

Town of Shelter Island

Local Law No. 2

Year 2025

A LOCAL LAW ENTITLED “DOCKS”

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

Section 1. Legislative Intent.

This chapter shall regulate the use of Town-owned docks, piers, wharves and bulkheads; the size, placement, and use of commercial and private docks; the size, placement, and use of other water related structures including but not limited to groins and jetties; and the removal of materials from lands under water by dredging and other means. The Town Board of the Town of Shelter Island deems it in the public interest to regulate the presence, installation, use, size, impact, and placement of docks and other structures in order to preserve and protect Town Waters and the environment while accommodating reasonable use thereof by the general public for general recreation, fishing, and shell fishing and by recognizing the riparian rights of the upland owners. Among other things, the Town Board intends to carefully consider exposure to inordinate wave action driven by wind and/or boat traffic; and to limit the regulated activities where the depth of water is insufficient, where the surrounding area is comprised of sensitive, pristine, preserved or public beaches; or that would pose risks to human or aquatic life.

Section 2. Amendment.

Chapter 53 (Docks), is hereby amended to read as follows:

ARTICLE I
General
Provisions

§ 53-1. Title.

This chapter shall be known as the "Town of Shelter Island Dock Local Law."

§ 53-2. Applicability.

This chapter shall regulate the use of Town-owned docks, piers, wharves and bulkheads; the size and placement of commercial and private docks; the size and placement of other water related structures including but not limited to groins and jetties; and the removal of materials from lands under water by dredging and other means.

This Chapter shall apply to all dock applications, other than those for which an application to the New York State Department of Environmental Conservation was submitted prior to February 13, 2024 which shall be subject to the regulations, and reviewed under the standards, set forth in Chapter 53, entitled "Docks", as of that date.

§ 53-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOAT or VESSEL — Any floating object capable of being used as a means of transportation in water.

BOATYARD — A commercial facility for maintenance, construction and/or repair of any type of watercraft with or without provision of supplies, storage, fueling or the retail sale of boats, motors and marine equipment.

CHANNEL — Water areas specifically reserved for unobstructed movement of vessels which may be marked by navigational aids permitted by the United States Coast Guard and/or the State of New York and/ or the Town of Shelter Island.

COMMERCIAL DOCK — A dock utilized for commercial purposes. Under this chapter, such dock shall be located in "B" Zoned property with title held by an existing commercial boatyard or marina and used and operated exclusively by a boatyard or marina.

COMMERCIAL VESSEL — A boat or vessel used primarily to generate income, or for which a New York State or United States Coast Guard registration, license or permit to operate as a commercial/passenger vessel is required.

DOCK — Any structure whether floating and/or fixed designed to accommodate a boat, such structure being attached at least on one end to the upland and elsewhere to the underwater lands below the mean high water mark, and including accessories to said structure, such as floats, dolphins, pilings, splashboards, anchors and anchor lines, ladders, lifts, hoists, ramps, boardwalks and other means of access. A permit for a dock shall run with ownership of the land and the tax lot number assigned to the upland shall be recorded in the application and permit.

DOCK INSPECTOR — The duly appointed Building Inspector, harbor master or other qualified, authorized individual of the Town of Shelter Island.

DREDGING - excavation of material from underwater lands.

ENTITY - A body, created by law, including but not limited to a corporation, company, limited liability company (LLC), partnership, trust, association, enterprise, or organization, the beneficial Owner(s) of which must be identified in any application submitted to the Town of Shelter Island under this Chapter.

FORESHORE — The passageway around the perimeter of Shelter Island between the mean high and mean low water marks.

INLAND WATERS – Exclusive of Outside Shoreline, all bays, creeks, harbors and the tributaries of the following bodies of water: Coecles Harbor including Congdon Creek, Foxen Creek and Cedar Island Cove; Bass Creek, Cabin Creek, Nicholl’s Creek, Smith Cove Basin, Mabel’s Creek, West Neck Harbor beginning at the base of Heron Lane (41.04762°N 72.33091°W) and including Dickerson Creek, Menantic Creek, West Neck Creek, West Neck Harbor, Silver Beach Lagoon and ending at Shell Beach Point (41.04707°N 72.33887°W); Crab Creek, and Dering Harbor beginning at Chequit Point (41.08792°N 72.35361°W) including Gardiners Creek and Chase Creek and ending at Dering Point (41.09489°N 72.34787°W).

