

April 5, 2022

TO: Town Clerk, Town Council

FROM: Gary Crosby, Town Planner

RE: Town Council agenda – April 11, 2022

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Please add the following to the agenda for The Town Council's meeting on April 11, 2022 under New Business:

**TITLE:** PUBLIC HEARING: Proposed Amendment to Chapter 392 of the Portsmouth Town Code – Wastewater Management District §392-4 and §392-6.

**COUNCIL ACTION REQUESTED:** Request the Town Council adopt the proposed amendment. to Chapter 392 of the Portsmouth Town Code – Wastewater Management District §392-4 and §392-6.

**BACKUP:**

- a) Proposed amendment to Chapter 392 of the Portsmouth Town Code – Wastewater Management District §392-4 and §392-6.
  
- b) Town Planner memo of explanation to the Town Council.

April 5, 2022

**PROPOSED AMENDMENT TO PORTSMOUTH'S WASTEWATER MANAGEMENT DISTRICT ORDINANCE (#2015-09-21)**

**1. Amend Section 392-6J (2) of the Ordinance:**

- (2) Cesspools and unpermitted systems located within 50 feet of a drain. All cesspools and unpermitted systems in the Town of Portsmouth within 50 feet of a Town or state storm drain must be replaced by the earlier of the following:
- (a) Immediately, if the system is determined to be failed;
  - (b) Prior to the deadline specified in R.I.G.L § 23-19.15 (the Rhode Island Cesspool Act of 2007), if applicable and as amended;
  - (c) Within 12 months of the date of sale or transfer of the property; or
  - (d) Prior to January 1, 2020.

**To read:**

- (2) Cesspools located within 50 feet of a Town or State storm drain must be replaced by the earlier of the following:
- (a) Immediately, if the system is determined to be failed;
  - (b) Prior to the deadline specified in R.I.G.L § 23-19.15 (the Rhode Island Cesspool Act of 2007), if applicable and as amended;
  - (c) the point of sale or transfer of the subject property; or
  - (d) Prior to January 1, 2020.

Other cesspools in Portsmouth must be replaced by the earlier of the following:

- (a) Immediately, if the system is determined to be failed;
- (b) Prior to the deadline specified in R.I.G.L § 23-19.15 (the Rhode Island Cesspool Act of 2007), if applicable and as amended;
- (c) the point of sale or transfer of the property; or
- (d) Prior to January 1, 2025.

Unpermitted OWTS within IP/PP located within 50 feet of a Town or State storm drain must be replaced by the earlier of the following:

- (a) Immediately, if the system is determined to be failed;
- (b) Prior to the deadline specified in R.I.G.L § 23-19.15 (the Rhode Island Cesspool Act of 2007), if applicable and as amended;
- (c) the point of sale or transfer of the property; or
- (d) Prior to January 1, 2020.

Other unpermitted OWTS within IP/PP must be replaced by the earlier of the following:

- (a) Immediately, if the system is determined to be failed;
- (b) Prior to the deadline specified in R.I.G.L § 23-19.15 (the Rhode Island Cesspool Act of 2007), if applicable and as amended;
- (c) the point of sale or transfer of the property; or
- (d) Prior to January 1, 2025.

Unpermitted OWTS outside of IP/PP must be replaced immediately if the system is determined to be failed.

2. **Delete Section 392-6J (3) of the Ordinance.**

3. **Add the following definition to Section 392-4 of the Ordinance:**

UNPERMITTED OWTS – An OWTS for which State of Rhode Island permitting records and documentation is unavailable.

April 5, 2022

TO: Town Council

FROM: Gary Crosby, Town Planner

RE: Wastewater Management District Ordinance Amendment

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Memo of Explanation:

In November, 2014, RIDEM and the Town of Portsmouth signed a Memorandum (MOA) of Agreement which set forth a plan which could lead to a consent agreement resolving an outstanding RIDEM Notice of Violation regarding wastewater management in Portsmouth. As a result of the MOA, the Town adopted a Wastewater Management District Ordinance (#2015-09-21) in September, 2015.

Experiencing some difficulty with local enforcement particularly with regard to “unpermitted systems” language in the MOA and ordinance, in March, 2018 the Town requested RIDEM consider amendment language to the MOA. In May, 2019 RIDEM agreed and by August, 2019 had furnished the Town with MOA amendment language to be signed by the Town with the stipulation that we amend the ordinance to align with the amended MOA. At that time they indicated to us specifically where in the ordinance we needed to make amendments, which we did in May, 2020.

In May, 2020 we returned the amended MOA document signed by the Town Council President and a copy of the recently adopted ordinance amendment intending to have a returned copy of the amended MOA signed by the RIDEM Director. They instead sent back word that a further portion of the ordinance needed to be amended before they could sign the amended MOA. This further amendment to our Wastewater Management District Ordinance is intended to correct that administrative oversight and bring our ordinance in alignment with the previously agreed upon amended MOA language.