

3.6. NEW YORK

3.6.1. EAST HAMPTON, NY

Population Density	289.96/ sq. mi.
Form of Government	Town
Category	Seasonal Ocean and Bayfront
CRS Rating	Not Participating

Median Household Income	Median Per Capita Income	% Owner Occ	Population	2000-2010 Pop Growth Rate	% White	% Hispanic	% Minority	% Seasonal Housing
68570	38532	29.8	21457	0.85	84.8	26%	32.1%	54.0

Adaptations	Status	Incorp orates CC	Type	Impact	Standard Costs	Funding Source
Coastal Overlay District	Implemented	Yes	Prevention	Mandatory	Above Required Zero	None
Community Preservation Fund (2% Real Estate Transfer Tax) for land conservation	Implemented	No	Prevention	Recommendation	Unique Zero	None
Harbor Protection Overlay Zone	Implemented	No	Planning	Mandatory	Unique Zero	None
Local Waterfront Revitalization Plan - Incorporates Climate Change and Policy of Strategic Retreat	Implemented	No	Procedural	Mandatory	Unique Medium (<\$100,000)	State
Setbacks from Bluffs and Wetlands	Implemented	No	Prevention	Mandatory	Above Required Zero	None
Vegetation Preservation Ordinance	Implemented	No	Prevention	Mandatory	Unique Zero	None

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POPULATION AND GEOGRAPHY

The town of East Hampton is located at the eastern tip of Long Island's South Fork, 100 miles east of Manhattan. It is a peninsula in itself, surrounded by ocean shores on its south, the rocky headlands of Montauk at its far east, and the bays and inlets of its north shore.

The town is known as the summer playground of the rich and famous, but its year-round population of 22,000 people have a median per-capita income of about \$38,500. Perhaps also belying its reputation, the town's census reported population is 26% Hispanic and 32% Minority. However, the housing stock is 54% seasonal, reflecting percentages of the permanent population.

Its only land border is by town of Southampton on its west; otherwise it is completely surrounded by water. The Atlantic Ocean is on its south, the Block Island Sound on the northeast, and on the north side of the peninsula are the Gardiners, Napeague, and Fort Pond Bays. The town contains the villages of East Hampton and Sag Harbor, as well as the census-designated places of Amagansett, Montauk, Napeague, Springs, and Wainscott.

The entire land surface area of the town is 74.7 square miles. It contains 23.7 miles of ocean shoreline, 38.9 miles of north bayfront shoreline, and 53.3 miles of harbors and creeks. There are a number of significant state parks within the town including the Montauk Point State Park. It is served by the Long Island Rail Road with stops in downtown East Hampton and the hamlets of Amagansett and Montauk. One state road—Route 27, a two-lane highway that winds its way to the tip of the peninsula—provides the only way in, out, or through the town.

The town has taken care to preserve the many unique natural environments it comprises. From its natively vegetated coastal neighborhoods to its woodlands and bays, the variety and beauty of its landscapes are a prominent and meaningful part of its identity. The importance of preserving this beauty has driven the strict legislation the town has had on its books for 30 years and has made the town an exemplary community in coastal adaptation policy.

As part of the comprehensive planning process, the town conducted statistically significant surveys on scenic and aesthetic preferences. Water and water views were found to be the most important, but residents also indicated their appreciation of other ecological features such as woods, fields, and historic downtowns. Town planners indicated the prominence that preservation of the environment has played in the town's identity and its economic value.

As the town planning staff explained, the strict regulatory system that prevented development of its beaches was enacted after a building boom during a pro-growth Republican administration in the early 1980s. Brian Frank, Chief Environmental Analyst relayed the story that residents extirpated the pro-development administration out of fear they would "turn into the Jersey Shore" (Personal Communication, Jul. 6, 2012). A democratic town board was subsequently elected on a landslide vote to preserve the natural and historic character of the town, which instituted the strict setbacks and land preservation schemes the town is known for. Its unspoiled beaches and scenic vistas now provide economic value. The town does have a significant, if declining, commercial fishing industry, but clearly its largest economic driver is tourism. However, instead of the hotel- and motel-based transient tourism of resorts father south, East Hampton has more second homes, largely occupied by wealthy Manhattanites.

Town Planner Brian Frank also thought that the location at the island's terminus gave the towns a chance to see what happened in other towns and decide that direction was not right for East Hampton. Residents said, "Maybe we don't want a sewer district and an urban hub the way there is in western towns ... and the only way to protect that is to have zoning and regulations and guidelines to shape the community in a direction that we find appropriate" (Personal Communication, Jul. 6, 2012).

