

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
NOV 17 2003

MISCELLANEOUS
& STATE RECORDS

~~County~~

~~City~~ of Riverhead

Town

~~Village~~

Local Law No. 22-2003 of the year 2003.

A local law TO REPEAL AND REPLACE CHAPTER 109 ENTITLED, "MORATORIUM
(Insert Title)

ON RESIDENTIAL DEVELOPMENT" OF THE RIVERHEAD TOWN CODE.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~XX County~~

~~City~~ of Riverhead

Town

~~Village~~

as follows:

SEE ATTACHED:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 22 of 2003 of the ~~(County)(City)~~(Town)(Village) of Riverhead was duly passed by the Town Board on November 5, 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

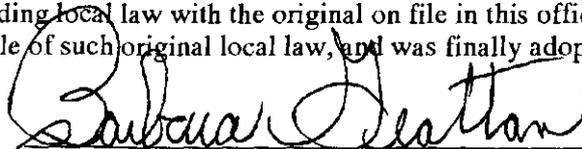
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 11/10/03

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Suffolk

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

Deputy Town Attorney
Title

~~County~~
~~City~~ of Riverhead
Town
~~Village~~

Date: 11/10/03

Chapter 109
Moratorium on Residential Development

109-001. LEGISLATIVE INTENT.

In order to better protect the health, safety and welfare of its residents, the Town of Riverhead has recently adopted an update to its Comprehensive Plan so as to ensure the protection of its natural resources, including farmland, wetlands, coastal areas, water-front lands, and woodlands.

With the intent on establishing a comprehensive means of preserving farmland in Riverhead, Land Ethics, Inc., Inc., a subcontractor to the Town's Comprehensive Plan consultant, Abeles, Phillips, Preiss & Shapiro ("A, P, P & S"), has developed a draft chapter for the Comprehensive Plan entitled "Preservation Strategy for Agriculture in the Town of Riverhead".

With regard to Riverhead's unique opportunities as an agricultural community, in its draft chapter "Preservation Strategy for Agriculture in the Town of Riverhead" Land Ethics, Inc. stated as follows:

"Because of the large amount of farmland remaining in Riverhead, it's excellent climate and soils, as well as it's geographic location at the intersection of the North and South Forks, Riverhead is uniquely situated to benefit from agricultural preservation. Relative to other communities on eastern Long Island, Riverhead still has a large amount of contiguous agricultural space. Riverhead therefore has the potential to become the agricultural nexus or "heartland" of eastern Long Island ... Because of its unique geographic location, Riverhead stands to benefit economically if new growth is well managed. To reap these benefits, Riverhead must carefully balance three areas of actions: the revitalization of downtown; the accommodation of new growth, and the maintenance of rural character in its outlying regions."

With regard to the current state of agriculture and agricultural lands within the Town of Riverhead Land Ethics, Inc. further stated:

Over the nearly fifty-year period between 1950 and 1992, farmland in Suffolk County decreased 71 percent, from 123,346 acres to 35,353 acres. According to

W:\Laura Calamita\reso\r&rch109.ado.doc

the Suffolk County Planning Department, farmland continues to decline at a rate of roughly 1,300 (1,289) acres per year. ... In 1968, Riverhead has 30 percent of the county's farmland (19,550) acres; nearly 30 years later in 1996, despite a 9 percent drop in the Town agricultural acreage, Riverhead had 38% of the county's farmland - 17,662 acres. These figures indicate that Riverhead has a critical role to play in the protection of prime agricultural lands in eastern Long Island.

In an effort to enable to Town to better preserve its agricultural heritage and open spaces, Land Ethics, Inc., in its draft "Preservation Strategy of Agriculture in the Town of Riverhead" has proposed significant changes to zoning which will impact residential development and to residential land development review procedures with the Town.

Due in part to the ongoing Comprehensive Planning effort that the Town of Riverhead has been engaged in for several years, the Town has experienced a significant increase of subdivision, site plan and special permit project applications in anticipation of pending changes. Currently there are numerous such pending applications within the proposed Agriculture Overlay District and the proposed Development Rights Receiving Districts. The influx of these development applications going forward under outdated policies and procedures will impair the effectiveness of the aforementioned proposed changes, further exacerbating the loss of natural resources sought to be preserved through the implementation of forthcoming update to the Comprehensive Plan. It is expected that the new zoning amendment will be ready to be adopted and implemented by the Town in approximately three months from the effective date of this local law.

