

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.

FILED
STATE RECORDS

APR 02 2010

DEPARTMENT OF STATE

XXXXXX

XXXX of

Clay

Town

XXXXXXXX

Local Law No. 2 of the year 20 10

A local law Adding a new Chapter 226 entitled "WATERFRONT CONSISTENCY LAW"
(Insert Title)

TO THE CODE OF THE TOWN OF CLAY

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

XXXXXX

XXXX of

CLAY

Town

XXXXXX

as follows:

SEE ATTACHED LOCAL LAW

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

(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 2010 of the ~~(County)(City)(Town)(Village)~~ of Clay was duly passed by the Town Board on March 15th 2010, 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.)

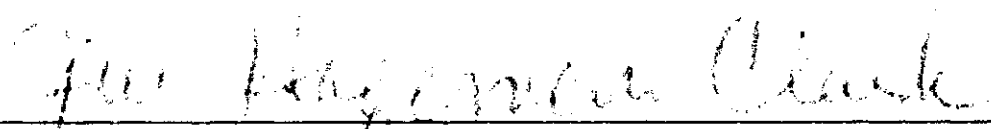
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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


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

JILL HAGEMAN-CLARK

Date: March 25th, 2010

(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 ONONDAGA

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


ROBERT M. GERMAIN, TOWN ATTORNEY

Title

~~XXXX~~

~~XX~~ of

Town of Clay

Town

~~XXXX~~

Date: MARCH 25TH, 2010

LOCAL LAW NO. 2 OF THE YEAR 2010

TOWN OF CLAY

LOCAL LAW NO. 2 OF THE YEAR 2010 ADDING A NEW CHAPTER 226 entitled **WATERFRONT CONSISTENCY LAW** to the Code of the Town of Clay.

BE IT ENACTED by the Town Board of the Town of Clay, County of Onondaga as follows:

SECTION 1. The addition of a new **Chapter 226** to be entitled **“WATERFRONT CONSISTENCY LAW”** to the Code of the Town of Clay.

The purpose of this local law is to provide a framework for the Town of Clay to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct Town/Planning Board actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes of the Local Waterfront Revitalization Program

February 1st, 2010 called public hearing for local law for March 1st. 2010 at 7:38 P.M.,
Notice of public hearing published in the Post Standard on February 18th, 2010.
Public hearing held and completed on March 1st. 2010.
Local Law was approved at the March 15th. 2010 Town Board meeting.
Local Law sent to Dept. of State on March _____, 2010.
Received letter from Dept. of State, local law filed on _____.

LOCAL COMMITMENT AND CONSULTATION**Local Commitment**

The Town of Clay established a Waterfront Development Committee to initiate and oversee preparation of a Local Waterfront Revitalization Program. Committee memberships have a broad range of interests and experience with the Town's Three Rivers Project, historic preservation, recreational boating, and economic development.

With respect to preparation of the draft Local Waterfront Revitalization Program, the Committee met with staff of the New York State Department of State to address and refine waterfront issues and future development

The Town also commissioned Plumley Engineering, P.C., to help coordinate and facilitate the LWRP and to coordinate our efforts with Three Rivers Point Project. Funding for this project was provided by the Town through a grant from the New York State Department of State.

Consultation

The Draft LWRP (with Draft Environmental Impact Statement) was reviewed and approved by the Town Board and forwarded to the New York State Department of State. The Department of State then initiated a 60day review of the Draft LWRP pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the State Environmental Quality Review Act. Copies of the Draft LWRP were posted on the Town's website.

**LOCAL LAW NO. 2 OF THE YEAR OF 2010 ADDING A NEW CHAPTER
TO BE ENTITLED 'WATERFRONT CONSISTENCY LAW' TO THE CODE OR DRAFT
LWRP OF THE TOWN OF CLAY"**

It is enacted by the Town Board of the Town of Clay, New York as follows:

§ 226-1. Title.

This local law is to be known as the "Waterfront Consistency Law" of the Town of Clay.

§ 226-2. Authority and purpose.

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).

The purpose of this local law is to provide a framework for agencies of the Town of Clay 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.

§ 226-3 Legislative intent.

