Local Waterfront Revitalization Programs in the Coastal Area: Guidance Manual for Preparing Local Programs













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I. INTRODUCTION

Purpose of this Guide

New York State has developed this new Guidance Manual to assist municipalities, consultants and the public in preparing a Local Waterfront Revitalization Program (LWRP). Each municipality located within the state's coastal area[1] is eligible to prepare an LWRP. Prepared on a voluntary basis by interested municipalities, LWRPs provide important local specificity for New York's Coastal Management Program (CMP).

The Guidance Manual updates prior instructions about why and how to prepare an LWRP.[2] It provides the background, suggested format, steps, and links to resources for communities to prepare a new LWRP or amend an existing LWRP that addresses and may refine State coastal policies and meets the requirements of the State's CMP or, if located on Long Island Sound, the Long Island Sound Coastal Management Program. It also recognizes the growing need to consider community resilience, resources protection and economic development on both a local and regional basis for successful and sustained waterfront revitalization. The Department of State's Office of Planning, Development and Community Infrastructure (DOS) can help communities determine the right approach to address their local issues.

The goals of this Guidance are to:

- Provide a concise, easy to use guide to prepare an LWRP for use by communities and their consultants.
- Make the LWRP process more flexible and responsive to emerging local, regional and statewide issues and needs.
- Recognize the growing regional nature of waterfront revitalization, economic development, community resilience, resource protection, and sustainability.

This Guidance recognizes the growing need to consider economic development, community resilience, and resources protection on both a local and regional basis for successful waterfront revitalization.

The Guidance also explains the many benefits that accrue to a municipality – whether located in the coastal area or situated on a designated inland waterway- that voluntarily chooses to prepare an LWRP. The benefits of completing and implementing an LWRP include development of a consensus-driven, unified vision for waterfront revitalization; review of government agency actions that affect the local waterfront area for consistency with the LWRP's policies; technical assistance from DOS; and, increased opportunities for the municipality to apply for financial assistance from State funding sources to implement its LWRP.

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[1] This Guidance addresses preparation of LWRPs in New York State's Coastal Management Area. The Guidance may be used for general structure and content of local waterfront programs on inland waterways designated in Article 42 of the New York State Executive Law, however inland communities should contact DOS for information on how inland waterway LWRPs differ from coastal area LWRPs.

[2] This Guidance serves as additional information to supplement and support the guidance provided in Appendix B of the CMP that lays out how to prepare an LWRP. The NYS Coastal Management Program, including Appendix B, is available at: https://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf

What is an LWRP?

An LWRP is a comprehensive land and water use program that expresses a vision for the waterfront area and provides the means to achieve that vision. An LWRP is the only planning and regulatory tool that allows a local community to refine Statewide coastal policies to apply to the local situation. LWRPs may be prepared by municipalities in the State Coastal Area, which includes cities, towns and villages located on the Atlantic Ocean, New York Harbor, Long Island Sound, the East River, the Harlem River, the Kill von Kull and Arthur Kill, the Hudson River south of the federal dam at Troy, the Niagara River, the St. Lawrence River, and the Great Lakes.

A new or amended LWRP is reviewed by local, state, and federal agencies and once approved, the coastal LWRP becomes the basis for aligning local, state, and federal actions needed to achieve community goals for the waterfront. This is extraordinary authority available to a municipal government given the sovereignty of the state and federal governments. Once the LWRP is approved, both state and local agencies must align their proposed actions with the LWRP policies. Competitive funding through New York State's Environmental Protection Fund (Title 11) is available to support the development of LWRPs.

New York State developed the CMP to promote the beneficial use of, and to prevent impairment of, the State's natural and cultural coastal resources, and to appropriately manage major activities that have substantial effects on these coastal resources. The CMP was developed pursuant to the federal Coastal Zone Management Act of 1972 (CZMA). It provides a framework for government decision-making concerning proposed activities with effects in New York's coastal area. Federal and State agencies must adhere to the policies of the CMP.

The State Legislature enacted the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Law[3] (the Waterfront Act) to provide the means and incentives for municipalities to prepare and implement LWRPs for their waterfronts located within the State's coastal area. The Waterfront Act invites the voluntary participation of local governments to develop a unique local waterfront revitalization plan and refine the CMP policies. The development, review, and approval of an LWRP is guided by DOS, which administers New York State's CMP. The LWRP reflects local conditions, opportunities, and needs within the portion of the State's coastal area delineated by the municipal boundary.

By preparing an LWRP, community stakeholders take the opportunity to evaluate local waterfront resources, develop goals and a comprehensive strategy for the best use of those resources, identify ways in which the community can reduce risk to community assets and make them more resilient to future threats and natural disasters, propose future land and water uses, and put in place a local program that will guide the community in attracting appropriate development to the waterfront area while planning for sustainability. LWRPs also provide the organizational structure, local laws, and projects to achieve the plan.

[3] Executive Law, Article 42.

Waterfront Planning through the Local Waterfront Revitalization Program

Overview: LWRP Preparation and Content

Any local government or two or more local governments acting jointly in the coastal area or on a designated inland waterway[4] may prepare a waterfront revitalization program and seek its approval by the Secretary of State. Each locality or localities acting jointly in developing an LWRP may have a different approach to planning for their waterfront area.

LWRP's may be prepared by existing municipal staff however, are traditionally prepared by a planning consultant hired by the municipality. Financial support may be obtained by a competitive planning grant award through the DOS EPF LWRP program. LWRP development is guided by a member of the DOS professional planning team.

The statute and implementing regulations specify the contents of an LWRP, and to some extent the procedure for Secretary of State review.[5] Each LWRP must include:

1. Boundaries of the local waterfront area;

2. An inventory of natural and historic resources of the waterfront area to be protected;

3. A statement of the goals and objectives of the LWRP [this is also where the enforceable waterfront policies are found];

4. Identification of the uses and projects to be accommodated in the waterfront area;

5. Description of proposed means for controlling waterfront development and activities including appropriate land use controls;

6. An identification of the state agency actions that will be subject to consistency with the local program; and

7. A Comprehensive Harbor Management Plan.

The Boundary section of the LWRP contains a narrative and graphic description of the waterfront area for the coastal municipality. The State Coastal Area Boundary sets the inland limit of the local waterfront area within a coastal municipality. However, as part of the preparation of an LWRP, a municipality may recommend a revision of the inland boundary based upon local conditions. The waterside boundary of the local waterfront area often coincides with the applicable municipal boundary, and, sometimes, including an area of up to 1500 feet of the adjacent waterway where State laws delegate authority to municipalities to regulate certain water uses and structures.

The local policies of the LWRP must be as comprehensive and detailed as, and maintain the purposes of, the State coastal policies while adapting the general provisions to the specific problems and opportunities of the local waterfront area. The LWRP policies for a coastal municipality may not diminish the provisions of the State coastal policies applicable to the local waterfront area. The LWRP policies address how each applicable State policy is to be interpreted in the community. Local governments generally add

[4] This Guidance addresses preparation of LWRPs in New York State's Coastal Management Area. While the Guidance may be used for general structure and content of LWRPs on inland waterways designated in Article 42, contact DOS for information about differences between inland and coastal LWRPs.

[5] The LWRP preparation and approval process is set forth in the Waterfront Act and its implementing regulations at 19 NYCRR Parts 601 and 603. See Section II for more information about the legislative background for LWRPs.

detail to the State policies either: by providing standards and criteria which are more specific than those established in the State policies; or by identifying particular geographic areas or resources within the community to which the policy applies. Usually a combination of these approaches is used.

The LWRP must plan for long term land and water uses for the local waterfront area and specify the legal techniques for implementation. A municipality's existing or proposed land use regulations covering the waterfront area are one of the implementation techniques, however the regulations must be consistent with the proposed uses of the LWRP. The land use regulations adopted to implement LWRPs often address appropriate locations for and controls on land development and provide for natural resource preservation.

Local regulations should be designed not to achieve a single purpose or objective but to implement a clear overall concept of how the community's waterfront should be used. Generally, the regulations must: assure that new waterfront development is well designed and sited; provide for public access to the water; prevent the displacement of essential water dependent uses (recreational, commercial and industrial) by uses which do not require a waterfront location, particularly residential and retail uses; bring land use regulations into better conformity with the objectives of State regulations for the protection of natural areas; and assure that new development is not sited or designed so it will face inevitable damage from the natural forces of flooding, erosion and rising water levels.

Any of the local land use controls used in New York State, such as zoning, subdivision review, site plan review, cluster, historic preservation, planned unit development, and environmental regulation, may be used to implement the program. It is recommended that local governments adopt local consistency review laws to require that local agencies carry out their actions in a manner consistent with the approved LWRP. The adoption of a local consistency review law is often the most effective action the municipality can take to encourage private development that is consistent with community objectives.

Substantively, the LWRP must be consistent with the State coastal policies, be supported by adequate local legal authority, identify specific State actions necessary for implementation of the program, achieve the waterfront revitalization objectives of the Waterfront Act and address specific activities to an extent commensurate with the particular circumstances of the community.

LWRP Component Planning

While DOS encourages communities to complete a comprehensive LWRP including consideration of all enforceable State coastal policies and local waterfront geographical areas, for some communities it may be appropriate to advance the LWRP in stages. This approach is intended to address the most time sensitive and geographically significant priorities and policies.[6]

An LWRP Component should focus on one or more State coastal policies that are relevant to the particular conditions and priorities in the municipality, address a significant geographic portion of the municipality's waterfront, or both. Over time, a community may complete several LWRP components, which together may then be combined to serve as a comprehensive LWRP that meets the requirements of

[6] Executive Law § 915(5) authorizes the Secretary of State to approve "a portion or component of a local waterfront revitalization program" provided that the program constitutes a discrete, cohesive, comprehensive, treatment of the subject or subjects addressed, which may be related to environmental, social, regional growth management, or economic conditions.

either the State's Coastal Management Program or the Long Island Sound Coastal Management Program. DOS will provide technical assistance for communities that wish to take this phased approach.

When preparing an LWRP as a series of components, the recommended first step is to work with community partners to come to consensus on a vision for future use of the waterfront, the topics and/or geographic areas that are most important to the community, and the issues that will be addressed first. Vision and goal development is described in more detail in Section III of this Guidance document.

Emerging Issues that May be Explored in Preparation of an LWRP

Economic Revitalization

Economic revitalization is an important issue facing many communities today. Even where ignored for decades, waterfronts hold a diversity of economic value that awaits rediscovery. The historical and psychological draw that waterfronts provide is so compelling that the waterfront is often the heart of the community. LWRPs can address this need by including a comprehensive local and regional economic analysis and redevelopment strategy for the waterfront area. In addition, communities should incorporate in their visioning process the regional economic development strategies, five-year strategic plans, and reports that have been developed by the State's ten Regional Economic Development Councils (REDCs). These regional councils, intended to serve as the primary point of contact for economic activity in each region, are part of New York's operating model for stimulating economic development throughout the State and are responsible for driving local and regional economic development and improving the State's business climate.

Community Resilience

Compounding the difficulties of improving local and regional economies is the increasing need for coastal communities to cope with extreme weather events that are becoming more severe and frequent due to climate change. One method for establishing a resilience strategy is to undertake coastal resilience planning integrated with development of an LWRP. When planning for coastal resilience is included as part of the LWRP inventory and analysis, the community identifies key regional and community assets within their planning boundary, and evaluates flooding and erosion risks to those community or regional assets such as hazards addressed in the relevant county's All-Hazard Mitigation Plan (if available).[7] The community then assembles and prioritizes a set of management measures that establish effective adaptation to changing conditions on the coast and along waterways. The community should also identify vulnerable populations and define social and economic consequences from severe weather and resulting economic impacts that can potentially be mitigated with resilience planning.

As a result of coastal resilience planning, more resilient communities understand which of their assets and populations are at risk. Understanding which assets and populations are vulnerable to hazards, currently and in the future, allows communities to take coordinated, informed, and deliberate measures to reduce those risks. Understanding risk on the landscape also enables communities to better understand where proposed development is at the greatest or least risk from flooding and erosion hazards. Resilience planning as part of the LWRP preparation process better equips

[7] All-Hazard Mitigation Plans prepared under the Federal Disaster Mitigation Act of 2000 evaluate natural hazards and propose strategies to mitigate such hazards. For more information see: https://www.fema.gov/hazard-mitigation-planning#

communities with the information needed to implement both short- and long-term strategies for handling severe weather events. For more information about resilience planning see Chapter III, Section 3 (Inventory and Analysis) of this guide.

More resilient communities are better able to withstand and recover from severe weather events. The LWRP helps achieve resilience through planning. The recommended management measures resulting from the planning process can aid communities in withstanding stresses without suffering permanent or long-term loss of community functions, devastating damage to assets, diminished productivity or quality of life. Planning ahead provides a modicum of independence that requires minimal outside assistance to restore full operation of public and private activities.

Joint Municipal LWRP

Waterfront communities face many diverse natural resource issues, including polluted surface and ground water, storm water runoff management, drought, sea level rise, local flooding, shoreline erosion, and related threats to public infrastructure, such as impacts to transportation and energy storage and transmission. These issues transcend municipal boundaries at a regional scale. Communities with shared interests or resources are encouraged to coordinate their individual programs and to prepare an intermunicipal program. However, while communities can work together to address common topics of interest and propose intermunicipal projects in a Joint LWRP, within each community's boundaries, the municipality's own local laws will be the enforcement mechanism for the Joint LWRP, effective within those municipal boundaries.

Waterfront economic development is also increasingly a regional concern. The shift from manufacturing and industry into a tourism economy requires regional cooperation for destination planning, marketing, and infrastructure development. For example, communities along a shared waterway may identify a common need to address waterfront access and waterfront development policies to support their local economies. An intermunicipal Blueway Trail (small-boat route connecting municipal waterfronts along a waterway) can be proposed as an implementation project in a Joint LWRP to achieve goals for both economic development and waterfront access for recreation.

The regional emphasis of the joint municipal approach to the LWRP also acknowledges the fact the health, sustainability, and economic vitality of *all* municipalities in a region are dependent on high quality surface and ground water resources for resilient water supply, recreation, tourism, agriculture, local business, industry, and overall economic development. In addition to an LWRP, communities may consider preparing a watershed management plan and advancing on-the-ground watershed improvement projects on a cooperative regional basis. A watershed management plan can help communities achieve local, regional and statewide goals for healthy water quality needed to sustain natural resources and economic development, supporting the water resource objectives in the LWRP at the same time.

