

ARTICLE 19
MANAGEMENT OF INNOVATIVE AND ALTERNATIVE ONSITE WASTEWATER
TREATMENT SYSTEMS

§760-1901 Declaration of Policy

The designated best use of all groundwater of Suffolk County is for public/private water supply and food production and the best use of most surface waters is for food production, the propagation of natural resources, bathing, and recreation. The federal government has officially designated the aquifer below Suffolk County as a sole source for water supply. Therefore, it is hereby declared to be the policy of the County of Suffolk to maintain water resources as near to their natural condition of purity as reasonably possible for the safeguarding of the public health and the environment and, to that end, to facilitate the best available onsite wastewater management technologies to minimize and prevent water pollution from onsite wastewater treatment systems.

§760-1902 Statement of Purpose

Nitrogen has adversely affected groundwater and has caused impairments of all three major estuaries and numerous freshwater lakes and streams, resulting in eutrophication, hypoxia, and harmful algal blooms. Nitrogen has also decimated submerged aquatic vegetation and fragile wetland ecosystems, it has diminished coastal resiliency, and has contributed to the demise of a once nationally significant shellfish industry. When properly designed, sited, installed, managed, and maintained, Innovative and Alternative Onsite Wastewater Treatment Systems (I/A OWTS) provide a cost-effective and environmentally sound alternative to sewers in portions of Suffolk County that are outside the designated sewer areas, significantly reducing nitrogen and, in many instances, reducing or eliminating levels of other contaminants of concern such as pharmaceuticals, personal care products, and volatile organic compounds. The intent and purpose of this Article is to:

- a. Facilitate development and use of I/A OWTS in Suffolk County as an environmental conservation and public health protection measure; and
- b. Authorize the Suffolk County Department of Health Services, as a Responsible Management Entity, to develop and use resources, standards, capabilities and systems to ensure that I/A OWTS are properly managed and maintained.

I/A OWTS are not considered sewerage, community sewerage systems, or modified subsurface sewage disposal (denitrification) systems under Article 6 of the Suffolk County Sanitary Code and it is not the intent of this Article to alter density requirements for unsewered parcels.

§760-1903 Definitions

- A. **Commissioner** means the Commissioner of the Suffolk County Department of Health Services.

- B. **Conventional Septic System or Conventional Onsite Wastewater Treatment System (OWTS)** means an onsite sanitary system consisting of a septic tank and any associated interconnecting piping, a leaching structure(s) and any associated interconnecting piping that does not have any active or mechanical means of treatment or any supplemental filtration components.
- C. **Department** means the Suffolk County Department of Health Services.
- D. **Innovative and Alternative Onsite Wastewater Treatment System(s) (I/A OWTS)** means onsite decentralized wastewater treatment system(s) that, at a minimum, is designed to reduce total nitrogen in treated effluent to 19 mg/l. An I/A OWTS can serve more than one parcel, but shall not be considered sewerage, community sewerage systems, or modified subsurface sewage disposal (denitrification) by the Department under Article 6 of the Sanitary Code
- E. **I/A OWTS Management Program** means comprehensive oversight and activities that address issues critical to I/A OWTS including planning, education, maintenance, residuals management, training certification, licensing, inspections, monitoring, corrective action and enforcement, recordkeeping, inventorying, reporting, financial assistance, and funding.
- F. **Maintenance Provider** means a private entity hired by a Property Owner to provide operation and maintenance and contractual service of an I/A OWTS.
- G. **Management Information System** means any computer-based system capable of capturing, storing, analyzing, and displaying specifically referenced information.
- H. **Operation and Maintenance (O&M)** means the act of performing tasks specified by the Department and / or the manufacturer of the I/A OWTS including, but not limited to, cleaning, inspection, and adjustment of control settings to ensure proper operation of I/A OWTS and related components.
- I. **Operation and Maintenance Contract** means a signed contract between the Property Owner and the Maintenance Provider setting forth all required Operation and Maintenance procedures and monitoring schedules along with effective dates of the contract.
- J. **Property Owner(s)** means the holder(s) of the legal and/or equitable title to real property upon which such I/A OWTS is installed or proposed for installation.
- K. **Registration** means the approval process by which a Property Owner completes and submits routine documentation required by the Department so as to certify his/her/its ownership and use of an I/A OWTS.
- L. **Responsible Management Entity** means the Department, which 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.

§760-1904 Powers and Responsibilities

The Department, as a Responsible Management Entity, shall have the authority and responsibility to administer the following activities to ensure the long term operation, maintenance, and management of all I/A OWTS:

- A. The Department shall have the responsibility to administer and conduct the day to day operation of the I/A OWTS Management Program, including all technical and administrative requirements, in order to protect the public health and the environment.
- B. The Department shall oversee the installation, maintenance and operation of all I/A OWTS.
- C. In addition to any required approval issued under Article 5 and/or 6 of the Suffolk County Sanitary Code, the Department shall require Registration of I/A OWTS pursuant to this Article for installation and operation of all existing and future I/A OWTS.
- D. The Department shall receive and maintain information and reports as required by this Article.
- E. The Department shall have the authority to promulgate procedures, protocols and standards as necessary for the implementation of this Article, including, but not limited to, those standards referenced herein under Sections 760-1905 through 760-1907.
- F. The Department may inspect I/A OWTS and sample discharges as often as deemed necessary by the Department to determine compliance, upon reasonable notice to the Property Owner.
- G. The Department shall establish technical criteria for experimental, piloting, provisional, and general approval for the use of I/A OWTS technologies in Suffolk County.
- H. The Department shall maintain a list of approved I/A OWTS technologies in Suffolk County.
- I. The Department shall enforce this Article.