MARINA - A commercial waterfront facility having the primary function of providing rental space for berthing vessels, with or without provision for sales of food and beverages, general supplies, fuel, boats and equipment, vessel repairs and maintenance, and the rental of commercial moorings.

MEAN LOW WATER – For each location, the average of all of the low water heights observed over the most recent National Tidal Datum Epoch (NTDE) by using the most geographically relevant and most recent NOAA data.

MEAN HIGH WATER – For each location, the average of all of the high water heights observed over the most recent National Tidal Datum Epoch (NTDE) by using the most geographically relevant and most recent NOAA data.

OUTSIDE SHORELINE – The entire external shoreline of Shelter Island which does not interface with Inland Waters and does not extend beyond the boundaries established for Inland Waters.

OWNER(S) — The Person(s) or Entity(ies) in whose name the upland to which the dock is connected is/are recorded in the office of the Suffolk County Clerk.

PERMITTEE — The Owner to whom a dock permit has been issued.

PERSON – A natural person, human being as distinguished from a person such as a corporation or other entity created by operation of law.

PIER LINE – a line seaward of mean high water by a distance which is the average length of at least two (2) existing docks located among three (3) contiguous, buildable upland parcels.

Where three (3) or more existing docks are located on contiguous upland parcels, the Pier Line shall be the average length of all such docks. Applicable dock lengths shall be those existing at the time of this provision's adoption and where at least one existing dock is adjacent to applicant's location.

PLEASURE VESSEL — All boats or vessels other than government, commercial and institutional, such as Not for Profit organizations, schools and research facilities.

PRIVATE DOCK — A dock utilized by the Owner or occupant to accommodate pleasure vessels or resident owned commercial fishing vessels and for recreational purposes.

RESIDENT — Includes all natural persons who have actually and consistently lived within the Town of Shelter Island for a period of not less than one (1) year immediately preceding their application hereunder, and all persons and entities who have owned real property within the Town of Shelter Island which has been developed or may be developed pursuant to the Town's applicable Code Chapters, for a period of not less than one (1) year immediately preceding their application for a permit hereunder.

RIPARIAN RIGHTS — The right of the Owner of upland property fronting on a body of water to reasonable access to and use of such navigable water.

SHORELINE — The interface of waterway and upland, at specified location and tidal condition.

TOWN DOCK — A dock or pier owned or managed by the Town.

TOWN WATERS — All waters and land below the mean high water mark over which the Town of Shelter Island has jurisdiction.

UPLAND – Land located above the mean high water mark.

WATER RELATED STRUCTURE — A structure other than a dock, including but not limited to a bulkhead, pile, building, pier, wharf, jetty, groin, dolphin, dike, dam or other structure, any part of which is embedded in or attached to land below water or within the limits of the foreshore.

ARTICLE II

Town-Owned Docks, Piers and Wharves

§ 53-4. Legislative findings.

It is hereby determined that the existing docks, piers , wharves and bulkheads of the Town of Shelter Island located in the Town of Shelter Island are hereby established as self-supporting improvements, pursuant to § 141 of the Town Law of the State of New York.

§ 53-5 Docking; Permit Required; Fees; Temporary Use

- A. No person shall overnight aboard a vessel docked, moored or secured to any Town-owned dock, piers, wharves, bulkheads or other similar Town-owned structures.
- B. No person shall dock, moor or secure any vessel to any Town-owned dock, piers, wharves, bulkheads or other similar Town-owned structures without first obtaining a permit as prescribed by this chapter.
- C. Notwithstanding the above, no permit shall be required to dock, moor or secure a vessel to the following:
 - (1) Congdon Creek Bulkheads, while actively loading, unloading, hauling or launching a vessel.
 - (2) Dering Harbor Town Dock, between May 15th and September 15th for no more than two (2) consecutive hours, unless the vessel has secured a permit specified in subsection “D” of this Section.
 - (3) Dering Harbor Town Dock, between September 16th and May 14th for no more than 10 consecutive days on one occasion during such period, provided that the Town Clerk has been notified in writing of the same, unless the vessel has secured a permit specified in subsection “D” of this Section.
 - (4) Daniel Lord Road Town Dock, while actively loading, unloading, hauling or launching a vessel.
 - (5) Grace’s Lane Bulkheads and Public Floating Dock, for no more than two (2) consecutive hours.

