

## **ARTICLE 6**

### **SINGLE-FAMILY RESIDENCES, REALTY SUBDIVISIONS, DEVELOPMENTS AND OTHER CONSTRUCTION PROJECTS**

#### **§760-601 Declaration of Policy**

Water is the single most significant resource which Suffolk County and its residents bear the responsibility to protect and preserve. The County has long recognized the importance of managing and protecting its water resources, has, over time, developed and implemented groundwater and surface water management regulations and has instituted changes to these regulations as evolving circumstances dictate. Water resource management and protection are of utmost importance in the County, since residents rely upon Long Island's Federally-designated sole source aquifer to supply their drinking water needs. The surface water quality of Suffolk County's freshwater streams and marine waters are directly impacted by policies to protect groundwater and drinking water supplies, since groundwater provides stream base-flow and discharges to surrounding coastal waters. Therefore, Suffolk County intends to facilitate the best available wastewater management policies and technologies, to minimize and prevent the impacts of water pollution from nitrogen and other constituents (such as pharmaceuticals, personal care products, and volatile organic compounds) in sanitary wastewater to protect public health and water resources. Suffolk County's intent is also to investigate the use of wastewater management practices and technologies which permit the re-use of wastewater, such as for agricultural irrigation and fertilization, in a manner that protects public health and preserves water resources.

#### **§760-602 Statement of Intent and Purpose**

It is the intent and purpose of this Article to promote public health and safeguard the water resources of Suffolk County. The County's drinking water must meet strict quality standards to protect public health. Elevated levels of contaminants in the County's groundwater raise serious concern. Many of the County's rivers, estuaries and bays are impaired as the result of eutrophication. Nitrogen, which primarily emanates from Subsurface Sewage Disposal Systems, Cesspools, and fertilizer impacts drinking water supplies and causes hypoxia, harmful algal blooms, diminution of sea and shellfisheries, and degradation of the County's protective natural infrastructure. Sea level rise is projected to raise groundwater levels, thus further compromising on-site wastewater treatment infrastructure.

Properly designed, sited, installed, managed, and maintained wastewater treatment infrastructure provides a cost-effective and environmentally sound means of protecting Suffolk County's water resources and improving public health protection. To promulgate

the use of Community Sewerage Systems and improve the effectiveness of Subsurface Sewage Disposal Systems, the intent and purpose of this Article is to:

- a) Continue the lot size and Population Density Equivalent requirements of this Article.
- b) Establish requirements for the retrofit and replacement of Cesspools and Subsurface Sewage Disposal Systems.
- c) Establish requirements for the use of I/A OWTS for pre-existing Other Construction Projects which exceed the Population Density Equivalent requirements of this Article.
- d) Permit the use of Transfer of Development Rights in accordance with this Article to allow growth while protecting the water resources of the County.

**§760-603 Definitions**

As used in this Article, unless the context otherwise requires:

1. **Absorption Area** means the area of a Leaching Structure that allows the effluent wastewater to infiltrate the surrounding soil.
2. **Cesspool** means any buried chamber, including, but not limited to any perforated metal tank, perforated concrete or block vault or hollow excavation, which receives direct discharges of wastewater from a building sewer for the purpose of collecting solids and discharging liquid to the surrounding soil.
3. **Clustered Realty Subdivision** means a realty subdivision consisting of one or more relatively undersized parcels, which is designed in such a manner so as to allow a substantial unimproved portion of the Tract to stand open and uninhabited.
4. **Commercial or Industrial Center** means a Realty Subdivision, Development, or Clustered Realty Subdivision to be used for non-Single-Family Residence purposes.
5. **Community Sewerage System** means a system utilized for the collection and disposal of Sewage or other waste of a liquid nature, including the various devices for the treatment of such wastes, serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.
6. **Community Water System** means a source of water and necessary appurtenances together with a distribution system serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.
7. **Construction Project** means a Single-Family Residence or Conventional Single-Family Residential Subdivision or Development to be used for Single-Family Residence purposes.

8. **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.
9. **Conventional Single-Family Residential Subdivision or Development** means a Realty Subdivision, Development or Clustered Realty Subdivision to be used for Single-Family Residence purposes.
10. **Density Load** means the quantity of Sewage expected to be discharged from existing and/or proposed permanent structure(s) on a parcel, excluding Kitchen/Gray Load, expressed in gallons per day per applicable unit and utilized to evaluate the need for Sewage treatment when compared to the Population Density Equivalent for the project.
11. **Density Loading Rate** means the flow factor established by Department standards to determine the Density Load of an Other Construction Project parcel based on the use(s) of the parcel.
12. **Department** means the Suffolk County Department of Health Services.
13. **Design Sewage Flow** means the sum of the Hydraulic Load(s) from all uses of a building(s) on an Other Construction Project parcel and utilized to determine the size of the Sewage disposal system(s).
14. **Developer** means any person or group of persons, or any legally cognizable entity or entities or any combination of the foregoing, that:
  1. is undertaking or participating in the establishment of a Construction Project or Other Construction Project:
    - a. either individually, or
    - b. pursuant to a common scheme, plan or venture, or
  2. owns, acquires, possesses, controls or creates a Construction Project or Other Construction Project.
15. **Development** means two, three or four contiguous parcels located wholly or partially within the County of Suffolk, or any Tract of land located wholly or partially within the County of Suffolk which has, is or will be divided into two, three, or four identifiable parcels.

