

June 17, 2009

Chapter \_\_\_\_: ORDINANCE # \_\_\_\_\_

**Decentralized Wastewater Management District**

**§ 1. Statutory authority.**

The Town of Old Saybrook, in accordance with C.G.S. § 7-247(b), does hereby establish a decentralized wastewater management district.

**§ 2. Purpose.**

The purpose of this ordinance is to protect the public health and the environment of the Town of Old Saybrook by establishing a decentralized wastewater management district within which improvements to the treatment of Wastewater will occur by implementing the requirements as set forth herein. It is not the purpose of this ordinance to allow new construction on any Lot or to install an AT System as a means by which additional bedrooms or increased occupancy may occur, beyond that which would otherwise be permitted by the Public Health Code as applied to such Lot. Furthermore, compliance within this ordinance does not relieve any Property Owner or Person of the obligation to comply with all other rules, regulations and policies of the Town, the Public Health Code (including Technical Standards adopted thereunder) or the Department of Public Health.

**§ 3. Definitions.**

As used in this ordinance, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE – A permanent non-habitable structure which is not served by a water supply and is used incidental to residential or non-residential buildings. Accessory Structures include, but are not limited to, attached and detached garages, covered entrance ways, screened and enclosed three-season (non-winterized) porches/sunrooms, open decks, tool and lawn equipment storage sheds, gazebos, and barns, etc. Accessory Structures also include in-ground and above-ground pools.

ALTERNATIVE SEWAGE TREATMENT SYSTEM - A sewage treatment system serving one or more buildings that utilizes a method of treatment other than a Subsurface Sewage Disposal System and that involves a discharge to the ground waters of the state.

AT [advanced treatment] SYSTEM – A type of Alternative Sewage Treatment System that provides reduction of effluent nitrogen concentration, as provided in the Upgrade Program Standards and the DEP Delegation.

AT LOT – (i) any Non-Water Proximity Lot that requires the installation of an AT System, as provided in Section 8C(3) herein, and (ii) any Water Proximity Lot.

AT PERMIT -- A permit evidencing the approval of, and issued by, the WPCA upon the WPCA's determination that an AT Lot complies with the requirements of this ordinance and the Upgrade Program Standards.

AT SYSTEM OPERATOR – A person who is qualified to provide operations and maintenance services for the specific AT Systems selected for use in the WWMD. An AT System Operator is required to meet training and experience requirements set forth by the WPCA and the DEP Delegation.

AT SYSTEM INSTALLER – A person who is qualified to install the AT Systems selected for use in the WWMD. AT System Installers are required to meet training and experience requirements set forth by the WPCA and the DEP Delegation.

BUILDING ADDITION – Any structural modification or alteration that results in an increase in habitable floor area of the building served that does not increase the design flow or required effective leaching area of the Subsurface Sewage Disposal System including, but not limited to, the modification of attic, basement or garage space into habitable space or the addition of dormers.

BUILDING CONVERSION – The act of winterizing a seasonal use building or portion thereof into year round use by providing one or more of the following: (i) a positive heating supply to the converted area; (ii) a potable water supply which is protected from freezing; or (iii) energy conservation in the form of insulation to protect from heat loss.

CHANGE IN USE – Any structural, mechanical or physical change to a building which allows the occupancy to increase; or any change in the activities within a building to expand or alter such building or the use thereof such that, when the building is fully utilized, the design flow or required effective leaching area of the Subsurface Sewage Disposal System will increase. A Change in Use also includes any internal change to a building which, while not increasing the square footage of habitable space, changes the configuration in such a way that there is an increase in design flow of the Subsurface Sewage Disposal System.

CONSTRUCTION – Any of the following activities: Building Addition; Building Conversion; Accessory Structure; Teardown/Rebuild; or new construction on a Vacant Lot or Lot.

COMMUNITY SEWERAGE SYSTEM – Any Sewerage System serving two or more residences in separate structures which is not connected to a municipal sewerage system or which is connected to a municipal sewerage system as a distinct and separately managed district or segment of such system.

DECENTRALIZED SYSTEM - Managed Subsurface Sewage Disposal Systems, managed Alternative Sewage Treatment Systems or Community Sewerage Systems that discharge sewage flows of less than five thousand gallons per day, are used to collect and treat domestic sewage, and involve a discharge to the ground waters of the state.

DEP - State of Connecticut, Department of Environmental Protection, acting by its Commissioner or duly authorized representative.

DEP DELEGATION – The delegation of authority from DEP to the WPCA to issue AT Permits.

DIRECTOR OF HEALTH - The Director of Health for the Town of Old Saybrook, or authorized agent (except such authorization shall not extend to issuing orders under the Public Health Code).

DPH - State of Connecticut, Department of Public Health, acting by its Commissioner or duly authorized representative.

FAILED SYSTEM – Any Subsurface Sewage Disposal System or AT System that allows Wastewater to discharge or flow from it into the interior of any building served or into any storm drain, stream, water body, gutter, street, roadway or public place, or if Wastewater discharges from said system to the surface or subsurface of any property or otherwise so as to create a nuisance or condition detrimental to health as determined by the Director of Health or as designated by the Public Health Code.