It is the intention of the Town of Clay that the preservation, enhancement and utilization of the natural and manmade resources of the unique waterfront area of the Town 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 fish and wildlife; diminution of open space areas or public access to the waterfront; erosion of shoreline; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

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.

§ 226-4 Definitions.

1. "Actions" means either Type I or unlisted actions as defined in SEQRA regulations (6N.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;
 - (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.
2. "Agency" means any board, agency, department, office, other body, or officer of the Town of Clay.
 3. "Waterfront area" means the Waterfront Revitalization Area delineated in the Town's Local Waterfront Revitalization Program.
 4. "Waterfront Assessment Form (WAF)" means the form 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 policy making.
 7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Clay, 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 Town of Clay.

§ 226.5 Review of actions.

1. Whenever a proposed action is located in the Town's 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 Paragraph 9 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 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.
3. The agency shall refer a copy of the completed WAF to the Waterfront Development Committee within ten (10) days of its submission and prior to making its determination, shall consider the recommendation of the Waterfront Development Committee with reference to the consistency of the proposed action.
4. After referral from an agency, the Waterfront Development Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 9 herein. The Waterfront Development Committee shall require the applicant to submit all completed applications, WAFs and any other information deemed to be necessary to its consistency recommendation.
5. The Waterfront Development Committee shall render a written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Committee and the applicant or in the case of a direct action, the agency. The recommendation shall indicate whether, in the opinion of the Waterfront Development Committee, 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 Waterfront Development Committee 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.

In the event that the Waterfront Development Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.

6. If the agency and the Committee 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 Committee, finds that it disagrees with the consistency recommendation of the Committee, the agency shall within fifteen (15) days prepare a written finding detailing its position and transmit it to the Committee. The Committee and the agency shall meet to resolve their differences within fifteen (15) days of the Committee's receipt of the agency's finding.

7. If the Committee and the agency cannot reach a mutually agreeable determination of consistency, the matter will be referred to the Town Board of the Town of Clay for a finding of consistency. The agency shall take no action until the Town Board has made a determination and finding of consistency with the LWRP.
8. The provisions of § 226-5 (7) shall not apply to the Zoning Board of Appeals. Instead, where the Zoning Board of Appeals is the agency, the Zoning Board of Appeals shall consider the written consistency recommendation of the Committee when reviewing and considering an application for a variance.
9. 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 the Town of Clay LWRP, a copy of which is on file in the Town 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 their consistency determination. The action shall be consistent with the policy to:
 - (a) Revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other comparable uses.
 - (b) Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.
 - (c) 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.
 - (d) Encourage the location of development in areas where public services and facilities essential to such development are adequate.
 - (e) Significant fish and wildlife habitats will be protected, preserved, and, where practical, restored to maintain their viability as habitats.
 - (f) 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.

- (g) 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 increase in erosion or flooding at other locations. Non-structural measures shall be used whenever possible. Public funds shall only be used where the public benefits outweigh the long term costs.
- (h) Maximize public access and recreational opportunities to the shoreline and to waterways.
- (i) Protect, enhance and restore structures, districts, and sites that are of significance to the history, architecture, archeology or culture of the state, its communities, or the nation.
- (j) Protect and improve the visual quality of the waterfront.
- (k) Municipal, industrial, and commercial discharge of effluent and pollutants, including, but not limited to, toxic and hazardous substances, into water bodies will conform to state and national water quality standards.
- (l) Policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing water body classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.
- (m) Best management practices will be used to ensure the control of stormwater runoff, combined sewer overflows, and the non-point discharge of excess nutrients, organics, and eroded soils into state waterways.
- (n) 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.
- (o) Excavation, dredging, and dredge spoil disposal will be undertaken in a manner which protects fish and wildlife habitats, scenic resources, natural protective features, important agricultural land, and wetlands, and does not cause an increase in the erosion of such land.
- (p) Preserve and protect wetlands and the benefits derived from these resources.

10. 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 determining 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 Town, 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.

11. 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.

§ 226.6 Enforcement

A Town 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 Town'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 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.

§ 226.7 Violations

1. 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 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 Town 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.

§ 226.8 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.

§ 226.9 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.