

INCORPORATED VILLAGE OF SALTAIRE

LOCAL LAW NO. OF THE YEAR 2022

A LOCAL LAW CREATING CHAPTER 21A; COMMUNITY PRESERVATION  
AND WATER QUALITY PROTECTION TRANSFER TAX AND RESERVE FUND

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE INCORPORATED  
VILLAGE OF SALTAIRE AS FOLLOWS:

Section 1.0 Enactment, Effective Date,

Purpose and Definitions.

1.1 Title of Local Law

1.2 Enactment.

1.3 Effective Date.

1.4 Purpose and Intent of Local Law.

2.0 General Provisions

2.1 Chapter 21A

3.0 Severability and Validity

3.1 Severability and Validity

**Section 1.0 Title, Enactment, Effective Date,  
Purpose, and Definitions.**

**1.1. Title**

This Local Law shall be entitled, "Local Law No. of 2022, a Local Law Creating Chapter 21A of the Saltaire Village Code; Community Preservation and Water Quality Protection Transfer Tax, and Reserve Fund."

**1.2. Enactment.**

Pursuant to Section 10 of the Home Rule Law, Article 8 of the Village Law of the State of New York, the Incorporated Village of Saltaire, County of Suffolk and State of New York, hereby enacts by this Local Law of 2022, a Local Law of the Incorporated Village of Saltaire.

**1.3. Effective Date.**

This local law shall take effect on the filing of the approved Local Law with the Secretary of State of New York, which shall be within twenty (20) days after its approval by the Board of Trustees of the Incorporated Village of Saltaire.

**1.4. Purpose and Intent of Local Law.**

**A. Purpose**

The purpose of this Local Law is to create a Chapter 21A of the Saltaire Village Code which shall provide for the enactment of a 2% transfer tax in the Village of Saltaire and the creation of a Community Preservation and Water Quality Reserve Fund to ensure the long term sustainability of the Village and its infrastructure, the continuing maintenance of the protective features of the ocean front and Bayfront against storm water and other water intrusion, and to design and fortify the public water delivery system and the wastewater and stormwater systems in the Village.

**B. Intent**

The intent of the Local law is to create a new Chapter 21A of the Saltaire Village Code to enact a 2% transfer tax for the purposes stated herein and as approved and authorized by Article 31H of the New York State Tax Law.

**2.0. General Provisions**

**2.1 Creation of Chapter 21A of the Saltaire Village Code**

There shall be created a new Chapter 21A of the Saltaire Village Code; Community Preservation and Water Quality Transfer Tax, and Reserve Fund as follows:

**Article I Saltaire Community Preservation and Water Quality Fund and Reserve**

**§ 21A-1 Title.**

**§ 21A-2 Findings.**

**§ 21A-3 Legislative purpose.**

**§ 21A-4 Definitions.**

**§ 21A-5 Saltaire Community Preservation Fund established.**

**§ 21A-6 Purposes of fund.**

**§ 21A-7 Expenditures and investments from Fund**

**§ 21A-8 Severability.**

**§ 21A- 9 Effective date.**

**Article II Two-Percent Real Estate Transfer Tax**

**§ 21A-10 Legislative findings.**

**§ 21A-11 Definitions.**

**§ 21A-12 Imposition of tax; use of tax; applicability.**

**§ 21A-13 Payment of tax; filing of return; recording.**

**§ 21A-14 Liability for tax.**

**§ 21A-15 Exemptions from tax.**

**§ 21A-16 Additional exemptions.**

**§ 21A-17 Credit.**

**§ 21A-18 Cooperative housing corporation transfers.**

**§ 21A-19 Designation of agent by County Treasurer.**

**§ 21A-20 Liability of Recording Officer.**

**§ 21A-21 Refunds.**

**§ 21A-22 Deposit and disposition of revenue.**

**§ 21A-23 Judicial review.**

**§ 21A-24 Apportionment of consideration subject to tax for property located only partly within Village.**

**§ 21A-25 Determination of tax; petition to Village Board of Trustees.**

**§ 21A-26 Proceedings to recover tax due.**

**§ 21A-36 Interest and civil penalties.**

**§ 21A-37 Confidentiality of transfer tax returns.**

**§ 21A-38 Intergovernmental agreement authority.**

**§ 21A-39 Severability.**

**§ 21A-40 Effective date; referendum requirement.**

**§ 21A-1 Title.**

**This article of the Saltaire Village Code shall be known and may be cited as the "Community Preservation and Water Quality Reserve Fund."**

