

APPENDIX J
WATERFRONT CONSISTENCY LAW

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TOWN OF STONY POINT

LOCAL LAW NO. 4, 1994

Be it enacted by the Town Board of the Town of Stony Point as follows:

GENERAL PROVISIONS

"I. Title:

This local law will be known as the Town of Stony Point 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 agencies of the Town of Stony 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 coastal area; and to assure that such actions and direct actions are consistent with the said policies and purposes.

3. It is the intention of the Town of Stony Point that the preservation, enhancement, and utilization of the natural and manmade resources of the unique coastal area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, this 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 access 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 Town 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:
 - (1) 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;
 - (2) agency planning and policy making 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 the environment; and
 - (4) any combinations 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.

2. "Agency" means any board, agency, department, office, other body, or officer of the Town of Stony Point.
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 Town of Stony Point, as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the Town of Stony Point Local Waterfront Revitalization Program.
4. "Coastal Assessment Form (CAF)" means the form, contained in Appendix A, used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
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 Town of Stony 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 is on file in the Office of the Clerk of the Town of Stony Point.

IV. Waterfront Advisory Committee:

1. A committee is created and shall be hereafter known as the Town of Stony Point Waterfront Advisory Committee (hereafter "Committee"). The Committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the LWRP policy standards and conditions.
2. The Town Board of the Town of Stony Point is hereby authorized to appoint five (5) persons to said Committee, all of whom shall be residents of the Town. Of the members of the Committee first appointed, one (1) shall hold office for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years and one (1) for a term of five (5) years from and after his or her appointment. Their successors shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. Vacancies shall be filled by the Town Board by appointment for the unexpired term. Members may be removed by the Town Board for cause and after public hearing.
3. The Town Board shall annually appoint one (1) committee member to serve as chairperson of the Committee. Upon failure of the Town Board to appoint a chairperson, the members of the Committee are to elect a chairperson.
4. The Committee shall have the power to adopt rules of procedure for the conduct of business within its jurisdiction including, but not limited to, rules of attendance and conduct for the members themselves.
5. The Committee is empowered to receive and expend such funds as may be appropriated by the Town Board for expenses of the Committee. The Committee shall serve without compensation.

V. **Review of Actions:**

1. Whenever a proposed action is located in the Town's Coastal 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 Paragraph 7 herein.
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 Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assess the consistency of the proposed action.
3. The agency shall refer a copy of the completed CAF to the Committee within ten (10) days of its submission and prior to making its determination shall consider the recommendation of the Committee with reference to the consistency of the proposed action.
4. After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein. The Committee shall require the applicant to submit all completed applications, CAFs and any other information deemed to be necessary to its consistency recommendations.
5. The Committee shall render its written recommendation to the agency within thirty (30) days following referral of the CAF from the agency, unless extended by mutual agreement of the Committee and the applicant or in the case of direct action, the agency. The recommendation shall indicate whether, in the opinion of the Committee, 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 opinion.

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

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

6. The agency shall make the determination of consistency based on the CAF, the Committee's recommendation and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within thirty (30) days following receipt of the Committee's recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this Chapter.
7. Actions to be undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Town of Stony Point 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 shall consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:
 1. Revitalize the deteriorated and underutilized waterfront areas of Stony Point (Policies 1, 1A, 1B, and 1C).
 2. Retain and promote commercial and recreational water-dependent uses (Policies 2, 2A, 2B and 2C).
 3. Strengthen the economic base and small harbor character of the Stony Point waterfront by encouraging the development and enhancement of traditional maritime uses and activities (Policies 4, 4A, and 4B).
 4. Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policies 5, 5A, 5B and 5C).
 5. Expedite local permit procedures and use performance standards for development within the waterfront area (Policy 6).
 6. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, and 8).
 7. Encourage and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A, and 10).

8. Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures, and appropriate siting of structures (Policies 11, 12, 13, 14, 15, 15A, 16, and 17).
9. Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).
10. Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 1, 1A, 1B, 1C, 2, 2A, 2B, 2C, 9, 9A, 19, 19A, 19B, 19C, 20, 20A, 20B, 20C, 21, 21A, 21B, 21C, 21D, 22, and 22A).
11. Protect and restore historic and archeological resources (Policies 23 and 23A).
12. Protect and upgrade scenic resources (Policies 24, 24A, 25, 25A, 25B, and 25C).
13. 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 (Policies 27, 30, 31, 35, 36, 38, 39, 40, 41, 42, 43 and 44).
14. Prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).
15. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 34A, 35, 36, 37, 38, 39, 40, and 44).
16. Perform dredging and dredge spoil in a manner protective of natural resources (Policies 15, 15A, and 35).
17. Handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment (Policies 34, 34A, 36, and 39).
18. Protect air quality (Policies 41, 42, 43).
19. Protect freshwater wetlands (Policy 44).
8. If the agency 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 agency makes a written finding with respect to the proposed action that:

1. 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.
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 Town, 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. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such files shall be made available for public inspection upon request.

VI. Enforcement:

The Town Zoning Enforcement Officer shall be responsible for enforcing this Chapter. No work or activity on a project in the Coastal Area which is subject to review under this Chapter shall be commenced or undertaken until the Zoning Enforcement Officer has been presented with a written determination from an agency that the action is consistent with the Town's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with the Chapter or any conditions imposed thereunder, the Zoning 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.

VII. Violations:

- (1) A person who violates any of the provisions of, or who fails to comply with any decision or conditions imposed by this Chapter shall have committed a violation, punishable by a fine not exceeding five hundred (\$500) dollars for a conviction of a first offense and punishable by a fine of one thousand (\$1,000) 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 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 filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.