
**Appendix B
Watervliet
Consistency
Law**

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.

~~County~~
City of Watervliet
~~Town~~
~~Village~~

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 31 2005

Local Law No. 2 of the year 2005

MISCELLANEOUS
& STATE RECORDS

A local law adding Chapter 273 of the City of Watervliet Code
(Insert Title)
to be entitled The Waterfront Consistency Review Law

Be it enacted by the Council of the
(Name of Legislative Body)

~~County~~
City of Watervliet as follows:
~~Town~~
~~Village~~

(If additional space is needed, attach pages the same size as this sheet, and number each.)

THE COUNCIL OF THE CITY OF WATERVLIET

LOCAL LAW NO. 2-2005

A LOCAL LAW ADDING CHAPTER 273 OF THE CITY OF WATERVLIET CODE TO BE ENTITLED THE WATERFRONT CONSISTENCY REVIEW LAW.

GENERAL PROVISIONS

Section 1 **Title**

This local law will be known as the City of Watervliet Waterfront Consistency Review Law.

Section 2 **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 Watervliet 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 City of Watervliet 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 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 coastal resources; 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 Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

Section 3 **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

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- (c) adoption of agency rules, regulations and procedures, including local laws, codes, local laws, executive orders and resolutions that may affect the environment; and
 - (d) any combinations of the above.
2. "Agency" means any board, agency, department, office, other body, or any officer of the City of Watervliet
 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 boundaries of the City of Watervliet as shown on the Coastal Area Map on file in the Office of the Secretary of State and as delineated in the City of Watervliet 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 policymaking.
 7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the City of Watervliet 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 Watervliet

Section 4. **Review of Actions:**

1. With the **exception of maintenance actions of the City Parks Department and the issuance of sign permits by the Buildings Department**, which shall be exempt from the provisions of this local law, whenever a proposed action is located in the City'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 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 Waterfront Revitalization Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist the consistency of the proposed action.

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3. The agency shall refer a copy of the completed CAF to the **Building Inspector** within ten (10) days of its submission and prior to making its determination, shall consider the recommendation of the **Building Inspector** with reference to the consistency of the proposed action.
4. After referral from an agency, the **Building Inspector** shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein. The **Building Inspector** shall require the applicant to submit all completed applications, CAFs and any other information deemed to be necessary to its consistency recommendations.
5. The **Building Inspector** 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 **Building Inspector** and the applicant or in the case of direct action, the agency. The recommendation shall indicate whether, in the opinion of the **Building Inspector**, 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 his or her opinion. The **Building Inspector** shall, along with his or her consistency recommendation, 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 **Building Inspector's** recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the **Building Inspector's** recommendation.

6. The agency shall make the determination of consistency based on the CAF, the **Building Inspector's** recommendation and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within seven (7) days of the date of receipt of the **Building Inspector's** recommendation. 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 Waterfront Revitalization 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 Watervliet LWRP, a copy of which is on file in the City 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 their consistency determination. The action shall be consistent with the policy to:

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- Policy 1: Foster a pattern of development that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of coastal location, and minimizes adverse effects of development.
- Policy 2: Protect water-dependent uses, promote siting of new water-dependent uses in suitable locations, and support efficient harbor operation.
- Policy 3: Protect existing agricultural lands in the coastal area.
- Policy 4: Promote sustainable use of living marine resources in coastal waters.
- Policy 5: Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.
- Policy 6: Protect and improve water resources.
- Policy 7: Minimize loss of life, structures, and natural resources from flooding and erosion.
- Policy 8: Protect and improve air quality in the coastal area.
- Policy 9: Promote appropriate use and development of energy and mineral resources.
- Policy 10: Minimize environmental degradation in the Coastal Area from solid waste and hazardous substances.
- Policy 11: Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the coastal area.
- Policy 12: Enhance visual quality and protect outstanding scenic resources.
- Policy 13: Preserve historic resources in the City of Watervliet.

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:

- (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 over-riding 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.

8. 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.

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Section 5. Enforcement:

The City of Watervliet Building Inspector 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 local zoning enforcement officer has been presented with a written determination from 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 Chapter or any conditions imposed there under, the local 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.

Section 6. Violations:

- (1) A person who violates any of the provisions of, or who fails to comply with any determination or condition imposed by, this Chapter 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 violation.
- (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.

Section 7. Severability:

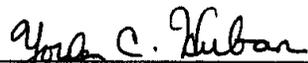
The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

Section 8. Effective Date:

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

Section 9.

Approved as to form this 20th day of October 2005.


Yorden C. Huban, Corporation Counsel

Introduced by: COUNCILMAN ANDERSON
Moved by: COUNCILMAN ANDERSON
Seconded by: COUNCILMAN DIAMOND

Adopted by the following vote:

Ayes - - - 3
Nays - - - 0

October 20, 2005

(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. 2 of 2005 of the ~~(County)~~(City)(Town)(Village) of Watervliet was duly passed by the Council of the City of Watervliet on October 20 2005, 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 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20_____, 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 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20_____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)
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 _____ 20_____, 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 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20_____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20_____, 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 20 _____ 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 _____ 20 _____, 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 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, 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 1, above.

Yvonne C. Huban
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: October 27, 2005

(Seal)

(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 Albany

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.

[Signature]
Signature

Corporation Counsel
Title

~~County~~
City of Watervliet
~~Town~~
~~Village~~

Date: October 27, 2005