§760-1905 I/A OWTS Registration Requirements

- A. The Department shall require a registration procedure as a condition of its approval for installation and operation of an I/A OWTS in accordance with this Article and in addition to any applicable requirements in Articles 5 and 6 of the Suffolk County Sanitary Code. Registration shall provide a mechanism for the Department to manage Property Owner compliance with this Article.
- B. In order to register an I/A OWTS, the Property Owner shall submit a Registration form provided by the Department, together with any required documentation specified below, as well as any required approvals under Suffolk County Sanitary Code Articles 5 and/or 6, where applicable.
- C. In order to be eligible for Registration, the I/A OWTS technology must be approved for use by the Department pursuant to §760-1907(B) or (C) of this Article 19.

- D. A fully executed Operation and Maintenance Contract between Maintenance Provider(s) and Property Owner(s) must be in place and submitted to the Department prior to receiving final approval of the Registration from the Department.
- E. Registration shall be deemed the equivalent of a permit as defined in Suffolk County Sanitary Code Article 3, except where Suffolk County Sanitary Code Article 3 is inconsistent with this Article 19. In the event of such inconsistency this Article 19 shall govern.
- F. The Department shall notify the Property Owner in writing whether or not the Registration has been approved.
- G. In addition to any applicable approval issued under Articles 5 and/or 6 of the Suffolk County Sanitary Code, the Department shall establish Registration requirements including, but not limited to, the following:
 - a. Property Owner information
 - b. Current, executed Operation and Maintenance Contract
 - c. Other requirements as determined by Department standards
- H. By completing the Registration process, the Property Owner shall agree to:
 - 1. Provide access to the Commissioner or his authorized representative to inspect and sample the I/A OWTS and its discharges upon reasonable notice for the purpose of determining compliance with this Article.
 - 2. Provide access to the Commissioner or his authorized representative, for inspection of all records required by this Article or the Department, upon reasonable notice to the Property Owner, for the purpose of determining compliance with the Article.
 - 3. Execute any documents required for release of required information to the Department when requested by a Maintenance Provider.
- I. Every Property Owner shall be responsible for compliance with the responsibilities specified in the Registration approval and this Article.
- J. Every Property Owner shall register new I/A OWTS prior to construction. Every Property Owner shall register all existing I/A OWTS with the Department within one year of the effective date of this Article.
- K. Upon the transfer by a Property Owner of real property upon which an I/A OWTS is installed or proposed to be installed, the transferor Property Owner shall notify the Department, in writing, of such transfer. Such notification shall take place no later than sixty (60) days after the property transfer.

- L. Upon the transfer by a Property Owner of real property upon which an I/A OWTS is installed or proposed to be installed, the successor Property Owner shall register the I/A OWTS no later than sixty (60) days after such property transfer.
- M. Every Property Owner shall reregister the I/A OWTS every 36 months after the initial Registration by such Property Owner.

§760-1906 Operation and Maintenance Requirements

- A. Every Property Owner shall have an active Operation and Maintenance Contract with a company that has a current Liquid Waste License pursuant to Chapter 563 Article VII (Septic Industry Businesses) and Endorsement K (Innovative and Alternative Treatment System Service Provider Endorsement) through the Suffolk County Department of Labor, Licensing and Consumer Affairs, pursuant to Suffolk County Code § 563-79(II) (K). The Department of Labor, Licensing, and Consumer Affairs maintains a list of licensed I/A OWTS Maintenance Providers.
- B. The Property Owner shall notify the Department in writing within thirty (30) days in the event there is a change in Maintenance Provider.
- C. Maintenance Providers shall notify the Department in writing within thirty (30) days when an Operation and Maintenance Contract is not renewed or is canceled.
- D. The Property Owner is responsible for implementing all necessary repairs and maintenance for a properly functioning I/A OWTS.
- E. An I/A OWTS shall meet all applicable requirements and standards including, but not limited to, the requirements of this Article and Suffolk County Sanitary Code Articles 5 and 6. In addition, an I/A OWTS shall meet any applicable New York State requirements.
- F. It is the Property Owner's responsibility to provide sufficient access to I/A OWTS components for O&M.
- G. At a minimum, annual O&M shall be required for all I/A OWTS. O&M shall be conducted in accordance with standards, protocols and procedures established by the Department.
- H. Maintenance Providers shall report all O&M and emergency I/A OWTS service to the Department. Maintenance Providers shall maintain said records for inspection by the Commissioner or his designee for at least five (5) years after the date of the event or occurrence.
- I. Maintenance Providers are responsible for following best management practices as specified in the standards promulgated by the Department.

