

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village

(Select one:)

of HEWLETT BAY PARK _____

Local Law No. 4 of the year 20²²

A local law TO AMEND CHAPTER 53 OF THE CODE OF THE VILLAGE OF HEWLETT BAY PARK,
(Insert Title)
TO PROVIDE FOR NEW PROCEDURES FOR BUILDING PERMIT EXTENSIONS

Be it enacted by the BOARD OF TRUSTEES of the
(Name of Legislative Body)

County City Town Village

(Select one:)

of HEWLETT BAY PARK _____ as follows:

(PLEASE SEE ATTACHED PAGES 1-6)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

A local law to amend Chapter 53 of the Code of the Village of Hewlett Bay Park, to provide for new procedures for building permit extensions.

Section one. Chapter 53 is hereby amended, as follows:

A. New sections, to be designated as §53-1(A), 53-6(C)(1), 53-6(J)(3), 53-6(J)(4), 53-6(J)(5), 53-6(J)(6), 53-6(J)(7), and 53-6(J)(8) shall be added, to read as follows:

§53-1(A). Definitions.

Uniform Code – New York State Uniform Fire Prevention and Building Code
Village – Village of Hewlett Bay Park

§53-6(C)(1). Display of Permit.

All building permits shall be prominently displayed on the property or premises to which it pertains.

§53-6(J)(3).

Upon failure of a permittee to complete construction within the time limitations of a building permit or a building permit renewal, the permittee shall be responsible for the following fees for Building Department inspection, investigation and related work:

(a) For the first 30 days that the project remains incomplete and no valid, unexpired building permit or permit renewal is in place, no fee shall be due.

(b) For the 31st through the 60th day that the project remains incomplete and no valid, unexpired building permit or permit renewal is in place, a fee of \$50 per day, excluding weekends and federal holidays.

(c) For the 61st day and thereafter that the project remains incomplete and no valid, unexpired building permit or permit renewal is in place, a fee of \$100 per day, excluding weekends and federal holidays.

(d) These fees shall be imposed automatically, and do not require the sending of any notice to the permittee prior to the imposition of any such fees.

§53-6(J)(4).

Upon failure of the permittee to complete construction within the time limitations of a building permit or renewal permit, the Code Official may inform the permittee that the

building permit has lapsed and no work may continue. The Code Official may issue a stop work order, but the failure or choice not to issue a stop work order or otherwise inform the permittee of the permit lapse shall not deem any work to be authorized after the building permit or permit renewal expiration.

§53-6(J)(5). The Code Official may declare construction abandoned after the building permit has expired, or construction activities have ceased, for a 90 day period. Upon such declaration, the Code Official may impose conditions requiring remedial measures to be implemented by the property owner, including cleanup of the site, removal of any hazardous or unsightly conditions, and restoration of the property and all improvements to an attractive condition, as determined by the Code Official. After declaring an abandonment, the Code Official shall send written notice to the property owner that an abandonment has been declared. The notice shall be delivered personally or if personal service cannot be accomplished reasonably and timely, by posting the notice at the entrance to the building or premises and sending a copy of the notice by certified mail, return receipt requested and regular mail. The notice shall state the fees imposed in accordance with this section. Fees will continue to accrue when construction has been abandoned until all remedial measures required by the Code Official have been completed to the satisfaction of the Code Official.

§53-6(J)(6). A permittee or property owner may appeal the abandonment declaration by filing written notice of such appeal with the Village Clerk within five (5) business days of the service of the abandonment notice. If a property owner provides timely written notice of such appeal, the Board of Trustees shall hold a hearing at the next available meeting date, after which hearing, the Board of Trustees may confirm the abandonment declaration or suspend the declaration upon such conditions as may be appropriate under the circumstances, including the completion of the work and/or cleanup within a set time period, submission of security to the Village, and other reasonable conditions.

§53-6(J)(7). Within 6 business days after the Code Official's abandonment determination or immediately after the Board of Trustees confirmation of the abandonment determination, the building permit shall be deemed revoked.

§53-6(J)(8). Construction completion deposit. If a security deposit has been filed with the Village to assure completion of construction and/or site cleanup or remediation, subject to retention of a portion of the deposit to pay any fees, the completion deposit may be refunded to the property owner upon completion of the work.