D. Types of Permits

- (1) A Congdon Creek Town Dock Permit shall entitle the holder thereof to dock, moor or secure a vessel to the Congdon Creek Town Dock subject to the rules and regulations of such permit.
- (2) A Dering Harbor Town Dock Permit shall entitle the holder thereof to dock, moor or secure a vessel to the Dering Harbor Town Dock, between September 16th and June 14th, subject to the rules and regulations of such permit.
- (3) A Dickerson Creek Town Dock Permit shall entitle the holder thereof to dock, moor or secure a vessel to the Grace's Lane Bulkheads and Public Floating Dock between September 16th and June 14th, subject to the rules and regulations of such permit.
- (4) A Shore Road Town Dock Permit shall entitle the holder thereof to dock, moor or secure a vessel to the Shore Road Town Dock pursuant to a license or lease agreement executed by the Town Board.

E. Permit Rules and Regulations

The rules and regulations for the permits listed above shall be established by the Waterways Management Advisory Council and approved by resolution of the Town Board. Such terms and conditions shall be periodically reviewed and amended, as needed.

F. Fees

The Town Board may, by resolution, set and from time to time adjust the fees to be paid for each type of permit and inspection.

G. Temporary Use

Notwithstanding the above, nothing in this section shall prohibit the temporary use of any Town-owned dock, piers, wharves, bulkheads or other similar Town-owned structures as authorized by the Shelter Island Town Police Department or applicable authority.

H. Acceptance of a permit under this chapter shall constitute an agreement that the permit holder will hold the Town of Shelter Island and its authorized representatives completely blameless for any liability in connection with the mooring or securing of his boat, nor is the Town responsible for loss, damage or theft of boats and/or other contents or to any other private property

I. The Town Board reserves the right to enact additional rules and regulations with respect to mooring or securing boats at docks, piers, wharves, bulkheads or similar facilities owned by the Town of Shelter Island. Any permit hereafter issued shall be issued subject to the permittee conforming to any rules and regulations now in force and effect or that thereafter may be adopted by resolution of the Town Board.

ARTICLE III

Commercial and Private Docks

§ 53-6. Permit application.

A. A permit shall be required for the construction, alteration or modification of a dock, which includes the extension of utilities, such as but not limited to, water, electric, cable and telephone. Additionally, the extension of utilities requires a permit issued by the building department of the Town of Shelter Island. The repair of an existing previously permitted dock shall not require a permit unless:

- (1) The total cost for such repair exceeds \$10,000.
 - (2) The repair is other than in kind and in place.
 - (3) Less than fifty percent (50%) of the original structure's supporting members, such as pilings and framing, remain in a structurally sound condition, as determined by the Dock Inspector.
- B. Applications for permits shall may be made by the Owner or the agent of the Owner utilizing standard forms issued by the Town Clerk office and shall include the tax lot number assigned to the adjacent upland.
- C. Each permit application shall include the following:
- (1) For new construction only:
 - (a) A certified survey of the Owner's property on which the proposed dock is to be located, indicating the zoning district and showing property lines, exact location of the proposed dock and other structures, existing in-water structures, any unusual features on the property and adjacent waters and depths to the nearest tenth of a foot at five foot intervals to the end of the dock, measured at mean low water, as determined by a licensed surveyor. In the event the survey provided does not include all in-water structures and unusual features currently existing on the property, then a new survey shall be required.
 - (b) An accurately dimensioned scale drawing of the proposed dock in plan and elevation format showing the structural design details of the dock, including the location and type of services and utilities (including water, electric, cable, internet and telephone) and the property lines extended in to the water the length of the dock with the distance between the end of the dock and the property line identified.
 - (2) For new construction, modifications, alterations and permit required repairs:
 - (a) Specifications for the construction materials to be used.
 - (b) Copies of applications and permits issued by other agencies such as New York State Department of Environmental Conservation and the US Army Corps of Engineers.
 - (c) A statement signed by the Owner that the materials and design of the dock will

meet all pertinent federal, state, county and Town regulations.