**§ 21A-2 Findings.**

**The Village of Saltaire possesses a rich heritage of scenic, historic and natural resources which are vital to the Village's sense of place and to its success as a community. The Village is exposed to issues in the resiliency and sustainability in the continuing maintenance of public water delivery systems, wastewater and stormwater systems, and other coastal protection and the impacts of those issues on the taxes of the Village. The Village therefore finds that that it is necessary to establish and maintain a special reserve account for infrastructure resiliency and sustainability initiatives, to stabilize the annual real property tax burden on property owners and to preserve the environment and character of the community by funding**

**improvements and continuing maintenance of public water delivery systems, wastewater and stormwater systems, and other coastal protections and providing initiatives and resiliency provisions, and that it is necessary to establish a dedicated fund and reserve for this purpose.**

**§ 21A-3 Legislative purpose.**

**It is the purpose of this Article to establish and create the Saltaire Community Preservation and Water Quality Reserve Fund to ensure the long term sustainability of the Village and its infrastructure, the continuing maintenance of the protective features of the ocean front and Bayfront against storm water and other water intrusion, and to design and fortify the public water delivery system and the wastewater and stormwater systems in the Village. Such fund is specifically authorized and is necessary to the enactment of a two-percent real estate transfer tax, which is also authorized by Tax Law Article 31H, and which the Village Board finds to be necessary to effectuate the Village's community preservation goals.**

**§ 21A-4 Definitions.**

**Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings as herein defined. Any word or term not noted below shall be used with a meaning as defined in Webster's Third New International Dictionary of the English Language, unabridged (or latest edition).**

**ADVISORY BOARD:** The Saltaire Community Preservation and Water Quality Fund Advisory Board to be established and created by the Village Board

**COMMUNITY AND WATER QUALITY PRESERVATION:** Preservation of the Saltaire community, which shall involve one or more of the following purposes :

**A. Reserve to ensure the long term sustainability of the Village and its infrastructure;**

**B. The continuing maintenance of the protective features of the ocean front and Bayfront against storm water and other water intrusion; and**

**C. To design and fortify the public water delivery system and the wastewater and stormwater systems in the Village.**

**COMMUNITY AND WATER QUALITY PRESERVATION PROJECT PLAN: The Saltaire Community and Water Quality Preservation Plan to be adopted by the Saltaire Village Board pursuant to Village Law which shall be known as the "Saltaire Community and Water Quality Preservation Project Plan."**

**FIRST-TIME HOMEBUYER: A person who has not owned a primary residential property and is not married to a person who has owned a residential property during the three-year period prior to his or her purchase of the primary residential property, and who does not own a vacation or investment home.**

**FUND: The Saltaire Community Preservation Reserve Fund established and created by this article pursuant to Chapter 31H of the New York State Tax Law and Section 5-532-a(3) of the New York State Village Law.**

**PRIMARY RESIDENTIAL PROPERTY: Any one- or two-family house, village house or condominium located in the Village of Saltaire which is to be owner occupied by such homebuyer.**

**§ 21A-5 Saltaire Community and Water Quality Preservation Fund established.**

**A. The Saltaire Community and Water Quality Preservation Fund is hereby established as authorized by New York Village Law.**

**B. Deposits into the fund may include revenues of the Village from whatever source as determined by the Village Board of Trustees and shall include, at a minimum, all revenues**

from a real estate transfer tax imposed by the Village pursuant to Article 31-H of the New York Tax Law and Section 5-532-a(3) of the Village Law.

C. The fund shall also be authorized to accept gifts of any such interests in land or of funds. Interest accrued by moneys deposited in the fund shall be credited to the fund.

D. In no event shall moneys deposited in the fund be transferred into any other account.

E. Nothing contained in this article shall be construed to prevent the financing in whole or in part, pursuant to the New York Local Finance Law, of any acquisition authorized pursuant to this article. Moneys from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the Local Finance Law, consistent with effectuating the purposes of this article.

F. Since 1980 the Village of Saltaire has incurred or authorized bonded indebtedness in the amount of approximately \$11,000,000 for infrastructure improvements. The number of residents of the Village per the 1990 U.S. Census, was approximately 25 in the winter but expands to 5,000 in the summer. The Village Board hereby determines and finds that the Village has incurred or authorized bonded indebtedness since 1980 for the long term improvements to the infrastructure in order to protect the village and its residents and to preserve the Village.

**§ 21A-6 Purposes of Fund and Reserve.**

A. The purposes of the fund shall be exclusively:

(1) To implement the Saltaire Community and Water Quality Preservation Project Plan.

