

AGENDA FOR TOWN BOARD MEETING TUESDAY, MAY 16<sup>th</sup>, 2023  
SUBJECT TO CHANGE

Supervisor call meeting to order at 6:00 P.M.

Salute to flag

Correspondence

Supervisor's Report

R - Set Waterways hearing

- William Herzog

- James Royer

R - Set Local Law hearing

- Outdoor Assembly

R - Appointments

- Donald D'Amato

- Kal Lewis

- Michael Chih

- Claudine Loria

- Michelle Donohue

R - Approve Outdoor Assembly Application

- Shelter Island 10K

R - Authorize Supervisor to sign agreements

- William McCoy

- Taylors Island

R - Authorize ETIPP application

R - Approve Moratorium SEQRA determination

R - Credit Funds

R - Budget Transfer

R - Pay bills

6:10 p.m. Public hearing on Dorothy Moorehead, mooring application

Town Clerk reads public notice

Report from the Waterways Management Advisory Council

Open hearing for all to be heard in favor of or in opposition

Close hearing

6:12 p.m. Public hearing on Richard Hogan, mooring application

Town Clerk reads public notice

Report from the Waterways Management Advisory Council

Open hearing for all to be heard in favor of or in opposition

Close hearing

6:14 p.m. Public hearing on George DeMan, mooring application

Town Clerk reads public notice

Report from the Waterways Management Advisory Council

Open hearing for all to be heard in favor of or in opposition

Close hearing

6:16 p.m. Public hearing on Robert Watt, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:18 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:20 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:22 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:24 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:26 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:28 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:30 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council

Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:32 p.m. Public hearing on Cape Pridwin Owner, LLC, mooring application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:34 p.m. Public hearing on Kristian Clark, dock application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:36 p.m. Public hearing on David Cohen, dock application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:38 p.m. Public hearing on Carine Maurer, dock application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:40 p.m. Public hearing on Scudder Cottages, c/o Rodney Scudder, dock and bulkhead application  
Town Clerk reads public notice  
Report from the Waterways Management Advisory Council  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:42 p.m. Public hearing on proposed Local Law entitled “A Local Law to repeal Town Code Chapter 8 entitled “Ethics Code of” in its entirety and replace same with a new Town Code Chapter 8 to be entitled “Ethics Code”  
Town Clerk reads public notice  
Open hearing for all to be heard in favor of or in opposition  
Close hearing

6:45 p.m. Public hearing on propose Local Law entitled “A Local Law amending Chapter 105 entitled “Rental of Real Property”, to eliminate owner occupied premises from being permitted as vacation rentals  
Town Clerk reads public notice  
Open hearing for all to be heard in favor of or in opposition

Close hearing

Reconvene hearing on Isar River Trust, 149 North Ram Island Road, Special Permit application  
Open for all to be heard in favor of or in opposition

Close hearing

Reconvene hearing on proposed Local Law entitled “A Local Law to impose a six-month moratorium on the processing and approval of special permits by the Town Board in connection with applications for one-family dwellings and accessory structures with a square foot living area greater than 5,999 square feet

Open for all to be heard in favor of or in opposition

Close hearing

Reconvene regular meeting

R - Act on 149 North Ram Island Road, special permit application

R - Act on Local Law re: Moratorium

R - Act on Dorothy Moorhead, mooring application

R - Act on Richard Hogan, mooring application

R - Act on George Deman, mooring application

R - Act on Robert Watt, mooring application

R - Act on Cape Pridwin Owner, LLC, mooring applications

R - Act on Kristian Clark, dock application

R - Act on David Cohen, dock application

R - Act on Carine Maurer, dock application

R - Act on Scudder Cottages, dock and bulkhead application

R - Act on Local Law re: Ethics Code

R - Act on Local Law re: Rental of Real Property

Open meeting to public

Motion to adjourn.

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WHEREAS, William Herzog, 5 Hillside Drive, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.06627° north and longitude -72.36325° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:10 p.m., prevailing time, on the 6<sup>th</sup> day of June, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

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WHEREAS, James Royer, 36 Peconic Avenue, has requested permission to perform a maintenance dredge as per DEC permit #1-4732-00187/00024, to dredge entrance to existing boat basin to a depth of -4’ mean low water, place approximately 150 c.y. of dredge spoil at the bulkhead landward of apparent high water and approximately 260 c.y. of dredge spoil upland,

now, Therefore

BE IT RESOLVED, that a public hearing shall be held at 6:12 p.m., prevailing time the 6<sup>th</sup> day of June, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be hear in favor of or in opposition to the proposed construction.

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BE IT RESOLVED, that the Town Board of the Town of Shelter Island hereby directs that a public hearing shall be held on Tuesday June 6<sup>th</sup>, 2023, at 6:14 p.m. to hear any and all persons either for or against a local law entitled “A LOCAL LAW amending Chapter 33, Entitled “Assemblies, Outdoor”, to Clarify when an Outdoor Assembly Permit is Required” of which provides as follows:

LOCAL LAW NO. \_ of 2023

A LOCAL LAW amending Chapter 33, Entitled “Assemblies, Outdoor”, to Clarify when an Outdoor Assembly Permit is Required.

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board finds that the section of the Town Code pertaining to whether an Outdoor Assembly Permit is required is vague and requires clarification to prevent confusion and clearly enumerate what events trigger the need for same.

Section 2. Amendment.

Section 33-2 of the Shelter Island Code Chapter 33-2(A), is hereby amended by deleting the stricken words and adding the underlined words as follows:

§33-2. Permit required; application.

~~A. No person, firm or corporation shall conduct any organized race, children's ride, adult ride, circus, carnival, tent show, music performance or fireworks display, whether on public or private property or Town waters, without an outdoor assembly permit. Additionally, any event involving Town services within the Town of Shelter Island, excluding the Village of Dering Harbor, requires an outdoor assembly permit from the Town Board of the Town of Shelter Island.~~

~~Additionally, at a Town-owned beach or park the following activities shall only be permitted under the terms and conditions of an outdoor assembly permit duly issued by the Town Board:~~

~~[Amended 9-7-2007 by L.L. No. 9-2007]~~

~~(1) Activities involving erection of a dance floor, arch, tent greater than 100 square feet, fence or other structure; or~~

~~(2) Private concerts, shows or dances; or~~

~~(3) Staging area for walkathons, marathons or bike races.~~

A. An outdoor assembly permit shall be required to conduct the following, whether on private or public property or town waters:

1. An organized race;

2. A fair;

3. A circus, carnival, or tent show;

- 4. A music performance;
- 5. A fireworks display;
- 6. Any event which would utilize Town services within the Town of Shelter Island;
- 7. Any event to be held at a Town beach, park, or facility which involves the erection of a:
  - a. Dance floor;
  - b. Arch;
  - c. Tent greater than 100 square feet;
  - d. Fence;
  - e. Any other structure; or
  - f. Provides a venue for private concerts, shows, or dances.
- 8. Any event where the applicant is requesting a noise exemption pursuant to Town Code Section 92-6. Section

7. Authority. The proposed local law is enacted pursuant to Municipal Home Rule Law §10.

Section 8. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 9. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish the following Notice of Public Hearing:

SUMMARY OF PROPOSED LAW

The purpose of this local law is to address the unclear section of the Town Code which dictates when an outdoor assembly permit is required.

