

Local Law No. of 2018

A Local Law Amending Chapter 73 (Building Construction and Fire Prevention)
of the Village Code to add a new Article Requiring Innovative and Alternative On-Site
Wastewater Treatment Systems for Certain Residential Projects

Section 1. The Board of Trustees hereby finds and determines that the Village of Quogue is bordered by the Atlantic Ocean, Shinnecock Bay and Quantuck Bay and contains the Quogue Canal connecting the bays and various creeks and ponds. It is an objective of the Village to preserve and protect the quality of the groundwater and surface waters in and adjacent to the Village of Quogue. It has been well documented that waters in and around the Village of Quogue are receiving more nitrogen than the waters can naturally assimilate. This condition is caused mainly by the wastewater from both older and newer houses that are predominantly stored and treated in cesspools and conventional on-site sanitary septic systems that do not adequately remove nitrogen; and the nitrogen from these facilities is being released into the groundwater, which ultimately discharges into the waters in and around the Village of Quogue. Thus, nitrogen loading to these waters must be reduced in order to restore their health. The Suffolk County Comprehensive Water Resources Management Plan found that "while all sources of water pollution are concerning, nitrogen pollution from septic systems has clearly emerged as the most widespread and least addressed of the region's growing list of water pollutants." As a result, the Suffolk County Department of Health Services ("SCDHS") has recently authorized the use of innovative and alternative on-site wastewater treatment systems in lieu of conventional sanitary septic systems. These innovative and alternative systems discharge significantly less nitrogen from sanitary waste into the groundwater and work towards achieving less nitrogen in our bays, ponds and other waterways. The Town of Southampton Community Preservation Fund Water Quality Improvement Project Plan ("WQIPP") was adopted by the Town Board of the Town of Southampton to complement the existing Community Preservation Fund Project Plan and identifies water protection priorities and criteria for expenditures throughout the Town of Southampton, including the Village of Quogue. One of the stated objectives of the WQIPP is to promote wastewater treatment improvement projects, and the Town of Southampton has adopted a Septic System Rebate and Incentive Program that is applicable to Village of Quogue residents located within the High Priority and Medium Priority Areas as identified in the WQIPP. Most of the Village of Quogue is located within one of these two Areas.

Accordingly, to further the aforesaid objectives and based upon the approval of these new systems by the SCDHS, the intent of this local law is to require that new residential wastewater treatment systems located anywhere in the Village of Quogue and replacements and substantial

changes, repairs or upgrades to residential wastewater treatment systems in High Priority and Medium Priority areas utilize an innovative and alternative on-site treatment system authorized or approved by the SCDHS.

Section 2. Chapter 73 of the Quogue Village Code (Building Construction and Fire Prevention) is hereby amended by adding a new Article IV to read in its entirety as follows:

Article IV. Innovative and Alternative On-Site Wastewater Treatment Systems (I/A OWTS)

§73-10. Definitions.

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

BUILDING INSPECTOR

The Village Building Inspector appointed pursuant to Chapter 15 or his/her designee.

HIGH PRIORITY AREA

Those areas in the Village of Quogue mapped as such in the WQIPP.

INNOVATIVE AND ALTERNATIVE ON-SITE WASTEWATER TREATMENT SYSTEM (also referred to as “I/A OWTS”)

An on-site wastewater treatment system that, at a minimum, is designed to result in total nitrogen in treated effluent of 19 mg/l or less, as approved or authorized for use by the SCDHS.

MEDIUM PRIORITY AREA

Those areas in the Village of Quogue mapped as such in the WQIPP.

SCDHS

The Suffolk County, New York Department of Health Services or any department or entity that may succeed to its functions insofar as they involve the approval or authorization for use of residential wastewater treatment systems.

SUBSTANTIAL SEPTIC SYSTEM UPGRADE

A replacement of an existing residential cesspool or septic system or a change, repair or upgrade to an existing residential septic system where the cost of such change, repair or

upgrade would equal or exceed fifty (50%) percent of the cost of replacement of the current system.

WQIPP

The Southampton Town CPF Water Quality Improvement Project Plan dated June/July 2016 adopted by the Town Board of the Town of Southampton as it may be amended from time to time.

§73-11. I/A OWTS Required.

A. An I/A OWTS shall be required for the following projects:

- (1) All new residential construction in the Village of Quogue;
- (2) Any substantial septic system upgrade in a High Priority Area or a Medium Priority Area;
- (3) An addition or renovation to an existing residence in the Village of Quogue that results in an increase of 25% or more in the gross floor area (as defined in Section 196-49) of such residence; or
- (4) A substantial renovation to an existing residence in the Village of Quogue (whether or not the gross floor area is increased), the cost of which, as determined in connection with the granting of a building permit, exceeds \$500,000.

B. Notwithstanding any other provision of this Code, a building permit shall be required for installation of an I/A OWTS.

§73-12. SCDHS Approval; Exceptions

- A. SCDHS approval of an I/A OWTS proposed to be installed for a particular project of the type identified in Section 73-11 shall be submitted to the Village prior to the issuance of a building permit therefor.
- B. The Building Inspector shall not issue a Certificate of Occupancy or a Certificate of Compliance for any project of the type identified in Section 73-11 above unless such project has received final approval from the SCDHS for the installation of the I/A OWTS.
- C. The Building Inspector may, at any time, require a monitoring report, engineer's report, and/or performance and maintenance report demonstrating that the proposed system complies with the SCDHS requirements.

D. All installations of an I/A OWTS shall comply with all applicable provisions of the State Code.

E. Notwithstanding the foregoing, this article shall not be applicable in those cases where (1) the SCDHS has determined that an I/A OWTS is not appropriate at a given location and the applicant shall have provided a copy of the determination of the SCDHS to the Village or (2) the applicant shall have demonstrated to the satisfaction of the Building Inspector that installation of an I/A OWTS in connection with a particular project is not reasonably practical because of space or other physical constraints.

§73-13. Applicability. This article shall apply to applications made for a building permit after April 1, 2018 that meet the criteria described above, except for applicants that have complete applications pending review with the SCDHS on or prior to April 1, 2018, as verified by the SCDHS's records, shall not have to comply with the requirements herein.

§73-14. Penalties for offenses. Any violation of the provisions of this article shall be punishable by a fine of up to \$1,000 for each and every such violation, as well as remediation of the subject premises to the satisfaction of the SCDHS. Such remediation efforts shall include, but not be limited to, the installation of a compliant I/A OWTS when required. The continuation of a violation of this article shall constitute, for each day the violation is continued, a separate and distinct violation hereunder.

Section 3. This local law is enacted pursuant to Village Law §4-412(1)(a), as well as Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(11) and 10(1)(ii)(a)(12)).

Section 4. If any section or subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole, or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

Section 5. This local law shall take effect upon filing with the Secretary of State.