

ATTACHMENT B
LOCAL CONSISTENCY LAW
AND COASTAL ASSESSMENT FORM

LOCAL CONSISTENCY LAW FOR THE VILLAGE OF YOUNGSTOWN

This Local Waterfront Revitalization Program (LWRP) Consistency Law for the Village of Youngstown, N.Y. requires all Type 1 and Unlisted actions (as defined by the State Environmental Quality Review Act (SEQRA) implementing regulations) that would be directly undertaken, approved, or funded by the Village to be reviewed by the Board of Trustees for consistency with the Village of Youngstown LWRP.

ARTICLE I. - GENERAL PROVISIONS

Section 1.1 - TITLE

This local law shall be known and may be cited as the Village of Youngstown LWRP Consistency Law.

Section 1.2 - PURPOSE

The purpose of this local law is to provide for the protection and beneficial use of the natural and man-made resources within the Village of Youngstown waterfront area by ensuring that certain actions to be undertaken, approved, or funded by the Village will be undertaken in a manner consistent with the policies and purposes of the Village of Youngstown Local Waterfront Revitalization Program. The consistency review, while triggered by SEQRA, is a free standing review conducted by the Board of Trustees.

Section 1.3 - AUTHORITY

This law is adopted under Section 10 of the Municipal Home Rule Law and Article 42 of the Executive Law.

Section 1.4 - APPLICABILITY

All agencies of the Village of Youngstown shall comply with this local law, prior to directly undertaking, approving, or funding any action within the waterfront area when such action is classified as Type I or Unlisted under Part 617 or Title 6 of the official compilation of Codes, Rules and Regulations of the State of New York.

Section 1.5- SEVERABILITY

The provisions of this local law are severable. If any part of this local law is found invalid, such findings will apply only to the particular provision and circumstances in question. The remainder of this local law, and the application of the disputed provision to other circumstances, will remain valid.

Section 1.6 - DEFINITIONS

- (a) "Action" means either a "Type I" or "Unlisted" action as defined in SEQRA regulations at NYCRR 617.2.

- (b) "Consistent" means the action will be fully in compliance with and will not hinder any of the Village of Youngstown LWRP Policy standards and conditions.
- (c) "EAF" means Environmental Assessment Form as defined at 6NYCRR 617.2 (1).
- (d) "EIS" means Environmental Impact Statement as defined at 6NYCRR 617.2 (m).
- (e) "Local Waterfront Revitalization Program (LWRP)" means the local program to implement the NYS Coastal Management Program within the Village of Youngstown approved by the Secretary of State pursuant to the Waterfront Revitalization and a Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State), a copy of which is on file in the office of the clerk of the Village of Youngstown.
- (f) "Part 617" means the State Environmental Quality Review Regulations. (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York).
- (g) "SEQR" means the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York).
- (h) "Village" means the Village of Youngstown.
- (i) "Village Agency" means any board, department, office, other bodies or officers of the Village of Youngstown.
- (j) "Board of Trustees" means the Board of Trustees of the Village of Youngstown.
- (k) "CAF" means Coastal Assessment Form as adopted by the Village.
- (l) "Waterfront Area" means that portion of the New York State Coastal Area within the Village of Youngstown as delineated in the Village of Youngstown Local Waterfront Revitalization Program.
- (m) All other terms for which definitions are given in SEQR and/or Part 617 shall have the same meanings in this local law.
- (n) "Planning Board" means the Village of Youngstown Planning Board.

ARTICLE II - CONSISTENCY REVIEW PROCEDURES

Section 2.1 - INITIAL REVIEW

2.1.1 As early as possible in the formulation of Type I or an Unlisted action, the agency shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review, however, when an applicant submits an application to a Village agency for an approval of an action, the applicant shall prepare a CAF.

The Board of Trustees or a Village agency when proposing to undertake, approve, or fund a Type I or Unlisted action in the waterfront area, shall prepare or cause to be prepared a Waterfront Assessment Form (WAF) for the proposed action. Following the preparation of an Environmental Impact Statement or the issuance of a negative declaration pursuant to SEQR, a Village agency shall refer the WAF, and Environmental Impact Statement (EIS) or other pertinent information for that action to the Board of Trustees for review and determination regarding the action's consistency with the policies and purposes of the LWRP.