Pending the implementation of the Comprehensive Plan, a moratorium on the subdivision of land and/or the approval of site plans or special permits on lands within the proposed Agricultural Overlay District and Development Rights Receiving Areas, will give the Town of Riverhead the breathing room it needs to adopt the zoning and planning changes necessary to protect the public health, safety, and welfare.

The previous moratorium adopted by the Town Board on December 12, 2001, which expired by its own terms on June 12, 2002, did not permit the Town sufficient time to adopt and implement the agricultural preservation strategy which is now in the final stages of completion. That moratorium was extended for a one year period and a subsequent 3 months period which will expire on October 1, 2003. The Town has now in the final stages of adopting and implementing the Comprehensive Plan. The Town Board has conducted the necessary public hearing and expects to adopt the Comprehensive Plan and its attendant Generic Environmental Impact Statement in October. It is anticipated that the public hearing process will conclude with the adoption of new zoning in accordance with the adopted Comprehensive Plan in November 2003. This continuation of moratorium will protect the status quo while the Town Board completes these tasks.

The moratorium is not a building moratorium. Those applicants for development who have

W:\Laura Calamita\reso\r&rch109.ado.doc

obtained valid building permits are excluded from the moratorium. Likewise, those applicants for development who have received final conditional approval for residential land subdivision, residential site plans or residential special permits are exempted. This local law recognizes the need to balance preservation with business concerns. Those applicants for development who have invested considerable time and money and received their final conditional approvals, building permits, site plan approvals or special permits are exempt from the moratorium.

The law also provides both exclusions and exemptions for owners of property, so that it does not impose an undue burden upon them. As such, undue hardships will not be imposed where community gains can be accomplished.

A well-planned community will serve all of the inhabitants of Riverhead. Surveys reveal that Towns with tighter zoning controls generally have lower taxes. High-density residential development often leads to the need for more expensive infrastructure, including more schools, police, roads, and sewers among other amenities. Low-density residential development generally leads to higher land values because the most beautiful portions of the community can be preserved via clustering and setbacks, a strong agricultural heritage and rural character can remain intact, and bays and ecosystems can be protected.

In addition, the advent of the two-percent transfer tax represents an opportunity of unprecedented proportion to save the best of Riverhead Town for future generations. Wide expenditure of these monies will serve to preserve the quality of life in the Town and enhance property values well into the future.

In an effort to aid the Town in purchasing development rights, in April of, 2002; the Town Board authorized the issuance of serial bonds in the sum of 30 million dollars to allow the Town to increase its purchase power.

In short, sound planning will lead to a higher quality of life for all of Riverhead's citizens. By briefly pausing in order to enact the recommendations of the Comprehensive Plan for the Town of Riverhead, the Town is making an important investment for the future and upholding its commitments and obligations to its citizens.

109-002. Statutory Authority/Supersession.

This Chapter is adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act and its implementing regulations. It expressly supersedes any provisions of the Town Code of the Town of Riverhead, and § 267, 267-a, 267-b, 267-c, 274-a, 274-b and 276 of the Town Law of the State of New York. Furthermore, this Local Law shall supercede the New York State Environmental Conservation Law sections 3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617 also known as the State Environmental Quality Review Act (SEQRA) as it pertains to applications that are neither excluded nor exempt from this Local Law.

W:\Laura Calamita\resolv&rch109.adc.doc

In particular, this Local law shall supersede and suspend those provisions of the Town code and New York State Law which require the Planning Board to accept, process and approve residential land subdivision applications within certain statutory time periods. In addition, this Local Law shall supersede and suspend those provisions of the Town Code of the Town of Riverhead as well as the Town Law of the State of New York which require the Town Board to accept, process and approve site plan and special permit applications. Furthermore, this Local Law shall supersede and suspend those provisions of the Town Code and the New York State Town Law which grant the Zoning Board of Appeals authority to hear appeals from applicable zoning provisions and specifically the time frames for decision making and holding hearings for decision making.

109-003 Applicability.

The provisions of this Chapter shall apply to all residential land subdivision, residential site plan and residential special use permit applications for lands within the Town of Riverhead.

109-004. Processing of Residential Subdivision Applications, Residential Site Plans Applications and Residential Special Permit Application Prohibited.

Neither the Planning Board nor the Town Board shall process any residential land subdivision, residential site plans or residential special permits except as set forth herein.

109-005. Time Period.

This Chapter shall apply for a period of three months from the effective date hereof. This Chapter shall expire after said three (3) month period.

109-006 Applications excluded.

The following applications are excluded from this Chapter:

(1) All minor subdivisions as defined in Chapter 108 of the Town Code of the Town of Riverhead, whether minor by definition, or major treated as minor pursuant, to 108-95 B.