DOS can provide support and resources related to current thinking and planning methodologies for a Joint Municipal LWRP, as well as focused planning support for regional issues such as Smart Growth, Climate Change Resiliency, Watershed Planning, and Brownfield Opportunity Areas.



Corning Preserve,
City of Albany

II. LEGISLATIVE BACKGROUND AND BENEFITS OF THE COASTAL MANAGEMENT PROGRAM

Legislative Background

The New York State Executive Law Article 42: Waterfront Revitalization of Coastal Areas and Inland Waterways Act (the "Waterways Act") establishes the State's Coastal Management Program and authorizes the development of Local Waterfront Revitalization Programs (LWRPs). Article 42 was amended in 1992 to require development of a Harbor Management Plan (HMP) and a means for its implementation as part of an LWRP, effectively providing local governments with the clear authority to comprehensively manage activities in harbor and nearshore areas (HMPs are described in Section III-4 of this document). Also drawing its authority from Article 42 of the Executive Law, the Long Island Sound Coastal Management Program replaces the State's Coastal Management Program for the Sound shorelines of Westchester County, New York City south of the Throgs Neck Bridge, Nassau County and Suffolk County. The Long Island Sound Coastal Management Program is currently the only regional element of the State's Coastal Management Program.

An LWRP must be comprehensive, addressing all issues having effects within a community's waterfront. 19NYCRR Parts 600, 601, 602, and 603 provide the rules and regulations that implement each of the provisions of Article 42 of the Executive Law, including the required content of an LWRP, the processes of submission, review and approval of an LWRP, how to amend an LWRP, and requirements for Harbor Management Plans (See Appendix 2). Notwithstanding this, communities may prepare the LWRP as a series of LWRP components, addressing critical issues and related policies first and other issues later, as described in Section I of this Guidance Manual.

The Waterways Act designates the Department of State as the administrator of New York's Coastal Management Program. As such, the Department's Office of Planning, Development & Community Infrastructure guides the community through completion of the draft LWRP and review of the program by State and federal agencies.

Once approved by the New York State Secretary of State, permitting, funding, and direct actions by State agencies must be consistent with the LWRP. For an LWRP in the State Coastal Management Area, the Secretary then submits the document to the NOAA Office of Coastal Management (OCM), requesting incorporation of an LWRP into the State's CMP through a Routine Program Change (RPC) as described in federal regulations.[8]

Following concurrence by OCM, all federal agency activities are required to be consistent with the policies and purposes of the LWRP. The benefit of this process is that once approved, federal and State actions located in the LWRP waterfront area are reviewed for consistency with the policies in the

[8] A Routine Program Change is described in the Code of Federal Regulations (CFR) published in the Federal Register as 15 CFR § 923.84: "(a) Further detailing of a State's program that is the result of implementing provisions approved as part of a State's approved management program, that does not result in the type of action described in § 923.80(d), will be considered a routine program change."

municipality's LWRP. This reflects the fact that these policies have now been incorporated in the State's CMP. All LWRPs approved by the Secretary of State and those that have been posted for 60-day review can be viewed by searching for "LWRPs approved by the NYS Secretary of State" and "Draft LWRPs" on the DOS website at: https://www.dos.ny.gov/

Benefits and Responsibilities of having an Approved LWRP

An LWRP serves as a mechanism for waterfront municipalities to work with DOS and federal, State and local partners identified in each LWRP to address local and regional issues important to community members. These issues are broad ranging, but waterfront focused. They include improving water quality and natural areas, guiding development to areas with adequate infrastructure and services and away from sensitive resources, increasing community resilience to natural hazards, promoting waterfront public access and recreation, and redeveloping underutilized waterfronts.

Some of the **benefits** of completing an LWRP include:

- **Clear direction** – An approved LWRP reflects community consensus for the waterfront and provides clear direction for appropriate future development. The LWRP can significantly increase a community's ability to attract appropriate development that respects the unique cultural and natural characteristics of the waterfront.
- **Comprehensive planning, technical assistance and advice** – An LWRP establishes a long-term partnership among local government, community-based organizations, and the State. DOS provides technical assistance to communities for comprehensive planning and the development of an LWRP.
- **Coordinated Review and Approval** – State and federal agencies have an opportunity to review and comment on the policies and purposes of the LWRP during the 60-day review period for a Draft LWRP. This participatory process provides agency "buy-in" opportunity that contributes to a basis for funding support and more knowledge of local considerations in agency actions and permitting that are subject to consistency review.
- **Federal, State and local consistency** – The activities of all three levels of government are required to be consistent with a locally-adopted LWRP that has been approved by the Secretary of State with concurrence by OCM. This "consistency" provision is a strong tool that ensures government agency actions at all levels are guided by the local program. Following completion of a coastal LWRP, DOS completes reviews and issues decision letters to assure that federal agencies are consistent with the LWRP coastal policies that the community has included in its LWRP. Municipalities with an approved LWRP also conduct local review for local actions. State agencies conduct consistency review for State agency actions.
- **Financial assistance** – An LWRP presents a consensus-driven, unified vision for a community. Having an approved LWRP increases a community's chances to obtain public and private funding for projects that are clearly identified in the LWRP (see Section 4 for guidance and tools for presenting proposed projects in the LWRP). Funding for both the preparation and implementation of LWRPs may be requested through New York State's Environmental Protection Fund under Title 11, Local Waterfront Revitalization Program (EPF LWRP), with DOS administering the awarded grants through staff support to the awardees. Other NYS agencies with funding programs that may support LWRP implementation projects include the

Office of Parks, Recreation and Historic Preservation (OPRHP), the Department of Environmental Conservation (DEC), and Empire State Development. Grant applications for these state programs are administered through the NYS Consolidated Funding Application (CFA).

There are some **responsibilities** for a municipality with an approved LWRP. The implementation and administration of an approved LWRP will be a continuing responsibility of the village, town or city. After approval of the LWRP, the municipality will be responsible for administering the local laws, regulations and procedures designed to ensure that local actions comply with the LWRP. The municipality will also carry out other activities necessary to accomplish the objectives of the program. The municipality will need to monitor local, State, and federal actions intended to be undertaken within its waterfront area. If it believes an action is not consistent with its approved LWRP, the municipality is responsible for providing notification to the Secretary of State in accordance with the coordination procedures included in the LWRP.



Valentino Pier,
Brooklyn, NY

III. STEP by STEP GUIDE for DEVELOPING THE LWRP

This chapter provides a step-by-step guide to organizing for and developing a new LWRP or revising and amending an existing LWRP. Required content for an LWRP is set forth in the Waterways Act.[9] The Waterways Act also refers to additional guidance that may be prepared by New York State (such as this document) to provide more specificity on the content needed for an LWRP to be approved by the Secretary of State. A checklist for completing the LWRP is provided in Appendix 1 of this Guidance. It is intended to assist communities and their consultants with preparing an LWRP with the information needed for approval. Additional resources are referenced throughout this guide. DOS also provides technical assistance and support to communities throughout the LWRP development process.

Getting Started

Development of an LWRP is an in-depth planning process involving a multi-year commitment from municipal agencies and DOS staff. Before diving into the tasks needed to prepare the LWRP, there are three planning steps that DOS recommends to ensure that the municipality has the support to prepare the document and that the final product will reflect the consensus of the community. These steps consist of forming a waterfront advisory committee, procuring consultants, and involving the public.

1. Waterfront Advisory Committee

A waterfront advisory committee (WAC) is recommended for all communities undertaking development of an LWRP. The WAC should be appointed early in the process to oversee and coordinate development of the LWRP. Formation of a WAC is required if the community has been awarded an EPF LWRP grant for development of an LWRP or LWRP amendment. An optimum size for the committee is ten to fifteen members, including key stakeholders recognized as having the ability to get things done. Representatives of State, county, and municipal agencies with jurisdiction over project activities or the project area, non-governmental and community-based organizations, and local businesses should be included. In some communities, the functions of a waterfront advisory committee may be handled by an existing board, such as the planning board or a conservation advisory commission, but more often a separate committee is established to work on the LWRP.

The responsibilities of the waterfront advisory committee generally include:

- Managing the planning process or advising municipal staff and consultants on the process
- Providing valuable input on waterfront issues and existing conditions
- Holding regular WAC meetings and targeted focus group meetings, design charrettes, visioning and action planning workshops, and public hearings
- Informing others in the community about the process and how they can be involved
- Reviewing reports, designs, and other documents
- Keeping elected officials and municipal officials informed about the planning process
- Working with municipal staff, consultants, State agency staff, and others to complete tasks relating to the development of the LWRP

[9] The Waterways Act, Article 42 of the Executive Law, §915 sets forth required content for an LWRP to be approved by the Secretary of State. See Appendix 2 for the full text of §915.

When developing a Joint Municipal LWRP, the communities involved should include representatives of each of their municipalities on the waterfront advisory committee. The sponsoring municipality for the Joint Municipal LWRP should also look at a wider geographic base to involve all appropriate organizations.

2. Procuring Consultants

Communities often hire consultants to supplement their own staff and volunteer resources or to gain use of special skills. Selecting a consultant involves the following steps:

1. Identify the role of the consultant using the following suggested steps:
    - Decide what the consultant will do. Consultants can assist with public involvement, inventory and analysis, mapping, development of local laws, writing the LWRP text, or entire project coordination.
    - Identify what skills, expertise, and experience the consultant will need to carry out the activities that have been identified.
    - Decide on the roles of the waterfront advisory committee, municipal staff, and the consultant.
2. Secure funding to cover consultant costs.
3. Develop and issue a Request for Proposals (RFP), Request for Qualifications or Request for Expression of Interest based on the roles and tasks that were identified, available funding, and the municipality's procurement policies. If preparation of the LWRP is supported by a DOS grant, the RFP should include the applicable tasks in the grant work plan, and there may be specific requirements identified in the contract between the community and the State, such as circulating the draft RFP to DOS for review and approval prior to release.
4. Form a selection committee, which is often a subset of the waterfront advisory committee, or for smaller projects it may be the waterfront advisory committee itself.
5. The selection committee should review and rank proposals submitted based on criteria included in the RFP and interview finalists. The selection committee will then submit their findings and recommendation for the most qualified firm to the waterfront advisory committee.
6. Prepare a consultant contract in coordination with the municipal board and municipal attorney. If preparation of the LWRP is supported by a DOS grant, the consultant contract should include the applicable tasks in the grant work plan.

Once the consultant has been selected and the contract is in place, schedule a meeting with the waterfront advisory committee, municipal leaders, and the consultant to review project requirements, local conditions, and roles and responsibilities; identify waterfront and harbor management planning issues, new information needs and next steps; and, transfer any information to the consultant(s) which would assist in completion of the LWRP.

3. Public Engagement

Successful waterfront revitalization happens when the community realizes that the waterfront belongs to them. By bringing people together, the community can create a vision that captures the ideas and interests of a broad constituency of those concerned with the future of the waterfront. The most effective way to ensure public participation is to prepare a public involvement and outreach plan at the beginning of the process. The public outreach plan can be prepared by the community, by the consultant, or as a joint effort as one of their first tasks. A public involvement plan is usually required if the community has been awarded an EPF LWRP grant for development of an LWRP or LWRP amendment.

Waterfront VISION:
The City of Rochester's three great waterways and their unique assets and resources are a "world-class" attraction that enhances the quality of life for residents and visitors, preserves and protects the environment, encourages economic investment and is integrated into the fabric of our community.

The public outreach plan should include all aspects of the public involvement process. The plan should identify a diverse range of stakeholder groups and potential partnerships including key individuals, organizations, and entities to be involved. The public outreach plan should identify roles and responsibilities of municipal staff, the waterfront advisory committee, and the consultant in coordinating the entire public outreach process. The proposed schedule and content of public meetings, including a community visioning process, should be described. Methods that will be used for publicizing public meetings and workshops should be identified - such as press releases, announcements, web postings, individual mailings, and information tables at community events.

More information and community case studies related to forming a waterfront advisory committee, procuring consultants, and public engagement are provided in the DOS guidebook, "Making the Most of Your Waterfront: Enhancing Waterfronts to Revitalize Communities" available at: http://www.dos.ny.gov/opd/programs/pdfs/Guidebooks/lwrp/LWRP_guidebook.pdf

Communities and their consultants should work closely with DOS throughout the development of the LWRP to obtain technical assistance and advice on preparation of the LWRP sections, maps, projects and local laws described in this guide.

Content of the Local Waterfront Revitalization Program Document

The LWRP document describes the municipality's program for the management of its waterfront resources. By following the recommendations for LWRP content in this guide, communities will be eligible to receive the full benefits of the Department of State's Local Waterfront Revitalization Program, including technical assistance and the opportunity to apply for implementation funding. The following headings reflect the required content of an LWRP as stated in Article 42, § 915, and 19 NYCRR Part 601 (see Appendix 2). The description of each section provides further information that will assist municipalities in developing a comprehensive LWRP.

The LWRP should be prepared according to the following guidelines and subsequently adopted by the local government. Once approved by the Secretary of State and the federal Office of Coastal Management, an LWRP in the coastal area substitutes for the State Coastal Management Program within the waterfront revitalization area described in the LWRP and becomes the primary program for reviewing local, State, and federal actions affecting that waterfront revitalization area.

Introduction: Statement of Goals and Objectives

Development of an LWRP typically begins with engaging the community to develop a vision, goals, and objectives for future use of the community's waterfront. A vision statement arrived at through consensus articulates what the community members see as their shared future and what they hope to accomplish through an investment of time and money. A vision statement is further refined by goals that establish

broad guidelines on particular issues and objectives describing a series of achievable tasks to fulfill the vision and goals.

> A VISION for Long Island Sound:
> A Long Island Sound coastal area enriched by *enhancing* community character, *reclaiming* the quality of natural resources, *reinvigorating* the working waterfront, and *connecting* people to the Sound.

