

Appendix B – Local Consistency Review Laws

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 Clayton
Local Law No. 1 of the year 2012**

Town of Clayton Waterfront Consistency Review Law

Be it enacted by the Town Board of the Town of Clayton as follows:

GENERAL PROVISIONS

I. Title.

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

II. Authority and Purpose.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this local law is to provide a framework for agencies of the Town of Clayton to incorporate the policies and purposes contained in the Town of Clayton Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the Waterfront Revitalization Area (WRA); and to assure that such actions and direct actions by Town agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Town of Clayton that the preservation, enhancement and utilization of the unique waterfront of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing loss and degradation of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

{26019/08832/SKP/00442565.DOC}

(1)

D. The substantive provisions of this local law shall only apply when there is in existence a Town of Clayton 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.

A. "Actions" include all the following, except minor actions:

- (1) projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the WRA or the environment by changing the use, appearance or condition of any resource or structure, that:
 - i. are directly undertaken by an agency; or
 - ii. involve funding by an agency; or
 - iii. require one or more new or modified approvals, permits, or review from an agency or agencies;
- (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect waterfront resources or the environment; and
- (4) any combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Clayton.

C. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

D. "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.

E. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.

F. "Local Waterfront Revitalization Program" or "LWRP" means the Local Waterfront Revitalization Program of the Town of Clayton, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Clayton.

G. "Minor actions" include the following actions, which are not subject to review under this local law:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- (3) repaving or widening of existing paved highways not involving the addition of new travel lanes;
- (4) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature or a bulkhead or other shoreline defense structure or any activity within the CEHA;
- (7) minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
- (8) installation of traffic control devices on existing streets, roads and highways;
- (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- (11) official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.
- (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (14) collective bargaining activities;
- (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;

- (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- (18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule or regulation;
- (23) designation of local landmarks or their inclusion within historic districts;
- (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- (25) local legislative decisions such as rezoning where the Town Board determines the action will not be approved.

H. "Waterfront 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 Clayton, as shown on the waterfront revitalization boundary area map on file in the office of the Secretary of State and as delineated in the Town and Village of Clayton Local Waterfront Revitalization Program (LWRP).

I. "Waterfront Assessment Form (WAF)" means the form, a sample of which is appended to this local law as Appendix "A", used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

IV. Management and Coordination of the LWRP

- A. The Joint Town of Clayton Village of Clayton Planning Board (the "Planning Board") shall be responsible for coordinating review of actions in the Town's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.
- B. The Planning Board shall coordinate with the New York State Department of State regarding consistency review of actions by Federal agencies and with State agencies regarding consistency review of their actions.
- C. The Planning Board shall assist the Town Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.
- D. The Planning Board shall perform other functions regarding the waterfront area and direct such actions or projects as the Town Board may deem appropriate, to implement the LWRP.

V. Review of Actions.

- A. Whenever a proposed action is located within the Town's waterfront area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards in Section H herein. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination.
- B. Whenever a Town agency 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 waterfront area, the agency shall refer a copy of the completed WAF to the Planning Board within ten (10) days of its receipt and prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action.
- C. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Section H herein. The Planning Board shall require the applicant to submit all completed applications, WAFs, EAFs, and any other information deemed necessary to its consistency recommendation.

The Planning Board shall render its written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Planning Board and the applicant or in the case of a direct action, the agency. The Planning Board's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Planning Board shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action,

including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

In the event that the Planning Board’s recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Planning Board's recommendation.

- D. If an action requires approval of more than one Town agency, decision making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one WAF per action will be prepared. If the agencies cannot agree, the Town Board shall designate the consistency review agency.
- E. Upon receipt of the Planning Board’s recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards in Section H herein. The agency shall consider the consistency recommendation of the Planning Board, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the waterfront area without a written determination of consistency having first been rendered by a Town agency.

The Joint Town of Clayton Village of Clayton Zoning Board of Appeals (the “Zoning Board of Appeals”) is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Planning Board in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.

