

Filed November 18, 2019

NOTICE OF ENACTMENT

PLEASE TAKE NOTICE that after a public hearing held pursuant to the requirements of law on November 7, 2019 and at a meeting held by the Town board of the Town of East Hampton, New York on November 7, 2019, the following Local Law was adopted:

LOCAL LAW NO. 34 OF 2019

INTRODUCTORY NO. 38 OF 2019

SECTION 1. Legislative Intent.

The preservation of open lands containing large and contiguous areas of agricultural soils is essential to protect the rural character of the Town of East Hampton, and the preservation of agricultural lands also contributes valuable economic, social, and aesthetic benefits to all Town residents.

Measures which reasonably prevent and control the unnecessary loss of cultivated agricultural lands from wind driven erosion are necessary to insure the continuation of the town's vital agricultural economy.

Recent weather events of late rains and high winds have in some instances prevented the timely planting of over-winter cover crops, and/or prevented the germination of planted over-winter cover crops.

The failure to timely plant over-winter cover crops and/or the failure of over-winter cover crops to germinate combined with high wind weather events has resulted in the loss of agricultural soils from windblown erosion.

Extreme occurrences of windblown agricultural soils have resulted in the loss valuable agricultural soils, and caused economic losses to nearby businesses; created impacts to public institutions such as schools and libraries; have threatened health impacts to residents and their children living, studying, and working within the reach of windblown agricultural farm soils.

The timely planting of over-winter cover crops, and/or leaving harvested crop in place to retain soils, and/or applying straw, hay, or other covering, and/or applying a certified, non-toxic tackifier, and/or employing erosion-preventing tilling methods are all proper actions to prevent wind-blown soil erosion.

SECTION II. Town Code Amended:

A. Chapter 255 (Zoning) Article XI (Uses and Dimensions) Section 255-11-88 (Additional rules for particular principal and accessory uses) of the East Hampton Town Code, "Agriculture" Paragraph (6) "Restrictions on agricultural use" is hereby amended to read as follows:

(6) Restrictions on agricultural use:

(a) Stripping of agricultural soils prohibited. Except as part of a construction project for which all approvals required to be obtained under this chapter have been granted, no topsoil shall be stripped or otherwise removed from any lands in the Town whose soils are in Capability Class I or Class II, as delineated in the United States Department of Agriculture's Soil Survey of Suffolk County, New York. See also Section 255-3-35D.

(b) Over-winter Cover crop required. For agricultural activities conducted on property that is not in a certified Agricultural District pursuant to NYS Agriculture and Markets Law Article 25-AA, soil must be reasonably protected from wind erosion (between December 1 and March 1 of any given year), Planting and maintaining over-winter cover crops, and/or leaving harvested crop in place, and/or application of straw, hay or other covering, and/or application of a certified non-toxic tackifier, and/or employment of erosion preventing tilling methods shall be deemed a proper manner to protect soil from wind-driven erosion.

(c) Penalties. Any person found guilty of a violation of any provision of this section shall be punishable by a fine of not more than \$1,500.

(d) The provisions set forth herein shall not modify or overrule the requirements of the provisions of Chapter 134 Farms and Farming.

B. Chapter 255 (Zoning) Article X (Enforcement) Section 255-10-50 (Violations; penalties), Paragraph B (Criminal penalties), sub-paragraph (1) of the East Hampton Town Code is hereby amended to read as follows:

11- (1) For the conviction of a first offense, the imposition of a fine not exceeding \$1,000 or imprisonment for a period not to exceed six months, or both. For the conviction of a first offense of the provisions of Section 255-5-100A, 255-6-100A, 255-7-100B, 255-7-100C, 255-11-64A through C, 255-11-64G, 255-11-64H, 255-67A (1), (2), (4), (5), (6), (9), 255-11-88, "Swimming Pool" (1) or (2) or for the conviction of any violation of 255-11-88 "Agriculture" of this Chapter shall be punishable as provided therein.

SECTION III. Authority.

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

SECTION IV. 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, any judgment 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 V. Effective Date.

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