(d) A statement signed by the Owner that acceptance of a permit shall constitute an agreement that the permittee:

(i) Will indemnify and hold the Town of Shelter Island and its authorized representatives harmless from any and all liability or responsibility in connection with any property damage, loss, theft of boat, or boat's contents, or bodily injury that may occur as a result of the issuance of a permit hereunder; and

(ii) Consents to the entry on the property by the Dock Inspector or other authorized representatives of the Town in order to make such inspections as the Town may deem necessary to ensure compliance with the terms and conditions of the permit.

(e) The following proof of insurance in force:

(i) From the Owner, a certificate of insurance for at least \$300,000 liability on the location and operations covered by said permit; and

(ii) From the contractor performing the operations covered by said permit, an Owner's/contractor's policy issued in favor of the Town of Shelter Island for the liability limits of at least \$500,000 covering operations of the contractor pursuant to said permit.

(f) The requisite fee to be determined by the Town Board.

(g) Any other information which the Town Board may deem necessary.

D. In addition to the above, it shall be a prerequisite for a complete application that each extreme seaward corner of the footprint of the offshore location of the fixed or floating portion of the proposed dock be clearly delineated with a stakes and that additional stakes be placed at the intersection of the mean high water mark with the proposed dock and the upland property boundaries. The location of any dolphin shall also be marked with a stake. The locations to be marked by these stakes shall be specifically labeled and correspond exactly to the configuration of the proposed dock on the scale drawing accompanying the permit application.

E. An applicant for new dock construction must be a Resident, as defined in this Chapter, and

be the Owner of the subject location for a period of not less than one (1) year immediately preceding their application for a permit hereunder.

- F. Every applicant shall authorize the Dock Inspector, members of the Waterways Management Advisory Council, members of the Town Board, the Town's Environmental Analyst, and other Town Officials and agents to enter onto the subject property.
- G. Every applicant shall submit application and permit fees. The applicant shall submit the dock application to the Town Clerk and pay the requisite fee pursuant to such resolution or resolutions as may be adopted by the Town Board from time to time.

§ 53-7. Permit issuance terms.

- A. All applications for permits shall be subject to a public hearing, except that applications to repair or replace in kind and in place conforming and nonconforming docks or structures included in this article may be granted or denied by the Town Board without a public hearing. In making its determination, the Town Board shall consider the recommendations of the Waterways Management Advisory Council and a report on the subject dock which shall be issued by the Dock Inspector and the Town's Environmental Analyst, if required by the Town Board.
- B. The validity of any permit issued shall be conditioned on the issuance of permits from other governmental or municipal authorities, including but not limited to the New York State Department of Environmental Conservation and the US Army Corps of Engineers.
- C. A permit will expire 24 months from the date of issuance. A permit may be extended by resolution of the Town Board for an additional period of one year without a public hearing, provided that the request for same is submitted no later than the expiration date.
- D. Acceptance of a permit and certificate of completion shall constitute agreement that it shall be the applicant's and subsequent Owner's responsibility to ensure proper usage of the structure at all times, to maintain the structure in conformance with these regulations and in the interests of public safety and protection of the waterways and not to obstruct any rights of the public as may exist to use Town Waters and that such responsibilities survive

expiration of the permit.

- E. Acceptance of a permit and certificate of completion shall also constitute an agreement that the Owner and the subsequent Owner(s) shall indemnify and hold the Town of Shelter Island and its authorized representatives harmless from any and all liability or responsibility in connection with any property damage, loss, theft of boat, or boat's contents, or bodily injury that may occur as a result of the issuance of a permit hereunder.
- F. No dock construction may be commenced under the permit until the Building Department is notified by the dock contractor of the date construction will commence.
- G. No certificate of compliance certifying satisfactory completion of a new dock, or other dock improvement designated by the Town Board, shall be issued until a survey showing the as-built location is submitted to the Building Department and determined by that department to be in conformity with the original plans, design and survey.
- H. A permit and certificate of completion shall convey a nonexclusive right to use public bottom land owned by the Town of Shelter Island upon which any legally permitted dock is located.
- I. Upon the transfer of any property improved with a dock, either an inspection shall be conducted by the Dock Inspector to ensure that the subject dock is in compliance with previous permits or a written certification from a licensed Dock Contractor shall be provided confirming same.
- J. At least 30 days prior to a public hearing for existing dock alteration, modification or new dock construction, the applicant shall mail notice of the time, date, place and nature of the hearing to the owners of record of every property which abuts and every property which is within 200 feet of the property involved in the application. Such notice shall be made by certified mail and addressed to the owners at the addresses listed for them on the local assessment roll. On or before the commencement of the public hearing, the applicant shall file a radius map and an affidavit with postal receipts annexed thereto confirming mailing of said notices. Failure to submit such an affidavit shall result in the adjournment of the public hearing.