The vision statement, goals, and objectives mark a starting point for the actions that will guide the community revitalization process from planning through successful implementation. The completed LWRP should express a vision of what the waterfront can become, and a pragmatic strategy for achieving that vision. Planners and consultants experienced in community visioning can be very helpful in guiding the community through this process. More information and case studies about community visioning are provided in the DOS guidebook, "Making the Most of Your Waterfront: Enhancing Waterfronts to Revitalize Communities" available at: http://www.dos.ny.gov/opd/programs/pdfs/Guidebooks/lwrp/LWRP_guidebook.pdf

Section 1: Boundaries of the Waterfront Revitalization Area and Harbor Management Area

The policies, projects and programs described in the LWRP will be implemented within defined geographic areas known as the local Waterfront Revitalization Area and Harbor Management Area.

The Waterfront Revitalization Area (WRA) for coastal communities is, by default, the area within the municipality that falls between the NYS Coastal Area Boundary (the upland boundary) and the municipal boundary (the waterside boundary), which in some cases is at the water's edge and in other cases extends out from the shoreline into the water. The Coastal Area Boundary is available for both viewing and data download on the New York Department of State's Geographic Information Gateway at: http://www.dos.ny.gov/opd/atlas/index.html

However, after undertaking a preliminary review of waterfront resources, problems and opportunities as described below, a municipality may determine that a different boundary makes sense. In such a case, the municipality may propose, supported by a written justification, that the WRA encompass a subset of the municipal area that lies within the State Coastal Area Boundary. This would be accomplished by setting the WRA upland boundary closer to the water than the existing State Coastal Area Boundary. In this scenario, the LWRP policies will apply in the WRA subset area, and the State coastal policies will apply in the rest of the municipality within the State Coastal Area Boundary. The municipality may also propose that the existing State Coastal Area Boundary be expanded inland, however this change requires a written justification explaining why the expanded area is important for inclusion in the WRA and must be approved by the DOS.

To determine the boundaries of the WRA in a coastal community,[10] a municipality should conduct a preliminary review of waterfront resources, problems, and opportunities and fully document the reasons for selecting the WRA, presented in the LWRP as an explanation of the *upland boundary* and the *waterside boundary*.

Determination of the WRA *upland boundary* should reflect the following criteria:

[10] Contact DOS for guidance on identifying the WRA boundary for LWRPs on designated inland waterways.

- Include areas that affect or are affected by waterfront issues, problems, and opportunities, with a focus on water-dependent[11] and water-enhanced uses;[12]
- Include natural and cultural resources with a physical, social, visual, or economic relationship to the waterfront;
- Include any areas necessary for the achievement of policies in the LWRP. For example, if a policy of the LWRP is to encourage development of a specific vacant parcel of land that relates to waterfront revitalization, the entire parcel should be included within the waterfront area boundary; and,
- The boundary should follow recognizable natural or cultural features (waterways, streets, railroads, etc.) to the extent possible.
- The boundary should be drawn to reflect a nexus between activities occurring in the upland portion of the WRA and the waterway.

The *waterside boundary* of the WRA will be the official municipal boundary, which in some cases is at the water's edge and in other cases extends out from the shoreline into the water.

For the HMA boundary, extension of municipal jurisdiction over water needs to be considered and shown on the boundary map, usually depicted as the offshore 1,500 feet extraterritorial limit in which the State has delegated regulatory authority to the municipality for Harbor Management Plans.[13] Where cities, villages, and towns intersect the 1,500 feet boundary the adjoining municipalities may need to enter into an intermunicipal agreement for regulation of the harbor activities. Consultation with the municipal attorney will be needed. See Appendix 3 for guidance on HMA boundaries and preparing Harbor Management Plans.

Both Draft LWRPs and Draft LWRP Amendments must include a map showing the municipal boundary, the existing State Coastal Boundary and any proposed revisions to the existing Coastal Boundary (further inland only), the proposed WRA boundary, surface waters, and adjacent uplands which affect the waterbody. The document must also include a narrative description of the existing coastal boundary running through the municipality, and a description of any proposed revisions. If a revision to the boundary is being recommended, the document must provide clear and justifiable reasons for the proposed revision. See Appendix 4 for guidance on preparing maps for the LWRP, including required maps, data sources, and suggested graphic formats.

Recommendations for revision of the coastal boundary cannot be officially approved or disapproved until after review of the Draft LWRP. DOS will advise the municipality on whether the recommended

[11] *Water-dependent use* means a business or other activity which can only be conducted in, on, over, or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water. (From 19 NYCRR 600.2)

[12] *Water-enhanced use* means a use or activity which does not require a location adjacent to coastal waters, but whose location on the waterfront adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail, or entertainment uses. (From 19 NYCRR 600.2)

[13] Section 46-a of the Navigation Law and Section 130.17 of the Town Law provide municipalities with the authority to regulate certain vessel uses upon waters within a municipality, or bounding a municipality to a distance of 1,500 feet from shore. These enabling statutes only apply to the regulation of the over-water use of vessels. Where a municipality's corporate limits end at the shore, Sections 46-a of the Navigation Law and Section 130.17 of the Town Law provides municipalities with the extraterritorial authority to regulate the over-water use of vessels up to 1500 feet from the shore. However, Section 130.17 (3) of the Town Law prohibits a town from regulating the over-water use of vessels upon waters within a village, or within 1500 feet from the shore of a village.

revisions appear to be reasonable and acceptable. Recommended revisions that will substantially increase the State Coastal Area must be supported by evidence that the additional areas meet the criteria for *upland boundary* and *waterside boundary* specified previously in this section.

The initial recommendation for the WRA and HMA boundaries should be revisited after completion of the inventory and analysis and public discussions to determine if any additional areas need to be added to the WRA or HMA.

Section 2: Inventory and Analysis

The core of an LWRP is a comprehensive inventory and analysis of existing conditions within, or having effects within, the WRA. This section of the LWRP describes important resources, persistent or emerging problems, opportunities, and other issues. Only with specific knowledge and thorough understanding of the problems and opportunities present in the WRA will the municipality be able to develop an LWRP that will be effective in achieving the results desired.

The inventory and analysis must be broad enough to ensure consideration of all important waterfront resources, problems and opportunities. The inventory also must be detailed enough and provide documentation thorough enough to support the coastal policies, existing and proposed land use controls, and project proposals described later in the document. Existing inventories should be used as much as possible. In addition to work previously done by the municipality, the strategic plan developed by the respective Regional Economic Development Council (REDC), studies completed by county and regional planning agencies, and planning work done by various local organizations all provide useful information.

Maps which clearly show natural and cultural resources, conditions, and other waterfront features referred to in the inventory and analysis must be included to supplement the text. Appendix 4 of this Guidance document provides information on both required and suggested maps that will help the community illustrate important natural and cultural features in the WRA. Data sources and suggested graphic formats for LWRP maps are also provided in Appendix 4.

Area of Coverage

The inventory and analysis must be completed for the entire WRA covered by the LWRP. The defined WRA should be based, in part, on the inventory and analysis of the local waterfront area. Conversely, the area to be covered by the inventory depends upon the location of the WRA boundary. Therefore, the inventory and analysis and the review of the boundary need to be closely coordinated. If the municipality has demonstrated that it is necessary to move all or a portion of the WRA boundary inland as part of an LWRP Amendment, the inventory must include resources and issues in the additional upland areas proposed as additions to the designated WRA.

Organization

There are many acceptable ways of organizing the inventory and analysis information and there is no prescribed format for this section of the LWRP document. However, the community will be using the inventory and analysis to refine explanations of the coastal policies for the LWRP. Also, DOS and other State and federal agencies will be looking at the inventory and analysis when reviewing the Draft LWRP to support refinements of the policy explanations that the community has made. Later, when the community is implementing the LWRP by reviewing designs and permit applications for proposed projects in the WRA for consistency with its policies, or applying for funding to carry out

projects proposed in the LWRP, it will be easier to find background information for support if the inventory and analysis is organized to parallel the policies.

Therefore, it is useful to present the information in the inventory and analysis in one of three ways:

1. Organized by the major areas addressed by the 44 State coastal policies: development (State coastal policies #1 – 6); fish, wildlife and wetlands (State coastal policies #7 – 9, 44); flooding and erosion hazards (State coastal policies #11 – 17); public access and recreation (State coastal policies #19 – 22); historic and scenic resources (State coastal policies #23 – 25); agricultural lands (State coastal policy #26); energy and ice management (State coastal policies #27 – 29); and water and air resources (State coastal policies #30 - 43).
2. Organized by the major areas addressed by the 13 Long Island Sound policies: the developed waterfront (Long Island Sound policies #1 - 3), the natural waterfront (Long Island Sound policies #4 – 8), the public waterfront (Long Island Sound policy #9), and the working waterfront (Long Island Sound policies #10 – 13).
3. Table 1 at the end of this section provides a summary of the suggested content and a sample organization format for the Inventory & Analysis.

For more information about development of coastal policies see Section 3 of this Chapter, for lists of the State coastal policies and Long Island Sound policies see Appendices 5 and 6.

Data and Information

The Inventory and Analysis should start with information about the regional setting and community characteristics of the municipality. Basic, relevant data about the community establishes an overall context for the LWRP and provides a basis to analyze existing conditions. This information is particularly useful to the State and federal officials who will be reviewing the Draft LWRP prior to approval, and may be unfamiliar with the community. This data should include:

- A description of the community (population, demographics and major economic activities);
- Statistics on the waterfront area (miles of shoreline, number of acres or square miles);

All data in the LWRP should be referenced with a source and the year when the data was collected.

- Orientation to the waterfront area (map and citation of major streets, sub-areas and landmarks);
- A brief description of the historical development of the waterfront area; and
- Past planning efforts, including local land use plans, economic development plans, open space plans, watershed plans, recreation plans, and regional plans relevant to the community such as transportation plans.

The remaining sections of the Inventory and Analysis must include all information needed to determine whether a particular State coastal policy applies to the community's waterfront area, to develop specific and realistic proposed uses, and, as appropriate, proposed projects for the WRA. The information presented must be broad enough to ensure consideration of all important waterfront

resources, problems and opportunities and detailed enough to support development of a specific and realistic LWRP.

Suggested data and information includes the following - listed in the same order as the suggested format. **The community can vary this list according to their needs and the focus of the LWRP, however, basic information as prescribed in Article 42, § 915.4 and 915.5 must be included (see Appendix 2):**

- Existing land use, development, and economic strengths, weaknesses, and opportunities for ongoing waterfront revitalization–

    - Land use and ownership patterns (public and private), including underwater lands
    - Abandoned, deteriorated, or underused sites and buildings, including dock facilities, railyards, and industrial sites
    - State certified agricultural districts or soils suited to agriculture
    - Highways, roads, parking, mass transit, bike and pedestrian access, rail lines and rail rights-of-way
    - Port districts or authorities

- Condition and availability of infrastructure –
    - Water supply, wastewater treatment, vessel waste facilities, and stormwater management
    - Transportation systems, including road, rail, and maritime
    - Energy production and transmission
    - Shoreline infrastructure such as bulkheads, docks and docking facilities, underwater infrastructure, cables and pipelines

- Existing water-dependent uses including commercial, industrial, and recreational uses such as ferries, marinas, boat yards, transshipment facilities, public piers, boat/canoe launches, swimming areas, vessel anchorage and mooring areas, and commercial and recreational fishing and shellfishing areas and uses

- Navigation and dredging –
    - Navigation channels and dredged material disposal activities, including any federal navigation channels, beach nourishment sites, and beneficial use sites

- Relevant local land use and development controls –
    - Zoning regulations, subdivision review, and site plan review
    - Design standards, overlay districts
    - Stormwater management and erosion and sediment control
    - Flood damage prevention
    - Wetland and watercourse protection
    - Parkland preservation
    - Historic preservation
    - Scenic areas and/or open space protection
    - Local natural area protection
    - Renewable energy goals

- Natural resources, topography, hydrology, and geology –
    - NYS Significant Coastal Fish and Wildlife Habitats
    - Locally important fish and wildlife habitats
    - Important Bird Areas
    - Rare or endangered species or natural communities
    - Tidal and freshwater wetlands and water courses and their classifications
    - Surface and groundwater resources for public and private water supplies
    - Topography, including steep slopes and landscape features
    - Bedrock and surficial geology, minerals, and soils
    - Important waterfront views and visual quality
    - Classification of shoreline types based on available shoreline typologies (contact DOS for most current information)
    - Natural areas of shore-adjacent deep water including any suitable for use as channels

- Flooding and erosion –
    - State-designated Coastal Erosion Hazard Areas
    - Federally-designated Flood Hazard Areas, floodways, coastal high hazard areas (V/VE zones)
    - Natural protective features (e.g., dunes, wetlands), vegetated stream buffers, surface water storage capacity and forested land cover
    - Critical infrastructure and community assets and services at risk from flooding and drought, and critical assets to serve the community during an emergency response
    - Impervious surface area, bridges, and other existing infrastructure or watercourse conditions that may cause adjacent or downstream flooding impacts

- Existing and desired open spaces, public access to the waterfront, publicly-owned waterfront land, recreation uses and facilities

- Tourism resources including hotels, destinations, attractions and services

- Federal, State, and locally-designated historic and cultural resources –
    - State and National Registers of Historic Places - sites and districts listed, nominated for, or eligible for listing
    - Federal- or State-designated Heritage Areas or Corridors
    - Federal or State recognized tribes and/or reservations
    - Scenic Areas of Statewide Significance (SASS)
    - Locally-designated historic and scenic resources
    - Archaeological resources, including shipwrecks and historic dry docks
    - Hazardous waste sites (e.g. Superfund)

- Issues related to water and air quality –
    - Point and nonpoint sources of pollution
    - Watersheds associated with the waterfront
    - Water quality, quantity and related infrastructure, including drinking water

- Air Quality Maintenance Areas, including EPA Nonattainment Areas for Criteria Pollutants

- Additional information needed for a comprehensive asset inventory for the risk assessment tool described later in this section –
  - Housing details by name, location and type (single family, multi-family, apartment, mixed use, senior)
  - Economic assets by name and location (industrial, warehousing, manufacturing, restaurants, lodging, banks and financial services, marinas and other water-based businesses, grocery stores and food suppliers, tourism destinations)
  - Health and social services facilities by name and location
  - Location of socially vulnerable populations and the assets that support them

- Existing authorities of federal, State, regional, and local agencies that have jurisdiction in the waterfront revitalization area (consult with DOS for current information on federal and State agencies), which may include:
  - National Oceanic and Atmospheric Administration; U.S. Coast Guard; U.S. Army Corps of Engineers; Federal Emergency Management Agency (FEMA); and, National Parks Service, U.S. Department of Interior
  - The State Departments of State; Environmental Conservation; Health; Transportation; the Office of General Services; Office of Parks, Recreation, and Historic Preservation; Division of Homeland Security and Emergency Services; State Emergency Management Office; Homes and Community Renewal; Empire State Development; Bridge, Port, and Thruway Authorities; and the Canal Corporation
  - Agencies of the city, town, or village, or a county (if the county regulates activities in the waterfront revitalization area)
  - The local harbormaster, bay constables, code enforcement officer, building inspector, police department, or sheriff's office

A summary of the information suggested in this section for the Inventory and Analysis along with sample format for presenting the various topics is provided in Table 1.



