service, and revaluation of the sewer system itself. A five year outlook should be forecasted. Once this information is obtained, new in-district and out-of-district fees can be estimated and vetted, including the concept of having one set of fees for all future connections. If that is not feasible, then at least one set for all future in-district projects.
3. A third phase would address the remainder of the recommendations including the anomalies between EDU measures for in-district and out-of-district uses, a comprehensive review of all other assessment provisions including any omissions or ambiguous language, and finally a rewrite of the entire assessment ordinance. Public participation would be a key element of successful development of the new ordinance language.

These tasks can be completed fairly quickly if needed as much factual information has been gathered and digested about the derivation of the existing sewer program components and the concerns that need resolution.

We would like to take this opportunity to thank the Commissioners for the opportunity to serve the Town. We wish to thank all individuals who assisted us and particularly Ms. Paulette Hamilton, Mr. Jason Parmelee, Mr. Russ Carpenter and Ms. Maura Beck who spent many hours in meetings on this project, researching records and providing critical information about sewer assessment practices in the Town.

Please contact us should you have any questions at (401) 272-1717.

Sincerely,
HORSLEY WITTEN GROUP, INC.



Nathan E. Kelly, AICP
Principal



Russell J. Chateaufneuf, P.E.
Senior Project Manager

Enclosure

cc: Paulette Hamilton, Town Administrator

North Smithfield Sewer Assessment Methods and Fee Structure

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EXECUTIVE SUMMARY

Horsley Witten Group, Inc. (HW) was retained by the North Smithfield Sewer Commission to undertake a review of the methodology and fee structure for apportioning and collecting sewer assessments as found in the Town of North Smithfield Code of Municipal Ordinances (Code), Section 8-35. In addition, HW was asked to review the merits of a provision that was removed from the Code in 2009 that allowed a credit against assessment fees to property owners who installed sewer facilities benefitting the Town.

Sewer assessment fees are assessed and imposed by the Town in three distinct cases:

- 1) when a new sewer construction project has been completed by the Town;
- 2) when a new building is constructed or significantly expanded on a property located along a street sewered by the Town; and
- 3) when the owner of an unassessed lot (Out-of-District) wishes to extend a sewer to connect a new building or an existing building to the existing sewer system.

A Town sewer project results in the formation of a sewer assessment district (In-District (ID) area). The Town currently has five sewer districts: Union Village, Mendon, School/Birch Hill, Ironstone, and 1A/1B. With the exception of the two most recent sewer projects (1A/1B) assessments were composed of a four part formula involving the estate land value, valuation of the buildings/improvements, linear footage of sewer fronting the lot, and a flat fee per building or housing unit. ID assessment fees spread the cost of sewer projects mostly on developed properties within the district. Vacant properties and other properties with significant development potential are not assessed based on their full sewer need until actually developed, causing existing users to be assessed the extra costs for capacity reserved for future connections.

In 2000, the Sewer Commission deemed that sewer assessment revenues were falling short of the amount needed to pay sewer debt. After careful study, the Town created the Sewer Lot Development Assessment fee, or Out-of-District (OD) fee, which established a separate fee for connections to the sewer system from private development. The fee calculation was based on the amount of wastewater design flow projected for the building or use proposed under a method known as the Equivalent Dwelling Unit (EDU) method. A similar method is now used for In-District assessments as well. However, the method yields significantly different EDU values for the same uses between the two district types.

Prior to 2009, a provision in the Town ordinance (Sec. 8-36.1(6)) provided an allowance for the Sewer Commission to abate the OD assessments provided that a developer conveyed all his “right, title and interest” in sewers he or she installed on public roads in the Town. The provision allowed property developers to recoup part of their development costs in the form of partial or complete assessment fee abatement. The provision was omitted from the rewrite of the sewer assessment ordinance in 2009.

The Town sewer assessment ordinance has undergone numerous changes over the years in response to financial needs of the sewer system and concerns raised by customers. The changes

have incorporated advances in assessment practices and use of well-recognized methods to meet these needs. The Town has a practice of working cooperatively with developers, ensuring that connections to the sewer system are accomplished in a fair and timely manner and conform to all Town specifications.

The Town has recognized the burden placed on property owners by having users pay for capacity reserved for future connections. An alternative means of funding debt associated with building and reserving capacity is needed.

The following is a listing of recommendations offered for the Sewer Commission's consideration. A full description of each recommendation is provided in Section 6 at the end of this report. HW acknowledges that considerable discussion and vetting of these recommendations will be necessary before any changes are adopted.

1. **Reinstate Credit for Private Sewers:** HW recommends that an updated version of the credit provision be restored. Should the Town choose to re-instate an assessment abatement provision, several caveats should be considered and written into the ordinance, including a) the abatement applies only to that portion of the installation that is deemed consistent with the Town's sewer system Facilities Plan and Comprehensive Plan b) the abatement applies only to sewer facilities installed on public property or, where necessary, on private property where full easement rights are conveyed to the Town and c) the credit is limited to a maximum amount or percentage of the abatement, assuring that revenue is still obtained from the development to reinvest in the sewer system.
2. **Financial Forecasting:** The Town should prepare a financial forecast of revenues and expenses for the sewer system enterprise fund, preferably a minimum of a five year outlook. This will help guide the Town's sewer assessment decisions and enable an understanding of what impacts it will have on the sewer user charges.
3. **Revisit and Update OD Assessment:** The sewer system has expanded since 2000 and the OD assessment fee has not been increased in 15 years to account for inflation. At a minimum, the sewer system assets should be updated and the components that feed into the calculation should be confirmed for agreement with accepted accounting practices.
4. **Vacant/Developable Properties:** Establish an accounting practice as part of every sewer project, and as an on-going yearly exercise, that evaluates growth potential and future connections into the sewer system and projects the income that may be derived from these sources.
5. **EDU:** Redefine the volume of wastewater flow associate with an EDU so that it better aligns with the average water used by customers of different use categories.
6. **Single Family Dwelling Size Blocks:** Approximately 85% of the customer base is residential and mostly single family use. Whereas the EDU is currently defined based on a 3-bedroom house size, houses of smaller or larger size may reasonably be expected to have different water use characteristics. To help more equitably account for these

differences, HW recommends that single family residential assessment fees be tiered, based on house size at the time of assessment.

7. **Discontinue OWTS Reference for Design Flows:** Discontinue use of RIDEM septic design flows as a basis for establishing EDUs for multi-family residential, commercial, and industrial uses. Instead, develop a separate schedule of use categories where possible based on a relationship between water use and, preferably, concrete units that are easily measured and fixed, such as building square footage.

[See Attachment # 4 for a sample matrix of a table of EDUs that incorporates the above recommendations. Please note that the table is provided purely for illustration and discussion purposes.]

8. **Accurate Assessments:** In lieu of waiving assessments or assigning a single EDU to vacant properties, establish set EDUs based on parcel size and zoning. Allow deferral of all or a portion of the assessment until the property is developed.
9. **Revise Appeal Language:** The establishment of an EDU is not intended in any way to equate to actual daily water use. Where there are substantial variations, an aggrieved customer should be able to appeal an assessment. Criteria should be included that help guide the customer and the Town through the process and set expectations on outcomes.
10. **Uniform Assessments:** Undertake an evaluation as to whether a single set of assessment fees can be implemented for both ID and OD assessments.
11. **Automatic Escalator:** Because the actual value of the sewer system increases with inflation, consider providing a yearly escalator clause for connections based on a well established inflation index representative of economic conditions in the area.
12. **Alternative Funding for Capacity:** To address the funding need for future sewer capacity, factor growth into the assessment calculations and debt service of future sewer projects. Develop an alternative funding mechanism(s) that either directly funds these costs or, if not possible, returns, in some manner, the value of investments paid by current users back to the users. Funding options could include projected annual receipts from OD assessments and newly developed ID properties, and a capital investment charge on the user fee that would be reimbursed to users when properties are developed.
13. **Incorporation of New and Amended Provisions:** The Town should undertake a comprehensive rewrite of the Sewer Assessment Ordinance and related provisions. A partial listing of items to include in the review is given in Attachment #5.

1.0 INTRODUCTION

Horsley Witten Group, Inc. (HW) was retained by the North Smithfield Sewer Commission to undertake a review of the methodology and fee structure for apportioning and collecting sewer assessments as contained in the Town of North Smithfield Code of Municipal Ordinances (Code), Section 8-35. In addition, HW was asked to review the merits of a provision that was removed from the Code in 2009 that allowed a credit against assessment fees to property owners who installed sewer facilities benefitting the Town. This project was initiated partly in response to recent appeals seeking reductions and/or credits to certain sewer assessments and in an effort to evaluate the ordinance as it relates to an excessively high, projected assessment rate that is presenting an obstacle to fulfilling sewerage needs in Branch Village and possible other future sewer projects.

There are several fees related to sewer service for North Smithfield sewer customers.

- The sewer assessment fee (8-35) is a fee imposed on property owners by the Town to pay for the cost of constructing, administering, or providing capacity in the sewer system. It is a one-time fee, and is ordinarily paid over a period of years.
- The sewer use charge (Section 8-34) is a charge for the cost of operating, maintaining, and repairing the sewer system, including the cost of treating the sewage at the Woonsocket Regional Wastewater Treatment Facility (Woonsocket Plant). This is an annual charge and is paid quarterly.
- The Town imposes other fees for various services including fees for connecting to the sewer system and for inspection of sewers and connections installed by contractors. These fees are paid up-front at the time of service.
- The City of Woonsocket collects fees directly from certain industrial and commercial users who are required to pretreat their wastes prior to discharge into the sewer system. These are annual charges.

The review conducted under this project is limited to the sewer assessment fees. Sewer assessment fees are assessed and imposed in three distinct cases:

- when a new sewer construction project has been completed by the Town;
- when a new building is constructed or significantly expanded on a property located along a street sewerage by the Town; and
- when the owner of an unassessed lot wishes to extend a sewer to connect a new building or an existing building to the existing sewer system.

For the purposes of this report, the first and second cases shall be referred to as “in-district” (ID) assessments. The third case shall be referred to as an “out-of-district” (OD) assessment.

According to available records and current and former Town officials and staff, both ID and OD assessments practices have not been without controversy. In response to complaints about high ID assessments, the Town Council has set limits on assessments at times or has lowered assessments after bills were issued. The Town has handled numerous assessment appeals and has been involved in litigation over sewer assessment fees.

In evaluating sewer assessment fees it is important to note that most sewer projects in the Town result in providing service to existing homes. While sewerage offers a solution to failing cesspools and septic systems and helps protect the Town's valuable groundwater supplies, the sewers generally replace disposal systems that are already built and paid for, and in various states of serviceability. This factor is one of the challenges with sewerage existing neighborhoods. The assessment fee is often viewed in terms of whether there is a need to have the service. This is in contrast to connections for new buildings for which the sewer assessment fee is in lieu of costs to construct a new septic system to service new development. Most often, the sewer assessment fee is less than the cost of installing a septic system and is deemed a significant benefit by developers. Moreover, in the case of sites not suitable for septic disposal, the availability of sewers has permitted lots to be developed that would not otherwise have been possible.

With regard to OD assessments, developers claim that the Town should consider the fact that developers must pay the expense of installing pipelines when determining fees. Some say the assessment fee on commercial buildings is excessive. This issue, including an ordinance provision potentially offering a credit on assessments for privately constructed sewers, is explored in more detail in this report.

2.0 SEWER ASSESSMENT PRINCIPLES AND FEE TYPES

Sewers provide general benefits to the Town and specific benefits to properties served. Sewerage serves the following needs in the Town:

- replaces deficient or failing cesspools/septic systems;
- protects the Town's groundwater, surface water, and drinking water resources;
- provides a cost effective wastewater disposal option; and
- allows development of land with unsuitable soils for septic disposal or at densities greater than possible with other onsite wastewater treatment system (OWTS) disposal technology.

The setting of sewer assessment rates must take into account a number of factors, often resulting in compromises among competing objectives. These factors include providing equity among users, meeting funding requirements, affordability, impact on customers, and ease of implementation and operation.

Sewer assessment fee ordinances should strive to distribute costs fairly among users, strive for simplicity and ease of understanding, and contain language that is clear and unambiguous.

There is no single sewer assessment formula that best applies in all cases. The sewer assessment structure developed for a community will be dependent on the specific set of circumstances present in the community. These include:

- the current infrastructure make-up, composition, and age of the sewer system;
- the planned rate of sewer expansion;

- the amount of development expected to occur;
- the size, density, and number of customers;
- the economic condition of the users;
- enabling statutes and authorities;
- the mix of residential and commercial users;
- the debt service and future financing needs;
- the degree of public support and, ultimately; and
- the opinion of decision-makers and elected officials.

Regardless of size, well developed sewer assessment fee structures are the result of efforts that consider these factors in some manner. This is seldom an easy task. Despite best efforts, the Sewer Commission should not expect that every user will be satisfied. This is especially true of property owners who do not want or need the service at the time it becomes available, or who may view the fees as an impediment to their development plans.

Sewer assessment fees differ from sewer user charges in that assessment fees relate to the cost of providing capacity in the sewer system to collect and treat wastewater. Sewer assessments are intended to cover the cost of **building or expanding** the sewer system. User charges on the other hand primarily relate to the cost of **operating and maintaining** the sewer system and are typically based on the estimated or actual amount of wastewater generated by the user. While the amount of wastewater generated can be used as a basis for sewer assessment fees, other methods are commonly used and have been used by the Town in the past.¹ Other methods include the estate value, acreage of lots, linear foot of pipe along the lot frontage, number and type of plumbing fixtures, water meter size, and a flat fee per unit.

Most methods do not precisely equate the sewer assessment fee imposed on a particular parcel to the actual cost of providing service to that parcel. For example, a fee based on building value has little relevance to sewer system cost. With regard to frontage, the shape of a lot can create a much higher fee for one home when its wastewater contribution is no different than that of a neighbor. Yet, these assessment fee methods are commonly accepted, have stood the test of time, and are consistent with the methods articulated in the Town's enabling legislation.

Notwithstanding the above, while considerable flexibility and deference may be afforded governmental entities in establishing fees for services, the structure must meet certain conditions: fees must reasonably relate to the benefit conferred upon the property owner; accepting the government service should be voluntary on the part of the user (otherwise it may be considered a tax); and the fees must be used to pay costs related to creation and development of the service, in this case the sewer system.² Sewer assessment fees should not be used to cover operational and maintenance costs, nor should they be used to simply raise general revenue.

¹ Often there is no water use history for new sewer connections.

² See precedent setting case - Emerson vs. City of Boston, 391 Mass. 415, 462 N.E.2d 1098, <http://cltg.org/cltg/Emerson.htm> accessed 3/27/15

2.1 TYPES OF SEWER ASSESSMENT FEES

In general, there are three types of sewer assessment fees, or capital recovery charges as they are defined in the wastewater rate setting industry: 1) Sewer Development Charges (SDCs); 2) Frontage Fees; and 3) Connection or Tap Fees. SDCs typically relate to investments in the wastewater treatment facility (WWTF), major trunk lines, interceptors, pump stations, and future expansion. Frontage Fees recover the cost of installing sewers along local streets to connect homes on those streets. Connection or Tap fees refer to a Town's costs to inspect the installation of lateral connections to homes and for administering a new account.

In North Smithfield, the Sewer Lot Development Assessment (Section 8-35.6), or OD assessment as identified in this report, most resembles a Sewer Development Charge. The Sewer District Assessment (Sections 8-35.2 to 8-35.5, and Section 8-35.7), or ID assessment as identified in this report, is most similar to Frontage Fees.³ Connection fees in the Town are minimal in comparison to other assessments fees, and are ordinarily paid lump sum as part of a building permit or connection permit application filing at the Building Inspector's Office.

3.0 LEGAL AUTHORITY

The legal authority of the SEWER COMMISSION to impose sewer assessments is included in its enabling legislation, Public Law 1973 Chapter 84 Section 6, which states that:

"The board of commissioners shall...assess the cost of any project or projects for the construction, completion, extension, enlargement or improvement of the sewage disposal system upon the owners of the estates which abut that portion of any street or highway in or along which any sewer constituting any portion of such project may be located or which otherwise specifically benefit from such project or projects. Such assessment may be made separately for each project or for several projects taken together as the board of sewer commissioners may deem equitable."

"The costs to be assessed shall be that which is determined by the board of commissioners to provide particular rather than general benefit."

"Such assessments shall be just and equitable and may be based upon frontage or area within a specified reasonable distance from the street or highway or on assessed valuations or on any combination of the foregoing."

Other state statutes that may be applicable include RIGL 45-14 Sewage Charges and RIGL 45-22.4 the Rhode Island Development Impact Fee Act. (See Attachment # 2 for copies of the above statutes.)

³ Although, because Town sewer projects often involve trunk lines and pump stations, and extra capacity for future connections, the value of portions of such projects may be associated with an SDC.

While a legal review of the laws that enable and guide the development of assessment fees in North Smithfield was beyond scope of this project, the inquiry conducted by HW indicates that statutory language continues to reflect the operative authorities. The Public Laws that apply to the Town and the users have been amended, but the key assessment provisions as stated above remain in effect.

4.0 SEWER ASSESSMENT ORDINANCE, POLICIES AND PRACTICES

The current sewer assessment ordinance language is contained in Article III, Section 8-35, Assessment of Fees of the North Smithfield Code of Municipal Ordinances (Code). In order to understand the current fee provisions and fee structure, HW researched the history of the development of the sewer system and reviewed available records on how sewer assessment fees were established. Minutes of Sewer Commission meetings were available in the Town Clerk's office. Records of assessment calculations, individual property assessments, and department practices were made available by Maura Beck, Water and Sewer Coordinator, and Russ Carpenter, Water and Sewer Superintendent. Access to the Engineering Records office was provided to allow review of sewer construction plans. Financial data were provided by Jason Parmelee, Town Finance Director. Detailed financial records of early sewer assessment rates were not available, apparently having been irreparably damaged in storage. Records were available for the recent 1A and 1B projects.⁴ HW also interviewed a former Sewer Commission member who served during the two periods when major changes to sewer ordinance of interest in this study were made – Years 2000 and 2009.

4.1 BACKGROUND OF DEVELOPMENT OF IN-DISTRICT ASSESSMENTS

Prior to the existence of the North Smithfield Sewer System, some properties in the Town near the Woonsocket City line were connected to the Woonsocket Plant by way of extension of the City of Woonsocket Sewer System. The development of the North Smithfield Sewer System began in the mid-1970's with the construction of three major interceptor/trunk lines – North Smithfield, Branch River, and Union Village Interceptors – and two major pumping stations (Branch River and Pound Hill). This preliminary work was located mostly cross-country, along river valleys and was accomplished to allow conveyance of sewage from interior sections of the Town to the Woonsocket Plant. This work was followed by so called “lateral” sewer installation projects on neighborhood streets which connected homes to the interceptors.

The interceptors and pump stations were funded predominantly through federal grants that were made available shortly after the passage of the Clean Water Act in 1972. The projects extending laterals were funded partially from various federal and state grant sources, with the balance made up from sewer assessment fees on property owners. Over the last 40 years, federal grant funding has gradually phased out, being replaced by low interest loans, or state grants in some cases, and with more of the funding burden placed on communities.

⁴ Projects 1A and 1B were constructed in 2009 as part of a multi-phase project to expand sewerage to several areas of the Town. Future phases include Branch Village.

As noted above, the authority for the Sewer Commission to establish assessment fees stems from Public Law 1973 Chapter 84 Section 6. Beginning in 1979 and with amendments as recently as 2009, the Sewer Commission and the Town Council established five sewer districts: Union Village, Mendon, School/Birch Hill, Ironstone, and 1A/1B. With the exception of the two most recent sewer projects (1A/1B) assessments were composed of a four part formula involving the estate land value, valuation of the buildings/improvements, linear footage of sewer fronting the lot, and a flat fee per building or housing unit. For 1A/1B, the Sewer Commission introduced a new assessment method based on multiples of the amount of water uses in a typical home, or Equivalent Dwelling Unit (EDU).

Once a project was selected and approved for construction, grants and low interest loans, and/or local bonds monies, were sought and appropriated. Assessments were then developed in the following manner:

- The amount required to be recovered through assessments was calculated, and the approximate aggregate assessment upon property owners was estimated.
- After construction was completed and all eligible costs were determined, a final accounting was made.
- Using known quantities or dollar amounts for property valuations, frontage, units to be connected, and/or projected water use, the Sewer Commission and the Town Council established specific values for the assessment parameters constituting the assessment formula.
- The values were then codified in ordinance.

Table 1 summarizes the assessment formulas for all five districts. The year established is the year in which a bond or loan was obtained to finance construction. Assessments may be paid up-front or over a term of 20 years (30 years in the case of Union and Mendon), at the same interest rate as the bond or loan obtained for the project.

Table 1. North Smithfield Assessment Fees and Terms by District

Measure	Union	Mendon	School/Birch Hill	Ironstone	1A/1B
Year Established	1979	1990	1991	1995	2009
Land Value/\$1,000	\$140	\$81.62	\$200	\$115	-
Building Value/\$1,000	\$50	\$28	\$83.25	\$52.50	-
Footage - \$/LF	\$2	\$2	\$3	\$3	-
Improvement Fee/Add'l unit	\$1500/\$450	\$1500/\$450	\$2500/\$750	\$2500/\$750	\$18,292 per EDU
Interest Rate	5.00%	7.17%	4.24%	4.09%	1.99%
Term - Years	30	30	20	20	20
Typical Single Family Assessment^a	\$3,547.28	\$3,427.70	\$9,529.28	\$10,832.90	18,292.00

^aValues determined by averaging a random selection of 5 or 6 residential parcels located across the district, excepting any outliers.

Table 1 also shows the typical assessments levied on single-family home properties for each sewer district. With the exception of the Mendon District, assessments increased over the years.

Table 2 shows that even when accounting for inflation, adjusting costs using the Consumer Price Index to 2014 prices, assessments generally increased. The increases may reflect the reduction in the availability of grant funding, increased expenses for individual projects, changes in cost components deemed eligible for funding from general funds, and/or the relative increase in the cost of labor in the construction industry over time compared to other prices.

Table 2 also shows the adjusted pricing of the typical quarterly sewer assessment bill, by district, for a single family home use. The pricing is based on the 2014 adjusted assessment fee, the term of the payback, and the interest rate. Note that since 1991, despite large differences in the assessment fee, the impact of the fee on the home budget remained about the same, at about \$308 per quarter. Given that the composition of the Sewer Commission and Town Council has changed over the years, the fee similarity is perhaps more coincidental than intended. Nevertheless, this amount may represent a price ceiling beyond which past Sewer Commission and Town Council members did not feel comfortable exceeding.

Table 2. Typical Single Family Residential Assessment Adjusted to 2014 Prices[†]

District	Year	Sewer Assessment Typical	CPI - Original Project	CPI - 2014	Sewer Assessment in 2014 Prices	Term years	Interest Rate %	Quarterly Payment in 2014 Prices
Union	1979	\$3,547	72.6	236.8	\$11,570.19	30	5.00%	\$186.67
Mendon	1990	\$3,428	130.7	236.8	\$6,210.25	30	7.17%	\$126.30
School/Birch Hill	1991	\$9,530	136.2	236.8	\$16,567.79	20	4.24%	\$308.20
Ironstone	1995	\$10,833	152.4	236.8	\$16,832.22	20	4.09%	\$309.08
1A/1B	2009	\$18,292	214.5	236.8	\$20,193.69	20	1.99%	\$306.60

[†]Source: Consumer Price Index for Urban Areas (CPI-U), U.S. Department of Labor Bureau of Labor Statistics

4.2 INCREASING SEWER DEBT

In the late 1990's, the Town faced mounting resistance to the increases in sewer assessment fees.⁵ As a result, the Town sought ways to reduce assessment fees including abating or crediting sewer assessment fees in one or more districts already in effect. At that time, the Town recognized that income from the development of vacant property connecting to the sewer system was not accounted for in the setting of the sewer ID assessment fees. Vacant property has been assessed based on undeveloped land value only, and more recently simply as one EDU. Assessment fees are re-calculated when vacant property is developed, new buildings are added to an already developed lot, or when property is subdivided. New or revised assessments are established at that time and a payment schedule is set for the payment of the assessment. In the meantime, however, the Town is obligated to make sewer debt payments on the entire cost of borrowing to construct the sewers. In effect, property owners with existing development connected to the ID portions of the sewer system are paying the bulk of the cost for sewer lines and capacity reserved for future development.

