

Environmental Conservation

ARTICLE 17 WATER POLLUTION CONTROL

TITLE 15 REALTY SUBDIVISIONS: SEWERAGE SERVICE

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§ 17-1501. Definitions.

1. As used in sections 17-1501 to 17-1505, inclusive, and sections 17-1509 and 17-1511, the word "subdivision" shall mean any tract of land which is divided into five or more parcels, after the effective date of this act, along any existing or proposed street(s), highway(s), easement(s) or right(s)-of-way for sale or for rent as residential lots or residential building plots, and in the county of Suffolk also as business, commercial or industrial lots or building plots, regardless of whether the lots or plots to be sold or offered for sale, or leased for any period of time, are described by metes and bounds or by reference to a map or survey of the property or by any other method of description and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fifth residential lot or residential building plot therefrom within any consecutive three year period, and at this time the provisions of section 17-1505 of this chapter shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold, rented or offered for sale or lease singly or collectively.

2. The word "tract" shall mean any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

3. "Residential lot" or "residential building plot" shall mean any parcel of land of five acres or less, 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.

4. For the purposes of this title sewage shall be defined as any substance, solid or liquid that contains any of the waste products or excrementitious or other wastes or washings from the bodies of human beings or animals.

§ 17-1503. Local regulations.

1. Any city or county which has established or establishes a city, county or part-county department of health may adopt regulations for the control of such developments. Regulations adopted by a county or city board of health may include, but not be limited to, establishment of such requirements as it may deem necessary to guarantee the installation of such sewage facilities in accordance with the plans heretofore or hereinafter approved by the county or city department of health or any approved revision or revisions thereof.

2. Nothing contained in sections 17-1501 to 17-1505, inclusive, and sections 17-1511 and 17-1513, shall be construed to delegate the general powers of the department nor to impair nor to deprive the department of its powers and functions as now provided by law.

§ 17-1505. Plans required to be filed and approved.

1. No subdivision or portion thereof shall be sold, offered for sale, leased or rented by any corporation, company or person, and no permanent building shall be erected thereon, until a plan or map of such subdivision shall be filed with and approved by the department or city, county or part-county department of health having jurisdiction and such plan or map thereafter filed in the office of the clerk of the county in which such subdivision is located.

2. Such plan or map shall show methods for obtaining and furnishing adequate and satisfactory sewerage facilities to said subdivision.

3. The installation of such facilities shall be in accordance with the plans or any revision or revisions thereof approved by the department or city, county or part-county department of health having jurisdiction.

4. The rules and regulations adopted by the department to implement this title and the provisions of article 70 of this chapter and rules and regulations adopted thereunder shall govern department processing of approval applications and modifications under this title.

§ 17-1507. Filing fees to accompany plans.

1. At the time of submitting a plan for approval as required by this title, a filing fee computed at the rate of one dollar and seventy-five cents per lot shall be paid to the department or to the city, county or part-county health district wherein such plans are filed, and where the approval sought is from the department, such additional fee as may be specified in article 70 of this chapter shall also be paid.

2. The department, or the city, county or part-county health district, shall not review or approve any such subdivision map submitted for approval after this section takes effect until such fee, as herein provided, has been received by it.

3. If any plan submitted to the department, or to a city, county or part-county health district, cannot be approved, such plan shall be returned to the person who submitted the plan with a summary of the reasons for disapproval.

§ 17-1509. Cooperation with the Department of Health.

Notwithstanding any other provision of this title the Commissioner of Environmental Conservation is empowered to make administrative arrangements with the Commissioner of Health for joint or cooperative administration of this title and title II of Article 11 of the Public

Health Law, such that only one plan must be filed and only one fee totalling three dollars and fifty cents per lot must be paid, except that where department approval is sought in connection with a particular plan or map, such additional fee as may be specified in article 70 of this chapter shall also be paid.

§ 17-1511. Duty of county clerk or register in respect to filing of plans and map.

The county clerk or register shall not file nor record nor accept for filing or recording any map or plat showing a subdivision of land in any town, village or city having a population of less than one million unless there is endorsed thereon or annexed thereto a certificate of the department or city, county or part-county department of health having jurisdiction approving the sewerage systems proposed or installed for such subdivision and consenting to the filing of such map or plat.

§ 17-1513. Remedy for purchaser of one parcel of unapproved realty subdivision.

1. The owner of a parcel of land acquired as one parcel for residential purposes may apply to the department or local health department having jurisdiction for a certificate approving the sewage facilities for said parcel as adequate and satisfactory. The application shall include the description of the parcel as specified in the instrument, by which owner acquired title.

2. The proper department shall entertain said application and issue said certificate providing the sewage facilities will not, in the opinion of such department, result in the contravention of standards adopted for and assigned to the receiving waters pursuant to this chapter, or be injurious to public health for the public enjoyment of said waters, the propagation and protection of fish and wild life or the industrial development of the state or result in the exposure of sewage on the ground surface or impair the quality of the ground water for drinking purposes or otherwise create a nuisance, or menace or potential menace to health.

3. The certificate approving the sewage facilities for said parcel shall contain the name of the owner-applicant and the description of the property set forth in the application. The owner shall append the certificate of approval to a verified petition directed to the county clerk of the county wherein the property is located, praying that the petition and certificate of approval annexed be recorded and indexed against the owner-petitioner.

4. The county clerk upon receiving the petition with annexed certificate of approval, and upon tender of the lawful recording fees, shall record the same in his office and index it against the owner-petitioner. The recording of the petition with annexed certificate of approval shall be deemed compliance with section 17-1505, for the parcel described.

5. a. This section shall apply only to a single residential lot which was acquired without having complied with the provisions of former section 89 of the Public Health Law or section 17-1505 of this title but was:

1. acquired by the owner-applicant prior to January first, nineteen hundred seventy-one; or

2. acquired by the owner-applicant through devise or intestate

succession; or

3. not at the time of acquisition of title by the owner-applicant, a part of a subdivision, as such term is defined in section 17-1501 of this title.

b. In addition, this section shall apply to a single residential lot which the appropriate department deems proper for approval because of hardship or other special circumstances established to its satisfaction by the owner-applicant.

§ 17-1515. Regulation by commissioner.

The commissioner may from time to time establish by rule or regulation standards for subdivisions necessary to effect the purposes of this title and not inconsistent with regulations of a city, county or part-county department of health having jurisdiction, now or hereafter adopted pursuant to law. In the event of and to the extent of such inconsistency, the standards established by the commissioner shall be deemed inapplicable.