**(2) To acquire interests or rights in real property for the preservation of community character within the Village, including the portion of any Village therein, in accordance with said plan.**

**(3) To establish a bank pursuant to a transfer of development rights program consistent with § 261-a of the Village Law, at the sole discretion of the Village Board.**

**(4) To provide a management and stewardship program for projects funded or supported by the Fund or reserve, consistent with the provisions of this article and in accordance with the Saltaire Community Preservation Plan.**

**C. Not more than 10% of the fund shall be utilized for the management and stewardship program provided for in § 21A-6A(4).**

**D. If the implementation of the Saltaire Community and Water Quality Preservation Project Plan has been completed, and funds are no longer required for the purposes set forth in § 21A-6A, any remaining moneys in the fund shall be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purposes set forth in § 21A-6A.**

**§ 21A-7 Acquisition of interests in property; public hearing and other requirements.**

**A. No interests or right(s) in real property shall be acquired pursuant to this article until a public hearing is held as required by § 247 of the New York General Municipal Law. However, nothing herein shall prevent the Village Board from entering into a conditional purchase agreement before a public hearing is held.**

**B. Any resolution of the Village Board approving an acquisition of land pursuant to this article shall include a finding that acquisition was the best alternative for the protection of community character of all reasonable alternatives available to the Village.**



**§ 21A-8 Severability.**

**If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.**

**§ 21A-9 Effective date. This article shall take effect immediately upon filing with the Secretary of State as provided by law.**

**Article 2 the Transfer Tax**

**§ 21A-10 Legislative findings.**

**A. The Village of Saltaire enjoys a worldwide reputation as a community of great scenic beauty, rich in natural resources and open spaces, including agricultural lands, woodlands, wetlands, waterways, dunes, bluffs and other natural features. The Village also possesses a rich historic heritage as one of the oldest colonial settlements in the State of New York and, indeed, in the nation. Finally, because the second home industry and tourism are such important components of the local economy, the Village must preserve its scenic beauty and provide recreational areas in order to continue to attract visitors.**

**B. The Village's natural and historic resources collectively provide the people of Saltaire with an unequalled community character. In fact, the Nature Conservancy has included the region which includes Saltaire Village as one of its twelve "Last Great Places" in the Western Hemisphere. The Village has done much to foster, protect and promote its community character. Saltaire enjoys a reputation as being creative and innovative in the area of land use and land conservation.**

**C. The Village is today under extreme development pressure, with development out-pacing current conservation efforts. If exceptional action is not taken, Saltaire's unique character may be irretrievably lost and the substantial investment of the Village's citizens in protecting that character made moot. New financial resources are imperative if the Village is to preserve its special identity.**

**D. Pursuant to § 5-532-a(3) of the New York Village Law and Article 31H of the Tax Law, Saltaire Village is authorized to create and establish a Community Preservation and Water Quality Reserve Fund and to impose a two-percent real estate transfer tax, with the revenue derived from said tax to be deposited into the Saltaire Community Preservation and Water Quality Reserve Fund. The creation of the fund and the imposition of the tax are subject to mandatory referendum. It is the purpose of this article to impose the two-percent real estate transfer tax in order to place the revenue derived from the tax in said dedicated fund.**

**E. The Village Board finds that this article is an excellent opportunity for achieving balance between development and conservation which is needed to ensure the Village's community character.**

**§ 21A-11; Definitions.**

**As used in this article, unless otherwise expressly stated, the following words and terms shall have the following meanings:**

**CONSIDERATION: The price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property, whether or not expressed in the deed and whether paid or required to be paid by money, property or any other thing of value. It shall include the cancellation or discharge of an**

**indebtedness or obligation. It shall also include the amount of any mortgage, purchase money mortgage, lien or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to.**

**A. In the case of the creation of a leasehold interest or the granting of an option with use and occupancy of real property, consideration shall include, but not be limited to, the value of the rental and other payments attributable to the use and occupancy of the real property or interest therein, the value of any amount paid for an option to purchase or renew and the value of rental or other payments attributable to the exercise of any option to renew.**

**B. In the case of the creation of a subleasehold interest, consideration shall include, but not be limited to, the value of the sublease rental payments attributable to the use and occupancy of the real property, the value of any amount paid for an option to renew and the value of rental or other payments attributable to the exercise of any option to renew, less the value of the remaining prime lease rental payments required to be made.**

**C. In the case of a controlling interest in any entity that owns real property, consideration shall mean the fair market value of the real property or interest therein, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.**

**D. In the case of an assignment or surrender of a leasehold interest or the assignment or surrender of an option or contract to purchase real property, consideration shall not include the value of the remaining rental payments required to be made pursuant to the terms of such lease or the amount to be paid for the real property pursuant to the terms of the option or contract being assigned or surrendered.**