Recognizing that income expected from future growth should be accounted for, the Town began reducing and crediting assessments in anticipation that the funding gap would be closed by future development and associated assessment income.

4.3 OUT-OF-DISTRICT FEES

In 1999, the Sewer Commission recognized that future growth had not occurred as quickly as expected, and that sewer assessment revenues were falling short of the amount needed to pay sewer debt. In fact, the Town Finance Director, Richard Erickson, reported that he would need to use a \$400,000 payment received in July 1999 from the City of Woonsocket for leasing the

⁵ Minutes of the SC meetings of 12/16/98 and 10/13/99 make references to the Town Council's decision to limit new assessment fees in the Ironstone District to an average \$8,800, and that district assessment receipts were insufficient to cover projected debt payments.

Woonsocket Plant to a private company to make-up shortfalls in sewer assessment revenues over the next three years.⁶

As a result, the Sewer Commission commissioned a study of practices common in other towns that might address this disparity and help reduce assessments on future projects. The objective of this study was potential revenue from connections to the sewer system being made by private developers and individual lot owners who had not been previously assessed a sewer assessment fee. A model used by the Town of Narragansett was deemed most suitable. In 2000, after careful study, the Town created the Sewer Lot Development Assessment fee, or Out-of-District (OD) fee, which established a fee for such connections. The fee amount was based on an analysis by James Geremia and Associates dated August 5, 1999 who used the “system buy-in” accounting method to arrive at a value to be shared by future users (See Attachment #3). The rate calculation was based on the amount of wastewater design flow projected for the building or use proposed. The concept of an Equivalent Dwelling Unit (EDU) was established at that time whereby it was assumed that a flow of 450 gallons per day (GPD) would be used by the average residential unit. The fee for an EDU was set at \$5,200. Other uses, including commercial and industrial uses, were assessed fees based on multiples of the EDU for the projected wastewater design flow. The ordinance cited RIDEM’s septic system design flow tables as a basis for projecting flows for non-residential uses.

Table 3 lists the total OD fees assessed between 2005 and 2014, inclusive. Payment is due prior to issuance of a building permit for the project requiring a sewer connection or may be paid over a four year period on a quarterly basis with no interest charge. A total of \$728,000 has been assessed.

Table 3. Out-of-District Fees Assessed from 2005 through 2014

Year	Total Assessments Levied	Total Number of EDUs	Number Single Unit EDUs
2005	\$10,400	2	0
2006	\$62,400	12	6
2007	\$98,800	9	2
2008	\$83,200	28	5
2009	\$26,000	7	2
2010	\$0	0	0
2011	\$197,600	39	1
2012	\$130,000	25	0
2013	\$83,200	16	0
2014	\$36,400	7	1
Total	\$728,000	145	17

⁶ From minutes of the October 13, 1999 North Smithfield Sewer Commission meeting

According to Section 8-35.7, sewer lot development assessment fees shall be used for capital improvement projects, retained in a revolving account for renewal and replacement of capital equipment, or used for the reduction of existing debt service.

4.4 IN-DISTRICT ASSESSMENTS BASED ON EQUIVALENT DWELLING UNIT MEASURE

In 2009, the Town again revised its sewer assessment ordinance. The method that was based on estate value, frontage, and flat fee was discontinued in favor of a new method based on wastewater flow, similar to that adopted in 2000 for OD assessments. The alternative method, now in effect, is based on the idea that wastewater flow, measured in gallons per day, from a building use is a more accurate and equitable method of assessment. That is, the cost of building a sewer system with adequate capacity for present and future development is more fairly apportioned based on the amount of wastewater expected to be generated by each use. A single family home is equal to an Equivalent Dwelling Unit (EDU) which is assumed to produce 345 gallons of wastewater per day (GPD).⁷ Other uses are assigned multiples of EDUs based on size or other factors. Table 4 shows the matrix of EDU assessment. This matrix is intended to apply to all future sewer construction projects advanced by the Town.

Table 4. Current In-District Sewer Assessment Matrix

Use	# of EDUs
Single-Family	1 EDU charge
Two Family to Four Family	1.5 EDU charges
Multi-Family (greater than 4 - up to 10 units)	2 EDU charges
Apartments greater than 10 units	3 EDU charges
Condominiums	1 EDU charge per unit
Commercial Buildings	
– Up to 5,000 s.f.	1 EDU charge
– 5,001 s.f. to 15,000 s.f.	2 EDU charges
– 15,001 s.f. to 30,000 s.f.	3 EDU charges
– 30,001 s.f. to 100,000 s.f.	4 EDU charges
– Greater than 100,000 s.f.	5 EDU charges
Restaurants	
– 0 to 100 seats	1 EDU charge
– 101 to 150 seats	2 EDU charges
– Greater than 150 seats	3 EDU charges
Industrial	
– Based upon actual or projected flow and the Equivalent Dwelling Units	

HW has reviewed the EDU matrix and makes the following observations.

⁷ The RIDEM septic system regulations were updated in 2008 changing the flow assigned to a bedroom from 150 GPD to 115 GPD. The EDU is based on a three bedroom home.

Applying EDUs Proportionately

While an EDU of wastewater flow is a well-recognized basis for assessment, a common flaw is applying EDUs to different uses in a manner that does not properly represent the proportion of wastewater flow. For example, if the design flow for a single family home is 345 GPD and a restaurant with 20 seats (at 40 GPD per seat per the RIDEM rules) has a design flow of 800 GPD, the restaurant should be expected to have 2.3 EDUs ($800 \text{ GPD} \div 345 \text{ GPD per EDU}$). However, the matrix assigns only 1 EDU to the restaurant and would appear to be in conflict with the logic that underlies the method. The restaurant would not be paying its fair share. If this benefit is not covered by other revenue or funding, expansion costs for providing capacity for the restaurant flow is being subsidized by other sewer users.

Problems Using Design Flow as the Basis for EDUs

The RIDEM regulations contain design flows for more than 80 types of development, including residential, commercial and institutional uses, and are therefore a convenient reference for fee assessment. However, using RIDEM wastewater system design flow as the basis for fee assessment can create problems for a number of reasons:

The Rationale Behind Design Flow Numbers – An OWTS must be designed to service not just the average flow but the potential peak flow from any use under unusual conditions. For example, a typical OWTS for a three-bedroom unit is designed for a flow of 345 GPD. However, to achieve this flow regularly, six people would theoretically be living there, which is not typical. In reality, 200 GPD is a more reasonable average flow for a three-bedroom house. However, because the system is so small, it must be designed in a manner to withstand extreme conditions to avoid failure. With a large sewer system, individual peak flow events are much more easily absorbed into the larger system capacity. While there are instances when maximum flows from a use can influence the design of a sewer system, they are uncommon and different adjustment factors would be used.

Proportionality Between Uses – Even with the mismatch between design flows and actual flows, the EDU calculation would work if the proportion between design flow and actual flow was uniform across uses. However, some uses have actual average flows that are but a fraction of the RIDEM required design flow. For example, a restaurant, which is busier on weekends and has more concentrated waste than that of a residential use, needs a design that accommodates these factors. The OWTS design flow for a restaurant can be more than five times its actual flow. This issue, which is built into RIDEM design flow values, could cause a use that has an unusually high peak flow multiplier to be assigned a disproportionately high EDU value.

Disparities Between ID and OD Assessments

The assessment methods used for ID and OD properties in North Smithfield today yield significantly different numbers for the same use in different areas. The number of EDUs

assigned to the same use in-district, is typically a fraction of that assigned out-of-district. Table 5 shows the disparity in both EDU values and the proportion between the two districts. The explanation for this is that the ID matrix is based largely on different sets of values or square footages of buildings whereas the OD matrix is based on design flows contained in Rhode Island RIDEM's septic system (OWTS) regulations.

Table 5. In-District/Out-of-District EDU Assessment Comparison

Property Use	In-District EDU	Out-of-District EDU	Ratio In-District to Out-of-District⁸
Single Family Residential	1	1	1
10 Unit Multi-Family w/2 BDR each	2	7	0.28
Commercial – Dental Office 5 Chairs (< 5,000 SF)	1	3	0.33
Commercial Strip Mall (16,000 SF)	3	5	0.60
Commercial (150,000 SF)	5	14	0.36
Restaurant (165 seats)	3	19	0.16

HW obtained water consumption records from all the commercial water accounts in the North Smithfield Water System database and compared the average daily water use with the projected wastewater flow based on assigned EDUs. Ideally, according to the EDU method, the ratio of these two values should be fairly uniform. Taking residential use as an example, if the water use in a three-bedroom home is assumed to be 200 GPD and the EDU assignment is 345 GPD, the ratio between the two is 0.58 for a typical dwelling. This value is placed on Figure 1 as a straight green line. Across the x-axis, the assigned wastewater EDU values for North Smithfield's commercial accounts are provided. Along the y-axis, the proportion between the water consumption and expected wastewater flow is provided. Ideally, the points would plot closely

⁸ The anomalies reflected in Table 5 also incorporate the fact that the amount of flow assigned to an EDU was changed from 450 GPD to 345 GPD in the 2009 ordinance. This mirrored a change in RIDEM regulations that occurred in 2008. The change had almost no effect on ID assessments, but increased the number of OD EDUs for non-residential uses by 30%. The OD assessment fee on these users increased by 30% accordingly.

around the green line. Even if the points did not plot along the green line, a linear plot along a different proportion value would be a good result. However, the actual points show no consistent ratio whatsoever. As another numerical test, HW plotted the correlation between the water consumption values and the expected flow based on EDU (Figure 2). The correlation coefficient for this analysis is 0.28, indicating a fairly weak relationship between the two values whereas a strong link should be expected. These figures indicate that the current EDU method is flawed.

It should be acknowledged that, while the EDU calculation may be disproportionately high for OD commercial building uses, the actual OD assessment fee is seldom in excess of the ID assessment fee. The reader will note that the ID assessment fee by ordinance for the most recent project (1A/1B) is \$18,292 per EDU, whereas the OD assessment fee is \$5,200 per EDU.

Given the above, HW recommends that the amount of wastewater flow associated with an EDU be revisited and redefined, and that the categories of design flows be revised to more closely align with the actual flows expected of each building use category. See the Conclusions and Recommendations for more details.

Figure 1. Ratio Actual Water Use to Projected Wastewater Use – Commercial Accounts

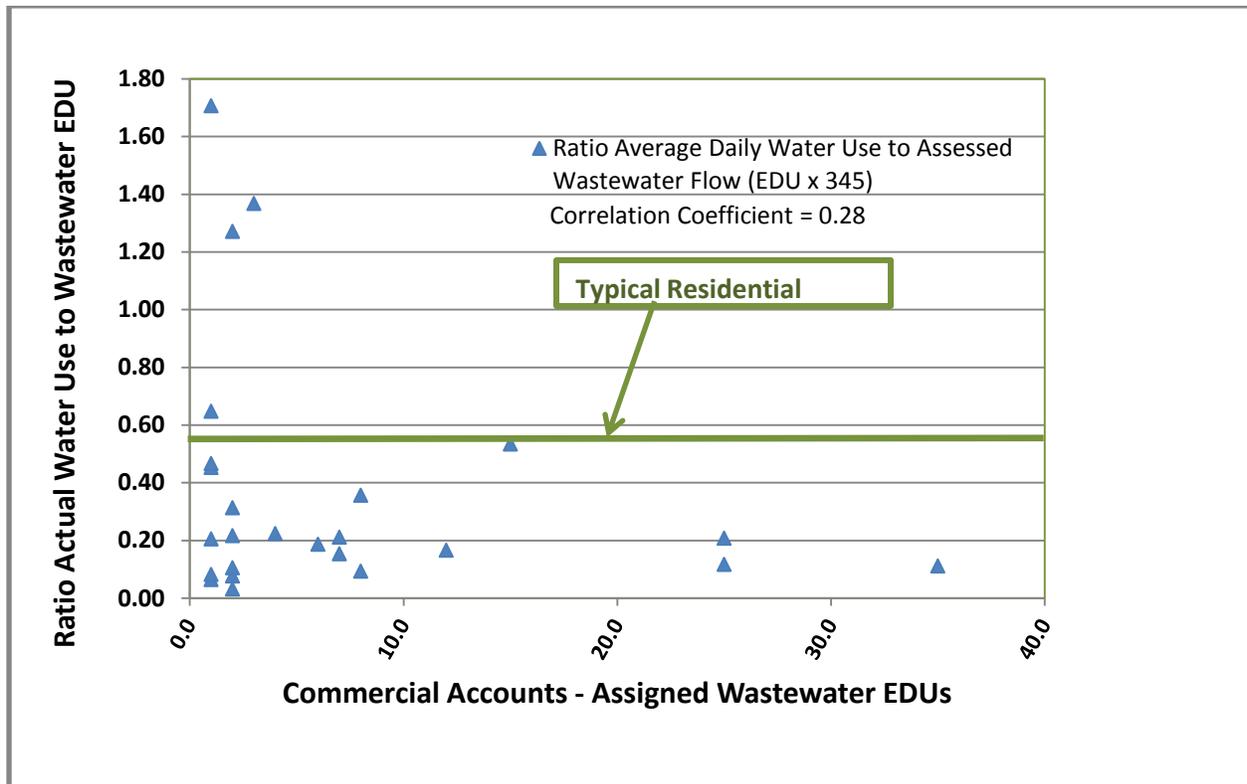
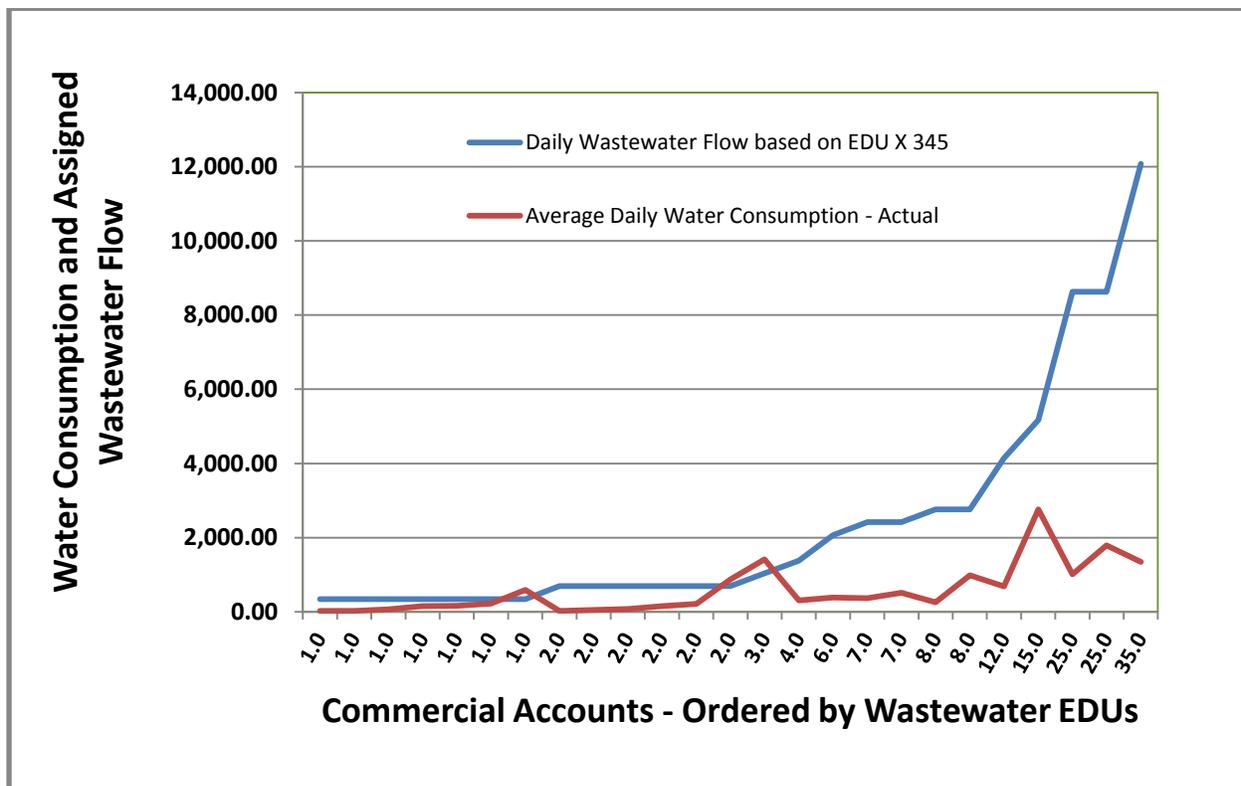


Figure 2. Actual Daily Water Use Compared to Assigned Daily Wastewater Flow



4.5 COMPARISONS WITH OTHER COMMUNITIES

HW contacted officials in several communities and reviewed their ordinances to compare fee assessment practices that may be of interest in this project.

A comparison listing of key provisions and fees is shown on Table 6. Several of these communities have not updated their ordinances for many years. Cost provisions may therefore be out-of-date or need revision by the sewer commission. The following is a summary of the information obtained:

Woonsocket

The City makes assessments on properties “abutting upon that portion of any street...in which any sewer has been or shall be constructed by or at the expense of the City of Woonsocket” at rate of \$.50 for each front foot on the street, and \$.0075 for each square foot between the street and a line 120 feet away and parallel to it. The ordinance stipulates that when a property is between two streets, the \$.0075/ ft. “shall not extend to more than ½ the distance between such streets or highways.”

The City sets special requirements for the extension of sewer service to properties outside the limits of the city. The applicants must obtain permanent rights for the City of Woonsocket to maintain the extended sewer, as well as written authority from the outside community to excavate into the street. The applicants are required to pay the same user fee and an industrial cost recovery fee as residents of Woonsocket. The applicants must also pay a connection fee depending on the property's classification as residential, commercial, or industrial.

Smithfield

The town of Smithfield no longer installs sewers town-wide; most of that work was completed in the 1970's according to assessment formula based on frontage length, land value, and parcel zoning. Today, new sewer construction projects are driven by resident petitions, and the assessment is based on an even split of the project cost. Two-thirds of property owners in the affected area must sign a petition, and the Town then prepares an estimated cost analysis based on construction cost, engineering fees, and inspection fees. If 2/3 of affected landowners agree to the terms of the payback, an assessment is created for all affected landowners over a period of time (usually 15 years) at the prevailing interest rate. In cases where the developers connect at their own cost, no assessment fee is charged.⁹

Smithfield does have a fee for out-of-town connections, which necessitate a one-time impact fee. The fee is developed by Finance Director and Town Engineer. The fee is based on the total number of units proposed outside the district, estimated flows, and whether or not the flows will require a sewer pump station or flow by gravity to the town's WWTF. Residential units are charged \$5,000 per unit, and multi-family properties are charged \$5,000 for the first unit and \$3,000 for each additional unit. Commercial and industrial properties less than 10,000 square feet are charged \$7,500, while properties exceeding 10,000 square feet are charged \$10,000.

Lincoln

The Town of Lincoln levies a flat sewer assessment fee of \$1,900 per single-family dwelling. Pre-existing commercial or industrial structures are assessed \$1,900, while commercial structures (up to 10,000 square feet floor area) built after July 1, 1987 are assessed \$1,900 per service connection and an added \$1,900 for each additional 10,000 square feet (or fraction thereof). According to the Town Engineer, this minimum flat fee was computed based on construction costs and has not changed since 1987.

The Town of Lincoln has only one sewer district, and Section 207-45 prohibits any connection to building or property located outside the town. The ordinance further stipulates that if an abutting town has previously installed sewer lines to serve its residents and which flow into the Lincoln system, those residents are subject to annual user charges. This Section was last amended in 2008.

Burrillville

Properties to be connected to a town sewer line are assessed based on a linear frontage fee and flat fee. Assessments are payable over 20 years, but if the land is sold or transferred, the balance

⁹ At the request of Town staff, HW checked the Smithfield Impact Fee ordinance which confirmed that sewer costs are not otherwise included in the impact fee charge.

of the assessment must be paid as a condition of sale or transfer. Government owned property and non-profits are exempt. Residential properties are assessed at a rate of \$30/FT for town projects, and private developments at a rate of \$35/FT. For land with 200 feet of frontage, the typical assessment is \$8,250 for town built sewers and \$7,750 for privately built sewers. For commercial and industrial uses, the town levies an assessment fee based on the “benefit received” on a case-by-case basis.

Coventry

Properties served by a town project are assessed based on EDUs of projected design flow based on the DEM OWTS. The assessment amount varies depending on the “final project cost” but it can be no less than the assessment for out-of-district connections. Payback is over a 20 year term at 6%. For private projects, the single family “Betterment” fee is a flat fee of \$12,900. Commercial OD fees are based primarily on estate value (\$60/\$1,000 of property assessed value). The assessment payback is over 20 years at 6% interest. The OD assessment fee increases yearly at the rate of the Consumer Price Index. Vacant land not part of a sewer district is assessed only when the property is developed.

Warwick

Warwick’s rate structure is currently based strictly on frontage or acreages of parcels served. High water users, in particular commercial and industrial uses, follow the same formula. A typical assessment is based on 100 feet of frontage and, at \$82/LF of frontage, is \$8,200 per dwelling. Lots over an acre follow the acreage formula. Large lots are eligible for a partial deferment. Assessment may be paid, with interest, over a 20 year period. Sewer assessments are indirectly subsidized partially by a portion of the Customer Charge on quarterly sewer user bills. The subsidy varies, but is about 1/3 of the cost of sewerage, meaning the actual net cost of sewerage is closer to \$12,000 per dwelling.¹⁰ Also, the Customer Charge is greater for larger flows, based on water meter size.

Properties connected to the sewer system by way of privately financed and constructed sewers are assessed under the same frontage formula but the assessment is abated by 47%. This percentage is the computed value of the sewer collection system as a percentage of the total value of Warwick’s sewer infrastructure including plant, collection system and other assets.

Warwick is currently reviewing its ordinance. Among the changes being discussed are an EDU formula, charging the same basic cost for the same basic service, elimination of the “underdeveloped” land property assessment (vacant property is given a 20 year assessment deferral), and having the city General Fund pay for the street improvement portion of a sewer project as a general public benefit. In particular, the City wishes to reduce the administrative burden of appeals of the assessments, and it would like to remove the incentive for property owners to subdivide or further develop their land at the end of the acreage deferral period when assessments become due.

¹⁰ Personal communication with WSA Executive Director, Janine Burke.

Table 6. Comparison Table of Selected Community Sewer Assessments

City or Town	Primary Formula	Vacant Property	Privately Built (OD)	Typical Residential In-District Assessment
Burrillville	\$30/LF + \$2,250 Flat Fee	Same as primary but may be abated	\$35/LF + 750 Flat Fee \$7750 Typ.	\$8,250 ^a
Coventry	EDU/Comm. based on OWTS design flow values	1 EDU	\$12,900 Flat Fee/Comm. based on estate value	Project based, but at least \$12,900
Lincoln	\$1,900 Flat Fee/Comm. multiple based on Building SF	Flat fee -home site	Flat Fee (1/2 the primary) \$950	\$1,900
No. Smithfield	EDU/Varies	1 EDU	\$5,200/EDU	Project based; recent \$18,292/EDU
Smithfield	Varies by Project	Same as Primary	None	Varies
Warwick	\$82/LF or Acreage > 1 acre	LF; min. 150 LF for acreage; deferment available for excess	Based on primary, abated 47%	\$8,200 ^b
Woonsocket	\$0.50/LF + \$.0075/SF of lot	\$0.50/LF + \$.0075/SF	Connection fee only - \$400	\$500

^aBased on 200 ft. of frontage.

^bBased on 100 ft. of frontage.

Take-aways:

1. The assessment methodologies and fees vary considerably among communities.
2. Use of a frontage formula to compute an assessment fee results in a system, where once a property is assessed, the fee does not change even if more building occurs on the property.
3. OD fees range from a low of \$0 in Smithfield (no assessment for privately constructed connections) to a high of \$12,900 per dwelling unit in Coventry.
4. With the exception of Woonsocket and possibly Smithfield, the typical residential OD fee is less than or equal to the ID fee, as is the case in North Smithfield.

