

Chapter 210, WASTEWATER MANAGEMENT DISTRICT

[HISTORY: Adopted by the Town Council of the Town of Charlestown 9-12-1994 by Ord. No. 197;EN amended 10-24-1994 by Ord. No. 198. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Temporary sanitary facilities -- See Ch. 172.

§ 210-1. Purpose.

The Charlestown Town Council hereby finds that, without proper operation and maintenance, individual sewage disposal systems (ISDS) or septic systems will eventually fail. ISDS failure poses a risk to public health and a potential contamination source to the surface and ground waters of the state. The purpose of this section is to establish a Wastewater Management District (WWMD), in accordance with the provisions of Chapter 45-24.5 of the Rhode Island General Laws, to ensure that ISDS are properly operated, regularly inspected and routinely maintained to prevent malfunctioning systems and to operate as an alternative to municipal sewer systems and to further the purpose of Chapter 46-13-2 of the Rhode Island General Laws which relates to the drilling of drinking water wells.

§ 210-2. Definitions.

A. Sections 210-2 and 210-3 have been taken from the Rhode Island Department of Environmental Management's (RI DEM) Regulations for Individual Sewage Disposal Systems, the purpose of which is to allow for coordination and consistent wastewater management programs at both the state and local levels.

B. As used in these rules and regulations, the following terms shall, where the context permits, be construed as follows:

ALTERATION -- Any modernization, modification or change in the size or type of an existing individual sewage disposal system, including but not limited to any work performed in connection with a building renovation and/or change of use of that building; also including any work performed to accommodate any increase in sewage flow to that system.

BEDROOM

(1) Any room in a residential structure which is greater than seventy (70) square feet in area, which is susceptible to present or future use as a private sleeping area and which has at least:

(a) One (1) window; and

(b) One (1) interior method of entry and egress, excluding closets and bathrooms, allowing the room to be closed off from the remainder of the residence for privacy.

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

BLACK WATER -- That portion of sanitary sewage constituted substantially of human or animal excrement.

BUILDING RENOVATION -- Any addition, replacement, demolition and reconstruction or modification of an existing structure.

BUILDING SEWER -- The pipe which begins outside the building wall and extends to any place or mechanism of sewage disposal, including but not limited to a cesspool, leaching chamber, septic tank or pressure or gravity sewer leading to a leaching system.

CESSPOOL -- Any buried chamber, including but not limited to any metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges of sanitary sewage from a building sewer for the purpose of collecting solids and discharging liquids to the surrounding soil. "Cesspools" are not an approved method of sewage disposal under these regulations, and all existing "cesspools" are considered to be substandard. [Also see § 210-6A(3)(b).]

CHANGE OF USE -- Refers to any change in use or occupancy of any structure or part thereof which would violate any provision of the Rhode Island State Building Code, Rhode Island General Laws, Chapter 23-27.3, as amended, and/or any regulation promulgated pursuant thereto without first obtaining the approval of the appropriate building official and/or without the issuance of a certificate of occupancy indicating that the structure complies with the provisions of the State Building Code for the proposed new use.

DEPARTMENT OR DEM -- The Rhode Island Department of Environmental Management.

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

DISPOSAL BED -- A shallow excavation in the ground, backfilled with stone, in which perforated distribution lines, or other suitable distribution devices, are laid and over which a cover of earth is placed.

DISPOSAL TRENCH -- A shallow ditch with vertical sides, filled with stone, in which a single perforated distribution line, or other suitable distribution devices, is laid and over which a cover of earth is placed.

DISTRIBUTION BOX -- A watertight compartment which receives septic tank effluent and distributes it in approximately equal portions to two (2) or more pipelines leading to some type of seepage system.

DISTRIBUTION LINE -- A perforated pipe or other suitable distribution device used to disperse septic tank effluent.

DIVISION -- The Rhode Island Department of Environmental Management's Division of Groundwater and ISDS.

DOSING TANK -- A watertight structure equipped with one (1) or more siphons or pumps designed to discharge sewage intermittently into a seepage system.

FAILED SYSTEM -- Any sewage disposal system that does not adequately treat and dispose of sewage that consequently creates a public or private nuisance or threat to public health and/or environmental quality, as evidenced by, but not limited to, one (1) or more of the following conditions:

- (1) Failure to accept sanitary sewage into the building sewer.
- (2) Discharge of sanitary sewage to a basement, subsurface drain, surface drain or surface water unless expressly permitted by the Department.
- (3) Sanitary sewage rising to the surface of the ground over or near any part of an individual sewage disposal system or seeping down-gradient from the absorption area at any change in grade, bank or road cut.
- (4) Any deterioration or damage to any individual sewage disposal system that would preclude adequate treatment and disposal of wastewater. (For example, contact between the bottom of the ISDS and the water table or damage from a vehicle driven over the leach field.)

FILLED SYSTEM -- Any system where the groundwater table is less than four (4) feet from the original ground surface and depth to ledge is less than six (6) feet from the original ground surface.

FRESHWATER WETLAND -- Defined as set forth in Rhode Island General Laws, Section 2-1-20(d), as amended, and as further defined by the Department's Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act. The term shall further be held to include those wetland types defined by the remainder of Section 2-1-20 and the wetland regulations, including but not limited to marshes, swamps, bogs, ponds, rivers, river and stream floodplains and banks, areas subject to flooding or stream water, including rivers and streams, and that area of land within fifty (50) feet of the edge of any bog, marsh, swamp or pond or that area within one hundred (100) feet of a flowing body of water less than ten (10) feet wide or that area within two hundred (200) feet of a flowing body of water greater than ten (10) feet in width.

GREY WATER -- Any wastewater discharge from a structure, excluding the waste discharges from water closets and waste discharge containing human or animal excrement.

HIGHLY PERMEABLE -- Any gravel and/or coarse sand fill or naturally occurring soil with a percolation rate (equivalent permeability) faster than three (3) minutes per inch.

HUMUS TOILET -- Any self-contained toilet from which no liquid or solid waste materials are regularly discharged and from which a humus-like end product is produced.

IMPERVIOUS -- Any ledge, shale, bedrock or rotten rock and, for the purpose of these regulations, any soil with a percolation rate slower than forty (40) minutes per inch.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM OR ISDS -- Any system of piping, tanks, disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat and/or dispose of sanitary sewage by means other than discharge into a public sewer system.

INVERT -- The lowest portion of the interior of a pipe or fitting.

LEACHING CHAMBER -- Any of a number and type of shallow, hollow, open bottom structures with perforated sidewall into which septic tank effluent is discharged for leaching into the ground.

MAINTENANCE -- The regular cleaning of any leaching chamber, cesspool, septic tank, building sewer, distribution lines or any other component of an ISDS for the purpose of removing any accumulated liquid, scum and/or sludge. The term "maintenance" shall also be held to include any regularly required servicing or replacement of related mechanical, electrical or other equipment.

MAXIMUM GROUNDWATER TABLE ELEVATION -- The elevation of the water table that is observed when the groundwater is at its highest level during the year or highest level observed in past years when such information is available.

ORIGINAL GROUND -- Those soils or other natural geological features which have been deposited or developed by natural processes.

OWNER -- Any person who alone or jointly or severally with others holds legal title to any real property or has possession or control of any real property through any agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of a holder of a legal title or has possession or control through any lease or purchase and sale agreement. Each such person is bound to comply with the provisions of these rules and regulations.

PACKAGE TREATMENT PLANT -- A modular treatment facility of the extended aeration type, which design shall be consistent with criteria set forth for the activated sludge process in Guides for the Design of Wastewater Treatment Works (NEIWPC, TR-16, latest edition) or

other acceptable design standards. The effluent shall normally be disposed of into the soil through a surface sand filter.

PERCOLATION TEST -- A test to determine the absorption capacity of the soil.

PERSON -- Includes any individual, group of individuals, firm, corporation, association, partnership or any federal or municipal governmental entity.

PRIVATE WELL -- Any man-made opening into the ground developed for the purpose of meeting all or part of a person's potable water needs, provided that said well does not supply a public water system.

PRIVY -- Any facility used for a toilet lacking the flushing aid of water and consisting of a pit or vault into which the waste matter falls.

PROPERTY IMPROVEMENT -- Any structure or residence, as defined herein, or any other building, construction, excavation or other man-made feature added or to be added to a raw, unimproved-improved parcel of real property.

PUBLIC DRINKING WATER SUPPLY WELL OR PUBLIC WELL -- Any man-made opening into the ground developed for the purpose of meeting all or part of the needs of a public water system.

PUBLIC WATER SYSTEM -- Any water system that provides piped water to the public for human consumption, provided that such a system has at least fifteen (15) service connections or serves an average of twenty-five (25) individuals daily at least sixty (60) days out of the year. A "public water system" shall include all sources and facilities involved in collecting, treating, storing and distributing the water.

REPAIR -- Work performed on an ISDS in order to mend or remedy a specific defect or deficiency after the failure, injury, deterioration or partial destruction of a previously existing ISDS or component thereof. A "repair" shall not include any work performed on an existing ISDS which increases the flow capacity of the system.

RESIDENCE -- Any structure used for housing purposes, including but not limited to single- or multiple-family dwellings, duplexes, tenements, apartment buildings, condominiums, mobile homes, recreational vehicles or trailers.

ROTTEN ROCK -- Any highly decomposed but still coherent rock, including but not limited to highly weathered granitic bedrock.

