

## Chapter 8

### HEALTH AND SANITATION\*

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\* **State Law References:** Vesting of authority in state, G.L. 1956, § 23-2-16.

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### **ARTICLE I.**

### **IN GENERAL**

#### **Sec. 8-1. Public assistance; adoption of law.**

The town council on behalf of the town hereby accepts the provisions of Chapter 40-9, General Laws of 1956, relating to public assistance.  
(Res. of 11-28-61)

#### **Sec. 8-2. Reserved.**

**Editors Note:** An ordinance passed Nov. 10, 1997, deleted § 8-2, which prohibited new tie-ins, etc., to the Slatersville Water System and which derived from an ordinance of Nov. 20, 1972.

#### **Sec. 8-3. Water-municipal fee-multifamily.**

The finance director, with the approval of the town council of the Town of North Smithfield, is hereby

authorized to collect a one-time municipal fee from all newly constructed and newly created multifamily developments of 12 or more units or such units created in existing structures at the rate of \$2,500.00 per unit. The purpose of said municipal fee is to fund a portion of the costs of supplying sufficient water to meet the increasing demands for water caused by the cumulative effect of such multifamily development being supplied water within town limits. Said municipal fee shall be separate and apart and in addition to any other fees, permits, and the like, associated with such multifamily developments. Further, said municipal fee is to be held separate and apart from other water accounts. Said fee shall be paid after approval of application for water but before initiation of water service and before the issuance of building permit.

(Ord. of 12-3-91)

**Sec. 8-3.1. Placement of funds.**

Revenues received from section 8-3 shall be paid to the finance director and placed in the water reserve account or such other account or funds as the council may direct.

(Ord. of 12-3-91)

**Secs. 8-4--8-19. Reserved.**

**ARTICLE II.**

**ACCUMULATIONS OF FILTH OR REFUSE\***

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\* **Cross References:** Disposal of dead animals, § 3-3.

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**Sec. 8-20. Accumulations on premises.**

No person shall permit filth or filthy water to collect on the premises owned or occupied by him, or permit filthy water to run therefrom into any street, lane, square, highway or other public place in the town.

(Code 1948, Ch. VI, § 30)

**Cross References:** Ashes, etc., § 14-3; merchandise, § 11-1.

**Sec. 8-21. Dumping--At approved places only.**

No person shall deposit or dump or suffer or permit to be deposited or dumped any rubbish or refuse of any kind at any place within the town, except at such places approved for this purpose by the town council.

(Code 1948, Ch. VI, § 47; Ord. of 5-4-70)

**State Law References:** Offense of littering, G.L. 1956, §§ 31-22-9, 37-15-1--37-15-6.

**Sec. 8-22. Same--From outside town.**

No person shall transport or cause to be transported into the town from any place outside the town any rubbish or refuse of any kind and there dump or cause to be dumped such rubbish or refuse; and no person, being a resident of the town, shall suffer or permit any such rubbish or refuse so transported into the town to be dumped or deposited on any premises owned or occupied by him.

(Code 1948, Ch. VI, § 49; Ord. of 5-4-70)

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

### **ARTICLE III.**

#### **SEWERS AND SEWAGE DISPOSAL\***

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\* **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.

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#### **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 (LC<sub>50</sub>) 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)

(h) *Waiver of sewer use charges.* Notwithstanding the foregoing, the Sewer Commission shall waive the sewer use charges for an accessory family dwelling unit as defined in **Section 5.6.3.9** of the North Smithfield Zoning Ordinance; provided that the record owner files an affidavit with the Water and Sewer Department signed under the pains and penalties of perjury stating that such dwelling unit is vacant and unoccupied. If the dwelling unit becomes occupied during said year, the record owner will notify the North Smithfield Sewer Department forthwith. The record owner shall file an updated affidavit annually thereafter by June 1, or the waiver of sewer use charges will be terminated. Any false material representation may be considered to be a misdemeanor pursuant to RIGL 11-18-1. (Ord. of 4-23-18)

### **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 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. 8-35.4. 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 course of their daily living, the disposal of which the governing body of this town has undertaken in the discharge of its duties to protect the health of the town. Municipal solid waste does not include solid waste generated by employment or that generated by any manufacturing or commercial enterprise.

*Recyclable materials* shall mean materials separated from municipal solid waste for reuse as specified by the director of DEM and listed in Section 4 of the municipal recycling regulations and within this article. The materials to be included may change from time to time depending upon new technologies, economic conditions, waste stream characteristics, environmental effects or mutual agreement between the state and municipalities. These materials include but are not limited to: glass, food and beverage containers, newspapers, glass and metal and such other materials as may be listed by the director of public works of the Town of North Smithfield and the town recycling coordinator and added to this article by amendment passed by the town council from time to time.

*Resident* shall mean any person whose principal place of residence is within the corporate limits of the town and who generated solid waste for which the town presently accepts responsibility for disposal.

*Sludge* shall mean any matter obtained from a cesspool, or septic tank.

*Solid waste* shall mean garbage, refuse and other discarded solid materials generated by residential sources but not including solids or dissolved material in domestic sewage or sludge, nor hazardous waste as defined in the Hazardous Waste Management Act, Chapter 19.1 of the General Laws.

*Source separation* shall mean the removal by the generator of recyclable materials including mixed recyclables from all other solid waste generated by the household and conveyance of the recyclables to the curbside or other designated location by the municipality or its agents.

*White goods* shall mean major kitchen or laundry appliances including, but not limited to stoves, washers, refrigerators and dryers. Nothing in this definition shall waive compliance with the rules and regulations for generation, transportation, storage and disposal of hazardous waste.  
(Ord. of 8-7-90)

#### **Sec. 8-41. Implementation.**

There is hereby established a program for the mandatory separation of certain recyclable materials from municipal solid waste by the residents of North Smithfield and the collection of segregated solid waste at the town's curbside or at other specified locations. The collection of separate recyclables shall be made periodically

under the supervision of the director of public works and the recycling coordinator.  
(Ord. of 8-7-90)

**Sec. 8-42. Director.**

The director of public works at the direction of the town administrator shall have the responsibility and shall oversee implementation of this chapter. The director shall be responsible for providing support for the recycling coordinator to adequately perform his/her duties under state and local law.  
(Ord. of 8-7-90)

**Sec. 8-43. Recycling coordinator.**

The town administrator may appoint an individual, either part- or full-time to serve for a term co-terminus with the administrator, to provide recycling education for residents and school children and to coordinate the recycling program with the department of public works, private trash haulers and recycling centers in a manner consistent with state and federal regulation. One of the prime duties of the recycling coordinator shall be to encourage public education regarding recycling through the media and through the schools.  
(Ord. of 8-7-90; Ord. of 6-17-96)

**Sec. 8-44. Curbside collection/collection of recyclables.**

(a) The town shall provide for collection of mixed recyclables from residents in dwellings serviced by the existing curbside collection contract. The collection of mixed recyclables shall be accomplished on the same day as the collection of nonrecyclable materials.

- (1) *Special recycling containers* shall mean every property owner and/or tenant shall be provided with a special container wherein recyclables will be placed at curbside for collection as prescribed by the department of public works. If there are more recyclables than can be held in one container, the owner or tenant shall flatten those materials which can be flattened and/or place the additional recyclables that can be held in one container in a bag clearly marked "recyclables." Recyclable materials shall be prepared according to directions published by the director of public works and the recycling coordinator.
- (2) *Method of container distribution* shall mean containers shall be distributed in accordance with department of public works regulations. The initial container will be provided to each property owner and/or tenant free of charge. In the event a container must be replaced, said property owner and/or tenant shall be charged a five-dollar replacement fee.