Also, it is evident that some communities must be subsidizing their ID assessments or no longer installing sewers. Sewer construction costs typically range from \$12,000 to \$18,000 per lot, with

some projects less than or considerably greater than these values. By comparison, some communities surveyed had sewer assessment fees as low as \$500.

5.0 ASSESSMENT CREDIT FOR PRIVATELY INSTALLED SEWERS

Several times per year, development takes place where a property owner wishes to install sewer facilities on public rights-of-way in order to connect into the municipal sewer system. The Town ordinarily permits these connections when determined feasible, and often wishes to accept ownership and permanent responsibility for maintenance of the sewer if the extension benefits the Town system and other property owners who could later connect to the expanded sewer system.

A provision in the 2000 Town ordinance (Sec. 8-36.1(6)) provided an allowance for the Sewer Commission to abate assessments provided that the developer conveyed all his “right, title and interest” in such sewers to the Town. The provision allowed property developers to recoup part of their development costs in the form of partial or complete sewer assessment fee abatement. The provision was omitted from the rewrite of the sewer assessment ordinance in 2009.

Based on our inquiry, anecdotal information suggests that the provision allowing the credit was inadvertently removed from the ordinance. Early revision drafts of the 2009 ordinance made available to HW show the provision deleted from its original location with the intent that it be added to a more appropriate section that addresses future construction.

There is no apparent legal requirement for the Town to adopt an ordinance to allow abatement of assessments, whether the Town takes or accepts responsibility for the sewer facilities or not. It is discretionary. Among the communities surveyed, most do not appear to directly credit assessments for privately constructed sewers. One should note that the assessment fee to the developer is generally less than the ID assessment fee, which perhaps can be viewed as a partial credit when compared to assessments associated with Town built sewer projects.

Generally, sewer facilities constructed on private property, e.g. house service lines and connections to multiple buildings, are considered the exclusive responsibility of the property owner and are not eligible for credits in these communities. Facilities on private property can be extensive and can include pump stations and other equipment. Apartment complexes and condominiums are developments that typically have extensive sewerage that must be maintained and are the exclusive responsibility of the property owner(s).

In cases where privately installed sewers serve only the project under development, the benefits to the sewer system are limited and consideration of credits should be greatly tempered. The mere presence of sewers in a public right-of-way does not warrant assumption of ownership by the Town. Doing so transfers the responsibility and costs for perpetual care, maintenance and rehabilitation to the Town. Also, the Town should bear in mind that the connection to sewers is in lieu of other options for wastewater disposal, including building an OWTS on the property and

incurring its associated costs. Sewering is an alternative that is frequently less costly than that of building and maintaining an OWTS.¹¹

HW recommends that the credit provision be re-instated, with some important caveats. Please see the Conclusions and Recommendations for more details

6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 CONCLUSIONS

The North Smithfield sewer assessment ordinance has undergone numerous changes over the years in response to financial needs of the sewer system and concerns raised by customers. The changes have incorporated advances in assessment practices and use of well-recognized methods to meet these needs. The Town has a practice of working cooperatively with developers, ensuring that connections to the sewer system are accomplished in a fair and timely manner and conform to all Town specifications and the expansion plans of the North Smithfield Sewer System. The recommendations offered below are intended to address areas where the HW team believes the ordinance can be improved to address future funding needs, promote fairness, aid economic development, clarify the ordinance, and make Town procedures more understandable and transparent.

In the past, the Town has recognized the burden placed on property owners by having users connecting to sewers pay for capacity reserved for future users. This realization has resulted in lowering of assessment rates in some cases. On many past projects, the amount of vacant property has been limited because projects have mostly occurred in well-established neighborhoods along local streets. However, where substantial vacant property exists or economic development is planned, such as in village areas with mixed-use zoning, opportunity exists for significant future revenue. Clearly, large tracts of vacant or undeveloped property cannot produce income sufficient to pay for their fair share of capacity in the sewer system, which is recognized under the current ordinance. An alternative means of funding debt associated with building and reserving capacity is needed.

The implementation of the OD assessment fee in 2000 has been helpful in funding sewer debt. As noted earlier, the method of assigning EDUs to commercial customers should be revisited to address the anomalies that appear to exist as compared to residential customers. Also, the OD assessment fee of \$5,200 has not been amended since 2000 and, at a minimum, should be recalculated. It may also be helpful for planning purposes to attempt to specifically project OD assessment receipts and program or earmark the receipts for a specific debt category or capital improvement project. Now that the fee has been in place for 15 years, there should be enough documentation to implement this practice.

Ideally, it would be helpful from a financial perspective and the assessment process would be greatly simplified if one set of assessment fees could apply throughout the sewer system.

¹¹ Burrillville requires that a developer first demonstrate that an OWTS option that can accommodate the development's needs is not feasible as a condition of being allowed to connect into the sewer system.

Currently, there are six different sets of assessment fees, five for ID assessments and one for OD assessments. Those fees relying on estate values are recalculated when a new building is constructed in a particular district. The fee is adjusted based on current assessed property values, but the process is cumbersome, and questions arise about the fairness and sufficiency of using rates established 20 to 30 years ago.

6.2 RECOMMENDATIONS

The following recommendations are offered for the Sewer Commission's consideration. HW acknowledges that considerable discussion and vetting of these recommendations will be necessary before any changes are adopted, and it will be important to carefully word any ordinance changes so that they reflect exactly what the Sewer Commission and Town Council wishes to implement. In some cases, the recommendation is merely outlined. Where deemed helpful, HW may offer examples. These recommendations are a starting point to help illustrate the concept and initiate discussion and guide next steps.

1. **Reinstate Credit for Private Sewers:** It is apparent that the credit for privately installed sewers was used successfully in the past to aid development consistent with Comprehensive Plan and in a manner that meets all town requirements and that benefits the sewer system. HW recommends that a credit provision be restored. The Town should reserve the right to require that privately installed sewers on public rights of way be turned over to the Town if deemed necessary as part of any connection approval. Should the Town choose to re-instate an assessment abatement provision, the following caveats should be considered and written into the ordinance:
 - The abatement applies only to that portion of the installation that is deemed consistent with the Town's sewer system Facilities Plan and Comprehensive Plan and which will enable connections from other properties in the future that are not part of the development project;
 - The sewer infrastructure must meet all Town standards and specifications, including sizing requirements that provide for orderly planned expansion of the sewer system;
 - Rather than be completely discretionary, the ordinance should clearly state that a credit will be awarded provided all conditions as specified in the ordinance are met. In this way, developers may rely on the credit in planning a project and are less likely to challenge the Town;
 - The Town agrees to take ownership of the sewer facilities;
 - The abatement applies only to sewer facilities installed on public property or on private property where full easement rights are conveyed to the Town;
 - The credit is limited to a maximum amount or percentage of the abatement. A 50% split, for example, might be considered reasonable. Limiting the amount of credit assures that revenue is still obtained from the development to reinvest in the sewer system and offset sewer debt.

The ordinance may be amended immediately if necessary to resolve outstanding claims for credits related to projects begun after the ordinance was amended in 2009.

2. **Financial Forecasting:** The Town should prepare a financial forecast of revenues and expenses for the sewer system enterprise fund. Because the fund has no general revenue funding or tax support, it can only look to user fees and assessments as the major sources of income. Decisions on how the sewer assessments for ID and OD connections will be determined as well as abatement and credit policies will have a major impact on sewer assessment revenues. Because the sewer user fees will need to be adjusted to make up any deficiency in overall revenues, a five year financial model will help guide the Town's sewer assessment decisions and enable an understanding of what impacts it will have on the sewer user charges. This model should be one that can be easily updated so the impacts of new developments and projects can be ascertained.
3. **Revisit and Update OD Assessment:** The sewer system has expanded since 2000 and the OD assessment fee has not been increased in 15 years to account for inflation. At a minimum, the sewer system assets should be reviewed and the components that feed into the calculation should be confirmed for agreement with accepted accounting practices.
4. **Vacant/Developable Properties:** Establish an accounting practice as part of every sewer project, and as an on-going yearly exercise, that evaluates growth potential and future connections into the sewer system and projects the income that may be derived from these sources. Deferrals granted because of recently installed septic systems on newly sewerred lots should be included. This information will be used to determine future funding needs for new sewer projects, capital improvements, and to satisfy debt obligations.
5. **EDU:** Redefine the volume of wastewater flow associate with an EDU so that it better aligns with the average water used by customers of different use categories. The term Equivalent Residential Unit or ERU might be used going forward to emphasize the distinction associated with the change.
6. **Single Family Dwelling Size Blocks:** Approximately 85% of the customer base is residential and mostly single family use. Whereas the EDU is currently defined based on a 3-bedroom house size, houses of smaller or larger size may reasonably be expected to have different water use characteristics. To help more equitably account for these differences, HW recommends that single family residential assessment fees be tiered, based on house size at the time of assessment. We envision fractions or multiples of EDUs assigned based on where the size of a dwelling falls within size category blocks. The range would be expected to be small and probably have little impact on overall revenue generation, but may relieve affordability concerns with many users.

7. **Discontinue OWTS Reference for Design Flows:** Discontinue use of RIDEM septic design flows as a basis for establishing EDUs for multi-family residential, commercial, and industrial uses. Instead, develop a separate schedule of use categories where possible based on a relationship between water use and, preferably, concrete units that are easily measured and fixed, such as building square footage. Categories may be grouped into size blocks to ease fee determination and reduce quibbling over small units of measure. The majority of uses fall into a fairly limited range of uses, such as retail, office and restaurants. Rare categories and industry may remain with a basis on engineering estimates and be checked through a periodic monitoring protocol as is done currently.

See Attachment # 4 for a sample matrix of a table of EDUs that incorporates recommendations 5, 6 and 7. Please note that the table is provided purely for illustration and discussion purposes.

8. **Accurate Assessments:** In lieu of waiving assessments or assigning a single EDU to vacant properties, establish set EDUs based on parcel size and zoning. Acreage that could accommodate, for example, 10 homes by zoning, should be assessed as such similar to the way sewer systems are sized. Allow deferral of all or a portion of the assessment until the property is developed, either through appeal or automatically upon imposition of the assessment fee. The assessment can be recalculated based on the specific development proposed at that time. The interest rate charged on assessments starting later than the completion of a sewer project when the initial assessment notice is sent should be the interest rate in effect at the time the connection is made.
9. **Revise Appeal Language:** The establishment of an EDU is not intended in any way to equate to actual daily water use. There will always be variability. Where there are substantial variations, an aggrieved customer should be able to appeal an assessment with a due diligence review of submitted data. Criteria should be included in the ordinance that help guide the customer and the Town through the process and set expectations on outcomes. An appeal should not result in retroactive abatements and the process should be manageable by Town staff.
10. **Uniform Assessments:** Undertake an evaluation as to whether a single set of assessment fees can be implemented for both ID and OD assessments. A review of language in statutory authorities would be part of such an analysis. Ideally, such an assessment should apply uniformly to all future projects.
11. **Automatic Escalator:** Because the actual value of the sewer system increases with inflation, consider providing a yearly escalator clause on the assessment fee that would be established initially by ordinance. The escalator should be based on a well established inflation index representative of economic conditions in the area.
12. **Alternative Funding for Capacity:** Unless a single set of assessments is adopted that otherwise satisfies the funding need for future sewer capacity, factor growth into the assessment calculations and debt service needs of future sewer projects. Develop an

alternative funding mechanism(s) that either directly funds these costs or, if not possible, returns, in some manner, the value of investments paid by current users back to the users. Funding options could include projected annual receipts from OD assessments and newly developed ID properties, and a capital investment charge on users that would be reimbursed to users when properties are developed in accordance with generally accepted accounting principles. To illustrate the latter concept, there are currently 3,176 EDUs in the User System database. A \$5.00 quarterly capital investment charge on user fees would produce \$63,520 annually to pay debt service on extra sewer capacity equivalent to 53 EDUs. That number of EDUs translates into approximately \$1M of construction cost that would not be assessed on properties connecting to new sewers at the completion of a project. The investment would be returned to users in future years in the form of contributions into the User System account from new development.

13. **Incorporation of New and Amended Provisions:** After further consideration, of the above recommendations and deliberations by the Town on specific implementation measures to adopt, the Town should undertake a comprehensive rewrite of the Sewer Assessment Ordinance and other provisions as may be necessary to effectuate the changes desired. HW recommends that, as part of the rewrite of the ordinance, a comprehensive review be undertaken of the ordinance language and current practices to ensure that all applicable provisions and practices are included and codified. A partial listing of items to include in the review is given in Attachment #5.

REFERENCES

George A. Raftelis, 2014, Water and Wastewater Finance and Pricing, Fourth Edition

Rhode Island Department of Environmental Management, Office of Water Resources, 2008,
Rules and Regulations Establishing Minimum Standards Relating To Location, Design,
Construction and Maintenance of Onsite Wastewater Treatment Systems

ATTACHMENTS



Attachment #1

Article III Sewers and Sewage Disposal



Secs. 8-23--8-25. Reserved.

ARTICLE III.

SEWERS AND SEWAGE DISPOSAL*

* **Editors Note:** Ord. of Jan. 5, 2009, amended the former Art. III, §§ 8-26--8-38.7, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter. For complete derivation see the Code Comparative Table at the end of this volume. Formerly, Ord. of April 3, 1980, amended Art. III, Sewers and Sewage Disposal, in its entirety to read as herein set out in §§ 8-26--8-38. Former Art. III, pertaining to the same subject matter, consisted of Divs. 1--8, §§ 8-30--8-93 and derived from Ord. of Dec. 30, 1974, Art. I, §§ 1--28, Art. II, §§ 1--4, Art. III, §§ 1--6, Art. IV, §§ 1--12, Art. V, §§ 1--9, Art. VI, § 1, Art. VII, §§ 1--3, Art. IX, §§ 1--3 and Art. X, §§ 1--9.

Sec. 8-26. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

Act or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C., 1251, et. seq.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure of five days, at 20 degrees C expressed in terms of weight and concentration (milligrams per liter).

Board or commission means the board of sewer commissioners of the town appointed pursuant to Chapter 84 of the Public Laws of Rhode Island, 1973, as amended. In the event that at some time in the future there be no such board, functions assigned to it hereunder shall be performed by the town council.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from inside the walls of a building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain, floor drains and sump pumps to the public sewer.

Categorical standards means national categorical pretreatment standards, or pretreatment standards.

Collection system means the equipment, structures, and processes used for the collection, transportation, and pumping of sewage.

Compatible pollutant means BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as may be specified by the town.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, during which the only pollutant added to the water is heat.

Director means the director of public works of the town, or an authorized agent or representative thereof.

Domestic wastes means liquid wastes (i) from the noncommercial preparation, cooking, and handling of food or (ii) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions. It shall not contain groundwater, storm water, surface water, cooling water, or industrial process wastewater.

Dwelling unit means a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants have either:

- (a) Direct access from the outside of the building or through a common hall; or
- (b) Complete kitchen facilities for the exclusive use of the occupants.

Enabling legislation means Chapter 84 of the Public Laws of Rhode Island, 1973, as amended.

Equivalent dwelling unit for assessment purposes shall be defined as a unit whose wastewater flows are equal to 345 gallons per day. The basis by which projected daily wastewater flows will be determined are based upon current RIDEM published onsite wastewater treatment systems (OWTS) (formerly ISDS) values per establishment. For flow wastewater volumes not stated in the OWTS Regulations, standard engineering values will be used.

Floatable oil means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil, if it is properly pretreated prior to entry into the sewage facilities and does not interfere with the sewage facilities.

Garbage means solid wastes from domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of food.

Incompatible pollutant means any pollutant which is not a "compatible pollutant" as defined in this section.

Industrial wastewater means the liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments, as distinct from domestic wastes.

Infectious waste means waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in disease. Under this definition, the normal microflora of the body are not classified as infectious.

Categories of waste designated as infectious are as follows:

- (a) *Human blood, body fluids, and blood products* means all waste human blood, blood products (such as serum, plasma, and other blood components) and body fluids (such as suction fluid and wound drainage) which exist in non-absorbed liquid form in more than trace quantities.

- (b) *Contaminated sharps* consists of discarded sharps, e.g., hypodermic needles, syringes, pasteur pipettes, broken glass and scalpel blades which may have come into contact with infectious agents during use in patient care or in medical research or have been removed from their original sterile container.
- (c) *Contaminated animal carcasses, body parts, and bedding* refers to carcasses, body parts, and bedding of animals that were exposed to pathogens in research and in the production of biologicals or in vivo production of pharmaceuticals.
- (d) *Discarded cultures and stocks of infectious agents and associated biological* constitute infectious wastes because pathogenic organisms are present at high concentration in these materials. Included in this category are pathological laboratories and pharmaceutical companies, wastes from the production of biological and discarded live and attenuated vaccines. Also, culture dishes and devices used to transfer, inoculate and mix cultures shall be designated as infectious waste.
- (e) *Pathological waste* consists of tissues, organs, body parts, removed during surgery and autopsy.

Infectious waste treatment means any method, technique, or process designed to eliminate the infectious hazard, i.e., to change the biological character or composition of waste so as to remove any disease-causing potential and to render such waste non-infectious by killing the infectious agents present in the waste.

Intercepting sewer means a sewer which receives sewage flow from a number of main sewers and conducts such flow to a point for treatment.

Lateral sewer means a sewer that discharges into a main or other sewer and has no other common sewer tributary.

Onsite wastewater treatment system (OWTS) (formerly individual sewage disposal system [ISDS]) means a system approved by the Rhode Island Department of Environmental Management which provides sanitary sewage disposal by means other than discharge into a public sewer).

Ordinance means the sewer use ordinance of the Town of North Smithfield, chapter 8 of the Town Code of Ordinances.

Owner means any person who alone, or jointly:

- (a) Has a legal title to any premises, or
- (b) Has control of any premises, such as an agreement to purchase, agent, executor, administrator, trustee, lessee or guardian of the estate of a holder of a legal title.

Person shall include an individual, trust, firm, joint stock company, corporation (including a quasi-government corporation) partnership, association, syndicate, municipality, municipal or state agency, fire district, club, non-profit agency or any subdivision, commission, department, bureau, agency or department of state or federal government (including quasi-government corporation) or of any interstate body.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in grammoles per liter.

Plumbing inspector means the plumbing inspector of the town.

Polluted water means water containing manmade or man-induced alterations to its chemical, physical, biological or radiological integrity.

POTW means publicly owned treatment works.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a water pollution control facility. The reduction or alteration can be obtained by physical, chemical, or biological processes, except as prohibited by Title 40, Code of Federal Regulations, Section 403.6(d).

Pretreatment coordinator means the representative of the City of Woonsocket who is responsible for administrating the rules and regulations of the commercial and industrial users.

Pretreatment standards means all applicable federal rules and regulations implementing section 403 of the Act, as well as any non-conflicting state or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Privately owned wastewater treatment facility shall mean a pump station, collection system and/or wastewater treatment facility owned by a user or an individual or association that is connected to a publicly owned wastewater treatment or collection system.

Rhode Island Pollutant Discharge Elimination System (RIPDES) means the Rhode Island system for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing discharge permits and imposing and enforcing pretreatment requirements pursuant to Title 46, Chapter 12 of the General Laws of Rhode Island and the Clean Water Act.

Sanitary sewer means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

Septage waste means the wastewater or waste solids from a domestic on-site wastewater treatment system.

Sewage means a combination of the water-carried wastes from residences, business buildings, and

industrial establishments.

Sewer shall mean a pipe or conduit for carrying sewage.

Shall is mandatory; "may" is permissive.

Significant industrial user (SIU)" means any industrial user of the town collection system whose flow exceeds (i) an average of 25,000 gallons per day of process wastewater to the collection system (excluding sanitary, noncontract cooling and boiler blowdown wastewater), or (ii) five percent or more of the average dry weather hydraulic or organic capacity of the Woonsocket POTW or (iii) a Federal EPA categorical industrial or (iv) the industries discharging toxic substances, prohibited pollutants, but who are not subject to Federal EPA Categorical Standards or (v) industries with sanitary or non-toxic discharges using solvents, toxic chemicals and/or hazardous chemicals that could potentially be discharged to the sewers.

Slug means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Storm drain (sometimes termed "storm sewer") means a pipe or conduit which carries storm and surface waters and drainage, but excludes, sewage and industrial wastes, other than unpolluted cooling water.

Storm water means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

Superintendent means the superintendent of sewer and water of the town appointed by the board of sewer commissioners or a duly appointed deputy agent or representative.

Total suspended solids means the total suspended matter that floats on the surface of, or is suspended in, wastewater, or other liquids, and which is removable by laboratory filtering.

Town means the Town of North Smithfield, Rhode Island or duly appointed representatives thereof.

Toxic shall mean any substance listed as toxic under Section 307(a)(1) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., listed under the Hazardous Substances Right-to-Know Act, R.I.G.L. § 28-21-1 et seq., and as may otherwise be designated by the town.

Unpolluted water is water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

User means any person who discharges or causes or permits the discharge of wastewater into the town's wastewater treatment system.

User classification means a classification of user based on the 1972 (or subsequent) edition of the standard industrial classification (SIC) manual prepared by the office of management and budget.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial

buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the town's wastewater treatment system.

Wastewater treatment system means any devices, facilities, structures, equipment or works owned or used by the town for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewer, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any work, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues from such treatment.

Y Connection means the point at which the individual sewer lateral connects into the main sewer line (sometimes referred to as the chimney connection).

(Ord. of 1-5-09)

Sec. 8-27. Use of public sewers required, generally.

(a) *Required installation of toilet facilities.* The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, right-of-way or easement in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet and waste removal facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is determined by the commission to be accessible and available to said property.

(b) Connections shall be made within one year from the date of notice to do so, unless a written extension of time is obtained from the commission. The commission may, in its sole discretion, grant such extensions up to one additional year for just cause, including, without limitation, extreme and unusual weather conditions or the unavailability of contractors capable of performing the work. This shall not limit any extension granted under subsection 8-35.5(c).

(c) *Sewer improvement charge.* The owner(s) of all property situated within the town and abutting on any street, alley, right-of-way, or easement in which there is now located or may in the future be located an accessible and available public sanitary sewer must, before such property is improved, pay a sewer improvement charge in an amount recommended by the commission and approved by the town council by ordinance. No building permit shall be issued to improve property unless the permit application is accompanied by evidence of payment of the foregoing sewer improvement charge. For purposes of this section, property shall be deemed improved whenever, after an assessment has been levied on it, any new structure containing waste removal facilities and used for any of the purposes set forth in section 8-32 is constructed or whenever any existing structure is converted for use for any of those purposes and a substantial increase, as determined by the commission, in the number of equivalent dwelling unit of sewage to be discharged from the structure(s) to be constructed or converted. Funds received from the sewer improvement charge shall be deposited in a separate account within the sewer budget to be used for the sole purpose of providing improvements to the existing wastewater collection system.

(Ord. of 1-5-09)

Sec. 8-28. Onsite wastewater treatment systems (OWTS).

(a) *When permitted.* Where a public sanitary sewer is not accessible and available, the building sewer shall be connected to an OWTS complying with the requirements of the town and the State of Rhode Island Department of Environmental Management (DEM).

(b) *Required approval.* Before commencement of construction of a private sewage disposal system the owner shall first obtain approval from the town, and the director of DEM. Evidence of such approval shall be filed with the superintendent.

(c) *Abandoning and filling when public sewer becomes available.* When it is determined by the commission that a public sewer is accessible and available to property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this article, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be cleaned of sludge and filled with clean sand or gravel within one year of the time of connection, or within such other time as may be specified by the commission.

(c) *Operation of private disposal systems.* The owner shall operate and maintain private sewage disposal facilities (OWTS) in a sanitary manner at all times, at no expense to the town.

(d) *Proper removal and disposal.* In the maintaining of these OWTS the owner shall be responsible for the proper removal and disposal by the appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the town director of public works and/or the superintendent.

(Ord. of 1-5-09)

Sec. 8-29. Building sewers and permit requirements.

(a) *General requirements.* The following general requirements shall be applicable for all existing and proposed users of the wastewater collection system:

- (1) It shall be unlawful for any person to connect, or permit the connection of, or authorize the connection of any service line to the wastewater collection system without obtaining a wastewater discharge permit from the town.
- (2) No building permit for the construction or alteration of any building or structure which requires a sewer connection shall be issued, unless the owner of the property on which such building or structure is to be situated has obtained a wastewater discharge permit.
- (3) No permit shall be issued until the applicant has presented proof satisfactory to the superintendent that the applicant has either made application for a building permit or notified the building inspector's office of the proposed change in use or occupancy, in accordance with the town's zoning ordinance.
- (4) Wastewater discharge permits shall be issued on a first come, first served basis.