FINAL INSPECTION – An inspection conducted by, as applicable, the Director of Health or the WPCA, after the Upgrade Program Standards have been implemented, but prior to the issuance of a WWMD Permit.

INITIAL INVESTIGATION – The first Investigation of (i) a Non-Water Proximity Lot, pursuant to Section 8 herein, or (ii) a Water Proximity Lot that is also a Vacant Lot, pursuant to Section 7D herein. Initial Investigations shall be conducted by the Director of Health.

INVESTIGATION – An assessment by the Director of Health or the WPCA, as applicable, of a Lot, a Subsurface Sewage Disposal System or an AT System that may include, but is not limited to, a review of system components including materials, size and location, and an assessment in order to determine adequate separation distance to maximum ground water and ledge rock and sizing of the leaching system. An Investigation may be conducted for, among other purposes, the following: for Initial Investigation and Final Inspection purposes; for the purpose of obtaining information to determine appropriate design parameters; and for the purpose of determining compliance with this ordinance and the Upgrade Program Standards.

NON-WATER PROXIMITY LOT – Any Lot that is not a Water Proximity Lot.

LOT – A parcel of land within the WWMD that is occupied or capable of being occupied by one or more principal buildings and customarily incidental accessory buildings or uses, and which meets the minimum area, width, and other applicable requirements of the Town of Old Saybrook zoning regulations for the zone in which such parcel of land is

located, or is a legal non-conforming parcel, as defined in such zoning regulations and which conforms to the ordinances of the Town of Old Saybrook.

**MALFUNCTIONING SYSTEM** – Any Subsurface Sewage Disposal System or AT System as applicable, that exhibits a condition or conditions which, if not timely corrected, will, in the judgment of the Director of Health or the WPCA, as applicable, result in a Failed System. Backflow from leaching system into septic tank, wastewater overflowing the outlet baffle, back-up into the building sewer or riser, or evidence that the system is not performing as designed, is an indication of a Malfunctioning System.

**PERSON** – Any individual, group of individuals, corporation, limited liability company, association, partnership or public or private entity, including a district, county, city, town, or other government unit.

**PHASED IMPLEMENTATION** -- The gradual implementation of the Upgrade Program Standards, which shall take place over time, as set forth in Sections 7A and 8A herein.

**PROPERTY OWNER** – Any Person who alone, jointly or in common with others has legal title to any real property located in the WWMD.

**PUBLIC HEALTH CODE** - The State of Connecticut Public Health Code, including "Technical Standards for Subsurface Sewage Disposal Systems" established by DPH pursuant to Section 19-13-B103d(b) of the Regulations of Connecticut State Agencies, as established pursuant to C.G.S. § 19a-36, as may be amended.

**SEPTIC TANK CLEANER** – Shall mean any septic tank cleaner licensed by the State of Connecticut in accordance with C.G.S. § 20-341a et seq. and registered with the Director of Health in accordance with this Ordinance.

**SEPTIC TANK INSTALLER** – Shall mean any septic tank installer licensed by the State of Connecticut in accordance with C.G.S. § 20-341a et seq. and registered with the Director of Health in accordance with this Ordinance.

**SERVICE CONTRACT** – A written contract between a Property Owner and an AT System Operator which provides for operation and maintenance services for an AT System on a Property Owner's Lot. Service Contracts shall meet the guidelines set forth by the WPCA and the DEP Delegation, which will include periodic visits to and inspections of the AT System, regular operation and maintenance as recommended by the AT System manufacturer, remote monitoring of the AT System and responses to alarm conditions to remedy alarm conditions, periodic sampling and analysis per the DEP Delegation, and written reports in support of the AT System Permit renewal process. Service Contracts shall be for a period of 5 years or the life of the AT Permit, whichever is less. Service Contracts shall be signed by both the Property Owner and the AT System Operator, and a copy shall be provided to the WPCA.

SEWERAGE SYSTEM – Any device, equipment, appurtenance, facility and method for collecting, transporting, receiving, treating, disposing of or discharging Wastewater, including, but not limited to, Decentralized Systems within the WWMD.

SSDS – Subsurface Sewage Disposal System.

SSDS LOT – (i) any Non-Water Proximity Lot with an existing Subsurface Sewage Disposal System that satisfies the Public Health Code and the Upgrade Program Standards without the need to install an AT System, as provided in Section 8C(1) herein; (ii) any Non-Water Proximity Lot that is also a Vacant Lot for which the proposed Subsurface Sewage Disposal System satisfies the Public Health Code and the Upgrade Program Standards, as provided in Section 8D herein; and (iii) any SSDS Upgrade Lot.

SSDS PERMIT – A permit evidencing the approval of, and issued by, the Director of Health upon the Director of Health's determination that an SSDS Lot complies with the requirements of this ordinance and the Upgrade Program Standards. An SSDS Permit shall set forth standards for operation and maintenance of a Subsurface Sewage Disposal System and any permit conditions and provisions as are set forth in the Public Health Code. An SSDS Permit shall be deemed equivalent to a Permit to Discharge pursuant to Section 19-13-B103e(h) of the Public Health Code.