SANITARY SEWAGE -- Any human or animal excremental liquid or substance, any putrescible animal or vegetable matter and/or any garbage and filth, including but not limited to any grey water or black water discharged from toilets, laundry tubs, washing machines, sinks and dishwashers, as well as the content of septic tanks, cesspools or privies.

SEEPAGE PIT -- A covered pit with open jointed sidewalls and bottom from which septic tank effluent or waste containing little or no solids is leached into the soil.

SEPTAGE -- The solid and/or liquid materials which are pumped from an ISDS.

SEPTIC SYSTEM -- For the purpose of this ordinance, a septic system is analogous to an individual sewage disposal system.

SEPTIC TANK -- A watertight receptacle which receives the discharge of sewage from a building sewer and is designed and constructed to permit the deposition of settled solids, the digestion of the matter deposited and the discharge of the liquid portion into a leaching system.

SHORELINE FEATURE -- Includes, but shall not be limited to, the following:

- (1) BARRIER BEACHES -- Narrow strips of land made of unconsolidated material, usually extending parallel to the coast and separated from the mainland by a coastal pond, tidal water body or coastal wetland. In most cases, "barrier beaches" contain dunes or dune fields. The lateral limits of "barrier beaches" are defined by the area where unconsolidated sand or cobble abut rock, glacial till or other sediments unrelated to deposits made by the forces of the wind and water. This definition of a barrier beach system is commonly associated with many geomorphic descriptions. These descriptions include, but are not limited to, barrier islands, bay barriers and spits. Spits are further described as tombolo, shingle, cusate and flying spits. The terms "bar" and "ridge" were once used to describe a barrier system but have since been replaced with the term "barrier."
- (2) COASTAL BEACHES -- Includes expanses of unconsolidated, usually unvegetated-vegetated sediments that are commonly subject to wave action. They generally parallel the coastal trend and extend from low water landward to an upland rise, usually the foot of a dune, cliff, bank or man-made structure.
- (3) DUNES -- Hills, mounds or ridges of sand formed by wind action and usually follow the general coastal trend immediately inland of a coastal beach. "Dunes" which are undisturbed are usually vegetated with beach grass and shrubs.
- (4) COASTAL CLIFFS, BLUFFS AND BANKS -- The seaward face of any elevated land form directly abutting coastal waters, a beach, coastal wetland or rocky shore.
- (5) MAN-MADE SHORELINES -- Characterized by man-made shoreline protection structures and other alterations that have affected the shoreline to such an extent that natural shoreline features are no longer dominant.
- (6) ROCKY SHORES -- Includes naturally occurring shorelines composed of bedrock ledge or cobble or boulder-strewn areas, extending from below the mean water mark to above the mean high water mark. These areas frequently contain tide pools.

SIPHON -- A hydraulic device designed to discharge the contents of a dosing tank rapidly when a predetermined level is reached.

SLOPE OR GRADE -- The rate of rise or fall of a pipeline or of the ground surface in reference to a horizontal plane. "Slope or grade" is commonly referred to as "rise over run," a measurement which is a function of the rise or fall of the pipe or ground surface (as measured in inches or feet or a metric equivalent) divided by the linear distance over which the rise or fall occurs (as measured in inches or feet or a metric equivalent, respectively).

SPECIALLY ENGINEERED SYSTEM -- Any ISDS which does not meet the location, design or construction requirements as provided by these regulations but which, through additional field testing, calculations and other engineering evaluations, may be demonstrated to comply with the intent of these regulations.

STORM DRAIN -- Any pipe or structure designed to collect, carry and/or divert surface runoff.

STRUCTURE -- Any residence (as defined herein), building, garage, shack, trailer or other permanent or semipermanent facility, whether commercial or noncommercial in use, which is proposed to be placed or has been built or otherwise placed on a parcel of real property.

SUBDIVISION -- Three (3) or more contiguous lots of record under common ownership or the division of a single lot or parcel of land into three (3) or more lots or other divisions of land for the purpose of making said lot(s) more susceptible to present or future development, sale or transfer.

SUBDIVISION LAYOUT -- Any proposed design or arrangement of lots, roads, structures, easements, utilities or other features to be incorporated into a subdivision.

SUBSURFACE DRAIN -- Any system of below-surface piping and/or highly permeable material intended to lower the water table of an area. A foundation drain is a category of "subsurface drain" for the purpose of protecting the building foundation.

TEST PIT -- An open pit dug to permit an examination of the soil profile and to determine the elevation of the groundwater table.

TIDAL WATER OR TIDEWATER -- Any watercourse, coastal wetland, freshwater wetland, river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow or any other standing or flowing body of water affected by the tides.

WASTEWATER -- Wastewater is analogous to sanitary sewage.

WASTEWATER MANAGEMENT DISTRICT (WWMD) -- All or a portion of one (1) or more cities or towns where the proper operation and maintenance of an ISDS will be required in accordance with the provisions of an adopted ordinance which defines the district.

WATERCOURSE -- Any river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow, tidewater or any other standing or flowing body of water.

§ 210-3. Pertinent DEM regulations.

Citations such as SD 2.01, SD 2.02, etc., reference the relevant sections of the RI DEM ISDS Regulations.

SD 2.00 - Construction, Renovation and/or Change of Use of Structures Using Individual Sewage Disposal Systems

(a) No person shall begin any building construction, building renovation and/or change of use of any structure from which sewage is being or will have to be disposed of by means of an individual sewage disposal system including improvements which will result in increased sewage flow, without first obtaining the Director's written approval in accordance with this section.

I. CONSTRUCTION OF NEW STRUCTURES:

Whenever an applicant proposes to construct a new structure from which sewage will be disposed of by means of an individual sewage disposal system, an Application for New System shall be made in accordance with SD 2.01 (b)(1) and SD 2.02, below. All Applications for New Systems shall conform with all requirements under these regulations.

(a) Construction of New Structures in Subdivisions - No person shall begin construction of any new structure in a subdivision located in an area where sewage will have to be disposed by means of an ISDS until he/she has applied for and obtained a Certification of Site Suitability from the Director in accordance with SD 18.00 et seq. An approved Certification of Site Suitability shall not operate as an approval for the construction of any ISDS as required by SD 2.01.

II. BUILDING RENOVATIONS AND CHANGES OF USE TO EXISTING STRUCTURES:

Whenever an applicant proposes any building renovation or change of use (as defined in SD 1.00) of an existing structure from which sewage is disposed of by means of an ISDS, an Application for a System Suitability Determination shall be made. For the purposes of this

section, the term "building renovation" shall also be defined as including any addition, replacement, demolition and reconstruction, or modification of an existing structure on the subject property which:

- (a) Results in an increase in sewage flow into the system*; or
- (b) Affects fifty (50) percent or more of the floor space of the existing structure; or
- (c) Is valued at greater than twenty-five (25) percent of the current replacement value of the subject structure where the existing sewage disposal system is a cesspool. For the purposes of this section, current replacement value may be established by using the BOCA cost index, or the owner may provide the pre-renovation replacement value as established by a qualified appraiser or estimator.**

*NOTE: All sewage flows shall be determined in conformance with State ISDS regulations.

**NOTE: The Department recommends that whenever an owner proposes a building renovation or change of use of a structure using a cesspool-type or privy ISDS, that the owner consider proceeding directly to an Application for Alteration under SD 2.01(b)(2) rather than applying for a System Suitability Determination (see SD 2.00 (a) (4) below).

III. APPLICATION FOR SYSTEM SUITABILITY DETERMINATION:

An application for System Suitability Determination shall be required as specified in SD 2.00 (a)(2), above, in order to determine whether the existing individual sewage disposal system is suitable for the purposes proposed by the applicant. In reviewing any Application for system Suitability Determination, the Director may consider the cumulative effects resulting from past Change of Use Applications, Applications for System Suitability Determination, building permits and/or deed restrictions relating to the subject property. After reviewing an Application for System Suitability Determination, the Director shall determine whether the existing system:

- (a) Is suitable to adequately dispose of the proposed sewage flows so as to protect the public health and the environment; or
- (b) Is unsuitable and requires an approved Application for New System or Application for Alteration, in conformance with SD 2.01 (b) (1) or 2.01 (b) (2), respectively, and SD 2.02 before the proposed building renovation or change of use may be allowed.

IV. SYSTEM SUITABILITY DETERMINATIONS FOR STRUCTURES SERVED BY CESSPOOLS:

Cesspools are defined by these regulations to be a substandard method of sewage disposal. Accordingly, any Application for System Suitability Determination relating to a structure serviced by a cesspool which is filed for review with the Department pursuant to SD 2.00 (a)(2)

and (3), above, will be presumed to be unsuitable and an application for New System or Alteration will be required in accordance with SD 2.00 (a)(3)(B), above.

(a) For System Suitability Determinations required under SD 2.00 (a)(2)(C) only, the Department's presumption of unsuitability may be rebutted by supplying the Department with affirmative engineering and geohydrological data indicating that the cesspool functions adequately to protect the public health, public interest and the environment in accordance with these regulations.

(b) In rebutting the Department's presumption of unsuitability, the applicant shall be required to demonstrate the following minimum criteria and setback requirements:

(i) 75 feet to private well

(ii) 200 feet to public well

(iii) 3 feet separation between seasonal high groundwater table and the bottom of stone under cesspool

(iv) 200 feet to surface drinking water supply or tributary stream or drain thereto

(v) 150 feet to critical resource area as defined in these regulations

(vi) Fecal coliform measured in groundwater within 50 feet of cesspool does not exceed an MPN of 10 per 100 ml

(vii) No history of sewage overflow or other septic system failure

V. EXCEPTIONS TO REQUIREMENT FOR APPLICATION FOR SYSTEM SUITABILITY DETERMINATION:

No Application for System Suitability Determination shall be required where a valid permit for New System or Alteration exists at the time of the issuance of the building permit and the ISDS design approved by said permit accounts for the proposed improvements to be performed.