(5) Any service line which was connected without a wastewater discharge permit, or which was connected as a result of any false statement, misrepresentation or nondisclosure on the application therefore or which was connected through any means which circumvented the limitations created by this article shall be disconnected from the sanitary sewer system at the owner's expense.

(6) Any user violating any provision of subsection 8-29(a) general requirements shall be fined in accordance with section 8-41, summary of penalties.

(b) *Classes of permits; applications.* There shall be four classes of sewer permits:

(1) Class A permits which shall authorize the connection of residential or commercial buildings to the public sewers;

(2) Class B permits which shall authorize the connection of establishments producing industrial wastes to the public sewer;

(3) Class C permits which shall authorize the installation and maintenance of private sewage disposal facilities; and

(4) Class D permits for repair work or modifications to existing sewers and connections to the public sewers.

(c) *Drainlaying permit.* Building sewers and connections shall be made only by drainlayers licensed to perform such work in the town, and/or master plumbers licensed by the State of Rhode Island in accordance with the standard sewer requirements. Notice must be left at the office of the superintendent at least 48 hours before work is begun on a connection, and no material shall be used or work covered until inspected and approved by the plumbing inspector, the superintendent or his agent. Such information as the town has with regards to the position of junctions or branches will be furnished to drainlayers but at their risk as to the accuracy of the same.

Drainlayers shall complete and file application for drains in the name of the owner, obtain the owner's signature thereon, pay application and inspection fee, and complete the location plan required by section 8-30.

Drainlayers or licensed master plumbers within the State of Rhode Island must complete the requirements for qualifying as a licensed drainlayer in the Town of North Smithfield as specified in the standard sanitary sewer requirements.

(d) *Superintendent's power to adopt rules and regulations.* The superintendent is hereby empowered with the prior authorization of the commission and the town council to:

(1) Make and adopt such written rules and regulations as may be necessary for proper enforcement of the provisions of this article;

(2) Establish a procedure for the application and issuance of permits to make sewer connections;

(3) Adopt materials and workmanship standards;

(4) Protect and indemnify the town from damage and loss; and

(5) Interpret and secure the intent of this article.

(e) *Permit applications.* Prior to connecting and/or contributing to the wastewater collection system, all users shall apply for a sewer permit.

(1) *Significant industrial user.* Users classified as significant industrial users shall be required to obtain a Class B permit from the Town of North Smithfield and an industrial wastewater discharge permit from the Woonsocket Regional Wastewater Treatment Facility Industrial Pretreatment Program.

(2) *Commercial users.* Commercial users must apply for a sewer permit and be required, when necessary, to install pretreatment apparatus, including, but not limited to grease traps, oil separators, silver reclamation units and pH adjustment systems, as required by the Woonsocket Regional Wastewater Treatment Facility Industrial Pretreatment Program.

(f) *Fees.* A permit and inspection fee per unit for a domestic or commercial building sewer permit must be paid to the Town of North Smithfield at the time the application is filed. The fee provides for site inspections and is specified in section 8-40.

The permit and inspection fee for an industrial building sewer permit must be paid to the Town of North Smithfield at the time of the application. The fee provides for site inspections, and is specified in section 8-40.

(g) *Cost of building sewers.* All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town for any loss or damage which may be occasioned, directly or indirectly, by the installation of the building sewer.

(h) *Permit transfer.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(i) *Number of building sewers.* A separate and independent building sewer shall be provided for every building, unless otherwise authorized by the superintendent.

(j) *Plugging required.* Upon the permanent discontinuance of the use of the town's sewer system at any premises, including discontinuance caused by the abandonment of any premises, the tearing down of any building or any other cause, the property owner shall cause the connection to the sewer main of the town to be plugged in a manner which will be strong enough to prevent any leakage of any fluids. All such plugging shall be subject to inspection and approval by the town provided that no permit fee, inspection fee or other fee shall be charged for such inspection. If the owner of the property fails to plug the sewer connection in a satisfactory manner within 30 days of the time the owner is notified in writing by the town to plug the sewer service line, the town shall proceed to plug the service line and bill the owner for the costs. The cost may be collected by the town and a civil action filed in court. The collection of the costs in a civil action shall not prevent the filing of an action for a fine for the violation of this article. Any user violating the provisions of this section shall be fined in

accordance with section 8-41, summary of penalties.

(k) *Town's responsibilities.* If the building does not have a cleanout at the property line, the town shall be responsible for all repair and maintenance of all main sewer lines up to the "Y" connection for a building lateral. The property owner shall, at their expense, be responsible for the repair and maintenance of the building lateral pipe, from the building to the "Y" connection. If the building has a cleanout at the property line, the town will be responsible for all repairs and maintenance of all main sewer lines up to the property line. The property owner shall, at their expense, be responsible for repair and maintenance of the building's lateral pipe from the building to the property line.

(Ord. of 1-5-09)

Sec. 8-30. Sewer construction requirements.

(a) *General.* All construction procedures, materials and specifications shall conform with the "standard sanitary sewer requirements of the Town of North Smithfield" and all applicable federal, state, and town building and plumbing codes. Any deviations from these prescribed procedures and materials must be approved by the superintendent before installation.

(b) *Location plans.* Accompanying each application for permit shall be a location plan showing the lot lines and dimensions, location of water pipes, gas lines, buried cable, location of permanent buildings and location of building sewers, storm drains and the water authority meter number and initial reading. The plans must be approved and stamped by a registered professional engineer or registered land surveyor.

(c) *Use of old building sewers.* Old building sewers may be used in connection with new buildings only when the applicant provides adequate data to the superintendent which shows that the building sewer has been examined, tested and meets all requirements of this article.

(d) *Size, slope, alignment, etc.* The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. All connections are to be made gastight and watertight in conformance with all state and local plumbing codes.

(e) *Elevation.* In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(f) *Connection of roof downspouts, floor drains, sump pumps, areaway drains, etc.* No person shall make connections of roof downspouts, exterior foundation drains, areaway drains, or other surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(g) *Pipe size.* Unless excepted below, all lateral sewer pipes shall have a minimum diameter of eight inches.

(1) Sewer pipes for house connections from the sewer main to the property line shall have a minimum

diameter of six inches.

- (2) Sewer pipes for single-family dwelling house from the property line to the building shall have a minimum diameter of four inches.

(h) *Lint traps.* Commercial laundries shall be equipped with an interceptor having a wire basket or similar device, removable for cleaning, that will prevent passage into the drainage system of solids one-half (1/2) inch (13mm) or larger in size, string, rags, buttons, or other materials detrimental to the public sewage system.

(i) *Grease, oil and solids interceptors.* An interceptor (trap) shall be required to receive the drainage from fixtures and equipment discharging excessive amounts of grease, oil or sand. This applies to establishments such as restaurants, clubs, hotel kitchens, bars, factory cafeterias, car washes, and any establishment which, in the opinion of the superintendent, is necessary for the proper handling of liquid wastes containing grease in excessive amounts, sand, or other ingredients. All costs incurred in obtaining, installing and maintaining the interceptor and appurtenances shall be borne by the establishment. Interceptors shall have a minimum capacity of 1,000 gallons and shall be approved by the Woonsocket Industrial Pretreatment Program. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. The establishment must clean the interceptor a minimum of twice per year. Maintenance records must be kept for a minimum of three years, and made available to wastewater treatment personnel. Interceptors shall not be required for private living quarters or dwelling units. Collected materials shall not be introduced into the wastewater collection system.

(j) *Clean outs.* Clean-outs shall be installed at the property line, at every fitting over 22 1/2 degrees and at 75-foot intervals up to 150 feet. Service connections which are longer than 150 feet shall have sanitary manholes installed at a location(s) as directed by the superintendent.

(k) *Backflow valves.* One backflow valve per unit shall be installed prior to connection to the town's sewer system for all residential and multi-unit dwellings. The backflow valve shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times. The quantity of backflow valves necessary for commercial and industrial establishments must be submitted to and approved by the superintendent prior to installation.

(l) *Notification of readiness for inspection and connection.* The applicant for the building sewer permit shall notify the superintendent 48 hours prior to the applicant requiring inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent.

(m) *Testing.* The superintendent shall require appropriate tests to the pipes, and the drainlayer and contractor, at their own expense, shall furnish all necessary tools, labor, materials, and assistance for such tests and shall remove or repair any defective materials when so ordered by the superintendent.

(n) *Guarding of excavation, restoration of streets and sidewalks.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the town.

(o) *Crossing roads, driveways, etc.* The contractor shall not block any driveway, street, road or railroad at any time without permission of the superintendent, director of public works or other controlling

agencies. Every effort shall be made to permit the movement of vehicular traffic at all times. Whenever it becomes necessary to cross or interfere with roads, walks or drives, whether public or private, the contractor shall maintain, at his own expense, and subject to the approval of the superintendent, safe bridges or other means of egress.

(p) *Excavation and repaving.* No person shall open any road, street or highway in the town for the purpose of installing sewer lines without first receiving a permit and complying with all of the criteria required by the Code of Ordinances of the Town of North Smithfield. Failure to comply with these regulations shall be deemed a violation of this Code. Any person or persons guilty of said violation shall be liable for a fine as specified in section 8-41, summary of penalties.

(q) *Low pressure grinder pumps.* Low pressure grinder pumps shall be manufactured by Environment One, or equal. The unit shall consist of a grinder pump, level controls, siphon breaker, check valve and 70 gallon high density polyethylene tank. The unit shall be equipped with an electrical quick disconnect plug, a discharge line shut-off valve and a quick disconnect assembly. The alarm/disconnect panel shall contain circuit breakers, an audible and visual alarm transfer switch and generator receptacle. A second check valve shall be provided at the curb stop.

(r) *Privately owned pump stations.* All privately owned wastewater treatment facilities (pump stations and collection systems) that are physically connected to and so empty into a municipal wastewater treatment facility must comply with the town's standard sanitary sewer requirements as it relates to design, operation and maintenance.

(Ord. of 1-5-09)

Sec. 8-31. Prohibitions and restrictions on wastewater discharges.

(a) *Prohibitions on wastewater discharges.* No person shall discharge or deposit or cause or allow to be discharged or deposited into the wastewater collection system any wastewater which contains the following:

- (1) *Oil and grease.* (i) Oil and grease concentrations of 100 mg/l or greater or amounts from industrial facilities violating federal pretreatment standards. (ii) Wastewater from industrial facilities containing floatable fats, wax, grease, petroleum oil, cutting oil, or products of mineral oil origin that may cause interference or pass-through.
- (2) *Explosive mixtures.* Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the sewerage facilities or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent nor any single reading over ten percent of the lower explosive limit (L.E.L.) of the meter. Also prohibited is the discharge of wastewater, which alone or by interaction with other wastewater, has a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, petroleum products, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

- (3) *Noxious material.* Noxious or malodorous solids, liquids, or gasses, which either singly or collectively interact with other wastes which are capable of creating a public nuisance or hazard to life, including wastewater which results in the presence of toxic substances, gasses, vapors or fumes within the wastewater treatment system in a quantity sufficient to cause worker health, safety or accessibility problems.
- (4) *Improperly shredded garbage.* Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half (1/2) inch in dimension. No commercial or industrial users shall operate a garbage grinder unless specifically approved by the superintendent and/or the pretreatment coordinator. A garbage grinder may only be used in conjunction with an in-ground grease interceptor specifically designed to accept such waste.
- (5) *Radioactive wastes.* Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable state or federal regulations.
- (6) *Solid or viscous wastes.* Solid or viscous substances which will or may cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues from refining or processing of fuel or lubricating oil, and similar substances.
- (7) *Excessive discharge rate.* Wastewaters at a flow rate or containing such concentrations or quantities that exceeds for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation and that would cause a treatment process upset at the Woonsocket Regional Facility and subsequent loss of treatment efficiency.
- (8) *Toxic substance.* Any toxic substances in amounts exceeding standards promulgated by the Administrator of the U.S. Environmental Protection Agency pursuant to section 307 (a) of the Act, and chemical elements or compounds, phenols or other taste or odor producing substances, or any other substances which are not susceptible to treatment.

This also includes any wastewater having a lethal concentration of 50 percent (LC₅₀) as determined by a toxicity test of 96 hours or less using 100 percent of the industrial user's discharge and aquatic test species chosen by the superintendent.

- (9) *Unpolluted waters.* Any unpolluted water including, but not limited to, water from cooling systems or of storm water or groundwater origin, which, in the opinion of the superintendent, will significantly increase the hydraulic load on the collection system. This includes, but is not limited to, storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pools drainage, condensate, de-ionized water, cooling water and unpolluted wastewater.

- (10) *Discolored material.* Wastes with objectionable color not removable by the treatment process.
- (11) *Corrosive wastes.* Any waste which will cause corrosion or deterioration of the treatment system. All non-domestic wastes discharged to the public sewer system must have a pH value in the range of 6.0 to 10.0 standard units. Prohibited materials include, but are not limited to, acids, bases, hydroxides, peroxides, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form corrosive products.
- (12) *Untreatable wastes.* Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment system employed, or are amenable to treatment only to such a degree that the wastewater treatment system effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (13) *High temperature liquids.* Any liquid or vapor having temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade) or which, either singly or in combination with other discharges would cause a temperature at the introduction into the treatment plant which exceeds 104 degrees Fahrenheit (40 degrees Centigrade).
- (14) *Viscous wastes.* Any water or waste containing fats, wax, grease or oils whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperature between 32 and 150 degrees Fahrenheit (zero and 65 degrees Centigrade).
- (15) *Hazardous waste.* Any material identified as hazardous waste according to 40 CFR, Part 261.
- (16) *Infectious waste.* Any infectious or medical waste except such waste which receives infectious waste pretreatment and meets the approval of both the superintendent and the Industrial Pretreatment Program of the Woonsocket Regional Wastewater Treatment Facility.
- (17) *Septage and sludge.* Any trucked or hauled sludge, industrial wastewater, or sludge, screening or residue from the pretreatment of industrial wastes, or cleanings from an OWTS.

(b) *Dilution.* No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with this article, the federal categorical pretreatment standards, or in any other pollutant specific limitation developed by the town or state.

(Ord. of 1-5-09)

Sec. 8-32. Pretreatment.

(a) *Action of superintendent or pretreatment coordinator.* If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in this article, and which in the judgment of the superintendent or pretreatment coordinator, may have a deleterious effect upon the sewage works, processes, equipment, receiving water, or which otherwise creates a hazard to life or constitute a public nuisance, the superintendent may:

- (1) Reject the wastes;

- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer charges under the provisions of this article.

If the pretreatment coordinator permits the pretreatment or equalization of waste flows for any user, the design and installation of the plant and equipment shall be subject to review and approval of the pretreatment coordinator, and subject to the requirements of all applicable codes, ordinances, laws, and regulations. All users which require pretreatment shall be subject to all applicable requirements of the City of Woonsocket Regional Wastewater Treatment Facility Industrial Pretreatment Program.

(b) *Maintenance.* Where pretreatment or equalization facilities are required for any water or wastes, the facilities shall be installed, operated, and maintained continuously in a satisfactory and effective condition by the owner at the owner's expense.

(c) *Control manholes; monitoring of discharge.* When required by the superintendent or pretreatment coordinator, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manholes, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent or pretreatment coordinator. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times. All industries discharging to a public sewer shall perform such monitoring of their discharge as the pretreatment coordinator may require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the pretreatment coordinator. Such records shall be made available to other agencies having jurisdiction over discharges to the receiving water upon request by the superintendent.

(d) *Laboratory analysis of wastes.* All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined by a State of Rhode Island certified laboratory in accordance with the latest edition of 40 CFR 136, at no cost to the town. Sampling methods, location, times, durations, and frequencies shall be determined by the pretreatment coordinator on an individual basis.

(e) *Special agreements.* No statement contained in this section shall be construed as preventing any special agreement or arrangement between the commission and any person whereby industrial wastes of unusual strength or character will be accepted by the town for treatment, provided that such agreements do not contravene any requirements of existing City of Woonsocket pretreatment, state or federal regulations and are compatible with any user charge system in effect.

(f) *Changes in discharge.* Any person proposing a new discharge into the system or a substantial change in volume or character of pollutants that are being discharged into the system shall notify the commission and the City of Woonsocket at least 45 days prior to the proposed new discharge or change in existing discharge.

(g) *Powers and authority of inspectors.*

- (1) The superintendent, pretreatment coordinator or other duly authorized employees of the town or City of Woonsocket bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article and for the purpose of inspecting and copying the user's discharge records. The town or City of Woonsocket shall also have the authority to set up the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations.
- (2) The superintendent, pretreatment coordinator or duly authorized employees of the town or City of Woonsocket shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town or City of Woonsocket employees and the town or City of Woonsocket shall indemnify the company against the loss or damage to its property by town employees and against liability claims and demand for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.
- (3) The superintendent, pretreatment coordinator or other duly authorized employees of the town or City of Woonsocket bearing proper credentials and identification shall be permitted to enter all private properties through which the town or City of Woonsocket holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. of 1-5-09)

Sec. 8-33. Protection from damage.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the sewage facilities. Any person violating this provision shall be subject to the penalties set forth in section 8-41, in addition to whatever penalties may be provided under other applicable law.

(Ord. of 1-5-09)

Sec. 8-34. Sewer use charges.

(a) *Purpose.* The town's sewer use charges are intended to recover from users the town's share of the annual cost of operation and, maintenance and minor capital improvements associated with replacement and repair, of the town's wastewater facilities, as may be determined by the board of sewer commissioners, annually.

(b) *User classifications.* The superintendent, in his review of each application for a sewer connection permit, shall, with commission approval, classify each user as one of the following, according to the number of dwelling unit equivalents of sewage discharged:

- (1) *Class R - Residential.* Any user whose waste is composed exclusively of domestic wastewater and who does not fall within any other of the classifications and to include those structures known as town houses and condominiums.
 - (2) *Class C - Commercial.* Any user identified as such in the Standard Industrial Classification Manual, Office of Management and Budget, U.S. Department of Labor (latest edition) including those structures known as commercial town houses or condominiums.
 - (3) *Class M - Miscellaneous (includes institutional).* Any user engaged primarily in social or community services such as schools, hospitals, museums, rest homes, and any public or governmental user.
 - (4) *Class B - Manufacturing.* Any user identified as such in the Standard Industrial Classification Manual, Office of Management and Budget, U.S. Department of Labor (latest edition), excluding any user identified there as commercial.
- (c) *Base use charge.* Each sewer use charge shall consist of a base charge determined annually by the town.
- (d) *Surcharge for industrial wastewater.* A sewer use surcharge shall be assessed for the discharge of industrial wastewater in order to recover the additional cost attributable to the treatment of that wastewater. The surcharge shall be determined in accordance with the City of Woonsocket's surcharge formula for high strength industrial wastewater.
- (e) *Extraneous flow.* Costs of operation and maintenance relating to flow not directly attributed to users (i.e., infiltration/inflow) shall be apportioned among all users on the same basis as the costs of operation and maintenance relating to the flow attributed to them.
- (f) *Payment of bills.* Bills for sewer use charges shall be issued annually to users of record as of August 15 of each year. The town tax collector shall cause notice of the amount and due date of each sewer use charge to be given in the manner set forth in Section 7 of the enabling legislation. Bills may be paid in full on their due date or in equal, quarterly installments. Unpaid bills shall bear interest at the rate of 12 percent per annum. The town tax collector shall certify unpaid bills to the town clerk, along with the description of the affected real estate. The town clerk shall file the same as a public record in the town's land evidence records and give notice of such filing to the owner of such real estate. From the date of such filing until paid, unpaid bills, together with any interest and charges accruing thereon, shall constitute a lien upon such real estate on a parity with the lien for town taxes, which lien shall not be subject to termination under Section 44-9-1 of the Rhode Island General Laws, as amended.
- (g) *Periodic review.* The commission shall review not less than every two years the wastewater contribution of user and user classes, the total cost of operation and maintenance of the sewage facilities and the town's user charge system and, if necessary, revise the charges for users or user classes to:
- (1) Maintain a proportionate distribution of operation and maintenance costs among users and user classes;

- (2) Generate sufficient revenue to pay the total operation and maintenance costs; and
- (3) Apply excess revenues collected from any class of users to the costs of operation and maintenance attributable to that class in the succeeding year by means of an appropriate adjustment in the base and surcharge rates applicable to that class.

(Ord. of 1-5-09)

Sec. 8-35. Assessment of charges.

(a) *Designation of assessment districts.* The commission shall by resolution designate one or more sewer assessment districts and assess all or such portion of the capital cost of the town's sewage facilities and all or such portion of the town's share of the capital cost of the wastewater treatment plant against the dwelling unit located with each such district as is determined by the commission to provide special rather than general benefit to such estates including those structures known as town houses or condominiums. For the Union Village Sewer District, Mendon Road Sewer District, School Street/Birch Hill Sewer District, and Ironstone Sewer District, the methodology presented in sections 8-35.3 and 8-35.4. For all future assessments, the methodology presented in section 8-35.5 will apply.

(Ord. of 1-5-09)

Sec. 8-35.1. Determination of assessment.

(1) *Sewer assessment roll.* At such time as the commission designates any sewer assessment district, the commission and the town tax assessor shall certify to the town finance director a sewer assessment roll of the estates located within such sewer assessment district that are determined by the commission to be subject to assessment. Such sewer assessment roll shall describe each estate, indicate the classification of user occupying each estate, and state the amount of the assessment against each estate.

(2) *Recording and notice.* Upon receipt of any sewer assessment roll from the commission and tax assessor, the finance director shall record a copy thereof as a public record and cause notice to be sent to the owner of each estate assessed in the manner set forth in Section 6 of the enabling legislation.

(3) *Collection of assessments; lien.* From the date of delivery of the sewer assessment roll to the finance director, the amount of each assessment, including any interest thereon, shall constitute a debt payable to the town by the owner of each estate assessed, on a parity with the lien for town taxes. Such liens shall not be subject to termination under Section 44-9-1 of the General Laws, as amended. The finance director shall have the same powers to collect sewer assessments from the owners of estates assessed, whether or not residents of this state, and to enforce such liens against the estates assessed as the finance director has in the case of town taxes assessed against residents of this state.

(4) *Payment.* Each sewer assessment shall be payable in equal annual installments in an amount and over a period determined by the commission. Annual installments of sewer assessments may be paid in quarterly installments, if the owner so elects at such time or times as the annual payment of town property taxes. The unpaid balance of each assessment shall bear interest from the date the assessment roll is delivered to the finance director at a rate determined by the commission; provided, however, that the whole assessment against any estate may be prepaid without interest at any time prior to the due date of the first installment thereof. The unpaid balance of any sewer assessment, together with interest accrued to the date of payment, may be paid at any time.

(5) *Lot division.* In the event that an estate is divided subsequent to its being assessed, the unpaid part of the assessment may be apportioned by the commission among the resulting estates or upon any basis which might then be used for a new assessment, whether or not the same as that used for the assessment being apportioned.
(Ord. of 1-5-09)

Sec. 8-35.2. Union Village Sewer District Assessment.

(a) *Established.* There is hereby created the Union Village Sewer District. The commission shall assess all or such portion of the capital cost of the town's sewage facilities and all or such portion of the town's share of the capital cost of the wastewater treatment plant against the estates located in said district as is determined by the commission, to provide special rather than general benefit to such estates, including those structures known as town houses or condominiums.

