

Introduced by Presiding Officer, on request of the County Executive and Legislators Hahn, Muratore

RESOLUTION NO. 659 -2016, AUTHORIZING THE SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES TO AMEND POLICY AND AUTHORIZING THE SUFFOLK COUNTY BOARD OF HEALTH TO AMEND THE SUFFOLK COUNTY SANITARY CODE TO ALLOW FOR THE APPROVAL, REGISTRATION AND MANAGEMENT OF INNOVATIVE AND ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEMS

WHEREAS, Suffolk County ("County"), with a population of 1.5 million persons, has in excess of 365,000 existing residential on-site systems, comprised mostly of cesspools and leaching pools, with 209,000 of these onsite systems in especially environmentally sensitive areas which could benefit from nitrogen-reducing technologies; and

WHEREAS, the County, which is federally recognized as having a sole source aquifer system for its drinking water supply, is acutely aware of the need to preserve this valuable resource by reducing the amount of nitrogen discharged into the groundwater by traditional on-site residential sanitary systems; and

WHEREAS, the Suffolk County Comprehensive Water Resources Management Plan (2015) has documented the devastating effects of high levels of nitrogen pollution, not only on our drinking water quality, but also on coastal ecosystems, dissolved oxygen, water clarity, eelgrass, wetlands, shellfish, coastal resilience and in triggering harmful algal blooms; and

WHEREAS, the County issued Requests for Expressions of Interest in April 2014 and March 2016 in order to attract applicants (i.e. manufacturers) who wished to demonstrate the effectiveness of their residential Innovative and Alternative On-Site Wastewater Treatment Systems (hereinafter "I/A OWTS") in the County; and

WHEREAS, an I/A OWTS is an innovative and alternative onsite wastewater treatment technology that is capable of achieving significantly and measurably reduced total nitrogen concentrations as compared to conventional onsite wastewater treatment systems; and

WHEREAS, heretofore, I/A OWTSs have only been permitted in the County on a limited and experimental basis, requiring a Suffolk County Department of Health Services (hereinafter "Department") Board of Review variance for demonstration, as the systems are not currently specifically authorized under the Suffolk County Sanitary Code; and

WHEREAS, the Suffolk County Septic Demonstration Tour (2014) documented that tens of thousands of I/A OWTS are being successfully utilized to reduce nitrogen in unsewered areas in proximate jurisdictions such as Rhode Island, Massachusetts, New Jersey and Maryland; and

WHEREAS, the County desires to adopt a policy that allows the Department to evaluate, approve, register, oversee and facilitate I/A OWTS to achieve reductions in nitrogen pollution; and

WHEREAS, the Suffolk County Board of Health is considering adoption of a

proposed amendment to the Suffolk County Sanitary Code adding a new Article 19, attached hereto as Exhibit "A" to establish a framework for the Department, as the Responsible Management Entity, to evaluate, approve, register, oversee and facilitate the use of I/A OWTS; and

WHEREAS, upon amendment of the Suffolk County Sanitary Code, the Department will have the framework to evaluate, approve, register, oversee and facilitate the use of I/A OWTS for use in 2016 (provided that the systems and proposed sites meet all applicable County and New York State standards) and to ensure that the I/A OWTS continue to function effectively over the long-term and to benefit the environment; and

WHEREAS, after such amendment of the Suffolk County Sanitary Code, approval of an I/A OWTS in compliance with the Suffolk County Sanitary Code and other applicable regulations and standards may be authorized by and registered with the Department, with no variance from the Board of Review required, and

WHEREAS, upon amendment of the Suffolk County Sanitary Code, the Department, acting as the Responsible Management Entity for purposes of registering and overseeing I/A OWTS, shall administer and conduct a comprehensive set of activities and have the legal authority and technical capacity to ensure the long-term operation, maintenance and management of all I/A OWTS, and such activities shall include, but not be limited to, inspection, monitoring I/A OWTS operation and maintenance, and data management; and

WHEREAS, these policy and Suffolk County Sanitary Code changes are consistent with the recommendations of the Suffolk County Comprehensive Water Resources Management Plan; and

WHEREAS, Suffolk County Charter Section C9-5(C) requires that any amendment to the Suffolk County Sanitary Code which implements a recommendation of the updated Suffolk County Comprehensive Water Resources Management Plan shall not take effect until such time as the amendment is approved by the Suffolk County Legislature by a duly enacted resolution; and

