



East Hampton Town Board

159 Pantigo Road
East Hampton, NY 11937

Meeting: 05/07/15 06:30 PM
Department: Town Attorney
Category: Local Law
Prepared By: Elizabeth Vail
Initiator: Elizabeth Vail
Sponsors: Councilwoman Kathee Burke-Gonzalez
DOC ID: 15329 A

ADOPTED

RESOLUTION 2015-569

Adopt Local Law Amending Chapter 75 (Airport) of the Town Code Clarifying Penalties Provisions and Definitions in the Law and Providing for Evaluation of the Effectiveness of Restrictions

WHEREAS, the East Hampton Town Board has considered several local laws to address restrictions on the use of the East Hampton Airport; and

WHEREAS, the proposed local laws have been modified in response to further analysis and public comment; and

WHEREAS, it has been determined that the previously proposed laws inadvertently omitted a definition of the term "season" because the definition appeared only in a proposal for which the Town Board has decided to defer consideration; and

WHEREAS, it is important that the proposed local laws be enforced effectively but that the penalties not be excessive or disproportionate to the offense; and

WHEREAS, the penalties for violation of Section 75-38 should be only as severe as prudent to discourage violations; and

WHEREAS, it is appropriate for penalties for violations to be "violations" under New York law rather than "misdemeanors" and also be subject to civil action as appropriate; and

WHEREAS, the entire study, analysis and public outreach process has demonstrated that there exists considerable reliable data on the impacts of the Airport on residents and visitors but the Town can only predict how people will change their behavior in response to the proposed restrictions; and

WHEREAS, in order to ensure that the restrictions remain effective and no more restrictive than necessary to address community noise concerns, it is important for the Town to evaluate the effectiveness of the restrictions following the summer 2015 season; and

WHEREAS that evaluation should reveal valuable information about people's behavior and reaction to the proposed restriction; and

WHEREAS, the Town will consider modifications to the restrictions if warranted based upon the data about the results of the restrictions during the 2015 summer season; and

WHEREAS, The Town Board of the Town of East Hampton held a public hearing on May 7, 2015 to consider a local law amending Chapter 75 (Airport) of the Town Code clarifying penalties provisions and definitions of the law and providing for evaluation of the effectiveness of restrictions; and

WHEREAS, after considering the matter, the comments of the public at the time of the hearing, the Town Board believes that the establishment of the subject restrictions are in the best interests of the Town; and

WHEREAS, the proposed local law is a Type II action pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.5 and Chapter 128 of the Town Code; now therefore, be it

RESOLVED, said Local Law is hereby adopted to read as follows:

LOCAL LAW NO. 7 OF 2015
Intro. #7 Of 2015

A LOCAL LAW amending Chapter 75 (Airport) of the Town Code clarifying penalties provisions and definitions of the law and providing for evaluation of the effectiveness of restrictions.

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

SECTION 1. Amendment

Sections 75-38, Airport Use Restrictions, and 75-39, Penalties, of the Code of the Town of East Hampton are hereby amended to state as follows:

§ 75-38 AIRPORT USE RESTRICTIONS:

A. Definitions.

...

(5) "Season" shall be the months of May, June, July, August and September.

§ 75-39 PENALTIES:

A. Section 75-34 shall not apply to violations of Section 75-38 and this Section 75-39 shall apply for all violations of Section 75-38. For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of Section 75-38 shall be deemed violations, and, for such purpose only, all provisions of law relating to violations shall apply to such violations.

B. Any Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall be punishable by a fine assessed against any person, organization, corporation, group or other entity which holds an ownership interest in such aircraft, as follows:

(1) For the first violation by an Individual Aircraft, a fine of not more than \$1,000.

(2) For the second violation by an Individual Aircraft, a fine of not more than \$4,000.

(3) For the third violation by an Individual Aircraft, a fine of not more than \$10,000.

(4) For the fourth violation by an Individual Aircraft, a prohibition on any Use of the Airport by the Individual Aircraft involved in such violation for a period of not more than two years.

C. Each Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall constitute a separate violation.

D. In addition, any entity convicted hereunder of not complying with the requirements of Section 75-38 may be subject to a fine of not less than the amount of the actual costs incurred and owed to the Town and not more than an amount equal to twice said actual costs. Should any person, organization, corporation, group or other entity be found in violation of the provisions of Section 75-38 within five years of a previous violation of this chapter, the minimum additional fine shall be not less than \$2000.

E. In addition to the above penalties, the Town may also maintain a civil action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation Section 75-38 by any person, organization, corporation, group or other entity which holds an ownership interest in the Individual Aircraft.

(1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted or allowed a violation of Section 75-38, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$10,000.00 for each violation that the defendants or any one of them individually caused, permitted or allowed the violation.

SECTION 2. Authority

The Town Board is authorized to establish and promulgate rules and regulations regarding use of the East Hampton Airport pursuant to Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and Town Law §130 and pursuant to its powers as the proprietor of East Hampton Airport under federal statutory and case law and regulations of the Federal Aviation Administration.

SECTION 3. Severability.

If any section or subdivision, paragraph, clause or phrase of this law shall be adjudged invalid, unenforceable, or unconstitutional by any order or judgment of a court of competent

jurisdiction, or pursuant to any order of any administrative agency having jurisdiction, whether such judgment or order is temporary or permanent, such judgment or order shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 4. Interim Evaluation

The Town shall evaluate the effectiveness of all airport use restrictions set forth in Section 75-38, Airport Use Restrictions, as soon as practical after September 30, 2015. The evaluation shall include assessment of whether the restrictions have been effective in reducing community disturbance and annoyance and of the financial consequences of the restrictions. The results of the evaluation shall be made available to the public and shall be the subject of a public meeting convened by the Town Board. After such public meeting, the Town Board shall consider what modifications, if any, to the restrictions set forth in Section 75-38 are warranted.

SECTION 5. Effective Date.

This local law shall take effect upon filing with the Secretary of State.

Dated: May 7, 2014

BY ORDER OF THE TOWN BOARD
TOWN OF EAST HAMPTON, NEW YORK
CAROLE BRENNAN, TOWN CLERK

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kathee Burke-Gonzalez, Councilwoman
SECONDER:	Peter Van Scoyoc, Councilman
AYES:	Burke-Gonzalez, Van Scoyoc, Overby, Overton, Cantwell