

Local Law Filing

Town of OYSTER BAY

Local Law No. 7 of the year 2024

Be it enacted by the TOWN BOARD of THE TOWN OF OYSTER BAY as follows:

Local Law No. 7 of the year 2024

A local law entitled “A LOCAL LAW TO AMEND CHAPTER 196 – SHELLFISH AND MARINE LIFE, TO ADD NEW DEFINITIONS OF MARINE MANAGEMENT AREA AND SHELLFISH SANCTUARY TO §196-4, TO AMEND AND RENAME SECTION §196-18 CONSERVATION MANAGEMENT AREAS TO §196-18 MARINE MANAGEMENT AREA; AND ADD §196-18.1 SHELLFISH SANCTUARY, OF THE CODE OF THE TOWN OF OYSTER BAY.”

Be it enacted by the Town Board
of the Town of Oyster Bay as follows:

Section 1. Amend Chapter 196 – Shellfish and Marine Life, Section 196-4 – Definitions and word usage, of the Code of the Town of Oyster Bay, to add the following new definitions:

MARINE MANAGEMENT AREA

An area of underwater lands designated or set aside by the Town Board for the preservation, protection, restoration and enhancement of essential marine habitat and species and includes, but is not limited to, uses such as kelp growing water quality monitoring, and habitat enhancement.

SHELLFISH SANCTUARY

An area of underwater lands identified by the Department of Environmental Resources and designated or set aside by the Town Board for the preservation, restoration, and propagation of shellfish populations and critical spawning grounds. Shellfish sanctuaries are harvest-free zones used for the planting of shellfish and cultch, and providing areas for natural sets of shellfish to develop and mature into complete ecosystems, with the intent of reestablishing and maintaining sustainable oyster and clam populations.

Section 2. Amend and rename Chapter 196 – Shellfish and Marine Life, Section 196-18 of the Code of the Town of Oyster Bay, to read as follows:

Section 196-18 Marine Management Area

The Town Board may set aside as a Marine Management Area, Town lands underwater and/or Town managed lands underwater for the preservation, protection, and restoration of essential marine habitat and species. No person or entity shall harvest, take, interfere with, or otherwise disturb shellfish or other marine habitat and species within an area designated as a Marine Management Area except as specified in 196-18(D). The management of any area(s) so set aside shall come under the direct supervision of the Commissioner of the Department of

Environmental Resources of the Town of Oyster Bay and enforcement of any violations of the terms of such area(s) shall come under the direct supervision of the Commissioner of Public Safety.

- A. Unless designated as a Shellfish Sanctuary by the Town Board, an uncertified area, a seasonal area, and a conditional shellfish harvesting area shall be a Marine Management Area.
- B. Upon announcement by the New York State Department of Environmental Conservation (“NYS DEC”) of the immediate or pending certification and opening of shellfish harvest areas previously deemed uncertified, the Town maintains its regulatory authority to control shellfish harvesting on Town lands underwater. The opening of previously uncertified shellfish harvesting areas from Town lands underwater is subject to concurrence by the Commissioner of the Department of Environmental Resources with the NYSDEC's determination. Following the NYSDEC's announcement, a 7-calendar-day determination period will commence during which shellfish harvesting from this area is prohibited. The Commissioner of the Department of Environmental Resources may file a written objection with the Town Clerk's office, reserving the right to keep the area or a portion of it closed for harvest. If no objection is filed by the Commissioner within the 7 calendar days, the NYSDEC opening is considered a concurrence and the area is deemed open for harvest.
- C. A description of each Marine Management Area and all prohibitions, restrictions and regulations with regards to the harvesting of, taking of, or interfering with shellfish from such area(s) shall be posted in the office of the Town Clerk and provided to each commercial and recreational shellfish permit holder and any aquaculture licensee.
- D. Determinations by the Town Board.
 - (1) The Town Board may allow harvesting or transplanting shellfish from a part or all of a Marine Management Area for a limited period of time after giving due consideration to the following:
 - a. Whether or not the shellfish have been sufficiently purified in accordance with industry standards be suitable as food for human consumption
 - b. Whether or not the first spawning period has passed for the shellfish in the management area and such spawning has been successful.
 - c. Whether a minimum quantity of shellfish is available within the shellfish area for spawning until such time as desired quantities of shellfish are maintained.