(b) Issuance of Building Permits for Activities Requiring Approval Under These Regulations - A municipality shall not issue a building permit pursuant to R.I. General Laws, Chapter 23-27.3, as amended, unless all written approvals by the Director required by these Regulations have been presented to the municipality and said approvals are valid at the time of the issuance of the building permit.

SD 2.01 - Applications for the Installation of New Systems or for the Alteration or Repair of Existing Individual Sewage Disposal Systems

(a) No person shall install, construct, alter or repair or cause to be installed, constructed, altered or repaired any individual sewage disposal system without first obtaining the Director's written

approval of the plans and specifications for such work. Certifications of Site Suitability approved in accordance with SD 18.00 et seq. shall not be construed to operate as an approval for the construction of any ISDS.

(b) Applications for the installation of new individual sewage disposal systems and for the alteration and/or repair of existing individual sewage disposal systems shall include the following applications:

1. Application for New System: All Applications for New Systems shall be made in conformance with all requirements under these regulations. Applications not in conformance with these regulations may be approved only through the variance procedures set forth in SD 20.00 through SD 20.03. An Application for a New System shall be made whenever an applicant proposes to:

(a) Construct a new structure from which sewage will have to be disposed of by means of an individual sewage system; or

(b) Modify an existing structure, not previously permitted to dispose of sewage, so as to require the disposal of sewage to an individual sewage disposal system; or

(c) Increase sewage flow to an existing system by an amount greater than twenty-five (25) percent of the original design flow; or

(d) Improve an existing residence through the addition of more than one bedroom; or

(e) Change the use of a structure in conformance with SD 2.00 (a)(2)(A) and, as a prerequisite thereto, has been required to install a New System as the result of a System Suitability Determination.

2. Application for Alteration: An Application for an Alteration of an existing individual sewage disposal system shall be made whenever an applicant proposes a change in the size of an ISDS, a modification of an ISDS, or a building renovation or change of use (as defined in SD 1.00) of a structure discharging sewage into the system.

(a) The phrase "change in size", as used herein, shall mean any physical alteration to a system which will allow the system to accommodate:

(i) In the case of a residence, the additional sewage flow resulting from the addition of not more than one bedroom; or

(ii) In all other cases, an increased flow of sewage in an amount less than or equal to twenty-five (25) percent of the design flow.

(b) Changes in size which will accommodate increased sewage flows resulting from more than one bedroom or in an amount greater than twenty-five (25) percent of the design flow must

obtain a permit for a New System in conformance with SD 2.01 (b) (1), above. All sewage flows will be determined in conformance with SD 3.00.

(c) The phrase "modification of an ISDS", as used herein, shall mean a change in the type of system or a modernization of an existing system.

(d) An Application for Alteration shall be made when required by the Individual Sewage Disposal System Program in response to an Application for System Suitability Determination, as described in SD 2.00 (a)(2).

(e) If necessary, certain requirements under these regulations may be relaxed in accordance with the variance procedures set forth in SD 20.00 through 20.03, provided that such modification is consistent with public health protection and protection of the environment. In reviewing any request for variance from these regulations, the protection of the public health and the environment shall be given priority over all other considerations.

3. Application for Repair: An Application for Repair of any individual sewage disposal system, or any component thereof, shall be made when an existing system or component has failed, as defined by SD 1.00.

(a) An Application for Repair shall not propose any construction, building renovation or change of use of a structure pursuant to SD 2.00.

(b) An Application for Repair shall not propose any increase in the original design flow of the system. Sewage flows shall be determined in conformance with SD 3.00.

(c) The approval of an Application for Repair shall not authorize any building renovation of any structure.

(d) Applicants shall meet the requirements of these regulations to the greatest extent possible. If necessary, certain requirements under these regulations may be relaxed at the discretion of the Director, provided that such modification is consistent with the protection of the public health and the environment. In reviewing any request for relaxation of these regulations, the protection of the public health and the environment shall be given priority over all other considerations.

§ 210-4. Applicability.

This ordinance shall be applicable to every owner of premises that has an individual sewage disposal system or is proposing to install an ISDS. In no way do the provisions of this ordinance abrogate the powers and duties of the Coastal Resources Management Council or the Department of Environmental Management to their responsibilities for the management of wastewater systems.

§ 210-5. Boundaries.

The Wastewater Management District will regulate the operating and maintenance of all ISDS within the Town of Charlestown.

§ 210-6. ISDS operation and maintenance.

A. Pumping of individual sewage disposal systems. [Amended 3-9-1998 by Ord. No. 209]

(1) The contents and equipment of an ISDS located within the WWMD shall be inspected and pumped out if such inspection deems that pumping is necessary. Pumping schedules shall be set by the WWMD Wastewater Management Commission. Inspections shall occur at a minimum frequency of once every three (3) years.

(2) Based on the following criteria, pumping schedules for ISDS may be set as determined by the WWMD Wastewater Management Commission. At no time, however, may an ISDS pumping schedule be less than once every six (6) years. Those ISDS owners are subject to ISDS inspection and reporting requirements.

(3) Threshold criteria for review of ISDS pumping schedule and ISDS maintenance.

(a) ISDS operating within its designed capacity and use. Using data from any ISDS inspection, together with site data such as soils and water table and household information obtained from an owner/occupant and any inspection records and reports (see § 210-7, ISDS inspections), the ISDS is:

[1] Properly functioning, the ISDS owner may petition the WWMD Wastewater Management Commission to revise his/her pumping to a less frequent level.

[2] Not properly functioning, the WWMD Wastewater Management Commission may require that the ISDS be pumped out at a more frequent level and that measures be taken to mitigate this finding. The WWMD Wastewater Management Commission will notify the ISDS owner of any deliberations it is considering which apply to this provision and work with the owner to meet the intended requirements. Such requirements include recommended corrective actions. If no negotiations can be made, the WWMD Wastewater Management Commission will notice the owner and require that an application be submitted to the RI DEM for the necessary permit to repair/alter the system, if necessary. Such application must be made within sixty (60) days of the Commission's notice.

(b) Cesspools. When the initial inspection record and report find that a cesspool exists and that such cesspool is not adequately treating septage in accordance with this ordinance, the cesspool will be considered a failed system and the RI DEM will be notified of such. The WWMD Wastewater Management Commission will notify the owner and require that an application be submitted to the RI DEM for the necessary permit to repair the system. Such

application must be made within sixty (60) days of the Commission's notice. If a cesspool is found by the WWMD Wastewater Management Commission to be adequately treating septage, the Commission shall not notify RI DEM as a matter of policy but shall keep such information on record for use in determining priority areas for upgrading ISDS and/or future sewers.

(c) Privies. Construction of new privies is prohibited.

B. Septage disposal. Septage or contents pumped from an ISDS shall be discharged at a wastewater treatment facility approved by the Department of Environmental Management for this purpose. All pumpers licensed by the town must show evidence of having the ability to discharge at such a facility.

C. Improper discharges to ISDS. The discharge of rain spouts, basement sumps or any other drains to an ISDS is prohibited.

D. Acid and organic chemical septic tank additives. The use or disposal of acids or any organic chemical solvents in an ISDS is prohibited by RI DEM.

E. Impervious surfaces. The location of swimming pools, patios, driveways or other impervious surfaces over leaching areas is prohibited without the approval of the Department of Environmental Management.

F. Garbage disposals. Garbage disposal discharges to an ISDS shall be discouraged, since such discharges add unnecessary solids to an ISDS.

G. Trees and shrubs. The owner shall keep trees and shrubs at a minimum of ten (10) feet from the leaching area to minimize the likelihood that roots will clog or disrupt the ISDS.

H. Accessibility. The owner shall maintain his/her ISDS so that it is accessible for inspection and maintenance.

§ 210-7. ISDS inspections.

This ordinance authorizes the passage of authorized representatives of the town, the WWMD Wastewater Management Commission or their designees and septage haulers licensed by the Wastewater Management Commission onto private property when necessary for the periodic inspection, pumping, maintenance and repair of ISDS.

A. Inspection frequency.

(1) All ISDS shall be subject to an on-site inspection by the WWMD or its designee at a minimum of once every three (3) years or more frequently as determined by the WWMD Wastewater Management Commission. All new ISDS may be subject to inspection by the WWMD to ensure proper site maintenance during construction. Frequency of inspection would be determined as set forth in Section 6.1A(1).

(2) Inspections will also occur at the regularly scheduled pumping for each ISDS as set by the WWMD Wastewater Management Commission, but may also occur at other times set by the WWMD. At no time, however, will ISDS inspections occur at a frequency of less than once every three (3) years. Inspection other than those which occur at the regularly scheduled pumping may result from a complaint, the need to spot check the ISDS, or the need to follow up on previous pump-out(s) and/or inspection reports that suggest that an ISDS needs additional inspections. Criteria for additional inspections are as set forth in Section 6.1A(1).

(3) All ISDS owners shall be sent a written notice of regularly scheduled inspections. This notice may also require that ISDS owners provide basic ISDS and site information to the WWMD Wastewater Management Commission as stipulated in Subsection B.

