AGENDA

TOWN OF SOUTH KINGSTOWN

RHODE ISLAND

TOWN COUNCIL

REGULAR SESSION

7:30 PM

TOWN COUNCIL CHAMBERS
180 HIGH STREET
WAKEFIELD, RI

TUESDAY, DECEMBER 15, 2009

NOTE: **Individuals requesting interpreter services for the hearing impaired must call 792-9642 (TDD) or 789-9331 seventy-two (72) hours in advance of the meeting date.**

DATE POSTED: 12/10/2009

AGENDA – Regular Session
Town of South Kingstown
December 15, 2009
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1. A. INTERVIEWS – 6:30 PM

B. WORK SESSION – 6:45 PM

C. REGULAR SESSION – 7:30 PM

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. APPROVAL OF MINUTES OF PREVIOUS MEETINGS

A. Work Session – November 23, 2009

B. Regular Session – November 23, 2009

C. Closed Executive Session – November 23, 2009

5. CONSENT AGENDA

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I. **Rule 10A. for the conduct of the meetings of the South Kingstown Town Council for the Term 2008 through 2010: Members of the public shall be entitled to speak at regular meetings during any period designated on the agenda for public comment, once, for a period of five minutes, or longer at the discretion of the President, and at other times when invited to do so by the President. The public shall address their comments to the question under debate as indicated on the agenda. Pursuant to RI General Laws §42-46-6(b), public comment regarding subject matter not on the agenda but received during the public participation portion of a meeting shall be for information purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official.**

II. **Rule 11: No item of business other than that of adjournment may be brought before the Town Council at any meeting unless such an item is introduced before 11:00 PM; provided, however, that this rule may be suspended by an affirmative vote of a majority of members present.**

III. **Rule 13: All items listed with a (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council, or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.**

Pursuant to RIGL §42-46-6(b). Notice – "Nothing contained herein shall prevent a public body, other than a school committee from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official."

6. LICENSES

A. A resolution granting a Dance License to CHELO'S OF SOUTH COUNTY, INC. d/b/a RHODY JOE'S, 515 Kingstown Road, Wakefield, RI 02879. Application by Glenn Chelo, President, 5 Stone Ridge Drive, North Smithfield, RI 02896; New.

(CA) B. A resolution granting Victualling Licenses to the following; Renewals:

ANI AND VOSKI PARTNERSHIP d/b/a PD'S PIZZA, 1202 Kingstown Road, Peace Dale, RI 02879. Application by Armen Armenakyan, 130 Rounds Avenue, Providence, RI 02907.

CHINA GARDEN, 564 Kingstown Road, Wakefield, RI 02879. Application by Ben Chen, 20 Cleveland Street, Wakefield, RI 02879.

EMPORIUM NUTRITION, 99 Fortin Road, Suite 136, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Beverly Fournier, 25 Karison Street, Wakefield, RI 02879.

GENTILE ENTERPRISES LLC d/b/a RONZIO PIZZA, 50 Lower College Road, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by DeAnne M. Gentile, 8 Foster Farm Drive, Wyoming, RI 02898.

PAPA'S BISTRO, 99 Fortin Road, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Daniel Dairbi, 36 Sycamore Drive, Cranston, RI 02921.

R & R HOLDINGS LLC d/b/a QUIZNOS SUB, 99 Fortin Road, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Rosemary Carley, 27 John Potter Road, West Greenwich, RI 02817.

ROSARIO'S RESTAURANT, INC. d/b/a KINGSTON PIZZA, 63 Briar Lane, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Samuel Sciabarrasi, President, 40 Carriage Lane, Kingston, RI 02881.

(CA) C. A resolution granting Victualling and Holiday Sales Licenses to the following; Renewals:

BAGELS, INC. d/b/a BAGELZ THE BAGEL BAKERY, 99 Fortin Road Unit J2, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Nancy Lieberman, President, 39 Wampum Trail, Wakefield, RI 02879.

CUMBERLAND FARMS #1284, 99 Fortin Road, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Richard J. Fournier, Tax Manager, 100 Crossing Boulevard, Framingham, MA 01702.

SOUTH COUNTY DONUTS INC. d/b/a DUNKIN DONUTS, 120 Fortin Road, Kingston, RI 02881 subject to approval by the Kingston Fire Chief. Application by Robert Batista, Secretary, 75 Tipping Rock Drive, East Greenwich, RI 02818.

(CA) D. A resolution granting Holiday Sales Licenses to the following; Renewals:

ALL OUTDOORS POWER EQUIPMENT, 4060 Tower Hill Road, Wakefield, RI 02879. Application by Margaret Siligato, 24 Rhode Island Avenue, Narragansett, RI 02882.

FASHION BUG #787, 160B Old Tower Hill Road, Wakefield, RI 02879. Application by Dorothea Pirolli, BSC Tax Department, 3750 State Road, Bensalem, PA 19020.

LAUREL LANE RECREATIONAL ENTERPRISES, INC., 309 Laurel Lane, West Kingston, RI 02892. Application by Joseph A. Videtta, President, 55 Green Lane, Canton, MA 02021.

TREASURES UNIQUE, 854 Matunuck Beach Road, Wakefield, RI 02879. Application by Kristyn DeDonato, 3 Oakledge Road, Cumberland, RI 02864.

