

Local Law Filing

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

(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.

Village of WATKINS GLEN, NEW YORK

Local Law No. 1, of the Year 2009

A Local Law for the establishment of procedures for review of applications for actions, or direct agency actions, impacting the waterfront area, consistent with the Local Waterfront Revitalization Program.

Be it enacted by the Board of Trustees of the

Village of Watkins Glen as follows:

GENERAL PROVISIONS

I. Title

This local law will be known as the Village of Watkins Glen Waterfront Consistency Review Law.

II. Authority and Purpose

- A. 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).
- B. The purpose of this local law is to provide a framework for agencies of the Village of Watkins Glen 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; and to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. It is the intention of the Village of Watkins Glen that the preservation, enhancement, and utilization of the natural and manmade resources of the unique waterfront area of the Village 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 and encouraging the beneficial use of waterfront resources while preventing loss of living estuarine resources and wildlife, diminution of open space areas or public access to the waterfront, losses due to flooding and erosion, impairment of scenic resources, or permanent adverse changes to ecological systems.

III. Definitions

- A. "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 (as defined herein) and which include the following:
 - 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 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.
- B. "Agency" means any board, agency, department, office, other body, or officer, of the Village of Watkins Glen.
- C. "Board of Trustees" means the duly constituted Board of Trustees of the Village of Watkins Glen, New York.
- 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" means 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. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Village of Watkins Glen, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inlands Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Village of Watkins Glen.
- G. "Planning Board" means the established and existing Planning Board of the Village of Watkins Glen, New York, which shall comprise the Waterfront Advisory Committee of the Village of Watkins Glen.
- H. "Village" means the Village of Watkins Glen, New York.
- I. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the LWRP.

IV. Waterfront Advisory Committee

The Planning Board is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the policies and purposes of the LWRP.

V. Review of Actions

- A. Whenever a proposed action is to be located in the Village's Waterfront Area, an Agency shall, prior to approving, funding or undertaking the action, make a determination that is consistent with the LWRP policy standards and conditions.
- B. 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 Area, the applicant, or in the case of a direct action, the Agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review of the proposed action.
- 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. After referral from an Agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph K herein. The Committee shall require the applicant to submit all completed applications, WAFs and any other information deemed to be necessary to its consistency recommendation.
- E. The Planning Board shall render its written recommendation to the Agency within thirty (30) days following referral of the WAF form from the Agency, unless extended by mutual agreement of the Planning Board and the applicant, or in the case of the direct action, the Agency. The recommendation shall indicate whether, in the opinion of the Planning Board, 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.
- F. The Planning Board shall, along with its 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.
- G. 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 Planning Board's recommendation.
- H. If the Agency and the Planning Board concur in the consistency of the proposed action, the Agency may proceed with the action. In the event that the Agency, after reviewing the written recommendation of the Planning Board, finds that it disagrees with the consistency recommendation of the Planning Board, the Agency shall, within fifteen (15) days, prepare a written finding detailing its position and transmit it to the Planning Board. The Planning Board and the Agency shall meet to

until the Board of Trustees has made a determination and finding of consistency with the LWRP.

- J. Where the Zoning Board of Appeals is the Agency, the Zoning Board of Appeals shall consider the written consistency recommendation of the Planning Board when reviewing and considering an application for a variance.
- K. 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 3 of the Village of Watkins Glen LWRP, a copy of which is on file in the Village Clerk's Office and available for inspection during normal business hours. In the case of direct actions, the Agency shall consult with Section 3 of the LWRP in making its consistency determination. The action shall be consistent with the policies to:
 - 1. Revitalize underutilized and deteriorated Waterfront Areas for commercial, industrial, cultural, recreational and other comparable uses.
 - 2. Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.
 - 3. Maximize public access and coordinate recreational opportunities relating to the waterfront.
 - 4. Support the protection, enhancement and restoration of structures, districts and sites that are of significance to the history, architecture, archeology or culture of the Village, state, its communities, or the nation.
 - 5. Protect and improve the visual quality of the waterfront.
 - 6. Strengthen small harbors by maintaining the mix of traditional uses, assuring safe navigation and resolving use conflicts and competition through harbor and water surface use management.
 - 7. Encourage the location of development in areas where public services and facilities essential to such development are adequate.
 - 8. Significant fish and wildlife habitats will be protected, preserved and, where practical, restored to maintain their viability as habitats.
 - 9. Preserve and protect wetlands and the benefits derived from these resources.
 - 10. In order to minimize damage to natural resources and property from flooding and erosion, development will be sited away from hazard areas wherever practical, and natural flooding and erosion protective features will not be degraded.
 - 11. Erosion protection structures shall be constructed only if they are necessary to protect human life, existing development, or new water-dependent development, and will result in no measurable

substances into water bodies shall conform to State and national water quality standards.

13. Policies and management objectives of approved Local Waterfront Revitalization Programs shall be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.
 14. Best management practices shall be used to ensure the control of storm water runoff, combined sewer overflows and the non-point discharge of excess nutrients, organics and eroded soils into State waterways.
 15. Discharge of waste materials into State waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supplies.
 16. Excavation, dredging and dredge spoil disposal will be undertaken in a manner that protects fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands, and does not cause an increase in the erosion of such land.
- L. 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. 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 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 Village, 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.
- M. 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.

VI. Enforcement

- I. The Village Code Enforcement Officer shall be responsible for enforcing this local law.

3. In the event that an activity is not being performed in accordance with this local law or any conditions imposed hereunder, the Code Enforcement Officer, or any authorized official of the Village, shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on this 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 conditions imposed by, this local law 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 violation.
2. The Village 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.

(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. _____ of 20__09__ of the (County)(City)(Town)(Village) of Watkins Glen, New York, was duly passed by the Board of Trustees, on May 4, 20__09__, in accordance with the applicable provisions of the 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. (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____. 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. (Name of Legislative Body)
(Elective Chief Executive Officer*)

~~**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*)~~

~~**5. (City local law concerning Charter revision proposed by petition.)**~~

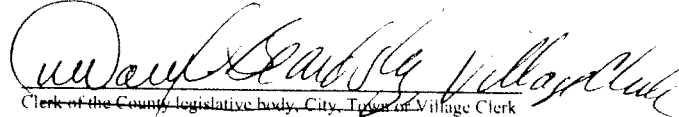
~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the _____~~

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 _____ above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body


(Seal)

Date: May 7, 2009

(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 MONROE

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

VILLAGE ATTORNEY

Title

County _____
City of Watkins Glen, New York
Town _____
Village _____

Date: May 6, 2009