16. **Development Rights** is defined in the same way as under Section 261-a (1) of the Town Law (McKinney's, 1995).
17. **Failed System** means any Cesspool or Individual Sewerage System that does not adequately treat and/or disperse wastewater so as to create a public or private nuisance or threat to public health or environmental quality, as evidenced by and including, but not limited to, one or more of the following conditions:
1. Continued failure to accept wastewater into the building sewer;
  2. Continued discharge of wastewater to a basement, subsurface drain, stormwater collection, conveyance or treatment device, or watercourse unless expressly permitted by the Department;
  3. Wastewater rising to the surface of the ground over or near any part of an OWTS or seeping from the Absorption Area at any change in grade, bank or road cut;
  4. Where pumping of the Cesspool, septic tank, I/A OWTS, or Leaching Structure is required four or more times per year due to the infiltration of groundwater into the system, a collapsed Leaching Structure, or clogged Absorption Area which does not allow effluent to infiltrate the surrounding soils. This condition excludes grease trap maintenance or commercially reasonable, regular/scheduled preventative maintenance of a Cesspool, septic tank, I/A OWTS, or Leaching Structure. The Department may promulgate Standards pursuant to this Article defining commercially reasonable, regular/scheduled preventative maintenance;
  5. Where groundwater seeps into a septic tank, Cesspool, pump tank/basin, distribution box/manhole, or Leaching Structure after it is pumped;
  6. Any structural damage or deterioration that has caused structural damage to the Individual Sewerage System, as determined by a NYS Licensed Design Professional or a contractor/Developer holding an active Liquid Waste License pursuant to Suffolk County Code Chapter 563, Article VII (Septic Industry Businesses) through the Suffolk County Department of Labor, Licensing and Consumer Affairs. A determination of structural damage or deterioration that causes structural damage by a NYS Licensed Design Professional (registered architect or licensed professional engineer) shall supersede a Liquid Waste License holder's determination.
18. **Groundwater Management Zone** means any of the areas delineated in Suffolk County by the "Long Island Comprehensive Waste Treatment Management Plan (L.I. 208 Study)," as revised by the "Long Island Groundwater Management Plan," and subsequent revisions adopted by the Board identifying differences in regional hydrogeologic and groundwater quality conditions. The boundaries of the Groundwater Management Zones are set forth on a map adopted by the Board, filed in the Office of the Commissioner.

19. **Hydraulic Load** means the sum of the Density Load and Kitchen/Gray Load for a particular use of a building on a parcel expressed in terms of gallons per day per applicable unit.
20. **Individual Sewerage System** means any onsite sanitary system consisting of a septic tank and/or I/A OWTS tank(s) with any associated interconnecting piping, a leaching structure(s) and any associated interconnecting piping. OWTS and I/A OWTS are classified as Individual Sewerage Systems.
21. **Individual Water Supply System** means a single system of piping, tanks, or other facilities together with a source of water intended to supply only a single parcel.
22. **Innovative and Alternative Onsite Wastewater Treatment System(s) (I/A OWTS)** means an 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 this Article of the Code.
23. **Kitchen/Gray Load** means the volume of Sewage discharged from food preparation and service areas, or other gray water uses from Other Construction Projects (excluding uses from residential parcels such as, but not limited to, condominiums, Two Family Residences, Multi-Family Housing) expressed in terms of gallons per day per applicable unit, which has been omitted from the Density Load.
24. **Leaching Structure** means a perforated structure placed below grade, conforming to Department standards, from which septic tank and/or IA OWTS effluent will infiltrate the surrounding soil.
25. **Major Reconstruction** means to re-build or modify an existing Other Construction Project permanent structure(s) located on a parcel of land where the cost of the reconstruction is more than 50 percent of the market value of the existing permanent structure(s) as determined by a New York State certified real estate appraiser. Market value pertains only to the existing permanent structure itself, and does not pertain to the land, landscaping, or detached accessory structures on the parcel of land. Items to be excluded when calculating reconstruction costs or market value include, but are not limited to, plans, specifications, survey costs, permit fees, and outside costs such as landscaping, sidewalks, parking lots, swimming pools, fences, detached structures, irrigation systems, exterior drainage structures, and exterior utilities. Market value and reconstruction cost (cost of work) shall be calculated in accordance with Sections 4.4 and 4.5 of the United States Federal Emergency Management Agency publication “Substantial Improvement/Substantial Damage Desk Reference,” FEMA P-758/May 2010.

26. **Modified Subsurface Sewage Disposal System** means an onsite Sewage Treatment System or Treatment Works which includes processes capable of meeting applicable discharge standards and where the designed Sewage treatment capacity of the system shall not exceed 15,000 gallons per day.
27. **Multi-Family Housing** means dwelling units designed for occupancy by more than two single-family units.
28. **Non-Residential Parcel** means any parcel that is not a residential parcel.
29. **Other Construction Project** means a project other than a Single-Family Residence, or Conventional Single-Family Residential Subdivision or Development, including, but not limited to condominiums, Two-Family Residences, Multi-Family Housing, and Commercial or Industrial Centers, whether or not there is a division of land involved.
30. **OWTS Replacement** means the abandonment and/or removal of an existing Individual Sewerage System or Cesspool and installation of a new Individual Sewerage System. Applications for OWTS Replacement shall not propose any change of use, new Construction Project, Other Construction Project, or change the amount of Sewage discharged from a permanent structure.
31. **OWTS Retrofit** means the modification or alteration of an existing Cesspool or Individual Sewerage System. Such modification or alteration shall include, but not be limited to: the replacement or addition of a septic tank, grease trap, components of an I/A OWTS, lift station, pump station, distribution box or manhole to an existing Sewage disposal system; replacement or addition of new leaching structures to an existing Sewage disposal system; or replacement, addition, or re-configuration of Sewage disposal system piping, control panel, pumps or other appurtenances. Applications for OWTS Retrofit shall not propose any change of use, new Construction Project or Other Construction Project, or change the amount of Sewage discharged from a permanent structure.
32. **Population Density Equivalent** means the maximum Density Load permitted to be discharged from a parcel utilizing an Individual Sewerage System in the absence of a Community Sewerage System, a Sewage Treatment System or a Modified Subsurface Sewage Disposal System, based on the calculated population per unit area expressed in gallons per day.
33. **Property Owner** means the holder of the legal and/or equitable title to real property.
34. **Realty Subdivision** means a realty subdivision as defined in Section 1115 of the Public Health Law of the State of New York and Section 17-1501 of the

Environmental Conservation Law of the State of New York as such statutes may be amended from time to time.