COASTAL ISSUES

As described in the LWRP, East Hampton is "an island promontory surrounded by water," and therefore "is singularly exposed to forces of the sea and weather." It continues:

The Town's 110 miles of shoreline are protected by fragile beaches, dunes and bluffs, and while these are the same scenic and recreational attributes that lure tourists and second homeowners to a resort community, they are also vulnerable to winter nor'easters and catastrophic hurricanes. The awesome natural forces of storm events can quickly transform scenic views and real estate assets into disaster areas and insurance liabilities. Coastal flooding and erosion planning and policy in East Hampton have largely evolved in response to storms and other impacts of natural forces on development. Historically there has been less concern about episodic flooding and erosion in undeveloped areas where private property or public infrastructure were not at risk. This emphasis on protecting developed areas has masked the importance of maintaining unspoiled natural coastal features, both to sustain the Town's resort economy and because of their vital protective role in buffering the coast from flooding and erosion. (East Hampton, NY LWRP, Sec. V, p. 268)

The town contains an enormous diversity of human and natural landscapes within its 74 square miles of land and 70 miles of coastline. The area of the peninsula is as wide as 6 miles and as narrow as less than 1 mile in parts.

Long Island's geomorphology is the result of sediment deposits from the advance and retreat of glaciers during the last ice age. These glacial deposits and lands built up from eroded sediments

create the two dominant landforms. Here are cliffs of over 100 feet on the town's northern shore in some locations.

At its narrowest isthmus in Napeague, the land is very low and thin, and there is the significant potential for the entire eastern 20 miles of the town to be severed from the rest of Long Island, as occurred during the severe flooding from the hurricane of 1938 and Hurricane Carol. The 1938 hurricane caused such extensive flooding on Fort Pond in the existing hamlet of Montauk that a decision was made to relocate the downtown 3 miles south. However, the town also contains areas of very high ground and beaches with escarpments and bluffs both on the north shore and the eastern headlands that pose a different erosion risk from gently sloping beaches of the south shore. A unique feature of this part of eastern Long Island is the lack of barrier beaches. East Hampton's miles and miles of beach is connected to the mainland, which prevents the threat of overwash.

Though the severe weather it is exposed to is no less compelling than in other communities, compared to many other locations on the east coast, East Hampton is actually far less vulnerable because of its strict land use policies. The only hamlet located directly on the shore is in Montauk, and even there height limits and the setbacks strictly limit new development. The other historic downtowns are located miles inland from the coast, along with the critical road and rail infrastructure. Single family homes on large lots dominate in most neighborhoods adjacent to the coast, and they too must comply with strict setback requirements. These policies are not sacrosanct, however, and debate about the town's decision to embrace soft and natural infrastructure instead of harder approaches has been reignited, especially in the wake of Superstorm Sandy.

Emergency planning and evacuation is administered through the police department, and there is town-wide training for FEMA disaster training. The town partners with all of Suffolk County to identify critical infrastructure, temporary evacuation locations, identification of vulnerable populations, and people with chronic medical needs, to find out where they are and those who will be most severely affected.

ADAPTATIONS

Coastal Erosion Overlay Zone

The Town of East Hampton has been on the forefront of planning for climate change. The town has its own Coastal Erosion Overlay Zone that controls placement of shoreline hardening structures.

The findings and objectives of the law explicitly mention climate change, stating, "Changes in climate (global warming and the "greenhouse effect") may exert an influence on future storm activity and also cause sea-level to rise, with profound effects on the Town's coast. Such changes would render these natural protective features all the more important. In any case, while future sea level rise and increased storm activity may be uncertain, it is well established that present sea level is rising and statistically certain that storms will be an ever-present threat to the Town's coastal zone." (East Hampton, N.Y. Town Code § 255-3-80)

The Coastal Overlay District establishes four zones adopted from the town's use district map and incorporated into its zoning code. Construction of erosion control structures is banned in three of the four zones and severely restricted in the fourth. Erosion control structures are prohibited along the entirety of the ocean shoreline and most of the inner harbors. However, as with all zoning regulations, landowners may bring a variance case to the board of standards and appeals, and many such exemptions are issued.

The boundary of the town's coastal erosion overlay district includes all areas located up to 200 feet landward from the mean high water line and 1,000 feet seaward from the mean low water line. The erosion zones are a component of the town's zoning code and designated as specific use districts. Zone 1 is the ocean coastal zone, which is predominantly free of erosion control structures; zone 2 is the bay coastal zone, free of erosion control structures; zone 3 is the bay zone, which contains erosion control structures that are isolated and discontinuous; and zone 4 is the bay coastal zone, with numerous erosion control structures and whose natural defenses have been substantially compromised. The loss of natural features, "and features such as bluffs, dunes, and beaches means that in many cases erosion control structures provide the only remaining protection against flooding and erosion" (Town Code §255-3-80). In this latter zone, new erosion control structures may be permitted by special permit.

