

MAR 19 2024

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE

STATE

162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

TOWN OF NAPLES

LOCAL LAW 4 OF THE YEAR 2024

Proposed LOCAL LAW AMENDING THE “ZONING CHAPTER OF THE CODE OF THE TOWN OF NAPLES” with respect to the stream setback set out in Sub-Section “A” of Chapter 132-15 “Preservation of Natural Features” of the Code of the Town of Naples.

Be it enacted by the Town Board of the Town of Naples as follows:

Section 1: Short Title.

This Local Law shall hereafter be known as the “Zoning Stream Setback Amendment of 2024”.

Section 2: Legislative Intent.

The purpose of this Local Law is to amend the Zoning Chapter to amend the stream setback prescribed by Code Section 132-15.A.

Section 3: Legislative Authority.

This Local Law is enacted pursuant to the provisions of the Municipal Home Rule Law (MHRL) of the State of New York and Article 16 of the Town Law of the State of New York, with the procedural provisions of the MHRL controlling.

Section 4: Legislative Findings.

The Town Board determines that the Zoning Chapter should be amended to provide that the stream setback provisions be amended, based upon the recommendation of the Zoning Board of Appeals.

Section 5. Legislative History

Local Law entitled “Local Law No. One of the year 1974, A Local Law Establishing Zoning Use Districts and Zoning Rules and Regulations” adopted by the Town Board of the Town of Naples on February 5, 1974 and as amended in its entirety by, Local Law No. Two of the Year 1997, further amended by Local Law No. One of the Year 1998, Local Law No. 2 of the Year 1999, Local Law No. 5 of the Year of 1999, Local Law No. 1 of the Year of 2003, Local Law No. 1 of the Year 2004, Local Law No. 6 of the Year 2005, Local Laws No. 2, No. 6, No. 8 of 2006, Local Law No. 1 of the Year 2007, Local Laws No. 1, No. 2, No. 3 of the Year of 2009, Local Law No. 4 of the Year 2010 and Local Law No. 4 of the Year 2013 together with such other amendments which have been adopted is hereby further amended so as to modify the Sections hereinafter set forth as provided.

6: Provisions.

- I. The following definitions are added alphabetically to Sub-section B. of Section 132-8 “Word Usage and Definitions” of Article II “Definitions” of Chapter 132 “Zoning” of the Town code.

Watercourse – A channel conveying water, including, but not limited to: streams, creeks, brooks and rivers, whether:

- a. Natural or manmade;
- b. Permanent, seasonal or intermittent;
- c. Public or private;

and with a discernable bed and bank thereof. Roadside drainage ditches provided by and maintained periodically by a municipal body or agency are not included as watercourses for the purposes hereof.

Bank, Top of – The highest elevation of the bank of the watercourse, measured perpendicularly, from any specific location of the streambed.

Bed (of Watercourse) – the area of a watercourse which generally contains the flow of water.

Bank (of Watercourse) – The lateral confines of a watercourse, there being a bank on each side of the watercourse, which contains the bed of the watercourse.

- II. **Sub-Section “A” of Section 132-15. “Preservation of Nature Features of Chapter 132 “Zoning”.” is amended to provide as follows:**

The setback distance from a watercourse shall be 100 feet from the top of the bank of the watercourse to the closest point of the structure being proposed. Any decision granting a variance therefrom shall include, in addition to the findings based upon the applicable provisions of Town Law Section 267-b.3., the following as conditions imposed pursuant to Town Law Section 267-b.4.:

1. A report prepared by a professional engineer licensed by the State of New York finding that the proposed structure will not be in a location that will be susceptible to danger from water emanating from the watercourse in question;
2. Any other documentation or information requested by the Zoning Board of Appeals;
3. A document executed by the property owner(s) waiving any liability on the part of the Town with respect to the granting of a variance by the Town, further waiving any claims for damages as a result of said variance which may be incurred by the property owner(s) or any other person as a result of water emanating from the subject watercourse and involving the subject structure, its contents and/or occupants. Such document shall be executed in a form and content to allow for the recording thereof

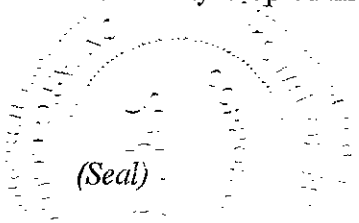
with the Ontario County Clerk's Office and be so recorded by the Town at the expense of the applicant.

Section 7: Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board of the Town of Naples.

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 of 2024 of the Town of Naples, was duly passed by the Town Board on March 5, 2024 in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

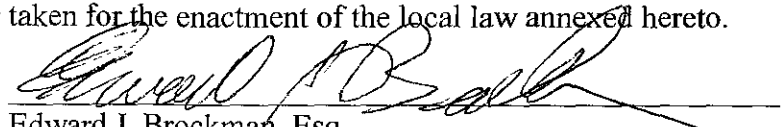



Morgan Riesenberger, Town Clerk

Date: March 13, 2024

STATE OF NEW YORK
COUNTY OF ONTARIO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Edward J. Brockman, Esq.

Attorney for the Town of Naples
Date: March 13, 2024