

JUL 15 2016.

"Whereas", a public hearing was duly held on the 15th day of July, 2016, for all interested persons to be heard in favor of or in opposition to a proposed local law entitled a LOCAL LAW amending Chapter 50 (Community Preservation) of the Town Code of the Town of Shelter Island, in relation to (1) extending the effective date of the Community Preservation Fund Real Estate Transfer Tax, imposed pursuant to Article 31-D of the State Tax Law, until December 31, 2050 and (2) authorizing the use of a portion of the Town Community Preservation Fund, not to exceed 20%, for water quality improvement projects, and

"Whereas", all interested persons were heard in favor of or in opposition, now, Therefore BE IT RESOLVED, That Local Law No. 1 - 2016 entitled a LOCAL LAW amending Chapter 50 (Community Preservation) of the Town Code, to wit:

Be it enacted by the Town Board of the Town of Shelter Island as follows:

Section 1. Chapter 50 (Community Preservation Fund) of the Town Code of the Town of Shelter Island is hereby amended by adding a new Article III to read as follows:

Article III

Water Quality Improvement

Section 50-30. Purpose.

A. The purpose of this Article shall be to implement the authority delegated by the State to the Town of Shelter Island pursuant to Chapter 551 of the Laws of 2015.

B. Specifically, this Article shall permit the Town to use up to 20% of the annual Community Preservation Fund revenues to undertake water quality improvement projects which would improve water quality. Projects which have as their primary purpose the accommodation of new growth as opposed to the remediation of water quality shall not qualify for funding under this section.

C. Such projects shall include (1) wastewater treatment improvement projects; (2) non-point source abatement and control program projects developed pursuant to Section Eleven-b of the Soil and Water Conservation Districts Law Title 14 of Article 17 of the Environmental Conservation Law, Section 1455b of the Federal Coastal Zone Management Act, or Article Forty-Two of the Executive Law; (3) aquatic habitat restoration projects; (4) pollution prevention projects; and (5) the operation of the Peconic Bay National Estuary Program as designated by the United States Environmental Protection Agency.

D. Such projects shall also include those undertaken by the Town through a watershed protection improvement district created pursuant to Article Twelve or Twelve-A of the Town Law.

E. No monies from the fund may be expended for a water quality improvement project by the Town unless such project has been certified by the Town Board.

Section 50-31. Definitions

As used in this Article, the following words and terms shall have the following meanings:

(a) "Water quality improvement project" means: (1) wastewater treatment improvement projects; (2) non-point source abatement and control program projects developed pursuant to Section Eleven-S of the Soil And Water Conservation Districts Law, Title 14 of Article 17 of the Environmental Conservation Law, Section 1455b of the Federal Coastal Zone Management Act, or Article Forty-Two of the Executive Law; (3) aquatic habitat restoration projects; (4) pollution prevention projects; and (5) the operation of the Peconic Bay National Estuary Program, as designated by the United States Environmental Protection Agency. Such projects shall have as their purpose the improvement of existing water quality to meet water quality standards as they

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exist at the time of project evaluation. Projects which have as a primary purpose to permit or accommodate new growth shall not be included within this definition.

(b) "Wastewater treatment improvement project" means the planning, design, construction, acquisition, enlargement, extension or alteration of a wastewater treatment facility, including alternative systems to a sewage treatment plant or traditional septic system to treat, neutralize, stabilize, eliminate or partially eliminate sewage or reduce pollutants in treatment facility effluent, including permanent or pilot demonstration wastewater treatment projects or equipment or furnishings thereof. An incentive or rebate program established by the Town Board for the upgrade of existing septic systems or cesspools with enhanced nitrogen reduction treatment systems to meet Suffolk County standards as established in 2016 or later shall constitute an eligible project within the definition of a wastewater treatment improvement project. Stormwater collecting systems and vessel pumpout stations shall also be included within the definition of a wastewater improvement project.

(c) "Aquatic habitat restoration project" means the planning, design, construction, management, maintenance, reconstruction, revitalization or rejuvenation activities intended to improve waters of the state of ecological significance or any part thereof, including, but not limited to ponds, bogs, wetlands, bays, sounds, streams, rivers, or lakes and shorelines thereof, to support a spawning, nursery, wintering, migratory, nesting, breeding, feeding, or foraging environment for fish and wildlife and other biota. The scientific basis for concluding that a proposed aquatic habitat restoration project will provide benefits to water quality and/or aquatic habitat shall be well-documented.

(d) "Pollution prevention project" means the planning, design, construction, improvement, maintenance or acquisition of facilities, production processes, equipment or buildings owned or operated by municipalities for the reduction, avoidance, or elimination of the use of toxic or hazardous substances or the generation of such substances or pollutants so as to reduce risks to public health or the environment, including changes in production processes or raw materials; such projects shall not include incineration, transfer from one medium of release or discharge to another medium, off-site or out-of-production recycling, end-of-pipe treatment or pollution control.

(e) "Stormwater collecting system" means systems of conduits and all other construction, devices, and appliances appurtenant thereto, designed and used to collect and carry stormwater and surface water, street wash, and other wash and drainage waters to a point source for treatment and discharge in a manner that results in a net reduction in adverse ecological impacts.

(f) "Vessel pumpout station" means a project for the planning, design, acquisition or construction of a permanent or portable device capable of removing human sewage from a marine holding tank.

