

Appendix A Local Waterfront Consistency Law

Town of Hamlin Local Waterfront Consistency Law

I. Title

This local law will be known as the Town of Hamlin Waterfront Consistency Review Law.

II. Authority and Purpose

1. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42, Executive Law.)
2. The purpose of this local law is to provide a framework for agencies of the Town of Hamlin to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area; and to assure that such actions and direct action are consistent with the said policies and purposes.
3. It is the intention of the Town of Hamlin that the preservation, enhancement and utilization of the natural and manmade resources of the unique coastal area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, the local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing: lost of living estuarine resources and wildlife; diminution of open space areas or public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
4. The substantive provisions of this local law shall only apply while there is in existence a Town Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions

1. "Actions" mean either Type I or Unlisted actions as defined in SEQRA regulations (6 NYCRR 617.2) which are undertaken by an agency and which includes:
 - a. Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 1. Are directly undertaken by an agency; or

2. Involve funding by an agency; or
 3. Require one or more new or modified approvals from an agency or agencies;
 - b. Agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - c. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
 - d. Any combinations of the above.
2. "Agency" means any board, agency, department, office, other body, or officer of the Town of Hamlin.
 3. "Coastal area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Hamlin, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the Town of Hamlin Local Waterfront Revitalization Program.
 4. "Coastal Assessment Form (CAF)" means the form, contained in Appendix A, used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
 5. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
 6. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.
 7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Hamlin, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Hamlin.
 8. "Waterfront Advisory Committee" or "Committee" means the Waterfront Advisory Committee of the Town of Hamlin, as created pursuant to this Chapter.
 9. "Certificate of Consistency" (COC) means the form, contained in this Appendix, used by the Hamlin Planning Board to certify that the requested actions is consistent to the maximum extent practicable with the LWRP policy standards and conditions.

IV. Waterfront Advisory Committee

1. A committee consisting of seven (7) members of the Hamlin Conservation Board is created and shall be hereafter known as the "Waterfront Advisory Committee" of the Town of Hamlin. The Committee is authorized to review and make recommendations to the Hamlin Planning Board regarding the consistency of proposed actions with the LWRP policy standards and conditions.

Members of the Hamlin Conservation Board are appointed by the Hamlin Town Board as stated in General Municipal Law, Article 12-F, Section 239-X and 239-Y.

2. The Hamlin Town Board shall annually appoint one Committee member to serve as chairperson of the Committee. Upon failure of the Hamlin Town Board to appoint a chairperson, the members of the Committee are to elect a chairperson by majority vote.
3. The Committee may employ such persons as may be needed as authorized by the Hamlin Town Board. This Committee shall have the power to adopt rules of procedure for the conduct of all business within its jurisdiction.

V. Review of Actions

1. Any person who violates any provisions of this Chapter, or who violates any provision of a stop work order issued in accordance with Article VI, hereof, shall have committed a violation, punishable by a fine not exceeding five hundred dollars for a commission of a first offense and punishable by a fine of one thousand dollars for a commission of a second or subsequent offense. Each week of a continuing violation shall constitute a separate violation, and each tree that is removed or damaged or each load of fill which is dumped in violation of this Chapter shall constitute a separate violation.
2. Whenever a proposed actions is located in the Town's Coastal Area, an agency shall, prior to approving, funding or undertaking the action, refer the action to the Hamlin Planning Board for a determination that it is consistent with the LWRP policy standards and conditions set forth in Section 7 herein.
3. Whenever the Hamlin Planning Board receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review.
4. The Hamlin Planning Board shall refer a copy of the completed (CAF) to the Committee within fourteen (14) days of it submission and, prior to making its determination, shall consider the recommendation of the Committee with reference to the consistency of the proposes action.
5. After referral from the Hamlin Planning Board, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Section 7 herein. The Committee shall require the applicant to submit all completed applications, CAF's and any other information deemed to be necessary to its consistency recommendations.
6. The Committee shall render its written recommendation to the Hamlin Planning Board within thirty (30) days following referral of the CAF from the agency, unless extended by mutual agreement of the Committee and the applicant or in the case of a direct action, the agency. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions

and shall elaborate in writing the basis for its opinion. The Committee shall, along with its consistency recommendation, make any suggestions to the Hamlin Planning Board concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them. In the event that the Committee's recommendation is not forthcoming within the specified time, the Hamlin Planning Board shall make its decision without the benefit of the Committee's recommendation.

7. The Hamlin Planning Board shall make the determination of consistency based on the CAF, the Committee recommendation and such other information as is deemed to be necessary in its determination. The Hamlin Planning Board shall issue its determination within fourteen (14) days of the date for receipt of the Committee's recommendation. The Hamlin Planning Board shall have the authority, in its findings of consistency, to impose practicable and reasonable conditions on an action to ensure it is carried out in accordance with this chapter.
8. Actions to be undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Town of Hamlin LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to.
 - a. Revitalize deteriorated and underutilized waterfront areas (Policy 1).
 - b. Retain and promote recreational water-dependent uses (Policy 2).
 - c. Strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policy 4).
 - d. Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
 - e. Streamline development permit procedures (Policy 6)
 - f. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 8)
 - g. Maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policy 9)
 - h. Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures and appropriate siting of structures (Policies 11, 12, 13, 14, 16, 17).
 - i. Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).
 - j. Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policy 2, 19, 20, 21, 22).
 - k. Protect and restore historic and archaeological resources (Policy 23).
 - l. Protect and upgrade scenic resources (Policy 25).
 - m. Conserve and protect agricultural lands (Policy 26).