SSDS UPGRADE LOT – Any Non-Water Proximity Lot with an existing Sewerage System that requires upgrading in order to satisfy the Upgrade Program Standards requirements but does not require an AT System, as provided in Section 8C(2) herein.

SUBSURFACE SEWAGE DISPOSAL SYSTEM – A system consisting of a house sewer, a septic tank followed by a leaching system, any necessary pumps and siphons, and any ground water control system on which the operation of the leaching system is dependent.

TEARDOWN/REBUILD – Any tearing down and rebuilding of all or a portion of a structure, or the repair, replacement or rebuilding of a damaged structure.

UPGRADE PROGRAM STANDARDS - The program and standards set forth in that certain document entitled "Town of Old Saybrook Wastewater Upgrade Program Standards," as such Upgrade Program Standards may be revised from time to time in accordance with the procedure set forth therein. A copy of the Upgrade Program Standards as in effect on the effective date of this ordinance is attached hereto as Exhibit A. A copy of the Upgrade Program Standards, as revised from time to time, shall be on file at the offices of the WPCA and the Director of Health. The Upgrade Program Standards set forth remediation standards, including pollutant limits, performance requirements, design parameters and technical standards for application to sewage discharges in the WWMD for the improvement of Wastewater treatment to protect public health and the environment.

VACANT LOT – A Lot without Wastewater generating structures.

WASTEWATER – Domestic and commercial sewage consisting of water and human excretions or other waterborne wastes incidental to the occupancy of a residential building or a non-residential building, as may be detrimental to the public health or environment, but not including manufacturing process water, cooling water, wastewater from water softening equipment, blow down from heating or cooling equipment, and water from cellar or floor drains, or surface water from roofs, paved surfaces or yard drains.

WATER PROXIMITY LOT – A Lot that is designated as a Water Proximity Lot on the map identified in Section 5A herein. Every Water Proximity Lot shall be deemed to be an AT Lot.

WWMD - The decentralized wastewater management district in the Town of Old Saybrook established in accordance with C.G.S. § 7-247(b) and this ordinance.

WWMD PERMIT – WWMD Permit shall mean, as applicable, an SSDS Permit and/or an AT Permit.

WPCA - The Town of Old Saybrook Water Pollution Control Authority acting by its duly authorized agents.

**§ 4. Required approvals and consultations.**

In accordance with C.G.S. §§ 7-245 and 7-247, the following approvals and consultations have occurred:

- A. On \_\_\_\_\_, 2009, the Commissioner of DEP approved an engineering report entitled \_\_\_\_\_, and dated \_\_\_\_\_, 2009, which report has determined that the existing Sewerage Systems within the WWMD may be detrimental to public health or the environment and that Decentralized Systems are required.
- B. On \_\_\_\_\_, 2009, the Commissioner of DPH concurred with such DEP approval after consultation with the Director of Health in accordance with C.G.S. § 7-247(b).
- C. The Director of Health has approved this ordinance pursuant to the Director of Health's authority under C.G.S. § 19a-207, and C.G.S. § 7-247(a).
- D. The Town of Old Saybrook, in consultation with the Director of Health, has acted in conjunction with the WPCA to establish the WWMD.
- E. On \_\_\_\_\_, 2009, WPCA applied to DEP for delegation to issue AT Permits.
- F. On \_\_\_\_\_, 2009, the Director of Health authorized certain individuals working on behalf of the WPCA to act as agents of the Director of Health for determinations made under 19-13-B104a, et seq. of the Regulations of Connecticut State Agencies for Alternative Sewage Treatment Systems.

**§ 5. Establishment of WWMD boundaries.**

- A. The Town of Old Saybrook WWMD is hereby established, and the boundaries of the WWMD are shown on the map entitled "Old Saybrook Wastewater Management District Town of Old Saybrook, Connecticut," prepared by Fuss & O'Neill and dated \_\_\_\_\_, 2009, which map is on file in the town clerk's office and is hereby made a part of this ordinance.
- B. The town clerk shall record a copy of this ordinance in the Old Saybrook Land Records and shall index this ordinance in the grantor index in the name of each Property Owner as listed in the records of the assessor's office on the effective date of this ordinance.

**§ 6. Compliance with Upgrade Program Standards.**

It shall be unlawful to discharge Wastewater in the WWMD unless a WWMD Permit authorizing said discharge has been obtained pursuant to this ordinance, except as follows:

- A. A Lot for which a permit has been issued by the DEP pursuant to C.G.S. § 22a-430 shall not be required to obtain a WWMD Permit so long as such DEP permit is in full force and effect. For purposes of this Section 6, except as provided in the DEP Delegation, a WWMD Permit shall not be deemed to be a permit issued by the DEP pursuant to C.G.S. § 22a-430.
- B. Due to the Phased Implementation, no Lot shall be required to have a WWMD Permit until an order is issued for such Lot, or the Property Owner is otherwise contacted by the Director of Health in accordance with the provisions of this Ordinance.