- (b) *Determination of assessment.* Each sewer assessment shall be based upon the following factors:
- (1) The assessment value of the land comprising each estate as determined by the town for the purpose of assessing real estate taxes, \$140.00 per \$1,000.00 of assessed value. If the land is currently on the tax rolls as unimproved, the principal amount paid will be applied to the new assessment, prior to the issuance of a corrected assessment. For those structures known as town houses or condominiums said assessment shall be paid by the owner of record of said property, be it an association, partnership, corporation, trust, individual or on any other legal entity; and
 - (2) The assessed value of the buildings and improvements located on each estate, as determined by the town for the purpose of assessing real estate taxes, \$50.00 per \$1,000.00 of assessed value. For those structures known as town houses or condominiums the assessment for each additional unit shall be paid by the owner of record of individual units; and
 - (3) The number of feet by which the estate abuts the street, highway, right-of-way, or easement in which the most readily accessible public sewer is located, \$2.00 per linear foot. For those structure known as town houses or condominiums, the commission shall assess for each additional unit from the ending vintage point to the new area, an additional \$2.00 per linear foot, to be paid by the owner of record of said property, be it an association, partnership, trust, corporation, individual or any other legal entity; and
 - (4) The flat fee for improved property, \$1,500.00 per single unit and \$450.00 per additional residential unit. For those structures known as town houses or condominiums, the assessment for each additional unit shall be paid by the owner of record of individual residential or commercial units; and
 - (5) The classification of the user occupying the estate, as established under section 8-34.
 - (6) Unimproved lots shall pay the flat fee assessment be paid upon completion of said building, or prior to issuance of an occupancy permit by the building inspector. On improved lots, the remainder of the flat fee assessment is to be amortized for the period of years remaining on the

present schedule, with option to be paid in full the first year, with no interest charge, or on a yearly assessment with five percent interest on the unpaid balance, payable in quarterly payments.

- (7) Residential property: A single structure under one ownership constituting one dwelling unit as defined in section 18.1 of the zoning ordinance.
- (8) Commercial or industrial property: A single structure under one ownership, either owner-occupied or having only one tenant or one rental unit.
- (9) An approved condominium structure whether residential or commercial, shall constitute more than a single unit. The determination as to the exact number of comparable dwelling units shall be set by the building and zoning officer based upon plans submitted to him.

Should multi-residential units, town house, multi-commercials or multi-industrial units or any other structure or dwellings be converted into condominium ownership, then the assessment for each additional unit so converted shall be assessed and shall be paid by the owner of record upon the transfer or sale of said units to separate ownership, and said assessment shall be the difference between the flat fee assessment and the additional unit fee previously assessed; the balance of the assessment may be amortized for the period of year(s) remaining on the present schedule, and all future assessments for said individual units shall be paid by the unit owners.

Property to be improved and with respect to which a building permit has issued on the date of assessment shall be assessed and the foregoing factors applied, as if construction were complete on the date of assessment. The assessment against such property shall be adjusted upon completion of construction, in the event the estimate upon which the assessment was based proved inaccurate.

(Ord. of 1-5-09)

Sec. 8-35.3. Mendon Road Sewer District Assessment.

(a) *Established.* There is hereby created the Mendon Road Sewer District, which shall encompass Mendon Road, Sharon Parkway, Cynthia Drive, Oberlin Drive and Deborah Avenue. The commission shall assess all or such portion of the capital cost of the town's sewage facilities and all or such portion of the town's share of the capital cost of the wastewater treatment plant against the estates located in said district as is determined by the commission to provide special rather than general benefit to such estates, including those structures known as town houses or condominiums.

- (b) *Determination of assessment.* Each sewer assessment shall be based upon the following factors:
 - (1) The assessed value of the land comprising each estate as determined by the town for the purpose of assessing real estate taxes, \$140.00 per \$1,000.00 of assessed value. If the land is currently on the tax roles as unimproved, the principal amount paid will be applied to the new assessment, prior to the issuance of a corrected assessment. For those structures known as town houses or condominiums said assessment shall be paid by the owner of record of said property, be it an association, partnership, corporation, trust, individual or on any other legal entity; and
 - (2) The assessed value of the buildings and improvements located on each estate, as determined by the town for the purpose of assessing real estate taxes, \$28.00 per \$1,000.00 of assessed value. For

those structures known as town houses or condominiums the assessment for each additional unit shall be paid by the owner of record of individual units; and

- (3) The number of feet by which the estate abuts the street, highway, right-of-way, or easement in which the most readily accessible public sewer is located, \$2.00 per linear foot. For those structures known as town houses or condominiums, the commission shall assess for each additional unit from the ending vintage point to the new area, an additional \$2.00 per linear foot, to be paid by the owner of record of said property, be it an association, partnership, trust, corporation, individual or any other legal entity; and
- (4) The flat fee for improved property, \$1,500.00 per single unit and \$450.00 per additional residential unit. For those structures known as town houses or condominiums, the assessment for each additional unit shall be paid by the owner of record of individual residential or commercial units; and
- (5) The classification of the user occupying the estate, as established under section 8-34.
- (6) Unimproved lots shall pay the flat fee assessment be paid upon completion of said building, or prior to issuance of an occupancy permit by the building inspector. On improved lots, the remainder of the flat fee assessment is to be amortized for the period of years remaining on the present schedule, with option to be paid in full the first year, with no interest charge, or on a yearly assessment with five percent interest on the unpaid balance, payable in quarterly payments.
- (7) Residential property: A single structure under one ownership constituting one dwelling unit as defined in section 18.1 of the zoning ordinance.
- (8) Commercial or industrial property: A single structure under one ownership, either owner-occupied or having only one tenant or one rental unit.
- (9) An approved condominium structure whether residential or commercial, shall constitute more than a single unit. The determination as to the exact number of comparable dwelling units shall be set by the building and zoning officer based upon plans submitted to him.

Should multi-residential units, town house, multi-commercials or multi-industrial units or any other structure or dwellings be converted into condominium ownership, then the assessment for each additional unit so converted shall be assessed and shall be paid by the owner of record upon the transfer or sale of said units to separate ownership, and said assessment shall be the difference between the fiat fee assessment and the additional unit fee previously assessed; the balance of the assessment may be amortized for the period of year(s) remaining on the present schedule, and all future assessments for said individual units shall be paid by the unit owners.

Property to be improved and with respect to which a building permit has issued on the date of assessment shall be assessed and the foregoing factors applied, as if construction were complete on the date of assessment. The assessment against such property shall be adjusted upon completion of construction, in the event the estimate upon which the assessment was based proved inaccurate.

(Ord. of 1-5-09)

Sec. 8-35.4. Ironstone Sewer District Assessment.

(a) *Established.* There is hereby created the Ironstone Sewer District, which shall encompass Quaker Highway, Victory Highway, North Main Street, Florence Street, Carpenter Street, Ironstone Street, Ferrier Street, Homecrest Avenue, Pine Street, Buxton Street, Old Field Drive, Lester Street, Mechanic Street, Orchard Street, McCann Street, Highview Avenue, Belcher Avenue, Fillion Drive, Central Street, Great Road and Old Great Road, The commission shall assess all or such portion of the town's share of the capital cost of the wastewater treatment plant against the estates located in said district as is determined by the board to provide special rather than general benefit to such estates, including those structures known as town houses or condominiums.

- (b) *Determination of assessment.* Each sewer assessment shall be based on the following factors:
- (1) The assessed value of the land comprising each estate as determined by the town for the purpose of assessing real estate taxes, \$115.00 per \$1,000.00 of assessed value, if the land is currently on the tax rolls as unimproved, the principal amount paid will be applied to the new assessment, prior to the issuance of a corrected assessment. For those structures known as town houses or condominiums, said assessment shall be paid by the owner of record of said property, be an association, partnership, corporation, trust, individual or any other legal entity, and
 - (2) The assessed value for the buildings and improvements located on each estate, as determined by the town for the purpose of assessing real estate taxes, \$52.50 per \$1,000.00 of assessed value. For those structures known as town houses or condominiums, the assessment of each unit shall be paid for by the owner of record of individual units, and
 - (3) The number of feet by which the estate abuts the street, highway, right-of-way, or easement in which the most readily accessible public sewer is located, \$3.00 per linear foot. For those structures known as town houses or condominiums, the commission shall assess for each additional unit from the ending vintage point to the new area, an additional \$3.00 per linear foot, to be paid by the owner of record of said property, be it an association, partnership, trust, corporation, individual or any other legal entity, and
 - (4) The flat fee for improved property, \$2,500.00 per single unit and \$750.00 per additional residential unit. For those structures known as town houses or condominiums, the assessment for each additional unit shall be paid by the owner of record of individual residential or commercial units. Additionally, for those structures known as town houses or condominiums, each building structure is to be assessed the first \$2,500.00 with subsequent included units within the same building assessed at the \$750.00 fee per each additional unit within the building, and
 - (5) The classification of the user occupying the estate, as established under section 8-34.
 - (6) Unimproved lots shall pay the flat assessment upon completion of said building, or prior to issuance of an occupancy permit by the building inspector. On improved lots, the remainder of the flat fee assessment is to be amortized for the period of years remaining on the present schedule, with option to be paid in full the first year, with no interest charge, or on a yearly assessment with the percentage rate equal to that of the Ironstone Sewer District interest rate on the unpaid balance, payable in quarterly payments.

or

- (6) Unimproved lots shall pay a flat sewer improvement fee upon completion of said building or prior to issuance of an occupancy permit by the building inspector equal to \$8,500.00 for a single unit and an additional \$750.00 for each additional unit as described in section 8-35.3 (b)(4) above.
- (7) Additional assessment criteria shall be determined in the same manner as set forth herein in section 8-35.

(Ord. of 1-5-09)

Sec. 8-35.5. Future sewer assessment.

(a) The assessment program for future sewer district will be structured so that each assessment includes a principal and maximum interest amount (at the same rate that the town pays to borrow funds), with said principal and interest payments due through the 20-year term of the program. A participant can choose to pay the entire remaining principal balance during that period without any interest penalty. In addition, a participant may make other periodic principal payments throughout the term of the bond, if so desired.

(b) The future sewer district assessment cost is calculated by establishing the actual total of the project cost (design, construction and administration) which is divided by the actual number of affected properties contained in the district.

(c) Notwithstanding the foregoing, the commission shall have discretion to defer sewer assessments against parcels of land if the owner of such parcel, within five years of the date before the sewer assessment, has installed a new septic system, provided that such parcel shall remain subject to assessment and shall begin paying such assessment at least five years from the date of initial assessment. If the property is sold during the five-year period, the assessment will begin upon the sale of the property.

(d) The assessment for the residential, commercial and industrial users shall be as follows:

Single-Family	1 EDU charge
Two Family to Four Family	1.5 EDU charges
Multi-Family (greater than 4 - up to 10 units)	2 EDU charges
Apartments greater than 10 units	3 EDU charges
Condominiums	1 EDU charge per condominium unit
Commercial Buildings	
Up to 5,000 s.f.	1 EDU charge
5,001 s.f. to 15,000 s.f.	2 EDU charges

15,001 s.f. to 30,000 s.f.	3 EDU charges
30,001 s.f. to 100,000 s.f.	4 EDU charges
Greater than 100,000 s.f.	5 EDU charges
Restaurants	
0 to 100 seats	1 EDU charge
101 to 150 seats	2 EDU charges
Greater than 150 seats	3 EDU charges
Industrial	
Based upon actual or projected flow and the Equivalent Dwelling Units	

(e) Vacant residential or commercial land shall be assessed as one single family residential user (1 EDU). If, at the time the vacant land is developed and those improvements result in greater than a single family residence, the town will re-assess that property. The additional assessment shall be imposed for a 20-year period.

(f) If the commission finds it necessary to install (where proposed low pressure sewer is being created or a dwelling that is located in a low lying area along a gravity sewer system) grinder pumps as part of the future project area, the town will provide one grinder pump unit to each developed parcel at no cost to the dwelling owner. The availability of the grinder pump shall remain in effect up to one year of the project completion and acceptance of the project. For an undeveloped parcel, the town will provide a credit to be determined by the commission at the time the parcel is improved. The installation of the grinder pump is the responsibility of the dwelling owner. The operation and maintenance of the grinder pump system shall be the responsibility of the dwelling owner. The owner shall obtain a service contract from a qualified firm to provide operation and maintenance to the system and a copy of the service contract shall be submitted with the permit application in order to receive an approval to connect to the sanitary system. The owner shall provide emergency power to the grinder pump system during power outages. The town is not responsible to provide emergency power or to provide maintenance to the grinder pump system(s). The owner will be responsible for the replacement of the pump if the need arises.

(Ord. of 1-5-09)

Sec. 8-35.6. Sewer lot development assessment.

(a) For parcels of real property, improved and unimproved, which are not included in a specific sewer district not yet connected to the town's sewer system, but which, in the future, may connect into the public sewer system without being charged a sewer assessment, the town intends to distribute the future cost of construction and improvement in a manner which is fair and equitable to all property owners who connect into the town's sewer system.

(b) A sewer development assessment will be assessed against all property owners who request to or who are required to connect into the town's sewer system and whose lot or unit(s) have not been charged a sewer assessment on an individual basis.

(c) In the case of an unimproved residential lot or in the case of a lot with an existing residential building, the applicant for a sewer connection permit shall pay a sewer lot development assessment of \$5,200.00 per lot or per unit(s), whichever is applicable, as a precondition to the issuance of the sewer connection permit.

At the option of the property owner, the fee of \$5,200.00 for each lot or unit(s) may be paid in four annual installments of \$1,300.00 each. The first payment is due at the time the interceptor sewer is installed. The remaining three payments are paid by the property owner over the subsequent three years.

(d) *Collection of sewer lot development assessment.* From the date of delivery of the sewer lot development assessment roll to the finance director, the amount of each assessment, including any interest thereon, shall constitute a debt payable to the town by the owner of each estate assessed, on a parity with the lien for town taxes. Such liens shall not be subject to termination under Section 44-9-1 of the General Laws, as amended. The finance director shall have the same powers to collect sewer assessments from the owners of estates assessed, whether or not residents of this state, and to enforce such liens against the estates assessed as the finance director has in the case of town taxes assessed against residents of this state.

(e) In the case of commercial and industrial units, the applicant for a sewer connection permit shall pay a sewer lot development fee based upon the number of EDU(s) as outlined in section 8-26.
(Ord. of 1-5-09)

Sec. 8-35.7. Application of sewer lot development assessment.

(a) Any sewer lot development assessment may be paid in full at any time. All late charges will be subject to a 12 percent per annum.

(b) The sewer lot development assessment collected shall be retained in the sewer enterprise fund to be used for capital improvement projects, retained in a revolving account for renewal and replacement of capital equipment; and/or the reduction of existing debt service. The allocation of each will be set by the commission from time to time.
(Ord. of 1-5-09)

Sec. 8-35.8. 2009 sewer district assessment.

(a) Established, there is hereby created the 2009 sewer district which shall encompass all or portions of St. Paul Street, Chapel Street, Colerick Street, Fountain Street, Elizabeth Avenue, Great Road, Mendon Road, Stanley Street, Keough Street, Middle Street, Park Drive, Warren Avenue, West Street, Victory Highway, Country Way, Ridge Road, Greene Street and Pacheco Drive. The commission shall assess all or such portion of the town's share of the capital cost of the wastewater collection system against the estates located in said district as is determined by the commission to provide special rather than general benefit to such estate, including those structures known as townhouses, condominiums or commercial properties.

(b) The assessment program for the 2009 sewer district will be structured so that each assessment, including principal and interest, shall be due through the 20-year term of the program. A participant can choose to pay the entire remaining principal balance during that period without any interest. In addition, a participant may make other periodic principal payments throughout the term of the bond with no prepayment penalty.

(c) The sewer district assessment cost is calculated by establishing the actual total of the project cost (design, construction, construction administration, police details and cost of borrowing) which is divided by the actual number of affected properties contained in the district.

(d) The construction cost shall correspond to work performed under contract (Phase 1A: Sanitary Sewer System - Warren Avenue/Park Drive Area and Waterford Area and Phase 1B: Sanitary Sewer System - Greene St. Area and Victory Highway/Dawley Brook Area).

(e) Notwithstanding the foregoing, the commission shall have discretion to defer sewer assessments against parcels of land if the owner of such parcel, within five years of the date before the sewer assessment, has installed a new septic system, provided that such parcel shall remain subject to assessment and shall begin paying such assessment at least five years from the date of initial assessment. If the property is sold during the five-year period, the assessment will begin upon the sale of the property. To obtain this approval, the property owner will be required to submit evidence that the septic system has been installed within the five-year period. This information shall include, but not be limited to, RIDEM approval and invoice from a certified installer. This request must take place within one year from the notice to connect. If the request is not submitted within that time period, the owner will be subject to assessments as stated within this section.

(f) The assessment for the residential, commercial and industrial users shall be as follows:

Single-Family	1 EDU charge
Two Family to Four Family	1.5 EDU charges
Multi-Family	
(greater than 4 - up to 10 units)	2 EDU charges
Apartments greater than 10 units	3 EDU charges
Condominiums	1 EDU charge per condominium unit
Commercial Buildings	
Up to 5,000 s.f.	1 EDU charge
5,001 s.f. to 15,000 s.f.	2 EDU charges
15,001 s.f. to 30,000 s.f.	3 EDU charges
30,001 s.f. to 100,000 s.f.	4 EDU charges
Greater than 100,000 s.f.	5 EDU charges
Restaurants	
0 to 100 seats	1 EDU charge
101 to 150 seats	2 EDU charges

Greater than 150 seats	3 EDU charges
Industrial	
Based upon actual or projected flow and the Equivalent Dwelling Units	

(g) The EDU charge shall be set at \$18,292.47, to be paid over a period of 20 years at 1.99 percent per annum.

(h) Vacant residential or commercial land shall be assessed as one single family residential user (1 EDU). If, at the time the vacant land is developed and those improvements result in greater than a single family residence, the town will re-assess that property. The additional assessment shall be imposed for a 20-year period.

(i) As part of the project cost, the town will provide one grinder pump unit to each developed parcel at no cost to the dwelling owner. The availability of the grinder pump shall remain in effect up to one year after the project acceptance. The operation of the grinder pump system shall be the responsibility of the dwelling owner. The owner shall provide emergency power to the grinder pump system during power outages. The town is not responsible to provide emergency power to the grinder pump system(s).

For those parcels electing to connect during the first year, they will receive an extended warranty of three additional years (total of five years) for the grinder pumps. The town will also pay all costs associated with the normal maintenance for a period of ten years. Maintenance cost associated with abuse shall not be covered. The superintendent shall determine if the maintenance is due to normal wear and tear or abuse.

For those parcels electing to tie in after the one-year period, the town will provide a credit of \$2,793.00 toward their assessment at the time the parcel is connected. This credit will reflect the town's cost to purchase the grinder pump as part of this project. This cost is not reflective of any cost the owner may incur in the direct purchase of the grinder pump. The owner will be responsible to purchase the specified grinder pump directly from the manufacturer at the cost in effect at that time. These costs shall include, but are not limited to: pump, pump controls delivery cost and all applicable taxes. Those units purchased directly by the owner shall come with a standard two-year warranty and no extended warranty or extended maintenance coverage will be provided after the first year's tie-in time period has expired. Regardless, when the property owner connects to the sewers, their assessment shall begin the next fiscal year after the notice to connect has been issued.

(j) To provide incentive to connect within the first year, the parcel owner (connecting within the first year) shall have all costs associated with permit and inspection fees waived. For those who have paid, they will receive a reimbursement within 60 days of adoption.

(k) Property owners within the project area may petition the sewer commission for an extension of the one year tie-in requirements as required in section 8-27 (use of public sewers required, generally), paragraph b, up to four additional years based on the following:

(1) This request must take place within the one-year period from the notice to connect;

- (2) The parcels must have a properly functioning onsite wastewater treatment system (cesspools shall be considered substandard and inadequate and will not be granted an extension of time to connect into the sewers);
- (3) The homeowner shall provide evidence that the on-site wastewater treatment system is operating effectively (this shall be in the form of an inspection conducted by a certified inspector of the Rhode Island Department of Environmental Management); and
- (4) The inspections shall be in accordance with RIDEM publication entitled "Septic System Checkup - The Rhode Island Handbook for Inspection".

The first inspection shall accompany the owner's request for an extension of time. The inspection form shall be Form 1 in Exhibit B. The purpose of this inspection shall determine the need for pumping and identify any deficiencies in the system. This shall be followed within three years from the original request for extension by Inspection Form 2 in Exhibit B. If the owner fails to submit the second form within the time period, or the second inspection finds deficiencies in the system, the homeowner will have 60 days to connect or be subject to a fine of \$100.00 per day.

(Ord. of 10-19-09)

Editors Note: It should be noted that Form 1 and Form 2 in Exhibit B referenced above are not set out at length herein, but are on file and available for inspection in the sewer administrator's office.

Sec. 8-36. Enforcement procedures.

(a) *General.* Any owner, person, user or significant industrial user found in violation of any part of this article, discharge permit, compliance schedule or order, or any order of the town shall be subject to enforcement procedures. Such procedures shall include but are not limited to: revocation of permit, suspension of discharge, show cause hearing, commission order, legal action and/or penalty costs.

(b) *Compliance schedule.* When the superintendent finds that a user has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue an order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate pretreatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including installation of pretreatment technology, addition self-monitoring and management practices.

(c) *Permit revocation.*

(1) *Enforcement costs.* The permittee agrees to reimburse the town for the cost of enforcing the permit, including reasonable attorney's fees, if violation of the permit is found by a hearing officer during the course of a show cause hearing or if such decision is appealed, then in court of competent jurisdiction.

(2) *Damage to facilities.* The permittee agrees to indemnify and hold harmless the town from and against any liability, loss, cost, expense or actual damage (including reasonable attorney's and accountants' fees incurred in defending or prosecuting any claim for any such liability, loss, cost, expense or damage) suffered by the town and caused by discharges from the permittee, either

singly or by interaction with other wastes.

(3) Violation of any of the following conditions may result in the revocation of a wastewater discharge permit.

- Failure to accurately and fully report the wastewater volume, constituents, and characteristics of its discharge.
- Failure to report significant changes in wastewater volume, constituents, or characteristics.
- Failure to allow town personnel statutorily authorized access for the purpose of inspection or monitoring.
- Failure to pay any and all costs.
- Violation of any condition of a permit or the ordinance.
- Failure to correct violations that have already resulted in the suspension of the permit.
- Failure to adhere to compliance schedule or order.

(d) *Suspension of discharge.* The town may suspend the wastewater service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment or causes interference or passthrough to the collection system or wastewater treatment system.

Any person notified of a suspension of the wastewater treatment service and/or a wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the system or endangerment to any individuals. The town shall reinstate the wastewater discharge and/or the wastewater service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any further occurrence shall be submitted to the town within 15 days of the date of occurrence.

(e) *Show cause hearing.*

- (1) If a violation is not corrected within the time frame mandated by the town, the superintendent may order any person who causes or allow an unauthorized discharge to show cause before the commission why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the commission regarding the violation and directing the offending party to show cause before said authority why an order should not be made directing the termination of service. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

- (2) At any public hearing, testimony taken before the hearing authority or any person designated by it, must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any part of the hearing upon payment of the usual charges.
- (3) After the commission had reviewed the evidence, it may issue an order to the party responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices, or other related appurtenances are properly operated, and such further orders and directives as are necessary and appropriate.

(f) *Legal action.* Any discharge in violation of the substantive provisions of this article or an order of the commission shall be considered a public nuisance. If any person discharges sewage, industrial wastes or other wastes into the town collection system contrary to the substantive provision of this article or any order of the commission, the town solicitor shall commence an action for appropriate legal and/or equitable relief in the superior court of this county.

(g) *Penalty costs.* Any person who is found to have violated an order of the town council or who has failed to comply with any provision of a discharge permit issued by the town, or provision of this article, and the orders, rules and regulations issued hereunder, shall be fined in accordance with section 8-41, summary of penalties. In addition, the town may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations, and permits issued by the town.

(Ord. of 1-5-09)

Sec. 8-37. Appeals.

(a) *Board of sewer appeals.* In order that the provisions of this article may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of this article, the town council shall serve as a board of sewer appeals. The board of sewer appeals shall consider appeals from decisions of the board of sewer commissioners and shall determine in particular cases whether any deviation from the strict enforcement of this article will violate its intent or jeopardize the public health and safety.

(b) *Procedure.* Any person aggrieved by any decision of the board of sewer commissioners shall, in addition to any other remedy provided by law, have the right to appeal to the board of sewer appeals within 30 days of the decision appealed from. The board of sewer appeals shall consider the appeal and give the aggrieved person a reasonable opportunity to be heard. The final disposition of the appeal shall be in the form of a resolution reversing, modifying or affirming, the decision appealed from.

(Ord. of 1-5-09)

Sec. 8-38. Saving clause.

(a) If any provision, paragraph, word, section or article of this article is invalidated by any court or competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected

and shall continue in full force and effect.
(Ord. of 1-5-09)

Sec. 8-38.1. Conflict.