- F. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Section H and include a discussion of the effects of the proposed action on such policy standards.
- G. In the event the Planning Board’s recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.
- H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policy standards, which are further explained and described in the Town and Village of Clayton 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 must also consult with LWRP Section V, in making their consistency determination. The action must be consistent with the policies to:

Policy	Policy Statements
DEVELOPED WATERFRONT POLICIES	
Policy 1	Foster a pattern of development in the waterfront area that enhances community character,

Policy	Policy Statements
	preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.
Policy 1.1	Concentrate development and redevelopment in order to revitalize and enhance the waterfronts, strengthen the traditional village core and rural edge, and prevent sprawl.
Policy 1.2	Ensure that development or uses take appropriate advantage of their waterfront location.
Policy 1.3	Protect stable residential areas.
Policy 1.4	Maintain and enhance natural areas, recreation, open space, and agricultural lands.
Policy 1.5	Minimize adverse impacts of new development and redevelopment.
Policy 2	Preserve historic resources of the waterfront area.
Policy 2.1	Maximize preservation and retention of historic resources.
Policy 2.2	Protect and preserve archaeological resources.
Policy 2.3	Protect and enhance resources that are significant to the waterfront culture.
Policy 3	Enhance visual quality and protect scenic resources throughout the waterfront area.
Policy 3.1	Protect and improve visual quality throughout the waterfront area.
Policy 3.2	Protect aesthetic values associated with recognized areas of high scenic quality.
NATURAL WATERFRONT POLICIES	
Policy 4	Minimize loss of life, structures, and natural resources from flooding and erosion.
Policy 4.1	Minimize flooding damage in the Town and Village of Clayton through the use of appropriate management measures.
Policy 4.2	Preserve and restore natural protective features.
Policy 4.3	Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.
Policy 4.4	Manage navigation infrastructure to limit adverse impacts on waterfront processes.
Policy 4.5	Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.
Policy 4.6	The construction or reconstruction of docks, boathouses, boat hoists, public access facilities and other shoreline structures shall be undertaken in a manner which will, to the maximum extent practicable, protect against or withstand the destructive forces of wave action and ice movement.
Policy 4.7	Water level management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding, or interfere with the local economy.
Policy 4.8	Ice management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding.
Policy 4.9	Use environmentally sound, cost effective measures when proven necessary to minimize impacts of wave action and ice movement. Such measures shall be pursued in consultation with appropriate State and federal agencies, local interests, and experts in the fields of marine engineering and construction.

Policy	Policy Statements
Policy 5	Protect and improve water quality and supply.
Policy 5.1	Prohibit direct or indirect discharges, which would cause or contribute to contravention of water quality standards.
Policy 5.2	Manage land use activities and use best management practices to minimize nonpoint source pollution of waterfront areas.
Policy 5.3	Protect and enhance the quality of waterfront area waters.
Policy 5.4	Limit the potential for adverse impacts of watershed development on water quality and quantity.
Policy 5.5	Protect and conserve the quality and quantity of potable water.
Policy 6	Protect and restore the quality and function of the ecosystem.
Policy 6.1	Protect and restore ecological quality.
Policy 6.2	Protect, preserve, and where practical restore Significant Waterfront Fish and Wildlife Habitats.
Policy 6.3	Protect and restore freshwater wetlands.
Policy 6.4	Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.
Policy 7	Protect and improve air quality in the waterfront area.
Policy 7.1	Control or abate existing and prevent new air pollution.
Policy 7.2	Limit discharges of atmospheric radioactive material to a level that is as low as practicable.
Policy 7.3	Limit sources of atmospheric deposition of pollutants to the waterway, particularly from nitrogen sources.
Policy 8	Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes.
Policy 8.1	Manage solid waste to protect public health and control pollution.
Policy 8.2	Manage hazardous wastes to protect public health and control pollution.
Policy 8.3	Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.
Policy 8.4	Prevent and remediate discharge of petroleum products.
Policy 8.5	Transport solid waste, hazardous substances, and hazardous waste in a manner which protects the safety, well-being, and general welfare of the public; the environmental resources of the State; and the continued use of transportation facilities.☐
Policy 8.6	Seek alternatives to locations within the Clayton waterfront revitalization area for solid and hazardous facilities.
PUBLIC WATERFRONT POLICY	
Policy 9	Provide for public access to, and recreational use of, the waterway, public lands, and public resources of the waterfront area.
Policy 9.1	Promote appropriate and adequate physical public access and recreation throughout the waterfront area.
Policy 9.2	Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the

