

Appendix A - Waterfront Consistency Review Law

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.

County
City of LITTLE FALLS
Town
Village

Local Law No. 1 of the year ~~19~~^{XX} 2001

A local law CITY OF LITTLE FALLS WATERFRONT
(Insert Title)
CONSISTENCY REVIEW LAW

Be it enacted by the COMMON COUNCIL of the
(Name of Legislative Body)

County
City of CITY OF LITTLE FALLS as follows:
Town
Village

(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. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 19_____ 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 _____ 19____, 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 19_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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 towns 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.

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: MAY 2, 2001

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

STATE OF NEW YORK
COUNTY OF HERKIMER

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.

Mark R Rose

Signature

CITY ATTORNEY

Title

County
City of LITTLE FALLS
Town
Village

Date: MAY 2, 2001

City Clerk's Office
659 E. Main Street E. Main Street., Little Falls, NY 13365

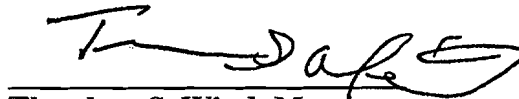
I, Margaret Vickery, City Clerk of the City of Little Falls N. Y., do hereby certify that LOCAL LAW #1 OF 2001, duly and finally passed by the Common Council of the City of Little Falls, NY on 1ST DAY OF MAY 2001 the original thereof, and the same so certified, is hereby presented to the Mayor of said city, pursuant to law, and for his action thereon.

Dated: MAY 2, 2001


Margaret Vickery, City Clerk


I, Theodore S. Wind, Mayor of the City of Little Falls, N. Y., do hereby fix the 1ST DAY OF MAY, 2001 at the Common Council chambers in the City Hall, Little Falls, N.Y., as the date, time, and place for a Public Hearing before me upon LOCAL LAW #1, OF 2001, hereto duly and finally passed by the Common Council at a regular session thereof held MAY 1, 2001, and heretofore presented to me for my approval, and I hereby directed the City Clerk to give due and public notice of such Public Hearing in the accordance with law by publication in the Evening Times, the official newspaper of the City of Little Falls, which I hereby designate for such purpose

Dated MAY 2, 2001


Theodore S. Wind, Mayor

I, Theodore S. Wind, Mayor of the City of Little Falls, N.Y., by virtue of the power and authority vested in me, do hereby approve the above LOCAL LAW #1 OF 2001 after a Public Hearing was duly had before me, pursuant to law.

Dated MAY 2, 2001


Theodore S. Wind, Mayor

CITY OF LITTLE FALLS

LOCAL LAW NO. 1 OF THE YEAR 2001

BE IT ENACTED BY THE COMMON COUNCIL OF THE
CITY OF LITTLE FALLS AS FOLLOWS:

GENERAL PROVISIONS

BY ALDERMAN SHEPARDSON

I. TITLE:

This Local Law will be known as the *City of Little Falls Waterfront Consistency Review Law*.

II. AUTHORITY AND PURPOSE:

1. This Local Law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
2. The purpose of this Local Law is to provide a framework for agencies of the City of Little Falls to consider the policies and purposes contained in the City of Little Falls Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area; and to assure for that such actions and direct actions are consistent with the said policies and purposes.
3. It is the intention of the City of Little Falls that the preservation, enhancement, and utilization of the natural and manmade resources of the unique coastal area of the City take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth, economic development, and attract the traveling public. Accordingly, this Local Law is intended to achieve such a balance, permitting the beneficial use of coastal resources

while preventing: loss of living estuarine resources and wildlife; diminution of open space areas or public accesses to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

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

III. DEFINITIONS:

1. "Actions" mean either Type I or unlisted actions as defined in SEQRA regulations (6 N.Y.C.R.R. 617.2) 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 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 from an agency or agencies;
 - (b) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (c) adoption of agency rules, regulations and procedures, including Local Laws, codes, ordinances, executive orders and resolutions that may affect the environment;
 - (d) any proposed action within the City's Local Waterfront Revitalization Area that requires Site Plan Review and approval by the City of Little Falls Planning Board; and
 - (e) any combination of the above.

This law does not apply to Type II, excluded or exempt actions as defined in the S.E.Q.R.A. regulations 6 N.Y.C.R.R. Part 617.

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2. "Agency" means any board, agency, department, office, other body, or officer of the City of Little Falls.
 3. "Coastal area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the City of Little Falls, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the City of Little Falls Local Waterfront Revitalization Program.
 4. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the City of Little Falls Local Waterfront Revitalization Program.
 5. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
 6. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.
 7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the City of Little Falls, 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 City of Little Falls.
 8. "Planning Board" means the Planning Board of the City of Little Falls.

IV. CITY OF LITTLE FALLS PLANNING BOARD:

1. The Planning Board is hereby authorized to review and make all determinations regarding the consistency of proposed actions with the City of Little Falls Local Waterfront Revitalization Program policy standards and conditions.

V. REVIEW OF ACTIONS:

1. Whenever a proposed action is located within the City's Waterfront Area, an agency shall, prior to approving, funding or undertaking the action, refer to and receive from the Planning Board, a determination from the

Planning Board that it is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein (unless a determination from the Planning Board is not forthcoming as identified in Paragraph 5).

2. Whenever an 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 applicant, or in the case of a direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review of the proposed action.
3. The agency shall refer a copy of the completed WAF to the Planning Board within ten (10) days of its submission and prior to approving, funding, or undertaking the action, shall consider the determination of the Planning Board with reference to the consistency of the proposed action with the City's Local Waterfront Revitalization Program.
4. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein. The Planning Board shall require the applicant to submit all completed applications, WAFs and any other information deemed to be necessary to its consistency review and determination.
5. The Planning Board shall render its written consistency determination 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 direct action, the agency. The consistency determination shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its determination.

The Planning Board shall, along with its consistency determination, make any suggestions to the agency concerning modification, of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.

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

6. The Planning Board (or the agency, in the case when a Planning Board's determination is not forthcoming within the specified time as identified in

Paragraph 5) shall make the determination of consistency based on the WAF and such other information as is deemed to be necessary in its determination. The Planning Board shall issue its determination within thirty (30) days following receipt of the application and WAF or submission by the applicant of any additional required information. The Planning Board (or the agency, in the case when a Planning Board's determination is not forthcoming within the specified time as identified in Paragraph 5) 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 Local Law.

7. Actions to be undertaken within the City of Little Falls Waterfront 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 City of Little Falls LWRP, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:
- (a) Revitalize the deteriorated and underutilized waterfront areas of Little Falls (Policy 1).
 - (b) Facilitate the siting of water-dependent uses and facilities on or adjacent to the Canal and/or river waters of Little Falls (Policy 2).
 - (c) Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which provided such areas with their unique maritime identity (Policy 4).
 - (d) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
 - (e) Expedite local permit procedures within the waterfront area (Policy 6).
 - (f) Protect, preserve, and where practicable, restore significant and locally important fish and wildlife habitats so as to maintain their viability as habitats and prevent human disruption and chemical contamination (Policies 7 and 8).
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- (g) Encourage and expand recreational fishing facilities to promote recreational fishing opportunities (Policy 9).
 - (h) Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures, and appropriate siting of structures (Policies 11, 13, 14, and 17).
 - (i) Safeguard economic, social, and environmental interests in the waterfront area when major actions are undertaken (Policy 18).
 - (j) Maintain and improve public access to the shoreline and the water-related recreational facilities while protecting the environment (Policies 19, 20, 21 and 22).
 - (k) Protect and restore historic and archeological resources (Policy 23).
 - (l) Protect and upgrade scenic resources (Policy 25).
 - (m) Site and construct energy facilities in a manner in which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policy 27).
 - (n) Protect surface and ground waters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 38, 39, 41, and 44).
 - (o) Perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).
 - (p) Handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 34, 35, 36, and 39).
 - (q) Protect air quality (Policies 41, 42, and 43).
8. If the Planning Board (or the agency, in the case when a Planning Board's determination is not forthcoming within the specified time as identified in Paragraph 5), determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the Planning Board or agency makes a written finding with respect to the proposed action that:

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- (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 or more of the other LWRP policy standards and conditions; and
 - (d) The action will result in an overriding City, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

9. The Planning Board and, if applicable, each agency, shall maintain a file for each action made the subject of a consistency determination. Such files shall be made available for public inspection upon request.

VI. ENFORCEMENT:

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

VII. VIOLATIONS:

1. A person who violates any of the provisions of, or who fails to comply with any conditions imposed by this Local Law shall have committed a violation, punishable by a fine not exceeding five hundred dollars for a conviction of a first offense and punishable by a fine of one thousand dollars for a conviction of a second or subsequent offense. For the purpose of

conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

2. The City 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. The City may also enforce this Local Law by injunction or other civil proceeding.

VIII. SEVERABILITY:

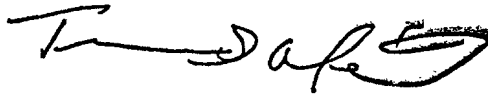
The provisions of this Local Law are severable. If any provision of this Local Law is found invalid, such finding shall not affect the validity of this Local Law as a whole or any part of provision hereof other than the provision so found to be invalid.

IX. EFFECTIVE DATE:

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

SECONDED BY ALDERMAN CARTER

ROLL CALL: AYES ALDERMEN SHEPARDSON, TALABA, PASQUALE,
MARCHESE , PRESTOPNIK, BLASK



APPROVED BY

THEODORE S. WIND, MAYOR

Waterfront Assessment Form (WAF)

A. INSTRUCTIONS (PLEASE PRINT OR TYPE ALL ANSWERS)

1. Applicants, or, in the case of direct actions, City agencies, shall complete this WAF for proposed actions which are subject to the LWRP consistency review law. This assessment is intended to supplement other information used by a City agency in making a determination of consistency with the City's Local Waterfront Revitalization Program.
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 City Clerk's Office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
3. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards and conditions 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 to the maximum extent practicable with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTIONS

1. Type of City 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 actions: _____
2. Describe nature and extent of action: _____

3. Location of action: _____

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., bluffs, ground depressions, other geological formations):

8. Percentage of site which contains slopes of 15% or greater: _____
9. Water resources existing within or contiguous to the project area:

10. If an application for the proposed action has been filed with the City agency, the following information shall be provided.
- (a) Name of applicant: _____
- (b) Mailing address: _____

- (c) Telephone number: () _____ - _____
- (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. WATERFRONT ASSESSMENT

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

- | 1. 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) Stability of the shoreline? | _____ | _____ |
| (e) Surface or groundwater quality? | _____ | _____ |
| (f) Existing or potential public recreation opportunities? | _____ | _____ |
| (g) Structures, sites or districts of historic, archeological or cultural significance to the City, State or nation? | _____ | _____ |

2. Will the proposed action involve or result in any of the following?	YES	NO
(a) Physical alteration of land along the shoreline, or land under water?	_____	_____
(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 waterfront area?	_____	_____
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?	_____	_____
(e) Mining, excavation, filling or dredging?	_____	_____
(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 designated flood hazard area?	_____	_____
(i) Development on a natural feature that provides protection against flooding or erosion?	_____	_____
(j) Diminished surface or groundwater quality?	_____	_____
(k) Removal of ground cover from the site?	_____	_____

3. Project.	YES	NO
(a) If project is to be located adjacent to shore:		
(1) Will water-related recreation be provided?	_____	_____
(2) Will public access to the shoreline 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:		
(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 stream electric generating and industrial facilities into a waterway?	_____	_____
(c) Is the project site presently used by the community 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?	_____	_____

	YES	NO
(e) Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?	_____	_____
(f) Will the project involve any waste discharges?	_____	_____
(g) Does the project involve surface or subsurface liquid waste disposal?	_____	_____
(h) Does the project involve transport, storage, treatment or disposal of solid waste or hazardous material?	_____	_____
(i) Does the project involve shipment or storage of petroleum products?	_____	_____
(j) Does the project involve discharge of toxins, hazardous substances or other pollutants?	_____	_____
(k) Will the project affect any area designated as a fresh-water wetland?	_____	_____
(l) Will the project alter drainage flow, patterns or surface water runoff on or from the site?	_____	_____
(m) Will best management practices be utilized to control storm water runoff into waterways?	_____	_____
(n) Will the project cause emissions which exceed Federal or State air quality standards or generate significant amounts of nitrates or sulfates?	_____	_____

C. Remarks or Additional Information
 (Add any sheets necessary to complete this form)

If assistance or further information is needed to complete this form, please contact:

City Clerk at: _____
 Preparer's Name: _____ Phone Number: () _____ - _____
 Title: _____ Agency: _____ Date: _____