**§ 7. Implementation of Upgrade Program Standards – Water Proximity Lots.**

- A. Implementation of the Upgrade Program Standards for Water Proximity Lots shall take place in phases over time. Therefore, the Upgrade Program Standards shall not be deemed to apply to any particular Water Proximity Lot until the earliest to occur of the following:

(1) Change in Use or Construction.

- (i) At the time of a proposed a) lot line revision or other activities that affect soil characteristics or hydraulic conditions, or b) Change in Use or Construction on a Water Proximity Lot that has an existing Sewerage System, the Director of Health shall issue an order to abandon the existing Sewerage System pursuant to Section 10A(1) herein, and the WPCA shall issue an order to install an AT System pursuant to Section 10A(2) herein.

- (ii) At the time of proposed Construction on a Water Proximity Lot that is also a Vacant Lot, the Director of Health shall conduct an Initial Investigation of said Lot, as set forth in Section 7D herein;
  - (2) Malfunctioning or Failed System. At such time as the Director of Health issues to the Property Owner of a Water Proximity Lot an Order to Abate a Nuisance or Health Hazard pursuant to Section 19-13-B103c(f) of the Public Health Code, or identifies a Malfunctioning System, the Director of Health shall issue an order to abandon the existing Sewerage System pursuant to Section 10A(1) herein, and the WPCA shall issue an order to install an AT System pursuant to Section 10A(2) herein; and
  - (3) In Due Course. In due course during the Phased Implementation, if the Director of Health and the WPCA have not already issued orders to the Property Owner of a Water Proximity Lot pursuant to Subsections (1)(i) or (2) above, the Director of Health and the WPCA shall issue such orders.
  - (4) In no event shall the design flow of the Change in Use or Construction exceed that which would otherwise be allowed for an SSDS Lot.
- B. At the applicable time in accordance with the Phased Implementation, the Director of Health shall issue a notice of entry into the program under the Phased Implementation to each Property Owner and thereafter conduct an Initial Investigation as provided herein. Within thirty (30) days of receipt of such notice, the Property Owner or its designee/agent shall file with the Director of Health an application (on a form to be provided by the Director of Health) pursuant to Section 19-13-B103e(c) of the Public Health Code. The Director of Health may issue such notice to a Property Owner simultaneously with the issuance of its order pursuant to Section 10A(1) herein and the WPCA's order pursuant to Section 10A(2) herein.
- C. Except as set forth in Section 7D below, (i) every Water Proximity Lot shall have an AT System and (ii) Water Proximity Lots that are not vacant lots shall not require an Initial Investigation.
- D. Prior to the start of proposed Construction on a Water Proximity Lot that is also a Vacant Lot, the Director of Health shall conduct an Initial Investigation of said Lot. The Initial Investigation shall be for the purpose of determining whether a Subsurface Sewage Disposal System that complies with the requirements of the Public Health Code and the Upgrade Program Standards could be installed on said Lot. As part of the Initial Investigation, the Property Owner may provide, or the Director of Health may request, additional information to determine compliance with this Section.
- (1) In the event the Director of Health determines that a Subsurface Sewage Disposal System compliant with the Public Health Code and Upgrade Program Standards is feasible on said Lot, then the WPCA shall issue an order to install an AT System pursuant to Section 10A(2) herein.

- (2) In the event the Director of Health determines that a Subsurface Sewage Disposal System compliant with the Public Health Code and Upgrade Program Standards is not feasible on said Lot, then said Lot shall not be eligible for a WWMD Permit. Neither a Subsurface Sewage Disposal System nor an AT System shall be installed on said Lot.
- (3) In no event shall the design flow of the Construction exceed that which would otherwise be allowed for an SSDS Lot.

E. An AT Permit for a Water Proximity Lot shall be issued following compliance with the orders issued pursuant to this Section 7.

**§ 8. Implementation of Upgrade Program Standards – Non-Water Proximity Lots.**

- A. Implementation of the Upgrade Program Standards for Non-Water Proximity Lots shall take place in phases over time. Therefore, the Upgrade Program Standards shall not be deemed to apply to any particular Non-Water Proximity Lot until the earliest to occur of the following:
- (1) Change in Use or Construction. Prior to the start of a proposed a) lot line revision or other activities that affect soil characteristics or hydraulic conditions, or b) Change in Use or Construction on a Non-Water Proximity Lot, the Director of Health shall conduct the Initial Investigation of such Non-Water Proximity Lot;
  - (2) Malfunctioning or Failed System. At such time as the Director of Health issues to the Property Owner of a Non-Water Proximity Lot an Order to Abate a Nuisance or Health Hazard pursuant to Section 19-13-B103c(f) of the Public Health Code, or identifies a Malfunctioning System, the Director of Health shall conduct the Initial Investigation of such Non-Water Proximity Lot; and
  - (3) In Due Course. In due course during the Phased Implementation, if an Initial Investigation of a Non-Water Proximity Lot has not already occurred pursuant to Subsections (1) or (2) above, the Director of Health shall contact the Property Owner to schedule an Initial Investigation of such Non-Water Proximity Lot after issuing a notice as provided herein.
- B. At the applicable time in accordance with the Phased Implementation, the Director of Health shall issue a notice of entry into the program under the Phased Implementation to each Property Owner. Within thirty (30) days of receipt of such notice, the Property Owner or its designee/agent shall file with the Director of Health an application (on a form to be provided by the Director of Health) pursuant to Section 19-13-B103e(c) of the Public Health Code.
- C. The Initial Investigation of every Non-Water Proximity Lot with a Sewerage System shall be for the purpose of determining whether such Sewerage System requires