Policy	Policy Statements
	water's edge that are publicly owned shall be provided. Obtain public access to the foreshore through the use of easements, land purchase or other measures where necessary and feasible.
Policy 9.3	Provide public visual access to waterfront lands and waters or open space at all sites where physically practical.
Policy 9.4	Preserve the public interest in and use of lands and waters held in public trust by the state and other public entities.
Policy 9.5	Assure public access to public trust lands and navigable waters.
Policy 9.6	Provide access and recreation that is compatible with natural resource values.
Policy 9.7	Development, when located adjacent to the shore, shall provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.
WORKING WATERFRONT POLICIES	
Policy 10	Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations.
Policy 10.1	Protect existing public and commercial water-dependent uses.
Policy 10.2	Promote the siting of new public and commercial water-dependent uses at suitable locations and provide for their safe operation.
Policy 10.3	Improve the economic viability of water-dependent uses.
Policy 10.4	Promote efficient management of surface waters and underwater lands.
Policy 11	Promote sustainable use of fish and wildlife resources.
Policy 11.1	Provide for and promote the health and recreational use of fishing resources.
Policy 12	Protect the agricultural lands.
Policy 12.1	Protect existing agriculture and agricultural lands from conversion to other land uses.
Policy 12.2	Establish and maintain favorable conditions that support existing or promote new agricultural production.
Policy 12.3	Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land.
Policy 12.4	Preserve scenic and open space values associated with agricultural lands.
Policy 13	Promote appropriate use and development of energy and mineral resources.
Policy 13.1	Conserve energy resources.
Policy 13.2	Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.
Policy 13.3	Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.
Policy 13.4	Minimize adverse impacts from fuel storage facilities.
Policy 13.5	Ensure that mining, blasting, excavation and dredging do not cause an increase in erosion, any adverse effects on natural resources or degradation of visual resources.

- I. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request.

VI. Enforcement.

No action within the Clayton waterfront area, which is subject to review under this local law, shall proceed until a written determination has been issued from a Town agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Zoning Enforcement Officer or any other authorized official of the Town 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. The Town Attorney, Town Zoning Enforcement Officer and Police Department shall be responsible for enforcing this local law.

VII. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1000.00) 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 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 provision 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 provision hereof other than the provision so found to be invalid.

IX. 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.

APPENDIX "A"

**TOWN OF CLAYTON
WATERFRONT ASSESSMENT FORM**

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions, Town of Clayton agencies, shall complete this WAF for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by a Town of Clayton agency in making a determination of consistency.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Town of Clayton Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
3. If any questions in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of agency action (check appropriate response):
 - (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) _____
 - (b) Financial assistance (e.g. grant, loan, subsidy) _____
 - (c) Permit, approval, license, certification _____
 - (d) Agency undertaking action: _____
2. Describe nature and extent of action: _____

3. Location of action: _____

Street or Site Description

4. Size of site: _____

5. Present land use: _____

6. Present zoning classification: _____

7. Describe any unique or unusual land forms on the project site (i.e. steep slopes, swales, ground depressions, other geological formations): _____

8. Percentage of site which contains slopes of 15% or greater: _____

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

(1) Name: _____

(2) Size (in acres): _____

10. If an application for the proposed action has been filed with the agency, the following information shall be provided:

(a) Name of applicant: _____

(b) Mailing address: _____

(c) Telephone number: Area Code (_____) _____

(d) Application number, if any: _____

11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?

Yes ___ No ___ If yes, which state or federal agency? _____

C. COASTAL ASSESSMENT

(Check either "Yes" or "No" for each of the following questions)

YES NO

- | | | | |
|----|--|-----|-----|
| 1. | Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the waterfront area map..... | ___ | ___ |
| a. | Significant fish or wildlife habitats? | ___ | ___ |
| b. | Scenic resources of local or statewide significance? | ___ | ___ |
| c. | Important agricultural lands? | ___ | ___ |
| d. | Natural protective features in an erosion hazard area..... | ___ | ___ |

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

- | | | | |
|----|--|-----|-----|
| 2. | Will the proposed action have a significant effect upon: | YES | NO |
| a. | Commercial or recreational use of fish and wildlife resources? | ___ | ___ |
| b. | Scenic quality of the waterfront environment?. | ___ | ___ |
| c. | Development of future, or existing water dependent uses? | ___ | ___ |
| d. | Operation of the State's major ports? | ___ | ___ |
| e. | Land or water uses within a small harbor area? | ___ | ___ |
| f. | Stability of the shoreline? | ___ | ___ |
| g. | Surface or groundwater quality? | ___ | ___ |
| h. | Existing or potential public recreation opportunities?..... | ___ | ___ |
| i. | Structures, sites or districts of historic, archeological or cultural significance to the Town of Clayton, State or nation?..... | ___ | ___ |