(b) The town shall provide a schedule for the collection of recyclables from residents. Such materials shall be placed in designated containers at the curb, or at the side of the public highway which is adjacent or nearest to a resident's dwelling, as the case may be. For the purposes of this section, the recyclables to be collected are:

- (1) *Mixed recyclables.* Aluminum and steel/tin cans, aluminum foil and scrap (e.g., pie plates), metal lids, empty aerosol and paint cans, scrap metal, scrap wood, glass bottles and jars, #1 PET plastic containers, #2 HDPE plastic bottles and jugs, paper milk cartons and juice boxes; and

- (2) *Paper recyclables.* Mail, magazines and catalogs, writing paper, corrugated cardboard, paperboard (e.g., cereal boxes), newspaper, brown (kraft) paper bags, telephone directories, and textiles.

(Ord. of 8-7-90; Ord. of 6-17-96)

#### **Sec. 8-45. Compliance.**

All residents, as herein defined, shall separate recyclables from the nonrecyclable portion of their solid waste and prepare them for recycling according to directions published by the town.

(Ord. of 8-7-90)

#### **Sec. 8-46. Collection by private parties and nonprofit groups.**

Residents may separate recyclables and place the same in containers at the street line for collection by private nonprofit organizations that have been duly licensed and whose collections are reported in a manner specified by the director to be in compliance with DEM reporting requirements. The director of public works may issue permits to charitable organizations to collect recyclable materials on the condition that a report is filed by said organization detailing the weights of each material collected and provided that the director determines that said collection does not conflict with the town's recycling implementation program.

(Ord. of 8-7-90)

#### **Sec. 8-47. Penalties for noncompliance.**

(a) On the first violation for failure to separate recyclable and nonrecyclable materials or for leaving recyclables prepared in a manner inconsistent with department of public works regulations, the hauler shall pick up solid waste and attach a notice to the special recycling containers as prescribed in Section 8-44-1, advising the resident of his duties by law. A copy of said notice shall be kept by the coordinator and the director of public works. Haulers shall keep a record of the street address of those issued a warning and shall furnish this information to the department of public works.

(b) Those residents who, after receiving the initial notice of noncompliance, consistently refuse to separate their solid waste and consistently refuse to prepare recyclable materials in a manner as prescribed by the department of public works, shall receive written notification from the coordinator of their noncompliance detailing the violation of the article. They will be notified at this time that subsequent violations can result in fines.

(c) After written notification from the coordinator has been issued, said residents who continue to violate this article will be issued a second written notice that subsequent violations can result in fines.

(d) For the fourth offense, any person who violates any of the provisions of this article after oral and two written warnings shall be subject to a fine of not more than \$500.00 or by imprisonment of not more than 30 days. Each day any violation of this ordinance shall continue shall constitute a separate offense.

(Ord. of 8-7-90; Ord. of 6-17-96)

#### **Sec. 8-48. Obstructions, hazards of nuisance.**

No person having custody or control of residential premises from which garbage, rubbish or other refuse,

including recyclables is provided for disposal by the town shall permit or cause any solid waste including recyclables within his or her control to become a hazard to public travel, health or safety or to become a nuisance of any sort.

(Ord. of 8-7-90)

**Sec. 8-49. Severability.**

This article and the various parts, sentences, section and clauses hereof, are hereby declared to be severable. If any part, sentence, section of clause is adjudged invalid, it is hereby provided that the remainder of this article shall not be affected thereby.

(Ord. of 8-7-90)

**Sec. 8-50. Ownership of recyclables.**

No recyclable material which has been placed, deposited or otherwise offered for collection as provided herein, be it curbside or otherwise, shall be handled, taken, converted or otherwise disturbed by any person, except such persons licensed by the town as provided herein. Once recyclable materials have been deposited or otherwise offered for collection as provided herein, said recyclable materials become the property of the Town of North Smithfield. No person engaged in the business of separation, recovery, collection, removal, storage, or disposition of solid waste shall pick up or produce any recyclable materials as defined under this article or a valid regulation within the town except as specifically authorized by the director of public works. This restriction shall include any resident, taxpayer, or other person who might engage in such practice. Nothing in this section shall be construed as exculpating or discharging any generator of recyclable materials from its duties under law, or as subjecting the Town of North Smithfield to any liability for any materials deemed nonrecyclable, under law.

(Ord. of 8-7-90; Ord. 6-17-96)

**Sec. 8-51. Recycling by business or firms engaged in commerce.**

Commercial or business firms shall be subject to state and federal recycling regulations.

(Ord. of 6-17-96)

**Sec. 8-52. White goods.**

The director of public works or his or her designee of the town shall provide regulation for mandatory recycling of white goods.

(Ord. of 6-17-96)

**Sec. 8-53. Publication of collection schedule.**

The director of public works or his or her designee shall prominently publish the initial schedule for collection and shall publish a new schedule thereafter whenever there is a change in either materials to be collected, regulations, collection procedures, or schedules.

(Ord. of 6-17-96)

**Sec. 8-54. Licensing of haulers.**

All persons engaged in the business of collection or hauling of solid waste in the Town of North Smithfield, including recyclables, shall be licensed in compliance with the state's rules and regulations thereto. (Ord. of 6-17-96)

**Sec. 8-55. Enforcement and penalties.**

(a) It shall be the responsibility of the North Smithfield Police Department to enforce the provisions of this section.

(b) Any person, firm or corporation, whether as principal, agent, employee or otherwise who violates section 8-50 of this article shall upon conviction be fined in an amount not to exceed \$500.00, or by imprisonment not to exceed 30 days, or both. (Ord. of 6-17-96; Ord. of 11-18-02)

**Sec. 8-56. Volunteer collection of recyclable materials.**

The director of public works or his or her designee may issue permits to private parties or charitable organizations to collect recyclable materials on the condition that a report is filed by such party or organization detailing the amount of each material collected, in compliance with DEM reporting requirements and provided that the director of public works or his or her designee determines that such collection does not defeat the purpose of cost effectiveness of the town's recycling program nor conflict with the town's local implementation program. (Ord. of 6-17-96)

**Sec. 8-57. Licensed public events and festivals.**

The town shall require the separation of recyclables as a condition of licensing or authorizing public events at which significant quantities of solid waste will be generated for which the town accepts the responsibility for assuring proper disposal. With said license, the town shall require sufficient collection receptacles for expected recyclables and/or shall provide specially marked containers to be used for said recyclables at certain municipal facilities where such events normally occur. (Ord. of 6-17-96)

**Secs. 8-58--8-80. Reserved.**

**ARTICLE V.**

**GROUNDWATER WELLS**

**Sec. 8-81. Groundwater wells near Stamina Mill Site.**

(a) *Legislative findings and purpose.* It is here declared that the public health and safety requires the cessation of well construction and well pumping activity within an area here defined as the Stamina Mill Remediation District. The scope of this district has been delineated by the United States Environmental Protection Agency as that area, due to groundwater patterns and proximity to the Stamina Mill Superfund site on School Street in Forestdale, North Smithfield, whose well pumping activities have the potential capacity to draw contaminants from the groundwater affected by the site. Furthermore, each lot in the delineated area has, for many

years, been connected to a primary public water supply.

(b) No person shall install, construct or connect a groundwater well in any location within the Stamina Mill Groundwater Remediation District as defined on the attached maps, and attached schedule of included lots.

(c) No person shall use, pump from or in any way operate a groundwater well in any location within the Stamina Mill Groundwater Remediation District as defined on the attached map, and attached schedule of included lots.

(d) The building inspector is authorized to enforce the provisions of this chapter and to institute such proceedings, including proceedings to enjoin the above prohibited activities within the Stamina Mills Groundwater Remediation District, as necessary to effectuate the requirements of this chapter.