35. **Residential Parcel** means any parcel of land of five (5) acres or less located wholly or partially in the County of Suffolk, any point on the boundary line of which is less than one-half mile from any point on the boundary line of another such lot in the same Tract, unless any such lot may not legally be used for residential purposes. Without limiting the generality of the foregoing, the term residential shall include temporary, seasonal and permanent residential use.
36. **Sewage** means water-carried human or animal wastes from residences, institutions, businesses, commercial buildings and establishments, and industrial buildings and establishments or a combination thereof, together with Kitchen/Gray Load. Industrial wastes or other wastes shall not be considered Sewage for purposes of this Article unless otherwise stated. "Industrial wastes" and "other wastes" have the meanings as defined in Environmental Conservation Law Sections 17-0105(5) and (6).
37. **Sewage Collection System** means the structures, devices and processes installed for the purposes of collecting Sewage and sludge.
38. **Sewage Treatment System** means a Sewage disposal system consisting of a Sewage Collection System and Treatment Works.
39. **Single-Family Residence** means a single dwelling unit, i.e. one or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.
40. **Subsurface Sewage Disposal System** means a Sewage disposal system designed to treat and dispose of septic tank, I/A OWTS or other treatment facility effluent, in the absence of a Community Sewerage System, Sewage Treatment System or Modified Subsurface Sewage Disposal System, by application of the effluent to a soil surface at a depth below the surface of the ground.
41. **Tract** means any real property, including contiguous parcels of land, which is held, owned, controlled or possessed, either singularly, jointly, commonly or otherwise, by a person or group of persons, or any legally cognizable entity or entities, or any combination of the foregoing, who are acting with reference to such body of land in concert or as part of a common scheme, plan or venture.
42. **Transfer of Development Rights** means the process by which Development Rights are transferred from one lot, parcel or area of land to another designated lot, parcel or area where increased density development is permitted by the Code.

43. **Treatment Works** means a facility designed for the purposes of removing certain components from Sewage by mechanical, chemical or biological means, and stabilizing and disposing of Sewage.
44. **Two-Family Residence** means a dwelling unit designed for occupancy by two separate single-family units.

**§760-604 Department Approval of Plans for Construction Projects or Other Construction Projects**

A. No Developer or Property Owner shall, after the effective date of this Article:

1. engage in the creation of a Realty Subdivision, or sell, rent, offer for sale or lease any parcel in a Realty Subdivision unless prior Department approval has been obtained for the existing or proposed water supply and Sewage disposal facilities in the Realty Subdivision;
2. engage in the creation of a Development, or lease, rent, give, devise, or otherwise dispose of any parcel in a Development, or erect or cause to be erected any permanent building on any parcel in the Development unless prior Department approval has been obtained for the existing or proposed water supply and Sewage disposal facilities in the Development;
3. engage in the creation of a Single-Family Residence or Other Construction Project, or erect or cause to be erected any permanent building unless prior Department approval has been obtained for the existing or proposed water supply and Sewage disposal facilities for the Single-Family Residence or Other Construction Project.

B. A Tract of land which is divided shall constitute either a Development or Realty Subdivision notwithstanding:

1. the method or purpose of such division, or the allowable types of use applicable to such Tract, whether commercial, residential, industrial, or other authorized use under local ordinances;
2. the method used to describe such Tract whether by metes and bounds, or by reference to a map of the property, or otherwise.

**§760-605 Licensing Requirements and Department Approval of Retrofits and Replacements**

A. After July 1, 2018, contractors or Developers:

1. holding an active Liquid Waste License pursuant to Suffolk County Code Chapter 563, Article VII (Septic Industry Businesses) through the Suffolk County



Department of Labor, Licensing and Consumer Affairs must report all pumping of septic tanks, I/A OWTS, Cesspools, grease traps, and Leaching Structures to the Department in accordance with standards established by the Department.

2. holding an active Liquid Waste License pursuant to Suffolk County Code Chapter 563, Article VII (Septic Industry Businesses) through the Suffolk County Department of Labor, Licensing and Consumer Affairs must report all OWTS Replacements or OWTS Retrofits to the Department in accordance with standards established by the Department.

B. After July 1, 2019:

1. no Property Owner, contractor, or Developer shall engage in an OWTS Replacement or an OWTS Retrofit of an existing Cesspool or Individual Sewerage System for any permanent structure unless Department approval is obtained for the proposed OWTS Retrofit or OWTS Replacement of the Individual Sewerage System. This requirement shall exclude parcels located within a proposed sewer district as approved by the Commissioner in accordance with Department standards.
2. an OWTS Replacement or an OWTS Retrofit shall comply with the Department's current standards and the minimum State requirements as set forth in 10 New York Code of Rules and Regulations ("NYCRR"), Part 75, to the extent applicable to Suffolk County. This requirement shall exclude parcels located within a proposed sewer district as approved by the Commissioner in accordance with Department standards.