(CA) E. A resolution granting a Tourist Accommodation License to BARBARA LARSEN-VILES d/b/a THE KINGS ROSE, 1747 Mooresfield Road, Wakefield, RI 02879 for 5 spaces, 10 persons, subject to approval by the Kingston Fire Chief. Application by Barbara Larsen-Viles, 1747 Mooresfield Road, Wakefield, RI 02879; Renewal.

7. PUBLIC HEARINGS

A. A Public Hearing relative to proposed amendments to the Town Code, Chapter 10 Motor Vehicles as follows:

Chapter 10
Motor Vehicles and Traffic

Art. II, Stopping, Standing, and Parking

Sec. 10-52 Prohibited at any time.
No person shall stop, stand or park a vehicle on any of the following streets or portions of streets at any time, except to avoid conflict with other traffic.

ADD:
Biscuit City Road, both easterly and westerly sides from the intersection of Kingstown Road (Route 138) in a general southerly direction for a distance of 1600 feet to the intersection of Ledgewood Road. Towing authorized.

B. A Public Hearing relative to proposed amendments to the Town Code, Chapter 20 Stormwater Management that would make minor revisions to Article I. In General, and create a new Article II. entitled Soil Erosion, Run Off and Sediment Control, as shown on Exhibit 1 attached hereto. The new ordinance will require applicants seeking a building permit to provide a soil and sediment control plan to the Building Official's office at the time of building permit application. The applicant will then be responsible to ensure that proper soil erosion control measures are in place and operational throughout the duration of site and/or building improvement construction.

8. COMMUNICATIONS

(CA) A. Communications received from Renee Snow, Chair, Special Education Local Advisory Committee (S.E.L.A.C.), Charles G. Westcott, President, Mindful Cooperative Inc., and Janet Hartman, Treasurer, Peace Dale PTO expressing support for the appointment of Jane Sherman to the Board of Commissioners of the Housing Authority are received and placed on file. (11/25/2009 Interim, Item D. and 12/10/2009 Miscellaneous, Item II B.)

B. A communication dated November 19, 2009 from Jon Elion tendering his resignation from the Zoning Board of Review, effective immediately, is received, placed on file, and the Town Council further directs _____. (11/25/2009 Interim, Item G.)

C. A communication dated December 1, 2009 from Chris O'Brien tendering his resignation from the Conservation Commission, effective immediately, is received, placed on file, and the Town Council further directs _____. (12/3/2009 Interim, Item F.)

(CA) D. Any communication added to the Agenda subsequent to this is hereby added by majority vote, in accordance with RIGL §42-46-6 (b) Notice --… "Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official."

9. COMMENTS FROM INTERESTED CITIZENS

10. TOWN MANAGER'S REPORT

11. TOWN SOLICITOR'S REPORT

12. APPOINTMENTS

A. A resolution appointing _____ to the _____ Board/Committee/Commission for a term to expire in _____.

13. NEW BUSINESS

A. A resolution establishing the following fees to offset costs associated with the administration of Chapter 20 Stormwater Management, Article II. Soil Erosion, Run Off and Sediment Control, in accordance with Section 20-56 Fee Schedule; and amending the Town's Schedule of Fees. Said fees are further described in a memorandum from the Director of Public Services to the Town Manager dated November 10, 2009 and entitled: "Soil Erosion, Run Off and Sediment Control Ordinance."

FEE SCHEDULE

Review and Inspections in conjunction with Soil Erosion, Runoff and Sediment Control Plans pursuant to Article II of Chapter 20.

(1) Single-family/duplex lots: $100 per lot

(2) Residential subdivision land development projects during infrastructure construction:

No. of Lots	Fee
1 lot	$100
2 – 4 lots	$200
5 – 9 lots	$500
10 – 15 lots	$750
16 – 25 lots	$1,000
25 plus lots	$1,250
plus $50 per lot for each lot over 25	

(3) All other situations involving land disturbance including, but not limited to: multi-family, commercial, industrial, parking lots, pipelines, utilities, land grading, quarrying, mining, landfills, and demolition.

Land disturbance area	Fee
Up to 30,000 sq. ft.	$150
30,000 sq. ft. – 1.5 acres	$300
2 acres – 5 acres	$500
6 acres – 10 acres	$750
11 acres – 20 acres	$1,000
20 plus acres	$1,250
plus $50 per acre for each acre over 20	

(CA) B. A resolution affirming a proclamation presented on December 2, 2009 to Annie Harding for being designated Hotel Employee of the Year by the RI Hospitality Association, as follows:

ANNIE HARDING

WHEREAS, ANNIE HARDING has been in the customer service based industry for almost twenty years; taking great pride in her work, and

WHEREAS, hotel and hospitality started for **ANNIE** when she moved to Vail, Colorado in 2001 and worked for Dormar Hotels, specifically The Chateau at Vail, and

WHEREAS, for the past three years **she** has worked at The Village Inn Hotel and Conference Center located in Narragansett, RI where **she** enjoys working as part of a team making things run smoothly, and

WHEREAS, given **her** propensity for detail **she** excels as part of the hotel's group sales division assisting in the planning of weddings and functions being held in The Village Inn Grand Ballroom, and

WHEREAS, her dedication to **her** job has earned her the designation of Hotel Employee of the Year award from the Rhode Island Hospitality Association.

