

NOTICE OF ENACTMENT

PLEASE TAKE NOTICE that after a public hearing held pursuant to the requirements of law on August 3, 2023 and at a meeting held by the Town board of the Town of East Hampton, New York on September 12, 2023, the following Local Law was adopted:

LOCAL LAW NO. 25 OF 2023

INTRODUCTORY NO.28 OF 2023

SECTION I. TOWN CODE AMENDED

§255-4-29. Emergency activities.

The provisions of this section shall apply to emergency activities within the Coastal Erosion Overlay District which are immediately necessary to protect the public health, safety, or welfare, or to protect publicly or privately owned buildings and structures from major structural damage. For the purposes of this section, emergency activities are actions: (i) designed to protect buildings or structures from major structural damage, if those buildings or structures are in imminent peril of incurring such damage because of flooding or erosion, or (ii) designed to prevent a structural failure of all or part of a building or structure which has already incurred major structural damage because of flooding or erosion. Emergency activities shall be limited to the following actions: moving a building or other structure to a location which is landward of its existing location; making alterations to the building or structure, solely to repair damage already caused by flooding or erosion or to prevent a structural failure of all or part of the building or structure; depositing sand fill seaward of the building or structure; installing a geotextile tube or sandbag system, with provision for its eventual removal as required by this section; or repair of lawfully preexisting coastal erosion structures in Coastal Erosion Overlay Zone 3 or 4. Whenever emergency activities are undertaken, damage to natural resources, features, or systems shall be avoided or minimized. Emergency activities shall be governed by the following rules and procedures:

A. Application to Building Inspector. Prior to the commencement of any emergency activity described in this section, application shall be made to the Building Inspector who shall determine whether to authorize the proposed emergency activity under the provisions of this section. The application shall clearly and conspicuously state that it is a request to undertake an emergency activity pursuant to this section and shall include the following information:

(1) Description of the proposed action and the manner in which it is to be undertaken.

(2) Location map and plan of the proposed action.

(3) Any additional information which the Building Inspector may reasonably require to properly evaluate the proposed action, including the report of a licensed professional engineer and design plans stamped by same. The Building Inspector may consult with an engineer, other than the engineer who prepared the plans, to review the proposal and/or to obtain such other information as they may deem necessary for their evaluation of the proposal.

B. Findings by Building Inspector. In authorizing an emergency activity the Building Inspector shall:

(1) Find that the proposed action constitutes a permissible emergency activity as described in this section.

(2) Determine that the proposed emergency activity can and will be carried out in a manner

which will cause the least adverse impact on the public health, safety, or welfare and the least harm to natural resources, features, and systems.

(3) Where applicable, coordinate with and consider the comments of the Town Trustees or their authorized representatives.

(4) Determine that (i) the principal building or residence is in imminent peril of incurring major structural damage as a result of flooding or erosion, and the proposed emergency activity is necessary to prevent such damage, or (ii) the building or structure has already incurred major structural damage because of flooding or erosion, and the proposed emergency activity is necessary to repair such damage or to prevent a structural failure of all or part of the building or structure. In making this determination, the Building Inspector shall consult the Planning Department, Environmental Protection Department, or the Town Fire Marshal, require written comments from same and may require the applicant to provide an evaluation and/or certification of the imperiled structure from a licensed professional engineer. In addition, should the Building Inspector deem it necessary, the Building Inspector may consult with an engineer other than that retained by the applicant, to assist in their determination.

C. Determination of Building Inspector. The Building Inspector shall, in writing, authorize or refuse to authorize a proposed emergency activity within five business days of the receipt of the application (including any supplemental information deemed necessary to determine eligibility for the permit) described in Subsection A hereof. If the Building Inspector authorizes the proposed activity, his authorization shall specify the following:

- (1) Description of the emergency activity for which the authorization is issued.
- (2) Address and location of the property where the emergency activity is to be conducted.
- (3) Name and address of the person or persons authorized to conduct the emergency activity.
- (4) Period of validity of the authorization.
- (5) Terms and conditions of the authorization.

D. Conditions to determination. The Building Inspector may authorize any emergency activity which is specified in this section and which is warranted by the circumstances. He may impose conditions commensurate with the emergency and reasonably related to the emergency activity which he authorizes. Such conditions may include, but shall not be limited to, the following:

- (1) Removal of damaged buildings or structures or portions thereof, if those damaged buildings, structures, or parts thereof are or have become hazardous to human health or safety, or if said buildings, structures, or parts thereof present a threat of damage to other buildings or structures or to natural resources.
- (2) Removal of any building or structure which has been constructed, erected, or placed, or any material which has been placed or deposited, without benefit of a building permit, natural resources special permit, or other required permit or approval.
- (3) Limiting the length of a geotextile tube or sandbag system to the minimum length necessary to protect the principal structure on the property.
- (4) Restoration of any natural resource which has been or may be damaged by the emergency activity.
- (5) The posting of an undertaking and security, equal to the estimated cost of removal, which in no case shall be less than the cost of construction of the emergency activity, together with an access easement to permit the Town and/or its contractors to enter upon the premises for removal of the coastal erosion protections installed pursuant to the emergency permit, should the structures remain in place after expiration of the permit and extensions thereof, which the Building Inspector may reasonably determine to be necessary

to ensure the completion of restoration work, the removal of structures, or the completion of other work required by his authorization.

(6) An “as built” survey may be required at the discretion of the Building Inspector to demonstrate compliance with the conditions and limitations of the permit.

E. Duration of emergency authorization. An authorization for the undertaking of emergency activity pursuant to this section shall be valid for a period of time not to exceed six months. Such authorization may be renewed for one additional period not to exceed three months, provided that: (i) the person seeking to undertake the emergency activity requests such renewal in writing, (ii) the activity thus far undertaken pursuant to the Building Inspector's authorization is in full compliance with the terms and conditions of that authorization, (iii) the Building Inspector finds that an emergency situation as described in this section still exists and (iv) for any authorized geotextile protection, a post removal management plan for the imperiled structure. All emergency activity authorized under this section shall be completed prior to the expiration of said emergency authorization or the activity shall be deemed work subject to and requiring a natural resources special permit (and variance where applicable) pursuant to the other provisions of this article.

F. Removal of geotextile tube or sandbag systems. Where the Building Inspector authorizes installation of a geotextile tube or sandbag system as an emergency activity pursuant to this section, his determination authorizing the work shall specify that the applicant will remove the geotextile tube or sandbag system in its entirety and will complete any restoration work required by the Building Inspector's authorization, prior to the expiration of that authorization. In the event that the geotextile tube or sandbag system is not fully removed from the property in question by the expiration date of the authorization, or the required restoration work has not been completed by that date, the Town shall have the right to enter upon the property to remove the system and/or to perform the uncompleted restoration work, and shall have the right to use any security posted in connection therewith in order to undertake these tasks.

G. Exceptions to emergency power. Notwithstanding anything herein to the contrary, the provisions of this section shall not allow the Building Inspector to authorize the following activities:

(1) Repair, reconstruction, or alteration of existing coastal erosion structures located within Coastal Erosion Overlay Zone 1 or 2.

(2) (Reserved)

Section II: Authority:

The proposed local law is enacted pursuant to Municipal Home Rule Law Section 10(1)(ii)(d)(3) and Town Law 261.

Section III. Severability:

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

Section IV: Effective Date:

This local law shall take effect immediately upon filing with the Secretary of State pursuant to Municipal Home Rule Law.