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Town & Village of Waterford Local Waterfront Revitalization Program

DEFINITIONS

The following definitions should be added as an amendment to Chapter 161, Section 161-3, Definitions and Word Usage of the Zoning Ordinance of the Town of Waterford.

LAND USE ACTIVITY – Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. “Land use activity” shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - Refers to the Local Waterfront Revitalization Program of the Town and Village of Waterford, 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 in the Town of Waterford.

NATURAL PROTECTIVE FEATURE - A characteristic of land that was not directly created or built by humans and serves to protect other lands, man-made structures, or persons from floods, wind, earthquakes, extreme heat or cold, excessive precipitation, erosion or landslides, or any other phenomenon in nature that could result in significant loss of life or property.

PUBLIC TRUST LANDS - Properties that are considered held by the Village of Waterford or the State of New York due to the fact that they are not deeded to individuals. This may include land under water that is not specifically deeded to a property-owner.

WETLAND - Includes both tidal wetlands, as defined in Article 25 of New York State's Environmental Conservation Law, and freshwater wetlands, as defined in Article 24 of New York State's Environmental Conservation Law.

WATER-DEPENDENT USE - An activity which requires a location in, on, over, or adjacent to the water because the activities require direct access to water and the use of water is an integral part of the activity. Examples of water-dependent uses include public and private marinas, yacht clubs, boat yards, commercial and recreational fishing facilities, waterborne commerce, ferries, marine educational or laboratory facilities, and water-related public and quasi-public utilities.

WATER-ENHANCED OR WATER-RELATED USES - Uses that have no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users is increased significantly when it is adjacent or has visual access to the waterfront.

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Town & Village of Waterford Local Waterfront Revitalization Program

DEFINITIONS

The following definitions should be added as an amendment to Section 205-38 (Article X), Zoning, Word Usage and Definitions of the Code of the Village of Waterford.

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LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - Refers to the Local Waterfront Revitalization Program of the Town and Village of Waterford, 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 in the Town of Waterford.

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**Town of Waterford
Local Waterfront Revitalization Program Consistency Law
TOWN OF WATERFORD**

Local Law No. 6 of the year 2008

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

GENERAL PROVISIONS

I. Title

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

II. Authority and Purpose

- A. This local law is adopted under the authority of Municipal Home Rule Law §10 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 or boards of the Town of Waterford 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; another purpose of the law is to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. The Town hereby declares that the preservation, enhancement and utilization of the natural and manmade resources of the waterfront area of the Town should 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 waterfront resources while preventing:
- (1) loss of fish and wildlife;
 - (2) diminution of open space areas or public access to the waterfront;
 - (3) erosion of shoreline;
 - (4) losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems
- D. 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.

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III. Definitions

- A. "Actions" means either Type I or Unlisted actions as defined in the State Environmental Quality Review Act ("SEQRA") regulations (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York or "6 NYCRR Part 617), which are undertaken by an agency and that 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:
 - (a) are directly undertaken by an agency; or
 - (b) involve funding by an agency; or
 - (c) require one or more new modified approvals from an agency or agencies; or
 - (d) involve agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions; or
 - (e) constitute adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment-
- B. "Agency" means any board, agency, department, office, other body, or office of the Town of Waterford.
- C. "Waterfront area" means the Waterfront Revitalization Area as delineated in the Town & Village of Waterford Local Waterfront Revitalization Program.
- D. "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.
- E. "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.
- F. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
- G. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town & Village of Waterford, 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 in the Town of Waterford.

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IV. Review of Actions

- A. Whenever a proposed action is located in the Town's waterfront revitalization 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 H herein.
- B. Whenever an agency undertakes, funds or approves a Type I or Unlisted action, the agency must determine if the action will be undertaken within the waterfront area and, if so, prepare a Waterfront Assessment Form to assist with the consistency review.
- C. The agency shall refer a copy of the completed WAF to the Planning Board within ten (10) days of its submission and prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action.
- D. In making its recommendation, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards. The agency engaging in the action is responsible for consistency and is not bound by the recommendation of the Planning Board.
- E. The Planning Board shall render a written recommendation 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 the agency. The recommendation shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with the LWRP policy standards. The Planning Board shall, along with the consistency recommendation, address specific policy standards as appropriate and suggest modifications to the action to make it consistent with such standards. In the event that the Planning Board's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Board's recommendation.
- F. If an agency determines that an action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:
 - 1. No reasonable alternatives exist that 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 will constitute a determination that the action is consistent with the LWRP

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policy standards and conditions.

- G. 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.
- H. 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 Town & Village of Waterford LWRP. In the case of direct actions, the agency shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policies to:
- (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;
 - (2) protect water-dependent and water-enhanced uses, promote siting of new water-dependent or water-enhanced uses in suitable locations, and support efficient marina operation;
 - (3) promote the sustainable use of fish and wildlife resources;
 - (4) protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities;
 - (5) protect and improve water resources;
 - (6) minimize loss of life, structures, and natural resources from flooding and erosion;
 - (7) protect and improve air quality;
 - (8) promote appropriate use and development of energy and mineral resources;
 - (9) minimize environmental degradation from solid waste and hazardous substances and wastes;
 - (10) improve public access to, and recreational use of, public lands, waters and resources of the waterfront revitalization area;
 - (11) enhance visual quality and protect scenic resources; and
 - (13) preserve historic resources.

V. Enforcement

The Zoning Inspector shall be responsible for enforcing this Chapter. No work or activity on a project 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

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consistent with the Town's LWRP policy standards and conditions.