(e) Any person, firm, corporation or other entity who knowingly violates subsections (b) or (c) hereof shall be subject to a fine of not less than \$250.00, nor more than \$500.00. Each and every violation of this article, and each and every day the violation continues or is repeated, shall constitute a separate offense. All such fines shall inure to the benefit of the town.

(f) The building inspector shall give copies of any violations issued pursuant to subsections (d) or (e) above to (a) the Project Manager of the Stamina Mill Superfund Site, Office of Waste Management, Rhode Island Department of Environmental Management (RIDEM), 235 Promenade St., Providence, RI 02908, and (b) the Remedial Project Manager for the Stamina Mills Superfund Site, US Environmental Protection Agency (EPA) 1 Congress St., Suite 1100, Boston, MA 02114-2023, and shall provide written notice to the above of the repeal or modification of this article or of any judicial decision that repeals or modifies this article. The building inspector shall also provide to RIDEM and EPA an annual report on September 1 of the number and nature of violations in the prior year ending June 30. The building inspector may consult with and coordinate with RIDEM and EPA concerning the management of this article.

(g) This section shall not apply to any investigative monitoring well installed by or at the request or order of any federal, state, or local governmental authority.

(h) The town administrator shall request from the EPA, following the next EPA five-year review, and no later the January 1, 2011 substantiation of the continued necessity of this section.  
(Ord. of 5-15-06, §§ 1--8)

**Editors Note:** It should be noted that the attached maps and attached schedule of included lots were not set out at length herein, but are on file and available in the office of the town clerk.

**Secs 8-81--8-89. Reserved.**

## **ARTICLE VI.**

### **PRESERVATION AND PROTECTION OF CEMETERIES OR BURIAL GROUNDS**

#### **Sec. 8-90. Authority.**

The North Smithfield Town Council pursuant to the provisions of Rhode Island General Laws § 23-18-11 and § 23-18-11.1 adopts the following regulations and standards to govern the protection of all cemeteries, burial

sites or burial grounds, whether recorded or unrecorded under Rhode Island General Laws § 23-18-10.1, and whether marked or unmarked and located within the Town of North Smithfield. These regulations and standards shall not apply to the ordinary installation of gravesites or of monuments, markers, or mausoleums. Further, these regulations and standards shall not apply to the routine maintenance and repair of cemeteries or individual grave sites or the use of such cemeteries nor shall these regulations be construed to interfere in any way with a descendant's visiting or otherwise decorating or leaving or removing any funerary objects or funerary structures from a grave site or cemetery provided such activity is otherwise permitted under Rhode Island law. (Ord. of 8-4-08)

**Sec. 8-91. Purpose.**

The town council of the Town of North Smithfield recognizes that cemeteries, burial sites and burial grounds possess historic, archaeological, cultural and religious significance and represent for all cultures a respect for the sanctity of human life and a legacy of the community's heritage. It is therefore the policy of the town that all cemeteries, burial sites and burial grounds, whether recorded or unrecorded, marked or unmarked, are not to be disrupted or disturbed except as provided in these regulations and standards. (Ord. of 8-4-08)

**Sec. 8-92. Definitions.**

For the purposes of these regulations and standards the term:

*Applicant* means the owner in fee simple of the land upon which a cemetery is located and for which a permit must be sought for disruption or disturbance within the buffer zone area surrounding the cemetery boundary or for alteration or removal of the cemetery.

*Buffer zone* means that certain area of land surrounding a cemetery that is set back 25 feet in all directions from the boundaries of the cemetery.

*Cemetery* means any natural or prepared physical location or tract of land, whether originally below, on, or above the surface of the earth, into which one or more individual human remains have been deposited or buried. The term "cemetery" shall include the terms "grave", "historic cemetery", "burial ground", "burial place" and "burial site". All funerary objects and funerary structures shall be deemed part of the cemetery.

*Disrupt or disturb* includes any construction, excavation, perk testing, depositing of fill on, or the filling in of a cemetery or any other ground disturbing activity either within the boundaries of the cemetery or within its buffer zone, and the damaging, destruction or removal of any funerary objects or funerary structures or human remains.

*Historic cemetery* means any cemetery containing a grave in existence for a period of more than 100 years, whether recorded or unrecorded, marked or unmarked with an historic marker including but not limited to ancient burial places known or suspected to contain the remains of one or more Native Americans.

*Funerary objects* means any objects or artifacts that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.

*Funerary structures* means any structure placed or erected to mark or signify that a physical location, area or tract of land has been or is being used as a cemetery or is otherwise placed or erected at a physical location, area, tract of land or individual grave as a part of the death rite or ceremony of a culture or religion.

*Grave* means an individual site within a cemetery where individual human remains have been deposited or buried whether originally below, on, or above the surface of the earth.

*Least disruptive* means a method or mode of construction, excavation, removal or other activity which has the least overall destructive impact on the cemetery.

(Ord. of 8-4-08)

**Sec. 8-93. Regulations and requirements for application for a permit to disrupt or disturb the area within the buffer zone around cemetery and application to alter or remove a cemetery.**

(a) *Unlawful activity concerning cemeteries.* It shall be unlawful for any person to disturb or disrupt, alter or remove any grave or cemetery or to disturb or disrupt the area within the buffer zone. It shall also be unlawful to remove, damage or destroy any funerary objects or funerary structures. Further, it shall be unlawful to conduct any other activities that would cause damage or deterioration to the integrity of any cemetery or portion thereof.

(b) *Required permits.*

(1) For disruption or disturbance in a buffer zone: Any owner of land that contains a cemetery or is suspected to contain a cemetery or abuts land that contains a cemetery within the buffer zone shall, prior to any disturbance or disruption to the land area within buffer zone of any cemetery boundary submit an application for a permit from the town council.

(2) For removal or alteration of a cemetery: Any owner of land seeking to alter or remove a cemetery or any portion thereof shall, prior to any alteration or removal, submit an application for a permit from the town council.

(c) Required information and documentation to be submitted with an application to disturb or disrupt the area within a buffer zone or with an application to alter or remove a cemetery or any portion thereof:

(1) In order for the town council to clearly assess the proposed project, the following information shall be submitted with all such applications:

a. Detailed site plans drawn to scale and stamped by a registered land surveyor at a minimum scale 1" = 40', showing the boundaries of the property in question, topographical contour intervals of no more than one foot, a surveyed boundary of the cemetery and a buffer zone area of no less than 25 feet and a proposed plan drawn to scale of all proposed improvements or alterations on the site. The stamped plan shall also state that the boundaries of the cemetery are adequately documented and determined and that there is no reason to believe other or additional graves exist on the site outside the cemetery boundaries.

- b. Detailed explanation on the site plans or accompanying documents explaining and demonstrating and showing the proposed improvements on the site which would necessitate the proposed disturbance or disruption of any land within the buffer zone of the cemetery or the alteration or removal of the cemetery.
- c. A detailed site alteration plan indicating the extent of the proposed disturbance or disruption within the buffer zone or in the case of a proposed alteration or removal the proposed methods of removal of human remains.
- d. A written description of the cemetery; its age (if known) and condition; historical importance; whether the cemetery contains or is suspected to contain the remains of one or more Native Americans; whether the cemetery is publically owned or on private property; to the extent possible a listing of names and vital dates of each of the graves as found from any grave markers or public records along with the names or identifies of those interred; and a cemetery plan indicating position of each of the graves, funerary structures and funerary objects.
- e. In the case of an historic cemetery:
  - 1. The town council may also, at the expense of the applicant, hire a duly qualified archaeologist and/or anthropologist who each shall possess at a minimum a PhD degree in his or her respective discipline to conduct an archaeological investigation of the site. The investigation shall be conducted to determine the boundaries of the cemetery, its age, historic and cultural significance, its origin including whether the cemetery is or suspected to be of American Indian origin and to determine whether additional cemeteries exist on the site. The town council may, at the expense of the applicant, require the archaeologist and/or anthropologist to make further investigation to the extent the town council deems necessary to fulfill the requirements of these regulations. The archaeologist and/or anthropologist hired by the town council shall also, at the expense of the applicant, submit a report of his or her findings and opinion to the town council and to be available at the public hearing for questioning on the report.
  - 2. If upon inspection of the site any other areas are located that are also suspected to meet the criteria of an historic cemetery, that area or areas shall also be investigated and studied as stated herein, at the expense of the applicant, to determine their status and if found to be an historic cemetery it shall also be duly recorded and its boundaries duly determined and marked.
  - 3. The town council may also hire a duly licensed engineer, at the expense of the applicant, to review the application and plans submitted and to report his or her findings and opinion to the town council and to be available for questioning on his or her report.
- f. Any other information the town council may require in order to adequately and properly review the application. Any such information may be requested by the town council

subsequent to the commencement of the public hearing and shall be provided at the expense of the applicant.

