

Intro. Res. No. 1480-2012
Introduced by Legislators Browning, Anker and Calarco

Laid on Table 5/8/2012

**RESOLUTION NO. 746 -2012, ADOPTING LOCAL LAW
NO. 51 -2012, A LOCAL LAW ESTABLISHING REGISTRATION
REQUIREMENT FOR HEALTH DEPARTMENT EXPEDITORS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on May 8, 2012, a proposed local law entitled, "**A LOCAL LAW ESTABLISHING REGISTRATION REQUIREMENT FOR HEALTH DEPARTMENT EXPEDITORS**"; now, therefore be it

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

LOCAL LAW NO. 51 -2012, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW ESTABLISHING REGISTRATION
REQUIREMENT FOR HEALTH DEPARTMENT EXPEDITORS**

**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 the Department of Health Services and the Board of Health regulate many activities that affect the public health of the residents of Suffolk County.

This Legislature also finds that the Department of Health Services considers applications and issues permits to individuals and businesses to conduct certain activities that are regulated by the Department.

This Legislature further finds that a fundamental area of concern for the Department of Health Services and the Board of Health is the protection of the County's surface waters and underground drinking water supply under Article 6 of the SUFFOLK COUNTY SANITARY CODE.

This Legislature also determines that the Department of Health Services must approve the water supply and sewage disposal facilities for proposed realty subdivisions, development and other construction projects.

This Legislature finds that individuals and businesses often hire "expeditors" to assist in moving their permit applications through the Department of Health Services.

This Legislature also finds that no special qualifications or expertise are required for persons who provide expediting services.

This Legislature further finds that expeditors working with the Department of Health Services should be required to register with the County of Suffolk.

This Legislature determines that a registration requirement for expeditors will allow for greater transparency in the permitting process.

This Legislature also finds and determines that a registration requirement will allow the County to hold expeditors accountable and suspend or revoke the registration of expeditors who are guilty of misconduct and thereby protect consumers who avail themselves of expediting services.

Therefore, the purpose of this law is to establish a registration requirement for expeditors who interface with the Department of Health Services.

Section 2. Definitions.

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

“COMMISSIONER” shall mean the Commissioner of the Department of Consumer Affairs.

“DEPARTMENT” shall mean the Department of Consumer Affairs.

“EXPEDITING SERVICE” shall mean a service which provides, for any compensation or consideration, assistance in expediting or progressing an application for the issuance of a permit or other approval by the Department of Health Services, including the filing of an application with the Department or requesting or negotiating the approval of such application.

“PERSON” shall mean any natural person, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.

Section 3. Registration Required.

- A. Except as provided in paragraph (B) of this section, it shall be unlawful for any person to provide, or offer to provide, expediting services without first obtaining an expeditor registration certificate from the Department in accordance with the provisions of this law.
- B. The following persons are exempt from the registration requirements of this law:
 - 1. The owner of the premises for which the application is filed including, and in the case of partnerships or corporations, the general partners or the principal officers of the corporation.
 - 2. The lessee of a premises for which the application is filed, when authorized to do so by the owner to file the application.
 - 3. Registered architects licensed by the New York State Department of Education.
 - 4. Professional engineers licensed by the New York State Department of Education.
 - 5. Attorneys duly admitted to practice law in the State of New York.

Section 4. Application Procedure; Information Required; Qualifications.

- A. All applications for registration certificates shall be submitted in writing on forms furnished by the Department. The application shall be signed under oath. Where a corporation is an applicant, the applications shall be signed under oath by an officer of such corporation.
- B. An individual applicant must be at least 18 years of age and of good character. Consistent with Article 23-A of NEW YORK CORRECTION LAW, the Commissioner may deny registration to a person who has been convicted of a criminal offense related to giving or receiving a bribe, giving or receiving unlawful gratuities, official misconduct or other corruption related acts.

Section 5. Term of registration; renewal; fees.