§ 53-8. Design and construction of private and commercial docks.

- A. A dock shall not be designed or constructed so as to be an impediment or a hazard to navigation and shall at all times provide and allow suitable and unobstructed passageway around or over such dock so that the public will have free unobstructed passage along the foreshore of Shelter Island. No more than one (1) private dock shall be attached or connected to any parcel of upland.
- B. The intersection of a dock with the mean high water mark shall meet the same setback requirements as apply for the principal dwelling on that lot, but in no case less than 25 feet from any adjacent lot. The dock shall extend seaward in a direction and configuration that does not intrude on neighboring lots' equivalent rights to current or future Chapter compliant dock locations.
- C. Length and depth of docks.
 - (1) At mean low water, a private dock may not extend into the waterway farther than the equivalent of 15% of the distance at mean low water from the point on the shoreline where the dock is located to the closest point on the opposite shoreline. Measurements are to be taken at the point where the proposed dock intersects the shoreline and over a ninety (90) degree arc with the proposed dock at the center of the arc. A channel with a minimum width of forty (40) feet and a minimum depth of two and one half (2.5) feet at mean low water shall be maintained between the terminus of the proposed dock and any existing dock or future Chapter compliant dock located, or potentially located, on the opposite shoreline.
 - (2) A private dock may not:
 - a. If fixed, terminate at a point where the mean low water depth is less than two and one half (2.5) feet; if a float is used, no portion of the float shall be in mean low water that is less than two and one half (2.5) feet deep;
 - b. Extend either more than 100 feet offshore from the shoreline at the Owner's upland property at mean high water or beyond the point where low water

depth reaches four feet, whichever of these two conditions occurs sooner.

- (3) A private dock may not extend in total linear measure of all fixed portions of the dock, walkways, ramps, floats and distance to tie-off pilings or dolphins more than one and one half times the specified maximum allowable off-shore distance of the dock as measured from the shoreline at the Owner's upland property at mean high water.
- (4) Pier Line exception: In the event a proposed private dock does not meet the requirements of 53-8(C)2(a) at a point one hundred (100) feet from the shoreline at the applicant's property at mean high water and the Pier Line adjacent to the applicant's property is greater than one hundred (100) feet, then the proposed dock may be extended as far as the Pier Line in order to meet the required depth of two and one half (2.5) feet at mean low water.
- (5) A commercial dock may not:
 - a. Terminate at a point where mean low water depth is less than two and one half (2.5) feet;
 - b. Extend either more than one hundred (100) feet offshore from the shoreline of the Owner's upland property at mean high water, or beyond the point where the depth at mean low water reaches six (6) feet, whichever of these two alternative conditions occurs sooner.
- (6) Length Exception: along the Outside Shoreline, at locations not previously developed by a dock, in the event a proposed dock does not reach a depth of four (4) feet at mean low water at a point one hundred (100) feet from the shoreline of applicant's property at mean high water, then the dock length may be extended to one hundred twenty five (125) feet, if such extension increases the depth at mean low water to at least four (4) feet.

D. Width of docks.

- (1) A private dock, exclusive of floats, but including walkways and ramps, shall be no wider than five feet except where any portion of the dock, walkways or ramps pass

over rooted vegetation, in which case the width shall be limited to four (4) feet of open grating deck material; the deck area of floats shall be no greater than 200 square feet.

- (2) A commercial dock, exclusive of floats, but including walkways and ramps, shall be no wider than eight (8) feet; floats shall be no wider than eight (8) feet.
- E. Any waterway illumination, whether dock-mounted or shore-mounted, shall be focused downward and shall not directly light an area more than 10 feet beyond the foreshore or the footprint of the dock
- F. Private dock installations to store or convey fuel or sewage are prohibited
- G. Splashboards are discouraged but may be allowed if after review and consideration of the criteria set forth under section 17 of this Chapter, the Town Board determines they are suitable.
- H. Chocking or blocking of floats is prohibited in areas where depth is less than two and one half (2.5) feet at mean low water.
- I. Boatlifts at private docks are prohibited.

§ 53- 9. Existing docks.

A. The following are exempt from the standards set forth in § 53-8 of this chapter:

- (1) Any dock in existence prior to the adoption of this chapter that is maintained, repaired, or replaced in kind and in place; or
- (2) Any alteration-or modification, to a preexisting nonconforming dock which, after review, is determined by the Town Board to materially lessen the preexisting nonconformity; or
- (3) Any repairs of a private dock, deteriorating, damaged, or destroyed by any cause, including an act of God where, as determined by the Dock Inspector, 50% or more of the original structure's supporting members, such as pilings and framing, remain in a structurally sound condition so long as the repairs are in kind and in place or are determined by the Town Board to materially lessen the preexisting nonconformity; and

B. Upon application for the repair, modification or alteration of an existing dock the dock shall be inspected by the Dock Inspector to confirm that the dock is as described in the application.

§ 53-10. Limitation on Fresh Water Docks.

A. No fixed dock, float or ramp, platform or other structure shall be constructed upon any body of fresh water owned by the Town of Shelter Island and no permit shall be issued for any such construction.

B. Pre-existing non-permitted and non-conforming structures existing as of June 30, 2020 are exempt from the prohibitions set forth in Section 53-10(A) of the Chapter subject to the following:

1. They may be repaired or replaced in kind and in place; or
2. They may be altered, modified, or repaired where after review, it is determined by the Town Board that any changes materially lessen the preexisting nonconformity; or
3. Any structure, deteriorating, damaged, or destroyed by any cause, including an act of God where, as determined by the Dock Inspector, 50% or more of the original structure's supporting members, such as pilings and framing, remain in a structurally sound condition so long as the repairs are in kind and in place or are determined by the Town Board to materially lessen the preexisting nonconformity.

§ 53- 11. Regulations regarding living or residing on boats at docks.

A. No person shall live or reside for more than one week on a boat berthed at a private dock, nor shall an Owner cause permit or allow overnight occupancy within a vessel berthed at such private dock to another person for money or any other valuable consideration.

B . No person shall live or reside on a boat at a commercial dock for any length of time without the expressed permission of the dock or marina owner and comply with all of the marina's policies regarding pump-outs, discharge, and all relevant laws and regulations.

C . For any boat equipped with a head docked within the waters of the Town of Shelter Island the operator shall:

- (1) If equipped with a Y valve, maintain said valve in a closed and secured position and make the equipment available for inspection upon request by the dock inspector, bay constable, harbormaster or other authorized individual performing such functions.
- (2) Maintain a written log indicating dates when the boat's marine waste storage tank was pumped out and make the log available for inspection by the dock inspector, bay constable, harbor master or other authorized individual performing such function.

§ 53-12. Storing and securing seasonal floating docks.

- A. Any floating docks and ramps may not rest on or be stored in any vegetated tidal wetland.
- B. Floats that remain in the water when not in use must be properly secured and remain in the area designated in § 53 8 A and B and not otherwise violate any provision of this Chapter.

ARTICLE IV

Other Water Related Structures

§ 53-13. Permit required.

No person or entity shall construct, alter, modify, repair, replace or reconstruct or place any bulkhead, pile, splashboard, wave curtain, building, pier, wharf, jetty, groin, dolphin, dike, dam or other water related structure, any part of which is embedded in or attached to land above or below water or within the limits of the foreshore, in or on any Town waters, Town lands under water, foreshore or state or county lands under water within the geographical limits of the Town, nor shall any person or entity remove or move any sand, gravel or other material from such lands in the Town of Shelter Island, by dredging or other means, without first obtaining a permit from

the Shelter Island Town Board as well as permits related to other agencies as may be required. The provisions of this section do not apply to the installation, repair or replacement of moorings or stake, mooring and pulley systems, the regulations for which appear in Chapter 90 of this Town Code.

§ 53- 14 Limitations on water related structures on freshwater bodies.

- A. No water related structure shall be constructed upon any body of freshwater owned by the Town of Shelter Island and no permit shall be issued for any such construction.
- B. Preexisting, nonpermitted structures existing as of June 30, 2020, are exempt from § 53-15A of this chapter subject to the following:
 - (1) They may be repaired or maintained in kind and in place; or
 - (2) They may be altered or modified, where after review, it is determined by the Town Board that any changes materially reduce the size and environmental impact of the original structure; or
 - (3) Any structure, deteriorating, damaged, or destroyed by any cause, including an act of God where, as determined by the Dock Inspector, 50% or more of the original structure's supporting members remain in a structurally sound condition so long as the repairs are in kind and in place or are determined by the Town Board to materially reduce the size and environmental impact of the original structure.

ARTICLE V

Additional Provisions

§ 53-15 Coordination with wetlands provisions.

- A In addition to the requirements of this chapter, any dock and method of access or other water related structure requiring a wetlands permit pursuant to Chapter 129, shall undergo coordinated and concurrent review of the respective applications.

§ 53-16. Power of Town Board in deciding the permit application

- A. To prevent obstruction or interference with navigation or in furtherance of the protection and public use of Town Waters and the public interest, the Town Board may impose reasonable conditions and restrictions when issuing permits, up to and including denial of same.

In imposing restrictions or denying a permit, the Town Board shall consider public and private interests balanced with site characteristics and the following criteria:

- (1) Exposure to environmental elements including but not limited to wind, wave action, surge, currents, tides, depth;
- (2) Property setbacks, shoreline protection, erosion, preservation, marine life, materials used;
- (3) Navigation, boat traffic, vessel size;
- (4) Public access, beaches, general recreation, fishing, shell fishing, swimming, and the preservation of scenic vistas.

- B. The Town Board shall have the authority to grant waivers of any provision of this Chapter as in its judgment is in the interests of the public health, safety or general welfare, except where such waiver would be contrary to state or federal law. A written request for such waiver shall be accompanied by documentation that demonstrates the reasons for the request. The Town Board shall issue a written decision granting or denying the request. The waiver, if granted, shall apply solely to the particular location. The decision granting the waiver shall be recorded by the applicant, and proof of recording shall be filed in the office of the Town Clerk.

- C. Regarding applications for design standard waivers the Town Board shall at the minimum consider:

- (1) All possible Code compliant alternatives.
- (2) The presence of unique site conditions.
- (3) The criteria enumerated in this section.
- (4) Whether the waiver request arises from a self-created hardship.

§ 53-17. Enforcement.

- A. The Dock Inspector is hereby authorized and directed to enforce the provisions of this chapter.

- B. Should the Dock Inspector determine that a dock has become a threat to life or property or a menace to navigation, they shall immediately notify the Town Board. Upon receipt of such notice, the Town Board shall direct the Dock Inspector to notify the Owner of their findings regarding the condition of the dock by certified mail or personal service and by posting such notification upon the Owner's property of their findings regarding the condition of the dock. In the event the Owner does not remove or repair the dock within the time required by the Dock Inspector, the Owner shall be notified by certified mail that the Town will make any necessary repairs to render the dock safe at the Owner's expense. Without limiting the foregoing, the Town may enforce compliance in a civil proceeding to enjoin noncompliance and to require removal of any dock or other structure constructed in violation of this Chapter. In any proceeding in which the Town is the prevailing party, the Town may recover its costs, expenses and reasonable attorney fees.

§ 53- 18. Penalties for offenses.

- A. A violation of any provision of this Chapter shall constitute a violation and shall be punishable by a fine of not more than two thousand five hundred (\$2,500.00) dollars or by imprisonment for not more than fifteen (15) days, or both.

- B. A second violation within one (1) year shall be punishable by a fine of not more five thousand (\$5,000.00) dollars or by imprisonment for not more than 15 days, or both.

- C. A third or subsequent violation within one year of the initial offense shall be punishable by a fine not more than ten thousand (\$10,000.00) dollars or by imprisonment for not more than 15 days, or both and, if the violation be by a contractor or agent licensed to do business

in the Town of Shelter Island, such license may be revoked.

D. Each day of continued violation of this Chapter shall constitute a separate and distinct offense.

Section 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10 and Town Law §130(15).

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

The previous version of this Chapter was no longer sufficient for the needs of the community and the Island's extensive, diverse and fragile shoreline. This amendment helps to preserve and provide greater access to, and use of, that precious resource for more of the Island's residents.

Adopted: April 7, 2025
Effective: April 16, 2025