(a) All ordinances and parts of ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of such inconsistency or conflict.
(Ord. of 1-5-09)

Sec. 8-38.2. Summary of fees.

(a) The fees included in prior sections of this article and referenced below shall be as stated in section 8-38.6, Exhibit A.
(Ord. of 1-5-09)

Sec. 8-38.3. Summary of penalties.

(a) Any user or person violating any provision of building sewers and permit requirements, section 8-29, shall be fined up to \$500.00 for each offense. A separate offense shall be deemed committed on each day during on or which a violation occurs or continues.

(b) Any user or person violating any provision of sewer construction requirements, section 8-30, shall be fined up to \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(c) Any user or person violating any provision of protection from damage, section 8-33 shall be fined not more than \$500.00, or by imprisonment of not more than 30 days. Each day of violation of this article shall constitute a separate offense.

(d) Any person who is found to have violated an order of the sewer commission, town council or Woonsocket Pretreatment requirements, or who fails to comply with any provision of a discharge permit issued by the superintendent or pretreatment coordinator, or provision of this article, and the orders, rules and regulations issued hereunder, shall be fined up to \$25,000.00 per day for each offense, for each and every day during which a violation occurs. In addition to the penalties provided herein, the town or City of Woonsocket may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules and regulation issued hereunder, or a discharge permit issued by the town and/or the Woonsocket Pretreatment Program.

(e) Any user or person violating any provision of use of public sewers required, generally (section 8-27) shall be fined not more than \$500.00, or by imprisonment of not more than 30 days. Each day of violation of this article shall constitute a separate offense.
(Ord. of 1-5-09)

Sec. 8-38.4. Application of fee, cost and penalties.

(a) Any and all monies collected in the payment of fee, cost and penalties as set forth in this article

shall be retained by the sewer interceptor fund.
(Ord. of 1-5-09)

Sec. 8-38.5. Authority and applicability.

(a) All rules, regulations and requirements stated in this article shall be complied with by all users of the town's sewer system, regardless of whether or not the user is located in the Town of North Smithfield. The town has this authority, as stated in Rhode Island General Laws, Chapter 45-6-2.3, amended 1987.
(Ord. of 1-5-09)

Sec. 8-38.6. Permits for property outside town.

(a) Granted for one year by commission; extension:

Whenever the commission grants a permit for property located outside the town, said permit shall expire one year from the date of the granting of said permit, unless the applicant exercises the permission granted, receives a building permit and commences construction or requests the town council, acting as a sewer commission, to extend the time for performance for an additional one-year period. The granting of said extension is entirely at the discretion of the commission, and the commission may required the applicant to demonstrate, through testimony or other evidence, that the effect of the extension of the permit has not substantially changed since the original application.

EXHIBIT A

Purpose	Fee
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Drainlaying

Permit application and annual fee \$50.00

Connection to town sewer system:

Class R - Residential and Class M - Miscellaneous users

Permit application fee with one inspection \$200.00 per unit

Each additional inspection \$50.00

Connection costs To be paid by owner.

Class C - Commercial users

Permit application fee with one inspection \$300.00 per unit

Each additional inspection \$100.00

Connection costs To be paid by owner.

Class B - Manufacturing

Significant industrial users

Permit application fee \$500.00 per unit

Annual permit fee Based on costs incurred by the town. Assessed in annual billing.

Installation costs To be paid by owner.

(Ord. of 1-5-09)

ARTICLE IV.

SOLID WASTE DISPOSAL AND RECYCLING

Sec. 8-39. Mandatory recycling.

A mandatory recycling program is hereby implemented in the Town of North Smithfield pursuant to Chapters 23-18.8, 23-18.9, and 23-19 of the Rhode Island General Laws and the Rhode Island Department of Environmental Management Municipal Recycling Regulations as amended.

(Ord. of 8-7-90)

Sec. 8-40. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

Bulk item shall mean an item of solid waste larger than two feet by two feet by two feet or heavier than 75 pounds. Doors and enclosures related to such items must be removed.

Director shall mean the director of public works of the Town of North Smithfield.

Hazardous waste shall mean any waste as defined in the Rhode Island Hazardous Waste Management Act, 23-19.1-4 in regulations adopted pursuant thereto, and as may be amended.

Household hazardous waste shall mean hazardous municipal waste generated by residents of the Town of North Smithfield.

Mixed recyclables shall mean recyclable materials which are required to be removed from the municipal solid waste at the source and placed in or on top of set-out approved containers for transport to the nearest Materials Recovery Facility (MRF) for recycling.

Municipal solid waste means solid waste generated by the residents of the Town of North Smithfield in the

Attachment #2

Statutory References

but any failure of the clerk to perform this duty shall not affect the validity of the election.

Act effective,
when.

Sec. 12. This section and the foregoing section shall take effect upon the passage of this act. The remainder of this act shall take effect upon the approval of this act by a majority of those voting on the question at the election prescribed by the foregoing section.

CHAPTER 84.

73-H 6403
Approved
May 10, 1973.

AN ACT Authorizing the Town of North Smithfield to Plan, Construct, Operate, and Maintain a Sewage Disposal System and Authorizing the Financing Thereof, Including the Issue of Not More Than \$800,000 Bonds Therefor.

It is enacted by the General Assembly as follows:

North
Smithfield:
Sewage
disposal
system.

Section 1. The town of North Smithfield is hereby authorized to plan, construct, operate, maintain, extend and improve a sewage disposal system for the town or any part or parts thereof. Such system may include facilities for collecting, treating and disposal of sewage and commercial and industrial wastes. The town of North Smithfield, acting by its town council, may enter into agreements for periods with the state or any other municipal or quasi-municipal corporation or any private party for the treatment or disposition by one party of sewage and wastes collected by the other, and the state, such other municipal or quasi-municipal corporations and private parties are authorized to enter into such agreements with the

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town. Such agreements may be for a period of years or of permanent duration and may provide for the arbitration of disputes arising thereunder.

Sec. 2. There is hereby established a board of sewer commissioners for the town of North Smithfield consisting of five qualified electors of the town. Except as otherwise provided herein, said board of sewer commissioners shall have power and authority to supervise the planning, construction, operation, maintenance, extension and improvement of the sewage disposal system and to make contracts therefor on behalf of the town.

Board of
sewer
commissioners.

North Smithfield
maintain a Sewage
the Financing
Not More Than

Forthwith after the effective date of this section, the town council shall appoint five sewer commissioners, one to serve until November 1, 1974, one until November 1, 1975, one to serve until November 1, 1976, one to serve until November 1, 1977, and one until November 1, 1978, and thereafter until their successors are appointed and take office. Not more than sixty days prior to the expiration of each term the town council shall appoint a successor for a term of five years from such expiration and thereafter until his successor is appointed and takes office.

Appointment.

ly as follows:

North Smithfield is hereby
to maintain, ex-
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system for the
sewage disposal
system may
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of solid wastes. The
town council,
in accordance with the state
municipal corpora-
tion act, shall
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wastes collected
by municipal or
private parties are
in accordance with the

The board of sewer commissioners may act despite a vacancy on the board but, in the event of any vacancy, the town council shall appoint a commissioner to serve for the unexpired term and thereafter until his successor is appointed and takes office.

Vacancies.

Any member of the board may be removed for cause by the town council. Each appointment or removal by the town council shall be by vote of a

Removal.

majority of the whole number thereof, including vacancies therein.

No employee of the town or holder of any other office of the town shall be eligible to serve as a member of the board of sewer commissioners.

Bond.

The town council may require the members of the board of sewer commissioners to furnish bond for the faithful performance of their duties, in such amounts and with such sureties as the town council may deem desirable. Premiums on surety bonds shall be paid from funds of the board of sewer commissioners.

Conflict of interest.

No contract shall be made by the board of sewer commissioners with any member of the board or with the superintendent of the sewer system (except his contract of employment) or with any member of their immediate families or with any firm or corporation in which the superintendent or any member of the board, together in either case with the members of his immediate family, owns more than one per cent of the total proprietary interest, unless such direct or indirect interest of the member or superintendent is set forth in the minutes of a meeting of the board prior to the making of such contract and the member or superintendent abstains from voting or acting for the district, as the case may be, in making such contract. A violation of this paragraph shall be grounds for avoiding, rescinding or cancelling the contract on such terms as the interests of the town and innocent third parties may require or for the recovery of damages from any party acting in violation of this paragraph.

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Sec. 3. Forthwith after the appointment of the original board of sewer commissioners and after the appointment and taking office of a member upon the expiration of a term, the board shall appoint a chairman from among the members of the board and shall appoint a secretary, who need not be a member of the board, or designate the town clerk as secretary. The chairman shall preside at meetings of the board and the secretary shall keep the records of the meetings of the board. The board may designate other officers and assistant officers with such powers and for such terms as the board may determine but the board may at any time remove any such other officers and assistant officers with or without cause, subject to any damages which may be payable for cancellation of a contract with the superintendent as authorized below.

Officers
of board.

The board may adopt by-laws or rules for the transaction of its affairs.

By-laws.

Sec. 4. The board of sewer commissioners may employ and fix the compensation of attorneys, engineers, surveyors, draftsmen, clerks and other employees and agents. The board may appoint a superintendent of the sewage disposal system and contract for his services but no such contract shall be for a term of more than five years. The board may require a surety bond of any of its agents and employees. The premiums shall be paid from funds of the board.

Employees.

Each of the commissioners shall be compensated for his services at the rate of _____ dollars per year. The secretary, if not a member of the board or the town clerk acting by designation, may be compensated

Compensation.

at a rate determined by the board not exceeding the compensation of board members.

Public bidding.

Sec. 5. Any contract of the board involving more than \$1,000 for construction or for the purchase of materials or equipment shall be publicly advertised.

Funds.

All funds of the board shall be held in the custody of the town treasurer and shall be expended by or under the direction of the board.

In addition to the funds hereinafter provided, the board is authorized to expend for the purposes of this act such sums as may be appropriated therefor by the town.

Acquisition of property.

In carrying out the purposes of this act, the board of sewer commissioners may lease property or acquire the same by purchase or gift or by eminent domain as hereinafter provided, may make contracts and shall have such further powers as shall be necessary or incidental to the purposes and powers set forth in this act. Any lease, purchase or taking of real property shall be subject to authorization or approval of the town council.

Assessments.

Sec. 6. The board of sewer commissioners shall, to the extent described below, assess the cost of any project or projects for the construction, completion, extension, enlargement or improvement of the sewage disposal system upon the owners of the estates which abut that portion of any street or highway in or along which any sewer constituting any portion of such project or projects may be located or which otherwise specially benefit from such project or projects. Such assessment may be made separately for each project

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or for several projects taken together as the board of sewer commissioners may deem equitable. The cost to be assessed shall be that which is determined by the board of sewer commissioners to provide particular rather than general benefit. Same.

Such assessments shall be just and equitable and may be based upon frontage or area within a specified reasonable distance from the street or highway or on assessed valuations or on any other factor affording a reasonable measure of benefits or upon any combination of the foregoing. The board of sewer commissioners shall not make any particular assessment in excess of the benefit conferred and may make reasonable adjustments of such assessments against estates having a frontage upon more than one street or against estates which for any reason are unable to derive the normal benefits from the system.

Such assessments shall name the owners assessed, describe their estates and state the amounts of the assessments but no error or omission in the name or description shall invalidate the assessment as long as either the owner or the estate is substantially identified.

A copy of such assessments shall be recorded with the collector of taxes as a public record. From the date of delivery to the collector of taxes the assessments and interest and other charges accruing thereon shall constitute a lien upon the respective estates on a parity with the lien for town taxes until paid in full, but such lien shall not be subject to termination under section 44-9-1 of the general laws. The collector of taxes of the town shall have the same rights to en- Public records.

force such liens against the estates and to collect such assessments and interest from the owners, whether residents of this state or not, as he has in the case of town taxes assessed against residents of this state.

Notice to
owners.

Prior to or forthwith after the delivery to the collector of taxes of a copy of such assessment, he shall cause notice to be sent to the owner of each estate assessed. The notice shall substantially identify the estate assessed, state the amount of the assessment and refer to the remedy available under this section. The notice shall be mailed postpaid and directed to the last known address of the addressee. If there are owners whose addresses are unknown, a similar notice covering the assessments against their estates shall be published in a newspaper of general circulation in the town and such published notice may be a single collective notice for all such owners. No irregularity in carrying out the provisions of this section shall excuse the nonpayment of the assessment or affect the validity or any proceedings for the collection thereof as long as there is substantial compliance with the provisions hereof. No deficiency in the notice to the owner of an estate assessed shall excuse the non-payment by others of the assessments against their estates or affect the validity thereof or any proceedings for the collection thereof.

Appeal.

Any person aggrieved by any such assessment may within 90 days after the mailing or publication of notice to him file a petition for relief against the town, as respondent in the superior court, and the clerk shall thereupon issue a citation to summon the town and said petition and citation shall be subject to the provisions of section 44-5-29 of the general laws. If

to collect such owners, whether has in the case of this state.

Delivery to the collector, he shall of each estate identify the assessment under this section. and directed to sec. If there are a similar notice for estates shall circulation in may be a single No irregularity in this section shall assessment or affect the collection of the notice shall excuse the assessments against proof or any pro-

assessment may publication of against the town, and the clerk inform the town be subject to the general laws. If

the court finds such assessment invalid in whole or in part, it shall give judgment reducing the amount thereof or for a refund accordingly. The filing of such a petition shall not relieve the estate involved from the lien hereinabove provided for or prevent the assessment from becoming due as provided in this section, but the final judgment of the court reducing such assessment in whole or in part shall reduce such lien and the amount due accordingly. The remedy provided in this paragraph shall be exclusive, and no action or proceeding questioning the validity of any such assessment shall be begun after the expiration of said 90-day period.

In the event an assessment is partially or wholly invalid, the board of sewer commissioners may make a corrected assessment to replace the invalid assessment or portion. The corrected assessment shall be made in the same manner as an original assessment. The first installment of a corrected assessment shall be sufficient to compensate without interest for all installments which would have become due then or theretofore, and subsequent installments shall be payable when they would have been payable, if the corrected assessment had been made at the time of the original assessment. The corrected assessment shall bear interest from the date notice of the corrected assessment was delivered to the collector of taxes.

Except as provided in the preceding paragraph, each assessment under this act shall be payable in not less than ten nor more than twenty equal annual installments. The board of sewer commissioners by resolutions may, from time to time, determine the number of annual installments in which assessments there-

Same.

Corrected assessment.

Payable in installments.

Interest.

after made under this act shall be paid, but in the absence of any such resolution the number of such installments shall be ten. The unpaid balance of each assessment shall bear interest from the date a copy of the assessment was delivered to the collector of taxes. The rate of interest shall be determined by the board of sewer commissioners prior to or forthwith after the delivery of the copy of the assessment to the collector of taxes. If any part of the project or projects with respect to which the assessment was made was permanently financed by borrowing, such rate shall, to the nearest higher one tenth of one per cent, be equal to the actual rate of interest paid by the town with respect to funds borrowed by it to finance such project or projects. The annual payments of each assessment, with the appropriate amount of interest then payable, shall become due commencing with the date on which the regular town taxes are due and payable which next follows the date on which a copy of the assessment was delivered to the collector of taxes, provided that the whole assessment against any owner or estate may be paid without interest at any time prior to the due date of the first installment thereof, and provided further that the whole unpaid balance of any such assessment together with the interest accrued thereon to the date of payment may be paid at any time.

Apportionment
of assessment.

In the event of the subdivision of any estate subject to any such assessment by the conveyance of any part or parts thereof to a different owner, the board of sewer commissioners may apportion the assessment of the unpaid part thereof among the new estates so created upon any basis which might then be used

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under this section for a new assessment and such Same.
 basis need not be the same as that used for the assess-
 ment being apportioned. The apportioned assess-
 ments shall be payable at the same times and in the
 same amounts pro rata as the original assessment or
 unpaid part thereof. In all other respects the appor-
 tioned assessments shall be governed by the provisions
 of this section which would then apply to a new assess-
 ment. Upon the recording of the apportioned assess-
 ments, the original assessment shall be discharged.

In the event that the town has not authorized suf-
 ficient borrowing or provided sufficient other funds
 to undertake a requested sewer extension, or the board
 of sewer commissioners determines that higher pri-
 ority exists for the use of the proceeds of borrowing
 or other funds, the board of sewer commissioners may,
 in lieu of levying all or part of an assessment un-
 der this act, require the person or persons request-
 ing such extension to contribute all or part of the
 cost thereof before the project is commenced.

Sec. 7. The board of sewer commissioners may fix Sewer service
charges.
 and revise from time to time a schedule of sewer
 service charges for the sewer facilities and services
 furnished by the town for the purpose of paying the
 cost of maintaining, repairing and operating such
 sewage disposal system (including reasonable reserves
 for such purposes and for renewals and replacements),
 the principal and interest on all sewer bonds and
 notes of the town when due, and any other expenses
 not otherwise provided for which may arise under
 this act, to the extent that monies for the forego-
 ing purposes are not otherwise provided.

Basis for charges.

Such charges shall be just and equitable and may be based upon the quantity of water used or the number and size of sewer connections made or the number and kind of plumbing fixtures installed on the estate or upon the number or average number of persons residing or working in or otherwise connected therewith or upon any other factor affecting the use of or the value of the facilities and services furnished or upon any combination of such factors.

When payable.

The charges shall be payable upon a date or dates fixed by the board of sewer commissioners and if not paid within thirty days thereafter they shall bear interest at the rate of eight per cent per annum from their due date until paid.

The charges shall be assessed upon the owner of the real estate or the tenant or occupant.

Notice to owner.

The collector of taxes shall cause notice of the amount and due date to be given to the owner of the real estate and to the tenant or occupant if the tenant or occupant is the party assessed. Such notice shall substantially identify the estate with respect to which the service charge is made, state the amount of the charge and refer to the remedy available under this section. The notice shall be mailed postpaid and directed to the last known address of the addressee. If there are owners or parties assessed whose addresses are unknown, a similar notice covering the service charges shall be published in a newspaper of general circulation in the town and such published notice may be a single collective notice for all such owners and tenants. No irregularity in car-

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rying out the provisions of this section shall excuse
the nonpayment of the charge or affect its validity
or any proceedings for the collection thereof as long
as there is substantial compliance with the provisions
hereof. No deficiency in the notice to the owner, ten-
ant or occupant shall excuse the nonpayment by
others of the charges against their estates or affect
the validity thereof or any proceedings for the col-
lection thereof.

A certificate of the collector of taxes of the town
stating the amount of any delinquent service charge
and its due date and the name of the owner of the
real estate and the name of the tenant or occupant
if assessed to a tenant or occupant who is not the
owner and an identification of the real estate shall
be filed with the town clerk as a public record, and
notice of such filing shall be mailed or sent or other-
wise given to such owner. From the date of such fil-
ing until the same is paid in full, such delinquent
service charge together with any interest and charges
accruing thereon shall constitute a lien upon the real
estate on a parity with the lien for town taxes, sub-
ject to termination under section 44-9-1 of the general
laws.

Delinquent
charges.

The collector of taxes shall have the same rights
to enforce such liens and to collect the service charges
and interest and charges thereon from the parties
assessed, whether residents of this state or not, as
he has in the case of town taxes assessed against
residents of this state.

Liens.

Any person aggrieved by any such charge may with-

Appeal.

in 90 days of the mailing or publication of notice to him file a petition for relief against the town as respondent in the superior court, and the clerk shall thereupon issue a citation to summon the town, and said petition and citation shall be subject to the provisions of section 44-5-29 of the general laws. If the court finds such charge invalid in whole or in part, it shall give judgment reducing the amount thereof or for a refund accordingly. The filing of such petition shall not relieve the estate involved from the lien hereinabove provided for or prevent the charge from becoming due as provided in this section, but the final judgment of the court reducing such charge in whole or in part shall reduce such lien and the amount due accordingly. The remedy provided in this paragraph shall be exclusive, and no action or proceeding questioning the validity of any such charge shall be begun after the expiration of said 90-day period.

Corrected charges.

In the event a service charge is partially or wholly invalid, the board of sewer commissioners may make a corrected charge to replace the invalid charge or portion or take such other curative action as may be appropriate. The corrected charge shall be made in the same manner as an original charge. The corrected charge shall bear interest from the date notice of the corrected charge was delivered to the collector of taxes.

Rules and regulations.

Sec. 8. The board of sewer commissioners may from time to time prescribe rules and regulations for the connection of estates and buildings with sewers, and for inspection of the materials, the construction, alteration and use of all connections entering into

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such sewers, and may prescribe penalties not exceed-
 ing fifty dollars, for violation of each rule or regula-
 tion. Such rules and regulations shall not be effec-
 tive prior to their publication in a newspaper of gen-
 eral circulation in the town.

Sec. 9. The receipts from sewer service charges and assessments, including any net earnings and profits realized from the deposit or investment thereof, shall be deemed appropriated for the purposes set forth in section one and for the payment of the principal and interest on obligations incurred by the town for the purposes of this act.

Use of receipts.

The finance director, with the approval of the town council, is authorized to advance moneys to the board of sewer commissioners from the general funds of the town in amounts not exceeding the sums to be realized from sewer service charges and assessments within the next six months as estimated by the board of sewer commissioners. Such advances shall be repaid without interest from such charges and assessments.

Advances from general funds of town.

Sec. 10. The town of North Smithfield is hereby empowered, in addition to authority previously granted, to issue bonds to an amount not exceeding \$800,000 from time to time under its corporate name and seal or a facsimile of such seal. The bonds of each issue shall mature in equal or diminishing annual installments of principal, the first installment to be not later than three years and the last installment not later than thirty years after the date of the bonds.

North Smithfield: Bonds authorized.

Maturity.

How executed
and sold.

Sec. 11. The bonds shall be signed by the director of finance and by the manual or facsimile signature of the president of the town council and shall be issued and sold at not less than par and accrued interest in such amounts as the town council may authorize. The manner of sale, denominations, maturities, interest rates and other terms, conditions and details of any bonds or notes issued under this act may be fixed by the proceedings of the town council authorizing the issue or by separate resolution of the town council, or to the extent provisions for these matters are not so made, they may be fixed by the officers authorized to sign the bonds or notes. Interest coupons (if any) shall bear the facsimile signature of the director of finance. The proceeds derived from the sale of the bonds shall be delivered to the director of finance, and such proceeds exclusive of premiums and accrued interest shall be expended (a) for the purposes set forth in section one of this act other than current expenses or (b) in payment of the principal of or interest on temporary notes issued under section twelve or (c) in repayment of advances under section thirteen. No purchaser of any bonds or notes under this act shall be in any way responsible for the proper application of the proceeds derived from the sale thereof. The proceeds of bonds or notes issued under this act, any applicable federal or state assistance and the other moneys referred to in section fifteen shall be deemed appropriated for the purposes of this act without further action than that required by this act.

Use of
proceeds.

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Sec. 12. The town council may by resolution au-
 thorize the issue from time to time of interest bearing
 or discounted notes in anticipation of the issue of
 bonds under section eleven or in anticipation of the
 receipt of federal or state aid for the purposes of this
 act. The amount of original notes issued in antici-
 pation of bonds may not exceed the amount of bonds
 which may be issued under this act and the amount of
 original notes issued in anticipation of federal or state
 aid may not exceed the amount of available federal
 or state aid as estimated by the director of finance.
 Temporary notes issued hereunder shall be signed by
 the director of finance and by the president of the
 town council and shall be payable within three years
 from their respective dates, but the principal of and
 interest on notes issued for a shorter period may be
 renewed or paid from time to time by the issue of
 other notes hereunder, provided the period from the
 date of an original note to the maturity of any note
 issued to renew or pay the same debt or the inter-
 est thereon shall not exceed three years.

Temporary
 notes.

Sec. 13. Pending any authorization or issue of
 bonds hereunder or pending or in lieu of any authori-
 zation or issue of notes hereunder, the director of fi-
 nance, with the approval of the town council, may
 apply funds in the general treasury of the town to
 the purposes specified in section eleven such advances
 to be repaid without interest from the proceeds of
 bonds or notes subsequently issued or from the pro-
 ceeds of applicable federal or state assistance or from
 other available funds.

Advances from
 general funds
 of town.

Investment of proceeds pending expenditure.