Section 2.2 - CONSISTENCY DETERMINATION

2.2.1 Prior to its undertaking, approving, or funding of a proposed Type I or Unlisted action in the waterfront area, and for each action referred by a Village agency pursuant to section 2.1, the Board of Trustees shall either:

- (a) Determine that the action will not substantially hinder achieving the LWRP Policy Standard and conditions; or
- (b) Determine that the action will substantially hinder achieving the LWRP standards and conditions
- (c) If the Board of Trustees determines that the action will cause a substantial hindrance to the achievement of the LWRP policy standards and conditions, such action will not be undertaken unless the Village Board determines with respect to the proposed project 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 affects on such LWRP policy standards and conditions to the maximum extent practicable; and
 3. the action will result in an overriding village, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent.

- 2.2.2 The Board of Trustees shall complete its review of the proposed action's consistency and prepare a written finding to the referring Village agency within thirty (30) days of the referral date. The Board of Trustees may refer such actions for review to any municipal agency. Such agencies include but are not limited to the Village Attorney, Department of Public Works, and Planning Board.
- 2.2.3 The written findings of the Board of Trustees shall be filed with the Village Clerk before the action is undertaken, approved, or funded.
- 2.2.4 No action shall be undertaken, approved, or funded unless the Board of Trustees, determines its consistency with the general intent of the LWRP by a finding pursuant to either 2.2.1(a) or 2.2.1(b) above.

Section 3.1 EFFECTIVE DATE

This local law shall take effect immediately after the following have both occurred:

1. Approval of the Village of Youngstown Local Waterfront Revitalization Program by the Secretary of State in accordance with Article 42 of the Executive Law of New York State, and
2. Filing of the local law in the office of the Secretary in accordance with Section 27 of the Municipal Home Rule Law.

VILLAGE OF YOUNGSTOWN

WATERFRONT ASSESSMENT FORM

- (a) Applicants shall complete this assessment form for actions which are subject to the Village of Youngstown Local Consistency Law. This assessment is intended to supplement other information used by the Village of Youngstown in making determinations of significance pursuant to the New York State Environmental Quality Review Law. If it is determined that an action will not have a significant effect on the environment, this assessment is intended to assist the Village in arriving at their decision as to consistency as required by Section 2.2 of Local Law No. 2 of 1989 (Local Consistency Law).
- (b) If any question in subsection (e) on this form is answered "yes" then the proposed action may affect the achievement of the coastal policies contained in the Village of Youngstown Local Waterfront Revitalization Program. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (1) making a determination of consistency pursuant to Section 2.2 of Local Law No. 2 of 1989 or (2) if the action is one for which the findings required thereunder. If an action cannot be determined as consistent with the general intent of the LWRP, it shall not be undertaken.
- (c) Before answering the questions in subsection (e), the preparer shall review the coastal policies as explained in the Village of Youngstown Local Waterfront Revitalization Program. Actions should be evaluated as to their beneficial and adverse effects upon the coastal area.
- (d) Description of Action

1. Type of Action

- (a) Directly undertaken, pursuant to: _____
- _____ (b) Funding pursuant to: _____
- _____ (c) Permit(s), pursuant to: _____
- _____ (d) Planning activity(ies), pursuant to: _____
- _____ (e) Rule, regulation, procedure, policy-making,
pursuant to: _____
- _____ (f) Construction, alteration of structure(s) _____

2. Location of Action; fill in blank(s) as applicable:

Applicant

3. Anticipated State Date of Action _____

Month/Day/Year

4. Will the action require funding, and/or approval by a federal agency(ies)? If yes, which federal agency(ies)? _____

(e) Coastal Assessment

YES

NO

1. Will the action result in a large physical change to a site or physically alter more than 20,000 square feet of land if said land is located west of Main Street, or five acres if elsewhere within the Village? _____
2. Will the action have any significant visual effect upon the bluff or Youngstown Harbor as viewed from Constitution Park, or Waterfront Park? _____
3. Will the action significantly affect existing development of future water-dependent uses? _____
4. Will the action require new or expanded public services or infrastructure into undeveloped or low density areas of the Village? _____
5. Does the action involve an energy facility not subject to Article VII or VIII of the New York State Public Service Law? _____
6. Will the action be located in or significantly affect development on the bluff west of Main Street that functions as a natural protection feature against erosion? _____
7. Does the action involve mining, excavation or dredging within the Niagara River? _____
8. Will the action result in a reduction of existing or potential public access to or along the shore? _____
9. Does the action involve the sale or change in use of publicly-owned lands adjacent to the coastline? _____
10. Will the action affect existing or potential recreation opportunities? _____

If you answered yes to one or more questions in subsection (e) on this form, briefly and precisely describe the nature and extent of the proposed action in the space below, and submit a copy to:

Office of the Mayor
 Youngstown Village Hall
 PO Box 168
 240 Lockport Street
 Youngstown, NY 14174

Preparer's Name: _____ Telephone No.: _____

Organization: _____ Date: _____