C. No contractor or Developer shall:

1. engage in the OWTS Replacement of a Cesspool or Individual Sewerage System with a new Individual Sewerage System for any permanent structure unless said contractor or Developer holds an active Liquid Waste License pursuant to Suffolk County Code Chapter 563, Article VII (Septic Industry Businesses) through the Suffolk County Department of Labor, Licensing and Consumer Affairs.
2. engage in the OWTS Retrofit of a Cesspool or Individual Sewerage System for any permanent structure unless said contractor or Developer holds an active Liquid Waste License pursuant to Suffolk County Code Chapter 563, Article VII (Septic Industry Businesses) through the Suffolk County Department of Labor, Licensing and Consumer Affairs.
3. engage in the installation of a new Individual Sewerage System for any new Construction Project or Other Construction Project unless said contractor or

Developer holds an active Liquid Waste License pursuant to Suffolk County Code Chapter 563, Article VII (Septic Industry Businesses) through the Suffolk County Department of Labor, Licensing and Consumer Affairs.

**§760-606 Applications for Approval**

- A. Applications for Department approval of existing and/or proposed water supply and Sewage disposal facilities, as required by Sections 760-604 and 760-605 above, shall:
1. conform with the standards and regulations prescribed in this Code; and
  2. conform with all other Department bulletins, regulations, and requirements; and
  3. be made on forms provided by the Department; and
  4. be accompanied by such maps, plans, reports, specifications, and data as the Department may require or direct.
- B. Plans other than those for a Community Water System, Community Sewerage System, and/or an I/A OWTS shall indicate water and/or sewerage systems located upon each parcel.
- C. Plans other than those for a Community Water System, Community Sewerage System, and/or an I/A OWTS shall not propose to furnish water to more than one parcel and/or dispose of Sewage from more than one parcel.
- D. Where a Developer proposes to obtain and furnish water supply and/or sewerage facilities for a Construction Project or Other Construction Project by connection to an existing Community Water System, Community Sewerage System, and/or I/A OWTS, the Developer shall supply the Department with a certification in writing by the owner of the utility that such facilities shall be furnished and kept available in good operating condition for the Construction Project or Other Construction Project.
- E. The Department, in its discretion, may require the Developer to furnish a performance bond to the owner of such utility conditioned upon the Developer's making connection to the utility within a specified reasonable period of time.
- F. The Department shall have the authority to promulgate procedures, protocols and standards as necessary for the implementation of wastewater management practices and technologies which permit the re-use of wastewater, such as for agricultural irrigation and fertilization, in a manner that protects public health and preserves water resources in accordance with this Code. Water re-use proposals shall require Department approval in accordance with the established procedures, protocols and standards.

**§760-607 Filing Requirements**

Every Developer that obtains Department approval of a Realty Subdivision or Development, as required by Section 760-604, shall thereafter file a map of such Realty Subdivision or Development, as the case may be, bearing the stamp of approval of the Department, in the Office of the Clerk of the County of Suffolk within one (1) year of the date of approval of the Department.

**§760-608 Sewage Facilities Requirements for Construction Projects (Single-Family Residences and Conventional Single-Family Residential Subdivisions or Developments)**

A. A Community Sewerage System method of Sewage disposal is required when any of the following conditions are present:

1. the Construction Project or any portion thereof, is located within an existing sewer district.; This requirement shall apply in the absence of proof satisfactory to the Department that the Developer cannot effect arrangements for the installation and/or connection of the sewerage system to the existing sewer district;
2. the Construction Project is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of Individual Sewerage Systems;
3. the Construction Project is located outside of Groundwater Management Zones III, V and VI, and the Construction Project parcels are less than 20,000 square feet in area, unless the Realty Subdivision or Development meets the Population Density Equivalent requirements of paragraph B.1.a. of this Section. This condition does not apply to a Construction Project that has an exemption pursuant to Section 760-612 of this Article; or
4. the Construction Project is located within Groundwater Management Zones III, V or VI, and the Construction Project is less than 40,000 square feet in area, unless the Realty Subdivision or Development meets the Population Density Equivalent requirements of paragraph B.2.a. of this Section. This condition does not apply to a Construction Project that has an exemption pursuant to Section 760-612 of this Article.

B. Individual Sewerage Systems may be approved by the Department as to the method of Sewage disposal provided the following conditions are met:

1. For Construction Projects located outside of Groundwater Management Zones III, V, and VI;

- a. the Construction Project consists of parcels which have an area of at least 20,000 square feet; or the Realty Subdivision or Development has a Population Density Equivalent equal to or less than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 20,000 square feet; or the Construction Project has an exemption pursuant to Section 760-612 of this Article; and
  - b. the Construction Project, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of Individual Sewerage Systems; and
  - c. Individual Sewerage Systems comply with the Department's current standards and the minimum State requirements as set forth in 10 New York Code of Rules and Regulations ("NYCRR"), Part 75, to the extent applicable to Suffolk County; and
  - d. the requirements of Section 760-609 hereof are complied with.
2. For Construction Projects located within Groundwater Management Zones III, V, or VI;
- a. the Construction Project consists of parcels which have an area of at least 40,000 square feet; or the Realty Subdivision or Development has a Population Density Equivalent equal to or less than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 40,000 square feet; or the Construction Project has an exemption pursuant to Section 760-612 of this Article; and
  - b. the Construction Project, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of Individual Sewerage Systems; and
  - c. the Individual Sewerage Systems comply with the Department's current standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County; and
  - d. the requirements of Section 760-609 hereof are complied with.
3. Realty Subdivisions or Developments may have parcels of less than 20,000 square feet in areas within Groundwater Management Zones I, II, IV, VII or VIII with the use of Transfer of Development Rights in conformance with standards established by the Department.

4. Realty Subdivisions or Developments may have parcels of less than 40,000 square feet in areas within Groundwater Management Zones III, V or VI with the use of Transfer of Developments Rights in conformance with standards established by the Department.