§760-1907 Verification, Approval, Performance and Sampling Requirements

A. The Department shall promulgate standards setting performance parameters and requirements for the frequency of sampling I/A OWTS.

B. Approval of Verified/Validated I/A OWTS Technologies by the Department

1. I/A OWTS technologies proposed for approval in Suffolk County which meet the existing performance verification and effluent standards in §760-1907(D) of this Article 19 and additional Department standards, if any, shall first undergo a pilot test phase overseen by the Department. The Department shall determine if the pilot test phase is successful in accordance with its standards. If successful, this pilot phase shall be followed by a provisional approval period which shall be overseen by the Department. Satisfactory compliance with the provisional approval requirements set forth in the Department standards shall be determined by the Department. If the Department determines there is satisfactory compliance with the provisional approval requirements, the Department shall grant general use approval. General use approval may be maintained so long as all Department standards and testing requirements are satisfactorily met, as determined by the Department.

2. The Department shall promulgate standards, testing protocols and procedures for piloting, provisional, and general use approval of I/A OWTS. The Department will promulgate standards to verify that I/A OWTS are engineered to provide a sound biological, chemical, or physical nitrogen removal process.

C. Experimental I/A OWTS Technologies

I/A OWTS technologies proposed for approval in Suffolk County, which are designed to meet the total effluent performance standards in §760-1907(D) of this Article 19, but which do not meet established verification/validation standards, as promulgated by the Department pursuant to §760-1907(B) of this Article 19, may be tested as Experimental I/A OWTS Technologies with the approval of the Department. Experimental I/A OWTS Technologies shall undergo additional testing and meet requirements, protocols, procedures and standards established by the Department in order to become eligible for piloting, provisional and general use approval. The Department shall determine if an Experimental I/A OWTS Technology is approved to enter the piloting phase.

D. Effluent Standards for I/A OWTS

1. I/A OWTS shall achieve greater reductions in biological oxygen demand and total suspended solids than that of a OWTS, in addition to meeting other applicable standards of the Department or the State for protection of public health.
2. I/A OWTS shall meet maximum treated effluent concentrations for total nitrogen (TN) of nineteen (19) mg/L. The Department shall establish standards and methods for evaluating the performance of I/A OWTS in meeting this effluent standard at each stage of the approval process.

E. Annual Review of Technologies

1. The Department shall establish procedures for the periodic evaluation of new I/A OWTS technologies to ensure that performance verification standards represent the best available technologies. This evaluation shall occur, at a minimum, on an annual basis, and more frequently if advances in technology so warrant.
2. Based on such evaluations, the Commissioner may recommend amendments to the requirements for I/A OWTS in this Article 19 (such as TN limitations) to the Suffolk County Board of Health, to be adopted by an amendment to this Article 19.

§760-1908 Relationship to Article 6 of the Suffolk County Sanitary Code

Nothing in this article shall affect the operation of Article 6 of the Suffolk County Sanitary Code. I/A OWTS shall be considered individual sewerage systems under Article 6 of the Suffolk County Sanitary Code, and shall not be considered sewerage, community sewerage systems, or modified subsurface sewage disposal (denitrification) systems by the Department under Article 6.

§760-1909 Reporting and Record Keeping

- A. The Department shall be responsible for maintaining a Management Information System which, at a minimum shall track the approval and registration information, inspection, sampling, and O&M of all approved I/A OWTS.
- B. It shall be unlawful, under Section 760-1906 of this Article, for a Maintenance Provider to fail to comply with any reporting or record-keeping requirements in this Article or associated standards, and these obligations shall be enforceable under Section 760-1910.

§760-1910 Enforcement

- A. The Department, acting as a Responsible Management Entity of I/A OWTS, shall enforce this Article and shall utilize the enforcement procedures established in Article 2 of the Suffolk County Sanitary Code entitled: “The Department of Health Services Administration and Enforcement.”
- B. In addition to existing penalties and remedies for noncompliance as provided for in the Suffolk County Sanitary Code, after notice and the opportunity for a hearing for a Property Owner under Suffolk County Sanitary Code Article 2, the Commissioner may order the Property Owner to conduct or arrange for additional sampling, maintenance, inspections, and/or monitoring based on previous inspection and/or performance monitoring results.

§760-1911 Variances and Waivers

Upon recommendation of the Suffolk County Board of Review, the Commissioner, in his or her discretion may grant or deny a variance or waiver from the specific sections of this Article after an application requesting such relief is made and supporting evidence has been presented to the

Suffolk County Board of Review in accordance with the provisions of §760-609 of the Suffolk County Sanitary Code.

§760-1912 Severability

It is expressly agreed that if any term or provision of this Suffolk County Sanitary Code Article 19, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Article, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Article shall be valid and shall be enforced to the fullest extent permitted by law.

Adopted ____/____/2016