Sackets Harbor Battlefield
State Historic Site
Lake Ontario

Table 1. Example approach to organizing the content of the Inventory and Analysis

Community Background
- Community profile – location, population, employment
- Overview of waterfront area
- Historical development of waterfront area
- Summary of existing Plans, Projects and Initiatives that effect the waterfront area such as the municipal comprehensive plan, All-Hazard Mitigation Plans, watershed management plans, downtown revitalization plans, community resiliency plans

Identification and assessment of existing land use and development including economic strengths, weaknesses, and opportunities for ongoing waterfront revitalization
- Existing land and water uses*
- Ownership patterns, (public & private) including underwater lands*
- Zoning* – list and definitions of the current zoning districts, describing out how they support the existing land uses. NOTE: A more detailed discussion of the Zoning should be in Section V.
- Public services and facilities* – water & sewer, vessel waste facilities, transportation, navigation channels/basins, bulkheads, docks and docking facilities
- Abandoned, deteriorated or underutilized areas, sites and buildings
- Hazards to navigation, such as abandoned barges and deteriorated pilings*
- Limitations to development
- Water-dependent uses*; water-enhanced uses and related issues
- Port or small harbor development
- Housing, economic, health and social services assets, and locations of socially vulnerable populations (detailed information needed for the resiliency Risk Assessment Tool)

Natural Resources
- NYS Significant Coastal Fish and Wildlife Habitats*
- Fish and wildlife habitat (other important areas not designated by New York State)
- Wetlands*
- Water resources and water quality
- Water quality classifications and use standards*
- Natural protective features

Commercial Fishing and Aquaculture

Flooding and Erosion
- Coastal hazards
- Storm surge and sea level rise risk

Public Access and Recreation – parks, trails, boat launches, fishing access, beaches

Historic and Archeological Resources
- Historic underwater sites or structures (shipwrecks, dry docks, archeological underwater sites)*
- Scenic Resources and Visual Quality – Scenic Areas of Statewide Significance; significant viewsheds within the WRA*

Agriculture and Agricultural Lands

Energy and Ice Management

Major energy-generating facilities and transmission networks, underwater cables and pipelines

Environmental Quality*
- Discharge of pollutants and management of solid waste
- Air quality

Summary of Strengths, Weaknesses, Opportunities and Threats / Findings and Conclusions

*Subjects required for the Harbor Management Plan (HMP) Inventory, additional information is also required for analysis of conditions and considerations in the HMA (See Appendix 3 for Harbor Management Plan guidance, and Appendix 2 for 19 NYCRR §603.3 which states the required contents of HMPs).

Analysis of the Inventory to identify Specific Problems and Opportunities

An LWRP must address **ALL** important problems and opportunities evident from the inventory of existing waterfront conditions.

Once the inventory is complete, the next step is to **analyze** the existing waterfront conditions to identify specific problems and related opportunities relating to the use and protection of waterfront resources. For example, the community may need to analyze existing public access to the waterfront to not only establish the need for improving public access, but also to determine specifically where and how public access can be increased while protecting natural resources.

The analysis should also examine what the factors are that shape problems and opportunities and their interrelationships. For example, what are the important natural resources in the WRA that contribute to long-term community sustainability? If historic resources are important to the community, what are the factors causing them to be endangered? Have historic sites become deteriorated and abandoned as a result of decline in market demand, because they are being replaced by new development, or have they been insensitively altered as a result of an increase in market demand?

While the analysis of existing conditions should help focus the LWRP on the important problems and opportunities present in the waterfront area, consideration of problems and opportunities should not be limited to only those of greatest or most immediate interest. Additionally, communities should be aware of the regional, State or national context for their waterfront planning, including any State or federal policies, designations, or assets that could affect the development and implementation of specific LWRP strategies or components, e.g. State and national energy, transportation, or communications systems.

In-depth Analysis - Risk and Resiliency

The vitality and resilience of a community rests on its ability to reduce or avoid harm and rebound from severe weather-related impacts, including flooding and erosion, and other natural hazards when they occur. Climate change, sea level rise, drought, increased frequency and intensity of storms, and the resultant effects from both weather-related changes and natural processes challenge communities and impact services on which residents and tourists depend. An analysis of potential risks in the LWRP will provide support for related coastal policies, proposed land and water uses, and proposed projects that can improve the resiliency of the community.

Where data and maps are available (All-Hazard Mitigation Plans are one source of data), resiliency planning should be included in the LWRP to provide

Important Steps in the Resiliency Planning Process

Asset Inventory: Completing an inventory of the community's social, economic, and natural resource assets that have been, or will be, affected by coastal or riverine hazards.

Risk Assessment: Assessing risk to key community assets based on the three factors contributing to risk: Hazard, Exposure and Vulnerability.

Needs and Opportunities Assessment: Determining needs and opportunities to improve local economic growth and enhance resilience to storms.

Strategies for Investment and Action: Developing strategies and the projects and actions needed to implement the strategies; identifying potential costs and benefits of chosen projects and actions, and potential funding sources.

Implementation Schedule: Preparing an implementation schedule of the actions needed to implement the strategies.

an in-depth risk assessment including current and projected natural hazard risks, and development of prioritized resiliency measures for the WRA. DOS developed a risk assessment tool for the New York Rising Community Reconstruction (NYRCR) Program. This tool is now available for use by coastal communities, as described later in this section of this guide. If an LWRP community was included in a risk assessment as part of a previously-completed NYRCR Plan, the risk assessment from the NYRCR Plan can be used in the community's LWRP.

The resiliency planning components include:

- Asset inventory: In the Inventory and Analysis, identify economic, health and social services, housing, infrastructure, and natural and cultural resource assets that have been, or will be, affected by flooding, erosion, drought, or other hazards that may be worsened by climate change. If available, an All-Hazard Mitigation Plan can provide data about community assets in these categories. Coastal Risk Maps are a good source of information about flooding in areas where these maps have been completed.[14]
- Identify actions and policies that improve community resilience, including the capacity of natural protective features to reduce risk.
- Assess risks to key assets, including identification of assets in risk zones using Coastal Risk Maps, scenario planning, and other statewide risk management guidance.
- Conduct a Needs and Opportunities Assessment to determine short- and long-range needs and opportunities to enhance resilience to future storms, flooding, drought, and sea level rise.
- Assess the needs of socially vulnerable populations of the community such as the elderly, young, non-English speaking, low-income, or unemployed.
- Monitor progress towards improved resilience, particularly after an event, such as a hurricane or drought. The monitoring should be related to the asset inventory, risk assessment, and associated needs and opportunities analysis. DOS welcomes suggestions from communities regarding new and innovative approaches to monitoring improved resilience in this emerging field of science.

Where available, communities should incorporate the DOS Risk Area Maps in their LWRPs as a useful tool for planning resiliency goals, projects and strategies. The DOS Risk Area Maps can be viewed and data downloaded from the Geographic Information Gateway at http://opdgig.dos.ny.gov/#/home by searching for "DOS Risk Area Maps." Excel spreadsheets designed to complete the Asset Inventory and Risk Assessment can also be downloaded from the Geographic Information Gateway. The tools are located in the Resources/Tools section of the Climate Change and Resilience Focus page (http://opdgig.dos.ny.gov/#/focus/resilience). For coastal areas, click on "Inventory and Coastal Risk Assessment Tool"; for rivers, click on "Inventory and Riverine Risk Assessment Tool". Contact DOS for more information about how to use these tools.

Where risk maps have not been completed, other datasets and tools are available to help determine risk from flooding or drought. In federally-approved coastal areas FEMA has mapped 100-year, and 500-year floodplains that represent the high, and moderate risk zones, respectively. Communities can also delineate areas of historic flooding or known areas that flood frequently (such as the 10-year floodplain) to improve their risk areas with locally-specific information. To supplement the FEMA maps, other tools related to flood risks/climate change in NY can be found at

[14] Coastal Risk Maps are a resilience planning tool that show areas of relative extreme, high, and moderate flood impacts. DOS completed Risk Area Maps for the downstate area (Westchester County, New York City, and Long Island) in response to Superstorm Sandy to inform the NYRCR Program.

https://nyclimatescience.org/ . Additional tools, data, and resources related to risk and resilience, as approved by DOS, can replace or supplement the DOS Risk Assessment Process.

Sea level rise projections are also an important tool for community resiliency planning. The NYS Department of Environmental Conservation (DEC) has adopted science-based sea level rise projections in its 6 NYCRR Part 490 regulations (http://www.dec.ny.gov/regulations/103877.html)[15] for the State's tidal coast, including: the marine coasts of Nassau, Suffolk, and Westchester counties; the five boroughs of New York City; and, the main stem of the Hudson River, between New York City and the federal dam at Troy. The sea level rise projections were completed under the Community Risk and Resiliency Act, Chapter 355 of the Laws of 2014 (CRRA), signed into law by Governor Andrew M. Cuomo on September 22, 2014. The CRRA is intended to ensure that decisions regarding certain State permits and expenditures consider climate risk, including sea-level rise.

DOS encourages communities to use the "Medium," "High-Medium," and "High" sea level rise projections specified in 6 NYCRR 490.4 for planning and decision-making. Using these tools will allow communities to locate future development and reconstruction from current and previous storm damage outside of areas at greater risk of increased flooding, erosion, and storm surge damage due to sea level rise.



Stony Point, Hudson River Estuary (Superstorm Sandy, 2013)

[15] For a direct link go to: https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I260cc0e004f811e7936bb1f32e5da307&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)

Section 3: Local Waterfront Revitalization Policies

The Policies section of the LWRP is extremely important, since the future actions of all levels of government - local, State, and federal - will be guided by the policies contained in the LWRP. The approved LWRP replaces the State Coastal Management Program within the WRA, allowing for coordination between local governments, State agencies, and federal agencies to effectively manage the coastal resources within the WRA.

What are Coastal Policies?

Coastal policies are enforceable statements of action that support the goals of promoting the most beneficial use of coastal resources, preventing their impairment, or addressing major activities that substantially affect numerous resources, representing a balance between economic development and preservation. The State Coastal Management Program (CMP) contains 44 policies established to address the entire 3,200 miles of the State's extremely diverse coastline.

Through the LWRP, local communities have the opportunity to refine the State coastal policy explanations and elaborate on how they apply to the local waterfront revitalization area, effectively adapting a State program to local needs and objectives. Communities may accomplish this by adding relevant information specific to the community to the explanations that follow each policy. A summary list of the 44 coastal policies is provided in Appendix 5. For detailed information about how to address and refine each coastal policy see Appendix B of the CMP, available at: https://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf

In the Long Island Sound region, refinement of the CMP was accomplished in 1999 in coordination with local communities through development of the Long Island Sound Coastal Management Program (LIS CMP)[16]. The LIS CMP takes the place of the CMP in the Long Island Sound region, and communities there should utilize the 13 coastal policies in the LIS CMP, instead of the 44 State Coastal Management Program Policies, when making further refinements to the policies for their LWRP. A summary list of the 13 Long Island Sound policies is provided in Appendix 6.

The NYS and Long Island Sound coastal policies can be organized into subject areas as shown in Table 2. The community may also wish to use these subject areas to organize some of the information in the Inventory and Analysis, providing a useful link between the policies and corresponding background data:

It is recommended that communities and their consultants work closely with DOS when beginning work on the policies section to ensure that the correct set of policies is being utilized and for guidance on adding local information to refine the policy explanations.

[16] The Long Island Sound Coastal Management Program replaces the State Coastal Management Program for the Sound shorelines of Westchester County, New York City to the Throgs Neck Bridge, Nassau County, and Suffolk County.

Table 2. Organization of Subject Areas for Coastal Policies	
NYS Coastal Management Program Policies: Subject Areas	**Long Island Sound Coastal Management Program Policies: Subject Areas**
• Development (Policies 1-6) • Fish and Wildlife (Policies 7-10) • Flooding and Erosion Hazards (Policies 11-17) • General (Policy 18) • Public Access (Policies 19 and 20) • Recreation (Policies 21 and 22) • Historic and Scenic Resources (Policies 23-25) • Agricultural Lands (Policy 26) • Energy and Ice Management (Policies 27-29) • Water - Air Resources and Wetlands (Policies 30-44)	• Developed Coast (Policies 1-3) • Natural Coast (Policies 4-8) • Public Coast (Policy 9) • Working Coast (Policies 10-13)

How are Coastal Policies used?

Federal and State agencies use the coastal policies in the LWRP as the basis to determine consistency with the policies when undertaking funding decisions or direct actions for proposed projects and activities located in or having effects within the waterfront area. Applicants for a license, permit or other form of approval certify consistency with the coastal policies. The State coastal policies are derived from existing State laws and regulations. Therefore, State agencies are required to adhere to each policy statement to the maximum extent practicable when reviewing and approving actions in the coastal area. While the policies are enforceable as a matter of federal, State and local law for reviews conducted under the federal Coastal Zone Management Act, the explanatory text that accompanies each policy is for explanatory purposes only.

