

APPENDIX B

ADDITIONAL LOCAL LAWS ADOPTED TO IMPLEMENT THE LWRP

1. City of Tonawanda Environmental Quality Review Law
2. Waterfront Revitalization Advisory Committee
3. Zoning Law Revisions

ENVIRONMENTAL QUALITY REVIEW

Chapter 6B

ENVIRONMENTAL QUALITY REVIEW

Local Law
No. 6B
1985

A LOCAL LAW PROVIDING FOR ENVIRONMENTAL REVIEW OF ACTIONS IN THE CITY OF TONAWANDA

- § 6B-1. Purpose.
- § 6B-2. Definitions
- § 6B-3. Compliance required.
- § 6B-4. Preliminary determination of environmental significance.
- § 6B-5. Procedure and time limit for processing EIS.
- § 6B-6. Determination and designation of lead agency.
- § 6B-7. Clearinghouse for lead agency designation.
- § 6B-8. Actions involving a federal agency.
- § 6B-9. Consistency with LWRP.
- § 6B-10. Fees for review or preparation of EIS.
- § 6B-11. Designation of Type I actions.
- § 6B-12. Designation of Type II actions.
- § 6B-13. When effective.

Be it enacted by the Common Council of the City of Tonawanda as follows:

§ 6B-1. Purpose.

The purpose of this local law is to implement for the City of Tonawanda the State Environmental Quality Review Act, hereinafter known as "SEQR," and Part 617 of the New York State Code of Rules and

Regulations, hereinafter referred to as "Part 617."

§ 6B-2. Definitions.

A. The terms and words used in this local law shall have the same meanings as such terms and words as defined in Article 8 of the Environmental Conservation Law and Part 617, unless the context requires a different meaning.

B. The following terms shall have the following meanings:

LWA - Local Waterfront Area.

LWRP - Local Waterfront Revitalization Program

PART 617 - The Rules and Regulations set forth in 6 NYCRR 617.

SEQR - The State Environmental Quality Review Act as set forth in Article 8 of the Environmental Conservation Law.

City - The City of Tonawanda.

WAF - Waterfront Assessment Form.

§ 6B-3. Compliance required.

No action other than an exempt, excluded or Type II action shall be carried out, approved or funded by any agency, board, body or officer of the City of Tonawanda unless it has complied with SEQR and Part 617 to the extent applicable and with this local law.

§ 6B-4. Preliminary determination of environmental significance.

A. An EAF shall be prepared by or on behalf of any agency, board, body or officer of the City of Tonawanda in connection with any Type I action that such agency, board, body or officer contemplates or proposes to carry out directly. For an unlisted action, an EAF in a short or long form may be prepared to facilitate a preliminary determination of environmental significance. For any action within the LWA a WAF must be prepared.

B. An application for a permit or funding of a Type I action shall be accompanied by an EAF and for an unlisted action may be accompanied by a short or long form EAF as may be needed to assist the lead agency in making a preliminary determination of environmental significance. In addition to the EAF, an application for a permit or funding of a Type I or unlisted action in the LWA must be accompanied by a WAF. An applicant may prepare a draft EIS to accompany the application in place of the EAF, however a WAF is still required. In lieu of an EAF, the City Council or a lead agency having authority to adopt its own regulations may adopt a different procedure for reviewing environmental

significance of unlisted actions, however provisions must be made within these procedures for a consistency determination of all actions within the LWA with the LWRP. For actions outside the LWA the lead agency shall make a preliminary determination of environmental significance of the action on the basis of the EAF, draft EIS or with respect to unlisted actions in accordance with its own procedures, as the case may be, and such information it requires. Such determination shall be made within fifteen (15) days of its designation as lead agency or within fifteen (15) days of its receipt of all information it requires, whichever is later. For Type I actions, a determination of nonsignificance shall be noticed and filed as provided in Section 617.10(b). For unlisted actions, a determination of nonsignificance shall be sent to the applicant and maintained in accordance with Sections 617.7(e) and 617.10(f). After a determination of nonsignificance, the action, including one involving a permit or funding, shall be processed without further regard to SEQR, Part 617 or this local law.

