

Local Law Filing

(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.

- County
- City of East Hampton
- Town
- Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 15 2007

Local Law No. 31 of the year 20 07

MISCELLANEOUS
& STATE RECORDS

A local law in relation to providing for financial incentives for the replacement of substandard
(Insert Title)
sanitary systems located within any Harbor Protection Overlay District in the
Town of East Hampton.

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

- County
- City of East Hampton as follows:
- Town
- Village

SEE ATTACHED SHEETS

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

Section I. Legislative Findings.

The Town Board of the Town of East Hampton has been a leader in protecting groundwater, surface waters, and drinking water in the State of New York. The Town has implemented a nationally recognized land protection program, which has preserved thousands of acres of critical watershed lands since the 1970s. Protection of groundwater is of primary importance because the aquifer is the sole source of drinking water for the Town. The many harbors and bays are a main economic resource for the tourist and fishing industries.

In addition, the Town has pursued innovative and creative zoning and land use regulatory policies in order to protect such watersheds. Large lot zoning, mandatory clustering of development, purchase of open space, special overlay districts, natural resource special permits and vegetation protection regulations are among the tools that have been implemented to protect watershed areas in the town of East Hampton.

The Town has also participated in regional initiatives to protect watersheds, including the Peconic Bay Estuary Program and Special Groundwater Protection Areas. The Town of East Hampton recognizes the need to take further action to protect groundwater, surface waters, and drinking water in the community from imminent threats. Pollution can occur when contaminants are released at the surface and transported through the soil to the groundwater and/or surrounding surface waters by gravity or infiltrating precipitation. Septic systems on residential and commercial sites impact groundwater and nearby surface waters by adding nitrogen and in some cases bacterial contamination to the groundwater and/or surface waters, particularly if the septic system is poorly designed. Sanitary systems in coastal areas often do not have the required separation between the base of the septic pool and the water table. This is especially true of older systems which were installed prior to Suffolk County's requirements for septic tanks in 1981 and the Town's adoption of increased sanitary system separation requirements implemented to further protect the fragile coastal ecosystems.

In 2004, the Town enacted a program to provide incentives to property owners who agreed to remove in-ground fuel-oil storage tanks and replace them with above ground tanks, with further incentives for secondary containment. This program has been effective in reducing the number of in-ground fuel oil tanks within the Town, which in turn reduces the potential for groundwater contamination from such storage tanks.

In furthering the Town's goals of protecting the environment, the Town has developed a program to provide monetary incentives to property owners located within the Town's Harbor Protection Overlay Districts to upgrade their existing sanitary systems to current Suffolk County Department of Health Services and, to the extent possible, to Town of East Hampton standards.

This local law is intended to apply to existing sanitary systems on properties located in any Harbor Protection Overlay District within the Town which were constructed prior to 1981 and do not meet current Suffolk County Department of Health Services or Town of East Hampton standards for sanitary systems located within the Harbor Protection Overlay Districts of the Town of East Hampton.

Section II: Town Code Amended:

The Town Code of the Town of East Hampton is hereby amended by adding a new Chapter 208 (Substandard Sanitary Systems in Harbor Protection Areas) to read as follows:

Chapter 208

Substandard Sanitary Systems in Harbor Protection Overlay Districts

Section 208-1. Definitions.

For the purposes of this Chapter, the following terms shall have the following meanings:

A. "Substandard sanitary system" shall mean any sanitary system located in a Harbor Protection Overlay District of the Town of East Hampton and constructed prior to January 1, 1981, which system has not been upgraded or repaired to meet the current requirements of the East Hampton Town Code for sanitary systems located in a Harbor Protection Overlay District as set forth in Chapter 255 (Zoning) of the East Hampton Town Code, and the upgrade of which is not required pursuant to an approval of the Town Zoning Board of Appeals or Suffolk County Department of Health Services (see "eligibility" below).

B. "Upgrade" shall mean to repair or replace an existing substandard sanitary system with a system which meets the current Suffolk County Department of Health Services, and, to the extent possible, Town of East Hampton requirements for sanitary systems for the specific premises which the system services.

C. "Costs" shall include all costs associated with the removal or repair and upgrade of an existing sanitary system, including but not limited to, costs for labor and materials, and site restoration. "Costs" shall not include financing or interest charges.

D. "Eligible entity" shall mean any person, estate, trust, beneficiaries of an estate or trust, partnership, or member of a limited liability corporation, a corporation or other legal entity which owns residential or commercial property that is eligible for the rebate established by this section for the costs of upgrading the sanitary system on the premises to current standards.

E. "Substantial reconstruction" shall mean construction work on improvements other than the sanitary system which would require the issuance of a building permit under the East Hampton Town Code.

F. "Applicant" shall mean an eligible entity as defined herein.

Section 208-2. Rebate and Incentive Program

A. Eligibility.

1. In order to claim the rebate established by this Chapter, an applicant must be an eligible entity as defined herein, and must replace or repair an existing substandard sanitary system on residential or non-residential property with a system which meets current Suffolk County Department of Health Services and, to the extent possible, Town of East Hampton requirements.