Local governments are responsible for evaluating a proposed action in the WRA to determine whether a local action is consistent with the coastal policies and purposes described in their approved LWRP. The tool for this review is a Local Waterfront Consistency Review Law which is adopted by the local government at the same time as the approved LWRP. The local consistency law includes the coastal policies as the regulatory basis for determinations and uses a Waterfront Assessment Form (WAF). The WAF is a checklist for gathering information about the project and determining alignment with the policies in the LWRP. A template for the Local Waterfront Consistency Review Law and WAF are included in Appendix 7 of this guide, and more information on consistency reviews is available at https://www.dos.ny.gov/opd/programs/consistency/index.html

Writing the Local Waterfront Revitalization Policies Section

The coastal policies section of the LWRP serves to refine the explanations of the State coastal policies to reflect local conditions. To approach this section, communities should start with the 44 NYS coastal policy statements and their accompanying explanations, except for communities in the Long Island Sound region who should use the 13 Long Island Sound policies. The text of the coastal policies is available in the following formats for communities to use as a template for the LWRP coastal policies section:

- The full text of the 44 coastal policies with policy explanations in PDF format, and 13 Long Island Sound coastal policies, can be downloaded from the DOS website at:
  http://www.dos.ny.gov/opd/programs/pdfs/CoastalPolicies.pdf
  https://www.dos.ny.gov/opd/programs/pdfs/liscmppolicies.pdf
- For a Microsoft Word version of the full text with policies explanations please contact DOS.
- See Appendix 5 of this guide for a list of the 44 State coastal policy statements, without explanation of those statements. A summary list of the 13 Long Island Sound policies is provided in Appendix 6.

Through the LWRP, local communities may refine the coastal policy explanations and elaborate on how the policy applies to the local Waterfront Revitalization Area, effectively adapting a State program to local needs and objectives. Adding local information to the policy explanations focuses the application of the State policy to address local conditions and needs.

Within each policy section in the template, the main State coastal policy statement, provided in bold text, should not be altered. This is because each statement was derived from specific state laws and regulations, and each word has meaning in the context of those regulations. For example, "**Policy 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.**" should be included in the LWRP exactly as written.

Next, the municipality should determine if any of the policies are not applicable to their community. For example, Policy 3, "**Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as center of commerce and industry . . .**," would not apply to any municipality other than those five listed in the policy. However, the policy statement should still be included in the document, and the policy explanation should consist of a brief one or two sentence explanation noting that the policy is not applicable to the municipality and explaining why it is not applicable.

Finally, the municipality should import the explanation language for each policy provided by the State into the draft LWRP. The community should then review each of the explanations and determine whether the language is adequate to address important resources, problems, and opportunities in the community's waterfront. When needed, the explanation can be refined to add information that reflects local waterfront characteristics, certain geographic areas, specific local standards and criteria, and proposed land and water uses that have been described in more detail in the Inventory and Analysis.


Scenic View Park, Alexandria Bay

An example of refining the coastal policy explanation is taken from the Town of Alexandria and Village of Alexandria Bay LWRP. The municipalities added specific area references by inserting the following paragraph in the Policy 1 explanation, "The actions proposed within the local

waterfront revitalization area must further its revitalization. Of particular concern is the waterfront property along Scenic View Park and Casino Island and adjacent parcels. When any action is proposed in that area, or elsewhere within the WRA, such action must be analyzed to determine if the action would contribute to or adversely affect waterfront revitalization efforts."

DO's and DON'Ts of writing LWRP policy explanations:

- When considering adding information to the policy explanations to supplement the State policies, **DO** review existing local laws and regulations and make sure that the policies reflect and are supported by those laws and regulations. If not, new local regulations will be needed. This is important for two reasons:
  1. Policies and their explanations will be used by the municipality and State and federal government agencies to determine if a proposed action is consistent with the policy.
  2. State and federal agencies are legally required to be consistent only with the policies and purposes of the LWRP and not with the local laws themselves. However, including local law standards in the explanation of a relevant policy will provide information that State agencies can consider during State consistency review.

The policy statements are enforceable as a matter of State and local law. However, for reviews conducted under the federal Coastal Zone Management Act, the explanatory text for each policy is for explanatory purposes only.

- **DON'T** include indefinite references to possible actions, such as, "If necessary, the Town will consider the feasibility of providing additional recreational facilities at appropriate locations." The words "If necessary", "may". or "should consider" do not prescribe an enforceable action.

- **DON'T** describe how the municipality intends to implement the policy, such as, "The Town will adopt site plan regulations to ensure that buildings are sited to minimize damage from erosion." Instead, implementation measures should be described in Section 4. Proposed Land and Water Uses and Projects, or Section 5. Techniques for Local Implementation of the Program. These measures also need to be in place before the LWRP can be officially approved by DOS and OCM.

- When writing policy explanations, **DON'T** include extensive descriptive information which properly belongs in the Inventory and Analysis. Rather, policy explanations should summarize important issues, local standards, and geographic priorities.

Table 3 provides additional information to guide communities in development of appropriate policy explanations when refining coastal policies for the LWRP. DOS can assist communities with developing effective policy language to address local issues.

Table 3. Examples of Proper and Improper Information to Refine Policy Explanations	
RIGHT: Provide for a mix of water-related commercial and recreational uses within the Northern Harbor District of the waterfront area.	**WRONG:** Promote an appropriate mix of uses within the waterfront area. *This is too vague. The appropriate mix of uses should be determined as part of the analysis of waterfront conditions and specified in the local policy.*
RIGHT: Rehabilitate deteriorated commercial and residential properties within the Old Town District of the waterfront area.	**WRONG:** Develop a rehabilitation assistance program for waterfront properties. *This is an implementation technique rather than a policy and should be discussed in the Local Implementation Techniques section of the LWRP.*
RIGHT: Development within or near the State-designated habitat shall be sited so as not to impair the viability of the habitat	**WRONG:** Ensure the protection and preservation of State designated habitat. *This is a paraphrase of the State policy.* .

Section 4. Proposed Land and Water Uses (including Harbor Management Plan) and Proposed Projects

This section of the LWRP may be referred to as the "Action Strategy" of the local program. The proposed land and water uses of the LWRP translate the policies of the program into a cohesive, physical plan for the waterfront revitalization area. When proposing land and water uses and projects, the community's policies for use and protection of the waterfront as outlined in Section 3 of the LWRP should be considered along with development potential and development constraints, each of which is determined by interrelated physical and social factors. Both land uses and water uses should be planned for suitable areas, be compatible with adjoining uses (including those immediately beyond the municipal boundary), and applicable government regulations should be identified.

The LWRP should describe the land and water uses to be accommodated within the waterfront revitalization area as clearly and precisely as possible. LWRP Section 2 (Inventory and Analysis) and Section 3 (LWRP Policies) provide that specificity through presentation of asset descriptions, data, mapping, and in the policy explanations. The description of proposed uses should build on the information in Sections 2 and 3 by clearly conveying the community's intentions for the future use of its waterfront area.

A land use map depicting proposed uses is required for Section 4. The land use plan may be organized into sub-areas or sectors of the waterfront. If this approach is taken, delineation and use of sub-areas should be consistent throughout the LWRP, including Section 1. (See Appendix 4 for guidance on LWRP maps.)

In general, the proposed uses should reflect the following considerations that reflect waterfront policies:

- Are the proposed uses realistic in view of current land use and development trends and projected needs?
- Are the proposed uses appropriate in relation to physical features, environmental constraints, economic development goals, and other determinants of the suitability of land for development?
- Do the proposed uses concentrate development in areas currently provided with public infrastructure and services?
- Is adequate space allocated for existing and desired water-dependent, water-related, or water-enhanced uses?
- Is provision made for maintaining and, where desired, increasing public access to the shoreline?
- Do the proposed land uses minimize the potential for loss of human life and property damage from current and future erosion and flooding?
- Do the proposed land uses adequately protect, and where appropriate and desired, enhance important natural, economic, historic, and scenic resources and contribute to long-term community sustainability?

Writing the Proposed Land and Water Uses and Proposed Projects Section

The proposed land and water uses and proposed projects will serve to implement the goals and objectives of the LWRP. Throughout the planning process, many potential projects are likely to be identified that can further the community's vision. There is no limit on the number of projects that can be proposed by the community, and inclusion of projects in the LWRP will enhance the likelihood of successful grant applications for a variety of State funding sources. However, the projects must be located within the WRA. If in drafting the proposed projects it is apparent that important uses and projects are outside the WRA, consider revisiting the boundary and expanding it to include these areas. It is important to provide a thorough description of higher priority/more immediate proposed projects, using the suggested project profile template in Appendix 8.

Section 4 of the LWRP should include the following information:

Proposed Land Uses

The community should base the proposed land uses for the WRA on a realistic assessment of future land use needs. The LWRP preparers should give particular attention to the existing and future needs of water-dependent uses, water-related recreational uses and port-related uses.

Proposed Water Uses

General considerations - In determining proposed water uses for the waterfront revitalization area, consideration should be given to the use of underwater lands and to the management of activities which occur in the water, particularly when these are under the jurisdiction of the municipality. Even when the municipality's jurisdiction stops at the shoreline, the nature and extent of water activities that may be generated by proposed land uses needs to be factored into the determination of appropriate uses.

Harbor Management Plan

A Harbor Management Plan (HMP) must be developed and included as part of an LWRP in the coastal area. HMPs address the problems of conflict, congestion, and competition for space in the use of harbors, surface waters, and underwater lands within a city, town, or village, or bounding a city,

town, or village to a distance of 1,500 feet from the shore. This section provides the legislative background and general guidance on developing an HMP. For more detailed information see Appendix 3, Guidelines for Preparation of Harbor Management Plans, also available at: https://www.dos.ny.gov/opd/programs/pdfs/hmpguide.pdf

Legislation enacted in 1992[17] provides local governments with the clear authority to comprehensively manage activities in harbor and nearshore areas including recreational boating, fishing and commerce, the navigation channel and its maintenance, winter uses such as snowmobiling, skiing, fishing, skating, use conflicts, wake control, and other general considerations. To accomplish this municipalities may develop comprehensive HMPs and laws to implement those plans. New York State regulations (19 NYCRR Parts 600, 603 and § 601.1) contain the required contents of harbor management plans. Municipalities must submit harbor management plans and the necessary implementing laws to the Secretary of State for approval as part of, or as an amendment to, a municipality's LWRP.

An HMP may consist of a single document prepared as an appendix or supplement to the LWRP, or it may be integrated into an LWRP. If integrated into the LWRP, the Proposed Water Uses part of LWRP Section 4 should describe in text, mapping, and photographs the issues and opportunities that the water presents, and how the municipality intends to approach these. The integrated HMP does not need to be labeled as an HMP, but it should consist of the waterside components of the following LWRP sections:

- Waterfront revitalization area boundary (Section 1)
- Inventory and analysis (Section 2)
- Policies (Section 3)
- Proposed land and water uses (Section 4)
- Techniques for implementation (Section 5)
- Other federal and State actions necessary to advance the LWRP (Section 6.B)

When the required elements of the HMP are integrated into the LWRP, the locations in the LWRP document should be shown in a chart so that it is clear that the elements have been addressed to a level commensurate with the community's needs.

If the HMP is prepared as a separate part or appendix in the LWRP, then the policy section of the LWRP must include policy standards referencing the HMP and the standards included in the HMP's implementing legislation, such as a local docks and moorings law.

An important benefit of a HMP approved by the Secretary of State as a component of an LWRP is that the municipality is delegated authority to regulate in-water activities, including the authority to regulate structures, uses of surface waters and underwater lands (other than vessel uses which are governed by NYS Navigation Law). A municipality may then directly regulate the construction, size, and location of structures in, on, or above waters and the use of surface waters and underwater lands within the municipality or bounding the municipality to a distance of 1,500 feet from the shore. Fees may be imposed on users for reasonable expenses incurred by the municipality in carrying out this regulatory authority.

[17] Chapter 791 of the Laws of 1992, amending Article 42 of the Executive Law

Other HMP benefits include:

- Developing a strategy to achieve goals for harbor areas;
- Encouraging State and federal adherence to harbor management plans;
- Identifying beneficial uses of dredged material;
- Enhanced boater safety;
- Supporting water-dependent uses such as working waterfront businesses that rely on adjacent harbor waters;
- Technical assistance from DOS in addressing harbor management issues;
- Financial assistance for construction and land acquisition projects;
- Research, design and other preconstruction activities that implement the harbor management plan; and
- Addressing harbor and nearshore issues that transcend local boundaries.



Village of Greenport, Long Island

Proposed Projects and Other Actions

The LWRP provides a framework for presenting both short- and long-term proposed projects within the WRA and outlining how they can be implemented. The LWRP should include greater detail for projects that appear the most feasible and likely to be implemented in the near future. For these projects, the suggested project profile format in Appendix 8 can be completed and included in Section 4 of the LWRP (more detail is provided below in this section). The completed project profiles will serve as a concise project information source, positioning communities to seek resources for implementation.

Potential projects or other implementation actions should be organized under broad topic areas., For example, projects may be organized according to the topic areas suggested in Table 2, making a clear connection between the projects and the coastal policies. Other topic areas that may be useful for organizing projects include waterfront or waterfront-related economic development projects, infrastructure improvements, public access improvements, brownfield redevelopment, designing and



Tonawanda,
Niagara County

installing natural and nature-based features, designing and constructing innovative projects that reduce risk to vulnerable community assets and infrastructure, mitigating future physical climate risks such as projected sea level rise, open space or parkland acquisition priorities, and habitat restoration or enhancement.

The Proposed Projects section should include a summary of major initiatives and table of all proposed projects. The projects table should provide the project name, approximate cost (if unknown at the time of LWRP preparation indicate "Undetermined"), and approximate implementation timeframe (for example, Short Term 1-3 years, Medium Term 3–5 years, Long Term 5-10 years). This section should also provide a map of project locations (See Appendix 4 for guidance on preparing LWRP maps).