WHEREAS, the term of Donald D’Amato as a member of the Green Options Committee expired on May 11<sup>th</sup>, 2023, and

WHEREAS, Mr. D’Amato has expressed willingness to continue to serve the Town in said capacity, now, therefore

BE IT RESOLVED, that Donald D’Amato is hereby reappointed to serve as a member of the Green Options Committee for a term to expire on May 11<sup>th</sup>, 2026.

BE IT RESOLVED, that Kal Lewis is hereby appointed as a FIT Aid for the year of 2023, at a rate of \$17/hour.

BE IT RESOLVED, that Michael Chih is hereby appointed to serve as a Provisional Code Enforcement Officer at the rate of \$65.00 per hour with a maximum of 15 hours per week to be under the direct supervision of the Town Attorney.

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BE IT RESOLVED, that Claudine Loria is hereby appointed to serve as Justice Court Clerk at the rate of \$65,000 per year, starting May 30<sup>th</sup>, 2023.

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BE IT RESOLVED, that Michelle Donohue is hereby appointed to serve as full time Cook for the Nutrition Program and Senior Services for the year of 2023, at the rate of \$45,000 per year, 30 hours per week.

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Councilwoman Barach Williams offered the following resolution which was seconded by Councilman Ianfolla, to wit:

WHEREAS, pursuant to Chapter 33 of the Shelter Island Town Code, the Shelter Island 10K Run Board has requested permission as per application, to hold the 10K Run and the 5K Run/Walk on Shelter Island on Saturday, June 17, 2023, from 10:00 A.M. to 9:00 P.M., at the Shelter Island American Legion Post and Shelter Island School, and

WHEREAS, the required fees of \$100.00 application fee and \$100.00 compliance fee have been submitted, and

WHEREAS, pursuant to Section 33-2 B (2), the Town Board has determined that the proposed Run and Walk will benefit the Town, and no fees will be required for Police and Highway costs associated with the event, and

WHEREAS, the Police Department has responded that they are prepared to assist with this event as they have done in the past, and

WHEREAS, the Superintendent of Highways responded that if there are any markings on the street, they must be washable, and any signage removed immediately after the race, and the Highway Department will coordinate any details with the racing committee, now, Therefore

BE IT RESOLVED, That the Town Board does hereby approve said event.

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BE IT RESOLVED, that the Board hereby ratifies an agreement with employee William McCoy.

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BE IT RESOLVED, that the Supervisor is hereby authorized and directed to execute the Hold Harmless Agreement between the Town of Shelter Island and Taylor's Island.

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WHEREAS, on May 9th, 2023, Tim Purtell, Chairman of the Green Options Committee appeared in front of the Town Board to propose an application to apply for Energy Transitions Initiative Partnership Project (ETIPP), and

WHEREAS, said project is a partnership between the National Renewable Energy Laboratory (NREL) and the U.S Department of Energy (DOE), and

WHEREAS, the partnership is to help island communities transform their energy

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system's and increase energy resilience, by receiving support from ETIPP experts in the form of technical assistance in energy analysis and planning, assistance identifying the communities needs and options to develop communities goals, and

WHEREAS, said project is not a grant nor will expend any cost from the town, now, therefore

BE IT RESOLVED, That the aforementioned request is hereby approved.

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WHEREAS, the Town Board is proposing the adoption of a local law entitled "A LOCAL LAW to impose a six-month moratorium on the processing and approval of special permits by the Town Board in connection with applications for one-family dwellings and accessory structures with a square foot living area of greater than 5,999 square feet"; and

WHEREAS, the Town Board finds there has been an increase in the number of requests for the construction of dwellings and accessory structures, or additions thereto, that are larger than what is permitted, as of right. Consequentially, the Town Board has determined that there must be an immediate suspension of the acceptance and review of all new and pending special permit applications for, dwelling units and accessory structures, with a square foot living area larger than 5,999 s.f., until the Town Board can properly and comprehensively evaluate the potential impacts of granting such special permits on community character, the environment, and the aquifer. The Town Board is currently in the midst of updating the Town's Comprehensive Plan and sound planning principles requires the maintaining of the status quo to afford the appropriate time necessary to enact any resultant amendments to the Zoning Code; and

WHEREAS, the proposed moratorium has been referred to the Suffolk County Planning Commission pursuant to General Municipal Law §239-m; and

WHEREAS, pursuant to 6 NYCRR §617.5(a), "Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part, except as otherwise provided in this section. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, Article 8. The actions identified in subdivision (c) of this section apply to all agencies."; and

WHEREAS, pursuant to 6 NYCRR §§617.5(c)(36), the "adoption of a moratorium on land development or construction" is a Type II action;

THEREFORE, BE IT RESOLVED, that the Town Board, after review of the proposed action, 6 NYCRR §617.5, hereby determines that the proposed project is a Type II Action pursuant to 6 NYCRR §§617.5 (c)(36) of the implementing regulations of the State Environmental Quality Review Act, and will, therefore, by definition, have no significant adverse impact on the environment.

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BE IT RESOLVED, the Supervisor is hereby authorized and directed to credit the sum of \$154.15 to the General Fund account for the unclaimed funds from the State of New York.

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BE IT RESOLVED, that the following budget transfers are hereby approved:  
\$10,835.84 from B1990.400 Part Town Contingent; and  
\$20,364.16 from B Fund balance to B8664.100 Code/Ordinance Enforcement.

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BE IT RESOLVED, That 2023 general claims numbered 671 through 824 in the amount of \$167,725.35, 2023 Highway claims numbered 73 through 89 in the amount of \$16,106.45; 2023 Community Preservation Fund claim numbered 7 in the amount of \$12.99, are hereby approved for payment as audited, and the Supervisor and/or any Town Board member is hereby authorized and directed to sign the approval for payment of same.

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### RESOLUTIONS AFTER PUBLIC HEARING

WHEREAS, on November 22, 2023, Isar River Trust, applied for a special permit from the Town Board pursuant to Section 133-10(F) for a one family dwelling with a SFLA of 6,000 s.f. or above as shown on a F. Michael Hemmer, LS, P.C survey dated February 28, 2022, and as shown in the Brandes Maselli Architects, LLC plans dated July 7, 2022; and

WHEREAS, the Applicant submitted the subject application to legalize a basement conversion of 2,528 s.f that was done by the prior owner, without the requisite approvals, which would bring the total square foot living area of the main house and the garage to 9,094 s.f, where only 5,999 s.f. is permitted without a special permit; and

WHEREAS, there the subject application will not cause any increase to the footprint of the main house; and

WHEREAS, the subject property is a 2.021 acre waterfront vacant lot located at 149 North Ram Island Road, Shelter Island (S.C.T.M. #700-10-1-14) and is located within the "AA" Residential Zoning District; and

WHEREAS, the proposed dwelling does not require any other dimensional zoning relief, nor wetlands relief; and

WHEREAS, the Planning Board issued a report on January 30, 2023, recommending conditional approval; and

WHEREAS, a public hearing was conducted on January 10, 2023 and May 16, 2023;

WHEREAS, the Town Board has reviewed the applicable criteria of Section 133-35 and has found that the installation of an I/A system by the applicant will serve as a factor in mitigating the requested increase in SFLA; and now, therefore

BE IT RESOLVED, that in accordance with the above, and the record, that the special permit for SFLA of 9,094 s.f. is granted, as shown on the F. Michael Hemmer, LS, P.C survey dated February 28, 2022, and as shown in the Brandes Maselli Architects, LLC plans dated July 7, 2022, subject to the following conditions:

1. The subject survey and building department drawings shall be amended to reflect the approved 9,094 s.f. of SFLA;
  2. The building permit fee of \$32, 495.00 (which includes the requisite penalty) shall be paid; and
  3. A certificate of occupancy shall not be issued until the above conditions are completed.
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WHEREAS, a public hearing was held on Tuesday, May 16<sup>th</sup>, 2023, to hear any and all persons either for or against a Local entitled “A LOCAL LAW to impose a six-month moratorium on the processing and approval of special permits by the Town Board in connection with applications for one-family dwellings and accessory structures with a square foot living area of greater than 5,999 square feet” which provides as follows:

LOCAL LAW NO. 5 of 2023

A LOCAL LAW entitled “A LOCAL LAW to impose a six-month moratorium on the processing and approval of special permits by the Town Board in connection with applications for one-family dwellings and accessory structures with a square foot living area of greater than 5,999 square feet” which provides as follows:

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board finds there has been an increase in the number of requests for the construction of dwellings and accessory structures, or additions thereto, that are larger than what is permitted, as of right. Consequentially, the Town Board has determined that there must be an immediate suspension of the acceptance and review of all new and pending special permit applications for, dwelling units and accessory structures, with a square foot living area larger than 5,999 s.f., until the Town Board can properly and comprehensively evaluate the potential impacts of granting such special permits on community character, the environment, and the aquifer. The Town Board is currently in the midst of updating the Town’s Comprehensive Plan and sound planning principles require the maintaining of the status quo to afford the appropriate time necessary to enact any resultant amendments to the Zoning Code.

Section 2. Moratorium Imposed.

For the period of six (6) months immediately following the effective date of this local law, there is hereby imposed a moratorium on all applications for a special permit, from the Town Board, for the construction of, or alteration to an existing dwelling or accessory structure, that exceeds 5,999 s.f. of combined square foot living area located within the Town of Shelter Island and that no approvals, permits, actions, or decisions shall be made or issued by any Board or official of the Town of Shelter Island with respect to any such applications. This moratorium shall apply to all such applications, whether pending or received prior to the effective date of this law. No applications for special permits for square foot living area in excess of 5,999 s.f. shall be accepted by any Board, body, committee, official, or employee of the Town of Shelter Island while this law remains in effect.

Section 3. Effect of Moratorium.

Upon the effective date of this local law, no Board, body, committee, official, or employee of the Town of Shelter Island, shall accept for review, continue to review, hold a hearing upon, make any decisions upon, or issue any permit or approval upon any application or proposal for any construction of, or alteration of an existing dwelling or accessory structure, that exceeds 5,999 s.f. of combined square foot living area located within the Town of Shelter Island. Any statutory or locally enacted time periods for processing and making decisions on all aspects of such applications are hereby suspended and stayed while this Local Law is in effect. No person, corporation, or other entity shall undertake any site preparation, including but not limited to

clearing, grading, and filling, or construction activities, with respect to any construction of, or alteration of an existing dwelling or accessory structure, that exceeds 5,999 s.f. of combined square foot living area.

#### Section 4. Penalties.

A. Failure to comply with any provision of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00) or imprisonment for not more than thirty (30) days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) or imprisonment for a period of not more than forty-five (45) days, or both. For purposes of this section, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled, and violations restrained by an order or by injection of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.

C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the Court. If such expense is not paid in full within thirty (30) days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

#### Section 5. Variance.

Any person or entity suffering unnecessary hardship as that term is used and construed in New York State Town Law section 267-b(2)(b), by reason of the enactment of this moratorium may apply to the Town Board for a variance excepting the person's or entity's premises from the moratorium and allowing the issuance of a permit all in accordance with the provisions of Shelter Island Town Code applicable to such construction.

#### Section 6. Authority.

The proposed local law is enacted pursuant to the New York State Constitution Article IX and Municipal Home Rule Law §10.

#### Section 7. Supersession.

To the extent that any provisions of this Local Law are construed as inconsistent with the provisions of New York State Town Law Sections 264, 265, 265-a, 267, 267-a, 267-b, 274-a, 274-b, and 276, this Local Law is intended pursuant to New York State Municipal Home Rule Law sections 10(1)(ii)(d)(3) and section 22 to supersede any said inconsistent authority.

#### Section 8. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 9. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

**SUMMARY OF PROPOSED LAW**

The purpose of this law is to temporarily suspend the acceptance and processing of special permit applications for larger homes with a square foot living area that exceeds 5,999 s.f. until the comprehensive plan is updated so as to ensure that such homes are currently in keeping with the community character and do not create excessive environmental harm.

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WHEREAS, Dorothy Moorehead, 33 St. Mary's Road has petitioned the Town of Shelter Island for permission to install a mooring in Coecles Harbor at a location designated as latitude 41.086831° north and longitude -72.311946° west, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, now, Therefore

BE IT RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned installation at a location designated as latitude 41.074469° north and longitude -72.315825° west, per WMAC recommendation.

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WHEREAS, Richard Hogan, 1 Shorewood Court, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.043322° north and longitude -72.325903° west, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, now, Therefore

BE IT RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned installation.

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WHEREAS, George DeMan, 4 Summerfield place has petitioned the Town of Shelter Island for permission to install a stake, mooring and pulley system at a location designated as latitude 41.087696° north and longitude -72.35676° west, and

WHEREAS, said request is a relocation of current mooring O-3498, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, now, Therefore

BE IT RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned installation.

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WHEREAS, Robert Watt, 56 Ram Island Drive, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.072879° north and longitude 72.282324° west, now, Therefore, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, now, Therefore

BE IT RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned installation at a location designated as latitude 41.073235° north and longitude -72.282135° west, per WMAC recommendation.

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WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install (8) moorings at a locations designated as latitude 41.070988° north and longitude -72.375806° west; latitude 41.071054° north and longitude -72.375439° west; latitude 41.071149° north and longitude -72.375083° west; latitude 41.071233° north and longitude -72.374743° west; latitude 41.071319° north and longitude -72.374388° west; latitude 41.071242° north and longitude -72.375699° west; latitude 41.071337° north and longitude -72.375352° west; latitude 41.071429° north and longitude -72.374996° west; and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, and

WHEREAS, applicant must surrender any prior issued moorings, now, therefore

BE IT RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned installation, subject to the following specific rules and regulations:

- 1) No boats over 50' on any mooring
- 2) No overnight occupancy of any moored or docked boat
- 3) No daytime occupancy of any moored or docked boat, other than for purposes of arrival and departure; private crew may remain on a boat, subject to #3 below
- 4) No running of engines {beyond minimum requirements), audio systems while moored or docked
- 5) No more than 16 boats may be moored or docked at any one time (expectations are for up to 6-12 boats on an average day)
- 6) Pridwin will strive at all times to operate moorings and dockage in a manner that is both safe and respectful of neighbors.

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WHEREAS, Kristian Clark, 56 N. Cartwright Road, has petitioned the Town of Shelter Island for permission to construct stairs leading up to a new 4' x 101' fixed dock with a 4' x 30' fixed "L", -16" lower than dock, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, and

**WHEREAS, the WMAC has made the following recommendations:**

- 1. Dock shall require a 12' beam restriction**
- 2. Boat shall not sit on the bay bottom; now, therefore**

BE IT RESOLVED, That pursuant to Part 617, Section 617.10 of the State Environmental Quality Review Act and Chapter 60 of the Code of the Town of Shelter Island, notice is hereby given that the Town Board, as lead agency, has determined that the project will not have a significant effect on the environment, and a Draft Environmental Impact Statement will not be prepared.

Environmental Review Status pursuant to Chapter 60 of the Town Code of the Town of Shelter Island: Type II.

Reasons supporting this determination: The proposed dock:

1. will not cause an obstruction into navigable channels or an interference with navigation;

2. will not adversely affect the public's right to use Town waters or land under Town waters;
3. will not adversely affect shellfishing grounds or other aquatic wildlife which may exist in the immediate area;
4. will not adversely affect the quality of the tidal waters, shoreline or beaches;
5. will not adversely affect the rights of adjacent residents; and

BE IT FURTHER RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned construction as per specifications filed, after said applicant, pursuant to Section 53-9 of the Code of the Town of Shelter Island, has filed with the Town Clerk a certificate that the owner has at least three hundred thousand (\$300,000.00) dollars liability insurance on the location and operations covered by said permit, a copy of the contractor's current Home Improvement Contractor's License and a certificate from the contractor performing the operations covered by said permit that said contractor has an owner's/contractor's policy issued in favor of the Town of Shelter Island for the liability limits of at least five hundred thousand (\$500,000.00) dollars covering operations of the contractor pursuant to said permit, and

BE IT FURTHER RESOLVED, That said operations shall be completed within one (1) year from the date of issuance of this permit; said permit is subject to the recommended limitations and any requirements that may be necessary under the New York State Department of Environmental Conservation, the Army Corps of Engineers, and any other agencies having jurisdiction.

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WHEREAS, David Cohen, 62 Westmoreland Drive, has petitioned the Town of Shelter Island for permission to construct a 4' x 10' ramp leading up to a 4' x 89' catwalk to stairs leading down to bottom, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, and

**WHEREAS, the WMAC has made the following recommendation:**

1. based on the shallow water, no boat shall be kept on dock; now, therefore

BE IT RESOLVED, That pursuant to Part 617, Section 617.10 of the State Environmental Quality Review Act and Chapter 60 of the Code of the Town of Shelter Island, notice is hereby given that the Town Board, as lead agency, has determined that the project will not have a significant effect on the environment, and a Draft Environmental Impact Statement will not be prepared.

Environmental Review Status pursuant to Chapter 60 of the Town Code of the Town of Shelter Island: Type II.

Reasons supporting this determination: The proposed dock:

1. will not cause an obstruction into navigable channels or an interference with navigation;
2. will not adversely affect the public's right to use Town waters or land under Town waters;
3. will not adversely affect shellfishing grounds or other aquatic wildlife which may exist in the immediate area;
4. will not adversely affect the quality of the tidal waters, shoreline or beaches;
5. will not adversely affect the rights of adjacent residents; and

BE IT FURTHER RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned construction as per specifications filed, after said applicant, pursuant to Section 53-9 of the Code of the Town of Shelter Island, has filed with the Town Clerk a certificate that the owner has at least three hundred thousand (\$300,000.00) dollars liability insurance on the location and operations covered by said permit, a copy of the contractor's current Home Improvement Contractor's License and a certificate from the contractor performing the operations covered by said permit that said contractor has an owner's/contractor's policy issued in favor of the Town of Shelter Island for the liability limits of at least five hundred thousand (\$500,000.00) dollars covering operations of the contractor pursuant to said permit, and

BE IT FURTHER RESOLVED, That said operations shall be completed within one (1) year from the date of issuance of this permit; said permit is subject to the recommended limitations and any requirements that may be necessary under the New York State Department of Environmental Conservation, the Army Corps of Engineers, and any other agencies having jurisdiction.

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WHEREAS, Carine Maurer, 7 Dickerson Drive, has petitioned the Town of Shelter Island for permission to construct a 4' x 60' ramp down to a 4' x 70' catwalk and install 3 ladders at seaward end, and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, and

**WHEREAS, the WMAC has made the following recommendation:**

**1. Boat shall not sit on the bay bottom; now, therefore**

BE IT RESOLVED, That pursuant to Part 617, Section 617.10 of the State Environmental Quality Review Act and Chapter 60 of the Code of the Town of Shelter Island, notice is hereby given that the Town Board, as lead agency, has determined that the project will not have a significant effect on the environment, and a Draft Environmental Impact Statement will not be prepared.

Environmental Review Status pursuant to Chapter 60 of the Town Code of the Town of Shelter Island: Type II.

Reasons supporting this determination: The proposed dock:

1. will not cause an obstruction into navigable channels or an interference with navigation;
2. will not adversely affect the public's right to use Town waters or land under Town waters;
3. will not adversely affect shellfishing grounds or other aquatic wildlife which may exist in the immediate area;
4. will not adversely affect the quality of the tidal waters, shoreline or beaches;
5. will not adversely affect the rights of adjacent residents; and

BE IT FURTHER RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned construction as per specifications filed, after said applicant, pursuant to Section 53-9 of the Code of the Town of Shelter Island, has filed with the Town Clerk a certificate that the owner has at least three hundred thousand (\$300,000.00) dollars liability insurance on the location and operations covered by said permit, a copy of the contractor's current Home Improvement Contractor's License and a certificate from the contractor performing the operations covered by said permit that said contractor has an

owner's/contractor's policy issued in favor of the Town of Shelter Island for the liability limits of at least five hundred thousand (\$500,000.00) dollars covering operations of the contractor pursuant to said permit, and

BE IT FURTHER RESOLVED, That said operations shall be completed within one (1) year from the date of issuance of this permit; said permit is subject to the recommended limitations and any requirements that may be necessary under the New York State Department of Environmental Conservation, the Army Corps of Engineers, and any other agencies having jurisdiction.

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WHEREAS, Scudder Cottages, C/O Rodney Scudder, 34 Prospect Avenue, has petitioned the Town of Shelter Island for permission to remove 43' of existing bulkhead & 12' existing return. Construct 43' of new bulkhead & 12' return, in-kind in-place. Remove 36' of existing jetty & construct 42' of jetty, in-place. Remove 46' of existing jetty & construct 52' of jetty, in-place. Dredge 42' x 140' area from inlet to basin to -4.0' below MLW, removing approximately 1,000 cubic yards of soil. Dredge soil to be used as backfill landward of bulkhead. Remainder of soil to be used as fill in eroded areas as noted on site plan. Install 3' x 12' seasonal aluminum ramp onto 6' x 20' seasonal floating dock secured by (4) 10" diameter anchor piling. Remove existing 4' x 85' fixed dock. Construct a 5' x 100' from MHW fixed dock with 4' wide cross – over stairway to beach at inshore end. Install (4) 2-pile mooring dolphins at offshore end. Install two ladders. Provide for water & electric service to offshore end , and

WHEREAS, a public hearing was duly held on the 16<sup>th</sup> day of May, 2023, for all interested persons to be heard in favor of or in opposition, now, Therefore

BE IT RESOLVED, That pursuant to Part 617, Section 617.10 of the State Environmental Quality Review Act and Chapter 60 of the Code of the Town of Shelter Island, notice is hereby given that the Town Board, as lead agency, has determined that the project will not have a significant effect on the environment, and a Draft Environmental Impact Statement will not be prepared.

Environmental Review Status pursuant to Chapter 60 of the Town Code of the Town of Shelter Island: Type II.

Reasons supporting this determination: The proposed dock and bulkhead:

1. will not cause an obstruction into navigable channels or an interference with navigation;
2. will not adversely affect the public's right to use Town waters or land under Town waters;
3. will not adversely affect shellfishing grounds or other aquatic wildlife which may exist in the immediate area;
4. will not adversely affect the quality of the tidal waters, shoreline or beaches;
5. will not adversely affect the rights of adjacent residents; and

BE IT FURTHER RESOLVED, That the Town Clerk is hereby authorized to issue a permit for the aforementioned construction as per specifications filed, after said applicant, pursuant to Section 53-9 of the Code of the Town of Shelter Island, has filed with the Town Clerk a certificate that the owner has at least three hundred thousand (\$300,000.00) dollars liability insurance on the location and operations covered by said permit, a copy of the contractor's current Home Improvement Contractor's License and a certificate from the contractor performing the operations covered by said permit that said contractor has an owner's/contractor's policy issued in favor of the Town of Shelter Island for the liability limits of



at least five hundred thousand (\$500,000.00) dollars covering operations of the contractor pursuant to said permit, and

BE IT FURTHER RESOLVED, That said operations shall be completed within one (1) year from the date of issuance of this permit; said permit is subject to the recommended limitations and any requirements that may be necessary under the New York State Department of Environmental Conservation, the Army Corps of Engineers, and any other agencies having jurisdiction.

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WHEREAS, a public hearing was held on Tuesday, May 16<sup>th</sup>, 2023, to hear any and all persons either for or against a Local entitled “A Local Law to repeal Town Code Chapter 8 entitled “Ethics Code of” in its entirety and replace same with a new Town Code Chapter 8 to be entitled “Ethics Code”.

*PREAMBLE*

*1. Individuals working on behalf of the Town of Shelter Island (“the Town”) are public servants who are expected to perform their duties in the best interests of the Town. They may, however, encounter a situation in which what is best for the Town may be different from their own personal best interest. In such a case, there is a “conflict of interest.”*

*2. New York State’s General Municipal Law, Article 18 contains provisions prohibiting certain conflicts of interest of municipal officers and employees. The rules of that law apply to all Town employees, which include officers or employees, paid or unpaid. In brief:*

*§ 801 prohibits conflicts of interest in the context of contracts between the Town and one of its employees. Contracts that violate the statute may be void (§ 804), and the offending employee may be charged with a misdemeanor. Exceptions exist (§ 802) and the term “employee” is broadly defined to include family members and certain related private organizations.*

*§ 803 requires potential conflicts of interest to be disclosed.*

*§ 805-a also prohibits Town employees from:*

- Soliciting gifts in connection with their Town employment.*
- Disclosing confidential information acquired in connection with their Town employment.*
- Entering into certain compensation agreements that may create a conflict of interest.*

*Town employees should familiarize themselves with Article 18. The law itself is posted in Town Hall, and the law and the Comptroller's description of it can be found on the Town’s website under the Board of Ethics.*

*3. Article 18 is not a comprehensive statute. Section 806 leaves to each municipality the task of adopting a code of ethics “setting forth for the guidance of its officers and*

*employees the standards of conduct reasonably expected of them.” These codes cannot limit the reach of Article 18, but they may increase it. Section 806 requires that the Town’s Code specifically address certain issues, including disclosure of interests that an employee may have in legislation, holding certain investments or undertaking certain employment. It also authorizes the Town to address other potential ethical issues beyond those included in Article 18. It also authorizes the Town to establish a board of ethics, consisting of members who receive no compensation and administer the ethics code.*

*4. The Town of Shelter Island currently has a Code of Ethics that was adopted in 1970, which is implemented through the Town’s Board of Ethics. The current Code, however, does not fully comply with Article 18 and is in need of an update. The Shelter Island Town Board has asked the Board of Ethics to revise and clarify the Code, in the interest of protecting the Town from unethical activity and providing its employees with clear guidance in performing their duties.*

*RESOLVED, that the Town of Shelter Island hereby adopts a code of ethics to read as follows:*

## **Chapter 8**

### **Code of Ethics**

#### **ARTICLE 1 Standards of Conduct**

##### **§ 8-1. Purpose.**

Officers and employees of the Town of Shelter Island hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. Clear standards will also protect ethical public officials and rebut unfair allegations. This Code of ethics establishes those standards.

##### **§ 8-2. Definitions.**

ARTICLE 18- New York State’s General Municipal Law, Article 18.

BOARD- The Town Board and any other administrative board, committee, or other agency or body comprised of two or more Town officers or employees.

CODE- This Code of Ethics.

FINANCIAL BENEFIT- Anything of value, whether in the form of money, property, services, loan, travel, entertainment, hospitality, or promise, or any other form. The benefit can be direct or indirect but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Town or an area of the Town, or a lawful class of such residents or taxpayers.

HOUSEHOLD- Those persons residing within the same dwelling unit.

INTEREST IN A CONTRACT- A Town officer or employee has an interest in a contract when they, their spouse, minor child, dependent, or corporation in which the Town employee is an owner, officer or employee, would secure a financial benefit under the contract.

INTEREST IN A PRIVATE ORGANIZATION- A Town officer or employee is deemed to have an interest in any private organization when they, their spouse, or a relative, is an owner, partner, member, director, officer, employee, or directly or, in the case of a corporation, indirectly owns or controls more than 5% of the corporation's outstanding stock.

OFFICER or EMPLOYEE- Any Town employee whether paid or unpaid, whether serving full-time, part-time or in an advisory capacity.

RELATIVE- A spouse, brother, sister, parent, child, grandchild, or the spouse of any of them, or a household member of an officer or employee.

TOWN- The Town of Shelter Island.

### **§ 8-3. Applicability**

This Code applies to the officers and employees of the Town and shall supersede any prior Town code of ethics. The provisions of this Code shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 and all rules, regulations, policies and procedures of the Town.

### **§ 8-4. Prohibition on use of Town position for personal or private gain.**

No officer or employee shall use their Town position or official powers and duties to secure a financial benefit for themselves, a relative, or any private organization in which the employee is deemed to have an interest.

### **§ 8-5. Disclosure of interest in legislation and other matters where discretion is used.**

A. Whenever a matter requiring the exercise of discretion, including proposed legislation, comes before an officer or employee, either individually or as a member of a board or committee, and disposition of the matter could result in a financial benefit to the officer or employee, a relative of theirs, or any private organization in which they are deemed to have an interest, the officer or employee shall disclose in writing the nature of the financial benefit.

B. The disclosure shall be made when the matter requiring disclosure first comes before the officer or employee, or when the officer or employee first acquires knowledge of the benefit requiring disclosure, whichever is earlier.

C. In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board and the Board of Ethics. In all other cases, the disclosure shall be filed with the Board of Ethics and that person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the officer, employee or board having the power to appoint the person's position. In addition, in the case of a person serving on a board, a copy of the disclosure shall be filed with said board and included in the minutes of the board's meeting.

**§ 8-6. Recusal and abstention.**

No officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including proposed legislation, when they know or have reason to know that the action could confer a financial benefit on the employee, a relative, or any private organization in which the employee is deemed to have an interest. Further, once recused, that person may not be in the room (or appear via videoconferencing) when the matter is being discussed, voted on, nor participate in any discussions or communications including e-mail or text regarding it.

**§ 8-7. Prohibition inapplicable; disclosure, recusal and abstention not required.**

This Code's prohibition on use of a Town position (§ 8-4), disclosure requirements (§ 8-5), and requirements relating to recusal and abstention (§ 8-6), shall not apply with respect to the following matters:

A. adoption of the Town's annual budget;

B. any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

- (1) all officers or employees;
- (2) all residents or taxpayers of the Town; or
- (3) the general public; or

C. any matter that does not require the exercise of discretion.

**§ 8-8. Investments in conflict with official duties.**

A. No officer or employee may acquire the following investments:

- (1) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 8-6 of the Code; or
- (2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of their official powers and duties.

B. This section does not prohibit a Town officer or employee from acquiring any other investments or the following assets:

- (1) less than five percent of the stock of a publicly traded corporation, or
- (2) bonds or notes issued by the Town and acquired more than one year after the date on which they were originally issued.

**§ 8-9. Private employment in conflict with official duties.**

A. No officer or employee, during their tenure as an officer or employee, may engage in any private employment that may be in substantial conflict with the proper discharge of their duties, when:

- (1) it can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 8-6 of the Code, or
- (2) it can be expected to require disclosure or use of confidential information gained by reason of serving as an officer or employee, or
- (3) it requires representation of a person or organization other than the Town in connection with litigation, negotiations, or any other matter to which the Town is a party.

B. No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board of which the officer or employee is a member, or has the power to appoint any member, nor for compensation for services to be rendered in relation to any matter before any agency of the Town whereby compensation is to be dependent or contingent upon any action by such agency with respect to such matter.

C. No officer or employed shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board, if the compensation is dependent or contingent upon any action by such board or committee with respect to such matter. This paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

**§ 8-10. Future employment.**

A. No officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.

B. No officer or employee, for the one-year period after serving as an officer or employee, may represent or render services to a private person or organization in

connection with any matter involving the exercise of discretion before the Town office, board, department or comparable organizational unit for which they served.

c. No Town officer or employee, at any time after serving as an officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which the employee personally and substantially participated while serving as a Town officer or employee.

### **§ 8-11. Personal representations and claims permitted.**

The Code shall not be construed as prohibiting an officer or employee from representing themselves, or their spouse or minor children before the Town; or asserting a claim against the Town on their own behalf, or on behalf of their spouse or minor children.

### **§ 8-12. Use of Town resources.**

Town resources shall be used for lawful Town purposes.

A. No officer or employee may use or permit the use of Town resources for personal or private purposes. Town resources include, but are not limited to, Town personnel, and the Town's money, vehicles, equipment, materials, supplies or other property. Provided, this provision shall not be construed as prohibiting:

- (1) any use of Town resources authorized by law or Town policy;
- (2) the use of Town resources for personal or private purposes when provided to a Town officer or employee as part of their compensation; or
- (3) the occasional and incidental use during the business day of Town telephones and computers for necessary personal matters such as family care and changes in work schedule.

B. No officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

### **§ 8-13. Interests in Contracts.**

A. Article 18 requires no officer or employee may have an interest in a contract with the Town when such officer or employee, individually or as a member of a board, has the power or duty to:

- (1) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
- (2) audit bills or claims under the contracts, or
- (3) appoint an officer or employee who has any of the powers or duties set forth above.

B. Exceptions to this prohibition are detailed in Article 18, Section 802. These include an exception for contracts entered into prior to the time a Town employee was elected or appointed, and an exception for contracts which in the aggregate do not exceed \$750 in a fiscal year

C. Every officer and employee shall disclose interests in contracts with the Town at the time and in the manner as follows: Any Town officer or employee or their spouse, minor child or dependent, who has, will have, or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the Town, shall publicly disclose the nature and extent of such interest in writing to their immediate supervisor, or if a member of a Board to said board, and to the Board of Ethics as soon as the employee has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body. Disclosure and recusal do not cure a prohibited interest.

#### **§ 8-14. Political Solicitations.**

A. No officer or employee shall directly or indirectly compel or induce a subordinate Town officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

B. No officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any Town officer or employee, or an applicant for a position as a Town officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

#### **§ 8-15. Confidential Information.**

No officer or employee who acquires confidential information in the course of exercising or performing their official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing their official powers and duties.

#### **§ 8-16. Gifts.**

No Town officer or employee shall directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more, whether in the form of money, property, service, loan, travel, entertainment, hospitality, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action on his their part;

**§ 8-17. Disclosure in certain applications.**

A. Section 809 of Article 18 imposes strict disclosure requirements on persons applying for variances, exemptions, and other approvals from local planning and zoning regulations. In general, it provides that the applicant must identify any local officer or employee who has an interest in the application. As applied to Shelter Island, every applicant for a variance, land-use amendment, change of zoning, or approval of subdivision map from the Town Board, Zoning Board of Appeals, Planning Board, Town Clerk or Building Department must disclose information pertaining to any interest that a Town officer or employee, their spouse, parents, siblings, children, grandchildren (or the spouses of any of them) may have in the application.

**Section 809 (5) provides that one who knowingly and intentionally violates this disclosure requirement shall be guilty of a misdemeanor.**

**ARTICLE 2 Administration**

**§ 8-18. Board of Ethics.**

A. Article 18, § 808 permits the creation of a Town Board of Ethics (also referred to as “Ethics Board”). This Code hereby authorizes the creation of such a board. The Town Board believes that an independent Ethics Board will assure the public interest in applying this Code without bias or favoritism.

B. The Board of Ethics shall consist of five members, all of whom reside in the Town of Shelter Island and who shall serve without compensation, to be appointed by the Town Board for staggered five- year terms. A majority of such members shall be persons other than Town employees, but the Board shall include at least one member who is a Town employee.

c. Conditions of Board of Ethics membership.

(1) No person may be appointed as a member of the Ethics Board who is a current elected Town officer; or an officer of any local, county or state political party, association, club or independent political committee subject to regulations of the state election law; or a campaign manager, consultant or treasurer for a political party committee or individual election campaign committee or has served in such political capacity during the past twenty-four months.

(2) An Ethics Board member shall promptly resign if entering a campaign race as a candidate for public office; or as a campaign manager, consultant, or treasurer for a political party committee or individual election campaign committee; or when recusal has become prevalent for such individual for matters before the Board of Ethics.

(3) An Ethics Board member may be removed for cause by the Town Board upon any of the following grounds:



- a. Failure to meet the qualifications set forth in § 8-19 of this chapter; or
- b. Substantial neglect of duty; or
- c. Gross misconduct in office; or
- d. Inability to discharge the powers or duties of office; or
- e. A violation of this chapter.

D. The Ethics Board shall have the following substantive authority:

- (1) Town officers and employees may request advice from the Ethics Board concerning their personal compliance with this Code of Ethics. In response to such a request, and after due consideration, the Ethics Board shall issue a confidential advisory opinion to the requesting party.
- (2) In the event any person believes in good faith that a Town employee or officer is engaged in activity that violates this Code, they may file a complaint with the Board of Ethics. The Board of Ethics will investigate such a complaint and issue an opinion on the complaint if it believes there is probable cause of a Code violation. In the absence of such, it will dismiss the complaint.
- (3) The Board of Ethics may act on its own motion to initiate an investigation into an employee's alleged violation of this Code.
- (4) Upon the written request of the Town Board, of a Town officer or employee, or of any contracting party, the Ethics Board shall investigate and provide to the Town Board a written report and recommendation concerning any Town contract or agreement that may be void pursuant to Article 18, Section 804. Additionally, the Ethics Board may, in its discretion, undertake such an investigation upon its own initiative, in which case it may present a report and recommendation to the Town Board.

### **§ 8-19. Investigations.**

A. Upon receipt of a written complaint alleging a violation of this Code or upon determining on its own initiative that a violation of the Code may exist, the Ethics Board shall have the power and duty to conduct with reasonable promptness any investigation necessary to carry out the provisions of this Code. Written complaints must include the name of the individual complainant. Upon request, the name of a complainant may be kept confidential. If the Board determines that a complaint is frivolous on its face or the alleged violation would be *de minimis*, it may dismiss it without further investigation.

B. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, compel attendance of witnesses, and require the production of any books or records that it may deem relevant and material. The Ethics Board shall make a reasonable effort to obtain voluntary cooperation prior to exercising or enforcing their right to compel testimony. Further, the Ethics Board shall take steps to ensure that every individual's right to due process is protected.

c. Any person filing a complaint with the Ethics Board, and every person who is alleged in such a complaint to violate this Code, shall be notified in writing of the disposition of the complaint.

d. Nothing in this section shall be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Ethics Board or any of its members or staff has violated any provision of this Code, or any other law, the Ethics Board shall promptly transmit to the Town Board a copy of the complaint.

### **§ 8-20. Administration and reporting.**

The Board of Ethics shall have the following administrative duties:

A. To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this Code.

B. To review, index, maintain on file, and dispose of complaints alleging violations of this Code and to make notifications and conduct investigations. The Board of Ethics shall have the confidential advice of legal counsel employed by the Town or outside counsel and the services of a confidential clerk employed by the Town to keep minutes and files.

C. To forward its opinions responding to complaints or opinions on its own motion to the Town Board with any recommendations for disciplinary actions and penalties.

D. To make public on the Ethics Board website its opinions in a brief summary form that removes all personal identifying information.

E. To prepare an annual report to the Town Supervisor and Town Board, summarizing the activities of the Ethics Board. The report may also recommend changes to the text or administration of this Code. The Ethics Board shall periodically review this Code and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear and enforceable common sense standards of conduct.

### **§ 8-21. Penalties.**

#### **A. Disciplinary action.**

Any officer or employee who engages in any action that violates any provision of this chapter may be warned, reprimanded, suspended, or removed from office or employment, and may be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand,

suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

**B. Civil fine.**

Any person who violates any provision of this chapter may be subject to a civil fine not to exceed \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture. A fine may only be imposed by the Town Board, subject to a hearing and any applicable provisions of law and collective bargaining agreements, or appropriate court of law.

**C. Damages.**

**(1)**

Any person who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture.

**(2)**

A finding of damages may only be made by the Town Board or an appropriate court of law.

**D. Civil forfeiture.**

**(1)**

Any person who intentionally or knowingly violates any provision of this chapter may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil fine pursuant to § 8-21B or damages pursuant to § 8-21C. Treble damages and/or civil forfeiture may only be imposed by the Town Board or a court of appropriate authority.

**(2)**

The Town Board may initiate an action or special proceeding, as appropriate, in a court of appropriate jurisdiction to obtain civil forfeiture, pursuant to this section.

**E. Misdemeanor.**

Any Town officer or employer who intentionally violates any provision of § 8-13 shall be guilty of a Class A misdemeanor and, upon conviction thereof, shall forfeit his or her Town office or employment, subject to any applicable provisions of law and collective bargaining agreements.

**F. Prosecutions.**

The Town Board may refer any information that it receives concerning a possible criminal violation to the appropriate prosecutor or other law enforcement agency. Nothing contained in this chapter shall be construed to restrict the authority of any prosecutor to prosecute any violation of this chapter or of any other law.

**G. Limit on Ethics Board.**

Nothing in this section shall be construed to permit the Ethics Board to take any action with respect to any alleged violation of this chapter, or of any other law, by the Ethics Board or by

any member or staff member thereof.

**H. Town Board response to the Ethics Board.**

The Town Board shall, within 45 days of receipt of a written referral, pursuant to this section, from the Ethics Board, respond in writing and state in sum and substance the Town Board's intention with respect to the referral.

**§ 8-22. Posting and distribution.**

A. The Town Clerk will ensure that a copy of (i) Article 18, (ii) this Code, and any subsequent amendments thereto, are posted publicly and conspicuously in Town Hall and any additional buildings in which Town employees and officers conduct business.

B. The Town Clerk will ensure that Article 18, this Code, and any subsequent amendments thereto, are posted on the Town's website, and all officers and employees of the Town will be notified by email that they should review the same, and shall periodically attest, upon hiring and at least every five years thereafter, that they have received and reviewed the Code of Ethics. The failure of an officer or employee to review the posted material does not affect either the applicability or enforceability the same.

**§ 8-23. Effective date.**

This Code takes effect upon the filing with the New York State Secretary of State.

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WHEREAS, a public hearing was held on Tuesday, May 16<sup>th</sup>, 2023, to hear any and all persons either for or against a Local entitled "A LOCAL LAW amending Chapter 105 entitled "Rental of Real Property", to require safety inspections for all rental properties and eliminate owner occupied premises from being permitted as vacation rentals of which provides as follows:

LOCAL LAW NO. 7 of 2023

A LOCAL LAW amending Chapter 105 entitled "Rental of Real Property" to require safety inspections for all rental properties and eliminate owner occupied premises from being permitted as vacation rentals.

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

**Section 1. Legislative Intent.**

The Town Board has a duty to ensure that all rental dwelling units within the Town of Shelter Island are safe for its inhabitants and as such has determined that safety inspections, performed by either a licensed professional or the Building Department, are to be required prior to any use of same. Further, the Town Board finds that the lack of community housing opportunities impacts the ability of Shelter Island residents to secure necessary services. As such, the Town Board has determined that owner occupied premises, also known as accessory apartments, shall

only be used as year-round rentals, as already required in the Zoning Code, and not for transient rentals of 14 days or less.

## **Section 2. Amendment.**

Section 105-10 of the Shelter Island Code Chapter 129 (Rentals), is hereby amended by adding the underlined words as follows:

§ 105-10. Rental Regulations generally.

The following regulations apply to all rentals of real property on Shelter Island regardless of rental term.

(1) Code compliance: Any property offered for rent on Shelter Island shall have a valid and current certificate of occupancy or certificate of compliance and shall be in compliance with the New York State, Suffolk County and Shelter Island Town Building and Fire Codes.

(2) Bedrooms limited: The total number of rooms utilized as bedrooms in any property offered for rent on Shelter Island shall not exceed the number indicated on the building plans filed with the Building Department for the structure(s) in which the rental is located.

(3) Occupancy: The total occupancy of any rental shall not exceed two times the number of conventional legal bedrooms except that children of the age of three years of age shall not count toward the total.

(4) Good neighbor brochure: The owner shall provide a copy of the then current good neighbor brochure, as published in PDF format on the Town website, to each lessee prior to or at the commencement of the rental term and the same shall be considered part of the rental agreement.

(5) Safety Inspection: The owner shall provide a written certification, form to be provided by the Building Department, from a licensed architect, licensed engineer or licensed home inspector that states that the rental dwelling unit fully complies with all of the provisions of the Property Maintenance Code of the New York State Uniform Fire Prevention and Building Code and Code of the Town of Shelter Island. The certification shall include, but not be limited to, the number of bedrooms as indicated on the building plans filed with the Building Department for the structure(s) in which the rental is located, the square footage of each bedroom, the location of every smoke and carbon monoxide detector, and a description of every improvement indicated on the survey. In lieu of the provision of a certification, an inspection may be conducted by the Building Department, and in cases where questions or concerns exist regarding information presented within an application the Building Department retains the right to require an inspection.

Section 105-30 of the Shelter Island Code Chapter 129 (Rentals), is hereby amended by deleting the stricken words and adding the underlined words as follows:

§ 105-30. Vacation rentals.

A. Vacation rentals generally prohibited. It shall be unlawful and a violation of this chapter for any person or entity that owns, rents or manages property on Shelter Island to rent, lease, or advertise for rent any such property or any portion thereof (including any accessory apartment or accessory sleeping quarters) in any residential (A, AA and C) zone for a period of 14 days or less unless specifically permitted under § **105-30B** or C below.

**B.**

Permitted vacation rentals. The following shall be permitted notwithstanding § **105-30A** above so long as the property is properly registered under § **105-20**; proper notification is made under § **105-21**; and at registration the owner selects one of the following:

(1)

~~Owner-occupied premises. A residential property on Shelter Island may be rented as often as desired and without limit as to frequency or duration of term where one of the following is simultaneously domiciled on the same or immediately adjacent lot (including a legal accessory structure or bedroom) with tenant or tenants during a rental term:~~

~~(a)~~

~~Owner (or an uncompensated member of the owner's immediate family);~~

~~(b)~~

~~Trustee, beneficiary or settlor, if a trust;~~

~~(c)~~

~~President or majority shareholder, if a corporation; or~~

~~(d)~~

~~Member, if an LLC or partnership.~~

~~Member, if an LLC or partnership.~~

~~(2)~~

Homesteader's hardship license. A residential property on Shelter Island that is the owner's primary residence may be rented one time in each seven-day period between and including Memorial Day weekend and Labor Day weekend and one time in every fourteen-day period at all other times pursuant to the homesteader's hardship license, provided that:

(a)

At the time of registration the owner submits proof of the following:

[1]

That the property to be rented is receiving a basic or enhanced star exemption; and

[2]

The owner has an annual gross income (less net rental income) of less than 500% of the United States Department of Health and Human Services Poverty Guidelines which must be verified each registration period by submission of an appropriate redacted copy of federal income tax returns for the most recent tax year. (Tax returns shall be reviewed to determine eligibility then returned or destroyed. No income tax records will be maintained by the Town.); and

(b)

Each qualifying owner and such person's nuclear family (including owner, domestic partner and minor children) is collectively limited to one homesteader's hardship license.

(c)

The homesteader's hardship license may not be combined with other permitted vacation rentals to increase the number of rentals allowed.

(d)

The term shall commence on the first day of occupancy.

(32)

Limited commercial vacation rental license. Vacation rentals are permitted pursuant to a vacation rental license as follows:

(a)

License. An owner (to include his or her nuclear family) not exempted by § 105-30B(1) or (2) above and who has not had a previous license suspended or revoked on Shelter Island, upon application, may obtain to license one property on Shelter Island for use as a vacation rental; and

(b)

Frequency of rental. A vacation rental license permits the owner to rent the licensed premises one time in any fourteen-day period; and

(c)

Commencement of rental period. The fourteen-day period referenced above shall commence on the first day of the term of the initial rental and continue for the 13 following days; and

**(d)**

License term. A vacation rental license shall be valid for two calendar years to run concurrent with property registration at which time it must be renewed.

**(e)**

License fee. The fee for the vacation rental license shall be set by the Town Board.

**(f)**

Multiple licenses prohibited. No owner may be issued a vacation rental license if such person (or any member of his or her nuclear family) owns any interest in another property on Shelter Island for which they have already received or applied for a vacation rental license.

**(g)**

Corporate ownership. Any legal entity other than a natural person (including but not limited to a corporation, LLC, trust or partnership) may not be issued a vacation rental license on Shelter Island, if any owner, partner, member, settlor, trustee, beneficiary, shareholder, officer, or director of that entity already holds or has applied for a vacation rental license for another property.

**(h)**

Corporate disclosure. Any partnership, trust, LLC or corporate applicant for a vacation rental license must provide documentation naming all partners, members, settlors, trustees, beneficiaries, shareholders, officers and directors, and submit a statement verifying that none of those named are partners, members, settlors, trustees, beneficiaries, shareholders, officers and directors, of any other corporation or partnership, or an individual owner that already holds or has applied for a vacation rental license on Shelter Island.

**(i)** Nontransferable. The vacation rental license is specific to the property described on the license and to the individual or entity named on the permit. The vacation rental license may not be transferred, assigned or passed through an estate and does not authorize any person, other than the person named therein, to permit or arrange vacation rentals on the licensed property.

**(j)**

Agent required. The owner(s) of the vacation rental property must execute a written statement, which designates an agent for service for criminal and civil process pursuant to § 318 of the Civil Practice Law and Rules and must be either:

**[1]**

A person, firm, partnership or corporation with an actual place of business, or usual place of residence located within the boundaries of the Town of Shelter Island; and/or

**[2]**

The Town Clerk of the Town of Shelter Island.

**(k)**

Obligation to update address. Every owner of vacation rental property shall ensure that the address for service of process is current and shall advise the Town Clerk whenever the address is changed.

**(l)**

Neighbor contact. The owner must provide the Town of Shelter Island and to all neighbors within 200 feet of the property line of the vacation rental with:

**[1]**

Owner's personal cell phone number to call in the event of problems with the vacation rental; and/or

**[2]**

The name and telephone number of a local contact person including name, address, phone number, and email address designated as the owner or owner's agent or representative who resides on Shelter Island.

**(m)**

~~Self checklist. Every applicant for a vacation rental license must a notarized self checklist to be available on the Town website verifying the property's compliance with relevant Federal, New York State, Suffolk County and Shelter Island Town regulation.~~

**(4)**

Fund-raising rentals. Vacation rentals are permitted without limitation for the purpose of fundraising on the premises of Taylor's Island Foundation; the Nature Conservancy (Mashomack); Sylvester Manor or any other nonprofit charitable organization that seeks and obtains a waiver from the Town Board.

**Section 3. Authority.**

The proposed local law is enacted pursuant to Municipal Home Rule Law §10.

**Section 4. Severability.**

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

**Section 5. Effective Date.**

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

**SUMMARY OF PROPOSED LAW**

One purpose of this amendment is to try and ensure that every rental dwelling unit within the Town provides a safe environment for the residents thereof. Additionally, it seeks to compel reversion back to the current requirement in the zoning code that accessory apartments, or accessory dwelling units, be solely used for year-round occupancy, and remove this administrative exception in order to put such dwelling units back into the residential year-round occupancy rental pool, in order to provide more community housing opportunities.