**E. In the case of the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor and the subsequent conveyance by the owner thereof of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold for a cooperative unit other than an individual residential unit, consideration shall include a proportionate share of the unpaid principal of any mortgage on the real property of the cooperative housing corporation comprising the cooperative dwelling or dwellings. Such share shall be determined by multiplying the total unpaid principal of the mortgage by a fraction, the numerator of which shall be the number of shares of stock being conveyed in the cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold, and the denominator of which shall be the total number of shares of stock in the cooperative housing corporation.**

**CONTROLLING INTEREST: A. In the case of a corporation, either 50% or more of the total combined voting power of all classes of stock of such corporation, or 50% or more of the capital, profits or beneficial interest in such voting stock of such corporation; and**

**B. In the case of a partnership, association, trust or other entity, 50% or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.**

**CONVEYANCE: The transfer or transfers of any interest in real property by any method, including but not limited to sale, exchange, assignment, surrender, mortgage foreclosure, transfer in lieu of foreclosure, option, trust indenture, taking by eminent domain, conveyance upon liquidation or by a receiver, or transfer or acquisition of a controlling interest in any entity with an interest in real property. Transfer of an interest in real property shall include the creation of a leasehold or sublease only where the sum of the term of the lease or sublease**

and any options for renewal exceeds 49 years, substantial capital improvements are or may be made by or for the benefit of the lessee or sublessee and the lease or sublease is for substantially all of the premises constituting the real property. Notwithstanding the foregoing, conveyance of real property shall not include a conveyance made pursuant to devise, bequest or inheritance; the creation, modification, extension, spreading, severance, consolidation, assignment, transfer, release or satisfaction of a mortgage; a mortgage subordination agreement, a mortgage severance agreement or an instrument given to perfect or correct a recorded mortgage; or a release of lien of tax pursuant to this article or the Internal Revenue Code.

**FUND:** The Saltaire Community Preservation and Water Quality Reserve Fund created and established by Article I of this chapter pursuant to the Village Law.

**GRANTEE:** The person who obtains real property or an interest therein as a result of a conveyance.

**GRANTOR:** The person making the conveyance of real property or interest therein. Where the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, "grantor" shall mean the entity with an interest in real property or a shareholder or partner transferring stock or partnership interest, respectively.

**INTEREST IN REAL PROPERTY:** Includes title in fee, a leasehold interest, a beneficial interest, an encumbrance, development rights, air space and air rights or any other interest with the right to use or occupancy of real property or the right to receive rents, profits or other income derived from real property. It shall also include an option or contract to purchase real property. It shall not include a right of first refusal to purchase real property.

**PERSON;** An individual, partnership, limited liability company, society, association, joint stock company, corporation estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals and any other form of unincorporated enterprise owned or conducted by two or more persons.

**REAL PROPERTY;** Every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the Village. It shall not include rights to sepulture.

**RECORDING OFFICER;** The County Clerk of the County of Suffolk.

**VILLAGE;** The Village of Saltaire.

**VILLAGE MAYOR;** The Village Mayor of the Village of Saltaire.

**TREASURER (COUNTY TREASURER):** The Treasurer of the County of Suffolk.

**§ 21A-12 Imposition of tax; use of tax; applicability.**

There is hereby imposed in the Village of Saltaire a tax on each conveyance of real property or interest therein where the consideration exceeds \$500, the rate of such tax to be 2% of the consideration for such conveyance. Revenues from such tax shall be deposited in the Saltaire Community Preservation Fund established by Article I of this chapter and may be used solely for the purposes of said fund. Such tax shall apply to any conveyance occurring on or after May 1, 2022, but shall not apply to conveyances made on or after such date pursuant to binding written contracts entered into prior to such date, provided that the date of execution of such contract is confirmed by independent evidence such as the recording of the contract,

payment of a deposit or other facts and circumstances as determined by the County Treasurer.

**§ 21A-13 Payment of tax; filing of return; recording.**

**A. The real estate transfer tax imposed pursuant to this article shall be paid to the Treasurer, or to the Recording Officer acting as the agent of the Treasurer upon designation as such agent by the Treasurer. Such tax shall be paid at the same time as the real estate transfer tax imposed by Article 31H of the New York Tax Law is required to be paid. Such Treasurer or Recording Officer shall endorse upon each deed or instrument effecting a conveyance a receipt for the amount of the tax so paid.**

**B. A return shall be required to be filed with such Treasurer or Recording Officer for purposes of the real estate transfer tax imposed pursuant to this article at the same time as a return is required to be filed for purposes of the real estate transfer tax imposed by Article 31 of the Tax Law. The Treasurer shall prescribe the form of return, the information that it shall contain and the documentation that shall accompany the return. Said form shall be identical to the real estate transfer tax return required to be filed pursuant to § 1409 of the Tax Law, except that the Treasurer shall adapt said form to reflect the provisions of this article which are inconsistent with, different from or in addition to the provisions of Article 31 of the Tax Law. The real estate transfer tax returns required to be filed pursuant to this section are required to be preserved for three years and thereafter until such Treasurer or Recording Officer orders them to be destroyed.**

