

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 Mayville
- Town
- Village

Local Law No. 1 of the year 20 09

A local law _____
(Insert Title)

Be it enacted by the Village Board of the
(Name of Legislative Body)

- County
- City
- of Mayville as follows:
- Town
- Village

Village of Mayville
Local Law No. 1 of 2009

ADOPTING WATERFRONT CONSISTENCY REGULATIONS

SECTION I - TITLE

This Local Law will be known as the Village of Mayville Waterfront Consistency Law.

SECTION II - AUTHORITY AND PURPOSE

A. This article 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).

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

B. The purpose of this article is to provide a framework for agencies of the Village of Mayville to consider the policies and purposes contained in the Chautauqua Lake Local Waterfront Revitalization Program when reviewing applications for actions or undertaking direct agency actions in the waterfront area, and to assure that such actions are consistent therewith.

C. It is the intention of the Village of Mayville to preserve, enhance and use the natural and manmade resources of the unique waterfront areas of the Village in a coordinated and comprehensive manner, to ensure a proper balance between such natural resources and the accommodation of population growth and economic development. This article is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing loss of fish and wildlife, diminution of open space areas or public access to the waterfront, erosion of shoreline, losses due to flooding, erosion and sedimentation, impairment of water quality, impairment of scenic, cultural or historic resources, and permanent adverse changes to ecological systems.

D. The substantive provisions of this article 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

SECTION III - DEFINITIONS

As used in this Article, the following terms shall have the meanings indicated.

ACTION – Either Type I or unlisted actions as defined in SEQRA regulations (6N.Y.C.R.R.617.2), except minor actions, that 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, those are:
 - 1. Directly undertaken by an agency;
 - 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 combination of the above.

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

CONSISTENT - Consistent with the LWRP policy standards and conditions and, whenever practicable, advancing one or more of them.

DIRECT ACTION – An action planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rule-making, procedure-making and policy-making.

ENVIRONMENT – The physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora fauna, noise, resources of agricultural, archaeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - The Chautauqua Lake Local Waterfront Revitalization Program in which the Village of Mayville is included, 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 Village Clerk's Office.

MINOR ACTION — Includes the following:

- A. Maintenance or repair involving no substantial changes in an existing structure or facility;
- B. Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 6.N.Y.C.R.R 617.4, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- C. Repaving or widening of existing paved highways not involving the addition of new travel lanes;
- D. Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- E. Maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected;
- F. Construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls: but not radio communication or microwave transmission facilities;
- G. Routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;
- H. Construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (J) and the installation, maintenance and/or upgrade of a drinking water well and septic system;
- I. Construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts,

satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;

- J. Extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
- K. Granting of individual setback and lot-line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
- L. Granting of area variance(s) for a single-family, two-family or three-family residence;
- M. Public or Private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;
- N. Minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- O. Installation of traffic-control devices on existing streets, roads and highways;
- P. Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- Q. Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- R. Official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.
- S. Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- T. Conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- U. Collective bargaining activities;
- V. Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- W. Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

- X. Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road deicing substances, or other hazardous materials;
- Y. License, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;
- Z.
 1. Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
 2. Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this chapter have been fulfilled;
 3. Civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
 4. Adoption of a moratorium on land development or construction;
 5. Interpreting an existing code, rule or regulation;
 6. Designation of local landmarks or their inclusion within historic districts;
 7. Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance practicable under the circumstances to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this chapter;
 8. Local legislative decisions such as rezoning where the Village Board determines the action will not be entertained but not actions of local legislative bodies.

WATERFRONT AREA - The Waterfront Revitalization Area delineated within the Village of Mayville in the Chautauqua Lake Local Waterfront Revitalization Program.

WATERFRONT ASSESSMENT FORM (WAF) - The form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

SECTION IV – REVIEW OF ACTIONS

A. Whenever a proposed action is located in the Waterfront 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 Section 20-120 hereof. No action in the Waterfront Area shall be approved, funded or undertaken by that 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 within 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 Village Planning Board within ten (10) days of its receipt and, prior to making its determination, shall consider the recommendation of the Village Planning Board about the consistency of the proposed action.