NOW, THEREFORE WE THE TOWN COUNCIL OF THE TOWN OF SOUTH KINGSTOWN do hereby extend our congratulations to **ANNIE HARDING** on a job well done and wish her well in all of her future endeavors.

C. A resolution affirming or amending the Town's Liquor License Rules and Regulations, Section I. The number of licenses for each class shall be authorized as indicated below:

Class	Number
A	4 (not to exceed 1 per 6,000 inhabitants)
B – Victualler	23
B – Tavern	2
B – Limited	2
B – Hotel	1
B – M	0
C	0 (not to exceed 1 per 1,000 inhabitants)
D – Club Full Privilege	2
D – Club Limited	0
F	No limit
F-1	No limit

D. A resolution authorizing the renewal of annual software support fees with Information Management Corporation, 13 Centennial Drive, North Grafton, MA 01536 in an amount not to exceed $16,525; and as further described in a memorandum from the Police Chief to the Town Manager dated December 4, 2009 and entitled: "IMC Computer Annual Support Fees – Recommendation for Renewal."

(CA) E. A resolution authorizing the Tax Assessor to abate taxes in the total amount of $3,729.49, as shown on Tax Abatement Request No. 450.

F. A resolution authorizing an award of bid to Howard Johnson, Inc., 1978 Kingstown Road, Peace Dale, RI 02879 for the purchase of one John Deere Front Mount Mower 1445 Series II, in accordance with all bid specifications, in an amount not to exceed $12,900, including trade-in allowance; and as further described in a memorandum from the Director of Leisure Services to the Town Manager dated December 7, 2009 and entitled: "Bid Recommendation, John Deere Front Mount Mower."

G. A resolution appointing Mark C. Hadden, Esquire, Schechtman Halperin Savage, LLC, 1080 Main Street, Pawtucket, RI 02860 to serve as Special Legal Counsel to the Zoning Board of Review, acting as the Planning Board of Appeals, for the duration of the current Town Council term. Said appointment is further described in a memorandum from the Town Solicitor to the Town Council dated December 9, 2009 and entitled: "Request to Appoint Mark C. Hadden, Esq. as Special Legal Counsel."

(CA) H. Any New Business added to the Agenda subsequent to this is hereby added by majority vote, in accordance with RIGL §42-46-6 (b) Notice --… "Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official."

14. CLOSED EXECUTIVE SESSION

A. A Closed Executive Session pursuant to RIGL §42-46-5(a)(5) to discuss matters related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

Exhibit 1

PROPOSED AMENDMENTS TO THE TOWN CODE

CHAPTER 20
STORMWATER MANAGEMENT

AMEND:

ARTICLE I. ~~IN GENERAL~~
ILLICIT DISCHARGE DETECTION AND ELIMINATION

ADD:

Secs. 20-36 to 20-49. Reserved.

ADD:

ARTICLE II. SOIL EROSION, RUN OFF AND SEDIMENT CONTROL

Sec. 20-50. Purpose.

(a) The town council hereby finds that excessive quantities of soil are eroding from certain areas that are undergoing development for non-agricultural uses, such as storage/filling, housing developments, commercial construction, industrial areas, recreational facilities, and roads. Much of this soil erosion is the result of poorly planned and implemented site grading and surface water runoff controls. This runoff and resulting erosion results in conflicts and/or damage with neighboring properties and their owners, and makes costly repairs to drainage structures, gullies, washed out fills, roads, and embankments necessary. The resulting sediment clogs the storm sewers, road ditches and muddies streams, leaves deposits of silt in ponds and reservoirs and is considered a major water pollutant.

(b) The purpose of this chapter is to prevent soil erosion, excessive surface water runoff, and sedimentation from occurring as a result of non-agricultural development within the town by requiring proper provisions for stormwater disposal and soil erosion during and after construction, in order to promote the safety, public health and general welfare of the town.

Sec. 20-51. Applicability.

(a) This chapter shall be applicable to any situation involving disturbance to the terrain (and its contours) and topsoil or vegetative ground cover upon any property within the town after determination of applicability by the building official, or his/her designee, or by the planning board when the development associated with the land disturbance is within its jurisdiction. In the cases within the planning board's jurisdiction, the planning board shall retain authority for the review and approval of all control measures associated with the land disturbing activity and the building official shall retain enforcement responsibilities based upon criteria outlined in section 20-52.

(b) Compliance with the requirements described herein shall not be construed to relieve the applicant of any obligations to obtain necessary state or federal permits.

Sec. 20-52. Determination of applicability.

(a) It shall be unlawful for any person to disturb any existing vegetation, grades, or contours of land in a manner which may increase the potential for soil erosion without first applying for a determination of applicability from the building official. Upon determination of applicability, the applicant shall submit a soil erosion, runoff and sediment control plan for approval to the building official or to the planning board as provided in section 20-54. The application for determination of applicability shall describe the location, nature, character, and time schedule of the proposed land-disturbing activity in sufficient detail to allow the building official to determine the potential for soil erosion, surface water runoff, and sedimentation resulting from the proposed project. In determining the applicability of this chapter to a particular land-disturbing activity, the building official or planning board shall consider site topography, drainage patterns, soils, proximity to watercourses, and other such information as deemed appropriate. A particular land-disturbing activity shall not be subject to the requirements of this chapter if the building official finds that erosion resulting from the land-disturbing activity is insignificant and represents no threat to adjacent properties or to the quality of any coastal feature, flood plain, or watercourse, as defined herein. The current Rhode Island Soil Erosion and Sediment Control Handbook, prepared by the United States Department of Agriculture Natural Resource Conservation Service, the Rhode Island Department of Environmental Management, and the Rhode Island State Conservation Committee shall be consulted in making this determination. Grading and filling on any lot shall require approval per this chapter unless exempted as listed below.