upgrading to satisfy the requirements of the Upgrade Program Standards. As part of the Initial Investigation, the Property Owner may provide, or the Director of Health may request, additional information to determine compliance with this Section.

- (1) If the existing Sewerage System on a Non-Water Proximity Lot satisfies the Public Health Code and the Upgrade Program Standards requirements and does not require an AT System, such Lot shall be deemed to be an SSDS Lot. The Director of Health shall issue an SSDS Permit for such Non-Water Proximity Lot.
- (2) If the existing Sewerage System on a Non-Water Proximity Lot requires upgrading in order to satisfy the Upgrade Program Standards requirements but does not require an AT System, such Lot shall be deemed to be an SSDS Upgrade Lot. The Director of Health shall issue an order to upgrade the existing Subsurface Sewage Disposal System pursuant to Section 9A herein.
- (3) If the existing Sewerage System on a Non-Water Proximity Lot requires, in addition to satisfying other elements of the Upgrade Program Standards, the installation of an AT System, such Lot shall be deemed to be an AT Lot. The Director of Health shall issue an order to abandon the existing Sewerage System pursuant to Section 10A(1) herein, and the WPCA shall issue an order to install an AT System pursuant to Section 10A(2) herein.

D. The Initial Investigation of every Non-Water Proximity Lot that is also a Vacant Lot shall be for the purpose of determining whether the proposed Subsurface Sewage Disposal System for such Lot satisfies the requirements of the Public Health Code and the Upgrade Program Standards. If the proposed Subsurface Sewage Disposal System on a Non-Water Proximity Lot that is also a Vacant Lot satisfies the Public Health Code and the Upgrade Program Standards requirements (including but not limited to the Upgrade Program Standards requirements for Vacant Lots), such Lot shall be deemed to be an SSDS Lot. Upon Final Inspection of such SSDS Lot following construction of said proposed Subsurface Sewage Disposal System, and a determination by the Director of Health that such construction satisfies the requirements of this ordinance, the Public Health Code, and the Upgrade Program Standards, the Director of Health shall issue an SSDS Permit for such Lot.

E. A WWMD Permit for a Non-Water Proximity Lot shall be issued following a Final Inspection and, if applicable, compliance with any orders issued pursuant to this Section 8.

**§ 9. Subsurface Sewage Disposal System upgrades – orders and permits.**

A. Orders. The Director of Health shall order the Property Owner of an SSDS Upgrade Lot to upgrade such Lot's Sewerage System in accordance with the Upgrade Program Standards.

- B. SSDS Permits. Upon Final Inspection of an SSDS Upgrade Lot following an upgrade pursuant to an order, and a determination by the Director of Health that such upgrade satisfies the requirements of this ordinance and the Upgrade Program Standards, the Director of Health shall issue an SSDS Permit for such Lot.

**§ 10. AT System installations – orders and permits.**

A. Orders.

- (1) The Director of Health shall order the Property Owner of an AT Lot with an existing Sewerage System to abandon such AT Lot's Sewerage System.
- (2) Upon issuance of such Director of Health order to abandon, the WPCA shall order such Property Owner to install an AT System using an AT System Installer and in accordance with the Upgrade Program Standards. No such WPCA order shall be issued until after written notice to the Property Owner and a public hearing in accordance with C.G.S. § 7-257.

- B. AT Permits. Upon Final Inspection of an AT Lot following the installation of an AT System pursuant to an order, and a determination by the WPCA that such installation satisfies the requirements of this ordinance and the Upgrade Program Standards, and upon receiving a copy of a valid executed Service Contract between the owner of the AT Lot and an AT System Operator, the WPCA shall issue an AT Permit for such Lot. The permit shall state that failure to notify the WPCA of a termination or expiration of such Service Contract or a change in the AT System Operator shall be a violation of the AT Permit.

**§ 11. WWMD Permits – validity and renewal.**

- A. A WWMD Permit shall be valid for a period of five (5) years from the date of issue unless sooner revoked as provided in Section 15 herein.