- C. For actions within the LWA, the lead agency shall refer the full EAF, WAF, and/or the draft EIS to the Waterfront Advisory Committee for review and recommendation regarding the consistency of such action with policies and purposes of the LWRP. The lead agency after advice from the Waterfront Advisory Committee, shall render a written determination of such application within 15 days of its designation as lead agency or within 15 days of its receipt of all information it requires, whichever is later. For Type I actions, a determination of nonsignificance and consistency with the City's LWRP shall be noticed and filed as provided in Section 617.10(b). For unlisted actions, a determination of nonsignificance and consistency with the City's LWRP shall be sent to the applicant and maintained in accordance with Section 617.7(e) of Part 617 and Section 6B-9 of this local law. After a determination of nonsignificance and consistency with the City's LWRP the action, including one involving a permit or funding shall be processed without further regard to SEQR, Part 617 or this local law.
- D. The time of filing an application for approval or funding of an action shall commence to run from the date the preliminary determination of environmental non significance and/or consistency with the City's LWRP, is rendered or, if in lieu of an EAF the applicant presents a draft EIS, from the date the applicant files a draft EIS acceptable to the lead agency.

§ 6B-5. Procedure and time limit for processing EIS.

If the lead agency determines that an EIS is required, it shall proceed as provided in Sections 617.8, 617.9 and 617.10. Commencing with the acceptance of the draft EIS, the time limitation for processing the EIS shall run concurrently with the time limitation applicable to processing the application for approval or funding of the action, and a public hearing on the draft EIS, if any, shall be

held concurrently with any hearing to be held on such application. The draft EIS shall be prepared by the applicant. Failure by the applicant to prepare an EIS acceptable to the lead agency shall, at the option of the lead agency, be deemed an abandonment and discontinuency of the application. When the EIS is prepared for a proposed action located within the LWA, it must also contain an identification of the applicable policies and purposes of the City of Tonawanda LWRP and a discussion of the effects of the proposed action on such policies and purposes. A copy of the DEIS shall be submitted to the Waterfront Advisory Committee for any action located in the LWA. This shall be for their review for consistency with the LWRP. Such a determination must be submitted to the lead agency within the designated review time periods of this local law.

§ 6B-6. Determination and designation of lead agency.

The lead agency shall be determined and designated as provided in Sections 617.6 and 617.7, except that in the following Type I and unlisted actions, the lead agency shall be as provided herein:

- A. Adoption, amendment or change in zoning regulations not requiring a federal or state agency permit or approval; the City Council.
- B. Construction or expansion of city buildings, structures and facilities within the City not requiring a federal or state agency permit or approval: City Council or Community Renewal Agency depending on location.
- C. Variances from the Zoning Law of the City of Tonawanda not requiring a federal or state agency permit or approval: the Zoning Board of Appeals.
- D. Purchase, sale and lease of real property by the city not requiring a federal or state agency permit or approval: the City Council.
- E. Planned unit development (subdivision) or cluster zoning not requiring a federal or state agency permit or approval: the City or Community Renewal Agency depending on location.
- F. Site plan review and special use permit not requiring a federal or state agency permit for approval: City Council

§ 6B-7. Clearinghouse for lead agency designation.

The City Building Inspector shall act as the city clearinghouse for lead agency designation. Such clearinghouse shall assist agencies and applicants to identify other agencies, including federal and state, that may be involved in approving, funding or carrying out Type I and unlisted actions. The clearinghouse shall also make recommendations on the designation of a lead agency.

§ 6B-8. Actions involving a federal agency.

Environmental review of actions involving a federal agency shall

be processed in accordance with Section 617.16.