B. Inspection records.

(1) ISDS inspection notices (Subsection A) shall contain the following informational requirements, developed by the WWMD Wastewater Management Commission and provided by the homeowner. The information will include, but not be limited to, occupancy of household (number of persons and/or seasonal use; rental property and schedule of rental occupancy; and condition of ISDS: RI DEM-approved system or cesspool) and will also include that information found below at Subsection B(2), Inspection records. The homeowner will provide as much information as possible. The remaining criteria will be completed by the WWMD Wastewater Management Commission, its inspector and/or agent. The purpose of this information is to obtain basic ISDS and site data that will be used in conjunction with the actual ISDS pumping to assist the WWMD Wastewater Management Commission in its determinations as to whether or not an ISDS pumping schedule warrants change.

(2) The WWMD shall maintain a record of each ISDS inspected, including:

(a) Owner's name.

(b) Street address or utility pole number.

(c) Telephone number.

(d) ISDS location (rough sketch, yet accurate representation of location of system, including swing ties from the foundation to the septic tank cover and other critical components of the system).

(e) Date(s) of previous maintenance.

(f) Notes on ISDS condition, to include:

[1] Site conditions such as new construction, new living units, in-law apartment and encroachments onto disposal area.

- [2] Type of septic system.
- (g) Approximate size of tank.
- (h) Physical condition of inlet and outlet baffles.
- (i) Evidence of leakage into or out of tank.
- (j) Evidence of backup of effluent.
- (k) Distance between bottom of grease/scum layer and the bottom of the outlet baffle.
- (l) Condition of surface vegetation.
- (m) Presence of garbage disposal device.

C. Inspection reports.

(1) A written report detailing the results of the inspection shall be kept on file with the WWMD and sent to the homeowner. The report is sent to the homeowner for his/her review and to allow for data collected during inspection to be updated/revised, based on submittal of convincing evidence. If the inspection reveals a malfunctioning ISDS, the owner shall be given a written notice of the WWMD Wastewater Management Commission' findings. A copy of said report shall also be sent to the DEM, Division of Groundwater and ISDS. The owner shall be given sixty (60) days to contact the DEM and apply for a permit to repair or replace the system, if necessary. A time limit to complete any needed repairs or alterations shall be established on a case-by-case basis.

(2) If a system has not failed but requires pumping, the owner shall be required to show proof that the ISDS has been pumped within thirty (30) days of inspection. A receipt from the pumper shall constitute adequate proof. In cases of failure, the aforementioned notification process to the WWMD Wastewater Management Commission neither replaces nor precludes the obligation of the owner to notify the Rhode Island Department of Environmental Management, the Rhode Island Department of Health or the Coastal Resources Management Council.

§ 210-8. Administration.

A. Appointment of Wastewater Management Commission.

(1) Upon enactment of this section, the Town Council of the Town of Charlestown shall appoint a seven-member Wastewater Management Commission whose duty it shall be to oversee the administration of the Wastewater Management District. [Amended 8-15-2006 by Ord. No. 295]

(2) Initially, one (1) Commissioner shall be appointed to serve for one (1) year; one (1) Commissioner shall be appointed to serve for two (2) years; one (1) Commissioner shall be

appointed to serve for three (3) years; one (1) Commissioner shall be appointed to serve for four (4) years; and one (1) Commissioner shall be appointed to serve for five (5) years. Any additional appointments made to the commission shall serve an initial appointment of between 1 to 5 years ascending in order from one (1) year to a five (5) year appointment chronologically as any new initial members are appointed. Thereafter, each Commissioner's term shall be for five (5) years. [Amended 8-15-2006 by Ord. No. 295]

(3) Annually, the Wastewater Management Commission shall elect a Chairman and Vice Chairman from among its members.

(4) No person who is not a resident of the Wastewater Management District shall be eligible to serve as a Commissioner.

(5) Commissioners shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of their duties.

B. Powers and duties of Wastewater Management Commission.

(1) Meetings of the Wastewater Management Commission shall be held at the call of the Chairman or Vice Chairman or by the vote of three (3) members. The Chairman or, in the absence of the Chairman, the Acting Chairman shall be empowered to administer oaths and compel the attendance of witnesses.

(2) It shall be the duty of the Wastewater Management Commission, without limitation, to:

(a) Supervise the administration of a program of surface water and groundwater protection through maintenance and inspection of individual sewage disposal systems as authorized by this ordinance and Title 45, Chapter 24.5, of the Rhode Island General Laws.

(b) Develop rules and regulations for the implementation of the ordinance.

(c) Recommend to the Director of Public Works and Town Administrator the appointment of such staff as may be necessary to implement and effectuate the efficient operation of the Wastewater Management District. Said staff will be subordinate to the Director of Public Works and form a component of the Department of Public Works.

(d) Render declaratory rulings regarding the rights and obligations of any person or owner of property that is subject to the requirements of this section.

(e) Hear and decide appeals from any violation notice issued pursuant to this section.

(f) Levy fines for violations pursuant to this section.

§ 210-8.1. Wastewater Management Commission Rules and Regulations. [Added 5-10-2004 by Ord. No. 252]

A. Authority. This section has been drafted in accordance with and under the authority of the State of Rhode Island General Laws, Title 45, Chapter 24.5, entitled "Towns and Cities; Wastewater Management Districts." Nothing in this section replaces or precludes any obligation of the landowner to comply with any other laws or regulations of the Rhode Island Department of Environmental Management, or its successor, or any other State agency with jurisdiction over wastewater management systems.

B. Findings. The Charlestown Town Council hereby finds the following facts in support of the establishment of these Rules and Regulations. All documents and findings listed in the Charlestown Wastewater Management District Ordinance and these Rules and Regulations are incorporated herein by reference:

- (1) The Charlestown Comprehensive Community Plan; Land Use Element, Natural and Cultural Resources Element, Community Facilities Element.
- (2) The Charlestown Zoning Ordinance.
- (3) The Charlestown Land Development and Subdivision Regulations.
- (4) The record of proceedings established by the Charlestown Wastewater Management Commission in its establishment of these Rules and Regulations.
- (5) RI DEM rules and regulations establishing minimum standards relating to the location, design, construction and maintenance of individual sewage disposal systems.

C. Purpose. The Town of Charlestown hereby finds that, without proper operation, maintenance and management, individual sewage disposal system (ISDS septic systems or on-site systems) will perform poorly or eventually fail. ISDS failure or poor performance poses a risk to public health and a potential contamination source to the surface and ground waters of the state. The purpose of this section is to establish a Wastewater Management District (WWMD), in accordance with the provisions of Chapter 45-24.5 of the Rhode Island General Laws, to insure that ISDS are properly operated, regularly inspected, routinely maintained, and administratively managed to prevent malfunctioning systems and to operate as an alternative to municipal sewer systems and to further the purpose of Chapter 46-13-2 of the Rhode Island General Laws which relates to the construction and protection of drinking water wells. These rules and regulations provide the technical and administrative procedures governing implementation of the Charlestown Wastewater Management Ordinance.

D. Definitions. Any term not defined herein shall be governed by the definition as it appears in the current RI DEM Rules and Regulations Establishing Minimum Standards Relating to the Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems (hereinafter ISDS Regulations).

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

CHARLESTOWN WASTEWATER MANAGEMENT PROGRAM (CWMP) -- A town-wide program, created by the Ordinance/Rules and Regulations, of various zoning and subdivision regulations, ordinances, educational programs, management practices and financial incentives that are designed to help protect the integrity of Charlestown's ground and surface water through the proper management, design, siting, installation and maintenance of an ISDS.

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

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

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

EFFLUENT FILTERS -- A filter installed on the outlet side of a septic tank that traps solids to prevent them from carrying over to the distribution box and soil absorption system.

ENHANCED TREATMENT SYSTEMS -- On-site wastewater treatment that uses advanced treatment technologies (i.e.: innovative and alternative systems), which provide for enhanced removal of one or more contaminants (e.g. nutrients, microorganisms, BOD, TSS) as compared to conventional septic systems.

GROUNDWATER PROTECTION OVERLAY DISTRICTS (GPOD) OR WASTEWATER MANAGEMENT DISTRICT(S) (WWMD) -- The zoning district(s) defined to overlay other zoning districts in the Town of Charlestown. This district(s) may include all of Charlestown or specifically designated recharge areas that collect precipitation or surface water and carry it to groundwater aquifers. The purpose of the overlay district(s) is to protect public health and safety and to restore and preserve Charlestown's natural resources by minimizing contamination of groundwater, including of shallow/superficial and bedrock aquifers that provide water to existing and potential sources of drinking water supplies and natural resources that could be used for swimming, shellfishing, boating or other contact use, and provide water to Charlestown's critical

natural resources that support important coastal and river habitats, tourism, economy, real estate, recreation, and other high quality of life attributes.

HANDBOOK -- The Rhode Island Department of Environmental Management's Septic System Check-Up: The Rhode Island Handbook for Inspection, as may be amended from time to time.

HAZARDOUS WASTE OR MATERIALS

- (1) Wastes or materials which include, but are not limited to, those which are toxic, corrosive, flammable, or reactive;
- (2) Wastes as defined in the Rhode Island Hazardous Waste Management Act, Section 23-19.1-4 or in any regulation or amendment adopted pursuant thereto; and/or
- (3) As defined under Section 3.25 of the Rhode Island Department of Environmental Management Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal.