Sec. 14. Any proceeds of bonds or notes issued hereunder or of any applicable federal or state assistance, pending their expenditure, may be deposited or invested by the director of finance in demand deposits, time deposits or savings deposits in banks which are members of the Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States of America or by any agency or instrumentality thereof or as may be provided in any other applicable law of the state of Rhode Island.

Application of accrued interest, premiums and profits.

Sec. 15. Any accrued interest received upon the sale of bonds or notes hereunder shall be applied to the payment of the first interest due thereon. Any premiums arising from the sale of bonds or notes hereunder, any net earnings or profits realized from the deposit or investment of funds hereunder and any balance of bond or note proceeds remaining after completion of the projects shall, in the discretion of the director of finance, be applied to the cost of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise provided, to the payment of the cost of the projects or the cost of additional improvements coming within the description of the projects in section eleven to the payment of the principal of or interest on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and marketing bonds or notes hereunder may also, in the discretion of the director of finance, be met from bond or note proceeds exclusive of premium and accrued interest or from other moneys available therefor. In exercising any discretion under this section, the director of finance

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shall be governed by any instruction adopted by resolution of the town council.

Sec. 16. All bonds and notes issued under this act and the debts evidenced thereby shall be obligatory on the town in the same manner and to the same extent as other debts lawfully contracted by it and shall be excepted from the operation of section 45-12-2 of the general laws. No such obligation shall at any time be included in the debt of the town for the purpose of ascertaining its borrowing capacity. The town shall annually appropriate a sum sufficient to pay the principal and interest coming due within the year on bonds and notes issued hereunder to the extent that moneys therefor are not otherwise provided. If such sum is not appropriated, it shall nevertheless be added to the annual tax levy. In order to provide such sum in each year and notwithstanding any provision of law to the contrary, all taxable property in the town shall be subject to ad valorem taxation by the town without limitations as to rate or amount.

Obligations of town.

Exception from 45-12 2.

Amortization.

Sec. 17. Any bonds or notes issued under the provisions of this act and coupons on any bonds, if properly executed by officers of the town in office on the date of execution, shall be valid and binding according to their terms notwithstanding that before the delivery thereof and payment therefor any or all of such officers shall for any reason have ceased to hold office.

Validity not affected by change in office.

Sec. 18. The town, acting by resolution of its board of sewer commissioners; is authorized to apply for, contract for and expend any federal or state advances or other grants or assistance which may be available

Federal and other assistance.

for the purposes of this act, and any such expenditures may be in addition to other moneys provided in this act. To the extent of any inconsistency between any law of the state and any applicable federal law or regulation, the latter shall prevail. Federal and state advances, with interest where applicable, whether contracted for prior to or after the effective date of this act, may be repaid as project costs under section eleven.

Conditions to be met.

Sec. 19. Bonds and notes may be issued under this act without obtaining the approval of any governmental agency or the taking of any proceedings or the happening of any conditions except as specifically required by this act for such issue. In carrying out any project financed in whole or in part under this act, including where applicable the condemnation of any land or interest in land, and in the levy and collection of assessments or other charges permitted by law on account of any project, all action shall be taken which is necessary to meet constitutional requirements whether or not such action is required by statute; but the validity of bonds and notes issued hereunder shall in no way depend upon the validity or occurrence of such action.

Acquisition of land authorized.

Sec. 20. For the purposes of this act, the town may acquire land or other real property, or any interest, estate or right therein, by eminent domain in the manner prescribed by chapter 1 of title 24 of the general laws as it may be amended from time to time, provided that no property or interest, estate or right therein belonging to the state or any political subdivision shall be acquired without its consent and that

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Sec. 21. shall be s next speci

The que following session of thorizing struct, op tem and the issue be approv contain th the electic be the du act availa any failur not affect

such expenditures provided in this act between any federal law or regulation and state applicable, whether consecutive date of this act under section

issued under this act of any governmental proceedings or except as specifically. In carrying out a part under this act condemnation of the levy and charges permitted by this act shall be taken into account requirements provided by statute; but provided hereunder shall occur or occurrence of

act, the town may, or any interest, in the domain in the act of title 24 of the act from time to time, estate or right by political sub-consent and that

no property or interest, estate or right therein belonging to or used by a public utility shall be acquired without the consent of the division of public utilities and carriers. Any damages which may be agreed upon or determined under said chapter, including any interest and other applicable charges, shall constitute a general obligation of the town, but such obligation shall not at any time be included in the debt of the town for the purpose of ascertaining its borrowing capacity. For the purpose of this section the powers of the town council under said chapter 1 shall be exercised by the board of sewer commissioners with the authorization or approval of the town council.

Sec. 21. The question of the approval of this act shall be submitted to the electors of the town at the next special or general election held in the town.

Referendum.

The question shall be submitted in substantially the following form: "Shall an act, passed at the 1973 session of the general assembly, entitled 'An act authorizing the town of North Smithfield to plan, construct, operate, and maintain a sewage disposal system and authorizing the financing thereof, including the issue of not more than \$800,000 bonds therefor' be approved?" and the warning for the election shall contain the question to be submitted. From the time the election is warned and until it is held, it shall be the duty of the town clerk to keep a copy of the act available at his office for public inspection, but any failure of the clerk to perform this duty shall not affect the validity of the election.

Act effective, when.

Sec. 22. This section and the foregoing section shall take effect upon the passage of this act. The remainder of this act shall take effect upon the approval of this act by a majority of those voting on the question at the election prescribed by the foregoing section.

CHAPTER 85.

73-H 6405
Approved
May 10, 1973.

AN ACT Providing for the Acquisition of Land for School Purposes by the City of Cranston and Authorizing the Financing Thereof, Including the Issue of Not More Than \$500,000 Bonds Therefor.

It is enacted by the General Assembly as follows:

Cranston: Bonds authorized.

Section 1. The city of Cranston is hereby empowered, in addition to authority previously granted, to issue bonds to an amount not exceeding \$500,000 from time to time under its corporate name and seal or a facsimile of such seal. The bonds of each issue shall mature in annual installments of principal, the first installment to be not later than three years and the last installment not later than twenty-five years after the date of the bonds. No installment of principal of any issue shall exceed any prior installment by more than six per cent of the total principal amount of the issue.

Maturity.

How executed and sold.

Sec. 2. The bonds shall be signed by the director of finance and by the manual or facsimile signature of the mayor and shall be issued and sold at not less than par and accrued interest in such amounts as

the city court resolution shall be of at least five special meetings shall take effect or after such provisions of the act consistent with the provisions of this act and the general assembly of the city of Cranston the issue of bonds or to the amount of \$500,000 through sections 12.0 through 13.0 full paragraph denominations, conditions, and terms of the city of Cranston and approved by the officers authorized to execute the same from the sale of the city treasury notes and for meeting the purposes (the vote shall include all n

TITLE 45

Towns and cities

CHAPTER 45-22.4

Rhode Island Development Impact Fee Act

SECTION 45-22.4-1

§ 45-22.4-1 Title. – Chapter 22.4 of this title shall be known as the "Rhode Island Development Impact Fee Act".

History of Section.

(P.L. 2000, ch. 508, § 1.)

§ 45-22.4-2 Legislative findings and intent. – (a) Whereas, the general assembly finds that an equitable program is needed for the planning and financing of public facilities to serve new growth and development in the cities and towns in order to protect the public health, safety and general welfare of the citizens of this state.

(b) Whereas, it is therefore the public policy of the state and in the public interest that cities and towns are authorized to assess, impose, levy and collect fees defined herein as impact fees for all new development within their jurisdictional limits.

(c) Whereas, it is the intent of the general assembly by enactment of this act to:

- (1) Ensure that adequate public facilities are available to serve new growth and development;
- (2) Ensure that new growth and development does not place an undue financial burden upon existing taxpayers;
- (3) Promote orderly growth and development by establishing uniform standards for local governments to require that those who benefit from new growth and development pay a proportionate fair share of the cost of new and/or upgraded public facilities needed to serve that new growth and development;
- (4) Establish standards for the adoption of development impact fee ordinances by governmental entities;
- (5) Empower governmental entities which are authorized to adopt ordinances to impose development impact fees.

History of Section.
(P.L. 2000, ch. 508, § 1.)

§ 45-22.4-3 Definitions. – As used in this chapter, the following words have the meanings stated in this section:

(1) "Capital improvements" means improvements with a useful life of ten (10) years or more, which increases or improves the service capacity of a public facility;

(2) "Capital improvement program" means that component of a municipal budget that sets out the need for public facility capital improvements, the costs of the improvements, and proposed funding sources. A capital improvement program must cover at least a five (5) year period and should be reviewed at least every five (5) years;

(3) "Developer" means a person or legal entity undertaking development;

(4) "Governmental entity" means a unit of local government;

(5) "Impact fee" means the charge imposed upon new development by a governmental entity to fund all or a portion of the public facility's capital improvements affected by the new development from which it is collected;

(6) "Proportionate share" means that portion of the cost of system improvements which reasonably relates to the service demands and needs of the project; and

(7) "Public facilities" means:

(i) Water supply production, treatment, storage, and distribution facilities;

(ii) Wastewater and solid waste collection, treatment, and disposal facilities;

(iii) Roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and local components of state and federal highways;

(iv) Storm water collection, retention, detention, treatment, and disposal facilities, flood control facilities, bank and shore projections, and enhancement improvements;

(v) Parks, open space areas, and recreation facilities;

(vi) Police, emergency medical, rescue, and fire protection facilities;

(vii) Public schools and libraries; and

(viii) Other public facilities consistent with a community's capital improvement program.

History of Section.
(P.L. 2000, ch. 508, § 1.)

§ 45-22.4-4 Calculation of impact fees. – (a) The governmental entity considering the adoption of impact fees shall conduct a needs assessment for the type of public facility or public facilities for which impact fees are to be levied. The needs assessment shall identify levels of service standards, projected public facilities capital improvements needs, and distinguish existing needs and deficiencies from future needs. The findings of this document shall be adopted by the local governmental entity.

(b) The data sources and methodology upon which needs assessments and impact fees are based shall be made available to the public upon request.

(c) The amount of each impact fee imposed shall be based upon actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee shall be in accordance with generally accepted accounting principles.

(d) An impact fee shall meet the following requirements:

(1) The amount of the fee must be reasonably related to or reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the development; and

(2) The impact fees imposed must not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors shall be considered in determining a proportionate share of public facilities capital improvement costs:

(i) The need for public facilities' capital improvements required to serve new development, based on a capital improvements program that shows deficiencies in capital facilities serving existing development, and the means, other than impact fees, by which any existing deficiencies will be eliminated within a reasonable period of time, and that shows additional demands anticipated to be placed on specified capital facilities by new development; and

(ii) The extent to which new development is required to contribute to the cost of system improvements in the future.

History of Section.
(P.L. 2000, ch. 508, § 1.)

§ 45-22.4-5 Collection and expenditure of impact fees. – (a) The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the fees. The ordinance may consider the following requirements:

(1) Upon collection, impact fees must be deposited in a special proprietary fund, which shall be invested with all interest accruing to the trust fund;

(2) Within eight (8) years of the date of collection, impact fees shall be expended or encumbered for the construction of public facilities' capital improvements of reasonable benefit to the development paying the fees and that are consistent with the capital improvement program;

(3) Where the expenditure or encumbrance of fees is not feasible within eight (8) years, the governmental entity may retain impact fees for a longer period of time if there are compelling reasons for the longer period. In no case shall impact fees be retained longer than twelve (12) years.

(b) All impact fees imposed pursuant to the authority granted in this chapter shall be assessed upon the issuance of a building permit or other appropriate permission to proceed with development and shall be collected in full upon the issuance of the certificate of occupancy or other final action authorizing the intended use of a structure.

(c) A governmental entity may recoup costs of excess capacity in existing capital facilities, where the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented by a preconstruction assessment that demonstrated the need for the excess capacity. Nothing contained in this chapter shall prevent a municipality from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility without the preconstruction assessment so long as the impact fee was enacted at least ninety (90) days prior to July 22, 2000 and is in compliance with this chapter in all other respects pursuant to § 45-22.4-7. The fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity. That portion of an impact fee deemed recoupment is exempted from provisions of § 45-22.4-5(a)(2).

(d) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees provided that:

(1) The need for the dedication or construction is clearly documented in the community's capital improvement program or comprehensive plan;

(2) The land proposed for dedication for the facilities to be constructed are determined to be appropriate for the proposed use by the local governmental entity;

(3) Formulas and/or procedures for determining the worth of proposed dedications or constructions are established.

(e) Exemptions: Impact fees shall not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in the number of dwelling units or any other measurable unit for which an impact fee is collected. Impact fees may be imposed when property which is owned or controlled by federal or state government is converted to private ownership or control.

(1) Impact fees shall not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in the number of dwelling units or any other measurable unit for which an impact fee is collected. Impact fees may be imposed when property which is owned or controlled by federal or state government is converted to private ownership or control.

(2) Nothing in this chapter shall prevent a municipality from granting any exemption(s) which it deems appropriate.

History of Section.

(P.L. 2000, ch. 508, § 1; P.L. 2007, ch. 305, § 1; P.L. 2007, ch. 447, § 1; P.L. 2009, ch. 310, § 53.)

§ 45-22.4-6 Refund of impact fees. – (a) If impact fees are not expended or encumbered within the period established in § 45-22.4-5, the governmental entity shall refund to the fee payer or his or her successors the amount of the fee paid and accrued interest. The governmental entity shall send the refund to the fee payer at the last known address by certified mail within one year of the date on which the right to claim refund arises. All refunds due and not claimed within one year shall be retained by the municipality.

(b) When a governmental entity seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded as provided above. Upon the finding that any or all fee requirements are to be terminated, the governmental entity shall place a notice of termination and availability of refunds in a newspaper of general circulation in the community at least two (2) times. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds may be transferred to the general fund and used for any public purpose. A governmental entity is released from this notice requirement if there are no unexpended or unencumbered balances within a fund or funds being terminated.

History of Section.

(P.L. 2000, ch. 508, § 1.)

§ 45-22.4-7 Compliance. – No later than two (2) years after July 22, 2000, governmental entities shall conform all impact fee ordinances existing on July 22, 2000 to the provisions of this chapter.

History of Section.

(P.L. 2000, ch. 508, § 1; P.L. 2009, ch. 310, § 53.)

§ 45-22.4-8 Adoption of impact fees. – Impact fees shall be adopted by ordinance and the adoption of an impact fee ordinance or amendment to that ordinance shall be by affirmative vote of not less than a majority of the total membership of the governing body in attendance at the meeting, in the manner prescribed by law.

History of Section.

(P.L. 2000, ch. 508, § 1.)

§ 45-22.4-9 Severability. – If any portion of this chapter or any rule, regulation, or determination made under this chapter, or the application of this chapter to any person, agency, or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this chapter, rule, regulation, or determination and the application of those provisions to other persons, agencies, or circumstances shall not be affected. The invalidity of any section or sections, or parts of any section or sections of this chapter, shall not affect the validity of the remainder of this chapter.

History of Section.

(P.L. 2000, ch. 508, § 1.)

TITLE 45

Towns and cities

CHAPTER 45-14

Sewage Charges

SECTION 45-14-1

§ 45-14-1 Power to assess charges against users. – In addition to the powers, privileges, prerogatives, and authority that are now granted to each city and town, or any agency of a city or town, in connection with sewers or sewer systems of these municipalities, each city and town is authorized and empowered to enact ordinances assessing users of sewers or sewer systems of the cities and towns, a charge for the use of the sewers or sewer systems in an amount that bears a reasonable relation to the cost to the city or town of the service rendered to the users. All unpaid charges shall be a lien upon the real estate of the users, and the lien created hereby shall be a lien upon the house, building, tenement, lands and estate of the user in the same way and manner as taxes assessed on real estate are liens, and if not paid as required by each city and town shall be collected in the same manner that taxes assessed upon real estate are by law collected.

History of Section.

(P.L. 1947, ch. 1836, § 1; G.L. 1956, § 45-14-1; P.L. 1978, ch. 307, § 1; P.L. 1989, ch. 355, § 1; P.L. 1997, ch. 207, § 1; P.L. 1997, ch. 334, § 1; P.L. 2002, ch. 24, § 1; P.L. 2002, ch. 94, § 1; P.L. 2008, ch. 36, § 1; P.L. 2008, ch. 47, § 1; P.L. 2008, ch. 360, § 1; P.L. 2009, ch. 114, § 1; P.L. 2009, ch. 144, § 1.)

Attachment # 3

Capital Recovery Charges for Abutting Properties
Letter from James J. Geremia & Associates
August 5, 1999



JAMES J. GEREMIA & ASSOCIATES, INC.
CONSULTING ENVIRONMENTAL ENGINEERS & SCIENTISTS

August 5, 1999

Mr. Dean Narodowy
180 Pound Hill Road
North Smithfield, RI 02896

Re: Sewer Assessment Review
Capital Recovery Charges

Dear Mr. Narodowy:

Pursuant to our July Sewer Commission Meeting, I am enclosing herewith a summary of the proposed Capital Recovery Charges that were discussed.

There are three issues which should be considered in your review. The first is the fact that the fixed asset cost for the Mendon Road, North Main Street and R.I. Clean Water project areas did not provide a breakdown cost for the interceptor and pumping station. We assumed that 50% of the costs for these projects were related to the interceptor and pumping stations which were developed for the benefit of all potential users for the system. This value of 50% can be modified as the Sewer Commission feels appropriate.

The second issue relates to where the funds should be assigned once collected. During our discussions, it was discussed that a portion of the funds may be allocated to the Replacement and Renewal account and to assist in the shortfall in the Sewer Assessment Funds. Once the methodology has been approved, we recommend that the Sewer Commission review the potential allocation of these funds and that they be written into the Ordinance.

The third issue is the payment schedule. We have presented two options. The first option would allow the individual or developer to pay a one-time charge in full at the time the sewer permit was issued. The second option would allow the individual or developer to make four equal payments over a four-year period of time. The initial payment would be made at the time the permit was obtained and the remaining three payments would be made over the next three-year periods. The Sewer Commission should consider an assessment of an interest rate that would be appropriate on the unpaid balance. Again, the schedule of repayment can be modified as the Sewer Commission recommends.

NSVTC199008-2.LTR

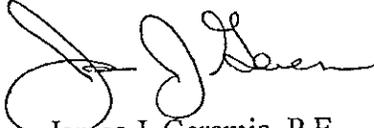
Mr. Dean Narodowy

August 5, 1999
Page 2

In the interim, should you have any questions with regards to this, please do not hesitate to contact me. I look forward to discussing this with you at the September Sewer Commission meeting.

Very truly yours,

JAMES J. GEREMIA & ASSOCIATES, INC.



James J. Geremia, P.E.
Principal



CAPITAL RECOVERY CHARGES FOR ABUTTING PROPERTIES

Based upon our discussion with the Sewer Commission, we are recommending that the Town adopt Capital Recovery Charges for all properties that connect to publicly-owned sewers wherein a specific sewer district (assessment) does not apply (i.e., sewer systems that are installed by private developers and then either remain privately operated, or are dedicated to the Town for ownership, operation and maintenance). Capital Recovery Charges will be established as a one-time charge assessed against a developer or an individual as a way to recover a part of the cost of additional system capacity previously constructed for their use. The new capital required for replacing the existing infrastructure could then be set aside for future capital maintenance and operation, and to make up the shortfall in the bond repayments.

From our previous meeting, we have discussed the objectives of the Capital Recovery Charge structure, focusing on policy and technical issues of concern to the Sewer Commission.

- What methodology should be used in determining the charge?
- What facilities (pumping stations, collection system treatment) should be used in calculating the fees?
- What period of time should be used in the determining the charges?
- Should these charges offset the present shortfall in debt services, or should these charges be set aside for future capital needs?
- Should the charge be established on a system-wide basis, or should there be separate charges for specific for each of the sewer districts?

Incorporated with the program objectives, the following criteria were factored into the evaluation process:

- *Equity:* The fees must be equitable to those who benefit from the services.
- *Revenue potential:* The fees must be sufficient to address the Town's capital requirements.
- *Potential for litigation:* The issues raised by developers must be addressed to prevent the potential litigation.

- *Simplicity:* The capital recovery charge structure must be set up to permit updates in future years.
- *Legality:* The capital recovery charge structure must comply with the appropriate local, state and federal requirements.
- *Impact on economic development:* The implementation of a capital recovery charge structure must not pose an unfair burden on future growth.

The advantages of the proposed system over the Town's former process is that:

- The charges are paid over a much shorter duration (one to four years) which will enable the Town to provide additional services immediately.
- It will be much easier to administrate.
- The charges are an equalization device. They require new development or customers to "buy into" the Town's public infrastructure at a fair rate.
- The charges impose the cost of extra capacity for infrastructure facilities upon properties that create the need for those facilities.
- The charges provide an additional source of revenue to bolster otherwise inadequate funds for maintaining essential facilities. As a result, less pressure is placed on user charges for financing capital items.

Numerous approaches to developing capital recovery charges have been discussed with the Sewer Commissions. The major goal in selecting a capital recovery charge methodology was to select an approach which provides equity to existing and future customers and is legally defensible. The Commission has selected the approach where the capital recovery charges are based upon the "buy-in" concept that existing users through their sewer assessments have developed a valuable public capital facility. The charge to the abutting user is computed by establishing a fixed value under a historical or reproduction cost basis and deducting relevant liabilities (long term debt) from this amount. The number of units to potentially be served is then divided into this difference to establish the capital recovery charge.

Once the charges have been established, they will be structured around a single family residential unit as the basis for assessment, and all other facilities (i.e., industrial, commercial duplex or multi-story units) will be

based on the equivalent dwelling unit (EDU). Under the EDU approach, the average residential wastewater projections will be divided into the projected wastewater flows for the commercial facility to arrive at the appropriate EDU for assessment.

Capital recovery charges will be established by the adoption of the revised local ordinance.

The payment of the charge may be paid immediately upon receipt of an application for a sewer permit, or it may be paid in equal payments over four years. The first payment will be due immediately upon receipt of an application for a sewer permit and the remaining three payments would be collected over the subsequent three years at a 10% interest on the unpaid balance. Since this charge is an assessment levied by the Town, the Town could be able to bring to tax sale all delinquent accounts. This would ensure that if the property is sold during that four year period, the remaining charges would remain with the property and new owner.

The Town Auditor, Bacon & Edge, has provided a depreciation schedule which presents the historic value of each sewer project and the accumulated depreciation for each sewer project (Table 1). The historical value (or acquisition cost) are the costs incurred by the Town at the time the projects were constructed. To accurately reflect present worth of the infrastructure, we have escalated these costs using the Engineering News Record's (ENR) cost index which trend the construction cost increase since 1908. The next set was to identify those segments of the fixed assets that related to interceptors, pumping stations and treatment plant costs that would benefit all potential users of the system. The 1979 sewer interceptor project clearly related to interceptors, pumping stations and treatment plant. The other construction projects were not as well defined, therefore, we have assumed that 50% of the Mendon Road, North Main St. and the R.I. Clean Water costs relate to interceptors or pumping stations. Table 2 presents a breakdown of those costs in 1999 dollars. The total of \$11,129,285.04 should be shared by all potential users. The potential number of sewer users over the twenty-year planning period is 3,257 minus the current 1,292 dwelling units. The 3,257 figure was developed as part of the facilities planning for the next twenty-year period. Based upon the "buy-in" philosophy, there can be as many as 2,005 new dwelling units connecting to the present infrastructure. Distributing the total cost of \$11,129,285.04 over the potential 2,005 dwelling units, this translates to unit cost of \$5,550 per unit.