There are a number of notable features of the law. The lot area definition in the zoning code excludes areas seaward of the dune line or bluff crest as well as tidal and freshwater wetlands. The town does its own surveying for the wetlands and bluff lines.

Community Preservation Fund (2% Real Estate Transfer Tax) for land conservation

In 1998, New York State passed the Peconic Bay Region Community Preservation Act, which authorized the Town of East Hampton, along with the towns of Southold and Southampton, to establish a fund to preserve sensitive lands financed by a special 2% real estate transfer tax on sales of certain property within each town.

The cumulative total revenue since 2001 from 2% transfer tax receipts, interest, co-op sales, donations, and rental agreements amounts to \$205,295,221. As of the report date, the town had acquired interests or rights in 205 parcels totaling 1,658 acres (East Hampton, N.Y., Community Preservation Fund 2012).

The six main categories of acquisition include Parks and Recreation, Wetlands, and Beaches and Shoreline among others such as farmland and historic sites. The Beaches and Shoreline category includes dune lands, bluffs, and bayfront, oceanfront, and lakefront property. 345 acres in this category were identified in the plan as eligible for acquisition, including a 122-acre beachfront parcel acquired with the county, the state, and a federal grant; another 150 acres jointly acquired with the state and county; and smaller parcels acquired by the town alone.

Harbor Protection Overlay District

The town's Harbor Protection Overlay District (Sec. 255-3-70) provides clearing restrictions and setbacks for sanitary systems from surface waters and wetlands. The code protects wetlands, ponds, and coastal areas from water pollution and excessive runoff that may exacerbate flooding. Any new or upgraded septic system must be set back 150 feet, or the maximum practicable

distance from the upland boundary of tidal wetlands and surface waters. (Town Code, Sec. 255-3-70C(2)B). The Harbor Protection Overlay District also regulates clearing of indigenous vegetation, restricting the permitted clearing to the following:

In Residence Districts:

Lot Size	Clearing Permitted
Up to 39,999 sq ft	10,000 sq. ft. or 35% of lot area, whichever is greater
40,000 to 280,000 sq. ft	10,000 sq. ft. Plus (lot area x 12.5%)
280,000 sq. ft. and larger	45,000 sq. ft.

In Commercial Districts:

10,000 sq ft or 50% of lot area, whichever is greater. (Town Code Sec. 255-3-70.D.)

LWRP Incorporates Climate Change and Sea Level Rise

New York State law authorizes local communities to prepare a comprehensive plan for waterfront issues called the Local Waterfront Revitalization Plan. The Town of East Hampton has one of the most extensive plans completed by a locality under the CZMA.

The town completed its most recent LWRP in 1999 and it was finally approved by the state in 2007. The 882-page plan, along with Southold's LWRP, is the most thorough coastal planning document of any we came across in this project. Analysis is completed in land use and development patterns; public access and recreation; natural, historic, scenic, and archaeological resources; and development constraints (which include detailed flood risk analysis, and assessment of coastal landforms and processes).

In East Hampton and in New York State, the LWRP is not just a set of recommendations. It is an enforceable set of policies. The Waterfront Consistency Review process, required under state law of any town with an adopted LWRP, reviews actions in the coastal area for consistency with the LWRP and coordinates review with the New York Department of State regarding federal and state actions. All projects must undergo Waterfront Consistency Review, except for specifically designated exempt actions.

The town designated agency (similar to the responsible agency under NEPA) makes the determination of consistency based on the submitted form and the LWRP coordinator's recommendation. If the action is inconsistent, the applicant may need to modify their project or the project might be denied entirely. Chapter 6 of the town's plan addresses Climate Change and Sea Level Rise. It focuses mostly on the science of climate change and concludes "these climate factors point to an increasing risk of flooding and erosion in coming years, and a need for planning procedures better adapted to receding shorelines and more frequent catastrophic storms. However, whatever risks future climate change and consequent sea level rise may pose, present storm activity and existing sea level rise already constitute great risks and problems for development in the coastal zone, and should be given more consideration in management

decisions. Wherever possible, decision makers should embrace options that are adaptable to future sea level rise” (LWRP p. V-17)

The section also makes reference to two products recommended by the LWRP for the town to follow up on—the Town Coastal Erosion Monitoring Program and a Hurricane Damage Mitigation Plan.

