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Municipality: Town of Shelter Island
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Community Type - applicable to: Suburban; Rural
Title: Town of Shelter Island Nature Preserve System
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Abstract

The Town of Shelter Island Nature Preserve System is a regulation meant to supplement existing town regulations and procedures so that certain Town-owned and privately owned properties can be protected from inappropriate use and development. The Act is meant to protect the natural diversity that exists in natural areas that are being threatened by population growth and a developing economy.

Resource

Town of Shelter Island NY Nature Preserve System
Code of the Town of Shelter Island NY
Chapter 91: Nature Preserve System

ARTICLE I General Provisions

§ 91-1. Title.

This chapter shall be known and cited as the "Town of Shelter Island Nature Preserve System."

§ 91-2. Purpose and public policy.

A. The purpose of this chapter is to establish a Town Nature Preserve System so that certain Town-owned and privately owned properties can be protected from inappropriate use and development.

B. Due to the growth of the population and the development of the economy in the Town, many properties located in the Town are subject to human activity and development. It is necessary and desirable that the natural diversity which currently exists

in and on the lands and waters located in the Town to be preserved as natural areas for the benefit of present and future generations in order to achieve any of the following objectives:

(1) Heritage: to protect natural areas which provide living museums of the original heritage of the Town and contribute to the public health and welfare of the inhabitants. Rural ambiance and environmental quality have traditionally contributed to the Town's economic base and continue to provide economic opportunity to the residents of the Town.

(2) Environmental quality: to protect the existing natural areas and, where desirable, to promote an improved environmental quality of natural areas in the Town, including but not limited to critical environmental areas, significant coastal fish and wildlife habitats and unique site types.

(3) Habitat for aquatic and upland ecological communities: to preserve ecosystems and the rich diversity of flora and fauna living thereon, including rare, threatened, endangered and protected species.

(4) Unique geological features: to protect the diversity of unique geological features found within the Town, including beaches, dunes, bluffs, swales, kettleholes, kames, morainal highlands and outwash plains.

(5) Wetlands: to protect wetlands as a means of flood control, water purification and breeding and nursery grounds for shellfish, fish and other aquatic flora and fauna.

(6) Recreational, educational and scientific opportunities: to provide opportunities for wilderness experience, diverse recreational activities and environmental educational programs and academic research programs.

(7) Buffer areas: to provide buffer areas to existing natural areas.

(8) Watershed areas: to protect watershed areas critical to recharging precipitation into the Town's sole-source aquifer or maintaining surface water quality.

(9) Aquifer protection: to protect tracts of land that are critical to the Island's fragile sole-source aquifer.

C. It is the intent of this chapter to create a nature preserve overlay system for the Town to supplement but not replace existing Town regulations and procedures.

D. It is, therefore, the public policy of the Town to secure for the people of present and future generations the benefits of an enduring resource of natural areas by establishing a Town Nature Preserve System and to provide for the protection from inappropriate use and development of the Town-owned and privately owned properties placed within the Nature Preserve System.

§ 91-3. Definitions.

The following words and expressions, where used in this chapter, shall have the meanings ascribed to them by this section:

COUNCIL — The Town of Shelter Island Conservation Advisory Council.

DESIGNATE — The process by which any Town-owned or privately owned property shall be included within the Town of Shelter Island Nature Preserve System in accordance with the procedures set forth in § 91-5.

DWELLING UNIT — A structure intended for use as a single-family dwelling (including an associated well, septic system and utilities) with, at a minimum, permanently installed kitchen and sanitary facilities. A dwelling unit may include other buildings, structures and improvements customarily incidental and subordinate to the principal building.

MANAGEMENT PLAN — A document which contains, at a minimum, conservation goals, objectives and policies with respect to the use and management of a particular parcel of land and includes a description of the particular types of activities, programs, actions and tasks to be undertaken in furtherance of or to implement those goals and objectives, which is to be reviewed as specified in the plan.

NATURE PRESERVE — Any area of land or water which is formally designated to be maintained as nearly as possible in its natural condition; said area either retains, to some degree, its primeval character (though it need not be completely natural and undisturbed at the time of its dedication) or has endangered, threatened, special concern or rare species of flora or fauna, unique geological or hydrogeological features, wetlands or features of scientific or educational value; and which area is used in a manner and under limitations consistent with its continued preservation, without impairment, disturbance or artificial development, for the public purposes of scientific research, watershed preservation, aquifer protection, education and aesthetic enjoyment and providing a habitat for plant and animal species and communities and other natural objectives.

