

LOCAL LAW NO. 4 OF 2024

A LOCAL LAW amending Town Code Chapter 325 (Wetlands) to Update a Definition and Clarify the Public Hearing Newspaper Publishing Requirements to Reflect Current Practices.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

SECTION 1. Legislative Intent.

Presently, the definition of "Boundaries of a Wetland" or "Wetland Boundary" set forth in Town Code §325-3, references a New York Natural Heritage Program manual entitled "Ecological Communities of New York State", which was published in March 1990. This manual was revised and expanded in a Second Edition that was published in March 2014. The Town Code definition should be revised accordingly, in order to reference the most recent edition of the New York Natural Heritage Program manual.

Town Code §325-8(C)(1) presently states that Conservation Board public hearing notices must be published in both "the official Town newspaper and one additional newspaper of general circulation." However, in accordance with the past practice of the Conservation Board, public hearing notices are only published in the official Town newspaper - the Southampton Press, which has both an Eastern Edition and a Western Edition. This practice is consistent with other Boards within the Town. Thus, the Town Code should be amended to clarify that Conservation Board public hearing notices do not need to be published in a second newspaper in addition to the official Town newspaper.

SECTION 2. Amendment.

The definition of "Boundaries of a Wetland" or "Wetland Boundary" in Town Code Chapter 325 ("Wetlands"), at section 325-3 ("Definitions") is hereby amended by deleting the stricken words and adding the underlined words as follows:

§325-3. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

\* \* \*

BOUNDARIES OF A WETLAND or WETLAND BOUNDARY

The outer limit of the vegetation, submerged lands and/or water, specified in the definition of "freshwater," "brackish" or "tidal" wetlands. The wetland boundary is to be defined and flagged at the point where existing wetland indicator species no longer have a competitive advantage over upland species. Wetland and upland plants will mix together at this transition zone. The methodology used to determine this boundary shall be the same methodology utilized in the New York State Department of Environmental Conservation (NYSDEC) Technical Methods Statement relating to the Freshwater Wetlands Act; to wit, if the innermost portion of a wetland is effectively 100% wetland plants, the next concentric ring shows an area of 75% wetland species, and the outer ring is a fifty-percent mix where the competitive advantage of upland species is demonstrated, the boundary line will be drawn at the midpoint of the outer ring. Where a site is dominated by facultative species which are characteristic of Long Island wetlands, such as red maple (*Acer rubrum*) and black tupelo (*Nyssa sylvatica*), a community approach shall be used in determining the wetland boundary. The test of what constitutes a wetland community will be satisfied if the species are those included in the description of natural wetland community types as documented by the New York Natural

Heritage Program in the most recent edition of the manual entitled "Ecological Communities of New York State."

SECTION 3. Amendment.

Town Code Chapter 325 ("Wetlands") section 325-8 ("Procedure for evaluating permit applications"), subsection C(1) is hereby amended by deleting the stricken words and adding the underlined words as follows:

§325-8. Procedure for evaluating permit applications.

\* \* \*

C. The approving authority shall give notice of a public hearing as follows:

- (1) By causing notice of such hearing to be published in the official Town newspaper at least 10 days prior to the date set for such hearing.

SECTION 4. Authority.

The local law is enacted pursuant to Town Law Article 16, Municipal Home Rule Law §§10(1)(ii)(a)(11) and (12), as well General Municipal Law Article 12-F.

SECTION 5. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 6. Effective Date.

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.