**§760-609 Water Facilities Requirements for Construction Projects (Single-Family Residences and Conventional Single-Family Residential Subdivisions or Developments)**

A. A Community Water System method of water supply is required when any of the following conditions are present:

1. the Construction Project, or any portion thereof, is located within an existing water district or water service area; or
2. the Construction Project is reasonably accessible to an existing water district or water service area. This requirement shall apply in the absence of proof satisfactory to the Department that the Developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or water service area facilities; or
3. individual wells cannot provide an average yield of five (5) gallons per minute of fresh, potable water; or
4. groundwaters in the area are nonpotable or potentially hazardous; or
5. the parcels of the Construction Project are less than 40,000 square feet in area. Parcels less than 40,000 square feet in area, however, may not require a Community Water System method of water supply if the Construction Project has an exemption pursuant to Section 760-612 of this Article and the Construction Project does not meet the conditions of paragraphs A.1. to A.4. of this Section.

B. The following are minimum requirements for Community Water Systems:

1. they shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are unmetered, or 75 gal/capita/day when service connections are metered;
2. they shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code;
3. they shall provide for continuity of water service to the satisfaction of the Commissioner;

4. they shall have at least two (2) separate wells as a source of supply; and
5. they shall have at least one day's available storage at design average consumption.
6. the relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications and reports for Community Water Systems will be reviewed for approval by the Department.

C. Individual Water Supply Systems may be approved by the Department as the method of water supply for a Construction Project, provided all of the following conditions are met:

1. the Construction Project consists of an area of at least 40,000 square feet; Clustered Realty Subdivisions must have a Population Density Equivalent equal to or less than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 40,000 square feet, and all Residential Parcels in the Clustered Realty Subdivision must consist of an area of at least 20,000 square feet each. These conditions do not apply to a Construction Project that has an exemption pursuant to Section 760-612 of this Article; and
2. the Construction Project, or any portion thereof, is not located within an existing water district or water service area and is not reasonably accessible thereto, and individual wells can provide an average yield of five (5) gallons per minute of fresh potable water; and
3. the Individual Water Supply Systems comply with the Department's current standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.

**§760-610 Sewage Facilities Requirements for Other Construction Projects (Other Than Single-Family Residences and Conventional Single-Family Residential Subdivisions or Developments)**

A. A Community Sewerage System method of Sewage disposal is required for Other Construction Projects when any of the following conditions are present:

1. the Other Construction Project is located within Groundwater Management Zones III, V or VI, and the Population Density Equivalent is greater than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 40,000 square feet; or

2. the Other Construction Project is located outside of Groundwater Management Zones III, V and VI, and the Population Density Equivalent is greater than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 20,000 square feet; or
3. the Other Construction Project, or any portion thereof, is located within an existing sewer district. This requirement shall apply in the absence of proof satisfactory to the Department that the Developer cannot effect arrangements for the installation of the sewerage system to the existing sewer district; or
4. the Other Construction Project is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of Individual Sewerage Systems or Subsurface Sewage Disposal Systems.

B. Individual Sewerage Systems or Subsurface Sewage Disposal Systems may be approved by the Department as to the method of Sewage disposal for Other Construction Projects provided the following conditions are met:

1. For Other Construction Projects located outside of Groundwater Management Zones III, V and VI;
  - a. the Population Density Equivalent is equal to or less than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 20,000 square feet; and
  - b. the Other Construction Project, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of Individual Sewerage Systems or Subsurface Sewage Disposal Systems; and
  - c. the Individual Sewerage System or Subsurface Sewage Disposal System complies with the Department's current standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.
2. For Other Construction Projects located within Groundwater Management Zones III, V or VI;
  - a. the Population Density Equivalent is equal to or less than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 40,000 square feet; and

- b. the Other Construction Project, or an any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of Individual Sewerage Systems or Subsurface Sewage Disposal Systems; and
- c. the Individual Sewerage System or Subsurface Sewage Disposal System complies with the Department's current standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extend applicable to Suffolk County.

C. Modified Subsurface Sewage Disposal Systems.

I. Modified Subsurface Sewage Disposal Systems may be approved by the Department as a method of Sewage disposal for a Construction Project or Other Construction Project, provided all of the following conditions are met:

- 1. the construction project is located either:
  - a. within Groundwater Management Zones III, V, or VI, and the Population Density Equivalent is greater than that of a Realty Subdivision or Development of Single Family Residences in which all parcels consist of an area of at least 40,000 square feet; or
  - b. outside of Groundwater Management Zones III, V, or VI, and the Population Density Equivalent is greater than that of a Realty Subdivision or Development of Single Family Residences in which all parcels consist of an area of at least 20,000 square feet; and
- 2. the Construction Project or Other Construction Project, or any portion thereof, is not located within an existing sewer district, or does not have the ability to connect to an existing sewer district as shown by proof satisfactory to the Department that the Developer cannot effect arrangements for the connection of the project to the existing sewer district; and
- 3. the subsoil and groundwater conditions are conducive to the proper functioning of a Modified Subsurface Sewage Disposal System; and
- 4. the Construction Project or Other Construction project is on a single parcel that is provided with a Community Water System, which parcel is not part of a Realty Subdivision or Development that is proposed or has already been approved by the Department; and