2. The rebate shall not be available in the case of the installation of a new sanitary system installed in connection with new construction or the substantial reconstruction of an existing building pursuant to a Natural Resources Special Permit or Site Plan approval where such permit or approval requires the upgrade of the sanitary system as a condition of the approval. Site plan approvals issued solely for the purpose of approving an upgrade to a sanitary system on non-residential property shall not render the upgrade ineligible for the rebate.

3. In order to claim the rebate established by this Chapter, an applicant must have actually paid the cost of the upgrades to the sanitary system.

4. Where the applicant owns more than one eligible property, there shall be authorized one rebate for each eligible sanitary system upgrade.

B. Procedure for Rebate.

1. In order to claim the rebate established by this section, the applicant must:

a). Submit a building permit application for the sanitary upgrade to the Town Building Inspector. In the event that Site Plan review and/or a Natural Resources Special Permit would be required for the upgrade, such approvals shall be obtained prior to commencement of the upgrade, and such permits will be processed on an expedited basis, provided applicant does not seek approval to perform any other improvements on the property which would themselves require the issuance of either a Natural Resources Special Permit or Site Plan Approval. Fees for the processing of a Natural Resources Special Permit, or a Site Plan application solely for the upgrade of the sanitary system shall be waived.

b). Obtain an inspection of the existing sanitary system by the Town Sanitation Inspector prior to commencement of any upgrade work, in order to certify that the applicant's existing system is a "substandard sanitary system" as the same is defined herein. Such inspection may require that the existing sanitary system be excavated in order to expose it for inspection.

c). Obtain an inspection of the upgraded sanitary system by the Town Sanitation Inspector prior to backfilling, in order to certify that the applicant has performed the work necessary to upgrade the substandard sanitary system. Upon verification that improvements have been properly installed to Suffolk County Standards, and to the extent possible, the standards of the Town of East Hampton, the Building Inspector shall issue a compliance letter for the system. The compliance letter shall also include a notice to the applicant that applicable law requires that the sanitary system be maintained to Suffolk County standards in the future, and that any modifications, changes, alterations or future replacement systems will require the issuance of a new permit and shall be performed to the then-applicable Suffolk County and, to the extent possible, Town of East Hampton standards.

2. Upon issuance of the compliance letter by the Building Inspector, the applicant shall provide the Town Building Inspector with a notarized certification representing that the upgraded sanitary system will be maintained in proper operating condition from the date of installation, and further acknowledging the requirements that

repairs, alterations, modifications or future replacements shall meet the then-applicable Town and Suffolk County standards.

3. The eligible individual shall then file a voucher with the Town to claim the rebate established by this section, in a manner prescribed by the Town Finance Department. The applicant shall document all costs associated with the upgrade. A copy of the compliance letter from the Town Building Inspector together with the applicant's certification shall also be attached to the voucher.

4. Payment of the rebate shall be made to the applicant after approval of the voucher by the Town Board and Town Finance Department.

C. Amount of Rebate.

The rebate authorized for the upgrade of an existing sanitary system pursuant to the terms of this local law shall be \$2,500.00 for upgrades to existing residential systems completed before 1981, and \$4,000.00 for upgrades to existing systems installed before 1981 on commercial property.

D. Rebate Expiration Date.

The rebate established pursuant to this section 208-2 shall be paid to eligible individuals for the upgrade of sanitary systems completed on or before December 31, 2010.

Section 208-3. Fund Established:

The Town Board of the Town of East Hampton hereby establishes a HPOD sanitary system upgrade capital project fund, for the purposes enumerated in this section. Deposits into the fund may include revenues of the Town from whatever source, including but not limited to (a) indebtedness or obligations incurred pursuant to the local finance law to effectuate the purposes of this section, (b) general fund balances or surpluses, or (c) any state or federal grants received by the Town. Interest accrued by monies deposited into the fund shall be credited to the fund. In no event shall monies deposited into the fund be transferred to any other account. Payment of the rebate shall be subject to appropriation.

Section 208-4: Applicability:

The provisions of this local law shall be applicable to all properties in the Town of East Hampton within the Harbor Protection Overlay District (HPOD) containing sanitary systems installed prior to 1981, excluding properties within incorporated villages.

Section 208-5 Severability:

If any provision of this local law or application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the local law, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered.

Section 208-6. Effective Date.

This local law shall become effective upon its filing in the Office of the Secretary of State of the State of New York.

(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. 31 of 20 07 of the ~~(County)(City)~~(Town)(Village) of East Hampton was duly passed by the Town Board on October 5 20 07, 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 _____, in accordance with the applicable provisions of law.

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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20 _____ *(Elective Chief Executive Officer*)*

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.

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) *(Name of Legislative Body)* (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.

* 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.)

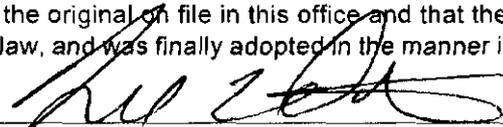
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1 _____, above.



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

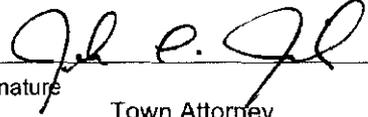
Date: 10-11-2007

(Seal)

(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 _____
Town Attorney

Title _____

~~XXXXXX~~
~~City~~ of East Hampton
Town
~~XXXXXX~~

Date: 10/11/07