

AMENDED COPY AS OF 9/1/2023

Intro. Res. No. 1573-2023

Laid on Table 6/6/2023

Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. -2023, ADOPTING LOCAL LAW NO. -2023, TO ADOPT A CHARTER LAW PURSUANT TO THE SUFFOLK COUNTY WATER QUALITY RESTORATION ACT (CHAPTER 58 OF THE NEW YORK STATE LAWS OF 2023) TO AMEND ARTICLE XII OF THE SUFFOLK COUNTY CHARTER TO EXTEND THE SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM AND TO ESTABLISH A NEW WATER QUALITY RESTORATION FUND SUPPORTED BY AN ADDITIONAL ONE EIGHTH PERCENT (1/8%) SALES AND USE TAX

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 6, 2023, a proposed local law entitled, "**ADOPTING LOCAL LAW NO. -2023, TO ADOPT A CHARTER LAW PURSUANT TO THE SUFFOLK COUNTY WATER QUALITY RESTORATION ACT (CHAPTER 58 OF THE NEW YORK STATE LAWS OF 2023) TO AMEND ARTICLE XII OF THE SUFFOLK COUNTY CHARTER TO EXTEND THE SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM AND TO ESTABLISH A NEW WATER QUALITY RESTORATION FUND SUPPORTED BY AN ADDITIONAL ONE EIGHTH PERCENT (1/8%) SALES AND USE TAX**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2023, SUFFOLK COUNTY, NEW YORK

ADOPTING LOCAL LAW NO. -2023, TO ADOPT A CHARTER LAW PURSUANT TO THE SUFFOLK COUNTY WATER QUALITY RESTORATION ACT (CHAPTER 58 OF THE NEW YORK STATE LAWS OF 2023) TO AMEND ARTICLE XII OF THE SUFFOLK COUNTY CHARTER TO EXTEND THE SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM AND TO ESTABLISH A NEW WATER QUALITY RESTORATION FUND SUPPORTED BY AN ADDITIONAL ONE EIGHTH PERCENT (1/8%) SALES AND USE TAX

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature finds and determines that Suffolk County, with a population of one million five hundred thousand persons, still relies on for disposal of wastewater, more than three hundred eighty thousand cesspools and systems which are not designed to actively treat wastewater, more than two hundred nine thousand of which are located in environmentally sensitive areas; and

This Legislature finds and determines that the lack of wastewater infrastructure throughout Suffolk County has also been widely recognized as a significant obstacle to sustainable economic growth which has contributed to stagnation and constrained property

values in many downtown business districts and that the need for a Suffolk County long term wastewater infrastructure plan was determined to be a high priority action under the New York State Long Island Nitrogen Action Plan (LINAP being managed jointly by the Long Island Regional Planning Council and the New York State Department of Environmental Conservation); and

This Legislature also finds and determines that through its unanimous approval of the Final Generic Environmental Impact Statement and Finding Statement for the Suffolk County Subwatersheds Wastewater Plan on March 17, 2020, the Legislature has advanced a long-term plan to significantly reduce reliance on cesspools and septic system identified in multiple studies as the primary source of excess nutrients that continue to foul water quality in bays and harbors. Further, through approval of the Plan, the County has embraced and advanced a long-term solution to reverse decades of nitrogen pollution using a hybrid approach that relies on the connection of parcels to sewers where feasible and the replacement of cesspools and septic systems with innovative and alternative onsite wastewater treatment systems where sewers are not a cost-effective solution; and

This Legislature also finds that presently, there is no long term funding source to serve as the County's local match to advance sewer construction projects or to assist property owners with the financial burden of replacing cesspools and septic systems with innovative and alternative onsite wastewater treatment systems necessary to achieve meaningful gains in the reduction of nitrogen pollution in areas where sewerage is not feasible. The Assessment Stabilization Reserve Fund, which is the only County funding source permitted to be used for existing sewer district improvement projects, is stressed and cannot be relied on to make sewers available to more areas within Suffolk County without financially burdening property owners. In addition, while the Assessment Stabilization Reserve Fund is a valuable source of funding for maintaining the level of service while stabilizing costs to ratepayers, the authority to continue the use of the fund for these purposes, and for Drinking Water Protection in general, of which the Sewer Assessment Stabilization Reserve Fund is only one component, should be continued on a long term basis to secure the County's financial and environmental future; and

