

WITHDRAWN AS OF 11/8/2010
AMENDED COPY AS OF 9/30/2010

Intro. Res. No. 1878-2010
Introduced by Legislator Schneiderman

Laid on Table 8/17/2010

**RESOLUTION NO. -2010, ADOPTING LOCAL LAW
NO. -2010, A LOCAL LAW TO ENSURE THE SAFE
TRANSFER OF FUEL TO BOATS AND WATERCRAFT IN THE
PECONIC ESTUARY**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on _____, 2010, a proposed local law entitled, "**A LOCAL LAW TO ENSURE THE SAFE TRANSFER OF FUEL TO BOATS AND WATERCRAFT IN THE PECONIC ESTUARY**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2010, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO ENSURE THE SAFE TRANSFER OF FUEL
TO BOATS AND WATERCRAFT IN THE PECONIC ESTUARY**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that boating is a popular recreational activity enjoyed by thousands of Suffolk County families on a regular basis.

This Legislature also finds and determines that public health and environmental protection are fundamental concerns of this Legislature and that the preservation of clean water in Suffolk County's bays, ocean and Sound is a crucial goal.

This Legislature further finds and determines that the Peconic Estuary is an environmentally sensitive area that has been designated an "Estuary of National Significance" by the United States Environmental Protection Agency.

This Legislature finds that the Peconic Estuary is a fairly pristine Estuary comprised of more than 283,000 acres of land and water that is rich with plant and animal life.

This Legislature determines that fresh water is provided to the Peconic Estuary through the Peconic River and groundwater seepage.

This Legislature also finds that, in addition to its beauty, the Peconic Estuary sustains a significant fish and shellfishing industry on the East End of Suffolk County.

This Legislature further finds that motor fuel is an environmental pollutant that may harm our ecosystem when introduced into groundwater and waterways.

This Legislature also determines that the use of portable fueling containers to fuel boats increases the risk of fuel spills onto the ground and/or into the water, while facilities which have and use fixed fueling facilities minimize pollution and spills through safer fueling procedures.

This Legislature further determines that minimizing the risk of spilling fuel in the waterways of the Peconic Estuary is important for its continued protection.

Therefore, the purpose of this law is to regulate the transfer of Class II and Class IIIA fuel to boats and watercraft in the Peconic Estuary to protect our environment and reduce pollution created by the spillage of fuel.

Section 2. Definitions.

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

“BOATS OR OTHER WATERCRAFT” shall mean floating crafts used for residential purposes, as well as pleasure or recreational watercraft. This term shall not include vessels located on residential property, as defined in the New York State Fire Code, public vessels which are used for commercial purposes, such as freight carriers, to transport passengers or provide towing services in exchange for compensation, nor does it include commercial fishing vessels, charter fishing vessels licensed to carry more than six paying passengers, or emergency vessels.

“CLASS II LIQUID FUEL” shall mean any combustible liquid fuel which has a flash point greater than or equal to 100°F and below 140°F.

“CLASS IIIA LIQUID FUEL” shall mean any combustible liquid fuel which has a flash point greater than or equal to 140°F and below 200°F.

“MOBILE FUELING VEHICLE” shall mean a vehicle that has an attached external fuel tank, the contents of which are used to provide fuel to motorized vehicles, including boats or other watercraft.

“MOBILE FUELING OPERATION” shall mean any company, corporation or other entity which provides fuel using mobile fueling vehicles.

“OPERATING PERMIT” shall mean a town-issued permit to conduct mobile fueling at a premise, pursuant to Section 2210.4 of the New York State Fire Code.

“PECONIC ESTUARY” shall mean the Peconic River and all waterways between the North and South Forks, as well as all waters extending past the Forks to Block Island Sound as designated by the Peconic Estuary Program.

“PERSON” shall mean any individual, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not.

Section 3. Prohibition.

No person shall serve or provide Class II or Class IIIA liquid fuel to any boat or watercraft in the Peconic Estuary by means of a mobile fueling vehicle. This prohibition shall not apply to mobile fueling operations at premises with a valid operating permit from the local

jurisdiction to provide fuel by means of a mobile fueling vehicle prior to the effective date of this law.

Section 4. Penalties.

Any person providing Class II or Class IIIA liquid fuel to a boat or watercraft in violation of this law shall be guilty of a violation subject to a fine of two hundred fifty dollars (\$250.00) for a first violation, and a fine of one thousand dollars (\$1,000.00) for any subsequent violations.

Section 5. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 6. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 7. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 8. Effective Date.

This law shall take effect on the sixtieth (60th) day immediately subsequent to filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: