



East Hampton Town Board

159 Pantigo Road
East Hampton, NY 11937

Carole Brennan
Town Clerk

www.ehamptonny.gov

ADOPTED

Meeting: 08/18/16 06:30 PM

DOC ID: 17217 A

RESOLUTION 2016-1000

Adopt Local Law Amending Chapter 112 to Extend the Effective Date of the Community Preservation Fund Real Estate Transfer Tax and Authorizing the Use of a Portion of the Funds for Water Quality Improvement Projects

WHEREAS, the Town Board held a public hearing on August 4, 2016 regarding "A LOCAL LAW amending Chapter 112 (Community Preservation) to Extend the Effective Date of the Community Preservation Fund Real Estate Transfer Tax and Authorizing the Use of a Portion of the Funds for Water Quality Improvement Projects"; and

WHEREAS, after considering the matter and the comments of the public at the time of hearing, the Town Board believes that the enactment of this local law is in the best interests of the Town of East Hampton; and

WHEREAS, the proposed local law is a Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.5(C)27 and Chapter 128 of the Town Code requiring no further environmental review; and now, therefore be it

RESOLVED, said Local Law is hereby adopted to read as follows:

LOCAL LAW No. ____ Of 2016
Introductory No. 39 Of 2016

A Local Law amending Chapter 112 (Community Preservation) To Extend the Effective Date of the Community Preservation Fund Real Estate Transfer Tax and Authorizing the Use of a Portion of the Funds for Water Quality Improvement Projects.

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

SECTION 1. Legislative Intent.

Since its inception in 1999, the Peconic Bay Community Preservation Fund (CPF), a 2% real estate transfer tax for land acquisition for open space, farmland, and historic preservation, as well as recreational purposes, has raised over \$1 billion to protect over 10,000 acres of land on the East End of Long Island.

Extending the CPF through 2050 will ensure that additional funds are raised to help further protect lands and community character. Also included in this extension is a new provision allowing a portion of the generated revenue to be spent on projects that would help improve water quality. The East End, surrounded entirely by water, is a community whose history, economy, and character is dependent upon clean water for recreation, tourism, and shellfishing. Maintaining the ecological health of local bays is just as crucial to protecting the character of the community as preserving open space, farmland, and historical sites has been and continues to be.

The Town's water resources are a vital part of the Town's community character, in addition to land and historic resources. It is therefore the intention of the Town to enhance

protection and improvement of surface waters and the source of drinking water (the aquifer) by authorizing use of a certain portion of the Community Preservation Fund for projects and land acquisitions that are reasonably certain to help reduce water contamination arising from excess nutrients and other pollutants. The intention of the Town is to contribute to and act consistently with other public and private efforts to reduce total nutrient loading to the Town's water resources, such as the pending Long Island Nitrogen Action Plan. It is not the Town's intention to improve and protect water quality so that additional commercial, industrial, and residential development may occur.

SECTION 2. Amendment.

Chapter 112 (Community Preservation) of the Town Code of the Town of East Hampton is hereby amended by adding a new Article IV to read as follows:

Article IV

Water Quality Improvement

Section 112-4-1. Purpose.

- A. The purpose of this Article shall be to implement the authority delegated by the State to the Town of East Hampton pursuant to Chapter 551 of the Laws of 2015.
- B. Specifically, this Article shall permit the Town to use of up to 20% of the Community Preservation Fund to undertake water quality improvement projects which would improve water quality. Projects which have as their 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 §11-b of the Soil and Water Conservation Districts Law, Title 14 of Article 17 of the Environmental Conservation Law, §1455b of the Federal Coastal Zone Management Act, or Article 42 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 12 or 12-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 112-4-2. Definitions.

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

WATER QUALITY IMPROVEMENT PROJECT

Includes all of the following:

- A. Wastewater treatment improvement projects.
- B. Non-point source abatement and control program projects developed pursuant to §11-B of the Soil and Water Conservation Districts Law, Title 14 of Article 17 of the Environmental Conservation Law, §1455b of the Federal Coastal Zone Management Act, or Article 42 of the Executive Law.
- C. Aquatic habitat restoration projects.
- D. Pollution prevention projects.
- E. 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 existing specific water quality standards.
- F. Projects which have as a purpose to permit or accommodate new growth shall not be included within this definition.

WASTEWATER TREATMENT IMPROVEMENT PROJECT

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 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.

AQUATIC HABITAT RESTORATION PROJECT

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.

POLLUTION PREVENTION PROJECT

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.

STORMWATER COLLECTING SYSTEM

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 discharge.

VESSEL PUMPOUT STATION

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.

REGIONAL WATER QUALITY IMPROVEMENT PLAN

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:

- A. 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);
- B. 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);
- C. The South Shore Estuary Reserve Comprehensive Management Plan, pursuant to Article 46 of the Executive Law;
- D. 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.

WATER QUALITY TECHNICAL ADVISORY COMMITTEE

The East Hampton Water Quality Technical Advisory Committee established and created by this chapter.

Section 112-4-3. Authority.

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 may be utilized for the implementation of water quality improvement 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.

Section 112-4.4. 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 part of the Community Preservation Fund Project Plan, adopted pursuant to §64-e of the Town Law and Article III of this Chapter.
- C. Said plan shall prioritize each project 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 for the cost benefits in setting such priorities on a project by project basis.
- D. Said plan shall list every water quality improvement project which the Town plans to undertake pursuant to the Community Preservation Fund and shall state how such project would improve existing water quality and the maximum cost of such project.
- E. The proposed water quality improvement project shall be 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 shall 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.
- H. Such project shall 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 promote aquatic habitat restoration.
- J. In the case of pollution prevention projects, the project shall reduce, avoid, and eliminate the use of toxic or hazardous substances, or the generation of such substances.
- K. Projects which have as their purpose the accommodation of new growth as opposed to the remediation of water quality shall not qualify for funding under this Article. All projects must be fully compliant with the Town's Comprehensive Plan and all Town Zoning and Building Codes, including but not limited to density and open space goals. In no case shall any expenditure of Community Preservation Fund monies confer or imply any automatic approval for an increase in unit density or intensity of use.

Section 112-4-5. 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. the proposed water quality improvement project shall be 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,
- B. the proposed water quality improvement project 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 complies with specific existing or proposed state or regional water quality standards or targets,
- E. the case of aquatic habitat restoration projects, the project will promote aquatic habitat restoration, and
- F. in the case of pollution prevention projects, the project will reduce, avoid, and eliminate the use of toxic or hazardous substances, or the generation of such substances.
- G. The Town Board shall articulate the purpose of the project and shall not certify projects which have as their purpose to accommodate new or additional growth.

Section 112-4-6. Water Quality Technical Advisory Committee established.

- A. The East Hampton Water Quality Technical Advisory Committee is hereby established to review and make recommendations on proposed water quality improvement projects using monies from the Community Preservation Fund and to act in an advisory capacity to the East Hampton Community Preservation Fund Advisory Board. Any recommendations made by the Advisory Committee to the Advisory Board shall be shared with the Town Board.
- B. Such committee shall consist of up to seven members who shall serve without compensation. No member of the Town Board shall serve on the Advisory Committee.
- C. Experience and expertise in water quality issues, estuarian science, civil engineering, shellfish restoration or similar credentials is preferred but not required.

Section 3. Transfer Tax Extended.

The real estate transfer tax implemented by Article II of Chapter 112 (Community Preservation) 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 §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 §23 of the State Municipal Home Rule Law, the following proposition shall be placed before the electors of the Town of East Hampton at the general election to be held on November 8, 2016:

"Shall a Local Law entitled 'A LOCAL LAW amending Chapter 112 (Community Preservation) of the Town Code of the Town of East Hampton, (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 7. 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 East Hampton at the general election to be held on November 8, 2016.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Peter Van Scoyoc, Councilman
SECONDER:	Kathee Burke-Gonzalez, Councilwoman
AYES:	Kathee Burke-Gonzalez, Peter Van Scoyoc, Fred Overton, Larry Cantwell
ABSENT:	Sylvia Overby