

Village of Watkins Glen, New York

LOCAL LAW NO. 3 OF YEAR 2017

A Local Law Repealing and Replacing Local Law No. 1 of 2009 and Local Law No. 3 of 2016 known as the Local Waterfront Revitalization Program Consistency Review Law

Be it enacted by the BOARD OF TRUSTEES of the

Village of WATKINS GLEN as follows:

This Local Law is adopted pursuant to Municipal Home Rule Law Section 10.

Local Law No. 1 of 2009 and Local Law No. 3 of 2016 known as the Local Waterfront Revitalization Program Consistency Review Laws are hereby repealed.

§ 1. Title. This Local Law is to be known as the Local Waterfront Revitalization Program (LWRP) Consistency Review Law of the Village of Watkins Glen.

§ 2. Legislative 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 incorporate 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 said policies and purposes.

§ 3. Legislative intent.

- A. It is the intention of the Village of Watkins Glen that the preservation, enhancement and utilization of the natural and man-made 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 the beneficial use of waterfront resources while preventing loss of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural processes; impairment of scenic, cultural, or historical resources; losses due to flooding, erosion, and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

- B. 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.

§ 4. Definitions.

As used in this Local Law, the following terms shall have the meanings indicated:

ACTIONS - 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:
- (1) Are directly undertaken by an agency; or
 - (2) Involve funding by an agency; or
 - (3) 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;
- C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- D. Any combinations of the above.

AGENCY - Any board, agency, department, office, other body, or officer of the Village of Watkins Glen.

CONSISTENT - That the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS - 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.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - 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 Inland 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.

WATERFRONT AREA - The Waterfront Revitalization Area delineated in the Village's Local Waterfront Revitalization Program.

WATERFRONT ASSESSMENT FORM (WAF) - The form available from the Village Code Enforcement Officer at Village Hall (to be completed by the project applicant, or in the case of direct actions by the agency planning or proposing the action) that supplements other information used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

§ 226-5. Review of actions.

- A. Whenever a proposed action is located in the Village's waterfront area, each Village agency shall, prior to approving, funding or undertaking the action, make a determination that the action is consistent with the LWRP policy standards and conditions set forth in Subsection J herein. No action in the waterfront area shall be approved, funded or undertaken by an agency without such a determination.
- 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.
- C. The agency shall refer a copy of the completed WAF to the Planning Board within 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 Subsection J herein. The Planning Board 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 a written recommendation to the agency within 30 days following referral of the WAF from the agency, unless extended by mutual agreement of the Planning Board and the applicant, or in the case of a direct action, the agency planning or proposing the action.
 - (1) 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 the opinion. The Planning Board shall, along with the 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.
 - (2) 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.
- F. 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 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 resolve their differences within 15 days of the Planning Board's receipt of the agency's finding.

- G. If the Planning Board and the agency cannot reach a mutually agreeable determination of consistency, the matter will be referred to the Village Board of Trustees of the Village of Watkins Glen for a finding of consistency. The agency shall take no action until the Village Board of Trustees has made a written determination and finding of consistency with the LWRP, within 30 days of receipt of the referral.
- H. The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Planning Board in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.
- I. If the final determining agency determines that an action will be inconsistent with one or more LWRP policies, standards, or objectives, such action shall not be undertaken unless modified to be consistent with the LWRP policies.
- J. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policies, standards and conditions, which are derived from and further explained and described in 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 also consult with the LWRP in making its consistency determination. The action shall be consistent with the policy 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. (LWRP policies 1, 1.1, 1.2, 1.3, 1.4, 1.5)
 - (2) Preserve historic resources of the waterfront area. (LWRP policies 2, 2.1, 2.2, 2.3)
 - (3) Enhance visual quality and protect scenic resources throughout the waterfront area. (LWRP policies 3, 3.1)
 - (4) Minimize loss of life, structures, and natural resources from flooding and erosion. (LWRP policies 4, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6)
 - (5) Protect and improve water quality and supply in the waterfront area. (LWRP policies 5, 5.1, 5.2, 5.3, 5.4, 5.5)
 - (6) Protect and restore the quality and function of the waterfront area ecosystem. (LWRP policies 6, 6.1, 6.2, 6.3, 6.4)
 - (7) Protect and improve air quality in the waterfront area. (LWRP policies 7, 7.1, 7.2, 7.3)

- (8) Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes. (LWRP policies 8, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6)
 - (9) Provide for public access to, and recreational use of, waterfront waters, public lands, and public resources of the waterfront area. (LWRP policies 9, 9.1, 9.2, 9.3, 9.4)
 - (10) Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations. (LWRP policies 10, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6)
 - (11) Promote sustainable use of living lacustrine and riverine resources in the waterfront area. (LWRP policies 11, 11.1, 11.2, 11.3)
 - (12) Protect agricultural lands in the waterfront area. (LWRP policy 12)
 - (13) Promote appropriate use and development of energy and mineral resources. (LWRP policies 13, 13.1, 13.2, 13.3, 13.4 13.5)
- K. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Waterfront Development Committee. Such files shall be made available for public inspection upon request.

§ 6. Enforcement.

- A. A Village Code Enforcement Officer 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 Code Enforcement Officer has been presented with a written determination from an agency that the action is consistent with the Village's LWRP policy standards and conditions.
- B. In the event that an activity is not being performed in accordance with this chapter or any conditions imposed thereunder, the Code 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.

§ 7. Penalties for offenses.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this chapter shall have committed a violation, punishable by a fine not exceeding \$500 for a conviction of a first offense and punishable by a fine of \$1,000 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.

- B. The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 8. 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.

§ 9. 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.

(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. 3 of 2017 of the (County)(City)(Town)(Village) of Watkins Glen was duly passed by the Village Board of Trustees on July 15 2017, 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 (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 _____ above.

[Handwritten Signature]
Clerk of the county legislative body, City, Town or Village Clerk or
other officer designated by local legislative body

Date: July 31, 2019

(Seal)