This Legislature further finds and determines that the Suffolk County Water Quality Restoration Act, recently enacted by the State Legislature pursuant to Chapter 58 of the 2023 Laws of New York, provides the necessary authority for Suffolk County to address this need for a new long term funding source that may be used for sewer improvement projects, including projects that will bring sewerage to new areas of the County and projects to improve and maintain existing sewerage facilities, easing reliance on the Sewer Assessment Stabilization Reserve Fund, and the majority of which be used, as required by the State legislation, for septic improvement projects, including funding to property owners for the installation and maintenance of innovative and alternative onsite wastewater treatment systems.

Therefore, the purpose of this Charter law is to extend the Suffolk County Drinking Water Protection Program to the year 2060 and to authorize the establishment of a new Suffolk County Water Quality Restoration Fund that is supported by an additional one eighth percent sales and use tax, and set forth the parameters of the fund, consistent with the authority granted to Suffolk County in accordance with the Suffolk County Water Quality Restoration Act, enacted by Chapter 58 of the 2023 Laws of New York.

Section 2. Amendment.

Article XII of the SUFFOLK COUNTY CHARTER is hereby amended to read as follows:

ARTICLE XII
Suffolk County Drinking Water Protection Program and Suffolk County Water Quality Restoration Fund

I. Suffolk County Drinking Water Protection Program

§ C12-1. Programmatic Structure.

A Suffolk County Drinking Water Protection Program designed to provide funding for sewer district tax rate stabilization, environmental protection, and property tax mitigation is hereby extended in a modified form beginning on December 1, 2007, and ending on November 30, 20[30]60.

§ C12-2. Programmatic Expenses.

In the event that the New York State Legislature enacts enabling state legislation prior to November 30, 2007, for the explicit purpose of extending, within the territorial limits of the County of Suffolk, on the terms and conditions set forth in this law, the additional sales and compensating use tax of 1/4 of 1% authorized and imposed by the County of Suffolk pursuant to the provisions of § 1210-A of the New York Tax Law and Suffolk County Resolution Nos. 1568-1988, [and] 650-2000, and 1186-2007, as amended by 965-2008, then the County of Suffolk shall extend, prior to December 31, 2007, by appropriate legislative action, within the territorial limits of the County of Suffolk, the additional sales and compensating use tax of 1/4 of 1% imposed by the County of Suffolk pursuant to the provisions of § 1210-A of the New York Tax Law and Suffolk County Resolution No. 745-1968 as amended by Resolution Nos. 1568-1988, [and] 650-2000, and 1186-2007, as amended by 965-2008, and any revenues generated by the extension of such 1/4 of 1% sales and compensating use tax so authorized by appropriate state and local action, during the period commencing December 1, 2007, and concluding November 30, 20[30]60, shall be allocated annually only in accordance with the following formula throughout this entire period of time:

A. Specific environmental protection:

(2) The Suffolk County Environmental Programs Trust Fund is hereby created; 31.10% of the total revenues generated each calendar year by such sales and compensating use tax shall be allocated and deposited annually to this trust fund. The annual appropriation of such revenues shall be effectuated via duly enacted resolution of the County of Suffolk. If the revenues generated in any year, including calendar year 20[30]60, exceed the amount necessary to provide for such environmental projects, then such excess revenues shall be carried over as a fund balance for such environmental projects to be consummated in subsequent years.

(d) Serial bonds or notes issued for the purchase of development rights or land under this program may only be authorized by a duly enacted bond or note resolution of the County of Suffolk adopted in calendar year 2008, 2009, 2010 or 2011. Any such bonds or notes must be issued on or prior to December 31, 2011, and the final maturity of such bonds and notes shall be no later than December 31, 20[30]60.