- g. All archaeological investigations and studies shall be conducted using the least disruptive means necessary and shall be in compliance with all applicable laws and regulations.
- h. Every applicant requesting approval to disturb or disrupt land within the buffer zone of a cemetery or to alter or remove a cemetery shall permit, by reason of submittal of the application, the town council, its agents, archaeologists, anthropologists and engineers including their agents, employees and contractors and all other designees of the town council, access to the entire site at all reasonable times for inspection, study and investigation. Such access shall be granted provided prior written notice is sent to the owner or designee by regular mail no later than five days prior to each event of entry onto the site.
- i. Additional information to be submitted with applications to alter or remove a cemetery:
  - 1. A detailed reburial plan describing the relocation of the human remains along with all funerary objects and funerary structures.
  - 2. A detailed site plan drawn to the specifications of other required site plans and showing the new location of the cemetery, its proposed boundaries and buffer zone and position of the relocated graves, funerary objects and funerary structures.
  - 3. Any other information the town council may reasonably require in order to adequately and properly review the application. Such information may be requested subsequent to the commencement of the public hearing and shall be at the expense of the applicant.
- j. All applications shall be submitted with ten copies.
- k. A filing fee of \$250.00 shall be submitted with each application. This fee is in addition to all other costs and expenses required of applicant to be paid in these regulations and standards.
  - 1. All applications and filing fees shall be submitted to the town planner.

(Ord. of 8-4-08)

#### **Sec. 8-94. Review and hearing of application and burden of proof.**

(a) The applicant shall bear the burden of proof and shall prove to the satisfaction of the town council that the applicant is entitled to a permit to disturb or disrupt the area within the buffer zone or to alter or remove the cemetery as the case may be including evidence showing the following:

- (1) The owner has examined all alternatives and that no prudent or feasible alternative to the proposed disruption or disturbance, alteration or removal is possible.

- (2) The proposed disturbance or disruption will not damage or destructively alter the cemetery through erosion, flooding, filling or encroachment. Further, the proposed disturbance or disruption will not cause a deterioration of or damage to the cemetery or any portion thereof.
- (3) The disturbance or disruption, alteration or removal is not sought primarily for economic convenience, commercial expediency or other monetary gain. This includes without limitation that the permit is not being sought primarily to increase the size of a new or existing structure or to increase or maintain the number of lots in a proposed subdivision.
- (4) The disturbance or disruption, alteration or removal will not impair the historic or cultural value or significance of the cemetery.
- (5) Due consideration is given to the rights of the decedents.
- (6) In the case of a Native American burial ground, no disturbance or disruption, alteration or removal will be caused or permitted that will be considered to be a desecration of the historic cemetery or of any individual grave therein under Native American cultural or religious beliefs.

(Ord. of 8-4-08)

#### **Sec. 8-95. Referral to planning board.**

The town council may at its discretion refer an application to the planning board for its review and consideration under these regulations and after public hearing in accordance with these regulations provide the town council with its written recommendation. The planning board shall be granted access to the entire site as provided in subsection [8-93(c)(1)h.]

(Ord. of 8-4-08)

#### **Sec. 8-96. Conservation commission comment.**

Prior to any public hearing provided for herein the application submitted shall be reviewed by the conservation commission and the comments of the commission shall be presented to the town council and to the planning board (if the application is so referred) at each of their respective public hearings. The conservation commission shall be granted access to the entire site as provided in subsection [8-93(c)(1)h.]

(Ord. of 8-4-08)

#### **Sec. 8-97. Public notice of hearing, consideration, appeal.**

(a) Upon receipt of the required information to be submitted in support of the application and payment of the application fee, the town council shall set the date for the hearing and cause the matter to be publicly advertised at the applicant's expense in a local paper of general circulation not less than two weeks prior to the hearing date. The cost of all notices shall be paid by the applicant.

- (1) Notice of the hearing shall be sent by regular mail unless otherwise required to the following interested parties at least 30 days prior to the hearing date:

- a. In the case of a suspected Native American burial ground, to the tribal councils of the Narragansett Indian Tribe, the Scaconke Wampanoag Tribe, the Nipmuc Nation and to USET, Inc (United South and Eastern Tribes).
  - b. In the event an application involves the cemetery of an extant religious society, to said society.
  - c. In the event the application involves a family cemetery, the interred of which have living lineal descendants, the applicant, at his or her own expense shall make all reasonable and diligent efforts to locate and then notify all the lineal descendants. All lineal descendants shall be notified of the hearing by sending notice by certified mail, return receipt requested. In the event any lineal descendants can not be located publication of the notice shall be provided to them in a daily newspaper of statewide circulation.
- (2) After due hearing and consideration of the application, the town council may grant the application in whole or in part. If deemed necessary by the town council, any such permitted activity shall be done so only under the supervision of an archaeologist and/or anthropologist approved by the town council and at the expense of the applicant. In its decision the town council may also impose on the permit any restrictions, conditions and stipulations as it deems necessary to effectuate the purpose of these regulations or the town council may deny the application in its entirety.
- (3) Any person or person aggrieved by a decision of the town council shall have the right of appeal concerning the decision to the superior court and from the superior court to the supreme court by writ of Certiorari. All proceedings shall be in accordance with the Administrative Procedures Act. Rhode Island General Laws § 42-35-15.

(Ord. of 8-4-08)

**Sec. 8-98. Severability.**

If any section, clause, provision or portion of these regulations shall be held unconstitutional or invalid by any court of competent jurisdiction, such shall not affect the constitutionality or validity of any other section, clause, provision or portion.

(Ord. of 8-4-08)

**Sec. 8-99. Penalties and remedies.**

Nothing in these regulations shall prohibit the town council from filing in superior court any suit, petition or other action on behalf of the town to enforce these regulations. Without limiting in any way the judicial remedies available to the town the equitable remedy of injunction and specific performance for repairs may be sought against any owner or other person violating these regulations.

In addition to all other remedies at law and in equity, the town council, after hearing and due notice to the suspected violator and owner of the land on which the cemetery is located may impose a fine not exceeding the sum of \$1,000.00 for each and every disruption or disturbance to or alteration or removal of the affected cemetery or any portion thereof and/or to the buffer zone. In addition to such penalty an additional penalty not exceeding \$500.00 per day may be assessed in the event the violator has not promptly engaged in the repair of any cemetery

or buffer zone and diligently proceeds to completion. A performance bond or cash surety or any combination thereof in an amount not to exceed the estimated cost of repair may be required to be provided by the violator and the owner of the property. In order to determine the scope of work and repairs that will be required to the cemetery or buffer zone the town council may require that all or a portion of the information required to be provided in section 8-93 be provided by the violator at the expense of the violator and that all other obligations of an applicant for any permit under said section be imposed on the violator and owner of the land.  
(Ord. of 8-4-08)

**Secs. 8-100--8-109. Reserved.**

**ARTICLE VII.**

**NOISE**

**Sec. 8-110. Findings: statement of policy.**

- (a) The town council hereby finds and declares that:
  - (1) Excessive noise is a serious hazard to the public health, safety and welfare and the quality of life.
  - (2) A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.
  - (3) Certain of the noise-producing equipment in this community is essential to the quality of life and should be allowed to continue at reasonable levels with responsible regulation.
  - (4) Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life.

