

(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

Town

Village

of Croton-on-Hudson, New York

Local Law No. 2 of the year 19 92

A local law to adopt the Local Waterfront Revitalization Program (LWRP)
(Insert Title)

Consistency Review Law.

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

County

City

Town

Village

of Croton-on-Hudson, New York as follows:

GENERAL PROVISIONS**I. TITLE**

This local law will be known as the Village of Croton-on-Hudson Local Waterfront Revitalization Program (LWRP) Consistency Review Law.

II. AUTHORITY AND PURPOSE

1. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Resources and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
2. The purpose of this local law is to provide a framework for agencies to consider the policies and purposes contained in the Village of Croton-on-Hudson LWRP when reviewing applications for actions or direct agency actions located in the Village coastal boundary area and to ensure that such actions are consistent with said policies and purposes.
3. It is the intention of the Village of Croton-on-Hudson that the preservation, enhancement and utilization of the natural and manmade resources of the unique coastal area of the Village of Croton-on-Hudson take place in a comprehensive manner to ensure a proper balance between protection of 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 coastal resources while preventing: loss of living estuarine resources and wildlife; diminution of open space areas and of public access to the waterfront; erosion of shoreline; impairment of water quality and scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

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

III. DEFINITIONS

1. "Action(s)" mean either Type 1 or Unlisted actions as defined in SEQR regulations (6 NYCRR 617.2).
2. "Agency" means any board, agency, department, office, other body or officer of the Village of Croton-on-Hudson.
3. "Coastal Assessment Form (CAF)" means the form, contained in Appendix A (to be attached), used by an agency to assist it in determining the consistency of an action with the LWRP.
4. "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.
5. "Determination of Consistency" means the decision that is made regarding whether the action complies with the policy standards and conditions set forth in the LWRP.
6. "Direct Action" means 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.
7. "Lead Agency" means an involved agency principally responsible for carrying out, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with this action, and for the preparation and filing of the statement if one is required, in accordance with SEQR.
8. "Local Waterfront Revitalization Program (LWRP)" means the local program 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 Croton-on-Hudson.
9. "Preliminary Recommendation of Consistency" means the recommendation regarding whether the action complies with the policy standards and conditions set forth in the LWRP that is made by the WAC to the Lead Agency prior to the Lead Agency's determination of environmental significance.
10. "Recommendation of Consistency" means the recommendation that is made by the WAC regarding whether the action complies with the policy standards and conditions set forth in the LWRP.

11. "SEQR" means the State Environmental Quality Review Act, codified as Article 8 of the Environmental Conservation Law and its implementing regulations, 6 NYCRR Part 617.
12. "Waterfront Advisory Committee" (WAC) means the committee that will make a recommendation as to the consistency of an action with the LWRP. It will consist of one member of the Village Board of Trustees, one member of the Water Control Commission, and one member of the Planning Board.

IV. APPLICABILITY

The boundary of the Coastal Zone for the purposes of the LWRP and this Waterfront Consistency Review Law shall be all that area that encompasses the entire Village of Croton-on-Hudson.

No Village agency shall approve, fund or undertake an action without a determination that the action is consistent with the policy standards and conditions set forth in the LWRP of the Village of Croton-on-Hudson.

V. ROLE OF THE WATERFRONT ADVISORY COMMITTEE

1. The Waterfront Advisory Committee (WAC) in the Village of Croton-on-Hudson shall include one member of the Village Board of Trustees, one member of the Water Control Commission, and one member of the Planning Board. The three active WAC members will select the chairperson on a yearly basis.
2. Each member of the three Boards will be selected by majority vote of their respective Board on a yearly basis to serve on the WAC. Any vacancy shall be filled by the designating Board for the balance of the expired term within 60 days of receiving notice of the vacancy.
3. The WAC may employ such persons to assist in these reviews as may be needed, as authorized by the Village Board of Trustees and pursuant to law. The chairperson of the WAC shall submit the request for employment to the Village Board of Trustees for approval.
4. The members of the WAC shall serve without compensation and shall be charged with the duties as set forth in this Local Law.
5. For making a Preliminary Recommendation of Consistency and Recommendation of Consistency, a quorum shall consist of all three members of the WAC.