- | | | | |
|----|--|-----|----|
| 3. | Will the proposed action involve or result in any of the following: | YES | NO |
| a. | Physical alteration of land along the shoreline, land under water or | | |

	waterfront waters?.....	_____	_____
b.	Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area?	_____	_____
c.	Expansion of existing public services or infrastructure in undeveloped or low density areas of the WRA?	_____	_____
d.	Energy facility not subject to Article VII or VIII of the Public Service law?	_____	_____
e.	Mining, excavation, filling or dredging in WRA waters?	_____	_____
f.	Reduction of existing or potential public access to or along the shore?	_____	_____
g.	Sale or change in use of publicly-owned lands located on the shoreline or under water?.....	_____	_____
h.	Development within a designated flood or erosion hazard area?	_____	_____
i.	Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?.....	_____	_____
j.	Construction or reconstruction of erosion protective structures?	_____	_____
k.	Diminished surface or groundwater quality?	_____	_____
l.	Removal of ground cover from the site?	_____	_____
4.	PROJECT	YES	NO
(a)	If a project is to be located adjacent to shore:		
(1)	Will water-related recreation be provided?	_____	_____
(2)	Will public access to the foreshore be provided?	_____	_____
(3)	Does the project require a waterfront site?	_____	_____
(4)	Will it supplant a recreational or maritime use?	_____	_____
(5)	Do essential public services and facilities presently exist at or near the site?	_____	_____

(6)	Is it located in a flood prone area?.....	___	___
(7)	Is it located in an area of high erosion?.....	___	___
(b)	If the project site is publicly owned:	YES	NO
(1)	Will the project protect, maintain and/or increase the level and types of public access to water- related recreation resources and facilities?.....	___	___
(2)	If located in the foreshore, will access to those and adjacent lands be provided?.....	___	___
(3)	Will it involve the siting and construction of major energy facilities?	___	___
(4)	Will it involve the discharge of effluents from major steam electric generating and industrial facilities into waterfront facilities?	___	___
(c)	Is the project site presently used by the community neighborhood as an open space or recreation area?.....	___	___
(d)	Does the present site offer or include scenic views or vistas known to be important to the community?.....	___	___
(e)	Is the project site presently used for commercial fishing or fish processing?	___	___
(f)	Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?	___	___
(g)	Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project?	___	___
(h)	Will the project involve any waste discharges into WRA waters?	___	___
(i)	Does the project involve surface or subsurface liquid waste disposal?	___	___
(j)	Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?.....	___	___
(k)	Does the project involve shipment or storage of petroleum products?	___	___
(l)	Does the project involve discharge of toxics, hazardous substances or other pollutants into WRA waters?.....	___	___

- (m) Does the project involve or change existing ice management practices?..... ___ ___
- (n) Will the project affect any area designated as a tidal or freshwater wetland? ___ ___
- (o) Will the project alter drainage flow, patterns or surface water runoff on or
from the site? ___ ___
- (p) Will best management practices be utilized to control storm water
runoff into WRA waters? ___ ___
- (q) Will the project utilize or affect the quality or quantity of sole source or surface water
supplies?..... ___ ___
- (r) Will the project cause emissions which exceed federal or state air quality standards or generate significant
amounts of nitrates or sulfates?..... ___ ___

D. REMARKS OR ADDITIONAL INFORMATION: (Add any additional sheets to complete this form.)

If assistance or further information is needed to complete this form, please contact Town of Clayton Clerk at 405 Riverside Drive, Clayton, NY 13624; Phone: (315) 686-3512.

Preparer's Name: _____ Telephone Number: (___) ___ - _____

Title: _____ Agency: _____

Date: _____

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.) I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2012 of the Town of Clayton was duly passed by the Town Board on July 25, 2012, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the of the (County)(City)(Town)(Village) of _____ was duly passed by _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local (Elective Chief Executive Officer)

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the

Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general)election held on _____ 20____, became operative.

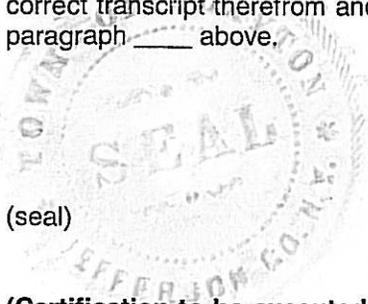
6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November ____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the town of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ____ above.

(seal)



Kathleen E. LaClair
Kathleen LaClair, Clerk, of the
Town of Clayton

Date: 7/26/2012

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

I, the undersigned, hereby certify that the foregoing local law contains the correct test and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature
Joseph W. Russell
Joseph W. Russell, Town Attorney
Town of Clayton

Date: 7/26/12

LOCAL LAW FILING

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

(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.

Village of Clayton

Local Law No. 2 of the year 2012

Village of Clayton Waterfront Consistency Review Law

Be it enacted by the Village Board of the Village of Clayton as follows:

GENERAL PROVISIONS

I. Title.

This local law will be known as the Village of Clayton Waterfront Consistency Review Law.