(b) No determination of applicability shall be required for the following:

(1) Construction, alteration, or use of any additions to existing single-family or duplex homes or related accessory structures, provided the grounds coverage of such addition is less than 1,000 square feet, and such construction, alteration and use does not occur within 200 feet of any watercourse or coastal feature, and the slopes at the site of land disturbance do not exceed ten percent.

(2) Use of a home garden in association with onsite residential use.

(3) Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private and/or commercial agricultural or silvicultural purposes.

(4) Excavations for improvements other than those described in subsection (b)(1) above which exhibit all of the following characteristics:

a. Does not result in a total displacement of more than 50 cubic yards of material;

b. Has no slopes steeper than ten feet vertical in 100 feet horizontal or approximately ten percent; and

c. Has all disturbed surface areas properly and effectively protected to prevent soil erosion and sedimentation.

(5) Grading and filling, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots, provided that all bare surfaces are immediately seeded, sodded, or otherwise protected from erosive actions, and all of the following conditions are met:

a. The aggregate area of such activity does not exceed 2,000 square feet; and

b. The change of elevation does not exceed two feet at any point; and

c. Has no slopes steeper than ten feet vertical in 100 feet horizontal or approximately ten percent; and

d. The total grading does not involve a quantity of fill greater than 18 cubic yards.

(6) Grading, filling, removal or excavation activities and operations undertaken by the town under the direction and supervision of the director of public services for work on streets, roads or rights-of-way dedicated to public use, provided, however, that adequate and acceptable erosion, runoff and sediment controls are incorporated in engineering plans and specifications and employed. Appropriate erosion controls shall apply prior to and during construction as well as after completion of such activities. All such work shall be undertaken in accordance with the performance principles provided for in section 29-59 and such standards and definitions as may be adopted to implement said performance principles.

Sec. 20-53. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Applicant. Any person, corporation, or public or private organization proposing a development or project which would involve disturbance to the natural terrain as herein defined.

Building official. The building official or his/her designee.

Coastal feature. Coastal beaches and dunes, barrier beaches, coastal wetlands, coastal cliffs, bluffs, and banks, rocky shores, and manmade shorelines as defined in The State of Rhode Island Coastal Resources Management Program, as amended.

Cut. An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

Development project. Any construction, demolition, or removal of structures, roadways, parking, or other paved areas, utilities, or other similar facilities, including any action requiring a building permit by the town.

Erosion. The removal of mineral and/or organic matter by the action of wind, water, and/or gravity.

Excavate. Any act by which earth, sand, gravel, rock, or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, and including the conditions resulting therefrom.

Fill. Any act by which earth, sand, or other material is placed or moved to a new location above ground. The fill is also the difference in elevation between a point of existing undisturbed ground and a designated point of higher elevation of the final grade.

Land-disturbing activity. Any physical land development activity which includes such actions as clearance of vegetation, moving or filling of land, removal or excavation of soil or mineral resources, or similar activities.

Runoff. The surface water discharge or rate of a given watershed after a fall of rain or snow and including seepage flows that do not enter the soil but runoff the surface of the land. Also, that portion of stormwater or snow melt that is not absorbed by the soil, but runs off the land surface onto abutting property.

Sediment. Solid material, both mineral and/or organic, that is in suspension, is being transported, or has been moved from its site or origin by wind, water, and/or gravity as a product of erosion.

Soil erosion, runoff and sediment control plan. The (approved) document required before any person may cause a disturbance to the natural terrain within the town as herein regulated. Also, herein referred to as an approved erosion and sediment control plan.

Subdivision. The process (and the result) of dividing a parcel of raw land into smaller build-able sites, blocks, streets, open space public areas and the designation of the location for utilities and other improvements.

Watercourse. Any tidewater or coastal wetland at its mean high water level, and any freshwater wetland at its seasonal high water level, including but not limited to, any river, stream, brook, pond, lake, swamp, marsh bog, fen, wet meadow, area subject to storm flowage, or any other standing or flowing body of water. The edge of the watercourse as herein defined shall be used for delineation purposes.

Sec. 20-54. Plans.

(a) To obtain approval for a permit under the provisions of section 20-52 for land-disturbing activity determined to be applicable under this chapter, an applicant shall first file a soil erosion, runoff and sediment control plan and appropriate application form signed by the owner of the property, or authorized agent, on which the work subject to approval is to be performed. The plan or drawings, as described in section 20-66, shall include proposed erosion, runoff and sediment control measures to be employed by the applicant or his/her agent both during and after construction.

(b) Rhode Island Freshwater Wetlands Permit: Where any portion of a proposed development requires approval under the Rhode Island Freshwater Wetlands Act (R.I. Gen. Laws 2-1-15 et seq.), as amended, and where said approval contains provisions for soil erosion, runoff and sediment controls, that approved site plan shall be a component of the overall soil erosion, runoff and sediment control plan required for the development.