(2) All major subdivisions of land lying within the development rights sending area as adopted by the Town Board and identified pursuant to the Code of the Town of Riverhead Section 95A-12 which meet the following two criteria:

a) residential lot yields in conformance with the subdivision regulations of Chapter 108 of the Town Code of the Town of Riverhead and depicting minimum lot areas of 80,000 square feet, and

b) Plat plans clustered pursuant to Chapter 108 of the Town Code of the Town of

Riverhead, which depict 70% of the area of the tract to be preserved by an easement restricting the use of the area to agricultural uses as defined in section 44-2 of the Town Code of the Town of Riverhead, in perpetuity.

(3) Major land subdivisions upon real property lying within development rights receiving areas as adopted by the Town Board and identified pursuant to the Town Code of the Town of Riverhead section 95A-12, which subdivisions meet one of the following criteria:

a) residential lots yields with a minimum lot area of 80,000 square feet; or

b) Subdivisions that utilize transferred development rights (TDR) as certified by the Planning Board pursuant to Chapter 95A of the Town Code of the Town of Riverhead, and propose density increases at the rate of one additional lot per TDR with all resulting lots having a minimum lot area of 40,000 square feet. All such excluded land divisions shall depict residential lot yields in conformance with the subdivision regulations of Chapter 108 of the Code of the Town of Riverhead depicting the minimum lot areas of 80,000 square feet.

(4) Residential subdivision applications that have final conditional approval from the Planning Board prior to the effective date of this Chapter.

(5) Any application for residential development which has been determined, by resolution of the Town Board of the Town of Riverhead, to be excluded from the previous moratorium pursuant to section 109-006 of Local Law No. 16 of 2001.

(6) Site Plan applications for residential development which have received a special permit from the Town Board of the Town of Riverhead prior to the enactment of this local law.

(7) Residential special permit and/or site plan applications for two-family dwellings as set forth in section 108-21(b)(3) of the Town Code of the Town of Riverhead.

(8) Residential special permit and/or site plan applications for agricultural worker housing as set forth in 108-21(c)(4) of the Town Code of the Town of Riverhead.

(9) Residential special permit and/or site plan applications for residential development pursuant to sections 108-34(b)(2), 108-39(b)(3), 108-42(b)(3) of the Town Code of the Town of Riverhead.

(10) Applications for approval of a condominium map within the Multi -Family Residential /Professional Office Zone as set forth in section 108-169(a)(1) of the Town Code of the Town of Riverhead.

(11) Residential subdivision applications modifying a map or its conditions of approval, including legal instruments, in connection with a previously filed map or final conditional approval adopted prior to the effective date of this Chapter. However, there shall be no modification to a map or

W:\Laura Calamita\reso\r&r\ch109.adb.doc

conditions of approval that would create additional residential building lots on the subject parcel.

(12) Property designated pursuant to Articles 15 and 15-A of the General Municipal Law of the State of New York as an Urban Renewal Area.

(13) There shall be no further subdivision of any property having received any subdivision approval during the moratorium period.

109-007 Exemption Criteria and Procedure for Obtaining an Exemption

1. Applications may be exempted from the provisions of this Chapter, following a public hearing on notice before the Town Board. Upon such application, the Town Board shall consider:

- a) The proximity of the applicant's premises to natural resources, including prime agricultural soils, pine barrens, wetlands, coastal areas, endangered plant and animal species, wildlife and other similar environmental concerns;
- b) The impact of the proposed subdivision of the applicant's premises and the surrounding area;
- c) The environmental significance, if any, of the applicant's parcel and the proposed development's impact upon the environment, including existing transportation resources;
- d) Compatibility of the proposed development with the aesthetic resources of the community and with the existing community character;
- e) Compatibility of the proposed development with the recommendations of Comprehensive Planning studies.

(2) In making a determination concerning a proposed exemption, the Town Board may obtain and consider written reports from the Planning Department, and such other sources as required in the discretion of the Town Board, and consistent with the purposes of this Chapter. A grant of an exemption to an applicant's application hereunder shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan Update.

(3) An application under Subsection (1) shall be accompanied by a fee of \$250.00, together with the applicant's written undertaking, in a form to be approved by the Town Attorney and, in substance, approved by the Town Board, to pay either in advance or by reimbursement, at the Town Board's on-going election, any out-of-pocket costs incurred relating to the hearing, review,

and determination of such application.

SECTION 2.

109-008 Severability.

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

SECTION 3.

109-009 Effective Date.

This Local Law shall take effect immediately.