§ 6B-9. Consistency with LWRP

- A. Action to be undertaken within the LWA by boards, departments, offices, other bodies or officers of the City shall be consistent to the maximum extent practicable with the policies and purposes of the LWRP. For the purposes of complying with this requirement such boards, departments, offices, other bodies or officers shall meet the requirements of paragraphs (1) or (2) of this section, whichever applies:
- (1) Where a determination is made pursuant to paragraphs B and C of section 6B-4 of this local law that an action may have a significant effect on the environment, the consistency of such action shall be determined as part of the EIS procedures cited in Section 6B-5.
 - (2) Where a determination is made pursuant to Paragraph B of Section 6B-4 of this local law that an action will not have a significant effect on the environment, the consistency of such action shall be determined prior to the determination of non-significance.
- B. When it is determined pursuant to Paragraph A (1) or A (2) of this section of this local law that the action would cause a substantial hindrance to the achievement of any policy or purpose of the LWRP, such action shall not be undertaken unless the board, department, office, other body or officer can document findings that:
- (1) no reasonable alternatives exist which would permit the action to be undertaken without substantial hindrance to such policy or purpose;
 - (2) the action would be undertaken in a manner which will minimize all adverse effects on such policy or purpose to the maximum extent practicable; and
 - (3) the action will result in an overwhelming communitywide, regional or statewide public benefit.
- C. Each board, department, office, other body or officer of the City shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Waterfront Advisory Committee and any finding pursuant to paragraph B of this section of this local law. Such files shall be made available for public inspection upon request.

§ 6B-10. Designation of Type I actions.

For the purposes of this local law, Type I actions shall be those set forth in Section 617.12.

§ 6B-11. Designation of Type II actions.

For the purposes of this local law, Type II actions shall be those set forth in Section 617.13.

§ 6B-12. When effective.

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

12/1/85

WATERFRONT ASSESSMENT FORM

(a) Applicants shall complete this assessment form for actions which are subject to the Town of Evans Environmental Quality Review Law and are located in the local waterfront area. This assessment is intended to supplement other information used by the Town of Evans in making determinations of significance pursuant to the Local Environmental Quality Review Law. If it is determined that an action will not have a significant effect on the environment, this assessment is intended to assist the Town in arriving at their decision as to consistency as required by Section 6B-9 of Local Law No. __ (Environmental Quality Review)

(b) If any question in subsection (a) on this form is answered "yes," then the proposed action may effect the achievement of the coastal policies contained in the Town of Evans and Local Waterfront Revitalization Program. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (1) making a certification of consistency pursuant to Section 6B-9 of local law _____. (2) if the action is one for which an environmental impact statement is being prepared, making the findings required within local Law _____. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.

(c) Before answering the questions in subsection (a), the preparer should review the coastal policies as explained in the Town of Evans Local Waterfront Revitalization Program. Actions should be evaluated as to their beneficial and adverse effects upon the coastal area.

(d) Description of Action

1. Type of Action

- _____ (a) Directly undertaken, pursuant to: _____
_____ (b) Funding, pursuant to: _____

- _____ (c) Permit(s), pursuant to: _____
- _____ (d) Planning activity(ies), pursuant to: _____
- _____ (e) Rule, regulation, procedure, policy-making,
pursuant to: _____
- _____ (f) Construction, alteration of structure(s) _____

2. Location of Action; fill in blank(s) as applicable

Address

3. Anticipated Start Date of Action: _____

Month/day/year

4. Will the action require, funding, and/or approval by a federal agency(ies)? If yes, which federal agency(ies) _____

(e) Coastal Assessment Yes No

- | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------|
| 1. Will the action result in a large physical change to coastal site or physically alter more than two acres of land, land under water, or coastal waters, if located adjacent to the shore, or five acres if elsewhere within the coastal area? | _____ | _____ |
| 2. Will the action be located in or significantly affect the viability of a significant fish or wild-life habitat? | _____ | _____ |
| 3. Will the action have a significant effect on the commercial or recreational use of fish and wild-life resources? | _____ | _____ |

4. Will the action be located in or have a significant effect upon an area identified on the coastal area map as a scenic resource of state-wide significance? ___ ___

5. Will the action have any significant visual effect upon a natural or manmade resource which contributes to the scenic quality of the coastal area? ___ ___

6. Will the action significantly affect existing uses or the development of future water dependent uses? ___ ___

7. Will the action require new or expanded public services or infrastructure into undeveloped or low density areas of the coast? ___ ___

8. Does the action involve an energy facility not subject to Article VII or VIII of the New York State Public Service Law? ___ ___

9. Will the action be located in or significantly affect development in a designated flood hazard area, or on a beach, island, or other feature that functions as a natural protection feature against erosion or flooding? ___ ___

10. Does the action involve mining, excavation or dredging within coastal waters? ___ ___

11. Will the action result in a reduction of existing or potential public access to or along the shore? ___ ___

12. Does the action involve the sale or change in use of publicly-owned underwater lands or lands adjacent to the coastline?

