

APPENDIX A WATERFRONT CONSISTENCY LAW

Chapter 186 WATERFRONT CONSISTENCY

§ 186-1. Title.	§ 186-5. Enforcement
§ 186-2. Statutory authority; purpose.	§ 186-6. Penalties for offenses.
§ 186-3. Definitions.	§ 186-7. Severability.
§ 186-4. Review of actions.	§ 186-8. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Sodus Point 5-18-2006 by L.L. No. 2-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction - See CII. 102.

Zoning-See eh. 190.

Flood damage prevention - See Ch. 107.

§ 186-1. Title.

This chapter will be known as the "Village of Sodus Point Waterfront Consistency Law."

§ 186-2. Statutory authority; purpose.

- A. This chapter 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 the chapter is to provide a framework for agencies of the Village of Sodus Point to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. It is the intention of the Village of Sodus Point that the preservation, enhancement and utilization of the natural and man-made resources of the unique waterfront area of the Village occur in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate

population growth and economic development. Accordingly, this chapter is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing loss of fish and wildlife; adverse impacts to historic structures; diminution of open space areas or public access to the waterfront; erosion of shoreline; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

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

§ 186-3. Definitions.

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

ACTIONS - Either Type I or unlisted actions as defined in SEQRA regulations which are undertaken by an applicant 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:
- (1) Are directly undertaken by an agency; or
 - (2) Involve funding by an agency; or
 - (3) Require one or more new or modified approvals from an agency or agencies;
- B. Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
- C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- D. Any combinations of the above.

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

APPLICANT - Any person, corporation, partnership, or other entity requesting approval or funding of an action, or undertaking any action for which approval is required pursuant to the chapter.

BUILDING INSPECTOR - The Building Inspector or, if none, the Code Enforcement Officer of the Village of Sodus Point.

CONSISTENT - The action will comply with the LWRP policy standards and conditions.

DIRECT ACTIONS - 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.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - The Local Waterfront Revitalization Program of the Village of Sodus Point, 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 shall be on file in the Office of the Village Clerk of the Village of Sodus Point.

WATERFRONT AREA - The Waterfront Revitalization Area delineated In the Village's Local Waterfront Revitalization Program.

WATERFRONT ASSESSMENT FORM (WAF)- The form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

§ 186-4. Review of actions.

- A. Whenever a proposed action is located in the Village's waterfront area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Subsection D below.
- B. 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 direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review.
- C. Whenever an agency shall make a determination that an action is not consistent with the LWRP policy standards and conditions, it shall notify the applicant of such findings and the reason therefore within 45 days of filing of the application.
- D. Actions to be undertaken within the 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 Village of Sodus Point LWRP, a copy of which shall be on file in the Village Clerk's

office and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with Section IV of the LWRP in making its consistency determination.

- (1) Fostering a pattern of development in the Village of Sodus Point that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes potential adverse impacts of development.
 - (2) Preserving and protecting historic resources.
 - (3) Enhancing visual quality and protecting outstanding scenic resources.
 - (4) Minimizing loss of life, structures and natural resources from flooding and erosion.
 - (5) Protecting and improving water resources.
 - (6) Protecting and restoring ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities.
 - (7) Protecting and improving air quality.
 - (8) Minimizing environmental degradation from solid waste and hazardous substances and wastes.
 - (9) Improving public access to the waterfront and the use of public lands.
 - (10) Protecting existing water-dependent uses in the Village of Sodus Point and promoting the siting of new water-dependent uses in suitable locations.
 - (11) Promoting the sustainable use of living marine resources in the Village of Sodus Point.
 - (12) Protecting existing agricultural land in the Village of Sodus Point.
 - (13) Promoting appropriate use and development of energy and mineral resources.
- E. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such actions shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:

- (1) 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.
 - (2) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions; and
 - (3) The action will advance one or more of the other LWRP policy standards and conditions; and
 - (4) The action will result in an overriding Village, regional or state-wide public benefit.
- F. Each agency shall maintain a file for each action made the subject of a consistency determination. Such files shall be under the control of the Village Clerk.

§ 186-5. Enforcement.

- A. The Village Building Inspector shall be responsible for enforcing this chapter. No work or activity on an action in the waterfront area which is subject to review under this chapter shall be commenced or undertaken until the Building Inspector has been presented with a written determination from an agency that the action is consistent with the Village's LWRP policy standards and conditions.
- B. In the event that any construction, action or other activity is being performed in violation of this chapter or any conditions imposed thereunder, the Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect. Posting of a stop-work order at any work site, or delivery to any individual shall constitute issuance. Issuance of a stop-work order shall not be a prerequisite to prosecution for violating this chapter.

§ 186-6. Penalties for offenses.

- A. The undertaking or performing or exercising any action as defined herein without agency approval shall constitute a violation of this chapter and shall be punishable by a fine not to exceed \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.
- B. Each week of continuing violation of this chapter shall constitute a separate violation.

- C. This chapter may be enforced by a civil action, and any violation thereof may be enjoined by a court of competent jurisdiction.

§ 186-7. Severability.

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

§ 186-8. When effective.

This chapter takes effect immediately upon its filing in the office of the Secretary of State.

Village of Sodus Point Waterfront Assessment Form

A. INSTRUCTIONS (please print or type all answers)

1. Applicants or, in the case of direct actions, municipal agencies, shall complete this Waterfront Assessment Form (WAF) for proposed actions that are subject to the LWRP consistency, review. This assessment is intended to supplement other information used by an agency in making a determination of consistency with the Village of Sodus Point Local Waterfront Revitalization Program.
2. Before answering the questions in Section C, the preparer of the 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 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 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 ACTION

1. Type of agency action (check all appropriate responses):
 - (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction etc)
 - (b) Financial assistance (e.g. grant, loan, subsidy)
 - (c) Permit, approval, license, certification
 - (d) Agency undertaking action:
 - (e) Action is a:
 - Type I Action
 - Unlisted 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. bluffs, ground depressions, other geological formations):

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

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

(1) Name _____

(2) Size (in acres) _____

10. Applicant Information:

(a) Name of applicant (or agency): _____

(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. 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 recreation 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? | ___ | ___ |
| | (t) Existing or potential public recreation opportunities? | ___ | ___ |
| | (g) Structures, sites or districts of historic, archeological or cultural significance to the municipality, 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, land under water or coastal waters? | ___ | ___ |
| | (b) Physical alteration of two or more acres of land located elsewhere in the local waterfront revitalization area? | ___ | ___ |
| | (c) Expansion of existing public services or infrastructure in underdeveloped 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 Information	:	Yes No
(a)	If project is to be located adjacent to the 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 recreation or maritime use?	___	___
(5)	Do essential public services and facilities presently exist at or near the site?	___	___
(6)	Is the project site located in an area of high erosion?	___	___
(7)	Is project located in a flood prone area?	___	___
(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?	___	___
1.	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 site offer or include scenic views or vistas known to be important to the community? ___ ___
- (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 this 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 freshwater wetland? ___ ___
- (l) Will the project alter drainage flow patterns or surface water runoff on to or from the site? ___ ___
- (m) Will best management practices be utilized to control stormwater 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? ___ ___