**C. The Recording Officer shall not record an instrument effecting a conveyance unless the return required by this section has been filed and unless the tax imposed pursuant to this article shall have been paid as provided in this section.**

**§ 21A-14 Liability for tax.**

**A. The real estate transfer tax required hereunder shall be paid by the grantee. If the grantee has failed to pay the tax imposed pursuant to this article, or if the grantee is exempt from such tax, the grantor shall have the duty to pay the tax. Where the grantor has the duty to pay the tax because the grantee has failed to pay the tax, such tax shall be the joint and several liability of the grantee and grantor.**

**B. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all conveyances are taxable. Where the consideration includes property other than money, it shall be presumed that the consideration is the fair market value of the real property or interest therein. These presumptions shall prevail until the contrary is proven, and the burden of proving the contrary shall be on the person liable for payment of the tax.**

**§ 21A-15 Exemptions from tax.**

**A. The following shall be exempt from payment of the real estate transfer tax imposed by this article:**

**(1) The State of New York or any of its agencies, instrumentalities, political subdivisions or public corporations (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada).**

**(2) The United Nations and the United States of America and any of its agencies or instrumentalities.**

**B. Exemption for certain conveyances. The real estate transfer tax imposed by this article shall not apply to any of the following conveyances:**



**(1) Conveyances to the United Nations, the United States of America, the State of New York or any of their instrumentalities, agencies or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada).**

**(2) Conveyances which are or were used to secure a debt or other obligation.**

**(3) Conveyances which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded.**

**(4) Conveyances of real property without consideration and otherwise than in connection with a sale, including deeds conveying realty as bona fide gifts.**

**(5) Conveyances given in connection with a tax sale.**

**(6) Conveyances to effectuate a mere change of identity or form of ownership or organization where there is no change in beneficial ownership, other than conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings.**

**(7) Conveyances which consist of a deed of partition.**

**(8) Conveyances given pursuant to the Federal Bankruptcy Act.**

**(9) Conveyances of real property which consist of the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property.**

**(10) Conveyances of real property, where the entire parcel of real property to be conveyed is the subject of one or more of the following development restrictions:**

**(a) An agricultural, conservation, scenic or an open space easement.**

**(b) Recorded covenants or restrictions prohibiting development.**

**(c) A purchase of development rights agreement.**

**(d) A transfer of development rights agreement, where the property being conveyed has had its development rights removed.**

**(e) Said real property is subject to the development restriction of an agricultural district or individual commitment, pursuant to Article 25AA of the New York Agriculture and Markets Law.**

**(f) Real property subject to any locally adopted land preservation agreement, including agreements under the Village of Saltaire's Open Space Preservation and Agricultural Lands Preservation Laws[1] and, provided said exemption is included in the local law imposing the tax authorized by this article.**

**11. Conveyances of real property, where the property is viable agricultural land as defined in Subdivision (7) of § 301 of the Agriculture and Markets Law and the entire property to be conveyed is to be made subject to one of the development restrictions set forth in the preceding § 21A-24B(10), provided that said development restrictions preclude the conversion of the property to a nonagricultural use for at least three years from the date of transfer, and said development restriction is evidenced by an easement, agreement or other suitable instrument which is conveyed to the Village simultaneously with the conveyance of the real property; or**

**12. Conveyances of real property for open space, parks or historic preservation purposes to any not-for-profit tax-exempt corporation operated for conservation, environmental or historic preservation purposes.**

**§ 21A-16 Additional exemptions.**

**A. There shall be allowed an exemption of \$150,000 on the consideration of the conveyance of improved real property or an interest therein.**

**B. There shall be an exemption of \$75,000 on the consideration of the conveyance of unimproved real property or an interest therein.**

**C. There shall be allowed an exemption for a first-time homebuyer where the purchase price of the primary residential property is within 80% of the purchase price limits defined by the State of New York Mortgage Agency (SONYMA) Low Interest Rate Mortgage Program in the nontarget one-family categories for Suffolk County in effect on the contract date for the sale of such property and the homebuyer's household income does not exceed the income limits defined by SONYMA's Low Interest Rate Mortgage Program in the nontarget, one- and two-person household category for Suffolk County in effect on the contract date for the sale of such property.**

**§ 21A-17 Credit.**

**A grantee shall be allowed a credit against the tax due on a conveyance of real property to the extent that tax was paid by such grantee on a prior creation of a leasehold of all or a portion of the same real property or on the granting of an option or contract to purchase all or a portion of the same real property by such grantee. Such credit shall be computed by multiplying the tax paid on the creation of the leasehold or on the granting of the option or contract by a fraction, the numerator of which is the value of the consideration used to compute such tax paid which is not yet due to such grantor on the date of the subsequent conveyance (and which such grantor will not be entitled to receive after such date) and the denominator of which is the total value of the consideration used to compute such tax paid.**

**§ 21A-18 Cooperative housing corporation transfers.**

**A. Notwithstanding the definition of "controlling interest" contained in § 21A-20 hereof or anything to the contrary found in the definition of "conveyance" contained in said section, the tax imposed pursuant to this article shall apply to the following:**

**(1) The original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor.**

**(2) The subsequent conveyance of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner thereof. With respect to any such subsequent conveyance where the property is an individual residential unit, the consideration for the interest conveyed shall exclude the value of any liens on certificates of stock or other evidences of an ownership interest in and a proprietary lease from a corporation or partnership formed for the purpose of cooperative ownership of residential interest in real estate remaining thereon at the time of conveyance. In determining the tax on a conveyance described in Subsection A(1) above, a credit shall be allowed for a proportionate part of the amount of any tax paid upon the conveyance to the cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings to the extent that such conveyance effectuated a mere change of identity or form of ownership of such property and not a change in the beneficial ownership of such property. The amount of credit shall be determined by multiplying the amount of tax paid upon the conveyance to the cooperative housing corporation by a percentage representing the extent to which such conveyance effectuated a mere change of identity or form of ownership and not a change in the beneficial ownership of such property, and then multiplying the resulting product by a fraction, the numerator of which shall be the number of shares of stock conveyed in a**

transaction described in Subsection A(1) and the denominator of which shall be the total number of shares of stock of the cooperative housing corporation (including any stock held by the corporation). In no event, however, shall such credit reduce the tax on a conveyance described in Subsection A(1) below zero, nor shall any such credit be allowed for a tax paid more than 24 months prior to the date on which occurs the first in a series of conveyances of shares of stock in an offering of cooperative housing corporation shares described in Subsection A(1).

B. Every cooperative housing corporation shall be required to file an information return with the County Treasurer by July 15th of each year covering the preceding period of January 1 through June 30 and by January 15th of each year covering the preceding period of July 1 through December 31. The return shall contain such information regarding the conveyance of shares of stock in the cooperative housing corporation as the Treasurer may deem necessary, including, but not limited to, the names, addresses and employee identification numbers or social security numbers of the grantor and the grantee, the number of shares conveyed, the date of the conveyance and the consideration paid for such conveyance.

**§ 21A-19 Designation of agent by County Treasurer.**

The County Treasurer is authorized by law to designate the Recording Officer to act as his or her agent for the purpose of collecting the tax imposed by this article. The Treasurer shall provide for the manner in which such person may be designated as his or her agent subject to such terms and conditions as the Treasurer shall prescribe. The real estate transfer tax shall be paid to such agent as provided in § 21A-12, 13 and 14 hereof.

**§ 21A-20 Liability of Recording Officer.**

**A Recording Officer shall not be liable for any inaccuracy in the amount of tax imposed pursuant to this article that he or she shall collect so long as he or she shall compute and collect such tax on the amount of consideration or the value of the interest conveyed as such amounts are provided to him or her by the person paying the tax.**

**§ 21A-21 Refunds.**

**Whenever the Treasurer shall determine that any moneys received under the provisions of this article were paid in error, he or she may cause such moneys to be refunded pursuant to such rules and regulations as he or she may prescribe, provided that any application for such refund is filed with the Treasurer within two years from the date the erroneous payment was made.**

**§ 21A-22 Deposit and disposition of revenue.**

**A. All taxes, penalties and interest imposed by the Village under the authority of this article which are collected by the Treasurer or his or her agents shall be deposited in a single trust fund for the Village and shall be kept in trust and separate and apart from all other moneys in possession of the Treasurer. Moneys in such fund shall be deposited and secured in the manner provided by § 10 of the General Municipal Law. Pending expenditure from such fund, moneys therein may be invested in the manner provided in § 11 of the General Municipal Law. Any interest earned or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such fund.**

**B. The Treasurer shall retain such amount as he or she may determine to be necessary for refunds with respect to the tax imposed by the Village under the authority of this article, out of which the Treasurer shall pay any refunds of such taxes to those taxpayers entitled to a refund pursuant to the provisions of this article.**