B. Water quality protection and restoration program and land stewardship initiatives.

(4) The Suffolk County Environmental Programs Trust Fund is hereby created; 11.75% of the total revenues generated each calendar year by such sales and compensating use tax shall be allocated and deposited annually to this trust fund. The annual appropriation of such revenues shall be effectuated via duly enacted resolution of the County of Suffolk. If the revenues generated in any year, including calendar year 20[30]60, exceed the amount necessary to provide for such environmental projects, then such excess revenues shall be carried over as a fund balance for such environmental projects to be consummated in subsequent years.

D. Sewer taxpayer protection: 25% of the total revenues generated each calendar year for sewer district tax rate stabilization only in those instances in which the pertinent sewer district will experience an increase in rates of at least 3% in the aggregate for user charges, operations and maintenance charges, per-parcel charges, and ad valorem assessments in the calendar year for which these sewer district tax stabilization revenues are being allocated. The Suffolk County Sewer Assessment Stabilization Fund is hereby created; 25% of the total revenues generated each calendar year by such sales and compensating use tax shall be allocated and deposited annually to this trust fund. The annual appropriation of such revenues shall be effectuated via duly enacted resolution of the County of Suffolk and shall not reduce the projected rate increase below 3% in the aggregate for user charges, operations and maintenance charges, per-parcel charges, and ad valorem assessments for the year in question. If the revenues generated in any year, including calendar year 20[30]60, exceed the amount necessary to provide such stabilization, then such excess Assessment Stabilization Reserve Fund balance shall be carried over as a fund balance for sewer district tax rate stabilization, subject to the provisions of Paragraphs (1), (2), (3), (4) and (5) of this Subsection D. For purposes of this Subsection, the phrase "excess Assessment Stabilization Reserve Fund balance" means balances greater than needed for sewer district tax rate stabilization only in those instances in which the pertinent sewer district will experience an increase in rates of at least 3% in the aggregate for user charges, operations and maintenance charges, per-parcel charges, and ad valorem assessments in the calendar year for which these sewer district tax stabilization revenues are being allocated. With respect to the excess Assessment Stabilization Reserve Fund referred to in this Subsection D, the calculation of the excess balance, if any, shall be confirmed in writing, jointly certified by the Legislative Office of Budget Review and the Executive Budget Office, as part of the consensus forecast required by Charter § C4-5 and Administrative Code § A4-3E.

(1) In the event such fund balance exceeds \$140 million in fiscal year 2011, 2012 or 2013, 62.5% of these excess monies may be used, via duly approved resolutions of the County of Suffolk, for installation, improvements, maintenance and operation of sewer infrastructure and sewage treatment plants and for the installation of residential and commercial enhanced

nitrogen removal septic systems. These monies may be used for projects outside the boundaries of County sewer districts. Thirty-seven- and one-half percent (37.5%) of the 2011, 2012 and 2013 excess fund balance shall be appropriated via duly approved resolutions to a reserve fund for bonded indebtedness established pursuant to § 6-h of the General Municipal Law or to a retirement contribution reserve fund established pursuant to § 6-r of the General Municipal Law (County Fund 420 and any successor fund).

(2) In Fiscal Year 2014 or in any subsequent fiscal year through 20[21]60, the excess Assessment Stabilization Reserve Fund balance may be used, via duly approved resolutions of the County of Suffolk, [as follows:

(a) For payment to a reserve fund for bonded indebtedness established pursuant to § 6-h of the General Municipal Law or such successor fund; or

(b) Payment to a retirement contribution reserve fund established pursuant to § 6-r of the General Municipal Law or such successor fund; however, no payment shall be made pursuant to Subsection (a) or (b) after Fiscal Year 2017 or if the fund balance is not sufficient for the annual appropriation of revenues needed for sewer district tax rate stabilization as set forth in Charter § 12-2D; and

(c) F]for planning, design, installation, improvements, maintenance and operation of municipal sewer infrastructure and municipal sewage treatment plants [and for the installation of residential and commercial enhanced nitrogen removal septic systems. These monies may be used for] including projects [outside the boundaries of County sewer districts]to connect properties to municipally-owned sewage treatment.

§ C12-4. Expiration of program.

