

**APPENDIX C**

**ATHENS WATERFRONT CONSISTENCY REVIEW LAW**

## **THE VILLAGE OF ATHENS WATERFRONT CONSISTENCY REVIEW LAW**

Village of Athens, New York

Local Law No. 8 of the year 1993

A local law The Village of Athens Waterfront Consistency Review Law  
Be it enacted by the Board of Trustees of the Village of Athens as follows:

(Incorporating Local Law no. 1 of the year 1999 Amending the Village of Athens Waterfront  
Consistency Review Law)

### **CHAPTER 89 - WATERFRONT CONSISTENCY REVIEW**

#### **GENERAL PROVISIONS**

##### **§89.1. TITLE**

This local law shall be known as the Village of Athens Waterfront Consistency Review Law.

##### **§89.2 AUTHORITY; PURPOSE**

- A. This local law is adopted pursuant to the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42 of the Executive Law); Article IX, Section 1 of the New York State Constitution; and Article 5-G of the General Municipal Law of the State of New York and expressly supersedes any inconsistent general or local law regarding consistency review, zoning and waterways.
- B. The purpose of this local law is to provide a framework for agencies of the Village of Athens to consider the policies, purposes and common interests contained in the Local Waterfront Revitalization Program of the Village of Athens when reviewing applications for actions or direct agency actions located in the coastal area, to assure that such actions are consistent with those policies and purposes, and toward that goal, to establish a Village of Athens Waterfront Advisory committee to provide review of actions located within the Coastal area.
- C. It is the intention of the Village of Athens that the preservation, enhancement and utilization of the natural and man-made resources of the unique coastal area of Athens 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, this chapter is intended to achieve such balance, permitting the beneficial use of coastal resources while preventing the loss of living coastal resources and wildlife, diminution of open space areas or public access to the waterfront, erosion of the shoreline, impairment of scenic beauty, losses due to flooding, erosion and sedimentation or permanent adverse changes to ecological systems.

- D. The substantive provisions of this chapter shall only apply while there is in existence a Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

§89-3. DEFINITIONS

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

**ACTIONS** - Either Type I or unlisted actions as defined in SEQRA regulations (6 NYCRR Part 617) which are undertaken by an agency and which include:

- 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 resources or structure, that:
  - (1) Are directly undertaken by an agency.
  - (2) Involve funding by an agency.
  - (3) Require one (1) or more new or modified approvals from an agency or agencies.
- B. Agency planning and policymaking 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.
- D. Any combinations of the above.

**AGENCY** - Any board, agency, department, office, other body or officer of the Village of Athens.

**APPLICANT** - Any person making an application or other request to an agency to provide funding or to grant an approval or permit in connection with a proposed action.

**COASTAL AREA** - 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 Village of Athens, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the Village of Athens Local Waterfront Revitalization Program.

**COASTAL ASSESSMENT FORM (CAF)** - 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.

\* Editor's note: Appendix A is on file in the Village Clerk's Office

CONSISTENT - The action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one (1) or more of them.

DIRECT ACTIONS - Actions planned and proposed for implementation by an agency or the village, such as but not limited to capital projects, promulgation of rules, regulations, laws, codes or ordinances and policymaking which commits an agency or the village to a course of action.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - the Local Waterfront Revitalization Program of the Village of Athens 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 Village of Athens.

WATERFRONT ADVISORY COMMITTEE or COMMITTEE - The Village of Athens Waterfront Advisory Committee, as created pursuant to Section IV herein.

§89-4. CREATION OF WATERFRONT ADVISORY COMMITTEE

- A. A Committee is hereby created and shall be known as The Village of Athens Waterfront Advisory Committee
- B. The Committee shall consist of five members, two of whom shall be appointed by the Village of Athens Board of Trustees and two of whom shall be appointed by the Mayor of the village of Athens. The fifth member who shall be the chair, shall be jointly appointed by the Mayor of the village of Athens and the Athens Board of Trustees. Of the members of the Committee first appointed, one (1) shall hold office for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, and one (1) for a term of five (5) years from and after their appointment. Their successors shall be appointed for the term of five (5) years from and after expiration of the terms of their predecessors in office. Vacancies shall be filled by the appointing Board and Chief executive officer as designated above.
- C. Each member appointed by the Village Board shall be a resident of the village. Members shall be chosen for their demonstrated knowledge, ability, and readiness to serve the Committee in the functions described in this local law and with due regard for maintaining among membership's a range of special aptitudes and expertise in areas relevant to the Village of Athens Local Waterfront Revitalization Program.
- D. After referral from an agency, the Committee shall consider whether the proposed action is consistent. In addition to the completed CAF's, the Committee may request such other and further information as it deems to be necessary to its consistency opinion.

- E. The Committee shall render its written opinion to the agency within 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 opinion shall indicate whether the proposed action is consistent and shall elaborate the basis for its opinion. The Committee may find that the proposed action is consistent, consistent with recommended modifications or inconsistent. In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.
- F. The agency shall make the determination of consistency based on the CAF, the Committee recommendation and such other information as it deemed to be necessary in its determination. The agency shall issue its determination within seven (7) days of the date for receipt of the Committee's recommendation. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this chapter.
- G. 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 Village of Athens LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal working hours. Agencies which undertake direct actions shall also consult with Section IV of LWRP in making their consistency determination. The action shall be consistent with the policy to:
  - (1) Revitalize deteriorated and underutilized waterfront areas through a mixture of uses (Policy 1)
  - (2) Retain and preserve existing and promote new water dependent uses (Policies 2, 2A)
  - (3) Strengthen the economic base and small harbor character of the Athens waterfront by encouraging the development and enhancement of traditional maritime uses and activities (Policy 4)
  - (4) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
  - (5) Streamline development permit procedures (Policy 6)
  - (6) Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7,8)
  - (7) Maintain and expend recreational fishing opportunities (Policy 9)
  - (8) Minimize flooding and erosion hazards through nonstructural means, carefully selected, long-term structural measures and appropriate siting of structure (Policies 11, 12, 13, 13A, 14, 15, 16, 17, 28)
  - (9) Safeguard economic, social and environmental interests in the coastal area in which major actions are undertaken (Policy 18)
  - (10) Maintain and improve public access to the shoreline and to Middle Ground Flats and other water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 21, 22)
  - (11) Protect and restore historic and archaeological resources (Policy 23)

- (12) Protect and upgrade scenic resources (Policy 25)
- (13) Protect and conserve agricultural lands (Policy 26, 26A)
- (14) Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policy 27, 40)
- (15) Prevent ice management practices which could damage significant fish and wildlife and their habitats (Policy 28)
- (16) Protect surface and ground waters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 34A, 35, 36, 37, 38)
- (17) Perform dredging and dredge disposal in a manner protective of natural resources (Policies 15, 35)
- (18) Handle and dispose of hazardous wastes and effluents in a manner which will not adversely affect the environment (Policy 39)
- (19) Protect air quality (Policies 41, 42, 43)
- (20) Protect tidal and freshwater wetland (Policy 44)

H. Findings

- (1) If the agency determines that the action would not be consistent with one (1) 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 alternatives exist 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 (1) or more of the other LWRP policy standards and conditions.
  - (d) The action will result in an overriding village, regional or statewide public benefit.
- (2) Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

§89-5. ENFORCEMENT

The Village Code Enforcement Officer 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 Code Enforcement Officer has been presented with a written determination from an agency that the action is consistent with the Village'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 Code Enforcement Officer 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.

§89-6. PENALTIES FOR OFFENSES

- A. 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 fine not exceeding five hundred dollars (\$500) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1,000) 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 additional violation.
- B. The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

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.