(b) It is the declared policy of the town to promote an environment free from excessive noise, otherwise properly called noise pollution, which unnecessarily jeopardizes the public health, safety and welfare and degrades the quality of the lives of the residents of this community, without unduly prohibiting, limiting or otherwise regulating the function of certain noise-producing equipment which is not amenable to such controls and yet is essential to the quality of life in the community.

- (c) The following are some examples of decibel levels of common exposures.

Real-Life Examples:

Approximate Decibels (dB)

Decibels	Faint	Moderate	Very Loud	Extremely Loud	Painful
140					Firecracker
130				Jackhammer/Jet Plane	
120				Thunder/Rock Concert	

110			Chain Saw		
105			Screaming Child		
90			Power Lawn Mower		
85			Average Traffic		
80			Alarm Clock @ 2'		
70		Vacuum Cleaner			
65		Washing Machine			
60		Sewing Machine			
50		Rainfall (moderate)			
40	Refrigerator Hum				
30	Quiet Whisper				
20	Ticking Watch				

(Ord. of 8-18-08)

**Sec. 8-111. Purpose: title and scope of article.**

(a) *Purpose.* The purpose of this article is to establish standards for the control of noise pollution in the town by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.

(b) *Title.* This article may be cited as the "noise ordinance" of the town.

(c) *Scope.* This article shall apply to the control of all noise originating within the limits of the town, except when:

- (1) The facility generating the noise has been granted a permit or license by a federal and/or state agency and the authorization to operate within set noise limits; or
- (2) Such noise has been granted an exemption.

(d) *Partial invalidity.* If any provision of any section of this chapter be held invalid, the remainder of the sections and the applications of the provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

(Ord. of 8-18-08)

**Sec. 8-112. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of technical terms

used in this article, which are not defined in this section, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

*Ambient sound level* means the noise associated with a given environment, exclusive of intruding noises from isolated identifiable sources.

*ANSI* means the American National Standards Institute or its successor body.

*A-scale (dBA)* means the sound level in decibels measured using the A-weighted network as specified in ANSI Standard 1.4-1983 for sound level meters. The level is designated dB(A) or dBA.

*Construction* means any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.

*Decibel (dB)* means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Dwelling unit* means a building or portion thereof regularly used for residential occupancy.

*Dynamic braking device* means a device used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purposes of vehicle braking without the use of wheel brakes.

*Emergency work* means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

*Impulsive sound* means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts and the discharge of firearms.

*Lot* means any tract or parcel of land owned by or under the lawful control of one distinct ownership. The lot line or boundary is an imaginary line at ground level that separates a lot and its vertical extension owned by one entity from that owned by another.

*Mixed use* means a dwelling unit or school located in a commercial or an industrial zone.

*Motorboat* See watercraft.

*Motor vehicle* means any motor-operated vehicle licensed for use on the public highways.

*Narrow band sound* means a sound characterized by normal listeners as having a predominant pitch or

series of pitches; sound described by such listeners as "whine," "hiss," "toot," or "wail"; or a sound whose frequencies occupy an octave band or less.

*Noise control office* means the town department having responsibility for the enforcement of this article.

*Noise disturbance* means any sound which exceeds the dB(A) level for such sound set out in this article.

*Nonconforming use* means a use of a structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to the zoning code of the town, but which is not a permitted use in the zone in which it is now located.

*Off-road recreational vehicle* means any motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

*Physical characteristics of sound* means the steady, impulsive or narrow band property of a sound, the level of sound and the extent to which it exceeds the background sound level.

*Plainly audible* means any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible rhythms.

*Powered model vehicle* means self-propelled airborne, waterborne or landborne model plane, vessel or vehicle, which is not designed to carry a person, including, but not limited to, any model airplane, boat, car or rocket.

*Public right-of-way* means any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

*Public space* means any real property, including any structure thereon, which is owned or controlled by a governmental entity.

*Real property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

*Receiving land use* means the use or occupancy of the property which received the transmission of sound.

*Residential property* means any property on which is located a building or structure used wholly or partially for living or sleeping purposes. Residential property shall include hotels and motels.

*RMS* means the root mean square process by which a value is derived using a device that reads the effective value of the db range. The effective value is calculated as  $V^2 = V_p^2 \sin^2 \theta$ ;

*Sound* means oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or play meter, and weighting networks used to measure sound pressure levels, which complies with ANSI Standard 1.4-1983.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

*Sound pressure level* means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter ( $20 \times 10^{-6} \text{N/m}^2$ ). The sound pressure level is denoted SPL and is expressed in decibels.

*Steady sound* means a sound whose level remains essentially constant (+ or - 5dB) during the measurement period with the sound level meter.

*Tone* means any sound which can be distinctly heard as a single pitch or set of single pitches. For the purposes of this article, a tone shall exist if an octave-band analysis indicates any octave band five dB or more over both the band above and below.

*Unnecessary, excessive or offensive noise* means any sound or noise conflicting with criteria, standards or levels set forth in this article for permissible noises.

*Used and occupied* include the words "intended, designed or arranged to be" used or occupied.

*Watercraft* means any contrivance used, or capable of being used, as a means of transportation or recreation on water.

*Zoning districts* means those districts established by the zoning ordinance of the town and indicated on the official zoning map.  
(Ord. of 8-18-08)

### **Sec. 8-113. Penalty for violation.**

- (a) Any person found to have violated the terms of this article shall be punished in accordance with this section.
- (b) The penalty for violation of any section of this article shall be up to the maximum allowed by state law for municipalities to impose on ordinance violations as follows:
  - (1) Upon a first offense a warning will be issued.
  - (2) The second offense shall be punished by the issuance of an order to cease and desist the violation and fine of \$100.00. A \$500.00 fine shall be assessed for all subsequent offenses.
- (c) Each noise disturbance shall be considered a separate offense.

(d) Each day of the noise disturbance shall also constitute a separate violation of this section.  
(Ord. of 8-18-08)

**Sec. 8-114. Exceptions from article provisions.**

- (a) The provisions of this article shall not apply to:
  - (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
  - (2) The emission of sound in the performance of emergency work;
  - (3) The unamplified human voice, except those activities prohibited in section 8-120;
  - (4) Agricultural activities, including those involving the ownership or possession of animals or birds on parcels of ten acres or more;
  - (5) The emission of sound in the performance of military operations, excluding travel by individuals to or from military duty;
  - (6) The emission of sound in any sporting activities sanctioned and/or regulated by the town;
  - (7) The emission of sound in the discharge of firearms in any legal activity;
  - (8) The emission of sound in fireworks displays licensed by the town;
  - (9) The emission of sound in the operation of snow removal equipment at any time and in the operation of lawnmowers, leaf blowers and similar equipment from 8:00 a.m. to the later of 8:00 p.m. or sunset and
  - (10) The emission of sound in residential zones for the operation of home owner's tools including compressors, nail guns and similar tools from 8:00 a.m. to the later of 8:00 p.m. or sunset.
- (b) The emission of sound relative to all construction, demolition, rock crushing, and earthmoving, pursuant to and in furtherance of a valid building or demolition permit, utilizing internal combustion engines, motors and normal maintenance activities are:
  - (1) Allowed during normal Eastern Standard Time: activities between the hours of 7:30 a.m. and 6:00 p.m., Monday through Friday;
  - (2) Allowed during Daylight Savings Time: activities between the hours of 7:30 a.m. and 6:00 p.m., Monday through Friday;
  - (3) Allowed on Saturdays from 7:30 a.m. to 4:30 p.m.; and

(4) Prohibited at any hour on Sunday and legal holidays.