D. Upon receiving a referral from an agency, the Village Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Section 20-120 hereof, as follows:

1. The Planning Board shall render a written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless such time is extended by mutual agreement of the Board and the applicant or in the case of a direct action, the agency.
2. The Planning Board may require the applicant to submit all completed applications, WAFs and any other information deemed necessary for such consideration.
3. The recommendation shall indicate whether the proposed action is consistent or inconsistent with one or more of the LWRP policy standards or conditions and the basis of the opinion.
4. The Planning Board also shall 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.
5. If the Planning Board does not timely render its recommendation, the referring agency may make its determination without the benefit of the Board's recommendation.

E. If the agency and the Village Planning Board concur in the consistency of the proposed action, the agency may proceed with the action. If the agency disagrees with the recommendation, the agency shall within ten (10) days prepare and transmit to the Planning Board a written finding detailing its position. The Board and the agency shall meet to resolve their differences within fifteen (15) days of the Board's receipt of the agency's finding.

F. If the Board and the agency cannot reach a mutually agreeable determination of consistency, the matter will be referred to the Village Board for a finding of consistency. The agency shall take no action until the Village Board has made a determination and finding of consistency with the LWRP and policy standards.

1. Where the Zoning Board of Appeals is the agency, this subsection shall not apply, but the Zoning Board of Appeals shall consider the consistency recommendation of the Planning Board and policy standards when reviewing and considering an application for a variance or special use permit.

2. Where the Village Board is the agency, this subsection shall not apply, but the Village Board shall consider the consistency recommendation of the Planning Board and policy standards when making its final determination.

G. Where an action involves the preparation of an Environmental Impact Statement (EIS) for purposes of environmental review, the draft EIS shall identify applicable LWRP policy standards in Section 20-120 and thoroughly discuss the effects of the proposed action on such policy standards.

H. The Village Clerk shall maintain a file for each action subject to a consistency determination, which shall include any recommendation received from the Village Planning Board, and such files shall be kept open for public inspection upon request.

SECTION V – LWRP POLICY STANDARDS & CONDITIONS

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 Chautauqua Lake LWRP, a copy of which is on file in Village 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 its consistency determination.

The action shall be consistent with policies to:

- A. 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. (Policy 1)
- B. Preserve historic resources of the waterfront area of Chautauqua Lake. (Policy 2)
- C. Enhance visual quality and protect scenic resources in the Chautauqua Lake area. (Policy 3)
- D. Minimize loss of life, structures, and natural resources from flooding and erosion. (Policy 4)
- E. Protect and improve water resources. (Policy 5)
- F. Protect ecological resources around Chautauqua Lake, including important fish habitats, wetlands, and rare ecological communities. (Policy 6)
- G. Protect and improve air quality in the Chautauqua Lake area. (Policy 7)
- H. Minimize environmental degradation in the Chautauqua Lake communities from solid waste and hazardous substances and wastes. (Policy 8)
- I. Provide for public access to, and recreational use of, waterfront, public lands, and public resources of the waterfront area. (Policy 9)
- J. Protect Chautauqua Lake's water-dependent uses and promote siting of new water-dependent uses in suitable locations. (Policy 10)

- K. *Promote the sustainable use of fish resources in Chautauqua Lake. (Policy 11)*
- L. Protect existing agricultural lands in and adjacent to the Chautauqua Lake Waterfront Revitalization Area. (Policy 12)
- M. Promote appropriate use and development of energy and mineral resources. (Policy 13)

SECTION VI - ENFORCEMENT

No action within the Waterfront Area that is subject to review under this chapter shall proceed until a written determination has been issued from a Village agency that the action is consistent with the Village's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed hereunder, the Building Inspector or any other 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 the project so long as a stop-work order is in effect. The Village Building Inspector, Village Attorney, Code Enforcement Officer and Police Department shall be responsible for enforcing this chapter.

SECTION VII - VIOLATIONS; 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 \$250 for a conviction of a first offense and punishable by a fine of \$500 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.

SECTION 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.

SECTION IX - 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. 1 of 20 09 of the (County)(City)(Town)(Village) of Mayville was duly passed by the Village Board on January 13, 20 09, 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 _____.

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 there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



Clerk of the County Legislative Body, City, Town or Village Clerk or
Officer designated by local legislative body


(Seal)

Date: 1-23-09

(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 CHAUTAUQUA

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 Mayville
Town _____
Village _____

Date: 1/23/09