**C. The Treasurer, after reserving such funds, shall on or before the twelfth day of each month pay to the Village Supervisor the taxes, penalties and interest imposed by the Village under the authority of this article, collected by the Treasurer pursuant to this article during the proceeding calendar month. The amount so payable shall be certified to the Village Supervisor by the Treasurer, who shall not be held liable for any inaccuracy in such certification. However, any such certification may be based on such information as may be available to the Treasurer at the time such certification must be made under this section.**

**D. Where the amount so paid over to the Village in any such distribution is more or less than the amount due to the Village, the amount of the overpayment or underpayment shall be certified to the Village Supervisor by the Treasurer, who shall not be held liable for any inaccuracy in such certification. The amount of the underpayment or overpayment shall be so certified to the Village Supervisor as soon after the discovery of the overpayment or underpayment as reasonably possible, and subsequent payments and distributions by the Treasurer to such Village shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the Treasurer and Village Supervisor shall consider reasonable in view of the underpayment or overpayment and all other facts and circumstances.**

**E. All moneys received from the Treasurer by the Village Supervisor shall be deposited in the Saltaire Community Preservation and Water Quality Reserve Fund established pursuant to Article I of this chapter and Village Law § 5-532-a.**

**§ 21A-23 Judicial review.**

**A. Any final determination of the amount of any tax payable under this article shall be reviewable for error, illegality or unconstitutionality, or any other reason whatsoever, by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within four months after the giving of the notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:**

**(1) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by this article, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in New York State and approved by the State Superintendent of Insurance as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or**

**(2) At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interest and penalties stated in such determination, plus the costs and charges which may accrue against the petitioner in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.**

**B. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally assessed or collected, and application for the refund or revision thereof duly made to the Treasurer, and such Treasurer shall have made a determination denying such refund or revision, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that:**



**(1) Such proceeding is instituted within four months after the giving of the notice of such denial;**

**(2) A final determination of tax due was not previously made; and**

**(3) An undertaking is filed with the Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.**

**§ 21A-24 Apportionment of consideration subject to tax for property located only partly within Village.**

**A. Where real property is situated partly within and partly without the boundaries of the Village, the consideration subject to tax is such part of the total consideration as is attributable to the portion of such real property situated within the Village or to the interest in such portion. If the consideration attributable to the property located in the Village is set forth in the contract, such amount may be used to compute the tax due.**

**B. If the contract does not set forth the amount of consideration attributable to the portion of real property or interest therein situated within the Village, the consideration shall be reasonably allocated between the portion of such property or interest therein situated within the Village and the portion of such property or interest therein situated without the Village. If the grantor and the grantee enter into a written agreement, signed by both the grantor and the grantee, which sets forth a reasonable allocation of consideration, that allocation of consideration may be used to compute the tax due. If the grantor and the grantee do not enter into such an agreement, or if the allocation of consideration set forth in such agreement is deemed unreasonable by the Treasurer, the allocation of consideration must be**

computed by multiplying the amount of consideration by a fraction, the numerator of which is the fair market value of the real property or interest therein situated within the Village, and the denominator of which is the total fair market value of all the real property or interest therein being conveyed. Except in the case of a transfer or acquisition of a controlling interest where consideration means fair market value of the real property or interest therein, the tax shall be computed on the allocated portion of the actual consideration paid, even if that amount is greater or less than the fair market value as determined by appraisal.

C. Where the methods provided under this section do not allocate the consideration in a fair and equitable manner, the Treasurer may require the grantor and grantee to allocate the consideration under such method as he prescribes, so long as the prescribed method results in a fair and equitable allocation.

**§ 21A-25 Determination of tax; petition to Village Board of Trustees.**

A. If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Treasurer from such records or information as may be obtainable, including the assessed valuation of the real property or interest therein and other appropriate factors. Notice of such determination shall be given to the person liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 90 days after the giving of notice of such determination, shall petition the Village Board for a hearing, or unless the Treasurer, on the Treasurer's own motion, shall redetermine the same. The Village Board may designate, in writing, a hearing officer to hear such an appeal, which hearing officer shall file a written report and recommendation with the Village Board. In any case before the Village Board under this article, the burden of proof shall be on the petitioner. After such

hearing, the Village Board shall give notice of the determination to the person against whom the tax is assessed and to the Treasurer. Such determination may be reviewed in accordance with the provisions of § 21A-23 of this article. A proceeding for judicial review shall not be instituted unless:

(1) The amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Treasurer, and there shall be filed with the Treasurer an undertaking, issued by a surety company authorized to transact business in New York State and approved by the State Superintendent of Insurance as to solvency and responsibility, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding; or

(2) At the option of the petitioner, such undertaking filed with the Treasurer may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such decision, plus the costs and charges which may accrue against him in the prosecution of the proceeding; in which event, the petitioner shall not be required to deposit such taxes, penalties and interest as a condition precedent to the commencement of the proceeding.