In the event that the sales and compensating use tax extension contemplated by § C12-2 of the Suffolk County Charter is brought before the County of Suffolk for legislative action and approval, then such sales and compensating use tax extension may only be approved by the County Legislature and County Executive on the condition that the resolution, local law, or charter law imposing such extension contain a condition, term, and/or provision mandating the expiration of such sales and compensating use tax extension no later than November 30, 20[30]60.

§ C-12-5. Construction with other laws.

A. Notwithstanding any law to the contrary, expenditures made during fiscal year 2008 only, pursuant to this part I of this article, shall not be subject to §§ C4-6B, C4-10E, F and G, and C4-11D of the Suffolk County Charter. In all subsequent years, all pertinent tax cap and expenditure cap laws shall apply to expenditures made and revenues received under this part I of this article.

B. The revenues generated under this law shall not be available for funding the program contemplated by § C4-6J of the Suffolk County Charter, enacted by Local Law No. 18-1998, which program is funded under its own separate revenue source.

II. Suffolk County Water Quality Restoration Fund

§ C12-6. Establishment of Suffolk County Water Quality Restoration Fund.

A “Suffolk County Water Quality Restoration Fund”, designed to provide funding for “water quality improvement projects”, as such term is defined herein, in addition other expenses related to implementation of the Suffolk County Subwatersheds Wastewater Plan for which the Final Generic Environmental Impact Statement and Finding Statement was approved by the Suffolk County Legislature on March 17, 2020 via Resolution No. 215-2020, and as it may be amended from time to time (“SWP”), as also set forth herein, is hereby established effective March 1, 2024, and shall remain in existence through February 29, 2060. Monies may only be paid into the Fund and expended therefrom as set forth in this part II of this article, and in accordance with § 1210-F of the Tax Law and § 256-b of the County Law.

§ C12-7. Fund Deposits, Authorized Uses and Expenses.

A. Pursuant to the enabling authority granted to Suffolk County pursuant to Chapter 58 of the New York Laws of 2023, amending Subpart B of Article 29 of the New York Tax Law and amending Article 5-A of the New York County Law, with the explicit purpose of imposing, within the territorial limits of the County of Suffolk on the terms and conditions set forth therein, an additional sales and compensating use tax of 1/8 of 1% is authorized and imposed by the County of Suffolk pursuant to the provisions of § 1210-F of the New York Tax Law, and amendment to Suffolk County Resolution No. 745-1968, in the event of such adoption by the electorate of the County of Suffolk. Any and all revenues generated by the imposition of the 1/8 of 1% sales and compensating use tax during the period commencing March 1, 2024 through February 29, 2060, shall be allocated only to Suffolk County Water Quality Restoration Fund established under this part II of this article in order implement the powers granted to Suffolk County pursuant to Section 256-b of the New York County Law.

B. In addition to the revenues generated and required to be deposited into the Fund as set forth above, pursuant to § 1210-F of the Tax Law, via the approval of the Suffolk County Legislature by a duly adopted resolution, other revenues of Suffolk County from whatever source, or gifts, may be deposited into the Fund.

C. The Fund shall be kept separate and apart from other funds and accounts. All monies deposited into the Fund shall be deposited and secured consistent with § 10 of the General Municipal Law, and pending expenditure, monies may be invested in the manner provided in § 11 of the General Municipal Law. Any interested earned or capital gain realized on monies deposited into the Fund or invested, shall accrue to and become part of the Fund. Other than a lawful appropriation, transfer or expenditure from the Fund as specifically set forth in this part II of this article, § 1210-F of the Tax Law, and § 256-b of the County Law, in no event shall any monies deposited into the Fund be deposited into any other account or expended for any other purposes whatsoever.

D. For the entire duration of the existence of the Fund, the permitted uses of the Fund shall be limited exclusively to:

(1) “Water Quality Improvement Projects”, which shall be defined as, and mean to include, the planning, design, construction, acquisition, enlargement, extension, or alteration of,

(i) a county, town or village wastewater treatment facility including individual hookups; and (ii) an individual septic system, including an alternative wastewater treatment facility or an individual septic system with active treatment to treat, neutralize, stabilize, eliminate or partially eliminate sewage or reduce pollutants, including permanent or pilot demonstration wastewater treatment projects, or equipment or furnishings thereof. For individual septic system projects, the definition of water quality improvement projects shall include the operation and maintenance costs.