B. SSDS Permit Renewal. Following is the process for renewal of an SSDS Permit:

- (1) The renewal process for SSDS Permits shall be consistent with Section 19-13-B103e(h)(2) of the Public Health Code and this Section 11B.
- (2) The Property Owner shall have the septic tank inspected and cleaned by a Septic Tank Cleaner or Septic Tank Installer properly licensed by the State of Connecticut to perform such service.
- (3) The Property Owner or contracted Septic Tank Cleaner or Septic Tank Installer shall inform the Director of Health at least twenty-four (24) hours prior to the inspection and cleaning except in case of emergency.

- (4) The inspection and cleaning must be performed within ninety (90) days prior to the expiration date of the existing SSDS Permit.
- (5) The Director of Health shall have the right to observe the inspection and cleaning at his/her discretion, and to require such tests, based upon conditions observed and as the Director of Health deems appropriate, to determine whether or not said system is malfunctioning or failing.
- (6) The report on inspection and cleaning of the septic tank must disclose to the Director of Health if there is evidence of a Malfunctioning System or a Failed System. Any Malfunctioning System noted must be repaired within sixty (60) days of such inspection and cleaning, or the Director of Health may issue a temporary permit for a period not to exceed six (6) months. Any Failed System must be repaired on a schedule as determined by the Director of Health.
- (7) The Director of Health shall have the authority to waive the inspection and cleaning of the septic tank if he/she determines that inspection and cleaning are not necessary because of limited use or because of a recent cleaning or inspection of the septic tank or Subsurface Sewage Disposal System.
- (8) Applications for permit renewals shall be on forms developed by the Director of Health and include elements for consideration, as provided above.

C. AT Permit Renewal. Following is the process for renewal of an AT Permit:

- (1) The renewal process for AT Permits shall be consistent with the DEP Delegation and this Section 11C.
- (2) The Property Owner shall have the AT System inspected by its AT System Operator prior to renewal of the AT Permit. Said inspection shall include a report to be filed in connection with the AT Permit renewal for approval by WPCA summarizing the condition of the AT System and its components, the septic tank and (to the extent visible) the leaching system. The report shall summarize operational history of the AT System over the life of the current permit, including any malfunctions and remedial measures taken. The AT System Operator shall note any deficiencies or malfunctions in the AT System that would negatively impact performance of the AT System and shall recommend (and Property Owner shall implement) corrective measures to remedy such deficiencies prior to such permit renewal.
- (3) Unless in the discretion of the WPCA there is a valid reason to the contrary, the septic tank associated with the AT System shall be inspected and cleaned by a Septic Tank Cleaner or Septic Tank Installer registered with the Director of Health as provided herein, properly licensed by the State of Connecticut to perform such service.

- (4) The Property Owner or AT System Operator shall inform the WPCA at least twenty-four (24) hours prior to the AT system inspection, except in case of emergency.
- (5) The Property Owner or contracted Septic Tank Cleaner or Septic Tank Installer shall inform the WPCA at least twenty-four (24) hours prior to the inspection and cleaning except in case of emergency.
- (6) The inspection and cleaning must be performed within ninety (90) days prior to the expiration date of the existing AT Permit.
- (7) The WPCA shall have the right to observe the inspection and cleaning at its discretion, and to perform such tests as the WPCA deems appropriate to determine whether or not said system is malfunctioning or failing.
- (8) The report on inspection and cleaning of the AT System must disclose to the Director of Health and WPCA if there is evidence of a Malfunctioning System or a Failed System. Any Malfunctioning System noted must be repaired within sixty (60) days, or the WPCA may issue a temporary permit for a period not to exceed six (6) months. Any Failed System must be repaired on a schedule as determined by the Director of Health.
- (9) The WPCA shall have the authority to waive the inspection and cleaning of the AT System and its septic tank if it determines that inspection and cleaning are not necessary because of limited use or because of a recent cleaning or inspection of the AT System.
- (10) Applications for permit renewals shall be on forms developed by the WPCA.

D. Registration and Reporting.

- (1) Any Septic Tank Cleaner or Septic Tank Installers providing services under this Ordinance shall be licensed by the State of Connecticut and be registered with the Director of Health and WPCA. The criteria and standards for such registration shall be adopted by the Director of Health and WPCA.
- (2) All Septic Tank Cleaners and Septic Tank Installers shall file reports as required by WPCA and Director of Health on forms approved by them, within thirty (30) calendar days of such inspection, through a reporting system as directed by the WPCA and Director of Health. Any Septic Tank Cleaner or Septic Tank Installer filing reports using any other method may be removed from the registration list as provided in the criteria and standards provided above. The Director of Health and the WPCA shall provide training on the reporting system at no cost to the Septic Tank Cleaner or Septic Tank Installer.

**§ 12. Operation and maintenance standards.**

- A. SSDS Lots. Every SSDS Lot shall be subject to standards established by the Director of Health for effective supervision, management, control, operation and maintenance. The Property Owner shall operate and maintain the Subsurface Sewage Disposal System in accordance with such standards, which shall be set forth in the SSDS Permit.
- B. AT Lots. Every AT Lot shall be subject to standards for effective supervision, management, control, operation, monitoring and maintenance, which standards shall be established by the WPCA in accordance with the DEP Delegation. The Property Owner shall execute a Service Contract with an AT System Operator to operate and maintain the AT System in accordance with such standards, which shall be set forth in the AT Permit, and in accordance with any additional standards established by the manufacturer of the AT System. In the event repair or replacement work is required in order to ensure the continued effective operation of an AT System, the Property Owner shall apply for a repair permit from the WPCA prior to conducting such work.