(5) Subject to all limits of this article if not pursuant to and in furtherance of a valid permit.  
(Ord. of 8-18-08)

**Sec. 8-115. Temporary exemptions for special events.**

Upon good cause shown, the town council may issue a temporary exemption, not to exceed five consecutive days for special events, if application is made in a timely manner so as to appear on a town council meeting agenda prior to the event. No entity shall be entitled to more than three such exemptions in any one calendar year.

(Ord. of 8-18-08)

**Sec. 8-116. Noise disturbances prohibited generally.**

(a) No person shall make, continue or cause to be made or continued, except as permitted in this article, any noise or sound which constitutes a noise disturbance. In the absence of specific maximum noise levels, a noise level must exceed the ambient noise level by five dB(A) or more, when measured at the nearest property line or, in the case of a multifamily residential building, when measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, in order to constitute a noise disturbance.

(b) This section shall apply to the use or occupancy of any lot or structure thereon and to the noise produced thereby but shall not apply to the intermittent or occasional use, during the daytime, of homeowner's light residential outdoor equipment or commercial service equipment.

(Ord. of 8-18-08)

**Sec. 8-117. Measurement of sound.**

(a) *Generally; tests for noise disturbances.* In addition to the definition established in section 8-112, the factors which shall be considered in determining whether a noise disturbance exists shall include, but shall not be limited to, the following:

- (1) The volume and intensity of the background noise, if any;
- (2) The proximity of the noise to residential sleeping facilities;
- (3) The nature and zoning of the area within which the noise emanates;
- (4) The density of inhabitation of the area within which the noise emanates;
- (5) The time of the day or night the noise occurs;
- (6) The duration of the noise;
- (7) Whether the noise is recurrent, intermittent or constant; and

(8) Whether the noise is produced by a commercial or noncommercial activity.

(b) *Classification of use districts.* It is unlawful to project a sound or noise, from one property into another, within the boundary of a use district which exceeds either the limiting noise spectra set forth in table I in section 8-118, or exceeds the ambient noise level by more than five decibels.

(1) *Noise level limits.* Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of each district into which the noise is projected.

(2) *Measurement of noise.*

- a. The measurement of sound or noise shall be made with a sound level meter and whole octave band analyzer meeting the standards prescribed by the American National Standards Institute (ANSI). All sound measurements shall be for a minimum duration of five consecutive minutes. The instruments shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.
- b. The slow meter response of the noise level meter shall be used in order to best determine that the average amplitude has not exceeded the limiting noise spectra set forth in table I in section 8-118.
- c. The measurement shall be made at the property line of the property on which such noise is generated, or perceived, as appropriate five feet above ground.
- d. In the case of an elevated or directional sound or noise source, compliance with the noise limits is to be maintained at any elevation at the boundary.

(Ord. of 8-18-08)

**Sec. 8-118. Maximum permissible sound levels by receiving land use.**

(a) With the exception of sound levels elsewhere specifically authorized or allowed in this article or exempted from this article, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

Table I

Zoning District Noise Standard Maximum Allowable Octave Band Sound Pressure Levels 1

Octave Band Center Frequency of all Measurement (HZ)>	Residential		Business Limited and General		Commercial Industrial
	Daytime	All Other Times	Daytime	All Other Times	Any time
31.5	61	53	66	58	68
63	60	52	65	57	67
125	56	48	61	53	63
250	54	44	59	49	59
500	50	40	55	45	55
1000	47	37	52	42	52
2000	43	33	48	38	48
4000	39	29	44	34	44
8000	38	28	43	33	43
Single number Equivalent	53 dB(A)	43 dB(A)	58 dB(A)	48 dB(A)	58 dB(A)

1 Unless otherwise noted, values given in the following table are dB, i.e., no adjustments for "A" or "C" weighting.

(b) For any source of sound which emits a tone, the maximum sound-pressure level limits and single-number equivalents set forth in subsection (a) of this section shall be reduced by five dB.

(c) Exceptions to table I are activities covered in sections 8-114 and 8-115.  
(Ord. of 8-18-08)

**Sec. 8-119. Emergency signaling devices.**

(a) No person shall operate or permit the intentional sounding outdoors of any fire, burglar, vehicle, or civil defense alarm, siren whistle or similar stationary emergency signaling device, except for emergency purposes or for testing or monitoring, as provided in subsection (b) of this section.

(b) Testing of a stationary signaling device shall occur at the same time of day each time the test is performed, but not before 8:30 a.m. or after 5:30 p.m. Any such testing shall use only the minimum cycle test time.  
(Ord. of 8-18-08)

**Sec. 8-120. Specific prohibited acts.**

The following actions are prohibited only when causing a noise disturbance as defined in this chapter:

(1) *Hawkers and peddlers.* No person shall create a noise disturbance by offering for sale or selling

anything by shouting or outcry across a real property boundary. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.

- (2) *Vehicle or motorboat repairs or testing.* No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.
- (3) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning.
- (4) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (5) *Yelling, shouting, etc.* No person shall vocalize at such excessive vocal amplifications in a residential zoning district that is plainly audible at a distance of 100 feet or more from the point of measurement for a duration of ten seconds. The provisions of this section include, but are not limited to, yelling, laughing, shouting, hooting, hollering, screaming or singing. The provisions of this section shall apply to human vocalizations that either cross a real property boundary or is within a noise sensitive area. The prohibitions of this section shall apply between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day.
- (6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorcycle, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from.
- (7) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such condition as to create a noise disturbance.
- (8) *Loading, unloading, opening boxes.* The creation of a noise disturbance in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers. The prohibitions of this section shall apply between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day.
- (9) *Schools, courts, churches, hospitals.* The creation of any noise disturbances on any street adjacent to any school, institution of learning, church or court while the school, institution of learning, church or court are in use, or adjacent to any hospital, provided that conspicuous signs are displayed in such streets indicating that such is a school, hospital or court street.

(Ord. of 8-18-08)

**Sec. 8-121. Musical instruments and similar devices.**

No person shall operate, play or permit the operation of any musical instrument, phonograph or other machine or device for the production or reproduction of sound, including but not limited to any stereo, radio, television, musical instrument or other noise making device for the producing or reproducing of sound within a motor vehicle, using or operating such instrument or device in such manner as to constitute a noise disturbance. In addition, the operation of any such instrument, phonograph, television, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building structure or vehicle in which it is located shall be a violation of this section; provided, that nothing contained in this section shall prohibit performances by the ringing of bells in a tower, or by a band or orchestra in a hall, building or in the open air that is otherwise in compliance with local ordinances.  
(Ord. of 8-18-08)

**Sec. 8-122. Motorized vehicles.**

(a) No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rating 10,000 pounds or more for a consecutive period longer than 20 minutes while such vehicle is standing and located within 150 feet of property zoned and used for residential purposes, if the sound level emitted by the motor vehicle exceeds the maximum permissible sound levels as prescribed by table II in this section, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their vending loads.