Selected projects may be identified by the community as first priorities to implement the policies and purposes of the LWRP. If details are available at the time that the LWRP is being prepared, these projects should be presented in Section 4 in a 1-to-2-page project profile including the following information (see Appendix 8 for a project profile template):

- Project title;
- Summary description of the project (5-7 sentences);
- Location - include the street address of the project/initiative or area of coverage and a locator map;
- Policy - list the LWRP Coastal Policies that the project/initiative addresses;
- For capital projects, provide a conceptual design or other graphic that illustrates the project or site;
- Estimated costs for implementing the project. If known, break down costs by categories (such as engineering and permitting, site preparation, facility construction, additional site furnishings). If available, include the anticipated costs to sustain the project or initiative.
- Potential funding sources, e.g. CFA funds, federal funds, private funds.;

- The benefit or co-benefits to be derived from the project;
- Timeframe for implementation and project readiness - include a general timeframe, for example Short Term (1-3 years), Medium Term (3–5 years), or Long Term (5-10 years).;
- Regulatory requirements - identify reviews, approvals, and/or permits related to the project/initiative (local, State, federal), as applicable; and
- The entity with jurisdiction over the project, such as the Village of X, Town of Y or City of Z.

In addition to construction activities, implementation projects may consist of studies, programs, and other actions. These activities may include:

- Recommended Studies – Studies to advance knowledge and analysis in the waterfront area can be proposed as potential projects. Examples include feasibility studies, market assessment, marketability studies, reuse analysis, engineering reports, land use studies, redevelopment studies, and water quality and/or habitat assessment.
- Proposed Public Education Programs – Providing public education and outreach programs for specific groups, such as property owners, business owners, or farmers, can be included as a proposed project.
- Proposed Land Acquisition – While land acquisition for construction projects can only be used as local match for grants from the EPF LWRP[18], other state agencies, e.g., Office of Parks, Recreation and Historic Preservation, and private funding sources do provide grant funds for land purchases. For more information about land acquisition for waterfront revitalization see, "Making the Most of Your Waterfront: A Guide to Waterfront Revitalization," pg. 77, at: http://www.dos.ny.gov/opd/programs/pdfs/Guidebooks/lwrp/LWRP_guidebook.pdf

Section 5. Techniques for Local Implementation of the Program

The information included in Section 5 of the LWRP will provide the municipality with a clear and complete description of the strategy it will follow for implementation. This section outlines how the coastal policies explained in Section 3 and the proposed land and water uses and proposed projects identified in Section 4 will be implemented. Implementation techniques include existing and proposed zoning and other local laws to support the proposed land uses, partnerships with and local actions by other public and private agencies, a local management structure and procedures agencies will follow, and financial resources. In preparing its LWRP, the municipality needs to consider costs of implementing the program and whether the funds needed are, or can reasonably be expected, to be available.

Section 5 of the LWRP should include the following subsections:

1. Local laws and regulations necessary to implement the LWRP

Local laws and regulations are the basic means for enforcing the provisions of the LWRP. When used creatively and directed toward clear objectives, local laws and regulations can be powerful tools for accomplishing many of the purposes of the LWRP.

This section should start with a description of existing local laws and regulations, referring to those listed in Section 2, Inventory and Analysis. However, the description in Section 5 should be

[18] EPF LWRP = Title 11 of the Environmental Protection Fund Local Waterfront Revitalization Program

more in-depth than the summary of local laws in Section 2. The Section 5 narrative should relate the local laws and regulations to the policies in Section 3. For example, information about the zoning law should describe each zoning district and how the uses in the district support the policies in Section 3.

Section 5 should then describe the new, proposed local laws and amendments to local laws and regulations that are necessary to implement the LWRP. The drafts of these proposed laws and amendments should be included in an appendix to the LWRP. The following local laws and amendments must be included:

- Local Waterfront Consistency Review Law – The municipality should adopt a Local Waterfront Consistency Review Law to implement the LWRP. This local law provides a mechanism to determine whether the actions in the WRA directly undertaken, funded, or approved by the municipality are consistent with the policies and provisions of the LWRP. See Appendix 7 for a Local Waterfront Consistency Review Law and Waterfront Assessment Form recommended by DOS.
- Amendments to the Zoning Law or Ordinance - Local zoning regulations must not conflict with the policies and purposes of the LWRP, and must be consistent with the proposed uses in the LWRP. Therefore, the municipality may find that current zoning provisions need to be amended to support the policies, proposed land and water uses, coastal resiliency objectives, and proposed projects. Zoning techniques to consider include overlay zoning, site plan review requirements, limited-build zones, and risk area zoning requirements.
- Local Law(s) Implementing Harbor Management Plans– The Harbor Management Plan must be implemented by local laws or ordinances. These implementing laws may, if applicable, regulate vessels, structures, and uses within the harbor management area. The local laws should be those regulations that are necessary to carry out the HMP, and may provide for the imposition of fees for reasonable expenses incurred by the municipality. The community may already have a local law or ordinance in their code that could be used for this purpose, if so include a description of the current local law in the previous sub-section, existing local laws.

2. *Recommended local laws and regulations*

There may be proposed new regulations or amendments to local laws that are not necessary to implement the LWRP, but have been identified by local agencies as potential improvements to the local land use code that will benefit the WRA and the community. These can be described in a separate sub-section and included as proposed planning projects in Section 4.

3. *Other public and private actions necessary to implement the LWRP*

In addition to local laws and regulations, there will be other local government actions necessary to implement the LWRP. These include existing or new local public authorities or such as a local development corporation, development of programs such as rehabilitation assistance and support, and new districts such as a town harbor improvement district to provide a funding mechanism for harbor revitalization.[19] County, State, or federal agencies may also have land uses and proposed projects within or adjacent to the WRA that should be described in the LWRP.

[19] Section 190 of the Town Law allows for formation of Harbor Improvement Districts.

Private actions may also be necessary to implement the LWRP. For example, private financing may be needed for waterfront projects, or partnerships with local non-profits may be necessary to further the natural resource and recreation objectives of the LWRP. These actions should be described in Section 5.

4. ***Local Management Structure Necessary for reviewing projects for consistency with the LWRP***
Implementing the LWRP will be a continuing responsibility of the municipality. Therefore, the municipality must provide for the future management and administration of the LWRP, as appropriate to its size and the complexity of its program. To accomplish these objectives, the municipality should identify in Section 5 the lead agency and a local official or administrator that will be responsible for the overall management and coordination of the LWRP and assign specific responsibilities for implementation and management of the program to appropriate local agencies. The municipality should also outline the procedures for local consistency review of proposed actions in the WRA, referring to the proposed Local Waterfront Consistency Review Law and Waterfront Assessment Form. Local procedures for review under the State Environmental Quality Review Act (SEQR) should also be summarized.

Local, State and federal actions taken within the boundaries of the LWRP must be consistent with the coastal policies of an approved Local Waterfront Revitalization Program. To provide coordination between state agencies and local governments, DOS has developed, "Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect," designed as a template where the community can insert the name of the municipality and specific local review procedures. See Appendix 9 for the Guidelines, which should be referred to in Section 5 and once revised, included as an appendix in the LWRP.

Similarly, DOS has developed, "Procedural Guidelines for Coordinating NYS Department of State and LWRP Consistency Review of Federal Agency Actions." These guidelines outline a procedure whereby NYSDOS and the local program manager can coordinate review of federal agency actions within the WRA to determine whether the actions are consistent with the stated policies and purposes of the LWRP.[20] These guidelines are also included in Appendix 9, and should be revised with the municipality's name and specific procedures.

5. ***Financial Resources Necessary to Implement the LWRP***
In preparing the LWRP, the municipality needs to consider the costs of implementing the program and whether the funds needed are or can be reasonably expected to be available. This should include funds needed for proposed projects, routine administration of the program, and other necessary implementation actions. Public and private funding sources along with municipal revenues needed for implementation should be briefly described in Section 5.

6. ***Summary Chart of Legislation and other Actions Implementing the LWRP Policies***
In order to clearly show how the LWRP policies, proposed uses, and proposed projects will be implemented, the LWRP should include a summary chart with the coastal policies listed on the left (they may be grouped by major subject area), and corresponding implementing legislation, plans, and programs on the right. For a sample chart see Appendix 10, extracted from the Town of East Hampton LWRP.

[20] See Appendix 2 for the requirements for procedural guidelines in Article 42, §915(5)(h).

Section 6. State and Federal Actions and Programs Likely to Affect Implementation

The Waterways Act requires that an LWRP identify those elements of the program that can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Section 5 outlined the local government implementation measures. Section 6 must include a list of State actions which should be undertaken in a manner consistent with the LWRP, and a list of federal activities affecting land and water uses and natural resources in the Coastal Area. These are fairly extensive lists that have been approved by OCM for inclusion in LWRPs, therefore to assist local governments DOS maintains this list and will provide the most updated version to the municipality during the LWRP preparation process.

Section 7. Local Commitment and Consultation with other Affected Federal, State, Regional and Local Agencies

Developing broad local support for the LWRP is the most critical factor determining the success of the program. Citizens, businesses, local organizations, and other stakeholders need to participate from the beginning of the planning process, so that when the program is ready for implementation the community as a whole is ready to take action. This section of the LWRP describes the efforts undertaken by the community throughout the preparation of the LWRP to involve various stakeholders using techniques such as waterfront committee meetings, focus groups, design charrettes, public information meetings, public workshops, public hearings, and/or meetings with any other federal, State, regional and/or municipal agencies. The following information should be included in this section, as applicable:

- Citizen participation and coordination - Section 7 should describe the membership and activities conducted by the Waterfront Advisory Committee (WAC) during the planning process. In Section 7 list by name the members of the WAC and their affiliation. Also, summarize the WAC meetings held during the planning process and describe whether there will be a role for the WAC after the LWRP is completed. (see the beginning of Chapter III, "Getting Started," of this guide for a description of the WAC).

- Public surveys - Public surveys are a good way to gather the needs and desires of community members, including those that may not be able to attend committee or public meetings. The survey can be distributed at public events, local organization meetings, or using tools available on the internet. Section 7 should describe the content of surveys used, the method of delivery, and summarize the survey results.

- Public workshops and meetings - Focus groups, design charrettes, public workshops and public meetings are important for involving people directly in the planning process and hearing their concerns. Section 7 should describe the content and attendees of the meetings and summarize the comments received.

- Local government involvement – It is important to obtain the support of the local elected officials, since they will ultimately be responsible for approving the LWRP, adopting local laws to implement the LWRP, and allocating resources for implementation projects. Municipal agencies will also be involved in implementing the LWRP. While local officials and local board members may be members of the WAC, it is also important to provide presentations and circulate

documents to the local boards. Section 7 LWRP should list all of the local agencies involved in the planning and potential implementation of the LWRP, such as the Town, City, or Village Board; Planning Board; Comprehensive Plan Committee; Conservation Advisory Council; and Watershed Planning Committee or Council.

- Local business involvement – Representatives from the business community should be involved in the planning process, particularly those whose livelihood depends on the community's waterfront. Direct outreach to 'working waterfront' businesses such as shipyards, tour boat operators, marina owners, commercial fishermen, recreational fishing guides, boat suppliers and outfitters, chambers of commerce, merchants' organizations, and improvement districts is strongly encouraged to understand the needs of their businesses and how they might be affected by the LWRP. Section 7 should describe how local businesses were involved in the planning process, for example as representatives on the advisory committee, attendees of special focus groups or meetings, or participants in downtown walking tours.

- Other communities' involvement – Section 7 should describe participation by neighboring communities and the shared issues that have brought them into the process. For example, the communities may have identified a need for watershed planning to address polluted surface and ground water, storm water runoff management, drought, sea level rise, local flooding, shoreline erosion, and related threats to public infrastructure, such as impacts to transportation and energy storage and transmission.

LWRP Appendices

Information that supports the LWRP and its implementation, but is too lengthy to provide in Sections 1 – 7, may be provided in appendices. Appendices #1 - 5 below are required for all new LWRPs, or as applicable for LWRP Amendments. Appendices #6 and 7 below are optional, but may be needed to support the policies and proposed land and water uses in the LWRP.

1. Local Waterfront Consistency Review Law and Waterfront Assessment Form (WAF) – The local waterfront consistency review law and WAF are prepared by the community in draft form and adopted along with other local laws needed to implement the LWRP. See Chapter III, Section 5 of this guide for more information about the local waterfront consistency review law. Appendix 7 of this guide includes a sample local waterfront consistency review law and WAF.

2. New or amended local laws, ordinances, and other regulations that are cited in the LWRP and necessary for implementation of the LWRP. See Chapter III, Section 5 of this guide for more information about local laws and regulations necessary to implement the LWRP that should be included in an appendix.

3. Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect – The templates for these guidelines are maintained by DOS and will be provided to the municipality during the LWRP preparation process. The guidelines should then be revised by the municipality to reflect the community's LWRP management structure. See Chapter III, Section 5, #5 of this guide for more detail about the guidelines for notification and review.

4. Significant Coastal Fish and Wildlife Habitat (SCFWH) Rating Forms, Habitat Description Narratives and Maps – Check the DOS Geographic Information Gateway at: http://www.dos.ny.gov/opd/atlas/index.html to determine if there any Significant Coastal Fish and Wildlife Habitats in or adjacent to the Waterfront Revitalization Area. The SCFWH rating forms, narratives, and maps can be downloaded as PDFs from the Gateway. Digital data for the SCFWH areas can also be downloaded from the Gateway.

5. Harbor Management Plan – If the required Harbor Management Plan is prepared as a stand-alone document, it should be included as an appendix to the LWRP. See Chapter III, Section 4, and Appendix 3 of this guide for more information about Harbor Management Plans.

6. Historic documents and maps describing and illustrating the waterside of the municipal boundary. See Chapter III, Section 1 of this guide for information about the need for detail relating to the LWRP waterside boundary.

7. Excerpts from plans or other documents that are referenced or cited in the LWRP should also be included as an appendix to the LWRP. This is needed to ensure that all information is available in the document to support the LWRP policies, which are enforceable statements of action that support the goals of promoting the most beneficial use of coastal resources, preventing their impairment, or addressing major activities that substantially affect numerous resources.



French Creek Marsh Significant Coastal Fish and Wildlife Habitat
Clayton, Jefferson County

IV. LWRP Review and Approval Process

Communities and their consultants should work closely with DOS throughout the development of the LWRP to obtain technical assistance and advice on preparation of the LWRP sections, maps and local laws described in this Guidance Manual. The development of an LWRP is a multi-year undertaking, which may be prolonged depending on the complexity or extent of the geography or issues addressed.