TABLE 1
ENTERPRISE FUND - SEWER ASSESSMENT FUND
FIXED ASSET SCHEDULE
TOWN OF NORTH SMITHFIELD
6/30/98

Year Acquired	Asset Description	Est. Life	Acquisition Cost	Accumulated Depreciation FYE 6/30/96	Depreciation Expense FYE 6/30/97	Accumulated Depreciation FYE 6/30/97	Depreciation Expense FYE 6/30/98	Accumulated Depreciation FYE 6/30/98
07/01/1991	Mendon-Project	50	663,334.53	66,333.45	13,266.69	79,600.14	13,266.69	92,866.83
01/01/1993	Giffalian-Project	50	9,316.00	636.96	186.32	823.28	186.32	1,009.60
07/01/1991	Forestdale-Project	50	2,871.92	287.16	57.44	344.60	57.44	402.04
1994/1995	RI Clean Water-Project	50	2,998,048.03	59,960.96	59,960.86	119,921.92	59,960.96	179,882.88
07/01/1991	Project-Sewer North Main	50	394,525.26	39,452.54	7,890.61	47,343.04	7,890.51	55,233.55
07/01/1979	Project-Sewer Interceptor	50	7,122,124.00	2,411,072.48	142,442.48	2,553,514.96	142,442.48	2,695,957.44
07/01/1979	Project-Sewer Lateral	50	2,708,480.00	928,864.60	54,169.60	983,034.20	54,169.60	1,037,203.80
	Subtotal Projects		13,898,699.74	3,506,608.14	277,973.99	3,784,582.14	277,973.99	4,062,556.13

Source: Bacon & Edge depreciation worksheet

**TABLE 2
PRESENT WORTH OF THE FIXED ASSETS**

Project	Construction Year	Acquisition Cost ¹	Accumulated Depreciation ²	Remaining Value	Cost Index ²	Escalations ³	Present Worth 1999	Interceptor Cost 1999 \$
Mendon Rd.	1991	663,334.53	92,866.83	570,467.70	4830	1.2611	719,403.47	359,701.74
Giffalan	1993	9,316.00	1,009.60	8,306.40	5210	1.1691	9,710.99	
Forestdale	1991	2,871.92	402.04	2,469.88	4830	1.2611	3,114.71	
RI Clean Water	1995	2,998,048.03	179,882.88	2,818,165.15	5470	1.1135	3,138,106.75	1,569,053.38
Sewer North Main	1991	394,525.26	55,233.55	339,291.71	4830	1.2611	427,872.84	213,936.42
Sewer Interceptor	1979	7,122,124.00	2,695,957.44	4,426,166.56	3000	2.0303	8,986,593.51	8,986,593.51
Sewer Laterals	1979	2,708,480.00	1,037,203.80	1,671,276.20	3000	2.0303	3,393,247.78	
		13,898,699.74	4,062,556.13	9,836,143.61			16,678,050.05	11,129,285.04

Source:

¹ Bacon & Edge Audit Report (Sewer Assessment Fixed Asset Schedule)

² ENR Cost Index, published through August 1999

³ Escalation Factor = $\frac{\text{ENR Cost Index August 1999}}{\text{ENR Cost Index for Year of Construction}}$

Note: August 1999 ENR Cost Index 6091

Interceptor reflects project components installed for the benefit of all potential users

Attachment # 4

Example Illustration of Table of Use Categories for Assigning EDUs

Example EDU calculation table for illustrative purposes only; 1 Unit EDU equal to 200 GPD

Use	Residential		Retail	Office	Restaurant	Industrial
	Single Family	Multi Family				
EDU Block	SF Floor Space	# BRMs	SF Floor Space	SF Floor Space	Seats	GPD
.75	<1400	≤2				
1.0	1400 to <2000	3	<5000	<5,000	<20	<300
1.25	2000 to 3000	4				-
1.5	3000 and above	5				
2		6	5K to <16K	4K to <16K	20 to <50	300 to <600
3		7 to 9	16 K to <20K	16K to <24K	50 to < 80	600 to <900
4		10 to 12	20K to < 32K	24K to <32K	80 to < 110	900 to < 1200
5		13 to 16	32 K to < 44K	32K to <40K	110 to < 140	1200 to < 1500
6		17 to 18	44K to < 56K	40K to <48K	140 to < 170	1500 to < 1800
7		19 to 22	56K to < 68K	48K to <56K	170 to < 200	1800 to < 2100
8		23 to 25	68K to <80K	56K to <64K	200 to < 230	2100 to < 2500
9		26 to 28	80K to < 92K	64K to <72K	230 to <260	2500 to < 2800
10		29 to 31	92K to 103K	72,000 to 80K	260 to < 290	2800 to < 3100
10 plus overage		1.0 per 3 BRMs over 31	1.0 per 10,400 SF over 103K SF	1.0 per 8K SF over 80K SF	1.0 per 30 seats over 290 seats	1.0 per 300 GPD over 3100 gpd

Attachment # 5

List of Other Issues to Review in Sewer Ordinance Amendment



List of Other Issues to Review in Sewer Ordinance Amendment

- 1) Birch Hill/School District assessment provisions are missing from ordinance.
 - 2) Section 8-35.4(a)(6) contains language that is ambiguous as to how unimproved lots should be assessed when developed.
 - 3) The enabling legislation specifies a minimum payment schedule of 10 years for any levied assessments and that interest shall be charged. The Sewer Lot Development Assessment (8-35.6) requires a payback over 4 years with no interest.
 - 4) The Mendon District land valuation assessment was changed to \$81.62.
 - 5) Assessments are recalculated when new buildings are added to an assessed lot. Currently, the interest payments made by a property owner on any past assessment are excluded from the recalculation. Consideration should be given to including both principal and interest payments in any recalculation.
-

Attachment # 6

Miscellaneous Attachments

- Sewer Commission Minutes 10/13/99
 - Finance Director Letter 11/2/99
 - RIDEM OWTS Regulation Excerpt
 - Town of Narragansett Ordinance Excerpt
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NORTH SMITHFIELD SEWER COMMISSION

October 13, 1999

The North Smithfield Sewer Commission met on Wednesday, October 13, 1999, at 7:00 PM at the Municipal Annex, 575 Smithfield Road, North Smithfield, RI.

The following Commission members were present: Paul Nordstrom, Dean Narodowy, Suzanne Merritt. Absent were Dennis Peloquin and James DeCelles, Water & Sewer Superintendent. Louis Jackvony, town solicitor was present as well as the Finance Director, Richard Erickson.

Mr. Erickson, Finance Director, first presented information to the Commission with regard to the lease of the Woonsocket Wastewater Treatment Facility. He informed the Commission that the Woonsocket Wastewater Treatment Facility was not sold, that the equipment was being leased and for a 20 year lease there are certain obligations to upgrade the equipment. In addition there was a "good faith" payment made to the four communities, North Smithfield's share being \$400,000. He stated the money was put in an interest bearing account, but within twenty days the debt service payments that the Town has on Ironstone I and Ironstone II came due, and the collections that were received were not sufficient to pay the debt service. Therefore, Mr. Erickson informed the Commission that he had to draw down from the \$400,000 to loan the money to the sewer assessment account to pay this debt service. He further stated that the Maple, Birchill and School St. district rates set by the Town Council were always understood to be less than the outstanding liability, and the "anticipated future growth" that was factored in would alleviate this shortfall. He stressed the anticipated growth has not materialized so the monies are being made up from US Filter.

In response to a question from Chairman Narodowy, Mr. Erickson indicated he had received the monies from the Woonsocket Wastewater Treatment Facility in July and there was a shortfall of approximately \$60,000 for Ironstone I and Ironstone II, and it could be \$80,000 to \$100,000 to cover the shortfalls in all districts. Mr. Erickson testified that the \$400,000 would be used within approximately 3 years to cover the shortfalls in the sewer assessments.

The town solicitor suggested that the Commission report to the Town Council that the sewer assessments cannot be undercut, as the anticipated future growth cannot be guaranteed. Further, that the flat rate is not sufficient to cover the notes as they come due, there will be a shortfall of \$60,000 to \$100,000 from all districts and the Council has got to come up with a way to foster growth to cover this debt.

Mr. Nordstrom also suggested that it is time to inform the new Council (a) why the ordinance needs to be updated, (b) why it is important to have a connection fee, (c) why it is important to have a Replacement Account and (d) the impact that has occurred

October 13, 1999
Page Two

with the previous Council adjusting the sewer assessment fees based on future anticipated growth.

Chairman Narodowy then requested Mr. Erickson to compose a letter for the November 10 meeting summarizing the shortfalls from Ironstone I and Ironstone II, as well as any other districts that are not meeting their numbers on a yearly basis, indicating how much the sewer assessments will be short over the next several years.

Mr. Erickson stated he felt it was the Sewer Commission's responsibility to protect the \$400,000 and because of decisions made by the Council in the past, and because of the fact that anticipated growth did not materialize, the Council should be made aware that they can't spend that money on anything other than debt service. Further, growth has to occur or otherwise approximately \$4,000,000 will have to be funded from some other source.

Attorney Jackvony stated there has to be planned growth in town to help alleviate the potential problems being faced by the sewer assessments.

Chairman Narodowy suggested that Dan Andrews be invited to the next Sewer Commission meeting on November 10 so he will be apprised of the current situation regarding the benefits received from the Wastewater Treatment Facility and the potential shortfall the Town is facing. It was felt Mr. Erickson should also attend to answer any questions.

The next item on the agenda was a review of James Geremia's working draft of the new ordinance. In this regard, Mr. Nordstrom noted it addressed all the issues and problems that have arisen with the current ordinance and at the next meeting the Commission should be poised to address any loose ends that arise when reviewing it.

After a review of the minutes of September 8, 1999, Mr. Nordstrom made motion, seconded by Mr. Narodowy, to approve the same as written; passed unanimously.

Under Old Business, Chairman Narodowy informed the Commission he appeared before Town Council to present the abatement sought by Mr. and Mrs. Daltorio. He informed the Commission that the Council did grant their abatement as requested, leaving them with an assessment of \$2,000.

There was no New Business.

Under Correspondence and Communications, Chairman Narodowy noted that any Commission member should feel free to call Mr. Jeremia at 454-7000 should they have any questions with regard to his draft of the ordinance.

Page Three
October 13, 1999

There being no further business, Ms. Merritt made motion to seal the minutes of October 13, 1999, until approved; seconded by Mr. Narodowy; passed unanimously.

Thereupon, motion was made; duly seconded, and unanimously voted, to adjourn.
Adjourned at 8:40 PM.

Respectfully submitted,

: Marjorie G. Therrien, Clerk
North Smithfield Sewer Commission

Town of North Smithfield

Office of the Finance Director

Richard F. Erickson
Finance Director

North Smithfield Sewer Commission
1 Main Street
Slatersville, RI 02876

11/2/99

Dear Sewer Commission

At your last meeting you asked me to provide you the financial impact of procedure of using the assessment rates for the Forestdale/Birchhill and the Ironstone districts.

The shortfall in the Forestdale/Birchhill district will be	\$ 589,392.37
The shortfall in the Ironstone district will be	\$ 2,909,157.26

The cash flow effect, not enough funds to pay the loan, of the above will occur when the September 2000 becomes due.

Sincerely



Richard F Erickson
Finance Director



Excerpt from RIDEM OWTS regulations. The Wastewater Flows contained herein are used in assigning design flows for out-of district uses.

20.2.6 Certification- The Subdivision Site Suitability Certification shall be accompanied by a certification, on a form approved by the Director, that the work was conducted in a manner consistent with these Rules and that it is an accurate portrayal of site conditions. If more than one individual licensed under these Rules participated in the development of the subdivision site suitability report, the report must specify who prepared which part and include a certification from each licensee.

20.3 Expiration of Subdivision Site Suitability Certification-

20.3.1 Except for permits eligible for tolling pursuant to R.I. Gen. Laws §42-17.1-2.5 as provided in Rule 20.3.2, a Subdivision Site Suitability Certification shall expire five (5) years from the date of issuance unless the subdivision has been platted or recorded as evidenced by the submission of a copy of the recorded subdivision plat map. After expiration, certification may be obtained only by reapplying under the Rules in effect at the time of re-application. Once a subdivision has been platted or recorded, no further certification shall be required and all lots may proceed with the application process for their OWTS in accordance with these Rules.

(A) In the event that there is any change in the configuration of any lot or road depicted in an approved Subdivision Site Suitability Certification, the applicant shall submit revised subdivision layout plans to the Department for its review. If the changes to the subdivision are found to be substantial, the Director may order the applicant to apply for a new Subdivision Site Suitability Certification based on the new plans.

(B) Whenever the configuration of any lot or road in a subdivision depicted in an approved Subdivision Site Suitability Certification is altered so as to affect twenty-five percent (25%) or more of the original lots, a new Application for Subdivision Site Suitability Certification shall be submitted.

20.3.2 Subdivision Site Suitability Certifications that were valid on, or issued after November 9, 2009 that are subject to tolling pursuant to R.I. Gen. Laws §42-17.1-2.5 shall be tolled for the period provided by R.I. Gen. Laws §42-17.1-2.5 and expire on the date five (5) years after approval plus the tolling period in accordance with said statute, unless the subdivision has been platted or recorded as evidenced by the submission of a copy of the recorded subdivision plat map.

RULE 21. WASTEWATER FLOW

21.1 Determination of Wastewater Flow

21.1.1 An OWTS must be designed to dispose of the estimated maximum daily flow from the building(s) it serves. The maximum daily flow is estimated by multiplying flow per unit from Table 21.1 by the maximum design capacity of the building. For facilities with more than one use listed in Table 21.1 (e.g., a retail store with a restaurant), the maximum daily flow for the facility shall be the total of the flows from the separate uses using Table 21.1. The employee contribution to the design flow shall be included for non-residential uses other than restaurants by estimating the maximum number of employees who may be present during a single day of operation multiplied by a design flow of 15 gallons per person per day.

21.1.2 For establishments not listed in Table 21.1, the maximum daily flow shall be determined by either of the following:

(A) Two (2) times the average daily meter reading taken from a minimum of two (2) comparable establishments for one (1) month during the period of the year that represents the greatest water use for the establishment; or

(B) If six (6) months of daily meter readings are available for a minimum of two (2) comparable establishments that includes the period of the year that represents the greatest water use for the establishment, the OWTS shall be designed using the highest daily flow without the use of a peaking factor.

Table 21.1 Wastewater Design Flows

<u>TYPE OF USE</u>	<u>UNIT</u>	<u>GALLONS PER DAY</u>
--------------------	-------------	------------------------

RESIDENTIAL

[Minimum design flow for residential use shall be three hundred forty-five (345) gallons per day (three (3) bedrooms), unless otherwise permitted in accordance with Rule 21.2.5.]

Single family residence	per bedroom (2 persons per bedroom)	115
Multiple family residence	per bedroom (2 persons per bedroom)	115

INSTITUTIONAL

Assisted living facility	per bedroom (2 persons per bedroom)	115
Church	per seat	1
Church hall (fellowship hall)	per seat	5
Hospital	per bed	150
Library	per visitor	5
Nursing home/rest home	per bed	125
Group home	per bed	200
Correctional, rehabilitation facility	per bed	100
Gymnasium	per seat	3
Gymnasium	per participant	15
Highway rest stop	per person	5
Public park with toilets	per person	5
add for showers	per person	10

CAMPS AND CAMPGROUNDS

Day camp	per person	15
add for mess hall	per person/meal	3
Camp - overnight	per person	25
add for mess hall	per person/meal	3
Campground with washroom and toilets	per site	50
Recreational vehicle park with water service	per site	100
Add for central dining facilities	per seat	35
Recreational vehicle park without water service	per site	50
Add for central dining facilities	per seat	35

Add for central washroom and toilet facilities	per site	50
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SCHOOLS

School	per person	10
add for cafeteria	per person	5
add for gymnasium and showers	per person	10
Boarding school, college	per person	50
Day care center	per person	10

RESTAURANTS

[Minimum design flow for restaurants shall be 500 gallons per day.]

Restaurant	per seat	40
Restaurant – with single-service articles		
with public restrooms	per seat	25
without public restrooms	per seat	20
add for drive-up window		500
Lounge, bar (no food service at that seat)	per seat	10
Banquet hall	per seat	5
Ice cream parlor, take out service only	per store	500

COMMERCIAL

[Minimum design flow for commercial use shall be 100 gallons per day]

Auto service station	per pump	25
	per repair bay	100
Barber shop/Beauty salon	per chair	50
add for sink	per hair care sink	200
Bed & Breakfast	per bedroom	110
Bowling alley	per alley	100
Catering kitchen, no food service on-site	per meal prepared	3
Country club		
dining room	per seat	40
snack bar/lounge	per seat	20
lockers and showers	per locker	20
Doctors /Chiropractor/ Therapist office	per doctor/chiropractor/therapist	250
Dog/Pet grooming	per station	500
Dentist office	per chair	200
Drive-in theater	per vehicle stall	5
Factory/Industrial plant	per person	15
add for cafeteria	per person	5
Food store < 5,000 square feet (See Note 1)	per store	350
add for deli flow	per store	100
add for bakery flow	per store	100
add for meat dept. flow	per store	150
add for fish market flow	per store	150

add for public restrooms	per store	200
Food store > 5,000 square feet (See Note 1)	per store	700
add	per square foot >5,000 sq ft	0.05
add for deli flow	per store	200
add for bakery flow	per store	200
add for meat dept. flow	per store	300
add for fish market flow	per store	300
add for public restrooms	per store	400
Funeral home	per parlor	500
Hotel, motel	per unit	100
With efficiency units	per unit	150
Health club	per participant	15
Kennel	per kennel	10
Marina (shore-side facilities)	per slip	10
add for showers	per slip	10
Mobile home park/Manufactured home park	per site	230
Office building	per employee	15
Retail store	per employee	15
Rooming house/Boarding house	per bedroom	80
Self-Service Laundry (See Note 2)	per machine	500
Shopping center/Strip mall/Multi-use retail		
Calculate on the largest of either:		
a) the total flow for the uses within as determined from this table, or		
b) per square foot	per square foot	0.1
Skating rink	per seat	3
Swimming pool	per person	15
Tennis court - outdoor	per court	100
Tennis court - indoor	per court	400
Theater, auditorium	per seat	3
Veterinary office	per veterinarian	200

NOTES:

(1) The design flow for a stand alone deli, bakery, meat store or fish market will be three hundred fifty (350) gallons per day if the facility is less than five thousand (5,000) square feet or seven hundred (700) gallons per day if the facility is five thousand (5,000) square feet or more.

(2) Self-Service laundry OWTS designs must include pretreatment to remove lint from the wastewater.

21.2 Determining the Number of Bedrooms in a Single Family Residential Dwelling- For purposes of aiding the planning, designing, building, renovation, remodeling or expansion of residential dwellings, the following guidelines shall be used in determining the number of bedrooms. These guidelines are presented in acknowledgement that, in many cases, houses contain rooms meeting the strict definition of bedroom as defined in these Rules, but which are not intended to be nor will be used as bedrooms.

21.2.1 No residence served by an OWTS shall be allowed to have more bedrooms than is permitted under the Department issued permit for the OWTS serving the dwelling. A dwelling exceeding the number of bedrooms provided for in the permit shall be in violation of these Rules.

21.2.2 In determining the number of bedrooms contained in any residence, it shall be presumed that all residences contain a living room, a kitchen, a bathroom and at least one (1) bedroom.

21.2.3 For OWTSS installed without state approval, OWTSS installed prior to April 9, 1968 and cesspools, the determination on number of bedrooms shall be based on the consideration of municipal records, floor plans and the guidelines herein. In the case of a one (1) bedroom residence, the determination shall be based on municipal records.

21.2.4 When a determination of the number of bedrooms shall be based on total number of rooms, Table 21.2 shall be used. Foyers, closets, bathrooms and rooms without windows are not counted as rooms in Table 21.2. Functionally combined kitchens/dining rooms and living/dining rooms greater than three hundred (300) square feet shall be counted as two (2) rooms. Table 21.2 may be used by applicants for any OWTSS application to the Department.

Table 21.2 Determination of Number of Bedrooms

Total Number of Rooms	Assumed Number of Bedrooms
5 or less	2
6-7	3
8-10	4
11-12	5
13 or more	6

21.2.5 The Director may permit the filing of a deed restriction by which an applicant may self-restrict the use of a residence to one less bedroom than may be determined in accordance with Table 21.2. In no case shall the deed restriction be for less than two bedrooms. The Director may consider the gross square footage of a residence as a factor against granting a bedroom restriction by deed.

21.3 Separate OWTSS- Where residential uses need to install separate OWTSS, the following proportions of the total flow shall be used unless there is definite data available as to the exact distribution of flow: blackwater forty percent (40%) and graywater sixty percent (60%). If a separate system is used for laundry wastes, it shall be designed on twenty percent (20%) of the total flow.

21.4 Misrepresented Applications- An OWTSS Application that has been approved but later shown to contain faulty or misrepresented information shall not, in and of itself, be used to determine the number of bedrooms in a residential dwelling or the design flow for a non-residential structure.

DIVISION 8. SEWER LOT DEVELOPMENT FEE

Sec. 78-401. Statement of purpose.

- (a) The town has incurred and will continue to incur great expense to install and improve a public sewer system in certain areas of the town.
- (b) Owners of buildable lots adjacent to the public sewer system have been charged a sewer assessment for each such buildable lot.
- (c) There are many parcels of real property, improved and unimproved, which are not adjacent to the public sewer system, or are adjacent but have not yet connected to the public sewer system but which, in the future, may connect into the public sewer system without being charged a sewer assessment.
- (d) The town intends to distribute the cost of construction, improvements, maintenance and operating costs of the public sewer system in a manner which is fair and equitable to all property owners who connect into and make use of the public sewer system.
- (e) A sewer lot development fee, so-called, shall be assessed in accordance with the provisions of this division against all property owners who request to or who are required to connect into the public sewer system and whose lot or units have not been charged a sewer assessment on an individual basis.

(Code 1986, § 20-361)

Sec. 78-402. Levied.

- (a) In the case of an unimproved residential lot or in the case of a lot with an existing residential building, the applicant for a sewer connection permit shall pay a sewer lot development fee of \$3,500.00 per lot or per unit, whichever is applicable, as a precondition to the issuance of the sewer connection permit. At the option of the applicant, the fee of \$3,500.00 for each lot or unit may be paid in four annual installments of \$875.00 each, together with interest on the unpaid balance at the rate of 12 per centum per annum.
- (b) In the case of commercial units (except restaurants) the applicant for a sewer connection permit shall pay a sewer lot development fee of \$0.80 per square foot of overall floor space for each such commercial unit.
- (c) In the case of restaurants and industrial units, and except as provided for below, the applicant for a sewer connection permit shall pay a sewer lot development fee of \$1.00 per square foot of overall floor space. In the case of applicants who at the time of application and each year thereafter use less than 40,000 cubic feet of water per year, the \$1.00 per square foot fee shall only be assessed against the first 30,000 square feet of floor space. If the applicant's or its successor's or assign's water usage in any year exceeds 40,000 cubic feet per year, then the sewer lot development fee shall be recalculated and reassessed based upon the total square feet of the overall floor space without limitations.

(d)

- (1) Industrial users whose projected total sewage flow is less than or equal to the flow from an equivalent single dwelling unit (450 gallons per day, or 22,000 cubic feet per year) and who do not propose to discharge any process-related sewage flow may petition the town council in writing for a reduction in their sewer lot development fee. The minimum sewer lot development fee levied against an industrial user shall be the same as the residential sewer lot development fee for a single lot or unit, as provided for in subsection 78-402(a).
- (2) Any change in use proposed by the industrial user that results in water usage in excess of 22,000 cubic feet per year and/or the discharge of process-related sewage flow will result in the review of any such reduction that may have been granted, and an adjustment to the calculated sewer lot development fee may be made at the sole discretion of the town.

(e) When the overall square footage of the commercial, restaurant or industrial unit is equal to or greater than 10,000 square feet, at the option of the applicant, the sewer lot development fee may be paid in four annual installments, together with interest on the unpaid balance at the rate of 12 per centum per annum.

(f) For the purpose of this division, industrial units are defined as those uses or units located on a parcel of real estate which are zoned as I-A or I-B on the official zoning map of the town.

(g) In the case of an unimproved residential lot or in the case of a lot with an existing residential building within the area known as Envine Estates and further described by ordinance number chapter 580, an ordinance relating to the construction of sewers by private parties in the Envine Estates area of assessor's plat N-G, the applicant for a sewer connection permit, if applied for prior to November 1, 1989, shall pay a sewer lot development fee of \$1,000.00 per lot or per unit, whichever is applicable, as a precondition to the issuance of the sewer connection permit. At the option of the applicant, the fee of \$1,000.00 for each lot or unit may be paid in four annual installments of \$250.00 each, together with interest on the unpaid balance at the rate of six per centum per annum.

(h) The town council may waive the sewer lot development fee from local government divisions within the town.

(Code 1986, § 20-362; Ch. 863, § 1, 7-18-2005)