- n. Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 34, 35, 36, 37, 38).
 - o. Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 35).
 - p. Handle and dispose of hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policy 39).
 - q. Protect air quality (Policies 41, 42, 43).
 - r. Protect tidal and freshwater wetlands (Policy 44).
8. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that:
- a. No reasonable alternative exists which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
 - b. The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
 - c. The action will advance one or more of the other LWRP policy standards and conditions; and
 - d. The action will result in an overriding Town regional or statewide public benefit.
 - e. Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.
9. The Hamlin Planning Board shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. The Planning Board shall issue a "Certificate of Consistency" for each approved action. Such files shall be made available for public inspection upon request.

VI. Enforcement

The Town Building Inspector shall be responsible for enforcing this Chapter. No work or activity on a project in the Coastal Area which is subject to review under this Chapter shall be commenced or undertaken until the building inspector has been presented with a written determination from the Hamlin Planning Board that the action is consistent with the Town's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this Chapter or any conditions imposed thereunder, the building inspector shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

VII. Violations

- 1. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a minimum of \$250.00

fine and not exceeding five hundred dollars for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate violation.

2. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VIII. Severability

The provisions of this local law are severable. If any provisions of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provisions hereof other than the provisions so found to be invalid.

VIII. Effective Date

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.



**Town Of Hamlin
Coastal Assessment Form / L.W.R.P.**

1658 Lake Rd.
Hamlin, N.Y. 14464
716-964-8181

Date

Permit No.

Location

Tax Number:

Address:

Phone:

Liber No.

Page No.

Lot No.

Mailing
Address

Lot Dimensions

Front

Rear

Subdivison

Zoned

DESCRIPTION OF SITE AND PROPOSED ACTION

Action Undertaken

Describe nature and extent of action

Present Land Use

Describe unique or unusual land formations

Percentage of site that contains slopes of 15% or greater

Streams, lakes, ponds or wetlands existing within or contiguous to the project area

Name

Size in acers

COASTAL ASSESMENT

Check if yes, blank if no.

Action will be directly undertaken, requiring funding, approval by an agency?

Approving agency name

Will the proposed action be located in, or contiguous to, or have potentially adverse effect upon any of the resources identified on the coastal area map?

Significant fish or wildlife habitats?

Scenic resources of local or statewide significance?

Important agricultural lands?

Natural protective features in an erosion hazard area?

If yes, explain in Section D any measures which will be undertaken to mitigate any adverse effect.

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Will the proposed action have a significant effect upon: (check if yes, blank if no)

- Commercial or recreational use of fish and wildlife resources?
- Scenic quality of the coastal environment?
- Development of future, or existing water dependent uses
- Operation of the State's major ports?
- Land or water uses within a small harbor area?
- Stability of the shoreline?
- Surface or groundwater quality?
- Existing or potential public recreation opportunities?
- Structures, sites or districts of historic, archeological or cultural significance to the city, state or nation

Will the proposed action involve or result in any of the following: (check if yes, blank if no)

- Physical alteration of land along the shoreline, land under water or coastal waters
- Physical alteration of two acres or more of land located elsewhere in the coastal area
- Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area
- Energy facility not subject to Article VII or VIII of the Public Service Law?
- Mining, excavation, filling or dredging in coastal waters?
- Reduction of existing or potential public access to or along the shore?
- Sale or change in use of publicly-owned lands located on the shoreline or under water
- Development within a designated flood or erosion hazard area
- Development on a beach, dune, barrier island or other natural feature that provides protection against
- Construction or reconstruction of erosion protective structures
- Diminished surface of groundwater quality?
- Removal of ground cover from the site

PROJECT

If project is located adjacent to shore: (check if yes, blank if no)

- Will water-related recreation be provided?
- Will public access to the foreshore be provided
- Does the project require a waterfront site
- Will it supplant a recreational or maritime use?
- Do essential public services and facilities presently exist at or near the site?
- Is it located in a flood prone area?
- Is it located in an area of high erosion?

If the project site is publicly owned: (check if yes, blank if no)

- Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?
- If located the foreshore, will access to those and adjacent lands be provided?
- Will it involve the siting and construction of major energy facilities?

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Coastal Assessment Form / L.W.R.P.**

- Will it involve the discharge of effluents from major steam electric generating and industrial facilities into coastal facilities?
- Is the project site presently used by the community neighborhood as an open space or recreation area?
- Does the present site offer or include scenic views or vistas known to be important to the community?
- Is the project site presently used for commercial fishing or fish processing?
- Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?
- Does any mature forest (over 100 years old) or other locally important vegetation exist on the site
- Will the project involve an waste discharges into coastal waters?
- Does the project involve surface or subsurface liquid waste disposal?
- Does the project involve transport, storage, treatment or disposal of solid waste or hazardous material?
- Does the project involve shipment or storage of petroleum products?
- Does the project involve discharge of toxics, hazardous substances or other pollutants into coastal waters
- Does the project involve or change existing ice management practices?
- Will the project affect any area designated as a tidal or freshwater wetland?
- Will the project alter drainage flow, patterns or surface water runoff on or from the site?
- Will good management practices be utilized to control storm water runoff into coastal waters?
- Will the project utilize or affect the quality or quantity of sole source or surface water supplies?
- Will the project cause emissions which exceed federal or state air quality standards or generate

SECTION D Remarks or additional information

Preparer

CODE ENFORCEMENT OFFICER