Once the community has an LWRP ready for review, it must undergo a three-level LWRP review and approval process: 1. Review under the State Environmental Quality Review Act (SEQR); 2. NYS Executive Law, Article 42 review, governed by DOS implementing regulations; and 3. Federal Routine Program Implementation (RPI)[21] review, governed by NOAA Office of Coastal Management regulations. Within these three review processes, the following formal submission steps are required for review and approval of an LWRP or LWRP Amendment.[22] The actual process may include additional back and forth exchanges of the draft LWRP between the steps, depending on the needs of the municipality and the complexity of the program:

1. **Submission of Preliminary Draft LWRP:** Once a Preliminary Draft LWRP or LWRP Amendment has been prepared, the community or its consultant should send the document along with maps, proposed local laws, and appendices to DOS for initial review and comment. The LWRP document should be in Microsoft Word digital format, graphics should be in digital photo format, and maps in PDF format. (Note: for the Complete Draft LWRP, digital map data in a GIS format acceptable for use by DOS will need to be submitted.)

2. **DOS Review of Preliminary Draft LWRP**: DOS will review and comment on the Preliminary Draft LWRP and circulate the LWRP document to DOS's Counsel's Office and to the Coastal Consistency Review Unit for review. DOS comments will be included in a redline/marked-up copy of the Preliminary Draft LWRP which will then be returned to the community and its consultant.

3. **SEQR Review:** The municipality's adoption of an LWRP and any major land use and development laws implementing the LWRP is a 'Type I' action subject to SEQR. Therefore, the community should provide the resolutions and related documentation to DOS, demonstrating that the SEQR process has been completed.

4. **Submission of Complete Draft LWRP for 60-day Review:** When the community (and its consultant where relevant) have addressed all DOS comments and the Draft LWRP has been revised accordingly, the community or its consultant should send a "Complete Draft LWRP" or LWRP Amendment to DOS, still in Microsoft Word format, with graphics in digital photo format. A redline/strikeout version in Microsoft Word should also be submitted showing the sequence of comments and changes in the draft. Maps should be provided in PDF format along with digital map data in a GIS format acceptable for use by DOS. **The community must include a resolution from**

[21] RPI is a notification process by which a State with an approved Coastal Management Program notifies OCM and potentially affected federal agencies that it considers an action to be a routine program change, implementing provisions approved as part of the State's coastal program.
[22] For an LWRP Amendment the community or their consultant should prepare the document in a tracked changes version first, showing the original LWRP along with the amendments proposed in redline/strikeout.

the municipal board stating they are "accepting the LWRP as complete" and that they are submitting the LWRP along with maps and proposed local laws to DOS for 60-day review. NOTE: The community should NOT formally adopt the LWRP at this stage, that should come after the 60-day review, since there may be comments submitted during the 60-day review process that will need to be addressed. The resolution required with submission of the Complete Draft is for "accepting the LWRP as complete," not adopting it.

5. **Legal Review:** DOS will conduct a final review, circulating the document to the LWRP Coordinator and to DOS Legal Counsel for final review and sign-off for 60-day review.

6. **60-day Review:** As required in NYS Executive Law Article 42, prior to acting on an LWRP received from an eligible coastal municipality, the Secretary of State must circulate it to State, federal and local agencies – allowing 60 days for comments (21 days in the case of a 'minor amendment'). DOS will determine the start and end dates of the 60-day period, conduct the 60-day review, including formatting the document, circulating letters to interested agencies, posting the LWRP on the DOS website, and publishing a notice in the Environmental Notice Bulletin. DOS will collect all comments submitted and prepare a response including redline/strikeout changes in the LWRP. DOS will then send a letter to the community explaining the changes that need to be made in the LWRP to reflect the comments submitted during 60-day review.

7. **Preparation of Final LWRP:** DOS will work with the community and their consultant to prepare a clean version of the Final LWRP, reflecting the 60-day review comments and including all appropriate maps, local laws, and appendices.

8. **Municipality Adoption and Submission to the Secretary of State:** The municipality should adopt the Final LWRP and supporting local laws (if they have not already been adopted) by resolution(s), then submit a copy of the certified adoption resolution(s) and a formal letter to DOS along with the Final LWRP, requesting submission to the NYS Secretary of State for approval.

9. **NYS Secretary of State Approval:** DOS will prepare Article 42 Findings (and SEQR Findings, if applicable) and submit the Findings along with the Final LWRP to DOS Legal Counsel. DOS Legal Counsel will review the LWRP to ensure that 60-day comments have been adequately addressed, then recommend its approval by the Secretary of State. DOS will then forward the LWRP, the 60-day review comments and responses, and Findings to the Secretary of State for approval. Following State approval, DOS will notify the community, county, State Legislators, State agencies with programs identified as having a potential effect on the LWRP, adjacent communities having a contiguous waterway area, and locally interested organizations.

10. **Federal Review:** The final step for approval in coastal communities is submission of the LWRP to the National Oceanic and Atmospheric Administration, Office of Coastal Management (OCM). DOS will submit the Final LWRP in redline version (showing 60-day review comments and edits made) to OCM, requesting a Routine Program Change (for most LWRPs). Federal agencies are given an opportunity to comment on whether they think the action is a RPI, after which OCM sends a letter to DOS either concurring with the State or denying the RPI. OCM "concurrence" that an LWRP constitutes a RPI appends the community's LWRP to the CMP.

Conclusion

A Local Waterfront Revitalization Program provides a comprehensive framework within which a community's vision for its waterfront can be formalized. Using this guide and working in partnership with DOS, a community can reach consensus on the future of its waterfront, establish local policies for waterfront revitalization, and identify implementation techniques to achieve its vision. Once completed, a Local Waterfront Revitalization Program will provide the organizational structure, local laws, projects, and on-going work that will implement the plan, and will allow for more knowledge of local considerations in state and federal agency actions and permitting that are subject to coastal consistency review.

DOS looks forward to working with current and future LWRP municipalities and forming new partnerships to help communities plan the future of their waterfront and implement projects and programs to support their local vision and needs.

Appendix 1: Checklist for LWRP Completeness

☐ Goals and Objectives: Includes a statement of goals and objectives to be achieved within the WRA

☐ Section 1. Boundary:
- The Waterfront Revitalization Area (WRA) Boundary is described. If a revision is proposed to the NYS Coastal Area Boundary, justification for the change is provided in the Draft LWRP.
- Boundary Map is included and shows all required info (see Appendix 4, LWRP Maps Guidance).

☐ Section 2. Inventory and Analysis: (ALSO SEE SECTION 5.1. Next Page)
- The Inventory and Analysis is completed for the entire WRA, and specifically identifies and addresses the applicable topics in Table 1 (attached)
- Map(s) are included in the Inventory and Analysis as needed to adequately show the location of important natural and manmade features of the WRA (see Appendix 4, LWRP Maps Guidance)
- The Analysis identifies specific problems and opportunities relating to the use and protection of waterfront resources, and examines the factors shaping those problems and opportunities
- The Inventory and Analysis includes all information necessary to determine whether a particular State coastal policy applies to the WRA and to develop an appropriate treatment of an applicable policy. For detailed guidance on developing appropriate policies see Appendix B of the CMP at: https://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf
- Existing land and water uses are clearly described in the Inventory and Analysis.
- Map is included to show proposed land uses (see Appendix 4, LWRP Maps Guidance)
- The Inventory and Analysis includes all information needed to develop specific and realistic proposed uses and projects for the WRA.

☐ Section 3. Coastal Policies: 44 or 13 (Long Island Sound communities) coastal policies are included, with policy statements and explanations of the policy statements.
- State coastal policy statements (**bold text**) are verbatim (may not be altered).
- For policies that are not applicable to WRA conditions in the Draft LWRP: an explanation is provided of why the policy is not applicable.
- A definitions section provides definitions of important or special terms used in policy statements.
- Each policy explanation includes:
  1. A statement of the public purposes served
  2. Identification/location of areas or resources to which the policy applies
  3. Specific guidelines, standards or criteria for determining consistency of proposed actions with the policy

☐ Section 4. Proposed Land and Water Uses and Proposed Projects, including Harbor Management Plan
- Proposed long-term land and water uses for the WRA are clearly described.
- Map is included to show proposed land uses (see Appendix 4, LWRP Maps Guidance)

☐ Section 4 or Appendix: A comprehensive Harbor Management Plan (HMP) is included, consisting of either a single document prepared as an appendix to the LWRP, or integrated into the LWRP.
- Necessary HMP implementing laws are included
- HMP Map(s) are included to show proposed water uses, including existing waterside municipal boundaries as well as any extraterritorial area in which the State has delegated regulatory authority to the municipality. If the municipality's corporate limits end at the shoreline or are less than 1500 feet from the shore, the map indicates the offshore 1500 feet extraterritorial limit (see Appendix 3, HMP Guidance and Appendix 4, LWRP Maps Guidance)

☐ Section 4. Proposed projects necessary to implement the LWRP are identified.
- A Project Profile is included for each priority or immediate project/initiative
- A chart is provided summarizing all proposed projects, including priority or immediate projects, plans and studies, and long-term projects
- Map is included to show the locations of proposed projects (see appendix 4, LWRP Maps Guidance)

☐ Section 5. Techniques for Local Implementation of the Program.
- 5.1. Local laws and regulations necessary to implement the LWRP are described (along with the applicable zoning map) and included in an Appendix in the final LWRP.
  - _ Existing local laws and regulations (Note: During the preparation of Section 2, the community should provide the existing local laws and a summary description of those laws to DOS for review so recommendations for revisions or new local laws can be provided early)
  - _ Proposed local laws and regulations or amendments necessary to implement the LWRP have been drafted and described, including a map of proposed zoning districts, if applicable.
- 5.2. Recommended local laws and regulations identified by local agencies as improvements, but not necessary to implement the LWRP, are described.
- 5.3. Other public and private sector actions necessary to fully implement and advance projects in the WRA are identified.
- 5.4. Future management and administration of the LWRP by the municipality is clearly defined.
- Include in Section 5.4 (or appendix) as provided by DOS in Appendix 9 of this guide, "Guidelines for Notification and Review of State Agency Actions Where [LWRPs] are in Effect," and "Procedural Guidelines for Coordinating NYS Department of State and LWRP Consistency Review of Federal Agency Actions" identifying local staff or board position for "Local Program Coordinator."
- 5.5. Financial resources necessary to implement and administer the LWRP have been determined (identify local funds for proposed projects in project profiles for priority projects/initiatives).
- 5.6. Include a summary chart relating the coastal policies to local legislation, plans and programs.
- Overall, Sections 5.1–5.6 should describe techniques for local implementation of the LWRP, establishing implementation measures for each policy, proposed land and water use, and project.

☐ Section 6. State and Federal Actions and Programs: A comprehensive list of State and federal agency actions and programs that should be undertaken in a manner consistent with the LWRP is included, and all State and federal actions essential to achieving specific LWRP objectives are described. Contact DOS for the most current list to insert in the LWRP.

☐ Section 7. Local Commitment and Consultation: All consultation activities with adjacent municipalities and county, regional, State and federal agencies which occurred during preparation of the Draft LWRP are summarized, including any issues which surfaced and how these issues were or might be resolved.
- The Draft LWRP includes a description of activities undertaken during preparation of the Draft LWRP, as well as those to be undertaken prior to approval of the Final LWRP
- Includes a resolution of the local legislature, authorizing:
  1. Acceptance of the Draft LWRP and local laws as complete, and submission of the Draft LWRP to the Secretary of State for 60-day review
  2. Identification of municipal staff (insert title in resolution) authorized to work with the Department of State to revise the Draft LWRP as necessary to address non-substantial comments received during the review period

☐ Appendices are included that support the LWRP, as applicable, such as: __ Local Consistency Review Law and Coastal Assessment Form; __ other new or amended local laws, ordinances, and regulations; __ State and Federal Guidelines for Consistency Review; __ Significant Coastal Fish and Wildlife Habitats narratives and maps; __ excerpts from plans that are relied on/cited in the LWRP; __ HMP (if not incorporated in the LWRP); __ NYS Canal Corporation's standards for waterfront structures.

☐ SEQR requirements are satisfied. (The municipality's adoption of the LWRP and any major land use and development laws implementing the LWRP = SEQR Type I Action.)

☐ After 60-day review: The Final LWRP incorporates changes needed as a result of comments received during the Draft LWRP 60-day review period.

☐ After 60-day review: Upon completion of DOS legal review, the Final LWRP includes, as evidence of local commitment, a resolution of the local legislature adopting the LWRP and requesting approval by the Secretary of State.

Table 1. Example approach to organizing the content of the Inventory and Analysis

□ Community Background
- _Community profile – location, population, employment
- _Overview of waterfront area
- _Historical development of waterfront area
- _Summary of existing Plans, Projects and Initiatives that effect the waterfront area such as the municipal comprehensive plan, All-Hazard Mitigation Plans, watershed management plans, downtown revitalization plans, community resiliency plans

□ Identification and assessment of existing land use and development including economic strengths, weaknesses, and opportunities for ongoing waterfront revitalization
- _Existing land and water uses*
- _Ownership patterns, (public & private) including underwater lands*
- _Zoning* – list and definitions of the current zoning districts, describing out how they support the existing land uses. NOTE: A more detailed discussion of the Zoning should be in Section V.
- _Public services and facilities* – water & sewer, vessel waste facilities, transportation, navigation channels/basins, bulkheads, docks and docking facilities
- _Abandoned, deteriorated or underutilized areas, sites and buildings
- _Hazards to navigation, such as abandoned barges and deteriorated pilings*
- _Limitations to development
- _Water-dependent uses*; water-enhanced uses and related issues
- _Port or small harbor development
- _Housing, economic, health and social services assets, and locations of socially vulnerable populations (detailed information needed for the resiliency Risk Assessment Tool)

□ Natural Resources
- _NYS Significant Coastal Fish and Wildlife Habitats*
- _Fish and wildlife habitat (other important areas not designated by New York State)
- _Wetlands*
- _Water resources and water quality
- _Water quality classifications and use standards*
- _Natural protective features

□ Commercial Fishing and Aquaculture

□ Flooding and Erosion
- _Coastal hazards
- _Storm surge and sea level rise risk

□ Public Access and Recreation – parks, trails, boat launches, fishing access, beaches

□ Historic and Archeological Resources
- _Historic underwater sites or structures (shipwrecks, dry docks, archeological underwater sites)*
- _Scenic Resources and Visual Quality – Scenic Areas of Statewide Significance; significant viewsheds within the WRA*

□ Agriculture and Agricultural Lands

□ Energy and Ice Management

□ Major energy-generating facilities and transmission networks, underwater cables and pipelines

□ Environmental Quality*
- _Discharge of pollutants and management of solid waste
- _Air quality

□ Summary of Strengths, Weaknesses, Opportunities and Threats / Findings and Conclusions

*Subjects required for the Harbor Management Plan (HMP) Inventory, additional information is also required for analysis of conditions and considerations in the HMA (See Appendix 3 for Harbor Management Plan guidance, and Appendix 2 for 19 NYCRR §603.3 which states the required contents of HMPs).