(Revised: 03/16/92)

VI. CONSISTENCY REVIEW

1. LWRP consistency shall, as much as possible, be conducted simultaneously and in coordination with any SEQR review of the same action.
2. Whenever a Village 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, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review. The CAF shall be prepared and submitted with the Environmental Assessment Form (EAF) and any other documents required by SEQR.
3. For any actions, the agency that receives or prepares the EAF/CAF shall refer the EAF/CAF along with any accompanying application and other documentation, within *three (3) business days of establishment of the Lead Agency*, to the WAC.
- 4a. Once the Lead Agency has been established, the WAC shall have *fourteen (14)* days from receipt of the EAF/CAF to make its written Preliminary Recommendation of Consistency to the Lead Agency. The WAC Preliminary Consistency Recommendation shall state the manner and extent to which the proposed action is likely to be consistent and/or inconsistent with the LWRP policy standards and conditions. It may advise the Lead Agency of any additional information it believes is necessary for its own Consistency Recommendation and for the Lead Agency to make a Determination of Consistency. The Lead Agency shall make a Determination of Consistency pursuant to Sections VI.11, 12, 13 and 14 of this law; or
- b. When the Lead Agency is other than a Village Agency, the WAC shall make its Preliminary Recommendation of Consistency within *fourteen (14)* days of receipt of the EAF/CAF to the Village Board of Trustees and advise the Board of any additional information it believes is necessary to the consistency review. In such instances, the Village Board of Trustees shall make a Determination of Consistency pursuant to Sections VI.11, 12, 13 and 14 of the law.
- c. When the Village Board of Trustees proposes to make a legislative decision, or when the Zoning Board of Appeals (ZBA) is considering applications for use and area variances, the Village Board of Trustees or as appropriate, the ZBA, will make the determination of consistency for those actions which are within their scope of authority. The Village Board of Trustees or as appropriate, the ZBA shall submit to the WAC, the CAF and other information the Board has regarding the action before them. Within *fourteen (14)* days of receiving the CAF and any accompanying information the WAC shall make a Preliminary Recommendation of Consistency in writing to the Village Board of Trustees or as appropriate, the ZBA. The Village Board of Trustees or the ZBA, as appropriate shall make their

Determinations of Consistency pursuant to Sections VI.11, 12, 13 and 14 of this law.

5. If the WAC's Preliminary Recommendation of Consistency indicates that the action is not consistent with the LWRP policy standards and conditions, the WAC may work with the applicant or the agency to identify measures which would make the action consistent.
6. If the Lead Agency makes a negative declaration of environmental significance or a conditioned negative declaration, the WAC shall have twenty (20) calendar days after the filing of the declaration to render their written Recommendation of Consistency to the Lead Agency, if the Lead Agency is a Village agency, or if not, to the Village Board of Trustees or the ZBA as appropriate, regarding the consistency of the proposed action with the LWRP policy standards and conditions. The Consistency Determination shall be based on the EAF, the CAF, the WAC's Preliminary Consistency Recommendation, such further advice as the Lead Agency may receive from the WAC, and such additional information as the Lead Agency may request on its own initiative and/or on the advice of the WAC. The Lead Agency, Village Board of Trustees or the ZBA, as appropriate, shall make the Determination of Consistency within ten (10) days of the date for receipt of the WAC's Recommendation of Consistency.
7. If the Lead Agency makes a positive declaration of environmental significance and an EIS is required, then the WAC shall participate in the public review and comment regarding consistency of the proposed action with LWRP policy standards and conditions.
8. If the Lead Agency makes a positive declaration of environmental significance, then the WAC shall have twenty (20) calendar days after filing of the Notice of Completion of the DEIS to render their written recommendation to the Lead Agency, if the Lead Agency is a Village agency, or to the Village Board of Trustees or the ZBA, as appropriate, regarding the consistency of the proposed action with the LWRP policy standards and conditions. The Lead Agency, Village Board of Trustees or ZBA, as appropriate, shall make the Determination of Consistency when it issues its written findings statement pursuant to 6 NYCRR Part 617.9 or within ten (10) days after a negative declaration has been filed.
9. The WAC's Recommendation of Consistency shall indicate whether, in its opinion, the proposed action is consistent or inconsistent with the LWRP policy standards and conditions set forth in Section VI.13 of this law. The Recommendation of Consistency shall address:

- a. Potentially significant adverse impacts on coastal resources and the consistency of the action with the Village of Croton-on-Hudson LWRP policy standards and conditions:
- b. Alternative actions which would avoid the potential adverse impacts on coastal resources and ensure consistency with the LWRP policy standards and conditions;
- c. Measures to mitigate potential adverse impacts on coastal resources and resolve inconsistencies.

The WAC shall approve its Recommendation of Consistency by a majority vote of a quorum of its members.