5. the Modified Subsurface Sewage Disposal System is capable of producing a discharge of no more than 10 mg/l total nitrogen in the effluent stream where the designed Sewage treatment capacity of the system does not exceed 15,000 gallons per day; and
6. if an application for approval is received by the Department after February 9, 1989, two irrevocable letters of credit are issued by a bank located in New York to the Department in accordance with the following conditions:
  - a. the total amount of the two letters of credit shall equal the estimated cost of the Modified Subsurface Sewage Disposal System (the "system"), as certified by the professional engineer who designed the system and accepted by the Department as a reasonable estimated cost (the "estimated cost"); and
  - b. the first letter of credit shall be in an amount equal to 65% of said estimated cost, ("construction letter of credit"); and
  - c. the second letter of credit shall be in an amount equal to 35% of said estimated cost ("second construction letter of credit") until the final Modified Subsurface Sewage Disposal System is approved by the Department, and thereafter shall be known as the "modification letter of credit;" and
  - d. the construction letter of credit and the second construction letter of credit shall be callable by the Department simultaneously upon terms and conditions satisfactory to the Department to assure that the system is properly constructed; and
  - e. if the construction letter of credit and/or the second construction letter of credit are called by the Department, the proceeds thereof shall not be released until the system is completed and approved by the Department (except nothing contained herein shall prevent application of the proceeds by the Department for a lawful purpose requested by the Department and authorized by a court of law); and
  - f. the construction letter of credit shall be released only upon approval by the Department of the completed system and proof satisfactory to the Department that the second construction letter of credit has been converted to a modification letter of credit; and
  - g. the modification letter of credit shall serve as security to assure that any required modification of the installed system is achieved, and said letter of credit shall be released only upon a showing certified by a professional engineer, and accompanied by findings of a certified testing laboratory

- reasonably consistent with any independent findings of the Department, that, for a period of three consecutive months, the monthly average effluent total nitrogen, based on no fewer than bi-weekly samples, did not exceed 10 mg/l, and building occupancy averaged over three months was not less than 80% of floor space, and actual flow was not less than 50% of design flow; and
7. A one-time non-refundable payment by the Developer equal to \$1.00 per gallon of total daily design Sewage flow (kitchen and sanitary) is deposited into an interest-bearing account maintained by the Department, which monies are to be used by the Department exclusively for the following purposes:
    - a. to undertake all necessary environmental reviews of a proposed permanent amendment to the Code which, if adopted, will give express authorization to the Department to approve Modified Subsurface Sewage Disposal Systems, which review is necessitated by the Board's positive declaration pursuant to the State Environmental Quality Review Act on January 17, 1989. (Upon completion of the environmental review process and payment of all costs associated therewith, the above one-time non-refundable payment shall be reduced to \$0.50 per gallon of total daily design Sewage flow [kitchen and sanitary] for all applications pending or received after the reduction to \$0.50.); and
    - b. to provide maintenance, sampling, and analysis of samples required by applicable standards or permits at facilities in Suffolk County serviced by a Modified Subsurface Sewage Disposal System, where, despite written notice to the owner and/or operator of the facility from the Commissioner that said maintenance, sampling, or analysis must be performed by a specified date, the owner and/or operator of the facility fails to comply (Owners or operators of facilities with Modified Subsurface Sewage Disposal Systems that exist as of the effective date of this subparagraph 7. shall pay the sum required by this subparagraph 7. upon renewal of the State Pollutant Discharge Elimination System (“SPDES”) permit for the facility.); and
  8. the Construction Project or Other Construction Project provides for an unpaved and uncovered area for expansion of the Modified Subsurface Sewage Disposal System that, at the option of the applicant, is either equal in size to 150% of the area of the installed Modified Subsurface Sewage Disposal System or is sufficient to allow for the installation of a Sewage treatment plant in the event that the Modified Subsurface Sewage Disposal System fails to meet the requirements of its SPDES permit. (This requirement is applicable to all applications received after February 9, 1989; applications pending as of February 9, 1989 must provide for an unpaved and uncovered area for expansion of the Modified Subsurface Sewage

Disposal System that is equal in size to 50% of the area of the installed Modified Subsurface Sewage Disposal System.); and

9. the Modified Subsurface Sewage Disposal System complies with the Department's current standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.
- II. Enforcement of Directives issued by the Commissioner pursuant to Section 760-610.C.7. Whenever the owner or operator of a Modified Subsurface Sewage Disposal System fails to comply with a written directive issued by the Commissioner pursuant to Section 760-610.C.7 to provide any maintenance, sampling, or analysis required by applicable standards or permits, the Commissioner may provide said maintenance, sampling or analysis with funds contained in the interest-bearing account described in Section 760-610.C.7, and may thereafter bring a civil action to recover said sums expended plus interest from the owner and/or operator of the facility where the Modified Subsurface Sewage Disposal System is located.
- a. The obligation imposed upon the owner and/or operator of a facility with a Modified Subsurface Sewage Disposal System by any applicable standard or permit to provide maintenance, and to take and analyze samples, is a continuing obligation.
  - b. Nothing contained herein shall be construed to require the Commissioner or the Department to provide maintenance, sampling, or analysis of any system. The failure of the owner or operator to comply with the requirements of applicable standards or permits with regard to maintenance, sampling, or analysis shall be subject to Section 760- 218.2 of this Code. Each day or part of a day the required maintenance, sampling, or analysis is not performed shall constitute a separate violation and may further subject the owner and/or operator of the facility to additional civil penalties under any applicable law, code, statute, or regulation.
- D. An Other Construction Project within Groundwater Managements Zones III, V or VI may have a Population Density Equivalent to a Conventional Single-Family Residential Subdivision or Development with parcels less than 40,000 square feet in area using Transfer of Development Rights in conformance with standards established by the Department.
- E. An Other Construction Project within Groundwater Management Zones I, II, IV, VII or VIII may have a Population Density Equivalent to a Conventional Single-Family Residential Subdivision or Development with parcels less than 20,000 square feet in area using Transfer of Development Rights in conformance with standards established by the Department.