**§ 13. Investigation.**

- A. The Director of Health and the WPCA shall have the right of entry to any land in the WWMD for the purpose of conducting Investigations for the purpose of determining compliance with this ordinance and the Upgrade Program Standards and performing such tasks as the Director of Health or the WPCA determine are advisable for such purpose. Except in the case of an emergency, if access to the interior of a structure is required, the Director of Health or the WPCA, as applicable, shall send a written notice to the Property Owner.
- B. If access to the property or structure is denied, the Director of Health or the WPCA, as applicable, shall notify the Property Owner in writing that the WWMD Permit for such Lot shall be revoked. The Director of Health or the WPCA, as applicable, shall determine the severity of the situation and may revoke the WWMD Permit immediately if he/she deems this appropriate, and for WPCA actions, thereafter hold a hearing in accordance with its regulations. In the event access is denied prior to the initial Investigation (i.e., prior to the issuance of a WWMD Permit), the Director of Health or the WPCA, as applicable, may initiate legal proceedings in accordance with Section 15B herein and assess penalties in accordance with Section 18 herein.

**§ 14. Exceptions.**

- A. SSDS Lots. At the time of the Initial Investigation of a Lot that is not a Vacant Lot, for the purpose of determining whether such Lot meets the criteria to be designated as an SSDS Lot, the Director of Health may grant exceptions from one or more of the provisions of the Public Health Code in accordance with Section 19-13-B103d.
- B. AT Lots. In the event that an AT System is not feasible to install on an AT Lot, the WPCA may propose alternatives (for example, a Community Sewerage System) to one or more of the provisions of the Upgrade Program Standards; provided, however, that any

such alternatives are approved by the DEP, DPH, and/or the local Director of Health as applicable.

**§ 15. Enforcement.**

- A. Enforcement of this ordinance as to each Lot prior to a determination as to whether such Lot is an SSDS Lot or an AT Lot shall be the responsibility of the Director of Health. Enforcement of this ordinance for SSDS Lots shall be the responsibility of the Director of Health. Enforcement of this ordinance for AT Lots shall be the responsibility of the WPCA, except that, to the extent there is a Public Health Code violation on an AT Lot, the Director of Health shall also have enforcement authority.
- B. In the event that: (i) a Lot within the WWMD is determined by the Director of Health or the WPCA, as applicable, to be out of compliance with the provisions of this ordinance or the Upgrade Program Standards; (ii) an AT System or a Subsurface Sewage Disposal System is a Malfunctioning System or a Failed System; or (iii) the Property Owner has not complied with the conditions of the WWMD Permit, the following actions shall be taken by the Director of Health or the WPCA, as applicable:
- (1) If a WWMD Permit has been issued for such Lot, the WWMD Permit shall be revoked and the Property Owner shall be given notice of said revocation and of the violation(s) occurring and shall be ordered to immediately abate the condition(s) cited in such notice. Such notice shall comply with the provisions of Subsection (3) below.
  - (2) If a WWMD Permit has not been issued for such Lot, the Property Owner shall be given notice of the violation(s) occurring and shall be ordered to immediately abate the condition(s) cited in such notice. Such notice shall comply with the provisions of Subsection (3) below.
  - (3) Notices issued pursuant to Subsections (1) and (2) above shall:
    - (i) Be in writing.
    - (ii) Set forth the violation(s) of this ordinance, the Public Health Code, the Upgrade Program Standards, the applicable rules and regulations issued pursuant thereto, or the WWMD Permit.
    - (iii) Specify a specific date for the correction of the violation(s), including interim or emergency measures.
    - (iv) Be served upon the Property Owner personally, or by registered mail, return receipt requested, addressed to the Property Owner at the address of the Property Owner as set forth in the records of the town assessor, or, if applicable, be served upon a resident agent for the receipt of service for

the Property Owner as designated in the records of the Connecticut Secretary of State. If one of more Persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such Persons by posting the notice on or about the property that is the site of the violation(s).

- (v) Be filed in the records of the Director of Health and/or the WPCA records, as applicable. Notification shall be forwarded to the building official of the Town of Old Saybrook.
- (4) In the event an Investigation of the Lot is required in order to determine whether the violation(s) have been corrected, then, at the end of the period of time allowed for the correction of the violation(s), the Director of Health or WPCA, as applicable, shall conduct an Investigation of the Lot.
  - (i) If, upon such Investigation, the violation(s) are determined to have been corrected, the Director of Health or the WPCA, as applicable, shall reinstate or reissue, as applicable, a WWMD Permit.
  - (ii) If, upon such Investigation, the violation(s) are determined not to have been corrected, the Director of Health or the WPCA, as applicable, may seek such relief as may be available at law or equity, in accordance with the provisions of the Connecticut General Statutes, the Public Health Code, the Code of the Town of Old Saybrook or this ordinance.
- (5) In the event an Investigation of the Lot is not required in order to determine whether the violation(s) have been corrected, then, if, at the end of the period of time allowed for the correction of the violation(s), the violation(s) are determined not to have been corrected, the Director of Health or the WPCA, as applicable, may seek such relief as may be available at law or equity, in accordance with the provisions of the Connecticut General Statutes, the Public Health Code, the Code of the Town of Old Saybrook or this ordinance.