(c) Coastal Resource Management Council Assent: Where any portion of a proposed development requires approval under the Rhode Island Coastal Resources Management Plan (R.I. Gen. Laws 46-23 et seq.), as amended, and where said approval contains provisions for soil erosion, runoff and sediment controls, that approved site plan shall be a component of the overall soil erosion, runoff and sediment control plan required for the development.

Sec. 20-56. Fee schedule.

The town, through the building official, shall collect plan review and inspection fees in accordance with the fee schedule established by Town council resolution, as amended, from each applicant requesting approval of a soil erosion, runoff and sediment control plan for the purposes of administering this chapter.

Should the building official determine that the proposed project is sufficiently complex, he/she may require that plans be reviewed by a licensed RI professional engineering consultant, the fees for which will be the responsibility of the applicant.

Sec. 20-57. Plan review.

(a) Within five working days of the receipt of a completed plan and application form, the building official shall send a copy of such to review authorities, which shall include the director of public services, the planning board administrative officer and the zoning

enforcement officer for the purpose of review and comment. The building official may also, within the above time frame, submit copies of the plan to other local departments or agencies, including the planning board, the superintendent of wastewater, the conservation commission, and/or an engineering consultant in order to better achieve the purposes of this chapter. Failure of the aforementioned review authorities to respond within 15 working days of their receipt of the plan shall be deemed as no objection to the plan as submitted. Should an engineering consultant be required to assist with plan review, the above timeframe may be extended for an additional 15 days.

(b) The time allowed for plan review shall be commensurate with the proposed development project, and shall be accomplished simultaneously with other reviews.

(c) The submittal of plans for review shall amount to acknowledgement and authorization from the applicant for municipal officials to enter upon and inspect private property where work is proposed for the purpose of reviewing site conditions as they relate to soil erosion, surface water runoff, and sediment control.

Sec. 20-58. Plan approval/disapproval.

(a) The building official shall notify the applicant in writing, either approving or disapproving the plan, with reasons stated for disapproval, within ten days after he/she has received the written opinion of the aforementioned review authorities.

(b) In approving a plan, the building official may attach such conditions deemed reasonably necessary by the aforementioned review authorities to further the purposes of this chapter. Such conditions pertaining to erosion, runoff and sediment control measures and/or devices may include, but are not limited to, the erection of walls, siltation control fences and/or barriers, de-mudding pads, drains, dams and structures, detention facilities, stormwater injection facilities, planting vegetation, trees, shrubs, furnishings, necessary easements, and specifying a method for performing various kinds of work and the sequence or timing thereof. The applicant shall notify the building official in writing at least 48 business hours in advance of his/her intent to begin construction work described in the erosion, runoff and sediment control plan. The applicant shall have the erosion, runoff and sediment control plan on the site during grading and construction.

Sec. 20-59. Approval; expiration; renewal.

(a) Every approval granted herein shall expire two years after issuance of the permit. The applicant shall fully perform and complete all of the work required within the specified time period.

(b) If the applicant is unable to complete the work within the designated time period, he/she shall, at least 30 days prior to the expiration date, submit a written request for an extension of time to the building official, setting forth the reasons underlying the

requested time extension. If, at the discretion of the building official, the extension is warranted, the building official may grant an extension of time up to a maximum of one year from the date of the original expiration deadline. Subsequent extensions under the same conditions may be granted at the discretion of the building official.

Sec. 20-60. Maintenance of measures.

Maintenance of all erosion sediment control devices required under this chapter shall be the responsibility of the applicant. Such erosion and sediment control devices shall be maintained in good condition and working order on a continuing basis. Watercourses originating and located completely on private property shall be the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

Sec. 20-61. Liability of an applicant.

Neither approval of an erosion, runoff and sediment control plan nor compliance with any condition of this chapter shall relieve the applicant from any responsibility for damage to persons or property, nor impose any liability upon the town for damages to persons or property.

Sec. 20-62. Inspections.

(a) Periodic inspections. The provisions of this chapter shall be administered and enforced by the building official. All work shall be subject to periodic inspections by the building official or other appropriate municipal officials including but not limited to the code compliance coordinator, zoning enforcement officer, planning board administrative officer, and director of public services. All work shall be performed in accordance with an inspection and construction control schedule approved by the building official, who shall maintain a permanent file of all inspections. Upon completion of the work, the applicant shall notify the building official that all grading, drainage, erosion and sediment control measures and devices, and vegetation and ground cover planting has been completed in conformance with the approved plans, specifications, conditions, and other applicable provisions of this chapter.

(b) Final inspection. Upon such notification of the completion by the owner, the building official shall make a final inspection of the site and shall prepare a final summary inspection report of findings, which shall be retained in the building official's files and in the department of public works permanent inspections file. The building official shall not issue a final certificate of occupancy for any building until such time that a final inspection has been made and all work has been completed in accordance with the permit and approved plans. In the event that site work cannot be completed prior to the need for a certificate of occupancy, the building official may require the posting of a guarantee deposit as outlined in section 20-71 to ensure that site work is completed in accordance with the permit and approved plans. In the instance where a performance bond has been posted with the recording of a final subdivision, the bond shall not be

fully released until such time that the building official has notified the planning board administrative officer of successful completion of all permit requirements.

(c) Ongoing inspections shall be conducted by the Town in accordance with a maintenance agreement between the Town and the owner as outlined in section 20-70.