INDIVIDUAL SEWAGE DISPOSAL SYSTEMS (ISDS) -- Also, see Section 210-2, Definitions; this regulation further defines ISDS to include many on-site decentralized treatment systems including individual (single property) on-site wastewater treatment systems (i.e., septic systems), small community (multiple properties) on-site systems, small treatment plant or 'package treatment plant' systems (see definition below), innovative and alternative enhanced treatment systems (see definition above), and linked configurations or combinations of on-site decentralized systems, that discharge treated wastewater effluent to below ground surface through subsurface distribution pipelines or through sand filters (or other media bed filters) placed atop of the ground surface to infiltrate to below the ground to recharge groundwater aquifers. ISDS also include all types of cesspools as defined in this regulation and § 210-2, Definitions, and in Rhode Island DEM's regulations or ISDS inspection guidelines, and are considered to be substandard treatment systems. ISDS do not include systems with an exposed discharge above the ground surface or to any surface water of the state and require separate discharge permits from RI DEM.

ISDS INSPECTIONS -- One of three types of ISDS inspections that may be undertaken to gather baseline information, assess maintenance needs, determine the condition of an ISDS at the point of home sale, or determine the cause of ISDS failure. At a minimum, these inspections are consistent with or follow the inspection procedures, methods, materials, etc. in the Rhode Island DEM's The Rhode Island Handbook for Inspection and Inspection Report Forms.

- (1) First maintenance (baseline) inspection: The initial inspection performed on an ISDS and site to gather baseline information including condition, function, performance and other information. First maintenance inspections involve the location of system components and more

detailed data gathering that may not be necessary for subsequent routine inspections. Also, see Subsection F(1)(a), Inspections.

(2) Routine maintenance inspection: An inspection of an ISDS and system site to determine the need for pumping, establish future inspection schedules and to assess whether any repairs or adjustments are necessary. Also, see Subsection F(1)(b), Inspections.

(3) Change of ownership inspection (includes "point of sale," and at a minimum is consistent with the "functional inspection" in the RI DEM Handbook for Inspection): The inspection is conducted when the title or ownership of property having as ISDS is expected to be transferred/changed. It provides information on the location, condition, function and performance of the system to prospective owner(s). It may be conducted as part of a house or home, multiresidential or commercial building inspection by qualified ISDS inspectors. Also, see Subsection F(1)(c), Inspections.

ISDS INSPECTOR -- An individual person who has completed and successfully passed:

(1) University of Rhode Island's (URI) Conventional Septic System Inspection Short Course (INSP 100, or revised title) to qualify for inspecting conventional on-site systems only;

(2) The University of Rhode Island's Innovative and Alternative Septic System Inspection Course (INSP 200, or revised title) to qualify for inspecting enhanced innovative and alternative on-site systems; or

(3) Equivalent, as determined by the Commission.

Qualified inspectors must provide the CWMC with a valid and current certificate of liability insurance for the amount of \$1,000,000 and has been approved by the Charlestown Wastewater Management Commission.

MAINTENANCE -- The periodic cleaning of any leaching chamber, cesspool, septic tank, building sewer, distribution lines, or any other component of an ISDS for the purpose of removing any accumulated liquid scum and/or sludge. The term "maintenance" shall also mean any regularly required or intermittent servicing, adjustment, replacement or repair of mechanical, electrical or other equipment (such as float switches, pumps, electronic controls, filters, ultraviolet disinfection units, etc.) for proper system operation to functionally perform at a level of treatment for which the system was designed to meet either 1) conventional treatment system requirements or effluent treatment performance standards, or 2) to meet enhanced innovative and

alternative treatment system requirements or treatment performance standards specified for wastewater management districts under this regulation.

PACKAGE TREATMENT PLANT SYSTEM -- A modular or small engineered treatment facility of state-approved design and construction which collects and treats wastewater effluent from multiple dwellings or commercial establishments, a neighborhood, subdivision development, small village, etc., and which discharges treated effluent to infiltrate below the ground surface to recharge groundwater resources. For purposes of the on-site Wastewater Management District Ordinance, package treatment plants are considered ISDS.

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

RI DEM -- The State of Rhode Island, Department of Environmental Management or its successor organization.

TREATMENT PERFORMANCE STANDARDS -- Any numerical effluent limits, treatment specifications, technologies, processes, system components, effluent handling, etc., required under the Wastewater Management District Ordinance/Rules and Regulations for the specified management district area, for treating contaminated ISDS sewage effluent prior to discharging treated effluent below the ground surface at an acceptable quality to protect and recharge Charlestown's groundwater aquifers, surface waters, wetlands and other natural resources. New ISDS installations are required to meet specified treatment performance standards for the Wastewater Management District.

WASTEWATER -- Any human or animal excremental liquid or substance, putrescent animal or vegetable matter, garbage, or filth, including the discharge of toilets, laundry tubs, washing machines, sinks, dishwashers, and the contents of septic tanks, cesspools, or privies.

WASTEWATER MANAGEMENT COMMISSION -- The Charlestown Wastewater Management Commission (CWMC) whose duty it shall be to oversee the administration of the Wastewater Management District.

WASTEWATER MANAGEMENT DISTRICT ADMINISTRATIVE FEE -- A nominal fee paid by on-site ISDS owners dedicated to maintaining the administrative functions required under the Charlestown Wastewater Management District Ordinance/Rules and Regulations, including, but not limited to, the wastewater management specialist and function, notification postage, outreach and education, system tracking and geographic information mapping, and other functions common to a utility entity consistent with this section.

ON-SITE WASTEWATER SPECIALIST -- An individual hired, contracted or otherwise approved by the town of Charlestown as its wastewater specialist to serve as the principal coordinator or program administrator of Charlestown's Wastewater Management District program under the Wastewater Management District Ordinance/Rules and Regulations. The duty of the specialist shall be to oversee the daily administration of the Charlestown Wastewater Management District Ordinance, and whose duties are partially described in § 210.8.1E(1)(a) through (d), and to coordinate activities with the Town Building Code Officer, Town Planner, Town Administrator, Town Council and others.

WELLHEAD PROTECTION AREA -- The critical portion of a three dimensional zone surrounding a public well or well field, through which water will move towards and reach such well or well field as designated by the Director of RI DEM or as adopted by the Town.

E. Program administration.

(1) Charlestown Wastewater Management Commission and On-site Wastewater Specialist:

(a) The Wastewater Management Commission shall oversee the Wastewater Management District and this Ordinance/Rule and Regulation. The On-site Wastewater Specialist may serve as the Wastewater Management Commission's designee and is responsible for the day-to-day operation of the program. The duties of the On-site Wastewater Specialist shall be in conformance with the Charlestown Wastewater Management Ordinance, these regulations, see § 210-8.1D(22), and the attached duties description in E(1)(b) through (d) below, and consistent with the key wastewater and Town administrative duties, see below.

(b) Among the duties of the On-site Wastewater Specialist will be to give appropriate notification to ISDS owners of actions to be taken under the ordinance, including but not limited to conducting or requiring ISDS inspections, repairs, cesspool removals, etc., to develop lists of town-approved licensed inspectors, pumpers or other on-site system service professionals; to track the status of systems, to conduct inquiry into system inspections and professional conduct of system service professionals (including quality control checks of inspections or installation of new systems, modifications or repairs to existing systems); to recommend modifications to the Wastewater Management District Ordinance/Rules and Regulations; to assist system owners; and to conduct education and outreach to town residents and businesses; and duties consistent with the purpose of this regulation.

(c) At a minimum, the person should have a demonstrated competency in the area of soil science, ISDS functioning, inspection and repair procedures, including innovative and alternative technology.

(d) The On-Site Wastewater Specialist shall prepare a monthly report for the Wastewater Management Commission regarding program implementation including progress and any problematic situations. It shall include such items as the status of any associated grants, consent

agreements, notice of violations, number of inspections, number of retrofits, septic system repairs, and other pertinent information.

(2) Wastewater Management Commission:

(a) The Wastewater Management Commission shall provide guidance in the implementation of the Wastewater Management Program and associated grant and loan programs

(b) The Wastewater Management Commission shall carry out its responsibilities as detailed in the Charlestown Wastewater Management Ordinance.

(c) Upon request, the Wastewater Management Commission shall meet with ISDS owners to provide information on issues of on-site wastewater management.

F. Inspections.

(1) Inspection types: The WWM Ordinance requires three types of inspections, which at a minimum are consistent with those described in the RI DEM Handbook for Inspection: First maintenance (baseline) inspection, routine maintenance inspection, and the third type, change of ownership inspection (which is consistent with "functional inspection" in the Handbook for Inspection).

(a) A first maintenance (baseline) inspection of each ISDS in Town shall be conducted in order to obtain baseline information, including condition, function and performance, and to determine a routine maintenance schedule and potential upgrade requirements. First maintenance inspections involve some data gathering and location of system components that may not be necessary for subsequent routine maintenance inspections. Also, see Subsection D, Definitions.

(b) Routine maintenance inspections are generally conducted after the first maintenance (baseline) inspection and may occur between septic tank pump-outs. The frequency of routine maintenance inspections is determined by the conditions found at the first maintenance (baseline) inspection. Where appropriate, routine maintenance inspections for any given conventional ISDS may be limited to structural integrity assessment, and measurements of wastewater, sludge and scum levels within a septic tank. Routine maintenance inspections for enhanced innovative and alternative ISDS treatment systems, due to their complexity and the need to reduce the potential contamination of drinking water, groundwater and natural resources, require annual inspection and maintenance to assure proper function, operation, and performance to meet effluent quality treatment performance standards in the Wastewater Management District. Also, see Subsection D, Definitions.