II. Authority and Purpose.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this local law is to provide a framework for agencies of the Village of Clayton to incorporate the policies and purposes contained in the Village of Clayton Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the Waterfront Revitalization Area (WRA); and to assure that such actions and direct actions by Village agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Village of Clayton that the preservation, enhancement and utilization of the unique waterfront of the Village take place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing loss and degradation of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and

sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

- D. The substantive provisions of this local law shall only apply when there is in existence a Village of Clayton 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.**

- A. "Actions" include all the following, except minor actions:
- (1) projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the WRA or the environment by changing the use, appearance or condition of any resource or structure, that:
 - i. are directly undertaken by an agency; or
 - ii. involve funding by an agency; or
 - iii. require one or more new or modified approvals, permits, or review from an agency or agencies;
 - (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect waterfront resources or the environment; and
 - (4) any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Village of Clayton.
- C. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.
- D. "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.
- E. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.
- F. "Local Waterfront Revitalization Program" or "LWRP" means the Local Waterfront Revitalization Program of the Village of Clayton, approved by the Secretary of State pursuant to the

Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Village of Clayton.

- G. "Minor actions" include the following actions, which are not subject to review under this local law:
- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
 - (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
 - (3) repaving or widening of existing paved highways not involving the addition of new travel lanes;
 - (4) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
 - (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
 - (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature or a bulkhead or other shoreline defense structure or any activity within the CEHA;
 - (7) minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
 - (8) installation of traffic control devices on existing streets, roads and highways;
 - (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
 - (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
 - (11) official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.

- (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (14) collective bargaining activities;
- (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- (18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule or regulation;
- (23) designation of local landmarks or their inclusion within historic districts;
- (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake

other activities after the emergency has expired is fully subject to the review procedures of this Part;

(25) local legislative decisions such as rezoning where the Village Board determines the action will not be approved.

H. "Waterfront 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 Village of Clayton, as shown on the waterfront revitalization boundary area map on file in the office of the Secretary of State and as delineated in the Town and Village of Clayton Local Waterfront Revitalization Program (LWRP).

I. "Waterfront Assessment Form (WAF)" means the form, a sample of which is appended to this local law as Appendix "A", used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

IV. Management and Coordination of the LWRP

- A. The Joint Town of Clayton Village of Clayton Planning Board (the "Planning Board") shall be responsible for coordinating review of actions in the Village's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Village agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.
- B. The Planning Board shall coordinate with the New York State Department of State regarding consistency review of actions by Federal agencies and with State agencies regarding consistency review of their actions.
- C. The Planning Board shall assist the Village Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.
- D. The Planning Board shall perform other functions regarding the waterfront area and direct such actions or projects as the Village Board may deem appropriate, to implement the LWRP.

V. Review of Actions.

- A. Whenever a proposed action is located within the Village's waterfront area, each Village agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards in Section H herein. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination.
- B. Whenever a Village agency 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 waterfront area, the agency shall refer a copy of the completed WAF to the Planning Board within ten (10)

days of its receipt and prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action.

- C. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Section H herein. The Planning Board shall require the applicant to submit all completed applications, WAFs, EAFs, and any other information deemed necessary to its consistency recommendation.

The Planning Board shall render its written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Planning Board and the applicant or in the case of a direct action, the agency. The Planning Board's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Planning Board shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

In the event that the Planning Board's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Planning Board's recommendation.

- D. If an action requires approval of more than one Village agency, decision making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one WAF per action will be prepared. If the agencies cannot agree, the Village Board shall designate the consistency review agency.
- E. Upon receipt of the Planning Board's recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards in Section H herein. The agency shall consider the consistency recommendation of the Planning Board, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the waterfront area without a written determination of consistency having first been rendered by a Village agency.

The Joint Town of Clayton Village of Clayton Zoning Board of Appeals (the "Zoning Board of Appeals") is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Planning Board in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.

- F. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Section H and include a discussion of the effects of the proposed action on such policy standards.
- G. In the event the Planning Board’s recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.
- H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policy standards, which are further explained and described in the Village and Village of Clayton LWRP, a copy of which is on file in the Village Clerk’s office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with LWRP Section V, in making their consistency determination. The action must be consistent with the policies to:

Policy	Policy Statements
DEVELOPED WATERFRONT POLICIES	
Policy 1	Foster a pattern of development in the waterfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.
Policy 1.1	Concentrate development and redevelopment in order to revitalize and enhance the waterfronts, strengthen the traditional village core and rural edge, and prevent sprawl.
Policy 1.2	Ensure that development or uses take appropriate advantage of their waterfront location.
Policy 1.3	Protect stable residential areas.
Policy 1.4	Maintain and enhance natural areas, recreation, open space, and agricultural lands.
Policy 1.5	Minimize adverse impacts of new development and redevelopment.
Policy 2	Preserve historic resources of the waterfront area.
Policy 2.1	Maximize preservation and retention of historic resources.
Policy 2.2	Protect and preserve archaeological resources.
Policy 2.3	Protect and enhance resources that are significant to the waterfront culture.
Policy 3	Enhance visual quality and protect scenic resources throughout the waterfront area.
Policy 3.1	Protect and improve visual quality throughout the waterfront area.
Policy 3.2	Protect aesthetic values associated with recognized areas of high scenic quality.
NATURAL WATERFRONT POLICIES	
Policy 4	Minimize loss of life, structures, and natural resources from flooding and erosion.
Policy 4.1	Minimize flooding damage in the Town and Village of Clayton through the use of

Policy	Policy Statements
	appropriate management measures.
Policy 4.2	Preserve and restore natural protective features.
Policy 4.3	Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.
Policy 4.4	Manage navigation infrastructure to limit adverse impacts on waterfront processes.
Policy 4.5	Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.
Policy 4.6	The construction or reconstruction of docks, boathouses, boat hoists, public access facilities and other shoreline structures shall be undertaken in a manner which will, to the maximum extent practicable, protect against or withstand the destructive forces of wave action and ice movement.
Policy 4.7	Water level management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding, or interfere with the local economy.
Policy 4.8	Ice management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding.
Policy 4.9	Use environmentally sound, cost effective measures when proven necessary to minimize impacts of wave action and ice movement. Such measures shall be pursued in consultation with appropriate State and federal agencies, local interests, and experts in the fields of marine engineering and construction.
Policy 5	Protect and improve water quality and supply.
Policy 5.1	Prohibit direct or indirect discharges, which would cause or contribute to contravention of water quality standards.
Policy 5.2	Manage land use activities and use best management practices to minimize nonpoint source pollution of waterfront areas.
Policy 5.3	Protect and enhance the quality of waterfront area waters.
Policy 5.4	Limit the potential for adverse impacts of watershed development on water quality and quantity.
Policy 5.5	Protect and conserve the quality and quantity of potable water.
Policy 6	Protect and restore the quality and function of the ecosystem.
Policy 6.1	Protect and restore ecological quality.
Policy 6.2	Protect, preserve, and where practical restore Significant Waterfront Fish and Wildlife Habitats.
Policy 6.3	Protect and restore freshwater wetlands.
Policy 6.4	Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.
Policy 7	Protect and improve air quality in the waterfront area.
Policy 7.1	Control or abate existing and prevent new air pollution.
Policy 7.2	Limit discharges of atmospheric radioactive material to a level that is as low as

Policy	Policy Statements
	practicable.
Policy 7.3	Limit sources of atmospheric deposition of pollutants to the waterway, particularly from nitrogen sources.
Policy 8	Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes.
Policy 8.1	Manage solid waste to protect public health and control pollution.
Policy 8.2	Manage hazardous wastes to protect public health and control pollution.
Policy 8.3	Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.
Policy 8.4	Prevent and remediate discharge of petroleum products.
Policy 8.5	Transport solid waste, hazardous substances, and hazardous waste in a manner which protects the safety, well-being, and general welfare of the public; the environmental resources of the State; and the continued use of transportation facilities.
Policy 8.6	Seek alternatives to locations within the Clayton waterfront revitalization area for solid and hazardous facilities.
PUBLIC WATERFRONT POLICY	
Policy 9	Provide for public access to, and recreational use of, the waterway, public lands, and public resources of the waterfront area.
Policy 9.1	Promote appropriate and adequate physical public access and recreation throughout the waterfront area.
Policy 9.2	Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided. Obtain public access to the foreshore through the use of easements, land purchase or other measures where necessary and feasible.
Policy 9.3	Provide public visual access to waterfront lands and waters or open space at all sites where physically practical.
Policy 9.4	Preserve the public interest in and use of lands and waters held in public trust by the state and other public entities.
Policy 9.5	Assure public access to public trust lands and navigable waters.
Policy 9.6	Provide access and recreation that is compatible with natural resource values.
Policy 9.7	Development, when located adjacent to the shore, shall provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.
WORKING WATERFRONT POLICIES	
Policy 10	Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations.
Policy 10.1	Protect existing public and commercial water-dependent uses.