Sec. 20-63. Notification.

If at any stage, the work in progress and/or completed under the terms of an approved erosion, runoff and sediment control plan does not conform to such plan, a written notice from the building official, to comply, shall be transmitted by certified mail to the owner. Such notice shall set forth the nature of the temporary and permanent corrections required and the time limit within which corrections shall be completed. Failure to comply with the required corrections within the specified time limit shall be considered in violation of this chapter, in which case the performance bond or guarantee deposit shall be subject to notice of default in accordance with section 20-72.

Sec. 20-64. Appeals.

If the ruling made by the building official is unsatisfactory to the applicant, the applicant may file a written appeal with the zoning board within ten days of the decision. Appeal procedures shall follow current requirements for appeal to the zoning board. During the period in which the request for appeal is filed, and until such time as a final decision is rendered on the appeal, the decision of the building official shall remain in effect. The zoning board may seek technical assistance on any soil erosion, runoff and sediment control plan. Such expert opinion must be made available in the office of the building official as a public record prior to the appeals hearing.

Sec. 20-65. Plan preparation.

The soil erosion, runoff and sediment control plan shall be prepared by a landscape architect or engineer. Five copies of the plan and permit application shall be submitted to the building official.

Sec. 20-66. Plan contents.

The soil erosion, runoff and sediment control plan shall include sufficient information about the proposed activities and land parcel(s) to form a clear basis for discussion and review and to assure compliance with all applicable requirements of this chapter. The plan shall be consistent with the data collection, data analysis, land plan preparation guidelines in the current Rhode Island Soil Erosion and Sediment Control Handbook, prepared by the United States Department of Agriculture, Natural Resource Conservation Service, Rhode Island Department of Environmental Management, Rhode Island State Conservation Committee, and at a minimum shall contain:

(a) A narrative describing the proposed land-disturbing activity and the soil erosion, sediment and stormwater management measures to be installed to control erosion that could result from the proposed activity. Supporting documentation, such as a drainage area, existing site, and soil maps shall be provided as required by the building official.

(b) Construction drawings illustrating in detail existing and proposed contours at least every two feet, drainage features, vegetation, limits of clearing and grading; the location of nearby municipal and/or private drainage structures such as catch basins and detention basins, the location of soil erosion and sediment control and stormwater management measures, stock piles and borrow areas; sequence and staging of land-disturbing activities; and other such information needed for construction.

(c) Other information, storm drainage computations and/or construction plans and details as deemed necessary by the building official for thorough review of the plan prior to action being taken as prescribed in this chapter. Withholding or delaying submission of such information may be reasons for the building official to judge the application incomplete and grounds for disapproval.

(d) Best Management Practices – identify the type of BMP(s) employed both during and post construction and justification for selection, including any deviation from the Rhode Island Stormwater Design and Installation Standards Manual ,as amended, and the potential effect on pollutant removal efficiency. The technical feasibility of BMP's including sizing, location, hydraulic and environmental impacts. Alternatives, which were considered but determined not to be feasible, should also be discussed. Maintenance schedule of BMP's to be used, both during and post-construction including frequency of inspection and maintenance.

Sec. 20-67. Performance principles.

The contents of the soil erosion, runoff and sediment control plan shall clearly demonstrate how the principles, outlined below, have been met in the design and are to be accomplished by the proposed development project.

(a) Due regard for natural drainage characteristics, topography and soils shall be indicated.

(b) To the extent possible, steep slopes (those in excess of ten percent) shall be avoided.

(c) The grade of slopes created shall be minimized.

(d) 1. Post-development runoff rates will not exceed pre-development rates for a 10-year storm. Any increase in storm runoff volume should be retained and recharged, as close as feasible, to its place of origin by means of detention ponds or basins, seepage areas, subsurface drains, porous paving, or similar low impact development techniques.

2. For any properties located within a watershed, all increase in stormwater runoff volume, up to and including the ten-year storm event, shall be retained on site to the maximum reasonable extent. This may be achieved through the use of infiltration systems, retention ponds, roof runoff directed to drywells, and driveway runoff directed to grassed areas as opposed to local roadways. Site conditions such as a high groundwater elevation, ledge, poor soils, or the presence of contaminants that limit or prohibit the ability to recharge runoff to the subsurface shall be considered to determine the reasonableness of the applicant's proposal. For increases in runoff volume beyond what is determined can reasonably be retained on site, the applicant may in lieu of compliance with the above requirements be permitted to perform off-site drainage improvements or contribute to a dedicated account to fund drainage improvements within the watershed. Site conditions which limit or prohibit on-site mitigation shall be verified by the town's engineering consultant. The cost of the town's engineering consultant shall be the responsibility of the applicant.

(e) Original boundaries, alignment and slope of watercourses within the project locus shall be preserved to the greatest extent feasible.

(f) Storm drainage (including driveways) shall be directed away from structures intended for human occupancy, municipal or utility use, or similar purposes. However, in no case shall changes in topography be made that alter existing and historic drainage patterns.

(g) All drainage provisions shall be of such a design and capacity so as to adequately address stormwater runoff, including runoff from tributary upstream areas which may be outside the locus of the project.

(h) Drainage facilities shall be installed as early as feasible during construction and, if possible prior to site clearing, and must be installed and capable of being operational prior to increase in impervious area.