(2) The repayment of any indebtedness or obligations incurred pursuant to the Local Finance Law for water quality improvement projects and consistent with this part II of this article.

(3) The administrative costs of the Suffolk County Wastewater Management District established in accordance with § 256-b of the County Law, however, in any given fiscal year, use of the Fund for District administrative costs shall be limited to 10% of the collections generated from the additional sales and compensating use tax of 1/8 of 1% authorized and imposed under this part II of this article.

(4) The costs associated with the preparation of the “Suffolk County Subwatersheds Wastewater Implementation Plan” as set forth in § C12-11 below, and the costs of the annual audit as set forth in § C12-12(B)(5) below.

§ C12-8. Fund Eligibility; Water Quality Improvement Projects.

A. In order to be eligible for consideration for the use of and transfer from the Suffolk County Water Quality Restoration Fund in accordance with the process set forth in § C12-9, a water quality improvement project shall be included within the most current Suffolk County Subwatersheds Wastewater Implementation Plan adopted by the County Legislature in accordance § C12-12, or any adopted amendment thereto.

B. In order for water quality improvement projects that are individual septic system projects to be eligible for consideration for the use of and transfer from the Suffolk County Water Quality Restoration Fund in accordance with the process set forth in § C12-9, such individual septic system project shall have as its purpose, as set forth and determined within the most current Suffolk County Subwatersheds Wastewater Implementation Plan approved by the County Legislature in accordance § C12-11, or any adopted amendment thereto, the remediation of existing water quality to meet specific water quality standards consistent with the Suffolk County Subwatersheds Plan for which the Final Generic Environmental Impact Statement and Finding Statement was approved on March 17, 2020 by the Suffolk County Legislature via Resolution No. 215-2020, or any adopted amendment thereto.

§ C12-9. Fund Expenditures and Transfers; Procedure.

A. All transfers and appropriations out of the Suffolk County Water Quality Restoration Fund shall be effectuated via a duly approved standalone legislative resolution.

B. Any transfer or appropriation out of the Suffolk County Water Quality Restoration Fund for an eligible water quality improvement project shall be accompanied by a report from the County Executive, or his/her designee, that shall give an accounting of the Fund demonstrating that there are sufficient revenues within the Fund for the subject project and the amount being transferred or appropriated.

C. Any transfer or appropriation out of the Suffolk County Water Quality Restoration Fund for an eligible water quality improvement project that, in addition to utilizing monies from the Fund, proposes to finance the project in whole or in part, consistent with the Local Finance Law, and proposes that monies from the Fund shall be used to repay any portion of the indebtedness, shall be considered by the County Legislature in conjunction with a resolution authorizing such indebtedness. Further, the resolution authorizing such indebtedness shall be accompanied by a report from the County Executive, or his/her designee. The report from the County Executive shall demonstrate how indebtedness from the Fund for the subject project will be repaid, an estimate of projected revenues to the Fund during the same period of the subject project's indebtedness, and an accounting of all other indebtedness against the Fund during the same period of the subject project's indebtedness. Based on the report, the County Legislature shall find and determine whether there are sufficient monies within the Fund to repay such indebtedness as proposed within the report prior to authorizing such indebtedness and prior to authorizing the use of the Fund for such project.

D. No greater than ten percent (10%) of the annual collections within the Suffolk County Water Quality Restoration Fund shall be transferred, appropriated, or otherwise expended on administrative costs associated with the Suffolk County Wastewater Management District established in accordance with § 256-b of the County Law, in any fiscal year.

E. After taking into consideration and deducting the administrative costs transferred, appropriated or otherwise expended toward the Suffolk County Wastewater Management District established in accordance with § 256-b of the County Law in that fiscal year, seventy five percent (75%) of the remaining annual funds shall be used toward individual septic system projects and twenty five percent (25%) shall be used toward sewer projects.

§ C12-10. Suffolk County Water Quality Restoration Fund Board of Trustees.