B. The following sections shall be amended to read as follows:

§53-6(C). The Code Official may issue a building permit when the Code Official determines:

- (1) the application is complete and all required fees are paid;

(2) the proposed work conforms to the provisions of the Uniform Code and other applicable laws;

(3) the proposed work complies with the Village Code;

(4) where the proposed work does not comply with the Village Code or Uniform Code, a waiver, variance or other predicate approval has been obtained and is currently valid;

(5) all predicate approvals from municipalities, agencies, boards, departments or other municipal authority have been obtained;

(6) the proposed work complied with all other applicable requirements of the Village;

(7) there are no open building permits, for which there are no available renewal periods; and

(8) there are no pending violations of the Village Code.

§53-6(H). Road Bond.

Where the Code Official determines that the construction for which the permit is sought is likely to require the use of vehicles or equipment of such weight or other characteristic as is likely to cause damage to a public road or street, no building permit shall be issued until such time as a Cash deposit in an amount determined by the Code Official or other security satisfactory to the Code Official has been supplied to the Village, and approved as to form by the Village Attorney, to guarantee the repair and restoration of any public road or street damaged as a result of such use. In addition, prior to issuance of the permit, the Code Official may require that the applicant supply the Village with suitable photographs of the condition of the road. No bond provided pursuant to this subsection shall be released except with the consent of the Board of Trustees and except upon written application for such release, including suitable photographs of the condition of the road after completion of construction.

§53-6(J)(1).

With respect to any building permit issued pursuant to the provisions of this chapter:

(a) Where and when no work has been commenced or, in the case of a new building or structure or a new ground floor addition or extension, the foundation has not been completed within six (6) months of the date of issuance of such permit, such permit shall automatically expire by limitation, and in the latter case and circumstance, any excavation made in reliance upon such permit shall be immediately filled and the premises graded and restored to its original grade.

(i) where and when the work contemplated and authorized by such building permit shall have been commenced timely, all such work shall be completed within 12 months of the date of issuance of such permit or such permit shall automatically expire by limitation; and in such case and circumstance all further or additional work shall cease and desist unless and until a renewal permit has been applied for and granted by the Code Official. If a renewal permit is approved, then, upon the payment of an additional renewal fee equal to fifty (50%) percent of the original permit fee, such renewal permit shall be issued for, and all work covered by and under such building permit shall be completed within, six (6) months of the date of issuance of such renewal permit. If all work is still not completed within such renewal period, then an additional renewal permit must be obtained from the Code Official, and in such event of additional renewal, the renewal permit shall be valid for period of six (6) months from the date of its issuance and shall be subject, in each case, to the payment of an additional renewal fee equal to fifty (50%) percent of the original permit fee. Renewal permits shall be required for any and all periods following the expiration of the original permit and the expiration of any subsequent renewals thereof, and the Code Official may impose reasonable conditions upon the issuance of any renewal permit, including conditions intended to mitigate any potential adverse impact of the construction or the construction delay.

(ii) The duration of the original permit and any subsequent renewals shall not exceed a total period of 24 months. Upon the expiration of said 24 month period, a new application must be made to the Building Department for the issuance of a building permit. In addition, any new application requires the filing by the applicant of a construction completion deposit, as follows: (i) for a project with an estimated cost of less than \$50,000, the deposit shall be \$5,000; (ii) for a project with an estimated cost between \$50,000 and \$500,000, the deposit shall be \$5,000, plus 5% of the estimated cost in excess of \$50,000; and (iii) for a project with an estimated cost in excess of \$500,000, the deposit shall be \$27,500, plus 3% of the estimated cost in excess of \$500,000. Fees due to the Village pursuant to this section shall accrue for each day the project exceeds the construction completion date. Should the applicant fail to complete the construction and obtain a certificate of occupancy or completion, as the case may be, before the expiration of the said new permit and any permissible renewal periods, the Code Official may inform the Board of Trustees of such failure to timely complete the work, and the Board of Trustees may determine the amount of the construction deposit to be retained by the Village as a fee for the cost of the additional work performed and to be performed by the Building Department in connection with its review and work related to the applicant's failure to complete the work. Except where a valid emergency exists as determined by the Code Official, for any premises where a construction deposit is currently held by the Village, or the Board of Trustees has had to exercise its rights under this subsection in relation to the retention of any portion of a construction deposit, and until the work contemplated under the building permit for which the deposit was or is held by the Village, no other building permit may issue for the premises.