13. Will the action affect existing or potential recreation opportunities? _____

14. Will the action affect any structures, districts, areas, or sites of historic, archeological or cultural significance to the State or nation? _____

(f) If you answered yes to one or more questions in subsection (e) on this form, briefly and precisely describe the nature and extent of the proposed action, in the space below, and submit a copy to: Town Building Inspector

Evans Town Hall
42 N. Main Street
Angola, New York 14006

Preparer's Name: _____ Telephone Number _____

Organization: _____ Date: _____

TJD:es
TJD166

Local Law
Waterfront Revitalization Advisory Committee

A. Creation

(1) A Waterfront Revitalization Advisory Committee shall consist of not less than seven (7) nor more than fifteen (15) members representing a mix of waterfront property owners, waterfront businesses, community organizations and the general citizenry of the City. Members shall be appointed at the pleasure of the City Council as follows:

- (a) Three (3) members for three-year terms.
- (b) Three (3) members for two-year terms.
- (c) One (1) to nine (9) members for one-year terms.

(2) The City Council shall annually designate a Chairperson from among the membership,

B. Powers and duties. The Waterfront Revitalization Advisory Committee, within thirty (30) days of receiving matters referred to it pursuant to this chapter, shall:

(1) Review all Environmental Assessment Forms (EAF), Waterfront Assessment Forms (WAF) and Environmental Impact Statements (EIS), prepared for proposed actions in the Local Waterfront Area (LWA).

(2) Prepare specific recommendations concerning such actions, addressing:

- (a) Potentially significant adverse impacts affecting the LWA and the consistency of the actions with the policies and purposes of the City of Tonawanda Local Waterfront Revitalization Program (LWRP).

- (b) Alternative actions which would avoid the potential impacts and ensure consistency with the LWRP.

- (c) Measures, if any, to mitigate potential impacts and resolve inconsistencies.
- (3) Approve such recommendations by majority vote of a quorum of the membership.
- (4) Record such recommendations and the vote thereon in the minutes of its proceedings.
- (5) Submit its recommendations in writing to the board, department, office, other body or officer responsible as lead agency for the purposes of SEOR review. A copy of the recommendation shall be provided to the applicant in cases involving an application for approval, funding or permits from the City.
- (6) Advise the City Council and Mayor on all matters relating to development, preservation and enhancement of the City's Local Waterfront Area.

TJD167

ZONING ORDINANCE REVISIONS

I. ARTICLE X - DEFINITIONS

The following shall be added to the definition section of the ordinance.

Local Waterfront Area: The area on the waterside of the Local Waterfront Area boundary on the City's adopted Local Waterfront Revitalization Program - Boundary Map on file in the City Engineer's Office.

Marina: A water basin providing secure moorings for recreational motorboats, sailboats, yachts and other similar craft having mooring space for twenty or more boats.

Solid Waste: Sludge from air or water pollution control facilities, demolition and construction debris, and residential/industrial/commercial wastes.

Hazardous Waste: Unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic.

II. ARTICLE I - GENERAL PROVISIONS

The following shall be added

1. Section 1-80 Limitations on the Storage of Hazardous and Solid Waste Facilities

A. The storage of hazardous and solid waste material shall be prohibited within the City's Local Waterfront Revitalization Area.

2. Section 1-90 Limitations on Public and Private Marinas

A. All public and private marinas within the City's Local Waterfront Revitalization Area shall include pump out facilities for sanitary and other associated wastes.

TJD168