A. (1) There is hereby established a "Suffolk County Water Quality Restoration Fund Board of Trustees" that shall consist of twenty-one (21) members, consisting of: (A) a representative from the department of environmental conservation; (B) a representative from the East End supervisors and mayors association; (C) a representative of the Suffolk town supervisors association; (D) a representative of the Suffolk County Village Officials Association; (E) a town representative from the State Central Pine Barrens Joint Planning and Policy Commission to be designated by the commission; (F) a municipal representative from the Peconic Estuary Partnership; (G) a municipal representative from the State South Shore Estuary Reserve; (H) a municipal representative from the Long Island Sound Estuary; (I) a representative of the Long Island Federation of Labor; (J) a representative of Building and Construction Trades Council of Nassau and Suffolk counties; (K) a representative from a regional environmental organization; (L) the chair of the Suffolk county planning commission; (M) the county executive or his/her designee; (N) the presiding officer of the county legislature or his/her designee; (O) the minority leader of the county legislature or his/her designee; (P) the county department of public works commissioner or his/her designee; (Q) the county department of health services commissioner or his/her designee; (R) a representative from a regional economic development organization; (S) a representative from the liquid waste industry; (T) a representative from the Suffolk County Alliance of Chambers, Inc.; and (U) a representative from the Long Island Contractors Association.

(2) The appointment of all members shall be subject to approval by the County Legislature by a resolution approving such appointment by the appropriate appointing entity. The Board of Trustees shall elect one of its members to serve as Chairperson, Vice-

Chairperson, Secretary and Treasurer. All members shall be appointed for a term of two years. Any vacancy occurring on the Board shall be filled by nomination of a successor by the appropriate nominating authority within sixty days (60) of such vacancy. Eleven members shall constitute a quorum through which the Board shall have the power to act by a majority vote of the entire membership of the Board. Members shall receive no compensation for serving on the Board. The Board shall meet at least semi-monthly, or at such additional meetings as needed as determined by the Board. The County shall provide such assistance in the form of County personnel to assist in the operations of the Board, and for such other operating expenses, as it deems appropriate and subject to approval by the Suffolk County Legislature.

B. The Board shall have the following powers and duties:

(1) To hold meetings at regular times and places for the necessary and efficient discharge of its responsibilities under this part II of this article and § 256-b of the New York County Law.

(2) To make rules for the conduct of its meetings and to keep a minute book of its proceedings and other official actions.

(3) To make prudent recommendations for resource allocations for county-approved alternative wastewater treatment technologies not contemplated in the Suffolk County Subwatersheds Wastewater Plan, and submit such recommendations in writing to the Suffolk County Legislature and the Suffolk County Executive on an annual basis.

(4) To monitor the progress and long-term progress of the implementation of the Suffolk County Subwatersheds Wastewater Plan focusing on nitrogen load reduction achievements and ecological endpoints, and to submit such recommendations in writing to the Suffolk County Legislature and the Suffolk County Executive on an annual basis.

(5) Through the Chairperson of the Board of Trustees, to annually initiate and oversee the preparation, submission and publication of the annual independent audit of the Suffolk County Water Quality Restoration Fund required to be submitted by the County pursuant to § C12-12 of this this part II of this article and in accordance with § 256-b(11)(e) of the New York County Law. The Chairperson shall ensure that the audit shall include all necessary information required to be included and that the audit shall be submitted timely and in the manner as set forth in the New York County Law. A copy of the audit shall be delivered by the Chairperson of the Board of Trustees to the Suffolk County Legislature and the Suffolk County Executive on an annual basis in advance of its submission and publication, no later than ninety (90) days of the close of the prior County fiscal year. The cost of the audit is a permissible charge against the Fund.

(6) Through the Chairperson of the Board of Trustees, to annually prepare and deliver to the Suffolk County Legislature, no later than May 15th of each year, a report that: describes in detail; the projects undertaken directly funded by the Suffolk County Water Quality Restoration Fund or projects financed pursuant to the Local Finance Law where such indebtedness or obligations are repaid or scheduled to be repaid with the Suffolk County Water Quality Restoration Fund; all Suffolk County Water Quality Restoration Fund monies expended during the past year prior to submission; and all the administrative activities relative to the Fund and the Suffolk County Wastewater Management District undertaken in the past year prior to submission. After submission of the report, the Chairperson shall be available to answer questions by the Suffolk County Legislature at a regularly scheduled general meeting, pertaining

to the report, including the projects undertaken, the Fund monies expended, and administrative activities.