(c) For a new dwelling:

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permit shall have been commenced timely, all such work shall be completed within 24 months of the date of issuance of such permit or such permit shall automatically expire by limitation; and in such case and circumstance all further or additional work shall cease and desist unless and until a renewal permit has been applied for and granted by the Code Official. If a renewal permit is approved, then, upon the payment of an additional renewal fee equal to fifty (50%) percent of the original permit fee, such renewal permit shall be issued for, and all work covered by and under such building permit shall be completed within, six (6) months of the date of issuance of such renewal permit. If all work is still not completed within such renewal period, then an additional renewal permit must be obtained from the Code Official, and in such event of additional renewal, the renewal permit shall be valid for period of six (6) months from the date of its issuance and shall be subject, in each case, to the payment of an additional renewal fee equal to fifty (50%) percent of the original permit fee. Renewal permits shall be required for any and all periods following the expiration of the original permit and the expiration of any subsequent renewals thereof, and the Code Official may impose reasonable conditions upon the issuance of any renewal permit, including conditions intended to mitigate any potential adverse impact of the construction or the construction delay.

(ii) The duration of the original permit and any subsequent renewals shall not exceed a total period of 36 months. Upon the expiration of said 36 month period, a new application must be made to the Building Department for the issuance of a building permit. In addition, any new application requires the filing by the applicant of a construction completion deposit, as follows: (i) for a project with an estimated cost of less than \$50,000, the deposit shall be \$5,000; (ii) for a project with an estimated cost between \$50,000 and \$500,000, the deposit shall be \$5,000, plus 5% of the estimated cost in excess of \$50,000; and (iii) for a project with an estimated cost in excess of \$500,000, the deposit shall be \$27,500, plus 3% of the estimated cost in excess of \$500,000. Fees due to the Village pursuant to this section shall accrue for each day the project exceeds the construction completion date. Should the applicant fail to complete the construction and obtain a certificate of occupancy or completion, as the case may be, before the expiration of the said new permit and any permissible renewal periods, the Code Official may inform the Board of Trustees of such failure to timely complete the work, and the Board of Trustees may determine the amount of the construction deposit to be retained by the Village as a fee for the cost of the additional work performed and to be performed by the Building Department in connection with its review and work related to the applicant's failure to complete the work. Except where a valid emergency exists as determined by the Code Official, for any premises where a construction deposit is currently held by the Village, or the Board of Trustees has had to exercise its rights under this subsection in relation to the retention of any portion of a construction deposit, and until the work contemplated under the building permit for which the deposit was or is held by the Village, no other building permit may issue for the premises.

(d) For the purposes of this section, construction shall be deemed complete upon the satisfactory performance of all construction work, including, but not limited to, compliance with all conditions of application approval and the clearing and cleaning of all

construction related materials and debris from the site, and final inspection and written approval of the applicable work by the Code Official.

§53-6(J)(2).

In granting any extension pursuant to subsection **J(1)** of this section, the Code Official in his sole discretion, shall consider the following criteria in determining whether to grant such extension and whether to impose conditions upon any such grant of an extension:

(a) The reason for delay in construction;

(b) The adverse impact which the delay has had upon adjacent property owners and the community, and which may occur during the extension period;

(c) Methods and/or conditions to mitigate the adverse impacts of the delay in construction, including, without limitation, requiring regrading or other stormwater drainage controls and/or requiring landscaping or other screening;

(d) The status of the construction, and the time anticipated to be required to complete construction; and

(e) Any other factor which the Code Official, in his sole discretion, determines to be relevant.

C. Section 53-12 is hereby repealed.

Section two. If any clause, sentence, paragraph, or section of this local law shall be held invalid by any court of competent jurisdiction, or the application of this local law to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this local law directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this local law are hereby declared to be severable.

Section three. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.

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1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2022 of the (County)(City)(Town)(Village) of HEWLETT BAY PARK was duly passed by the BOARD OF TRUSTEES on JULY 18 2022, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Michelle D'Amico
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: *July 19, 2022*

(Seal)