Policy	Policy Statements
Policy 10.2	Promote the siting of new public and commercial water-dependent uses at suitable locations and provide for their safe operation.
Policy 10.3	Improve the economic viability of water-dependent uses.
Policy 10.4	Promote efficient management of surface waters and underwater lands.
Policy 11	Promote sustainable use of fish and wildlife resources.
Policy 11.1	Provide for and promote the health and recreational use of fishing resources.
Policy 12	Protect the agricultural lands.
Policy 12.1	Protect existing agriculture and agricultural lands from conversion to other land uses.
Policy 12.2	Establish and maintain favorable conditions that support existing or promote new agricultural production.
Policy 12.3	Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land.
Policy 12.4	Preserve scenic and open space values associated with agricultural lands.
Policy 13	Promote appropriate use and development of energy and mineral resources.
Policy 13.1	Conserve energy resources.
Policy 13.2	Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.
Policy 13.3	Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.
Policy 13.4	Minimize adverse impacts from fuel storage facilities.
Policy 13.5	Ensure that mining, blasting, excavation and dredging do not cause an increase in erosion, any adverse effects on natural resources or degradation of visual resources.

- I. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request.

VI. Enforcement.

No action within the Clayton waterfront area, which is subject to review under this local law, shall proceed until a written determination has been issued from a Village agency that the action is consistent with the Village's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Zoning Enforcement Officer or any other authorized official of the Village 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. The Village Attorney, Village Zoning Enforcement Officer and Police Department shall be responsible for enforcing this local law.

VII. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1000.00) 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 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 provision 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 provision hereof other than the provision so found to be invalid.

IX. 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.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

APPENDIX "A"

**VILLAGE OF CLAYTON
WATERFRONT ASSESSMENT FORM**

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions, Village of Clayton agencies, shall complete this WAF for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by a Village of Clayton agency in making a determination of consistency.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Village of Clayton Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
3. If any questions in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of agency action (check appropriate response):
 - (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) _____
 - (b) Financial assistance (e.g. grant, loan, subsidy) _____
 - (c) Permit, approval, license, certification _____
 - (d) Agency undertaking action: _____
2. Describe nature and extent of action: _____

3. Location of action: _____

Street or Site Description

4. Size of site: _____

5. Present land use: _____

6. Present zoning classification: _____

7. Describe any unique or unusual land forms on the project site (i.e. steep slopes, swales, ground depressions, other geological formations): _____

8. Percentage of site which contains slopes of 15% or greater: _____

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

(1) Name: _____

(2) Size (in acres): _____

10. If an application for the proposed action has been filed with the agency, the following information shall be provided:

(a) Name of applicant: _____

(b) Mailing address: _____

(c) Telephone number: Area Code (_____) _____

(d) Application number, if any: _____

11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?

Yes ___ No ___ If yes, which state or federal agency? _____

C. COASTAL ASSESSMENT

(Check either "Yes" or "No" for each of the following questions) YES NO

- 1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the waterfront area map..... ___ ___
 - a. Significant fish or wildlife habitats? ___ ___
 - b. Scenic resources of local or statewide significance? ___ ___
 - c. Important agricultural lands? ___ ___
 - d. Natural protective features in an erosion hazard area..... ___ ___

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

- 2. Will the proposed action have a significant effect upon: YES NO
 - a. Commercial or recreational use of fish and wildlife resources? ___ ___
 - b. Scenic quality of the waterfront environment? ___ ___
 - c. Development of future, or existing water dependent uses? ___ ___
 - d. Operation of the State's major ports? ___ ___
 - e. Land or water uses within a small harbor area? ___ ___
 - f. Stability of the shoreline? ___ ___
 - g. Surface or groundwater quality? ___ ___
 - h. Existing or potential public recreation opportunities?..... ___ ___
 - i. Structures, sites or districts of historic, archeological or cultural significance to the Village of Clayton, State or nation?..... ___ ___

- 3. Will the proposed action involve or result in any of the following: YES NO

- a. Physical alteration of land along the shoreline, land under water or waterfront waters?..... _____
- b. Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area? _____
- c. Expansion of existing public services or infrastructure in undeveloped or low density areas of the WRA? _____
- d. Energy facility not subject to Article VII or VIII of the Public Service law? _____
- e. Mining, excavation, filling or dredging in WRA waters? _____
- f. Reduction of existing or potential public access to or along the shore? _____
- g. Sale or change in use of publicly-owned lands located on the shoreline or under water?..... _____
- h. Development within a designated flood or erosion hazard area? _____
- i. Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?..... _____
- j. Construction or reconstruction of erosion protective structures? _____
- k. Diminished surface or groundwater quality? _____
- l. Removal of ground cover from the site? _____