**§760-611 Water Facilities Requirements for Other Construction Projects (Other than Single-Family Residences and Conventional Single-Family Residential Subdivisions or Developments)**

A. A Community Water System method of water supply is required when any of the following conditions are present:

1. the Other Construction Project, or any portion thereof, is located within an existing water district or water service area; or
2. the Other Construction Project is reasonably accessible to an existing water district or water service area. This requirement shall apply in the absence of proof satisfactory to the Department that the Developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or water service area facilities; or
3. individual wells cannot provide a sufficient yield of freshwater meeting Department requirements or standards; or
4. groundwaters in the area are nonpotable or potentially hazardous; or
6. the Other Construction Project has a Population Density Equivalent that is greater than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 40,000 square feet, or any parcel of the Other Construction Project has an area of less than 20,000 square feet. Parcels that have a Population Density Equivalent that is greater than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area less than 40,000 square feet may not require a Community Water System method of water supply if the Other Construction Project has an exemption pursuant to Section 760-612 of this Article and does not meet the conditions of paragraphs A.1. to A.4. of this Section.

B. The following are minimum requirements for Community Water Systems:

1. they shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are unmetered, or 75 gal/capita/day when service connections are metered; and
2. they shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code; and
3. they shall provide for continuity of water service to the satisfaction of the Commissioner; and

4. they shall have at least two (2) separate wells as a source of supply; and
5. they shall have at least one day's average storage at design average consumption.
6. the relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications, and reports for Community Water Systems will be reviewed for approval by the Department.

C. Individual Water Supply Systems may be approved by the Department as the method of water supply for an Other Construction Project provided all of the following conditions are met:

1. the Population Density Equivalent of the Other Construction Project is equal to or less than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 40,000 square feet, and all parcels in the Other Construction Project consist of an area of at least 20,000 square feet each. Parcels that have a Population Density Equivalent that is greater than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area less than 40,000 square feet may be permitted to use an Individual Water Supply System if the Other Construction Project has an exemption pursuant to Section 760-612 of this Article and meets the conditions of paragraphs C.2. and C.3. of this Section; and
2. the Other Construction Project, or any portion thereof, is not located within an existing water district or water service area and is not reasonably accessible thereto, and individual wells can provide sufficient yield of fresh, potable water meeting Department requirements and standards; and
3. the Individual Water Supply Systems comply with the Department's current standards and the minimum requirements of the New York State Sanitary Code.

**§760-612 Variances, Waivers and Exemptions**

A. Variances and Waivers. The Commissioner, in his/her discretion, may grant or deny a variance or waiver from this Code and/or standards promulgated pursuant to this Code in accordance with the provisions of Section 760-220 of this Code. After a written recommendation is prepared by the designated Department staff or Board of Review, in accordance with Section 760-220 of this Code, the Commissioner may grant a variance or waiver if it will be in harmony with the general purpose and intent of this Code to protect groundwater, drinking water supplies, surface water and other natural resources, and public health, safety and welfare.

1. The recommendation and determination of whether the variance or waiver will be in harmony with the general purpose and intent of this Code shall be made upon findings relating to the criteria below. The recommendation and determination shall include written findings and facts, prepared in accordance with Section 760-220 of this Code, that address each of the following criteria if applicable to the variance or waiver request:
  - a. Whether the use is in general conformity with this Code;
  - b. Whether the uses of groundwater, surface water, and drinking water supplies will be impaired, taking into account the direction of groundwater flow;
  - c. Whether the application of the proposed variance or waiver to other parcels within the same Groundwater Management Zone will unreasonably impair groundwater, surface water, and/or drinking water supplies;
  - d. Whether the application is in general conformity with the latest version of the Suffolk County Comprehensive Water Resources Management Plan;
  - e. Whether granting the proposed variance or waiver will adversely affect the design of an adequate on site water supply and/or Sewage disposal system, taking into account soil conditions, depth to groundwater, direction of groundwater flow, and site specific physical conditions;
  - f. Whether the amount of Sewage flow from the project based upon Sewage flow design criteria will adversely affect groundwater, surface water and/or drinking water supplies;
  - g. Whether the application can be modified so that the project will not violate the Code;
  - h. Whether an application for a variance or waiver can be made to another municipal entity that would obviate the need for consideration of the variance or waiver application before the Department, and if it can, has such application been made and negatively ruled upon;
2. Economic injury and/or self-imposed hardship may not provide the sole basis for a variance or waiver from this Code.
3. In all applications for relief from the specific sections of this Code, the burden of proof of demonstrating that a variance or waiver should be granted shall be on the applicant.

4. The Commissioner, designated Department staff, or the Board of Review, in their discretion, may consider any other factor which has been deemed necessary to consider in order to determine or recommend whether the granting of a variance or waiver will be in harmony with the general purpose and intent of this Code, provided that the application is given notice of the additional factors and reasonable opportunity to present evidence to the Department in accordance with the provisions of Section 760-220 with regard thereto.
  5. Development Rights originating from an existing Other Construction Project parcel(s) which exceeds the Population Density Equivalent requirements of this Article shall not be transferred to a Construction Project or Other Construction Project by the Board of Review through a variance or waiver.
- B. Exemptions. Minimum lot size and/or Population Density Equivalent requirements shall not apply to the following:
1. Realty Subdivisions which have previously been approved by the Department or the New York State Department of Health that have been filed in the Office of the Clerk of the County of Suffolk;
  2. Developments which have previously been approved by the Department;
  3. Other Construction Project parcel(s) with only a single-tenant permanent structure(s) which have previously been approved by the Department's Office of Wastewater Management meeting all of the following criteria:
    - a. The permanent structure(s) has had an active, continuous use for the same purpose from the time of a previous Office of Wastewater Management approval to the time of submission of the current application to the Department for approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article.
    - b. The permanent structure(s) has not been vacant for a period of two (2) or more years immediately prior to the submission of the current application to the Department for approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article.
    - c. There is no increase in the proposed Density Load from the permanent structure(s) at the time of submission of an application to the Department compared to a previous Office of Wastewater Management approval.
    - d. For applications submitted to the Office of Wastewater Management on or after January 1, 2018 for approval of water supply and Sewage disposal