(g) "Regional water quality improvement plan" means a water quality improvement plan adopted pursuant to state or federal law which has as its purpose the improvement of water quality in all or part of the Peconic Bay region, including but not limited to: (1) the comprehensive conservation and management plan (CCMP) for the Peconic Estuary Program pursuant to the National Estuary Program (P.L. 100-4) under the Clean Water Act (P.L. 92-500), (2) The Comprehensive Conservation And Management Plan (CCMP) for the Long Island Sound Estuary Program pursuant to The National Estuary Program (P.L. 100-4) under the Clean Water Act (P.L. 92-500), (3) the South Shore Estuary Reserve Comprehensive Management Plan pursuant to 46

of the Executive Law, and (4) the Long Island Nitrogen Management And Mitigation Plan pursuant to Chapter 53 of the Laws of 2015, including any amendments or updates to such plans. Section 50-32. Authority.

A. Pursuant to Chapter 551 of the Laws of 2015, the Town Board is hereby authorized to utilize revenues from the Community Preservation Fund to implement water quality improvement projects in accordance with a plan to preserve community character pursuant to Article III of this Chapter. A maximum of twenty (20) percent of the Fund receipts from the prior year may be utilized for the implementation of water quality projects; provided that where such water quality improvement funds are utilized for the operation of the Peconic Bay National Estuary Program, the use of such funds shall only be utilized to match federal, state, county, or other public or private funds on a dollar for dollar basis not to exceed ten (10) percent of the annual amount appropriated for water quality improvement projects.

B. A priority shall be given to wastewater treatment improvement projects.
Section 50-33. Community Preservation Fund Project Plan.

A. Preservation of community character shall include the protection and improvement of the quality of all water resources.

B. Before any revenues from the Community Preservation Fund may be spent on water quality improvement projects as defined in this Article, all such projects shall be approved by the Town Board as consistent with the Community Preservation Fund Water Quality Project Plan adopted pursuant to Section 64-e of the Town Law and this Chapter.

C. Said plan shall generally prioritize projects to be undertaken pursuant to this Article. In setting such priorities, the Town Board shall consider the most prevalent pollutants affecting water quality in the Town and which projects will maximize the removal of such pollutants in the most cost effective manner. The plan shall provide a detailed written elaboration of a mechanism for evaluating the cost benefits in setting such priorities.

D. The proposed water quality improvement project plan shall state how such projects would improve existing water quality.

E. The proposed water quality improvement project funds may be utilized for the planning, design, or implementation of a capital project with a probable useful life of at least five (5) years, pursuant to the state local finance law.

F. The proposed water quality improvement project should, if possible, be consistent with one or more regional water quality improvement plans.

G. Such project shall advance measurable water quality improvement for the Peconic Bay region. The Town may require monitoring for the purpose of calculating measurable results in connection with any project considered or funded hereunder, and such monitoring may be paid for by the fund.

H. Such project should, if possible, comply with specific existing or proposed state or regional water quality standards or targets.

I. In the case of aquatic habitat restoration projects, the project shall be supported by scientific studies showing the ways in which the project will successfully promote aquatic habitat restoration.

J. In the case of pollution prevention projects, the project shall be supported by documentation showing how the project will reduce, avoid, or eliminate the use, generation or discharge of toxic or hazardous substances.

K. Projects which have as their primary purpose the accommodation of new growth as opposed to the remediation of water quality shall not qualify for funding under this Article.

L. Project funding may not be used for the ordinary maintenance or repair of existing facilities.

Section 50-34. Certification.

In addition, no monies from the Community Preservation Fund shall be expended for a water quality improvement project by the Town, unless such project also has been certified by the Town Board, by resolution pursuant to this Article. In making such certification, the Town Board shall find as follows: (a) if the proposed water quality improvement project is for the planning, design, or implementation of a capital project, it shall have a probable useful life of at least five (5) years pursuant to the state local finance law, (b) the proposed water quality improvement project advances the articulated objectives of and is consistent with one or more regional water quality improvement plans, (c) such project advances measurable water quality improvement for the Peconic Bay region, (d) such project should, if possible, comply with applicable state or regional water quality standards or targets, (e) in the case of aquatic habitat restoration projects, the project is supported by scientific studies showing the ways in which the project will successfully promote aquatic habitat restoration, and (f) in the case of pollution prevention projects, the project will reduce, avoid, or eliminate the use, generation or discharge of toxic or hazardous substances, or nutrients. The Town Board shall not certify projects whose purpose shall be to accommodate new or additional growth.

Section 3. Transfer Tax Extended.

The real estate transfer tax implemented by Article II of Chapter 50 (Community Preservation Fund) pursuant to Article 31-D of the State Tax Law, is hereby extended until December 31, 2050.

Section 4. Mandatory Referendum.

The provisions of this local law are subject to mandatory referendum pursuant to Section 23 of the State Municipal Home Rule Law, as provided for by Section 3 of Chapter 551 of the Laws of 2015.

Section 5. Proposition.

Pursuant to Chapter 551 of the Laws of 2015 and Section 23 of the State Municipal Home Rule Law, the following proposition shall be placed before the electors of the Town of Shelter Island at the general election to be held on November 8, 2016:

"Shall a Local Law entitled "A LOCAL LAW amending Chapter 50 (Community Preservation Fund) of the Town Code of the Town of Shelter Island, (1) in relation to extending the effective date of the real estate transfer tax imposed to benefit the Town Community Preservation Fund until December 31, 2050 and (2) authorizing the use of a portion of such Town Community Preservation Fund, not to exceed 20% for water quality improvement projects" BE APPROVED?"

Section 6. Severability.

Should any section or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole or any part thereof other than that part so decided to be unconstitutional or invalid.

Section 6. Effective Date.

This local law shall take effect upon filing with the Secretary of State of the State of New York and approval by the electors of the Town of Shelter Island at the general election to be held on November 8, 2016.