(c) Change of ownership inspections (or functional inspections), at a minimum, are consistent with the "functional inspection" purpose and procedures in the Handbook for Inspection. These inspections are conducted for the current or prospective owner(s) for many reasons, among which include:

- (2) To provide an accurate description of the location, condition and function of a system;
- (3) To determine whether a system is meeting conventional system standards, or the treatment performance standards for enhanced innovative and alternative systems as required in the Wastewater Management District;
- (4) To collect information about its expected use under the new owner;
- (5) To make recommendations to prepare a system for its expected use;
- (6) To review the history of a system from records obtained from the property owner and from administrative files under Charlestown's Wastewater Management Specialist; and
- (7) To obtain information or report recommendations that were omitted, undetermined, or insufficient under the first maintenance (baseline) inspection and routine maintenance inspection, if the record is incomplete or if any of the information is greater than one (1) year old. Also, see Section Subsection D, Definitions.
 - (a) Inspection: All inspectors performing pump-outs shall pump only when inspection results indicate that a pump-out is necessary. See the Rhode Island Handbook for Inspection, page 47, "Table 5.1a, "Pump-out Guidelines for Conventional Septic Systems Serving Residential Properties," and as it applies to commercial properties. Inspectors and septic pumpers shall report all pump-outs to the On-site Wastewater Specialist and CWMC office within 30 days.
 - (b) Inspections of cesspools: Annual inspections shall be conducted for cesspool systems (consistent with the Rhode Island Handbook for Inspection). Pump-outs shall be conducted at the first maintenance inspection. If the first maintenance inspection has been conducted prior to the effective date of this regulation, pump-outs are required at the next inspection under the first Routine Maintenance Inspection, and again every year until the cesspool is removed under ISDS cesspool phase-out program under this regulation. Pump-outs are required to determine if the cesspool is a functioning or failed (malfunctioning) ISDS. See criteria for failed cesspools in Subsection I(9), Cesspools and cesspool failure, miscellaneous regulations. Notifications generally follow those in Subsection F(2), Inspection frequency and notification.
 - (c) Inspections following pump-outs: After any ISDS is pumped-out, the septic tank or cesspool shall be reinspected for damage, infiltration of groundwater, pooling, water levels, etc., and as noted on the Charlestown Inspection Report Form and Sections 5.1.1 through 5.1.8, pages 45-52 in the Rhode Island Handbook for Inspection, to determine if the system is functioning properly. See Subsection I(9), Cesspools and cesspool failure, miscellaneous regulations, for cesspool failure criteria. Pump-outs and re-inspection results shall be reported to the On-site Wastewater Specialist and the CWMC office within 30 days.
- (8) Inspection frequency and notification: The On-site Wastewater Specialist shall send written notice to ISDS owners of the need to schedule the first maintenance inspection and

should send notices for subsequent routine maintenance inspections. This section amends Section 210-6A(1), ISDS operation and maintenance; also, see Subsection G, paragraph 1, Implementation. In general, the inspection frequency for routine maintenance inspections for conventional systems shall be specified by the Inspector based on the results of the first maintenance inspection, subsequent routine maintenance inspections and procedures and considerations outlined in the Rhode Island Handbook for Inspection, the inspection report, or other relevant considerations. The Inspector may specify the standard inspection interval of three years or a frequency varying from one to five years. The frequency shall be based on the judgment of the inspector considering the system's structural integrity, equipment condition, and on the judgment that the system will operate, function, and perform properly. The factors in determining the frequency of inspection shall include but are not limited to, system age, tank size, sludge and scum measurements pumping history, wastewater levels and watertightness (no infiltration of surface water or groundwater and no leaking of wastewater to soils), current and future household occupancy, current and future dwelling or building use (i.e., high residential seasonal and rental use, restaurant-food service use, industrial use, etc.), housing density and property size, separation distances, potential threats to nearby natural resources, potential threats to groundwater and drinking water wells, and other relevant factors. Changes in the inspection frequency from the three-year standard must be approved by the On-site Wastewater Specialist and the Wastewater Management Commission.

(a) The inspector shall explain in the inspection report the reasons for modifying the inspection interval. The On-site Wastewater Specialist and the Wastewater Management Commission have authority to review, conduct quality checks with owner's permission, return the report to the system owner and inspector with comments for additional considerations, and deliberate on the judgment and determination and to establish an appropriate inspection interval.

(b) The owner must have an inspection performed by an approved inspector within one year from the date of notice, or as specified in the notice from the On-site Wastewater Specialist to be consistent with the inspection date and the schedule in the inspection report. ISDS owners shall be responsible to arrange and have conducted an appropriate inspection under this rule and regulation by the anniversary of the prior inspection not to exceed five (5) years, depending upon inspection reports. Failure to receive a notice from the On-site Wastewater Specialist shall not affect the owner's responsibility to have the inspection completed as specified in these regulations. After a system has been inspected, the On-site Wastewater Specialist should attempt to confirm or modify the maintenance requirements and the time frame for the next inspection with the owner. The On-site Wastewater Specialist may send a reminder notice to the owner as the date for the next routine maintenance inspection approaches.

(c) Annual routine maintenance inspections shall be conducted for enhanced innovative and alternative ISDS treatment systems, including package plant treatment systems, and at a minimum, be consistent with the Rhode Island Handbook for Inspection and Charlestown Inspection Reports. Annual inspection and maintenance must include assessment, repair,

replacement, adjustment, and installation of system components, treatment functions, system operations, and treatment performance to meet treatment performance standards for effluent quality in the Wastewater Management District. Effluent quality monitoring shall be conducted to determine whether the quality of effluent discharged to the ground and groundwater meets Charlestown's Wastewater Management District's treatment performance standards. The On-site Wastewater Specialist will contact the owner as necessary to discuss inspection issues, confirm information, modify inspection dates or procedures, the need to conduct further maintenance, conduct quality control assessments, or other reasons to assure proper operation or system performance.

(d) Annual Routine Maintenance Inspections and pump-outs shall be conducted for cesspool systems, and at a minimum be consistent with the Rhode Island Handbook for Inspection and Charlestown Inspection Reports and shall be conducted on a one-year schedule, as described in Section F(1)(e), Inspections of Cesspools. The On-site Wastewater Specialist will contact the owner as necessary to discuss inspection issues, confirm information, modify inspection dates or procedures, to conduct further maintenance, to conduct quality control assessments, or other reasons to assure proper operation or system performance.

(e) The Wastewater Management Commission shall have the authority to alter the inspection schedule by ordering the inspection of any ISDS when it has been determined, for example, that the ISDS is in need of immediate improvements, see Subsection G, referring to implementation of § 210-6.A(1).

(9) Inspection reports: Standard inspection forms shall be those used in the Rhode Island Handbook for Inspection. These forms may be modified by the Wastewater Management Commission and the On-site Wastewater Specialist as needed to meet the technical and administrative needs of the program. The property owner shall provide the ISDS inspector with any available pertinent information, including but not limited to the use, age, location, maintenance history and design of the ISDS. The completed inspection report shall detail the results of the inspection (including operation and function of system components and any sampling conducted for determining performance, and laboratory tests to analyze samples), pumping or other maintenance requirements, the time frame for the next inspection and/or upgrade requirements for the ISDS. The inspector shall give the property owner and the On-site Wastewater Specialist an inspection report within 30 days of the inspection that details the condition of the ISDS, including but not limited to system components, recommended or required maintenance and the date for the next routine maintenance inspection, inspection schedule and maintenance requirements. The ISDS inspector shall provide the On-site Wastewater Specialist and the property owner with a written copy of the inspection report within 30 days. The On-site Wastewater Specialist shall be responsible for maintaining ISDS inspection, maintenance and upgrade records.

(10) ISDS maintenance and owner's responsibility: The property owner(s) shall assume all responsibility for hiring a septage hauler or maintenance contractor to complete the maintenance and inspection requirements contained in the ISDS inspection report within the time frame required. As proof of compliance, the property owner shall submit a receipt for pumping and other system maintenance to the On-site Wastewater Specialist within thirty (30) days of the date stipulated in the ISDS inspection report. Owners of enhanced innovative and alternative ISDS treatment systems shall retain without interruption a service provider under contracts of not less than one (1) year, who has experience and expertise in the property operation and maintenance of the technology in use and has manufacturer certified training for the specific treatment units in use. Owners are responsible for systems being operated in compliance with treatment performance standards in the Wastewater Management District and for which the system was designed, manufactured, tested and installed. Owners may be required by the Commission to have effluent quality monitored by a Rhode Island Department of Health, Department of Environmental Management or University of Rhode Island Watershed Watch Program (or equivalent) certified laboratory annually, or at a frequency established by the On-site Wastewater Specialist, with approval of Charlestown Wastewater Management Commission. Effluent quality shall be analyzed for contaminants established by the Wastewater Management Commission. Results of effluent monitoring will be reported to the On-site Wastewater Specialist or the Charlestown Wastewater Management Commission within sixty (60) days of the inspection date.

(11) Pumping frequency: At no time may an ISDS pumping schedule be less frequent than once every six years, unless otherwise provided for under § 210-6.A.(3). This section amends Chapter 210, Wastewater Management District ordinance, § 210-6.A(1), second sentence.