- 10. Failure of the WAC to make a Preliminary Recommendation or a Recommendation of Consistency within the allotted time period shall not preclude the Lead Agency, the Village Board of Trustees or the ZBA, as appropriate, from making its own Determination of Consistency. However, the allotted time period for the WAC's consistency recommendation may be extended by mutual consent by the WAC, the applicant and as appropriate, the Lead Agency, Village Board of Trustees or ZBA.
- 11. Actions to be undertaken within the Village shall be evaluated for consistency in accordance with the LWRP policy standards and conditions as set forth below which are further explained and described in Section III of the Village of Croton-on-Hudson LWRP. A copy of the LWRP is on file in the Village Clerk's office and is available for inspection during normal business hours. Agencies which directly undertake actions shall also consult with Section IV of the LWRP, regarding land and water uses and projects in making their consistency determination.
 - a. Revitalize deteriorated and underutilized waterfront areas (Policy 1, 1A, 1B, 1C, 1D, 1E).
 - b. Retain and promote recreational water-dependent uses (Policy 2, 2A).
 - c. Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5, 5A, 5B, 5C).
 - d. Streamline development permit procedures (Policy 6, 6A).
 - e. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 8).

- f. Maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A, 9B, 10).
 - g. Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 12A, 13, 13A, 14, 16, 16A, 17, 17A, 28, 28A).
 - h. Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).
 - i. Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 19B, 19C, 19D, 19E, 20, 21, 21A, 22).
 - j. Protect and restore historic and archeological resources (Policy 23).
 - k. Protect and upgrade scenic resources (Policy 24, 25, 25A, 25B, 25C, 25D).
 - l. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29, 40).
 - m. Prevent ice management practices which could damage significant fish and wildlife and their habitats (Policy 28, 28A).
 - n. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 30A, 30B, 31, 31A, 32, 33, 33A, 33B, 34, 34A, 35, 36, 37, 37A, 37B, 38).
 - o. Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 35).
 - p. Handle and dispose of hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policy 39, 39A, 39B).
 - q. Protect air quality (Policies 41, 41A, 42, 43, 43A, 43B).
 - r. Protect tidal and freshwater wetlands (Policy 44, 44A).
12. If the WAC makes any Recommendation of Consistency other than that the project is consistent with the LWRP standards and conditions, the Lead Agency

or, as appropriate, the Village Board of Trustees or ZBA shall not overrule their recommendation with regard to the action unless it makes a written determination of its reasons for a contrary determination.

13. If it is determined that the action would not be consistent with one or more of the LWRP policy standards and conditions, the action shall not be undertaken unless the Lead Agency or, as appropriate, the Village Board or ZBA makes a written finding that on balance the action should nevertheless be undertaken, taking into consideration each of the following factors:
 - 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 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.

14. The Lead Agency, or as appropriate, the Village Board of Trustees or ZBA shall have the authority, in its findings of consistency, to impose reasonable conditions on an action to ensure that it is carried out in accordance with this chapter.

VII. NOTICE AND FILING

All notices, CAF's, EAF's, EIS', and all other documents shall be prepared, filed, circulated and made available as prescribed under 6 NYCRR Section 617.10 and this Local Law.

VIII. ENFORCEMENT

The Village Building Inspector shall be responsible for enforcing this Chapter. No work or activity on a project in the Village which is subject to review under this law shall be commenced or undertaken until the building inspector has been presented with a written Determination of Consistency from the Lead Agency, Village Board of Trustees or ZBA,

as appropriate. In the event that an activity is not being performed in accordance with this law or any condition imposed thereunder, the building inspector 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.

IX. VIOLATIONS

(1) A person who violates any of the provision of, or who fails to comply with any condition imposed by, this law 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 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.

X. SEVERABILITY

The provisions of this Local Law are severable. If any provision of this Local Law is found invalid, such findings 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.

XI. EFFECTIVE DATE

This Local Law shall take effect immediately after the following have occurred:

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

VILLAGE OF CROTON-ON-HUDSON, NEW YORK

NOTICE OF PUBLIC HEARING ON PROPOSED
LOCAL LAW

PUBLIC NOTICE IS HEREBY GIVEN that a resolution has been adopted by the Board of Trustees, Village of Croton-on-Hudson, New York at the regular meeting of March 2, 1992 to schedule a PUBLIC HEARING on the following:

Local Law Introductory #2 of 1992, to adopt the
Local Waterfront Revitalization Program (LWRP) Consistency
Review Law.

THEREFORE, pursuant to statute, the Board of Trustees, Village of Croton-on-Hudson, New York, will hold a PUBLIC HEARING on Monday, March 16, 1992, 8:00 p.m. at the Municipal Building, Croton-on-Hudson, New York, at which time all interested parties will be heard.