- facilities in accordance with Section 760-606 of this Article, there is less than a 10% increase in the footprint or gross floor area, whichever is greater, of the permanent structure, but in no event exceeding a total increase in area of 1,000 square feet. For purposes of determining the percentage of increase, the Office of Wastewater Management shall compare the footprint or gross floor area of previous applications submitted to the Office for the same permanent structure.
- e. Applications submitted to the Office of Wastewater Management prior to January 1, 2018 for such approvals shall be governed by Section 760-609 of the Suffolk County Sanitary Code as it existed on December 31, 2017.
  - f. The Other Construction Project does not involve the total replacement of a permanent structure(s) or Major Reconstruction of a permanent structure(s);
4. Other Construction Project parcel(s) with multi-tenant permanent structure(s) which have previously been approved by the Department's Office of Wastewater Management meeting all of the following criteria:
- a. The multi-tenant permanent structure(s) has not had more than 50% of the tenant spaces vacant for a period of more than two (2) years immediately prior to the time of submission of the current application to the Department for approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article.
  - b. There is no increase in the proposed Density Load from the permanent structure(s) at the time of submission of an application to the Department compared to a previous Office of Wastewater Management approval.
  - c. For applications submitted to the Office of Wastewater Management on or after January 1, 2018 for approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article, there is less than a 10% increase in the footprint or gross floor area, whichever is greater, of the permanent structure, but in no event exceeding a total increase in area of 1,000 square feet. For purposes of determining the percentage of increase, the Office of Wastewater Management shall compare the footprint or gross floor area of previous applications submitted to the Office for the same permanent structure.
  - d. Applications submitted to the Office of Wastewater Management prior to January 1, 2018 for such approvals shall be governed by Section 760-609 of the Suffolk County Sanitary Code as it existed on December 31, 2017.
  - e. The Other Construction Project does not involve the total replacement of a permanent structure(s) or Major Reconstruction of a permanent structure(s);



5. Developments, other than Realty Subdivisions, which have been approved by a town or village planning or zoning board of appeals prior to January 1, 1981, and which met the requirements of the Department in effect at that time;
6. A Single-Family Residence on a parcel which appeared as separately assessed on the Suffolk County Tax Map as of January 1, 1981, which presently constitutes a buildable parcel under applicable municipal zoning ordinances and which met the Department requirements in effect on January 1, 1981. No automatic exemption of these requirements of this Article shall be granted where five (5) or more of such parcels are owned by a Developer.

**§760-613 I/A OWTS Sewage Facilities Requirements for Existing Other Construction Projects**

- A. At the time an application is made to the Department for approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article, an I/A OWTS shall be required by the Department as the method of Sewage disposal for an Other Construction Project which has existed prior to January 1, 2018, if all of the following conditions exist:
1. The Other Construction Project meets the following criteria:
    - a. There is no increase in the current Density Load established by a previous approval using current Department Density Loading Rates and such previous approval shall have included either:
      - I. Permits issued by the Department's Division of Environmental Quality;
      - II. Permits which have been previously issued by the Department's Division of Public Health for temporary residences or food establishments; or
      - III. Town or village approvals which were granted prior to January 1, 1981, and which met the requirements of the Department in effect at that time.
  2. The existing permanent structure must be habitable according to current building codes at the time of application for Department of approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article.
  3. The existing Other Construction Project meets one (1) of the following criteria at the time of current application to the Department for approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article:
    - a. the Other Construction Project is located within Groundwater Management Zones III, V or VI, and the Population Density Equivalent is greater than that of a Realty Subdivision or Development of Single-Family Residences in which

- all parcels consist of an area of at least 40,000 square feet without the use of Transfer of Development Rights in conformance with standards established by the Department; or
- b. the Other Construction Project is located outside of Groundwater Management Zones III, V and VI, and the Population Density Equivalent is greater than that of a Realty Subdivision or Development of Single-Family Residences in which all parcels consist of an area of at least 20,000 square feet without the use of Transfer of Development Rights in conformance with standards established by the Department.
4. The Other Construction Project has previously been approved by the Department or approved by a town or village planning or zoning board or appeals board prior to January 1, 1981 and does not meet the criteria for an exemption as stated in Section 760-612 of this Article.
  5. The Other Construction Project, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of Individual Sewerage Systems or Subsurface Sewage Disposal Systems.
- B. Section 760-613 paragraph A. shall apply to Other Construction Projects which exceed the current Population Density Equivalent based on a Density Load established by Department or town/village approvals prior to January 1, 1981 without the use of Transfer of Development Rights but propose to increase the established Density Load with the use of Transfer of Development Rights in conformance with the standards established by the Department.
- C. For multi-tenant structures, the requirements of Section 760-613 paragraph A. shall apply to the tenant space(s) for an Other Construction Project that requires Department approval of water supply and Sewage disposal facilities in accordance with Section 760-606 of this Article.
- D. I/A OWTS shall comply with the Department's current standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.

*Adopted 11/19/1980; Amended 4/15/1981, 6/3/1981, 6/24/1981, 1/12/1983, 4/9/1986, 6/25/1986, 1/14/1987, 3/4/1987, 3/8/1989, 5/24/1989, 1/24/1990, 9/30/1992, 6/28/1995, 1/01/2018)*

*lst: 7/1/96*