(b) No person shall operate, within the speed limits specified in this section, either a motor vehicle or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit listed in table II in this section for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which such vehicles are operated. Such noise shall be measured at a distance of not more than 50 feet from the centerline of travel. If the distance of the measuring instrument from the centerline of travel is less than 50 feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

TABLE II

Noise Limit in Relation to the Legal Speed Limit

		35 mph or less	Over 35 mph
(1)	Any motor vehicle with a manufacturer's gross vehicle weight rating 10,000 pounds or more and any combination of vehicles towed by such motor vehicle	86 dBA	90 dBA
(2)	Any motorcycle	82 dBA	82 dBA

(3)	Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	75 dBA	75 dBA
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This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of this Code relating to motor vehicle muffler or noise control.

(c) Every motor vehicle and motorcycle shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dB(A) levels set forth in table II in this section. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle.

(d) No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a muffler bypass and no person shall operate a motor vehicle or motorcycle which has been so modified if the sound level emitted by the motor vehicle exceeds the maximum permissible sound levels as prescribed by table II in this section.

(e) No person shall operate a recreational vehicle or permit the operation of one or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real boundary.  
(Ord. of 8-18-08)

**Sec. 8-123. Construction.**

(a) *Exceptions.* This article shall not apply to:

- (1) Emergency work or repair work performed by and for government entities or public service utilities or their agents; or
- (2) Work for which an exemption has been obtained under section 8-115 or section 8-127.

(b) *Restrictions.* The use of domestic power tools or equipment is subject to the noise levels set forth in table I in section 8-118.  
(Ord. of 8-18-08)

**Sec. 8-124. Animals and birds.**

No person shall own, possess or harbor any animal or bird which frequently and or continually emits sound which exceeds the dB(A) levels as set forth in table I in section 8-118. Furthermore, it shall be deemed a noise disturbance to own or keep dogs or other animals that create a nuisance by habitual and or continual emitting of sounds (such as barking dogs). Should the animal control officer or a police officer, upon personal observation of an animal, find that a noise disturbance is habitually created, a citation shall be issued.

(Ord. of 8-18-08)

**Sec. 8-125. Implementation, administration and enforcement.**

(a) This article shall be implemented, administered and enforced by the town police department or any other town department or division designated by the director of public safety.

(b) The provisions of this article which prohibits a person from making or continuing noise disturbances, or causing the noise disturbances to be made or continued, across a real property boundary, shall be enforced by the police department or any other town department or division as designated by the director of public safety.

(c) Any person, including a police officer, may be a complainant for the purpose of instituting action for any violation of this article.

(d) To implement and enforce this article, the police department, or any duly designated town agency, shall have the power to:

- (1) Conduct research, monitoring and other studies related to sound;
- (2) Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise as well as the actions prohibited by this article and the procedures for reporting violations;
- (3) Coordinate the noise control activities of all town departments;
- (4) Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this article, if these projects are likely to cause sound in violation of this article;
- (5) Prepare recommendations for consideration by the town council, after publication of notice and after a public hearing.

(Ord. of 8-18-08)

**Sec. 8-126. Departmental actions.**

All departments and agencies of the town shall carry out their programs in furtherance of the policies set forth in this article.

(Ord. of 8-18-08)

**Sec. 8-127. Exemptions.**

(a) Upon good cause shown, the town council may issue an exemption from this article, provided that applicant clearly demonstrates that undue hardship will result from an exemption denial; and

(b) The town council may set any limits or conditions upon an exemption including, but not limited to,

maximum allowable decibel limits and times when such exemptions are permitted; and

(c) *Application.* Any person seeking an exemption under this section shall file an application with the town council. The application shall contain information, which demonstrates that bringing the source of sound or activity, for which the exemption is sought, into compliance with this article would constitute an unreasonable hardship on the applicant, on the community or on other persons.

(d) *Application fee.* For all residential applications for exemptions there shall be a \$225.00 fee. For all other applications for exemption there shall be a \$300.00 fee. All applications shall be accompanied by an amount sufficient to cover the costs of advertising and notification of all residents and property owners affected by the proposed noise source. All fees are due and payable to the "Town of North Smithfield" at the time of application.

(e) *Notice.* Advertisement shall be made at least once, at a minimum of seven days prior to the public hearing, in a newspaper of general circulation in the town. Public hearing notification of all residents within 200 feet of the proposed noise source shall be made by regular mail at least seven days prior to the public hearing. It shall be the responsibility of the applicant to provide the town clerk with:

(1) The names and mailing addresses of the persons to be notified under the provisions of this section; and

(2) A facsimile, to appropriate scale, of the current tax assessor's map for the subject area of the request for sound variance graphically showing all lots within the 200-foot radius of the noise source.

(3) The applicant shall pay and be responsible for all costs of advertising and notification of affected land owners plus any additional professional or other expenses required in order to process the application whether variance granted or denied.

(f) *Grant, denial or revocation.*

(1) In determining whether to grant or deny an application, or revoke an exemption previously granted, the town council shall balance the hardship to the applicant, the community and other persons if the special use permit is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the special use permit is allowed. The town council may grant the relief as applied for if it finds that:

a. Additional time is necessary for the applicant to alter or modify his/her activity or operation to comply with this section; or

b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and

c. No other reasonable alternative is available to the applicant.

(2) Applicants for an exemption and persons contesting exemptions may be required to submit any

information that the town council may reasonably require. In granting or denying an application or in revoking an exemption previously granted, the town council shall place on public file a copy of the decision in the land evidence records of the town stating the reasons for granting, denying or revoking the exemption.

(g) *Conditions.* The exemption shall be granted by notice to the applicant containing all conditions necessary to minimize adverse effects upon the community or the surrounding neighborhood, including a time limit on the permitted activity. The exemption shall not become effective until the applicant agrees to all conditions. Noncompliance with any condition of the exemption shall terminate it immediately and subject that person to those provisions of this article regulating the source of sound or activity for which the exemption was granted.

(h) *Modification of exemption.* Determination of modification of a granted exemption shall also be made in accordance with the rules and procedures set forth in this section.

(i) *Expiration.* The exemption shall automatically expire when the specific use for which it was granted is discontinued.  
(Ord. of 8-18-08)

#### **Sec. 8-128. Jurisdiction.**

Jurisdiction of offenses under this section shall be in the municipal court of the town, or in the district court in the absence of any municipal court for the town.  
(Ord. of 8-18-08)

#### **Secs. 8-129--8-139. Reserved.**

### **ARTICLE VIII.**

#### **OUTDOOR HYDRONIC HEATERS**

#### **Sec. 8-140. Purpose.**

A moratorium has been in effect in the Town of North Smithfield since February 4, 2008 on the use and installation of outdoor hydronic heaters or outdoor wood boilers not already in use and operation before that date.

The town council recognizes and finds that although outdoor hydronic heaters or outdoor wood boilers (hereafter collectively referred to as (OHHs) may represent an economical alternative to conventional heating systems, such systems should not be located or used in such a manner as to compromise the health, safety and welfare of the citizens of the town resulting from harmful emissions, offensive odors, smoke, soot, fumes, ash or other conditions that may otherwise constitute a nuisance from the use and operation of outdoor furnaces.

This chapter seeks to regulate the location, use, construction and operation of outdoor furnaces for these purposes.  
(Ord. of 10-21-08)

**Sec. 8-141. Definitions.**

The following definitions shall apply to this article:

*Outdoor hydronic heater, or outdoor wood boiler (OHH)* means a fuel burning device designed to (1) burn wood or other approved fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture. This includes without limitation any structure, equipment, device, or apparatus, or any part thereof, which is installed, affixed, constructed or located outdoors for the primary purpose of combustion of solid fuel, including but not limited to wood, to produce heat or energy used as a component of a heating system.

*Clean wood* means wood that has no paint, stains, or other types of coatings, and wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

*Untreated lumber.* Dry wood that has been milled and dried but that has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

*Existing unit or existing OHH* means an outdoor hydronic heater that is sold, installed and/or operated at the intended location of use prior to February 4, 2008. A new unit or new OHH is an OHH that is not an existing OHH.

