

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing

(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 Oyster Bay

Local Law No. _____ of the year 2024

A local law entitled "A LOCAL LAW TO ADD SECTION 196-24 TO CHAPTER 196 OF THE CODE OF THE TOWN OF OYSTER BAY TO IMPOSE A MORATORIUM ON SHELLFISH HARVESTING IN THE FORMERLY LEASED UNDERWATER LANDS IN OYSTER BAY HARBOR AND COLD SPRING HARBOR"

Be it enacted by the Town Board
of the

Town of Oyster Bay as follows:

Section 1. Add Section 196-24, "MORATORIUM ON SHELLFISH HARVESTING IN THE FORMERLY LEASED UNDERWATER LANDS IN OYSTER BAY HARBOR AND COLD SPRING HARBOR", of the Town Code as follows:

§196-24.1 Legislative Intent.

The Town of Oyster Bay has continuously leased upwards of approximately 1850 acres of underwater land (leasehold area) for the past century, with the most current 30-year lease set to expire on September 30, 2024. The underwater lands of the leasehold area have been subjected to mechanical dredge harvesting by the current Lessee for clams and oysters continually through the leasehold period, which has had unknown but likely adverse effects on the sediment classification and grain size, existing shell and cultch deposits as well as a suspected general degradation of biomass and ecological diversity. The shellfish harvest was supplemented through seeding by the current Lessee, however seeding was halted three years ago, while the mechanical dredge harvesting has continued. As it takes approximately three years for a seed clam to grow to market size, it is likely that there has been a severe reduction in adult and seed clams in the leasehold area.

A moratorium of shellfish harvesting concurrent with the expiration of the lease on the leasehold area will prevent any further destruction of any residual beds of clams that may have survived the dredging activities and provide time for the Town of Oyster Bay to conduct studies of the post-dredging conditions on the former leased grounds. Shellfish density and sediment classification studies will provide data that is needed to analyze the density of the shellfish population and the condition of the harbor bottom. The data will enable estimates to be made of sustainable yield for the resource, and help to identify areas and actions needed for shellfish restoration.

During the moratorium period:

- A. No person or entity shall harvest, take, interfere with, or otherwise disturb shellfish within the former leasehold area.
- B. Within the boundaries of the former leasehold area under moratorium, no person, entity, or vessel shall deploy or maintain bottom crab pots, traps, or similar gear which have the potential to impact shellfish populations, interfere with environmental studies and ecological surveys of the benthic zone. 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 his/her designee.
- C. The management of the leasehold area under moratorium 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 purview of the Commissioner of Public Safety.
- D. Upon announcement by the New York State Department of Environmental Conservation of the immediate or pending certification and opening of shellfish harvest areas, the Town maintains its regulatory authority to control shellfish harvesting on Town lands underwater, including pursuant to § 196 of the Oyster Bay Code. The restricted leasehold area shall continue to be closed for harvest regardless of NYSDEC classification.
- E. The Commissioner of the Department of Environmental Resources may mark the area under moratorium with appropriate buoys, and/or boundary markers and/or by publishing GPS coordinates and filing them with the Office of the Town Clerk.

§196-24.3 Moratorium Period

The moratorium shall be in effect for a period of six (6) months following adoption of this local law by the Town Board, and the filing of the same with the Secretary of State. The moratorium may be extended in six (6) month incremental periods by appropriate action of the Town Board.

§196-24.4 Exclusions

None.

§196-24.4 Statutory authority/supersession

This chapter is adopted pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)(a) (11) and (12), and expressly supersedes any inconsistent provisions of Chapter 196 of the Oyster Bay Town Code.

Section 2. SEQR Determination.

It is hereby determined pursuant to the provisions of the State Environmental Quality Review 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)(36) pertaining to "adoption of a moratorium on land development or construction". In accordance with this section of Part 617 of N.Y.C.R.R the moratorium is of a class of actions which do not have a significant effect on the environment and no further review is required.

Section 3. 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 4. Effective Date.

This local law shall be operative upon its 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. _____ of 2024 of the Town of Oyster Bay was duly passed by the Town Board on _____ 2024, in accordance with the applicable provisions of law.

Clerk of the Town of Oyster Bay

(Seal)

Date: _____, 2024

STATE OF NEW YORK)
COUNTY NASSAU) ss.:

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

Town of _____ Oyster Bay

Date: _____ 2024