In the event that an activity is not being performed in accordance with this Chapter or any conditions imposed thereunder, the Zoning 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.

VI. Violations

- A. Any person who shall violate any of the provisions of this local law shall be guilty of a violation and subject to one or more of the following remedies: (1) a fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both; or (2) a penalty of \$350.00 to be recovered by the Town in a civil action. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue. The Town Board may also maintain an action or other proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.

In the event the penalty sought is within the monetary jurisdiction of the Town of Waterford Justice Court, as established in article 18 of the Uniform Justice Court Act, such action to recover such penalty maybe commenced as a small claim pursuant to the provisions of article 18 of the Uniform Justice Court Act.

- B. The Town Attorney may be authorized by resolution of the Town Board 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.

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 of provision hereof other than the provision so found to be invalid.

VIII. Effective Date

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

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Village of Waterford Local Waterfront Revitalization Program Consistency Law VILLAGE OF WATERFORD

Local Law No. 4 of the year 2007

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

GENERAL PROVISIONS

I. Title

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

II. Authority and Purpose

- A. This local law is adopted under the authority of the Municipal Home Rule Law §10 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 or boards of the Village of Waterford 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; another purpose of the law is to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. The Village hereby declares that the preservation, enhancement and utilization of the natural and manmade resources of the waterfront area of the Village should 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 waterfront resources while preventing:
- (1) loss of fish and wildlife;
 - (2) diminution of open space areas or public access to the waterfront;
 - (3) erosion of shoreline;
 - (4) losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems
- D. The substantive provisions of this local law shall only apply while there is in existence a local Waterfront Revitalization Program which has been adopted in accordance with Article

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42 of the Executive Law of the State of New York.

III. Definitions

- A. "Actions" means either Type I or Unlisted actions as defined in the State Environmental Quality Review Act ("SEQRA") regulations (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York or "6 NYCRR Part 617), which are undertaken by an agency and that 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:
 - (a) are directly undertaken by an agency; or
 - (b) involve funding by an agency; or
 - (c) require one or more new modified approvals from an agency or agencies; or
 - (d) involve agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions; or
 - (e) constitute adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment.
- B. "Agency" means any board, agency, department, office, other body, or office of the Village of Waterford.
- C. "Waterfront area" means the Waterfront Revitalization Area as delineated in the Town & Village of Waterford Local Waterfront Revitalization Program.
- D. "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.
- E. "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.
- F. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
- G. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront

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Revitalization Program of the Town & Village of Waterford, 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 Village Clerk in the Village of Waterford.

IV. Review of Actions

- A. Whenever a proposed action is located in the Village's waterfront revitalization 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 H herein.
- B. Whenever an agency undertakes, funds or approves a Type I or Unlisted action, the agency must determine if the action will be undertaken within the waterfront area and, if so, prepare a Waterfront Assessment Form to assist with the consistency review.
- C. The agency shall refer a copy of the completed WAF to the Planning Board within ten (10) days of its submission and prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action.
- D. In making its recommendation, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards. The agency engaging in the action is responsible for consistency and is not bound by the recommendation of the Planning Board.
- E. The Planning Board shall render a written recommendation within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Board and the applicant or agency. The recommendation shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with the LWRP policy standards. The Planning Board shall, along with the consistency recommendation, address specific policy standards as appropriate and suggest modifications to the action to make it consistent with such standards. In the event that the Planning Board's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Board's recommendation.
- E. If an agency determines that an action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:
 - 1. No reasonable alternatives exist that would permit the action to be undertaken in a manner which will not substantially hinder the achievement

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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 City, regional or state-wide public benefit.

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

- G. 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.
- H. 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 Town & Village of Waterford LWRP. In the case of direct actions, the agency shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policies to:
- (1) foster a pattern of development in the waterfront area that enhances community character, preserve open space, makes efficient use of infrastructure, make beneficial use of a waterfront location, and minimize adverse effects of development;
 - (2) protect the water-dependent and water-enhanced uses, promote siting of new water-dependent or water-enhanced uses in suitable locations, and support efficient marina operation;
 - (3) promote the sustainable use of fish and wildlife resources;
 - (4) protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities;
 - (5) protect and improve water resources;
 - (6) minimize loss of life, structures, and natural resources from flooding and erosion;

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- (7) protect and improve air quality;
- (8) promote appropriate use and development of energy and mineral resources;
- (9) minimize environmental degradation from solid waste and hazardous substances and wastes;
- (10) improve public access to, and recreational use of, public lands, waters and resources of the waterfront revitalization area;
- (11) enhance visual quality and protect scenic resources; and
- (13) preserve historic resources.

V. Enforcement

The Fire Prevention and Building Inspector shall be responsible for enforcing this Chapter. No work or activity on a project in the waterfront area which is subject to review under this Chapter shall be commenced or undertaken until the Fire Prevention and 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.

In the event that an activity is not being performed in accordance with this Chapter or any conditions imposed thereunder, the Fire Prevention and 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.

VI. Violations

- A. Any person who shall violate any of the provisions of this local law shall be guilty of a violation and subject to one or more of the following remedies: (1) a fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both; or (2) a penalty of \$350.00 to be recovered by the Village in a civil action. The Board of Trustees of the Village of Waterford may also maintain an action or other proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.
- B. The Village Attorney may be authorized by resolution of the Board of Trustees 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.

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VII. Severability

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VIII. Effective Date

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