**§ 16. Appeals.**

**A. SSDS Lots.**

- (1) Any Property Owner who receives a decision of the Director of Health that is adverse to the Property Owner may appeal such decision of the Director of Health in accordance with the provisions of C.G.S. § 19a-229.

**B. AT Lots.**

- (1) Any Property Owner who has been issued an order by the Director of Health pursuant to Section 10(A)(1) herein shall have the right to appeal such order to the DPH in accordance with the provisions of C.G.S. § 19a-229.

- (2) Any Property Owner who has been issued an order by the WPCA pursuant to Section 10(A)(2) herein shall have the right to appeal such order in accordance with the provisions of C.G.S. § 7-257.
- (3) Any Property Owner who is aggrieved by a decision of the WPCA to deny an AT Permit to such Property Owner shall have the right to appeal such decision as provided in C.G.S. § 22a-437.
- (4) Any Property Owner who has been issued a notice of violation and abatement order by the WPCA shall have the right to appeal said notice in accordance with the provisions of C.G.S. § 22a-437.

**§ 17. Fees.**

Fees may be established and are hereby authorized and assessed as follows: For permits issued by the Director of Health, by the Board of Directors for the Connecticut River Area Health District in accordance with § 19a-243 for Public Health Code; and for the WPCA, consistent with Town Ordinances and § 7-245 of the General Statutes, the fee schedule shall be in writing and shall be effective upon majority vote of the WPCA following a public hearing, of which legal notice has been published in a newspaper having a general circulation in the Town of Old Saybrook not less than five (5) days prior to such hearing, and upon subsequent publication of notice of such adoption in a newspaper having a general circulation in the Town of Old Saybrook.

**§ 18. Penalties for offenses.**

As provided in § 7-148(c)10 Conn. Gen. Stat., any person who shall violate any provision of this ordinance or who shall refuse or fail to obey an order of the Director of Health or the WPCA to comply with this ordinance, the Upgrade Program Standards or any rule or regulation adopted hereunder, shall be subject to a civil penalty of \$100 for each day of each violation, as assessed by the WPCA, after expiration of the specified reasonable consideration period as determined by the WPCA; provided, however, that the penalty set forth in this section is not exclusive and, when the violation is also a violation of the provisions of any federal, state or local law, then such additional penalty, or remedy or enforcement set forth in any such statute, regulation or ordinance, shall pertain in addition to the penalty provisions of this Section, including but not limited to the powers the Director of Health.

**§ 19. Applicability of Chapter 173/Ordinance 75.**

Except as provided below, as to the WWMD, this ordinance shall supersede Chapter 173 of the Code of the Town of Old Saybrook (Ordinance 75, Sewage Disposal Systems). Said Chapter 173 shall remain in full force and effect as to:

- A. all portions of the Town of Old Saybrook that are not part of the WWMD; and

**Comment [MSOffice1]:** Attorney Cronin has some comments about this section, which he is supposed to provide to John

- B. each Lot within the WWMD until such time as an order is issued for said Lot or the Property Owner of said Lot is otherwise contacted by the Director of Health in accordance with Sections 7 or 8 herein.

**§ 20. Transferability of Permits.**

- A. AT Permits: Within ten (10) business days of the change in ownership of an AT Lot for which an AT Permit has been issued, such new Property Owner shall file with the WPCA, on a form provided by the WPCA such information as it may request, including but not limited to, any change in the information on such permit, evidence that the Service Contract has been assigned to the new owner(s), and confirmation that the new owner(s) understands and will comply with the WWMD Ordinance and permits issued thereunder. Upon receipt, review and approval of the completed form by the WPCA, the AT Permit shall be transferred to the new Property Owner.
- B. SSDS Permits: Within ten (10) business days of the change in ownership of an SSDS Lot for which an SSDS Permit has been issued, such new Property Owner(s) shall file with the Director of Health on a form provided by such Director of Health, any changes in the information on such permit, and confirmation that the new owner(s) understands and shall comply with the WWMD Ordinance. Upon receipt, review and approval of the completed form by the Director of Health, the SSDS Permit shall be transferred to the new Property Owner.

**§ 21. Liens.**

Any liens associated with the WWMD recorded against a Lot within the WWMD in favor of the Town, the WPCA, or the Director of Health shall be paid/discharged in full upon the transfer of ownership for consideration.

**Effective Date:** August \_\_\_\_\_, 2009

**EXHIBIT A**

Upgrade Program Standards as may be amended from time to time as provided herein.