

Introduced by Presiding Officer, on request of the County Executive and Legislator Gregory

RESOLUTION NO. 229 -2010, ADOPTING LOCAL LAW NO. 11 -2010, A LOCAL LAW AMENDING CHAPTER 424 (SEWERS) TO WAIVE SEWER CONNECTION FEES FOR ECONOMIC REVITALIZATION IN URBAN RENEWAL AREAS

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on February 2, 2010, a proposed local law entitled, "**A LOCAL LAW AMENDING CHAPTER 424 (SEWERS) TO WAIVE SEWER CONNECTION FEES FOR ECONOMIC REVITALIZATION IN URBAN RENEWAL AREAS**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 11 -2010, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW AMENDING CHAPTER 424 (SEWERS) TO WAIVE SEWER CONNECTION FEES FOR ECONOMIC REVITALIZATION IN URBAN RENEWAL AREAS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature finds that, pursuant to Local Law No. 4-2007, codified in the Suffolk County Code in §424-38, the connection fee for out-of-district connections to Suffolk County Sewer Districts was raised to \$30.00 per gallon of sewage per day, representing a purchase of capacity based on both hydraulics and loading criteria. This Legislature determines that any waiver or reduction of such fee requires enactment of a Local Law.

This Legislature has authorized sewer feasibility studies to examine options for expanding sewer service to unsewered or inadequately sewer parts of the County. This Legislature recognizes that the absence of adequate sewer service in the County is the single biggest impediment to smart-growth, mixed-used development and economic growth in the County.

This Legislature finds that the County Executive has hosted a historic Sewer Summit and has brought together elected officials, business people, environmental groups and citizens to address the wastewater treatment needs of the County. This Legislature also finds that Resolution No. 1277-2007 created a Suffolk County Sewer District Assessment Request For Proposal ("RFP") Committee, and that an RFP for a comprehensive sewer study was issued on January 28, 2010.

This Legislature finds that facilitating and encouraging economic development, downtown transit-oriented development, and utilizing smart growth development policies to revitalize our most economically distressed communities will benefit all taxpayers in the County, far beyond the limits of the communities that are rehabilitated.

This Legislature also finds that municipalities should be encouraged to partner with the County by building sewage collection systems to connect their economically distressed communities to existing County sewer districts within their borders, where treatment capacity exists in those districts.

This Legislature has actively encouraged downtown beautification and renewal through Capital Projects and through the operation of Empire Zones. This Legislature finds that it has previously initiated efforts to expand the smart growth and mixed use development in Suffolk County, and has offered reduced sewer connection fees as an incentive for mixed use development and affordable housing, as early as 2003, by enacting Resolution 1104-2003.

Section 2. Amendments.

Chapter 424 of the Suffolk County Code is hereby amended as follows:

**CHAPTER 424
SEWERS**

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**ARTICLE VII
Sewer Charges, Assessments and Fees**

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§ 424-38. User charges and connection fees.

A. The Administrator may, pursuant to § 266 of the County Law, establish a user charge system consisting of a schedule of charges for sewer service, subject to the review and approval of the Suffolk County Legislature. These charges may be in addition to or in lieu of applicable ad valorem or benefit assessments. Such charges shall be based on the estimated annual district cost of operation, maintenance and regulatory program costs and capital and improvement costs or portions thereof. The Administrator may, in accordance with said § 266 and after public notice of hearing, adopt a separate user charge system for each sewer district, subject to the review and approval of the Suffolk County Legislature. The Administrator shall impose a separate connection fee of \$30.00 per gallon per day on any user from outside the geographical boundaries of any Suffolk County Sewer District which receives approval from the County of Suffolk to connect to that pertinent Suffolk County Sewer District, said connection fee to replace the current connection fee of \$15.00 per gallon per day that is administratively imposed by any Suffolk County Sewer District via agreement with connectees. The connection fee is to represent a purchase of capacity and is based on both hydraulics and mass loading criteria.

B. Notwithstanding the provisions of subdivision (A) of §424-38, the connection fee shall be waived where all of the following conditions are satisfied:

1. The connection agreement is with a municipality that will be building infrastructure, including a collection system: (i) to serve an urban renewal area as that term is defined by Article 15 of the General Municipal Law; (ii)

- the area to be served is an Empire Zone and (iii) the area to be served is a transit-oriented development in a downtown area with a train station; and
2. The collection system will be constructed at no cost to the County and with a capacity to be approved by the Sewer Agency, sufficient to serve future connections within and without the area described in subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (B) of §424-38, with no charge backs to the District; and
 3. A county sewer district exists within the municipality and capacity exists or will exist to serve the sewage treatment needs of the residential, commercial and industrial facilities within the area described in subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (B) of §424-38; and
 4. That all individual residential, commercial and industrial facilities within the area described in subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (B) of §424-38, to be included in the fee waiver, shall have applied to the Sewer Agency for formal approval to connect to the sewer district within five years of the date that the collection system is deemed operational by the sewer district, and shall have executed individual connection agreements within one year of such approval.

C. The Sewer Agency shall establish rules to implement procedures to give effect to subdivision (B) of §424-38, including but not limited to, determining the date on which the collection system shall be deemed operational.

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ARTICLE VIII General Provisions

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§424-44. Connection to County sewage works required.

A. Accessibility.

1. Sewage from any building or premises shall be discharged directly into County sewage works if said building or premises is located within the boundaries of a County sewer district or within an area described in subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (B) of §424-38, pursuant to the Suffolk County Sanitary Code, Article 5, Section 760-502-4(b).

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Section 3. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. SEQRA Determination.

This Legislature, being the State Environment Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20) and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 5. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED: March 23, 2010

APPROVED BY:

/s/ Steve Levy
County Executive of Suffolk County

Date: April 13, 2010

After a public hearing duly held on April 6, 2010
Filed with the Secretary of State on April 28, 2010