

## **Article II. Farmland Preservation**

[Adopted 8-6-1982 by L.L. No. 6-1982]

### **§ 134-7. Findings.**

- A.** The Town Board of the Town of East Hampton hereby finds that agriculture is one of the keystones to the economy of the town. Further, it contributes to the rural ambience of the town and is an essential part of the unique character which makes East Hampton aesthetically attractive. The Board further finds that agriculture is threatened by intense developmental pressures which affect all open space in the town. Since 1965 the town has seen its agricultural land decrease from over 2,900 acres to approximately 1,577 acres.
- B.** An amendment to the Town Comprehensive Plan was adopted in 1982 with the goal of preserving at least 1,200 acres of the existing agricultural land. Among the tools needed to accomplish this goal is the purchase of development rights to agricultural lands pursuant to § 247 of the General Municipal Law. In 1981 the voters of the Town of East Hampton approved a bond issue of \$1,500,000 to provide funds for such a program.
- C.** To implement this program, the Board wishes to adopt this article to the Town Code. The Board also recognizes that in the future additional bond issues may also be approved and that a permanent mechanism is necessary to provide for such purchases in the future.
- D.** The Board also finds that funds for development right purchases can most effectively be utilized only where other available farmland preservation tools are ineffective. Thus, the Board does not wish to utilize these funds to generally solicit offers, but rather to first assess the use of other preservation tools and only utilize these funds to purchase development rights when these other tools cannot avert the loss of prime agricultural land.

### **§ 134-8. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **CONSTRUCTION PERMIT**

Authorization to erect structures after public hearing of the Town Board.

#### **DEVELOPMENT RIGHT**

The permanent legal interest and right to prohibit or restrict the use of the premises for anything other than agricultural production as that term is presently defined in the New York State Agriculture and Markets Law § 301.

#### **WAIVER LETTER**

Authorization by the Planning Board Chairman to erect structures where no construction permit is required.

### **§ 134-9. Acquisition of development rights.**

- A.** A recommendation for the purpose of development rights may be initiated by any of the following:
- (1)** The Town Board, upon its own motion.
  - (2)** Planning Board recommendation to the Town Board.
  - (3)** Owner of agricultural lands, by request to the Town Board.

- B.** Where, pursuant to Subsection [A\(1\)](#) or [\(2\)](#), the recommendation for the purchase of development is initiated by the Town Board or the Planning Board, the Town Board shall first contact the owner of the agricultural lands to solicit participation under this article. Where the owner wishes to participate under this article, he shall so request in writing. Where the recommendation is initiated by the owner pursuant to Subsection [A\(3\)](#) of this section, such request shall be in writing.
- C.** Upon the receipt of a written request from the owner, the Town Board shall cause to be prepared a real estate appraisal to ascertain the market value of the development rights to be acquired.
- D.** The Town Board, on the basis of the appraisal, may negotiate with the owner of agricultural lands in order to enter into a contract of sale. Such contract shall be in writing and shall be signed by the Supervisor on behalf of the town, upon authorization by a resolution of the Town Board. Such contract shall be conditional and shall not be final until after the holding of a public hearing and passage of a resolution of the Town Board pursuant to Subsections [E](#) and [F](#) of this section.
- E.** Upon the signing of a contract of sale, the Town Board shall conduct a public hearing on such contract.
- F.** Within 30 days after the public hearing, the Town Board by resolution shall accept or reject the contract.
- G.** The instrument of conveyance transferring the development rights to the town shall be executed by the Supervisor on behalf of the town, as well as the grantor, and shall contain a covenant specifically setting forth the methods of alienation of the development rights and the limitations on use and enjoyment of the estate or interest reserved by the grantor as same are set forth as of the date of the contract of sale of said development rights.
- H.** Development rights may be alienated only in the manner provided for the modification or termination of easements set forth in Chapter [16](#) of this Code; provided, however, that where ownership of such rights is to be transferred to another governmental entity, the requirements of Chapter [16](#) shall not be applicable if and only if:

**[Amended 5-18-1984 by L.L. No. 13-1984]**

- (1)** The government entity is the County of Suffolk, State of New York, or the United States of America, or any combination of the above;
- (2)** The rights to be transferred are to be "banked" or otherwise retired under the provisions of a farmland preservation program undertaken by the transferee; and
- (3)** All moneys received by the town in consideration for the rights so transferred, less reasonable costs or expenses, if any, are to be placed into the account maintained by the town for the purchase of development rights or for other expenditures directly connected with farmland preservation under this article.
- I.** Subdivision; conditions for approval. In addition to any requirements, restrictions or prohibitions on the subject which may be contained in the instrument of conveyance of development rights to the town, properties from which the development rights have been acquired shall be subdivided only in accordance with all applicable local, county and state laws governing subdivision. In particular, the approval of the East Hampton Town Planning Board shall be required, pursuant to Chapter [220](#) of this Code. In all cases, no such approval shall be given by the Planning Board except upon an explicit finding by the Board that each

of the lots or properties proposed to be created by the division would be of sufficient size and would be in all other regards particularly suitable for continued agricultural production and use as the same are defined in the instrument of conveyance of development rights. Further, in the case of properties whose development rights have been conveyed by the town to the County of Suffolk, no such approval shall be given by the Planning Board unless and until the proposed division shall have been formally approved by vote of the Suffolk County Farmland Committee, established by county local law in 1981, or its legal successor.

**[Added 3-6-1987 by L.L. No. 4-1987]**

**§ 134-10. Erection of structures subsequent to transfer of development rights.**

No structure, including paved walkways, driveways and roadways, of any kind shall be permitted to be erected or maintained, except for a structure legally existing on the date of transfer, subsequent to the transfer of development rights to the town, except as specifically set forth in Subsections A and B following:

**A.** Waiver letter. The Planning Board Chairman shall be empowered to authorize construction by the issuance of a waiver letter for the following specified items:

- (1)** Repair of structures lawfully existing as of the date of transfer.
- (2)** Installation of fences, irrigation wells, pumps and structures for the storage of feed, fertilizer, harvest crops and machinery.
- (3)** Vineyard posts.
- (4)** Windmills.

**B.** Construction permit. The Town Board shall be empowered to authorize construction by the issuance, after public hearing, of a permit as follows:

- (1)** For the construction of buildings and other structures customarily accessory and incidental to agricultural production as same is presently defined by the New York State Agriculture and Markets Law § 301; provided, however, that no such permit shall be issued for the erection or maintenance of any building or other structures intended for human habitation.
- (2)** Any construction permit issued pursuant to such conditions and limitations as the Town Board shall see fit, in the reasonable exercise of its discretion, to impose.

**§ 134-11. Validity.**

Should any section or provision of this article be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this article as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**§ 134-12. Effective date.**

This local law shall become effective immediately.