(12) Failed ISDS: If an inspection reveals a malfunctioning or failed ISDS, the Town-approved inspector shall immediately notify the On-site Wastewater Specialist and the ISDS owner and send a copy of the inspection report to both parties within ten (10) days. In the event that frequent pumping records indicate a failed system, the On-site Wastewater Specialist shall notify the owner in writing of a potential problem and the need for a system inspection. Technologies selected to replace failed systems shall be consistent with Town policy, ordinance, rules and regulations, regarding treatment standards. At the owner's request, and in order to facilitate the ISDS repair application with RI DEM, the Wastewater Management Commission and the On-site Wastewater Specialist will meet with the owner to provide technical and administrative assistance regarding ISDS repairs. The On-site Wastewater Specialist may request advisory recommendations from the Wastewater Management Commission. Such assistance shall be designed to help the owner through the application process, to understand technical issues and appropriate system choices and to solve the problem in a fair and expeditious manner. It does not preclude the owner's responsibility to hire needed professional assistance.

(a) The On-site Wastewater Specialist shall give the owner of a failed conventional or enhanced innovative and alternative treatment system written notice to repair or replace the system. The owner shall be given sixty (60) days to contact RI DEM and apply for and provide

all plans and materials needed for a permit to repair or replace the system as necessary. A copy of the application to RI DEM shall be provided to the On-site Wastewater Specialist. The property owner shall notify the Town as to the expected timetable for repairs to be completed.

(b) For cesspool failure (malfunction), see Subsection I(9), Cesspools and cesspool failure, miscellaneous regulations. Cesspools are substandard wastewater ISDS treatment systems and if failed shall not be repaired. Replacement is required. If, in the judgment of the On-site Wastewater Specialist or the Wastewater Management Commission, any failed system in the Town of Charlestown poses an immediate or imminent health hazard to people (by overland flow, discharges to surface waters and shellfish areas, direct contact, etc.) or threatens the Town's natural resources, the owner shall be given notice to take temporary precautions to redirect flow, provide temporary mobile sanitation facilities, isolate contamination from human contact (line or barrier fence, soil cover, etc.), or to take other measures and actions to eliminate threats to people until conditions are remedied and accepted by the On-site Wastewater Specialist or the Wastewater Management Commission.

G. Implementation.

(1) The implementation of § 210-6A(1) of the WWMD Ordinance shall occur at a minimum frequency of once every five (5) years or more frequently as determined by the system inspector or otherwise established by the On-site Wastewater Specialist or Wastewater Management Commission

(2) For procedural purposes the Town has been subdivided into three (3) districts as follows:

(a) District No. 1: Plat Nos. 7, 8, 9, 10, 11, 12, 13.

(b) District No. 2: Plat Nos. 1, 2, 3, 4, 5, 6.

(c) District No. 3: Plat Nos. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 24A, 25, 26, 27, 28, 29.

(3) The Wastewater Management Commission shall have the authority to alter the inspection schedule by ordering the inspection of any ISDS when it has been determined that the ISDS is in need of immediate improvements.

H. Education and technical assistance.

(1) Education: The Wastewater Management Commission shall develop and oversee an annual education strategy that is designed to facilitate the effective implementation of the Wastewater Management Plan, the Wastewater Management Ordinance and related zoning and subdivision regulations. The education plan shall inform people about the findings, benefits and goals of wastewater management in Charlestown. It shall include but not be limited to the following:

(a) Proper inspection, operation and maintenance of ISDS.

- (b) Operation and management framework of the program.
 - (c) Proper disposal of hazardous waste, including household hazardous waste.
 - (d) Water conservation.
 - (e) Protection of sensitive resources.
 - (f) Use of environmentally sensitive cleaning products.
 - (g) Use of alternative and innovative septic systems and associated technologies.
 - (h) Availability of financial assistance.
 - (i) Costs to homeowners to ensure compliance with WWMO provisions.
- (2) Technical assistance: All persons applying to RI DEM for new ISDS installations, repairs or alterations are encouraged to meet with the On-site Wastewater Specialist and the Wastewater Management Commission prior to beginning system design in order to ensure that the design is consistent with Town policy regarding treatment standards.

I. Miscellaneous regulations.

- (1) Septage disposal: Septage or contents pumped from an ISDS shall be discharged at a state-approved septage receiving facility.
- (2) Septic tank additives and improper discharges to ISDS: The use of septic tank additives shall follow RI DEM's policy. There is no evidence that biological additives provide any benefit to the functioning and maintenance of an ISDS. The use of biological additives does not relieve a property owner from the obligations of this section. The disposal of hazardous wastes to an ISDS shall be prohibited. There shall be no discharge of rainspouts, basement sumps, floor drains, or any other drains, other than those carrying household wastewater, to an ISDS.
- (3) Garbage disposal: Garbage disposal discharges to a new ISDS shall be permitted only on systems that are equipped with an oversized tank, capable of handling the excess solids, and with an effluent filter located on the tank's outlet. ISDS with existing garbage disposals may require more frequent pumping.
- (4) Water-saving devices: Water-saving devices shall be required on all appropriate fixtures as per the Rhode Island State Building Code, including 1.5 gallon flush toilets on new or remodeled construction.
- (5) Occupancy and use: In order to ensure proper treatment of effluent, the functioning of an ISDS must be sized to handle the number of persons living in the house. The occupancy or use of the house should not exceed the capacity of the system as calculated using the RI DEM standards. This includes properties that are rented in excess of one week per year.

(6) Septic tanks and installation: Any installation of a septic tank shall be of a type having two compartments (chambers) and a minimum capacity of 1,500 gallons. For individual residential dwellings for three (3) bedrooms or less, the required capacity of a septic tank, below the flow line, shall be at least 1,500 gallons (proportioned no less than 1,000-gallon inlet compartment and 500-gallon outlet compartment; a.k.a., no less than 'two-thirds to one-third'), and for dwellings of four to six bedrooms, the required capacity of a septic tank shall be 2,000 gallons, similarly proportioned, or larger. For individual residential systems serving seven or more bedrooms, tank sizing will be proportional to above. Commercial systems tank size shall be 1,500 gallons or greater, otherwise consistent with RI DEM regulations on tank sizing, see SD 6.00, septic tanks. Tanks shall be equipped with an effluent filter located at the tank's outlet. These requirements apply to any installation of a septic tank, including but not limited to tanks for new ISDS systems, for ISDS systems where existing cesspools will be removed, for existing ISDS systems where septic tanks will be removed, for existing systems where tanks or drainage fields are installed as part of repairs or modifications, for systems enlarged for increased flows or where there is a reasonable expectation of increased flows.

(7) Accessibility, inspection and sampling manholes and ports, and effluent filters:

(a) It is recommended but not required that existing ISDS be equipped with access risers to grade located at the inlet and outlet of the septic tank and an effluent filter be installed at the outlet end of the septic tank.

(b) For all septic tank installations, including complete ISDS installations, at least one manhole (tank opening, riser and cover) with a removable watertight cover (fiberglass, resin, concrete, iron or other durable material) shall be provided for each septic tank compartment, flow control and critical treatment components (pump chambers, mixing chambers, distribution boxes, etc.); and appropriate ports (piping, riser and cover) shall be provided for inspection, cleanout, sampling and monitoring for installations having pressure distribution lines (i.e., shallow narrow drainfields) and for enhanced innovative and alternative ISDS systems. Inlets, outlets and critical components shall be made accessible for physical access, inspection, cleaning, maintenance, adjustments and repair. Manhole and port (plug) risers shall be brought up to finished grade with structurally sound access risers that are mechanically fixed and appropriately watertight to a septic tank or other component of an ISDS and shall be extended to grade at the ground's surface. Access risers for manholes and ports shall be consistent with state standards, including manholes having a minimum of twenty-two (22) inches in diameter, and provided with durable covers, securely fashioned and designed to prevent water penetration and accumulation. Effluent filters should be installed at the outlet of the septic tank and are required for homes in which in-sink garbage grinders or disposal units are installed and shall be installed in all new systems. The Wastewater Management Commission and On-site Wastewater Specialist will provide technical information and support regarding the installation of these structures on both new and existing ISDS.

(8) Watertight septic tanks: Per RI DEM regulations, any existing tank that leaks may be declared a failed system. All septic tanks installed after the effective date of the ordinance and these rules shall be certified watertight in accordance with ASTM minimum standards or those developed by the Wastewater Management Commission. Tank installation must be done in accordance with manufacturer's requirements. In addition, tanks installed after the effective date of the ordinance and these rules must be site tested to ensure that they are watertight.

(9) Cesspools and failed cesspools: any buried chamber, including but not limited to any metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges of sanitary sewage from a building sewer for the purpose of collecting solids and discharging liquids to the surrounding soil. Cesspools are not an approved method of sewage disposal under these regulations, and all existing cesspools are considered to be substandard treatment systems and unable to meet Wastewater Management District standards and Rhode Island on-site ISDS standards and state water quality objectives.

(a) The existence of any one of the following five criteria is sufficient to require a cesspool to be reported as a failed (malfunctioning) system. Also, see § 210-2B Cesspools-definitions; § 210-6A(3)(b), Cesspools-ISDS operation and maintenance; and in this regulation: Subsection F(1)(e), Inspections of cesspools - Inspections; and Subsection F(2), annual routine maintenance inspections.

[1] Septage, sludge, scum, wastewater, effluent or pooled (ponded) water is found above the inlet.

[2] Water (1) is rising from the bottom or seeping through side walls after the system is pumped, or (2) is pooled (ponded) and at an elevation that potentially could be the level of the groundwater table (groundwater elevation or saturated soil conditions). The On-site Wastewater Specialist or Wastewater Management Commission may require the system owner to verify the level of groundwater (elevation or distance below the surface of the ground).

[3] Groundwater table is one (1) foot or less from the bottom of the chamber. The On-site Wastewater Specialist or Wastewater Management Commission may require the system owner to verify the level of groundwater (distance or elevation below the surface of the ground).