(i) Fill located adjacent to watercourses shall be adequately protected from erosion by means of rip-rap, gabions, retaining walls, sediment control fencing, vegetative stabilization, or similar measures.

(j) Adjacent properties and roadways shall be protected from sediment and changes to runoff rate and location during construction through the use of sediment control fencing or other appropriate barriers and dedicated construction entrances with wheel cleaning stone blankets to prevent sediment from being transported off site. Nearby drainage inlets should also be protected from silt-laden runoff through the use of filter fabric or other appropriate means to prevent silt and sediments from entering existing drainage systems. Drainage outfalls shall be protected with a filter fabric sock, or similar approved device, to capture soil and sediment.

(k) Silt fencing, temporary vegetation and or mulching shall be used to contain bare areas and stockpiles from erosion during construction. The smallest areas feasible shall be exposed at any one time and disturbed areas shall be protected during the non-growing months (November through March).

(l) Permanent stabilizing vegetation shall be planted immediately following fine grading.

(m) Trees and other existing vegetation shall be retained whenever feasible. The area within the drip line shall be fenced or roped off to protect trees from construction equipment.

(n) All areas damaged during construction shall be re-sodded, re-seeded or otherwise restored.

(o) Alterations to existing town right-of-way drainage patterns. In cases where property topography needs to be altered to facilitate new construction, the applicant shall either provide

(1) a grading and drainage plan, prepared by a licensed RI professional engineer to address the runoff from the road onto the property and ensures there are no adverse impacts to adjacent property from the proposed site grading; or
(2) the property owner records a deed restriction and indemnity agreement, in a form approved by the town, that stormwater runoff from the street onto the property is not the responsibility of the town.

Sec. 20-68. Technical Standards.

All applicants for qualifying development activity must develop and submit a proposed plan as outlined in section 20-66 which must meet all the requirements of this ordinance. All such measures shall be consistent with the Rhode Island Stormwater Design and Installation Standards manual and the Rhode Island Soil Erosion and Sediment Control Handbook, as amended. The plan must include a description of proposed best management practices (BMP's), detailed site plans, and a written narrative, that when implemented, provides protection of receiving waters by reducing pollutant loadings and other negative impacts associated with changes in land use as described below. Structural BMPs are described as structural stormwater devices that temporarily detain and treat stormwater runoff in order to reduce pollutant loadings. Typical BMPs include wet ponds, extended detention ponds, infiltration trenches, created wetlands, grassed swales and the like.

(a) Performance Standards

[e.g. A plan must incorporate best management practices for water quality control, which in combination are demonstrated to reduce the average annual total suspended solids in post development runoff by eighty percent (80%). Development in drinking

water supply watersheds or watersheds where impaired waters as defined by the State's 303(d) list exists may be held to higher standards.]

(b) Disallowed Stormwater Best Management Practices

[e.g. The placement of structural BMP's and other stormwater structures within a floodplain shall be avoided. If there is no alternative, the applicant must show what effects, if any, the tail waters created by the floodplain will have on the outflow and effective storage capacity of the detention facility.]

(c) Facilitation of Maintenance

[e.g. Facilities that require maintenance shall be designed to minimize the need for regular maintenance, facilitate required maintenance, and ensure accessibility of components that require maintenance. At a minimum, all Stormwater Management Plans must incorporate structural BMP's with appropriate maintenance design in accordance with the Rhode Island Stormwater Design and Installation Standards manual, as amended; or the Rhode Island Soil Erosion and Sediment control Handbook, as amended.]

Sec. 20-69. Maintenance Requirements for Best Management Practices

(a) Routine Maintenance and Repair Procedures

Preventative maintenance procedures are required to maintain the intended operation and safe condition of the structural BMP's by greatly reducing the occurrence of problems and malfunctions. To be effective, preventative maintenance shall be performed on a regular basis and include such routine procedures as training staff, periodic inspections, grass cutting elimination of mosquito breeding habitats, and pond maintenance. Disposal of sediment and debris must occur on a regular basis (unless otherwise specified within an approved plan), at suitable disposal sites or recycling sites and comply with applicable local, state and federal regulations. Corrective maintenance procedures are required to correct a problem or malfunction at a storm water management facility and to restore the facility's intended operation and safe condition. Based on the severity of the problem, corrective maintenance must be performed on an as-needed or emergency basis and include such procedures as structural repairs, removal of debris, sediment and trash removal which threaten discharge capacity, erosion repair, snow and ice removal, fence repair, mosquito extermination, and restoration of vegetated and nonvegetated linings.

(b) General Maintenance Standards for Stormwater Best Management Practices

Maintenance design and maintenance procedures for all structural BMP's shall be in accordance with *Rhode Island Stormwater Design and Installation Standards Manual,* as amended; and/ or the *Rhode Island Soil Erosion and Sediment Control Handbook,* as amended. Maintenance plans shall demonstrate appropriate maintenance design

and procedures for each proposed best management practice. A maintenance schedule for each type of structural BMP must be included in the plan. These schedules shall list the frequency and type of maintenance operations necessary along with the legally responsible party's name, address and telephone number. If the stormwater drainage system is to be deeded to the local municipality the applicant must obtain a letter from the municipality acknowledging maintenance responsibility and intent of ownership.