Section 3. Amend Chapter 196 – Shellfish and Marine Life, to add Section 196-18.1 – Shellfish sanctuary of the Code of the Town of Oyster Bay, to read as follows:

196-18.1 Shellfish Sanctuary.

The Town Board may set aside as a Shellfish Sanctuary, one or more Town lands underwater and/or Town managed lands underwater for the preservation, restoration, and propagation of shellfish populations and critical spawning grounds. Shellfish sanctuaries are areas identified by the Department of Environmental Resources for planting shellfish and cultch, and providing

areas for natural sets of shellfish to develop and mature into complete ecosystems, with the intent of reestablishing and maintaining sustainable oyster and clam populations. Cultch planted may be sourced from the Town's Shell Recycling Program, and shellfish seed planted may be cultivated through the Town's shellfish hatchery or sourced from other sanctuaries. Considerations for site selection include factors such as sediment classification and grain size, existing shell deposits, planted shellfish and/or existing live shellfish, likely natural recruitment and the beneficial distribution of larvae within the bay as deemed appropriate. The management of any area(s) so set aside shall come under the direct supervision of the Commissioner of the Department of Environmental Resources of the Town of Oyster Bay and enforcement of any violations of the terms of such area(s) shall come under the direct supervision of the Commissioner of Public Safety.

- A. No person or entity shall harvest, take, interfere with, or otherwise disturb shellfish within an area designated as a Shellfish Sanctuary.
- B. Within the boundaries of a Shellfish Sanctuary, no person, entity, or vessel shall deploy or maintain bottom crab pots, traps, or similar gear which have the potential to impact shellfish populations, within the marked area as indicated by buoys and/or other navigational markers and/or by publishing GPS coordinates and filing them with the Office of the Town Clerk. The prohibition of bottom gear, as described, shall not apply to authorized research, restoration, pilot projects, or management activities carried out by or in cooperation with the Town of Oyster Bay's Department of Environmental Resources as authorized by the Commissioner or their designee.
- C. Upon announcement by the New York State Department of Environmental Conservation of the immediate or pending certification and opening of shellfish harvest areas deemed a Shellfish Sanctuary, the Town maintains its regulatory authority to control shellfish harvesting on Town lands underwater (§ 196-4). A Shellfish Sanctuary on Town lands underwater shall continue to be closed for harvest regardless of NYSDEC classification.
- D. The Commissioner of the Department of Environmental Resources shall mark a Shellfish Sanctuary with appropriate monuments, stakes and/or boundary markers and/or by publishing GPS coordinates and filing them with the Office of the Town Clerk.
- E. No person shall willfully injure or remove any signs, monuments, stakes or boundary markers of any kind placed for the purpose of delineating or locating a Shellfish Sanctuary.

Section 4. SEQR Determination

It is hereby determined pursuant to the State Environmental Quality Act, 8 N.Y.E.C.L. Section 101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5 (c)(26) of 6 N.Y.C.R.R., pertaining to "routine or continued agency administration and management, not including new programs or major reordering of priorities that may affect the environment", and Section 617.5 (c)(33) of 6 N.Y.C.R.R., pertaining to, "adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list."

Section 5. Severability

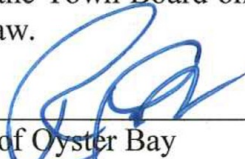
If any section, subdivision or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subdivision or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.

Section 6. Effective Date.

This Local Law shall be operative upon adoption by the Town Board of the Town of Oyster Bay and shall take effect immediately upon its filing with the Office of the Secretary of State.

Certification:

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 2024 of the Town of Oyster Bay was duly passed by the Town Board on July 23 2024, in accordance with the applicable provisions of law.



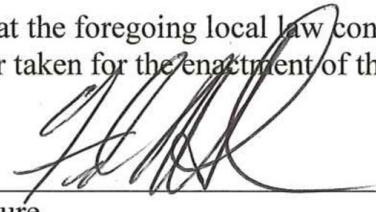
Clerk of the Town of Oyster Bay

(Seal)

Date: July 23, 2024

STATE OF NEW YORK
COUNTY OF NASSAU

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.



Signature
Town Attorney

Title
Town of Oyster Bay

Date: July 23 2024