(7) To prepare, review and approve by its members, and submit to the County Executive, no later than May 1, 2024, the first Suffolk County Subwatersheds Wastewater Implementation Plan, which shall list every proposed water quality improvement project the County plans to undertake and is eligible for use of the Suffolk County Water Quality Restoration Fund, and shall state how each project would improve existing water quality. The Board of Trustees shall consider for inclusion in the Subwatersheds Wastewater Implementation Plan such water quality improvement projects that have been included in an adopted plan by another local government, are consistent with or are included within the Suffolk County Subwatersheds Wastewater Plan, and have been determined by the Board that such projects will result in net nitrogen reduction. Prior to the adoption of the Suffolk County Subwatersheds Wastewater Implementation Plan, or any amendment thereto, as set forth in § C12-11 below, the Board of Trustees shall conduct a hearing on the plan. Subsequent to the adoption of the initial Suffolk County Subwatersheds Wastewater Implementation Plan, the Board of Trustees shall, in like manner, prepare, review and approve a new plan every five years no later than May 1st of the appropriate year for the duration of the existence of the Suffolk County Water Quality Restoration Fund.

(8) To promulgate such rules and/or regulations as may be necessary to carry out the administration of the Board and to effectuate its powers and duties as set forth in this part II of this article in connection with the Suffolk County Water Quality Restoration Fund, § 256-b of the New York County Law, and the Suffolk County Water Quality Act.

§ C12-11. Suffolk County Subwatersheds Wastewater Implementation Plan.

A. A Suffolk County Subwatersheds Wastewater Implementation Plan that includes every water quality improvement project the County plans to undertake and is eligible for use of the Suffolk County Water Quality Restoration Fund shall be adopted every five years, as set forth in § 256-b of the New York County Law, after first being proposed by the Suffolk County Water Quality Board of Trustees and adopted in accordance with § C12-10(B)(7). The Plan shall include the name, capital improvement number, if applicable, or some other identifier for each particular project, an explanation of the scope of each project, the estimated cost of each project, the expected date of commencement and completion for each project, and the priority ranking of each project. Upon approval of the plan submitted to the County Executive by the Board of Trustees as set forth in § C12-10(B)(7), the plan shall be submitted to the County Legislature, and the County Legislature shall determine whether to approve the plan by local law. If the plan is not approved, it shall be remanded to the Board of Trustees for further study and revision. The plan shall only become effective by approval of the County Legislature in the form of a local law. All amendments to the plan that may add or remove projects from the approved plan, shall likewise be approved only in the form of a local law. No monies from the Suffolk County Water Quality Restoration Fund shall be expended until the Suffolk County Subwatersheds Wastewater Implementation Plan has been approved. The plan shall be renewed in accordance with the same procedure and requirements every five years after the adoption of the first Suffolk County Subwatersheds Wastewater Implementation Plan.

B. In addition to the provisions above, the Suffolk County Subwatersheds Wastewater Implementation Plan adopted by the County Legislature shall be consistent with State, Federal, County, and local government land use and wastewater management plans. Only projects that are included in the approved Suffolk County Subwatersheds Wastewater Implementation Plan,

or as it may be amended in accordance with subdivision A above, are eligible for funding from the Suffolk County Water Quality Restoration Fund.

§ C12-12. Annual Audit.

The County, acting through the Chairperson of the Suffolk County Water Quality Restoration Fund Board of Trustees, as set forth in § C12-11(B)(5) above, shall annually commission an independent audit of the Suffolk County Water Quality Restoration Fund. Such audit shall be conducted by an independent certified public accountant or an independent public accountant, that is independent of the accountant that performs the general audit of the County's finances. The audit shall examine the Suffolk County Water Quality Restoration Fund and determine whether the Fund has been administered consistent with the provisions of the § 256-b of the New York County Law, § 1210-F of the New York Tax Law, and all other applicable provisions of State law. The audit shall be initiated each year within sixty days of the close of the prior fiscal year, and shall be completed within one hundred and twenty days of the close of the prior fiscal year, and upon completion, a copy shall be submitted each year to the New York State Comptroller and the Suffolk County Comptroller. Within thirty days of completion, a copy shall be made available to the public, and a notice of the completion of the audit shall both be published in the official papers of the County and posted on the County's website. The cost of the audit is a permissible charge against the Fund.

