

S T A T E O F N E W Y O R K

1927

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee
on Local Governments

AN ACT to amend the town law, in relation to permitting towns and
villages in the Peconic Bay region to assess special development fees
in connection with the issuance of building permits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. Local governments in the Peconic Bay
2 region have undergone an unprecedented rate of development over the past
3 decade. The number of new residential housing units has increased by
4 12.5% to more than 86,000 housing units from 1990 to 2000. In the town
5 of Southampton, 277 building permits for new residential housing units
6 were issued in 1990. In 2000, 735 such permits were issued. Year round
7 population has also increased in the Peconic Bay region, reaching
8 120,000 residents in 2000. Nearly half of all dwellings located in the
9 Peconic Bay region are second homes. Consequently, not only has the year
10 round population increased, but the seasonal population for the region
11 has also dramatically risen. During the summer, the seasonal population
12 often triples to 350,000 people.

13 Rapid development, increases in housing units, increases in year round
14 population, and increases in seasonal population have resulted in
15 significant stress to existing community infrastructure and increased
16 demand for new infrastructure. Such impacts have included crumbling
17 highways, a greater demand for community facilities such as police
18 stations, fire stations, community centers, and recreational facilities,
19 and a greater need for school facilities.

20 More than a third of the total land area in the Peconic Region remains
21 available for development. Thus, adverse impacts to existing highways
22 and increased demand for community and school facilities will continue
23 well into the future as the region reaches full buildout.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 It has been well established by several planning studies that residen-
2 tial development does not pay for itself through the generation of new
3 real property taxes. It is generally accepted that for every dollar of
4 new tax revenue generated by new residential development, \$1.30 is
5 required to provide supporting services and infrastructure. Therefore,
6 the recent development boom in the Peconic Bay region has resulted in an
7 increased demand for services and new infrastructure and overstressing
8 of existing infrastructure.

9 Local governments are now considering large capital expenditures for
10 highway reconstruction, community facilities, and new schools. Many such
11 projects have already been approved. These capital outlays will cause
12 significantly higher property tax levies.

13 In summary, the rapid rate of development is stressing existing
14 infrastructure past its limits as well as creating a demand for new
15 infrastructure. In turn, this will result in skyrocketing tax levies,
16 unless alternative funding sources are implemented.

17 Other communities across the country have addressed the infrastructure
18 demands associated with overdevelopment by instituting special develop-
19 ment or impact fees to help to pay for such increasing infrastructure
20 demands. Such fees impose a portion of the financial responsibility on
21 the new development which created the need for additional infrastruc-
22 ture, rather than solely all real property taxpayers at large. In these
23 communities, the institution of impact or special development fees has
24 resulted in the provision of needed infrastructure while maintaining
25 stable property taxes. Such a system provides for a fairer assessment of
26 the financial responsibility relating to infrastructure for these commu-
27 nities.

28 This act permits the Peconic Bay region local governments to institute
29 a system of certain impact fees in order to fairly distribute the finan-
30 cial responsibilities for the increased need for infrastructure associ-
31 ated with new development.

32 S 2. The town law is amended by adding a new section 64-k to read as
33 follows:

34 S 64-K. SPECIAL DEVELOPMENT FEES FOR BUILDING PERMITS AUTHORIZED IN
35 THE PECONIC BAY REGION. 1. (A) FOR THE PURPOSES OF THIS SECTION, THE
36 TERM "PECONIC BAY REGION" SHALL HAVE THE SAME MEANING AS DEFINED IN
37 PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION SIXTY-FOUR-E OF THIS ARTI-
38 CLE.

39 (B) FOR THE PURPOSES OF THIS SECTION, "SUBSTANTIAL IMPROVEMENT" SHALL
40 MEAN AN INCREASE OF FIFTY PERCENT OR MORE IN THE TOTAL SQUARE FOOTAGE OF
41 AN EXISTING BUILDING OR STRUCTURE.

42 2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE TOWN
43 BOARD OF ANY TOWN IN THE PECONIC BAY REGION, AND THE VILLAGE BOARD OF
44 ANY VILLAGE IN THE PECONIC BAY REGION SHALL BE AUTHORIZED TO IMPOSE
45 SPECIAL DEVELOPMENT FEES ON THE ISSUANCE OF A BUILDING PERMIT FOR THE
46 FOLLOWING PURPOSES: (A) COMMUNITY FACILITIES DEVELOPMENT; (B) TRAFFIC
47 MITIGATION; AND (C) SCHOOL FACILITIES.

48 3. THE AMOUNT OF SUCH FEES SHALL BE SET BY THE TOWN OR VILLAGE BOARD
49 AND SHALL BE REASONABLY RELATED TO THE ACTUAL NEED FOR SUCH SERVICES,
50 PROGRAMS OR FACILITIES.