[4] Apparent structural problems exist such as cave in or exposed components.

[5] Observable signs of system malfunction such as septic odors, ponding, wet or soggy ground surface, or other signs of septic "breakout."

(b) Failure or damage of an exterior sewer line between a building and the exterior wall (at the inlet) of a cesspool, and provided the cesspool wall is not disturbed, may be repaired. Cesspools are substandard wastewater ISDS treatment systems and if failed shall not be repaired. Replacement is required.

(c) All cesspools in the Town Charlestown shall be removed and replaced with an ISDS suitable for the Wastewater Management District by the following dates in accordance with each zone based on proximity to critical resources: [Amended 3-9-2009 by Ord. No. 311]

[1] May 2010 - Zone 1 - Cesspools located within 200 feet of the inland edge of all shoreline features bordering tidal water areas [i.e., the Rhode Island Coastal Resource's Management Council's (CRMC) jurisdiction],

[2] May 2012 - Zone 2 - Cesspools located within the CRMC Salt Pond Region Special Area Management Plan (SAMP)/RIDEM Salt Pond Critical Resource Area (CRA) and defined by CRMC as Lands Developed Beyond Carrying Capacity, [Amended 11-8-2010 by Ord. No. 330]

[3] May 2013 - Zone 3 - Cesspools located within the remainder of the CRMC Salt Pond Region SAMP/RIDEM Salt Pond CRA, and cesspools that are located within the Inner-Protection Radii of any State of Rhode Island Department of Health Licensed Public Drinking Water Supply Well, [Amended 11-8-2010 by Ord. No. 330]

[4] May 2013 - Zone 4 - Cesspools located within the RIDEM defined wellhead protection areas of all public, community or non-community drinking water wells and within 200 feet of a freshwater surface water body (ponds or streams, not including wetlands) and,

[5] May 2014 - Zone 5 - The remainder of the Town.

The Wastewater Management Commission may grant a waiver, to the extent necessary, from the applicable provisions listed in § 210-8.1I(9)(c) provided the homeowner demonstrates undue hardship and the cesspool is not a failed system as defined herein. No waiver shall exceed five (5) years from the dates specified in § 210-8.1I(9)(c). For the purposes of this waiver provision, financial hardship shall be classified as annual household earnings of equal to or less than the "Low Income Limits, 80% of Median Income" as determined by the most current United States Department of Housing and Urban Development (HUD) Income Limits. In order to demonstrate financial hardship, the Property Owner shall be required to submit, at a minimum, current documentation of income and household size. [Added 2-8-2010 by Ord. No. 323]

J. Hearings.

(1) Any Charlestown landowner that is cited for violating this section or is aggrieved by an action of the Commission shall have the right to a hearing before a quorum of the Wastewater Management Commission. A request for such a hearing shall be made in writing within thirty (30) calendar days of receipt of any notice of violation.

(2) The Wastewater Management Commission shall schedule a hearing upon any such appeal within thirty (30) calendar days of receiving such a request for a hearing. Notice of the hearing shall be sent to the appellant at least ten (10) business days prior to the date set forth for the hearing.

(3) A quorum of the Wastewater Management Commission is necessary in order to hear and decide any appeal. A quorum is hereby defined as a majority of the membership of the Wastewater Management Commission.

(4) At the hearing, the appellant and any other interested party shall be permitted to present evidence and argument on all issues involved in the appeal.

(5) The Wastewater Management Commission shall cause minutes to be kept for each such hearing. A stenographer shall record hearings at the request of any party and shall be the expense of the party requesting the stenographer's presence.

(6) The decision of the Wastewater Management Commission shall be rendered no more than forty-five (45) calendar days after the public hearing is closed, shall contain findings of fact and conclusions of law and be issued in writing.

(7) An appeal of a Notice of Violation decision may be disposed of by stipulation, agreement, settlement, consent order or default.

(8) Under the provisions of the Rhode Island Administrative Procedures Act, set forth at R.I.G.L. Chapter 35 of Title 42 and The Wastewater Management District's Law, set forth at R.I.G.L. Chapter 24.5 of Title 45, and a grieved party shall have the right to appeal the decision of the Wastewater Management Commission to the Fourth Division District Court and pursuant to § 210-12 of the Wastewater Management District Ordinance of the Charlestown Code.

§ 210-9. Education.

It shall be the responsibility of the WWMD to establish a public education program to make ISDS owners aware of the proper operation and maintenance of these systems.

§ 210-10. Financing.

A. Fee structure. The Wastewater Management Commission shall, through the town's budget process, recommend funding for the administration, operation, contractual obligations and services of the WWMD. An inspection service fee, as established from time to time by a Town Council resolution, may be assessed to each owner of an ISDS based on the number of these systems owned in the WWMD.

B. Grant or loan program. The Wastewater Management Commission shall make recommendations to the Town Council regarding the issuance of bonds or notes of the Town of Charlestown and the application for grants for the purpose of establishing a revolving fund to

make low-interest loans or grants available to qualified property owners for the improvement, correction or replacement of failed ISDS. The WWMD shall establish specific criteria that shall be subject to comments from a public hearing prior to implementing a loan or grant program.

C. Finances. The Wastewater Management Commission shall prepare and submit to the Town Council and Budget Commission a detailed fiscal year budget requesting funds to operate the WWMD and administer the ordinance.

§ 210-11. Enforcement; penalties for offenses.

A. Enforcement responsibility. The manager of the WWMD shall be responsible for the enforcement of the provisions of this ordinance. The manager's duties shall include, without limitation, the following:

- (1) Supervision of inspections of individual sewage disposal systems as required by this ordinance.
- (2) Maintenance of inspections of individual sewage disposal systems as required by this ordinance.
- (3) Issuance of violation notices.
- (4) Notification of other appropriate municipal departments or state agencies as to the management of the WWMD.

B. Violation notices. Any owner of an ISDS determined to be in violation of this ordinance shall be issued a written Notice of Violation (NOV) via Certified Mail stating the nature of the violation, the action required to correct the violation, the date by which the violation must be corrected and the penalty for noncompliance. [Amended 3-9-2009 by Ord. No. 311]

C. Penalties. Any person or owner who intentionally fails to comply with a violation notice may be fined not more than five hundred dollars (\$500.) per violation. Each day of a continuing violation shall constitute a separate violation. All fees/fines shall be payable to the Town of Charlestown for the administration and implementation of the WWMD. Notices of Violation shall be recorded with the Land Evidence Records for the property where the violation is identified. The Notice of Violation shall remain recorded until such time as the violation has been remedied. Upon identification that the violation has been remedied, a Notice of Violation Release will be filed with the Town Clerk by the manager of the WWMD and the Notice of Violation will be removed from the Land Evidence Records. [Amended 3-9-2009 by Ord. No. 311]

D. Hearings.

- (1) Any owner of an ISDS who is cited for a violation of this ordinance shall have the right to a hearing before a quorum of the Wastewater Management Commission. A request for such a

hearing must be made within thirty (30) days of receipt of the violation notice. Filing of a timely appeal shall stay the action required by the violation notice until a decision is rendered by the Wastewater Management Commission.

(2) The Wastewater Management Commission shall schedule a hearing on such an appeal within forty-five (45) days. Notice of the hearing shall be sent to the appellant by certified mail at least ten (10) days before the date set.

(3) A quorum of the Wastewater Management Commission is necessary to hear and decide any such appeal. A quorum is hereby defined as three (3) Commissioners.

(4) At the hearing, the appellant and any other interested party shall be permitted to present evidence and argument on all issues involved.

(5) The Wastewater Management Commission shall cause minutes to be kept of each hearing. Hearings may be stenographically recorded at the request of any party, provided that said party pays for the stenographer and the transcript.

(6) The decision of the Wastewater Management Commission shall be stated on the record at the conclusion of the hearing or shall be in writing and shall be rendered no more than forty-five (45) days after the hearing is closed. Said decision shall contain findings of fact and conclusions of law.

(7) An appeal of a violation notice may be disposed of by stipulation, agreed settlement, consent order or default.

§ 210-12. Judicial review; appellate procedures.

A. Any person or owner aggrieved by a decision of the Wastewater Management Commission may seek judicial review of the decision.

B. Proceedings for review are instituted by the filing of a complaint in the Fourth Division of the District Court within thirty (30) days of the date the decision was issued (Municipal Court may be optional).

C. The filing of a complaint shall not stay the decision of the Wastewater Management Commission. The Wastewater Management Commission may grant, or the District Court may order, a stay upon appropriate terms.

D. Within thirty (30) days after service of the complaint, or within further time allowed by the Court, the Wastewater Management Commission shall transmit to the Clerk of the Fourth District Court the entire record of the proceedings under review.

E. If, before the date set for hearing, application is made to the Court for leave to present additional evidence and it is shown to the satisfaction of the Court that the additional evidence is

material and that there were good reasons for failure to present it in the proceeding before the Wastewater Management Commission, the Court may order that the additional evidence be taken before the Wastewater Management Commission upon conditions determined by the Court. The Wastewater Management Commission may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the District Court.

F. The review shall be conducted by the Court without a trial and shall be confined to the records. In cases of alleged irregularities in the procedure before the Wastewater Management Commission not shown on the record, proof thereof may be taken by the Court. The Court, upon request, shall hear oral argument and receive written briefs.

G. The Court shall not substitute its judgment for that of the Wastewater Management Commission as to the weight of the evidence on questions of fact. The Court may affirm the decision of the Wastewater Management Commission or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of statutory authority of the Wastewater Management Commission;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.