Richard F. Herbek
VILLAGE MANAGER
271-4848

Date: March 3, 1992

Publish Once: March 5, 1992

Provide affidavit of publication

LOCAL WATERFRONT REVITALIZATION PLAN

Draft Adopting Resolution with Amendments
February 25, 1992

- WHEREAS, THE Village of Croton on Hudson Board of Trustees, as Lead Agency, accepted a Draft Generic EIS for the Draft Local Waterfront Revitalization Program as complete on October 17, 1989;
- WHEREAS, the public comment period was established from October 17, 1989 to December 22, 1989; and
- WHEREAS, the Village of Croton on Hudson Board of Trustees and its consultants have reviewed the Final Generic EIS for adequacy with respect to content in response to involved agency and public comments on the Draft Generic EIS; and
- WHEREAS, the Village of Croton-on-Hudson Board of Trustees had determined that the Final Generic EIS was complete and adequate for public review according to Section 617.9 of SEQR; and
- WHEREAS, the Village Board of Trustees held open a public comment period for review of the Final Generic EIS from April 1, 1991 through April 15, 1991; and
- WHEREAS, the Final Generic EIS, the Resolution accepting the Final Generic EIS as complete, and the SEQR notice of Completion were circulated to all involved interested agencies; and
- WHEREAS, the Final Generic EIS has been available for public review at the Village of Croton-on-Hudson Village Hall; and
- WHEREAS, the Village Board of Trustees of the Village of Croton-on-Hudson, on April 15, 1991, unanimously made a SEQR Finding to adopt the Village of Croton on Hudson Local Waterfront Revitalization Program and the SEQR Findings statement; and
- WHEREAS, the commitment of the Village to the protection of its unique water resources has been evidenced by the energy and devotion of the citizens and officials involved in the production of the LWRP and;
- WHEREAS, a principal advantage of having a local waterfront revitalization program is the power it gives the Village to ensure that activities by federal, state, and county governments bearing on its environment are tailored to the character and particular requirements of the village, and
- WHEREAS, the LWRP implements New York State's Coastal Management Program; and
- WHEREAS, acceptance of the LWRP entitles the village, without charge, to technical and legal assistance from the New York Department of State in the implementation of the LWRP to the extent possible, and
- WHEREAS, actions to implement the LWRP will be adopted by separate resolutions in the future
- NOW THEREFORE BE IT RESOLVED, that the Village Board of Trustees of the Village of the Village of Croton-on-Hudson adopts the Local Waterfront Revitalization Program subject to the provisos and amendments listed hereinafter in this

resolution.

1. The Village undertakes to implement the policies stated in the LWRP, to the fullest extent possible within the limits imposed by its financial and administrative resources as determined by the Village Board. The Village budget is adopted by the Village Board pursuant to Article 5 of the Village Law, and nothing in the LWRP shall require the Village to make any expenditure not budgeted under that process.
2. The policies of the LWRP shall apply to actions classifiable under the State Environmental Quality Review Act as Type I and Unlisted.



DEPARTMENT OF STATE
COASTAL PROGRAMS

APR 6 1992

RECEIVED

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Village of Croton-on-Hudson, New York

P.O. Box 249
Municipal Building
Croton-on-Hudson,
NY 10520

(914) 271-4781-2
FAX (914) 271-2836

Mayor
ROBERT W. ELLIOTT

Trustees
THOMAS K. BURNISTON
EDWARD H. GLASS
JOHN W. HARBESON
ANN C. LINDAU

Manager Clerk
RICHARD F. HERBEK

Treasurer
RICHARD J. CAMPBELL

Attorney
SEYMOUR M. WALDMAN

Engineer
PHILIP A. TULLY, P.E., C.P.C.A.
271-4783

April 2, 1992

Gail S. Shaffer
Secretary of State
State of New York
Department of State
Albany, New York 12231-0001

Dear Ms. Shaffer:

Enclosed is the Village of Croton-on-Hudson's Local Waterfront Revitalization Program (LWRP) Consistency Review Law and the LWRP. Both of these documents were unanimously approved at the Regular Meeting of the Village Board on March 16, 1992.

I would like to thank Loretta Simon and William Sharp for all of their assistance in preparing these documents. The LWRP should be very beneficial for our municipality and the Village looks forward to working with the Department of State on ensuring consistency with the LWRP policies.

Sincerely,

Richard F. Herbek
Village Manager

RFH/cb