WHEREAS, Suffolk County Administrative Code Section A9-9 requires that prior to enacting a change in County policy in accordance with recommendations set forth in the updated Suffolk County Comprehensive Water Resources Management Plan the Department shall obtain the approval of the Suffolk County Legislature for such change by the enactment of a duly enacted resolution; now, therefore be it

1st **RESOLVED**, that this Legislature hereby finds and determines that the proposed Article 19 of the Suffolk County Sanitary Code, which will establish a framework to evaluate, approve, register, oversee and facilitate the use of I/A OWTS, is consistent with the Suffolk County Comprehensive Water Resources Management Plan of 2015; and be it further

2nd **RESOLVED**, that this Legislature deems I/A OWTS to be a necessary component of a comprehensive strategy to protect the public health and combat nitrogen pollution of our drinking water and coastal ecosystems; and be it further

3rd **RESOLVED**, that this Legislature hereby approves of the Department to act as the Responsible Management Entity to evaluate, approve, register, oversee and facilitate the

use of I/A OWTS and to effectuate the intent of this resolution through necessary policy changes; and be it further

4th **RESOLVED**, that the proposed new Article 19 (Management of Innovative and Alternative Onsite Wastewater Treatment Systems) of the Suffolk County Sanitary Code is hereby approved, subject to approval by the Suffolk County Board of Health, in substantially the same form attached hereto as Exhibit "A", with such non-substantive changes as are deemed necessary by the Suffolk County Board of Health and the Department consistent with the intent of this resolution; and be it further

5th **RESOLVED**, that the adoption of the proposed new Article 19 (Management of Innovative and Alternative Onsite Wastewater Treatment Systems) of the Suffolk County Sanitary Code by the Suffolk County Board of Health, together with any necessary changes consistent with the above, shall be conclusive evidence of the approval thereof by this Legislature; and be it further

6th **RESOLVED**, that the Department is hereby authorized to implement such policies as it deems necessary to administer the above amendment of the Suffolk County Sanitary Code; and be it further

7th **RESOLVED**, that this Legislature, being the lead agency under the State Environmental Quality Review Act (SEQRA), N.Y. Env'tl. Conserv. Law Art. 8, and Chapter 450 of the Suffolk County Code, hereby determines that this resolution constitutes a Type I Action, pursuant to Title 6 NYCRR Part 617 and Chapter 450 of the Suffolk County Code and further determines that the implementation of this action will not have a significant adverse impact on the environment for the following reasons:

1. The proposed action will not exceed any of the criteria in 6 N.Y.C.R.R. § 617.7, which sets forth thresholds for determining significant adverse impacts on the environment, as demonstrated in the Environmental Assessment Form;
2. There are no significant adverse impacts to groundwater associated with the proposed Article 19, as demonstrated in the Environmental Assessment Form. Article 19 allows for the approval, registration, and management of all I/A OWTS. I/A OWTS are designed to achieve a greater reduction in total nitrogen (TN), biological oxygen demand (BOD), and total suspended solids (TSS) than that of a Conventional Onsite Wastewater Treatment System which are currently allowed under existing Sanitary Code;
3. There are no significant adverse impacts to surface water associated with Article 19, as demonstrated in the Environmental Assessment Form. Article 19 allows for the approval, registration, and management of all I/A OWTS. I/A OWTS are designed to achieve a greater reduction in total nitrogen (TN), biological oxygen demand (BOD), and total suspended solids (TSS) than that of a Conventional Onsite Wastewater Treatment System which are currently allowed under existing Sanitary Code. The ability to install I/A OWTS in coastal areas will provide an alternative to the existing septic tank and leaching pool systems currently required under existing Sanitary Code and Standards;
4. I/A OWTS are not being required under Article 19. They will be allowed as an acceptable alternative to conventional systems and have to be registered, managed and sampled to ensure continued performance;

5. There are no changes to density requirements under Article 19. Article 19 will not change existing land use;
6. Proposed Article 19, in its Declaration of Policy Section, includes food production as a key use for Suffolk County's groundwater and the propagation of natural resources as a key consideration in the utilization and management of Suffolk County's surface water. The use of I/A OWTS in place of Conventional Onsite Wastewater Treatment Systems will foster these uses.
7. I/A OWTS are a proven alternative to Conventional Septic Systems and are capable of significant nitrogen reduction;

and be it further

8th **RESOLVED**, that this Legislature hereby adopts a determination of non-significance (negative declaration) and directs, in accordance with Section 450-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality to prepare and circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: July 26, 2016

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: August 1, 2016