4. PROJECT YES NO

- (a) If a project is to be located adjacent to shore:
 - (1) Will water-related recreation be provided? _____
 - (2) Will public access to the foreshore be provided? _____
 - (3) Does the project require a waterfront site? _____
 - (4) Will it supplant a recreational or maritime use? _____

- (5) Do essential public services and facilities presently exist at or near the site? _____
- (6) Is it located in a flood prone area?..... _____
- (7) Is it located in an area of high erosion?..... _____
- (b) If the project site is publicly owned: YES NO
- (1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?..... _____
- (2) If located in the foreshore, will access to those and adjacent lands be provided?..... _____
- (3) Will it involve the siting and construction of major energy facilities? _____
- (4) Will it involve the discharge of effluents from major steam electric generating and industrial facilities into waterfront facilities? _____
- (c) Is the project site presently used by the community neighborhood as an open space or recreation area?..... _____
- (d) Does the present site offer or include scenic views or vistas known to be important to the community?..... _____
- (e) Is the project site presently used for commercial fishing or fish processing? _____
- (f) Will the surface area of any waterways or wetland areas be increased or decreased by the proposal? _____
- (g) Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project? _____
- (h) Will the project involve any waste discharges into WRA waters? _____
- (i) Does the project involve surface or subsurface liquid waste disposal? _____
- (j) Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?..... _____
- (k) Does the project involve shipment or storage of petroleum products? _____
- (l) Does the project involve discharge of toxics, hazardous substances or other

pollutants into WRA waters?..... _____

(m) Does the project involve or change existing ice management practices?..... _____

(n) Will the project affect any area designated as a tidal or freshwater wetland? _____

(o) Will the project alter drainage flow, patterns or surface water runoff on or from the site? _____

(p) Will best management practices be utilized to control storm water runoff into WRA waters? _____

(q) Will the project utilize or affect the quality or quantity of sole source or surface water supplies?..... _____

(r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates?..... _____

D. REMARKS OR ADDITIONAL INFORMATION: (Add any additional sheets to complete this form.)

If assistance or further information is needed to complete this form, please contact Village of Clayton Clerk at 405 Riverside Drive, Clayton, NY 13624; Phone: (315) 686-3512.

Preparer's Name: _____ Telephone Number: (____)____-_____

Title: _____ Agency: _____

Date: _____

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.) I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2012 of the Village of Clayton was duly passed by the Village Board on August 13 2012, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer*)
on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____
(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local
(Elective Chief Executive Officer)

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November ____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the town of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Geneva Phelps Miller Clerk, of the
Village of Clayton

Date: 8/16/12

(seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

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

Joseph W. Russell, Village Attorney
Village of Clayton

Date: 8/24/12

RESOLUTION #2012-10

At a regular meeting of the Board of Trustees of the Village of Clayton, held at the Village Municipal Building, Mary Street, Clayton, New York, on the 13th day of August, 2012, at 6:30 p.m., there were:

PRESENT:

- Norma Zimmer, Mayor
- Mary Burke, Trustee
- Dennis Honeywell, Trustee
- Shauna Sherboneau, Trustee
- Twyla Webb, Trustee

ABSENT:

None

WHEREAS, Local Law No. 2 of the year 2012, a local law entitled the Village of Clayton Waterfront Consistency Review Law; and

WHEREAS, notice of the Public Hearing was duly published in the official newspaper for the Village of Clayton as required by law, and

WHEREAS, on March 28, 2012, at 6:30 p.m., a Public Hearing was duly held at a Joint Meeting of the Town and Village Boards at the Town Offices, 405 Riverside Drive, Clayton, New York, and all persons interested in the subject of Local Law No. 2 of the year 2012 were provided an opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Village of Clayton that Local Law No. 2 of the year 2012, a local law entitled the Village of Clayton Waterfront Consistency Review Law, is hereby deemed adopted and approved, effective upon filing with the Department of State as required by the provisions of the Municipal Home Rule Law.

The Clerk-Treasurer is hereby directed to file a certified copy of Local Law No. 2 of the year 2012 with the Office of the Secretary of State as required by Section 27 of the Municipal Home Rule Law.

The foregoing Resolution was offered by Trustee Rogers, and seconded by Trustee Honeywell, and upon a roll call vote of the Board of Trustees was duly adopted as follows:

Mayor Zimmer	Voting Aye
Trustee Burke	Voting Aye
Trustee Honeywell	Voting Aye
Trustee Sherboneau	Voting Aye
Trustee Webb	Voting Aye

Dated: August 13, 2012



Geneva Phelps Miller
Clerk-Treasurer

(S E A L)