- A. The initial application fee for an expeditor certificate of registration shall be \$100.
- B. Registration certificates should be valid for a period of two years from the date of issuance. The fee for an expeditor certificate of registration shall be \$100 per annum, \$200 biennially.
- C. No registration certificate shall be assignable or transferable.
- D. No registrant shall permit or authorize the use of his or her registration certificate by or on behalf of any other person.
- E. Each registrant shall, within 10 business days after a change of address, notify the Department of such change.

Section 6. Prohibited Activities; required contract terms.

- A. No expediting service shall claim or otherwise represent that they are a governmental entity or a part thereof or affiliated with an entity of government.
- B. No person shall enter into a contract or agreement with another party to provide expediting services unless such contract sets forth, in clear and conspicuous language, a schedule of the fees to be charged for such service and a provision permitting the other party, at any time within three days after having entered into such contract or agreement, to cancel such contract or agreement and receive a full refund of any fee or deposit already paid.

Section 7. Fines, suspension or revocation of registration.

- A. The Commissioner shall have the power to impose a civil fine not to exceed \$500 upon a registrant, to suspend or revoke a registration or to deny an application for the renewal of a registration for any one or more of the following causes:
 - (1) Fraud, deceit, misrepresentation or bribery in securing a registration certificate.
 - (2) The making of any false statement in an application for a registration certificate.

- (3) Violation of any provision of this law, any other appropriate law or any rule or regulation promulgated thereunder.
 - (4) Fraud, deceit or misrepresentation in providing expediting services.
- B. No registration shall be suspended or revoked nor a fine imposed until after a hearing has first been held before the Commissioner upon at least seven business days' notice. Such notice shall be served either personally or by certified mail, return receipt requested, to the last known address of the registrant and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations against such registrant. The registrant may be represented by counsel and may produce witnesses in his or her own behalf. A verbatim record of the hearing shall be taken and preserved. For purposes of such hearing, the Commissioner may administer oaths, take testimony, subpoena witnesses and compel the production of books, paper, records or other documents deemed pertinent to the subject of the hearing.

Section 8. Penalties for Failure to Register.

Any person who provides expediting services without obtaining a registration certificate therefore or who shall continue to provide expediting services after having had their registration suspended or revoked shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$5,000 or imprisonment for not more than one year, or both. Each such violation shall be deemed a separate offense.

Section 9. 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 10. SEQRA Determination.

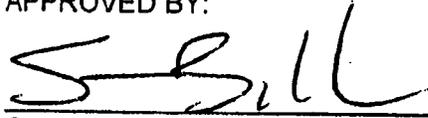
This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning 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 11. Effective Date.

This law will take effect ninety (90) days after its filing in the Office of the Secretary of State.

DATED: August 21, 2012

APPROVED BY:



County Executive of Suffolk County

Date: 9.18.2012

After a public hearing duly held on September 5, 2012
Filed with the Secretary of State on October 1, 2012

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 21, 2012 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res.

1480

Res. No.

746

August 21, 2012

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE		/			
2	Jay H. SCHNEIDERMAN	//				
3	Kate M. BROWNING	/				
4	Thomas MURATORE		/			
5	Kara HAHN	/				
6	Sarah S. ANKER	/				
7	Rob CALARCO	/				
9	Ricardo MONTANO		/		/	
10	Thomas CILMI		/			
11	Thomas F. BARRAGA		/			
12	John M. KENNEDY, JR.		/		/	
13	Lynne C. NOWICK		/			
15	DuWayne GREGORY	/				
16	Steven H. STERN	/				
17	Lou D'AMARO	/				
18	William SPENCER	/				
14	Wayne R. HORSLEY, D.P.O.	/				
8	William J. LINDSAY, P.O.				/	
	Totals	10	5	-	3	

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
Send To Committee _____
Table Subject To Call _____
Lay On The Table _____
Discharge _____
Take Out of Order _____
Reconsider _____
Waive Rule _____
Override Veto _____
Close _____
Recess _____
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
NOT ADOPTED _____

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call Voice Vote _____