51 4. EACH TOWN OR VILLAGE WHICH ESTABLISHES THE SPECIAL DEVELOPMENT FEES
52 AUTHORIZED BY THIS SECTION SHALL CREATE A TRUST FUND FOR EACH TYPE OF
53 SPECIAL DEVELOPMENT FEE. ALL FEES SHALL BE DEPOSITED IN THE APPROPRIATE
54 TRUST FUND.

1 5. IN THE CASE OF THE COMMUNITY FACILITIES TRUST FUND AND THE TRAFFIC
2 MITIGATION TRUST FUND, THE TOWN OR VILLAGE SHALL USE SUCH FUNDS EXCLU-
3 SIVELY FOR THE PURPOSE FOR WHICH THE FUND WAS ESTABLISHED.

4 6. THE COMMUNITY FACILITIES TRUST FUND SHALL BE UTILIZED FOR THE
5 ACQUISITION OF LAND, NEW CONSTRUCTION, OR THE EXPANSION OF EXISTING
6 FACILITIES REQUIRED TO PROVIDE POLICE SERVICES, FIRE SERVICES, EMERGENCY
7 SERVICES, LIBRARIES, MUSEUMS, RECREATION, YOUTH SERVICES, SENIOR
8 SERVICES, AND OTHER SIMILAR SERVICES PROVIDED DIRECTLY OR INDIRECTLY BY
9 LOCAL GOVERNMENT.

10 7. THE TRAFFIC MITIGATION TRUST FUND SHALL BE UTILIZED FOR THE
11 IMPROVEMENT, REPAIR, AND RECONSTRUCTION OF EXISTING HIGHWAYS, THE
12 CONSTRUCTION OF BICYCLE PATHS, THE IMPROVEMENT OF RAILROAD STATIONS, THE
13 PROVISION OF BUS TRANSPORTATION, AND OTHER SIMILAR ALTERNATIVE MEANS OF
14 TRANSPORTATION WHICH WOULD RESULT IN THE REDUCTION OR MITIGATION OF
15 AUTOMOBILE AND TRUCK TRAFFIC.

16 8. EACH YEAR, AS PART OF THE BUDGET ADOPTED BY THE TOWN OR VILLAGE,
17 THE TOWN BOARD OR VILLAGE BOARD, AS THE CASE MAY BE, SHALL APPROVE A
18 PLAN FOR THE USE OF SUCH COMMUNITY FACILITIES AND TRAFFIC MITIGATION
19 TRUST FUNDS. SUCH PLAN MAY ONLY BE AMENDED DURING THE FISCAL YEAR AFTER
20 A PUBLIC HEARING, FOR WHICH NOTICE SHALL BE PROVIDED IN THE SAME MANNER
21 AS IS REQUIRED FOR THE ADOPTION OF A LOCAL LAW. AN ADVISORY COMMITTEE
22 SHALL BE ESTABLISHED OF NOT MORE THAN SEVEN MEMBERS TO ASSIST THE TOWN
23 OR VILLAGE, AS THE CASE MAY BE, IN THE PREPARATION AND AMENDMENT OF SUCH
24 PLANS FOR THE USE OF SUCH FUNDS.

25 9. IN THE CASE OF THE SCHOOL FACILITIES TRUST FUND, THE TOWN OR
26 VILLAGE, AS THE CASE MAY BE, SHALL KEEP AN ACCOUNT AS TO THE LOCATION OF
27 THE PROPERTY FROM WHICH EACH FEE WAS GENERATED. SUCH FEE SHALL BE CRED-
28 ITED TO THE SCHOOL DISTRICT FROM WHICH THE FEE WAS GENERATED. ON FEBRU-
29 ARY FIRST OF EACH YEAR, THE TOWN OR VILLAGE SHALL TRANSFER TO EACH
30 SCHOOL DISTRICT THE FUNDS GENERATED FROM THE PREVIOUS CALENDAR YEAR.
31 SCHOOL DISTRICTS SHALL PLACE SUCH FUNDS IN A TRUST FUND AND THE PROCEEDS
32 OF SUCH FUND SHALL ONLY BE UTILIZED FOR THE CONSTRUCTION OR RECON-
33 STRUCTION OF NEW OR EXPANDED SCHOOL FACILITIES.

34 10. WHEN A TOWN OR VILLAGE SHALL ESTABLISH ONE OR MORE OF THE SPECIAL
35 DEVELOPMENT FEES AUTHORIZED BY THIS SECTION, SUCH TOWN OR VILLAGE SHALL
36 ALSO BE AUTHORIZED TO EXEMPT AFFORDABLE HOUSING UNITS FROM THE PAYMENT
37 OF SUCH FEES. THE TERM "AFFORDABLE HOUSING" SHALL BE DEFINED BY THE
38 TOWN OR VILLAGE, BY LOCAL LAW.

39 S 3. This act shall take effect immediately.