OVERLAY SYSTEM — A system of nature preserve protection areas located throughout the Town, created by the process for designation of such areas as established by the procedures set forth in this chapter.

REGISTER — The official list of properties that have been included by designation in the Nature Preserve System.

TOWN — The Town of Shelter Island, located within the County of Suffolk, State of New York.

TOWN BOARD — The duly elected and constituted legislative body of the Town of Shelter Island.

ARTICLE II Property Comprising Nature Preserve System

§ 91-4. Criteria for inclusion.

To be considered for inclusion in the Nature Preserve System, a tract of land must include an appropriate management plan and also meet at least one of the following criteria:

- A. It serves as habitat for endangered, threatened, special concern or rare species as listed in New York State Environmental Conservation Law § 11-0535 or the New York State Natural Heritage Program.
- B. It contains a habitat or significant concentrations or populations of breeding, feeding or nesting wildlife.
- C. It contains freshwater or saltwater wetlands or ponds.
- D. It contains outstanding examples of natural communities as identified by the New York State Natural Heritage Program.
- E. It contains geological features which are vulnerable to human disturbance, such as cliffs, bluffs, steep slopes, beaches or dunes, or which are prime examples of interesting geological processes, events or periods such as kettleholes, kames, eskers or outwash stream channels.
- F. It is particularly suited to and appropriate for environmental education programs or academic research programs.
- G. It provides an essential buffer to lands in the Nature Preserve System or to other private, Town, county, state or federal park land or open space.
- H. It protects watershed areas critical to recharging precipitation into the Town's sole-source aquifer or maintaining surface water quality.
- I. It preserves viewsheds of outstanding character, woodlands along public roadways, or of significant acreage or containing trees of particular species, age, size or character or that are regarded as special places.

§ 91-5. Nomination and designation process.

A. Nomination. A nomination regarding property for inclusion in the Nature Preserve System must be submitted to the Town Board on such forms as may be prescribed by the Town Board. A nomination may be made by Town agencies, community organizations, interested individuals or the Council. Any nomination of privately owned property for inclusion in the Nature Preserve System must be accompanied by evidence of the voluntary agreement by such landowner as to its approval for such nomination and inclusion of property in the Nature Preserve System.

B. Evaluation.

(1) Every written nomination submitted to the Town Board shall be referred to the Council for an evaluation.

(2) The Council shall utilize the criteria contained in § 91-4 in making a written evaluation on whether the nominated property should be considered for inclusion in the Nature Preserve System. Said written evaluation shall be forwarded to the Town Board within 45 days of receipt of the nomination from the Town Board.

C. Referral to Town Board. The Town Board shall review the written evaluation it receives from the Council pursuant to Subsection B above. If the Council's evaluation recommends against inclusion in the Nature Preserve System, no public hearing need be held. If the evaluation recommends inclusion in the Nature Preserve System, said nomination shall be subject to public hearing.

D. Hearing. The Town Board shall schedule a public hearing within 45 days of receipt of a positive evaluation from the Council. Said hearing shall be held not less than seven and not more than 30 days after public notice has been given of the time and place for holding such public hearing. Such notice shall be given by the Town Clerk, causing the same to be published once in the official newspaper of the Town.

E. Designation. Following the public hearing, the Town Board, by resolution, may designate all, part or none of the property discussed at the public hearing to be included in the Nature Preserve System.

§ 91-6. Conservation Advisory Council duties.

A. The Town Board shall empower the Council, comprised of at least five interested and qualified residents of the Town, to perform the following tasks for recommendation to the Town Board:

(1) Inventorying existing property located in the Town for possible inclusion into the Nature Preserve System.

(2) Maintaining a register listing the property that has been nominated and designated for inclusion into the Nature Preserve System.

(3) Preparing, causing to be prepared or ratifying previously prepared management plans for properties included in the Nature Preserve System to ensure that said properties' unique features are preserved and protected. Management plans existing at the time of adoption of this chapter are hereby automatically approved, subject to the provisions of § 91-7. All management plans and any amendments thereto must be filed with the office of the Town Clerk after approval by the Town Board. Provision shall be made for the confidentiality of portions of such plans or amendments, as appropriate.

B. The Council may request assistance and expertise from other agencies and organizations in performing its duties.

§ 91-7. Use of property included in Nature Preserve System.

A. The properties designated for inclusion in the Town Nature Preserve System are hereby declared to be used solely as a nature preserve, that is, among other things, for the protection of the natural features, biological resources and environmental quality in the Town, and these purposes shall be declared to be their most important use. It is understood that the structures and dwellings which currently exist on these properties, or which may be necessary to be constructed in the future as directly related to the primary use, maintenance and management of these properties to fulfill these aforesaid purposes, are deemed consistent with these purposes. It is further understood that additional structures and dwellings on these properties for uses unrelated to the fulfillment of these purposes are deemed inconsistent with use as a nature preserve. Therefore, the entirety of each property shall be devoted to the aforementioned purposes.

B. Property designated under this chapter to the Nature Preserve System shall be used solely to ensure fulfillment of the purposes set forth in a management plan and/or to enhance the educational experiences of such property for nature preserve purposes. Nothing herein shall preclude the landowner of such property from managing such lands for conservation or nature preserve purposes or from operating such property or using facilities which may exist thereon, now or in the future, for any use which is in furtherance of or incidental to the conservation and nature preserve purposes specified herein.

C. In the event that an amendment to the management plan is promulgated by the landowners which involves any activity which could be construed as a new or additional use of the property or any portion of the property which may not be in furtherance of its use as a nature preserve, such amendment shall be considered as a use change of the property and shall be subject to the provisions of § 91-8 of this chapter.

D. Should conditions exist on any property designated to be included in the Nature Preserve System which are more restrictive than what may be imposed under this chapter, the more restrictive provisions shall prevail.

§ 91-8. Use changes of designated property in Nature Preserve System.

A. Notwithstanding any foregoing provisions, property designated under this chapter as a part of the Nature Preserve System shall be used solely as a nature preserve. Any action or activity contemplated by the landowner which could be interpreted as inconsistent with the purposes contemplated in the property's management plan, i.e., a nature preserve, shall be considered as a change of use and may not be undertaken without the following procedures having first taken place:

(1) All relevant information concerning any change in use of such property shall be submitted to the Town Board in writing.

(2) All local, county, state and federal laws, policies and administrative procedures regarding the change of use of the property shall be complied with.

(3) In the event that the Town Board finds that such use is for a purpose other than as specified in the management plan or an amendment, the Town Board shall hold a public hearing to allow public comment on such proposed change in use. Said hearing shall be held not less than seven nor more than 30 days after public notice has been given of the time and place of holding such public hearing. Such notice shall be given by the Town Clerk, causing the same to be published once in the official newspaper of the Town.

(4) Subsequent to such hearing, the Town Board shall consider appropriate action to be taken to ensure that the purposes of the management plan as well as any amendments and this chapter are carried out.

ARTICLE III Miscellaneous Provisions

§ 91-9. Construction of provisions.

The terms and conditions of this chapter are to be liberally construed so as best to achieve and effectuate the public policy goals and purposes hereof.

§ 91-10. Effect of parkland status.

Current New York law requires an act of the state legislature to sell or divest parkland to other uses. The designation of property to the Town Nature Preserve System shall not have the effect of removing such land from park status where such status already exists and shall not weaken any protection afforded by such status pursuant to New York law.

§ 91-11. Charitable status.

Lands owned by charitable organizations are subject to oversight by volunteer trustees and directions of such organizations, by the State Attorney General's Office, by the United States Internal Revenue Service and by the judicial system. The designation of property herein is not intended to diminish the authority of those institutions to provide for the use or management of assets held by such organization for its charitable purposes for which such assets were acquired.

§ 91-12. Statutory provisions superseded.

This chapter shall supersede § 64, Subdivision 2, of the New York State Town Law by requiring that any change in use of property included in the Nature Preserve System be approved by a majority plus one vote of the Town Board and by the affirmative vote of a majority of the qualified electors of the Town of Shelter Island.