B. A person liable for the tax imposed by this article (whether or not a determination assessing a tax pursuant to Subsection A hereof has been made) shall be entitled to have the tax due finally and irrevocably fixed prior to the ninety-day period referred to in Subsection A by filing with the Treasurer a signed statement consenting thereto, in writing and in such form as the Treasurer shall prescribe.

**C. The remedies provided by this section and §§ 21A-30, 21A-31 and 21A-32 of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article.**

**§ 21A-26 Proceedings to recover tax due.**

**A. Whenever any person shall fail to pay any tax, penalty or interest imposed by this article, the Village Attorney shall, upon the request of the Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the Village, in any court of the State of New York or of any other state or of the United States.**

**B. As an additional and alternative remedy, the Treasurer may issue a warrant, directed to the Sheriff of Suffolk County, commanding him to levy upon and sell any real and personal property of a grantor or grantee liable for the tax which may be found within the County, for payment of the amount thereof, with any penalty and interest and the cost of executing the warrant, and to return such warrant to the Treasurer the money collected by virtue thereof within 60 days after the receipt of the warrant. The Sheriff shall, within five days after the receipt of the warrant, file with the Clerk a copy thereof, and thereupon such Clerk shall enter into the judgment docket the name of the person mentioned into the warrant and the amount of the tax, penalty and interest for which the warrant is issued. Such lien shall not apply to personal property unless such warrant is filed with the Department of State. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the County; and, in**

the execution thereof, such officer or employee shall have all the powers conferred by law upon Sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. Upon such filing of a copy of a warrant, the Treasurer shall have the same remedies to enforce the amount due thereunder as if the County of Suffolk had recovered the judgment therefor.

**§ 21A-27 Interest and civil penalties.**

A. Any grantor or grantee failing to file a return or to pay any tax within the time required by this article shall be subject to a penalty of 10% of the amount of the tax due plus an interest penalty of 2% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due; such interest penalty shall not exceed 25% in the aggregate. If the Treasurer determines that such failure or delay was due to reasonable cause and not due to willful neglect, the Treasurer shall remit, abate or waive all of such penalty and interest penalty.

B. If any amount of tax is not paid on or before the last date prescribed in § 21A-23 hereof for payment, interest on such amount at the rate of 9% per month shall be paid for the period from such last date to the date paid.

C. The penalties and interest provided for in this section shall be paid to the Treasurer and shall be determined, assessed, collected and distributed in the same manner as the tax imposed by this article, and any reference to tax in this article shall be deemed to include the penalties and interest imposed in this section.

**§ 21A-28 Confidentiality of transfer tax returns.**

A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the County or Village, or any person

**engaged or retained on an independent contract basis, to divulge or make known in any manner the particulars set forth or disclosed in any return required under this article.**

**However, nothing in this section shall prohibit the Recording Officer from making a notation on an instrument effecting a conveyance indicating the amount of tax paid. No recorded instrument effecting a conveyance shall be considered a return for the purposes of this section.**

**B. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village in any action or proceeding involving the collection of a tax due under this article to which the County or Village or an officer or employee of the County or Village is a party or a claimant, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding; in any of which events the court may require the production of and may admit in evidence so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more.**

**C. Nothing herein shall be construed to prohibit the delivery to a grantor or grantee of an instrument effecting a conveyance, or to the duly authorized representative of such grantor or grantee, of a certified copy of any return filed in connection with such instrument or to prohibit the publication of statistics so classified as to prevent the identification of particular returns or the items thereof or to prohibit the inspection by the legal representatives of the County or Village of the return of any taxpayer who shall bring action to set aside or review the tax based thereon.**

**D. Any officer or employee of the Village who willfully violates the provisions of this section shall be dismissed from office and be incapable of holding any public office in the state for a period of five years thereafter.**

**§ 21A-29 Intergovernmental agreement authority.**

**The Village Board shall be authorized to, by resolution, enter into any intergovernmental agreement necessary with the County of Suffolk or any successor County for the effective and efficient administration and enforcement of this article.**

**§ 21A-30 Severability.**

**If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.**

**§ 21A-31 Effective date; referendum requirement.**

**This article is subject to a mandatory referendum as set forth in § 1449-bbbbbbb of Article 31-H of the Tax Law. This article shall take effect after the approval at the general election to be held on \_\_\_\_\_, by the affirmative vote of a majority of the qualified electors of the Village of Saltaire and filing with the Secretary of State; and provided further that the real estate transfer tax imposed by a Local Law No.     of 2022, shall expire and be deemed repealed as to any conveyance taking place after December 31, 2032.**