Sec. 20-70. Maintenance Agreements

Maintenance agreements between the Landowners and the Town shall provide written, contractual documentation, which demonstrates compliance with this ordinance and legal arrangements for the upkeep of the structural BMP's to assure their functionality and safety in accordance with this ordinance. Maintenance agreements shall be approved by the Director of Public Services and the Town Solicitor and recorded in the Land Evidence Records. Maintenance agreements, which describe all maintenance schedules and requirements, must be developed for each structural BMP unless the facility is dedicated to and accepted by the Town.

(a) Recognition of Municipal Inspection Requirements

Maintenance agreements shall include a reasonable and regular schedule by the property owner to ensure the functionality and safety of the structural BMP's. Private property owner inspection schedules shall be based on the complexity and frequency of maintenance needs and shall be subject to the approval of the Town. At a minimum, maintenance frequency should be in accordance with the Rhode Island Stormwater Design and Installation Standards Manual, as amended.

(b) Private Property Owner Record Keeping for Maintenance Activities

Maintenance agreements shall include provisions for maintenance record keeping by the private property owner. All private property owner activities conducted in accordance with a maintenance agreement must be recorded in a work order and inspection log. Timely updates of the log shall be the responsibility of the structural BMP's owner or other responsible party pursuant to this ordinance. The maintenance and inspection log shall be available to the Town to determine the effectiveness of the operation, maintenance and safety activities. Reviews shall occur as part of each on-site inspection. Additional reviews may be made as deemed appropriate by the Town.

(c) Responsibility for Maintenance to Assure Functionality and Safety

Appropriate maintenance to assure functionality and safety of the structural BMP's shall be the responsibility of the owner or may be assumed by another party via a written contractual arrangement in accordance with this ordinance.

(d) Alterations to Maintenance Agreements

Any alterations in maintenance responsibility or alterations to maintenance agreements must be reviewed and approved by the Building Official. If portions of the land serviced by a structural BMP are to be sold, written contractual arrangements shall be made to pass all responsibility of the maintenance agreement to the purchaser and shall be subject to review and approval of the Building Official. All alterations to maintenance agreements shall be recorded in accordance with this ordinance.

(e) Recordation of Maintenance Agreements

All maintenance agreements and alterations to maintenance agreements shall be recorded in the land evidence records of the Town. Copies of all maintenance agreements and alterations to maintenance agreements shall be included with the plan. Recordation of maintenance agreements in accordance with this ordinance shall be the responsibility of the owner.

Sec. 20-71. Performance guarantee.

(a) Individual Properties. In the event that site work cannot be completed prior to the need for a certificate of occupancy, the building official may require the posting of a guarantee deposit to ensure that site work is completed in accordance with the permit and approved plans. The amount of such performance guarantee shall be determined by the building official and shall be sufficient to cover the cost of completing all erosion and sediment control measures shown on the plan(s). The form of the performance guarantee shall be subject to the approval of the finance director.

(b) Land development projects. In the instance where a performance bond has been posted with the recording of a final subdivision, the bond shall not be fully released until such time that the building official has notified the planning board administrative officer of successful completion of all permit requirements. The posting of such bond as part of the subdivision performance bond does not, however, relieve the owner of any requirement(s) of this chapter.

Sec. 20-72. Notice of default on performance guarantee.

(a) Whenever the building official shall find that default has occurred in the performance of any term(s) or condition(s) of the guarantee deposit or bond or in the implementation of measures secured by the bond, written notice thereof shall be made to the applicant and to the surety of the bond by the town administrator. Such notice shall state the nature of default, work to be done, the estimated cost thereof, and the period of time deemed by the building official to be reasonably necessary for the completion of such work.

(b) Failure of the applicant to acknowledge and comply with the provisions and deadlines outlined in such notice of default shall result in action by the building official, without further notice of proceedings whatsoever, to utilize the guarantee deposit or

performance bond to cause the required work to be completed by the town, by contract or by other appropriate means as determined by the building official.

Sec. 20-73. Violations.

The approval of an erosion, runoff and sediment control plan under this chapter may be revoked or suspended only by the building official. All work on the project may be halted for an indefinite time period by the building official after written notification is transmitted (by the building official) to the applicant for one or more of the following reasons:

(a) Violation of any condition of the approved plan, conditions or specifications pertaining thereto;

(b) Violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation related to the work or work site; and

(c) The existence of any condition or the performance of any act constituting or creating a nuisance, hazard, or endangerment to human life or the property of others, or contrary to the spirit or intent of this chapter.

Sec. 20-74. Penalty.

(a) Whenever there is a failure to comply with the provisions of this chapter, the town shall have the right to notify the applicant that he/she has five days from the receipt of notice to temporarily correct the violations and 30 days from receipt of notice to permanently correct the violations.

(b) Should the applicant fail to take the temporary corrective measures within the five-day period and the permanent corrective measures within the 30-day period, the town shall then have the right to take whatever actions it deems necessary to correct the violations and to assert a lien on the subject property in an amount equal to the cost of remedial actions.

(c) The lien shall be enforced in the manner provided by law for the enforcement of common law liens on personal property. The lien shall be recorded with the records of land evidence of the town, and the lien shall incur legal interest in the amount of the prime rate plus one percent from the date of recording.

(d) The imposition of any penalty shall not exempt the offender from compliance with the provisions of this chapter, including revocation of the performance bond or assessment of a lien on the property by the town.