The LWRP specifically addresses sea level rise and in Flooding and Erosion Policies #11-17, Sec. 3, which asks: What can the Town do to assess, plan for, and mitigate the effects of sea level rise, both present and future? In this section the policy of strategic retreat is mentioned as a potential policy response:

In the face of recurrent storm damage and shoreline recession, when future sea-level rise may accelerate due to global warming, a priority goal is to maintain the dynamic equilibrium of natural protective features, beaches, bluffs, dunes, wetlands and native vegetation. In practice, this approach to flooding and erosion problems leads to an emphasis on non-structural and soft solutions which will not disrupt coastal processes or damage natural protective features. In some instances, in order to both maintain natural features and protect homes and other shorefront development, a strategic retreat of development from receding shorelines is the preferred approach for flooding and erosion protection. (LWRP p V-4)

Although not explicitly adopted, the inclusion of strategic retreat as a policy goal has not gone unnoticed. In an article in the local newspaper *The East Hampton Star* entitled "Need Seen For Post-Storm Recovery Plan," a town councilwoman was quoted as saying, “We have a code, and the code actually mandates retreat ... Our current code doesn’t have the ability to protect the structures. You can dump sand, but the sand just washes away in the storm. Is that appropriate? I don’t think that’s appropriate” (Pilgrim 2012). This interpretation by an elected official demonstrates that East Hampton's codes and politicians are pushing the outer boundaries of progressive climate adaptation policy as far as any community in the Northeast.

The town's comprehensive plan incorporated the LWRP as its coastal management component, and the LWRP policies and objectives were summarized in Appendix C (Coastal Management Component). The LWRP is also consistent with the vision and goals of the comprehensive plan. The Town Board also adopted a revised zoning map to implement the comprehensive plan, incorporating the need to protect natural features called for in the LWRP, which served as the basis for the new zoning classifications. (LWRP p. 11)

Vegetation Preservation Ordinance

The vegetation preservation ordinance was passed in 2004 and applies to residential property in a number of specific zones. It limits clearing of native vegetation to specific percentages of the parcel based on its size. 100% of property may be cleared for lots less than 11,000 sq. ft. For lots up to 20,000 sq. ft., 75% may be cleared. For lots larger than 20,000 up to 280,000 sq. ft., 10,000 sq. ft. plus the lot area multiplied by 25% may be cleared, and for lots larger than 280,000 sq. ft. 80,000 sq. ft. may be cleared. (Town Code, Sec. 255-2-60).

The removal of any vegetation other than listed non-native species and dangerous deadwood is considered to be a clearing. The law allows for the removal of some native species that are a nuisance, such as poison ivy, only after review and approval of plans by the Town Natural Resources Department.

The town code also prohibits the "clearing, removing, uprooting, burying or otherwise damaging any beach vegetation, or replacing the same with lawn, sod, or turf" in the VE flood hazard zones within the Flood Hazard Overlay District.

Setbacks from Bluffs and Wetlands and Dune Protection

East Hampton protects its dunes from destruction. Within 100 feet of the dune crest (and 150 feet in some specific geographical areas) the town prohibits clearing land; digging, dredging, or excavating; and building, enlarging, reconstructing, "altering, or placing any structure or other improvement whatsoever in or upon land" (Town Code, Sec. 255-4-20). Any other dune is also prohibited from clearing, grading, filling, cutting, removing, or otherwise being altered. (Town Code, Sec. 255-4-20 (D)).

The law also prohibits "clearing, removing, uprooting, burying, or otherwise damaging any beach vegetation, or replacing the same with lawn, sod, or turf." (Town Code, Sec. 255-4-20) As described by Mr. Frank, "Climate change is associated with our wetlands and coastal setbacks." The town has longstanding local laws that prohibit development in the coastal zone and wetlands. The law predates New York State's coastal erosion hazard area law and is almost 30 years old.

Restrictions prohibit grading, dredging, or building within 100 feet of the inland boundary of any beach and within 100 or 150 feet of the bluff line along the Atlantic Ocean, depending on location (Town Code, Sec. 255-4-20 (B) and (C)). In addition, within 200 feet of the inland boundary of any beach, constructing a cesspool or septic tank or any tank for fuel is similarly prohibited (Town Code, Sec. 255-40 (B)(2)). Setbacks apply to the primary dune on the south shore as well as north shore bays and lots. Setbacks along bays vary from 50 feet to 150 feet depending upon lot size and exposure along inner harbor or outer bay shorelines (Town Code, Sec. 255-5-40 (D) and (E)).

As Mr. Frank explained about the setback laws, "they recognize that these areas are dynamic, unstable to begin with and are subject to rapid and severe changes due to weather events. It keeps human activity and construction out of most volatile area and part of that volatility includes rate of sea level rise." The setbacks vary depending on geomorphology and severity of erosion. Both erosion areas and wetlands are delineated by town staff. For instance, east of downtown Montauk the setback is 150 feet from the bluffs since erosion is particularly significant in that area. Setbacks can vary with the size of the lot, but property owners are not prohibited from applying to the town for a variance to allow a shallower setback if their land erodes.

Although many of these regulations regarding and preservation of land were not enacted explicitly for the purpose of coastal resilience, they have had that effect. A significant portion of

the land east of Amagansett is state park, and some of these sites were proposed for large-scale development at one time.