§ C12-13. Construction with other laws.

All pertinent tax cap and expenditure cap laws shall apply to expenditures made and revenues received by the Fund under this part II of this article.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that Part I of Section 2 of this law which extends the Suffolk County Drinking Water Protection Program constitutes a Type II action pursuant to Section 617.5(c)(26), (27), and (33) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies,

procedures, and legislative decisions in connection with continuing agency administration, and management, and as such no further SEQRA compliance is required; and

That this Legislature, being the State Environmental Quality Review Act lead agency, also hereby finds and determines that Part II of Section 2 of this law which establishes the New Water Quality Restoration Fund will be carried out in conformance with the conditions and thresholds established in the Suffolk County Subwatersheds Wastewater Plan's Generic Environmental Impact Statement and associated Finding Statement as approved by Suffolk County Resolution No. 215-2020; and

This Legislature has determined that, pursuant to Title 6 NYCRR Section 617.10(d)(1), because the New Water Quality Restoration Fund will be carried out in conformance with the conditions and thresholds established in the Suffolk County Subwatersheds Wastewater Plan's Generic Environmental Impact Statement, no further SEQRA compliance is required; and

This Legislature, directs the Suffolk County Council on Environmental Quality, in accordance with Section 450-5(c)(4), to prepare and circulate any appropriate notices or determinations in accordance with this Local Law.

Section 6. Effective Date.

Part I of Section 2 of this law shall not take effect until it has been approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting upon a proposition for its approval in conformity with the provisions of Section 34 of the NEW YORK MUNICIPAL HOME RULE LAW and has been filed in the Office of the Secretary of State. After approval by the electorate, Part I of Section 2 of this law, as well as any other law converted into a mandatory referendum pursuant to Section 34(5) of the NEW YORK MUNICIPAL HOME RULE LAW, by a vote of the County Legislature, and pursuant to Section C1-10 of the Suffolk County Charter, may only be amended, modified, repealed, or altered by enactment of an appropriate Charter law subject to mandatory referendum in accordance with prevailing law.

Part II of Section 2 this law shall not take effect until it has been approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting upon a proposition for its approval in conformity with the provisions of Section 23 of the NEW YORK MUNICIPAL HOME RULE LAW and has been filed in the Office of the Secretary of State. After approval by the electorate, Part II of Section 2 of this law, may only be amended subject to the provisions of Section 23 of the NEW YORK MUNICIPAL HOME RULE LAW as required by Chapter 58 of the 2023 Laws of New York, or any amendment thereto.

Section 7. Form of Proposition.

The proposition to be submitted at a special election to be held on December 14, 2023, shall be in the following form:

SHALL RESOLUTION NO. -2023, ADOPTING LOCAL LAW NO. - 2023, A CHARTER LAW TO EXTEND THE SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM WHICH IS FUNDED BY THE EXISTING ONE QUARTER OF ONE PERCENT (1/4%) SALES AND USE TAX TO 2060 AND TO INCREASE FUNDING FOR MUNICIPAL SEWER PROJECTS UNDER THE SEWER TAXPAYER PROTECTION COMPONENT, AND TO ESTABLISH A

NEW WATER QUALITY RESTORATION FUND FOR WATER QUALITY IMPROVEMENT PROJECTS SUPPORTED BY AN ADDITIONAL ONE EIGHTH PERCENT (1/8%) SALES AND USE TAX, BE APPROVED?

Section 8. Conflicting Referenda.

In the event that there are other referenda on the ballot, pertaining to or addressing substantially the same issues as are contained in this law, then the provisions of the measure approved by the electorate receiving the greatest number of affirmative votes, shall prevail, and the alternative measure, or measures, as the case may be, shall be deemed null and void.

___ Underlining denotes addition of new language.
[] Brackets denote deletions.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: