

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
FEB 11 2005

**MISCELLANEOUS
& STATE RECORDS**

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 SOMERSET
LOCAL LAW NO. 1 OF THE YEAR, 2005**

A Local Law Entitled "Town of Somerset Waterfront Consistency Law"

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

GENERAL PROVISIONS

I. Title

This local law will be known as the Town of Somerset Waterfront Consistency 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 the agencies of the Town of Somerset to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for private actions or direct agency actions which are located in the waterfront area; and to ensure that such actions are consistent with said policies and purposes.
3. It is the intention of the Town of Somerset that the preservation, enhancement and utilization of the natural and manmade resources of the waterfront area of the Town occur in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate 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 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.
4. The substantive provisions of this local law shall only apply while there is in existence a Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions

1. "Actions" means either Type I or Unlisted Actions as defined by the SEQRA regulations (6 NYCRR 617.2), which are undertaken by an applicant or agency and that 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;
 - (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; and
 - (d) any combinations of the above.
2. "Waterfront area" means the Waterfront Revitalization Area delineated in the Town's Local Waterfront Revitalization Program.
3. "Waterfront Assessment Form (WAF)" means the form used by the Town of Somerset to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
4. "Code Enforcement Officer" means the Building Inspector and/or Code Enforcement Officer of the Town of Somerset.
5. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions.
6. "Direct Actions" mean actions planned and proposed for implementation by an applicant or 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 Town of Somerset, 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 Town Clerk of the Town of Somerset.
8. "Appropriate Municipal Agency" means the Town Board, Town Planning Board or Town Zoning Board of Appeals reviewing the Action.

IV. Review of Actions

1. Whenever an action is proposed to be approved, funded or undertaken in the Town's Waterfront area, a Waterfront Assessment Form (WAF) shall be prepared by either the applicant, or if the action is proposed by the Town Board, then the WAF shall be prepared by the Town Board. Applicants shall file the WAF with the appropriate Municipal Agency. The Town Board shall file the WAF with the Town Clerk.
2. All actions undertaken within the Waterfront area shall be evaluated by the appropriate Municipal Agency for consistency in accordance with the LWRP policy standards and conditions, as set forth in Section III of the Town of Somerset Local Waterfront Lakefront Revitalization Program, a copy of which is on file in the Town Clerk's office. In the case of direct actions, the Municipal Agency shall also consult Section IV of the LWRP when making their consistency determination.

As appropriate, an action shall be consistent with the following policies:

- (a) Foster a pattern of development in the Town of Somerset that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of waterfront locations, and minimizes potential adverse impacts of development.
- (b) Protect existing water-dependent uses in the Town of Somerset and work to locate new water-dependent uses in suitable locations.
- (c) Protect existing agricultural lands.
- (d) Promote the sustainable use of living marine resources in the Town of Somerset.
- (e) Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities.
- (f) Protect and improve water resources.
- (g) Minimize loss of life, structures and natural resources from flooding and erosion.
- (h) Protect and improve air quality.
- (i) Promote appropriate use of energy resources.
- (j) Minimize environmental degradation from solid waste and hazardous substances and wastes.
- (k) Improve public access to the waterfront and the use of public lands.
- (l) Enhance visual quality and protect outstanding scenic resources.

- (m) Preserve and protect historic resources.
3. After reviewing these policy considerations, the Municipal Agency shall make written findings of determination relating to the policies, as well as an appropriate SEQRA determination, prior to making a final determination on the action. If it is determined that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken, funded or approved, as proposed, unless the Municipal Agency finds that:
- (a) no reasonable alternatives exist that would permit the action to be undertaken in a manner that would not substantially hinder the achievement of such LWRP policy standards and conditions;
 - (b) the action would be undertaken in a manner that would 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 over-riding Town, regional or statewide public benefit.

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

4. The Town shall maintain a file for each action made the subject of a consistency determination. Such files shall be kept in the office of the Town Clerk and made available for public inspection upon request.

V. Enforcement

The Town Code Enforcement Officer (Town of Somerset LWRP Coordinator) shall be responsible for enforcing this Chapter. No work or activity on a project in the waterfront area that is subject to review under this Chapter law shall be commenced or undertaken until the Code Enforcement Officer has issued a consistency review determination, or been presented with a written determination from the appropriate Municipal Agency that the action is consistent with the Town of Somerset LWRP policy standards and conditions.

In the event that any construction, action or other activity is being performed in violation with this Chapter or any conditions imposed hereunder, the Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect. 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 law.

VI. Violations

1. Non compliance with any of the provisions of this Chapter shall constitute a violation, punishable by a fine not exceeding \$350.00 or imprisonment for a period not exceeding six months, or both for a conviction of a first offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate violation.
2. This law may be enforced by Civil Action and any violation thereof may be enjoined by a court or competent jurisdiction.

VII. 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.

VIII. Effective Date

This local law shall take effect immediately upon its filing in the office of the Secretary of State.

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 2005 of the Town of Somerset was duly passed by the Town Board on February 8, 2005, 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 200__ was duly passed by the _____ on _____ 200__, and was approved/not approved/repassed after disapproval by the (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 200__, 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 200__ of the Town of _____ was duly passed by the _____ on _____, 200__, and was approved/not disapproved/repassed after disapproval by the (Elective Chief Executive Officer*) on _____, 200__. 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 _____, 200__, 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 200__ of the County/City/Town/Village of _____ was duly passed by the _____ on _____ 200__, and was approved/not approved/repassed after disapproval by the (Elective Chief Executive Officer*) on _____ 200__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 200__, 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 200__ 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 _____ 200__, became operative.

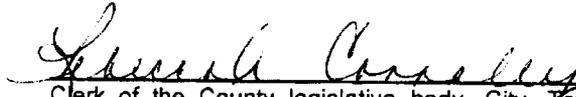
6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. ____ of 200__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November ____, 200__, 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 of a majority of the qualified electors of the cities of said county as a unit and of 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 1 above.

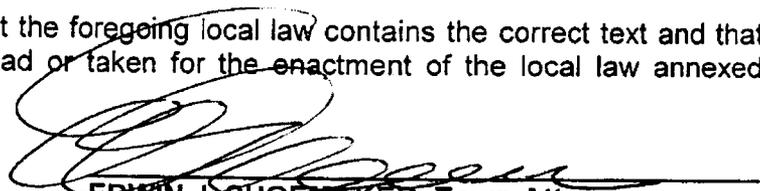
(Seal)


Clerk of the County legislative body, City, Town or Village
Clerk or officer designated by local legislative body
REBECCA A. CONNOLLY, MMC
Town Clerk, Town of Somerset
Date: February 8, 2005

(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 NIAGARA

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.


EDWIN J. SHOEMAKER, Town Attorney
Town of Somerset

Date: February 8, 2005