*Heating season* means the period beginning September 01 and ending May 30, inclusive.

*Allowable fuels:*

- (1) Clean wood;
- (2) Wood pellets made from clean wood;
- (3) Manufacturer approved fuels, provided that no fuel shall be in conflict with section 8-141, prohibited fuels;
- (4) Home heating oil in compliance with the applicable sulfur content limit or natural gas may be used as starter fuels for dual-fired outdoor hydronic heaters.

*Prohibited fuels:*

- (1) Any wood that does not meet the definition of clean wood;
- (2) Garbage;
- (3) Tires;
- (4) Lawn clippings, leaves, brush trimmings, or general yard waste;

- (5) Materials containing plastic;
  - (6) Materials containing rubber;
  - (7) Waste petroleum products;
  - (8) Paints and paint thinners;
  - (9) Chemicals;
  - (10) Coal;
  - (11) Glossy or colored papers;
  - (12) Construction and demolition debris;
  - (13) Plywood;
  - (14) Particleboard;
  - (15) Salt water driftwood;
  - (16) Manure;
  - (17) Animal carcasses;
  - (18) Asphalt products;
  - (19) And any material prohibited for combustion by state or federal law or regulation;
  - (20) Lighter fluids, gasoline or chemicals to start the flames are prohibited.
- (Ord. of 10-21-08)

**Sec. 8-142. Requirement of permit.**

*Permit required; initial permit.*

- (1) No person shall construct, install, use, operate, or permit to be operated on their property an OHH without first having obtained a permit from the zoning inspector. Installation of all new units requires an initial application for permit following the effective date of this article. Said application shall include a map showing the site of the unit on the property. All units, new or used shall carry a tag that identifies that the OHH complies with the EPA Phase II Emission standard, or higher as defined by the EPA and here, and as here incorporated by reference.
- (2) An application fee shall apply, based on the percentage of cost of the OHH, for the initial application for new units, which shall include inspection for compliance with this article and shall

include an inspection for compliance with all applicable plumbing, electrical, fire and other laws as deemed necessary by the zoning inspector.

(Ord. of 10-21-08)

**Sec. 8-143. Restrictions on location, operation and use.**

(a) *Location.*

(1) *Setbacks.* OHHs shall be no closer than:

- a. Fifty feet from any lot line;
- b. Thirty feet from any dwelling unit, including but not limited to the structure that it services, or such greater number as shall be advised by the manufacturer;
- c. One hundred feet from any residential structure not on the property serviced by the OHH.

(2) The OHH must be located in the back yard (as defined by the town zoning ordinance), behind the structure to be serviced, or as close thereto as possible, in the event of unusual configuration, in the discretion of the zoning inspector, and in no event in the front yard.

(b) *Use and operation.*

(1) *Months of operation.* OHHs may only be operated from September 1 through and including May 30. No person shall operate, cause, suffer, allow or permit the use of an OHH at any other time.

(2) *Fuels.* No person that operates an OHH shall cause, suffer, allow or permit the use of a fuel other than allowable fuels as here defined. No person shall cause, suffer, allow or permit the burning of any prohibited fuel as here defined.

(3) Manufacturers standards OHHs shall, as a minimum standard, be operated in compliance with the operating manual and standards of the manufacturer of the unit, including, but not limited to, the manufacturer recommended loading times and amounts.

(4) *Stack height.* The stack or chimney extending from an OHH shall be a minimum of 18 feet in height for any new installations, following the effective date of this article.

(c) *Particulate emission standards for new units.*

(1) All new units, as defined in this article, shall comply, as of the effective date of this article, with the EPA Phase II Emission standard, as defined by the EPA and here, and as here incorporated by reference.

(2) *Emission standard.*

- a. No person shall purchase, operate, install or allow for installation an OHH for use in the

town unless it has been certified to meet a particulate matter emission limit of 0.32 lb/MMBtu heat output and satisfies the 2010 USEPA standard for same (the commonly-called Phase II Emission standard).

(d) No OHH purchased and installed after February 4, 2008 may exceed a maximum size of 500,000 BTU. Accordingly, this provision does not apply to any OHH installed and in use before February 4, 2008 (an "existing OHH"), and does not apply to any replacement of such existing OHH. (Ord. of 10-21-08; Ord. of 11-8-08)

#### **Sec. 8-144. Existing units.**

(a) *Existing OHH.*

(1) All provisions of this article shall immediately become effective as to existing units in use and operation before February 04, 2008 upon passage of this article with the following exceptions:

a. Setbacks under section 8-143(a)(1) and (a)(2)

Particulate emission standards under section 8-143(c)(1) and (c)(2)

(b) *Replacement of an existing OHH.* Any existing unit as defined herein that is to be replaced shall meet all provision set forth in this article except as specified herein.

(c) *Nuisance.* Compliance with this article shall not exonerate or insulate the owner of an OHH from the provisions of section 8-145 (b), nuisance, below. (Ord. of 10-21-08)

#### **Sec. 8-145. Applicability of other regulations and laws.**

(a) *Compliance with law.* Outdoor furnaces shall be manufactured, constructed, installed, operated and located in conformance with any other applicable state or federal law or regulation, including but not limited to those of the US EPA and RI DEM. In the event of any conflict among state, federal and local ordinance, the more restrictive law or regulation shall apply. All other provisions of the building, electrical or other applicable laws codes shall also apply, as well as applicable subdivision and zoning regulations.

(b) *Nuisance or other condition.* It is prohibited to use, maintain or operate an OHH, or use its ash or residue, that creates a nuisance or an interference with the health, safety and welfare of the town or of any person. Compliance with this article shall not otherwise exonerate or insulate the owner of a furnace for the creation of nuisance or other interference with the public health, safety and welfare, and it is intended that the town and its citizens shall have preserved any public or private right of action in nuisance or otherwise resulting from the operation of such furnace, either under this article, or under any state or federal law or regulation, or the common law. (Ord. of 10-21-08)

#### **Sec. 8-146. Penalties.**

(a) Failure to comply with any provision of this article shall be a violation, and a first offense shall be punishable by a warning. Each day of each offense shall be construed to be a separate violation. Each second offense shall be punishable by a fine of \$100.00, and each offense thereafter shall be \$300.00 per offense. The owners of the property shall be jointly and severably liable with any other violator for any violation of this article. Any fine imposed under this article shall constitute a lien on the real property on which the OHH is located.

(b) The zoning officer, or his designee shall be responsible for the enforcement of this article. He shall have the discretion to forego a warning for a first violation if, in his sole discretion, he is of the belief that the violation is without intent and can be brought into compliance in a reasonable time, and such compliance deadline is provided to the landowner for compliance, not to exceed ten days. Compliance within the time established shall not constitute a first offense.

(c) Any person or entity in violation of the terms of this article shall, in addition to the above sanctions, be liable to the town for the costs of any remediation actions reasonably necessitated by the actions of the violator(s), and for the costs (including reasonable attorney fees) of any action brought for equitable or legal action against the violator, which costs and fees shall constitute a lien against the property on which the furnace is located.

(Ord. of 10-21-08)

**Sec. 8-147. Suspension of operation.**

(a) Any OHH may be suspended immediately from operation, within the discretion of the zoning inspector or his designee, should that official or his designee determine that a nuisance is or has been caused by the use and operation of the furnace, as a result of any condition, including, without limitation, malodorous air contaminants detectable on land other than that of the owner; emissions that interfere with the reasonable enjoyment of the life or property of that other than the owner; the emissions cause damage to the environment, vegetation or property of another, or for any other violation of the terms of this article.

(b) An OHH may be reinstated by the zoning inspector, or his designee, once he has determined that compliance has been established and the offending condition has been remedied.

(Ord. of 10-21-08)