Appendix 2 – NYS Executive Law, Article 42, § 915 and 922; 19 NYCRR Parts 601 and 603

Article 42 of the Executive Law: **WATERFRONT REVITALIZATION OF COASTAL AREAS AND INLAND WATERWAYS**

§ 915. Optional local government waterfront revitalization programs for coastal areas and inland waterways.

1. It is the intention of this article to offer the fullest possible support by the state and its agencies to those local governments that desire to revitalize their waterfronts. Accordingly, any local government or two or more local governments acting jointly which has any portion of its jurisdiction contiguous to the state's coastal waters or inland waterways and which desires to participate may submit a waterfront revitalization program to the secretary as herein provided.

2. The secretary may provide technical and financial assistance as provided in sections nine hundred seventeen and nine hundred eighteen to any local government for the preparation of a waterfront revitalization program for the purposes of this article.

3. A local government or two or more local governments acting jointly which intends to submit a waterfront revitalization program for the purposes of this article is strongly encouraged to consult, during its preparation, with other entities that may be affected by its program, including local governments, county and regional agencies, appropriate port authorities, community based groups and state and federal agencies. On request by the local government, the secretary shall take appropriate action to facilitate such consultation.

4. The secretary shall prepare and distribute guidelines and regulations for local governments desiring to prepare, or cause to be prepared, a waterfront revitalization program (hereinafter referred to as the "program"). Such guidelines shall provide that the program will be consistent with the policies and purposes of this article generally and shall include, but not be limited to:
    a. Boundaries of the waterfront area;
    b. An inventory of natural and historic resources of the waterfront area to be protected;
    c. A statement of the goals and objectives of the program;
    d. Identification of the uses and projects, public and private, to be accommodated in the waterfront area;
    e. Description of proposed means for long-term management and maintenance of waterfront development and activities including organizational structures and responsibilities and appropriate land use controls;
    f. Description of necessary and appropriate state actions for successful implementation of the program; and
    g. Specification of the adequate authority and capability of the local government to implement the program.

5. The secretary shall approve any local government waterfront revitalization program as eligible for the benefits set forth in section nine hundred sixteen of this article if he finds that such program will be consistent with coastal policies and will achieve the waterfront revitalization purposes of this article. In making such determination, the secretary shall find that the program incorporates each of the following to an extent commensurate with the particular circumstances of that local government:
    a. The facilitation of appropriate industrial and commercial uses which require or can benefit substantially from a waterfront location, such as but not limited to waterborne transportation facilities and services, and support facilities for commercial fishing and aquaculture.
    b. The increased use of and access to coastal waters and the waterfront for water-related activities such as boating, swimming, fishing, walking and picnicking.
    c. The promotion and preservation of scenic, historic, cultural and natural resources as community amenities and tourist designations.
    d. The strengthening of the economic position of the state's major ports and small harbors.
    e. The redevelopment of deteriorated or formerly developed waterfronts through the re-use of existing infrastructure and building stock and the removal of deteriorated structures and unsightly conditions that have negative effects upon the waterfront area and adjacent neighborhoods, and appropriate new development.
    f. The application of local aesthetic considerations in the design of new structures and the redevelopment of waterfront sites.
    g. The protection of sensitive ecological areas, including but not limited to dunes, tidal and freshwater wetlands, fish and wildlife habitats, and the protective capability of coastal land features. Such protection will assure that land use or development will not affect such areas.
    h. A statement identifying those elements of the program which can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification or approval programs, grant, loan, subsidy or other funding assistance programs, facilities construction and planning programs which may affect the achievement of the waterfront revitalization program.
    i. The establishment of a comprehensive harbor management plan and the means for its implementation.

*5a. Nothing herein shall preclude the secretary from approving a portion or component of a local waterfront revitalization program provided such portion or component constitutes a discrete and cohesive, yet comprehensive, treatment of the subject or subjects addressed, which may be related to environmental, social, regional growth management or economic considerations.

*NB Effective upon approval by the secretary of commerce

6. Before approving any such waterfront revitalization program, or any amendments thereto, as eligible for the benefits of this article, the secretary shall consult with potentially affected state and federal agencies; secretary shall not approve any such program if he finds after such consultation that there is a conflict with any state or federal policies.

7. Where there is a conflict between a submitted waterfront revitalization program and any state or federal policy, at the request of the local government or the state or federal agency affected, the secretary shall attempt to reconcile and resolve the differences between the submitted program and such policies and shall meet with the local government and involved state and federal agencies to this end.

8. Subsequent to approval of the local program by the secretary, state agency actions shall be consistent to the maximum extent practicable with the local program. Provided, however, that nothing in this article shall be construed to authorize or require the issuance of any permit, license, certification, or other approval or the approval of any grant, loan or other funding assistance which is denied by the state agency having jurisdiction, pursuant to other provisions of law or which is conditioned by such agency pursuant to other provisions of law until such conditions are met.

   Where implementation of an approved local program depends upon the availability of other than local funds and program actions, the secretary shall meet with the involved state and federal agencies to explore the possibility of programming of such assistance, including pre-permitting of sites for waterfront redevelopment, in a manner that would provide the maximum practicable assistance toward the implementation of the local program.

9. Before undertaking any action pursuant to any programs identified pursuant to paragraph (h) of subdivision five of section nine hundred fifteen of this article the affected state agency shall submit, through appropriate existing clearing house procedures including but not limited to the state environmental quality review law, information on the proposed action to local government. The local government shall identify potential conflicts and so notify the secretary. Upon notification of the conflict, the secretary will confer with the affected state agency and the local government to modify the proposed action to be consistent with the local plan.

10. Any local government which has had a waterfront revitalization program approved pursuant to this section may withdraw its program at any time by filing with the secretary a copy of a resolution of its legislative body providing for such withdrawal. Upon receipt of such resolution, the secretary shall immediately notify all affected state agencies.

§ 922. Comprehensive harbor management plans.

1. In order to implement a comprehensive harbor management plan the local legislative body of a city, town or village may adopt, amend and enforce local laws or ordinances, not inconsistent with the laws of this state or the United States, to regulate the construction, size and location of wharves, docks, moorings, piers, jetties, platforms,

breakwaters or other structures, temporary or permanent, in, on or above waters and the use of surface waters and underwater lands within a city, town or village or bounding a city, town or village to a distance of fifteen hundred feet from the shore. Such local laws or ordinances may provide for the imposition of fees for reasonable expenses incurred by the city, town or village in carrying out this regulatory authority.

2. No 1oca1 1aw or ordinance adopted pursuant to the powers granted by this section shall take effect until it shall have been submitted to and approved in writing by the secretary of state, nor shall such 1oca1 1aw or ordinance affect projects and facilities undertaken or constructed by public authorities for which a statutory exemption has been provided or public authorities formed by compact with another state or any subsidiary thereof formed pursuant to bi-state legislation. The secretary of state shall not approve any local law or ordinance without first consulting with the commissioner of general services and ther interested state agencies administering state-owned lands underwater, nor shall the secretary approve any local law or ordinance not in accordance with any comprehensive harbor management plan adopted as part of a local waterfront revitalization program by the local legislative body of the city, town or village and approved by the secretary pursuant to this article.

3. a. Municipalities on lakes, other than those lakes identified in subdivision four of section nine hundred eleven of this article, may, pursuant to this section, develop cooperative lakewide local waterfront revitalization programs and harbor management plans.
   b. Where no local waterfront revitalization program and harbor management plan exists which has been cooperatively prepared by all of the municipalities which border the shores of such a lake, no local law or ordinance adopted by one such municipality pursuant to a harbor management plan shall be approved without a finding by the secretary of state that the local law or ordinance is consistent as well with the management of the lake by, and interests of, the lake residents and its municipalities as a whole.
   c. Where an organization or entity has been created by statute to provide lakewide planning or regulation, such local laws or ordinances shall be consistent with the plans developed by such organization or entity pursuant to the procedures required in such statute.

4. No provision of this chapter shall be deemed to diminish the authority of any city, town or village pertaining to the regulation of harbors, surface waters and underwater lands granted by any other law, charter, patent or other instrument. Nor shall it be read to authorize local harbor management plans displacing conforming water-dependent businesses in existence on the effective date of this section.

5. Any conveyances of interests pursuant to subdivision seven of section seventy-five of the public lands law and any permits issued pursuant to subdivision one of section 15-0503 of the environmental conservation law shall be consistent, insofar as possible, with approved comprehensive harbor management plans adopted pursuant to this section.

NYCRR TITLE 19. DEPARTMENT OF STATE, CHAPTER XIII. WATERFRONT REVITALIZATION OF COASTAL AREAS AND INLAND WATERWAYS

PART 601. LOCAL WATERFRONT REVITALIZATION PROGRAMS

(Statutory authority: Executive Law, §§ 911, 912, 913, 914, 915, 915-b, 916, 917, 918, 922)

601.1 Authority, intent and purpose.

This Part is adopted pursuant to sections 911, 912, 913, 914, 915, 915-b, 916, 917, 918 and 922 of the Executive Law to implement the optional Local Waterfront Revitalization Program (LWRP) provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. It includes:

(a) procedural requirements for voluntary participation by local governments;

(b) criteria for review of local programs by the secretary;

(c) procedural requirements for review and comment on each LWRP submitted.

601.2 Submission of Local Waterfront Revitalization Programs.

(a) Every submission of an LWRP to the secretary, in order to be deemed a completed submission eligible for approval, must be accompanied by a resolution of the legislative body providing for such submission. In those instances where two or more local governments are cooperatively submitting an LWRP, resolutions from each of the participating local governments shall be necessary before a submission is deemed complete and eligible for review by the Secretary.

(b) Each LWRP shall include, for purposes of a completed submission eligible for review by the secretary, all of the elements contained in sections 911(6), 915(5) and 922 of the Executive Law.

601.3 Criteria.

In order to approve a submitted LWRP as eligible for the benefits of sections 916 and 922 of article 42 of the Executive Law, the Secretary must find:

(a) that the LWRP incorporates the criteria listed in sections 911(6), 915(5) or 915(5-a), and 922 of article 42 of the Executive Law to an extent commensurate with the circumstances of the local government or local governments seeking approval;

(b) that the LWRP is consistent with the policies of article 42 of the Executive Law as contained in section 600.5 or 600.6 of this Chapter; and

(c) after consultation with potentially affected State and Federal agencies, that the LWRP will not conflict with any applicable State or Federal policy.

601.4 Procedure for review.

(a) Upon receipt of a completed LWRP the secretary shall circulate the program to such parties as the secretary shall deem appropriate, which parties shall include:

(1) every State agency (as defined in article 42 of the Executive Law) with programs identified in the submitted LWRP as having the potential to affect the achievement of that LWRP;

(2) any adjacent local government with contiguous coastal or inland waterway area;

(3) the county wherein the LWRP area is situated; and

(4) the regional planning board, if any, wherein the LWRP area is situated.

(b) All parties shall have 60 days for review and comment before the Secretary can render a decision as to the approvability of such LWRP.

(c) (1) Major amendments to any approved LWRP, such as a substantial alteration in the coastal area boundary, or of applicable coastal policies, shall be reviewed in the same manner as any original LWRP.

(2) Minor amendments to any approved LWRP, such as updates which reflect changing characteristics of the community, incorporation into the LWRP of policies contained in the State Coastal Management Program, or adoption of local laws or ordinances which further implement the LWRP, shall be subject to a 21-day period for review and comment by all parties before the secretary may render a decision on approvability of the amendment.

(d) Notice of disapproval by the secretary shall be issued in writing and shall include findings with respect to the criteria which the LWRP fails to meet. Disapproval of a LWRP shall be without prejudice and any local government may resubmit a LWRP without regard to prior disapprovals.

(e) The secretary may, as a condition to approval of a LWRP, require that notice of certain identified actions of that local government or its agencies be given to the Secretary prior to such actions being taken.

601.5 Submission, approval and effect of local laws or ordinances.

(a) Local laws or ordinances adopted to implement harbor management plans shall be submitted to the secretary with the completed LWRP.

(b) Such local laws or ordinances shall be approved and become effective as provided in section 922 of the Executive Law and Part 603 of this Title.

601.6 Approved programs.

A LWRP approved by the secretary shall be eligible for the benefits provided in article 42 of the Executive Law.

601.7 Review of approved programs.

(a) The secretary shall periodically review the administration and implementation of every approved LWRP to assure, among other things, that the local government itself acts consistent with the goals of its approved LWRP.

(b) The secretary shall, after written notice to the legislative body of the participating local government, revoke approval if at any time he/she finds that the policies and goals of the approved LWRP are not being carried out in accordance with the terms of such LWRP.

601.8 Withdrawal.

A local government may withdraw its approved LWRP at any time as provided in the Executive Law. Withdrawal of an approved LWRP will effect an immediate termination of all benefits accruing under the Executive Law, including but not limited to any funding or other technical assistance and the effect of any local law or ordinance or portions thereof which required approval of and were approved by the secretary pursuant to section 922 of the Executive Law and Part 603 of this Title.

PART 603. HARBOR MANAGEMENT

(Statutory authority: Executive Law, §§ 913, 915, 915-b, 922)

603.1 Authority, intent and purpose.

(a) This Part is adopted under authority of sections 913, 915, 915-b and 922 of article 42 of the Executive Law to implement the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

(b) In chapter 791 of the Laws of 1992, the Legislature emphasized the importance of New York State's navigable waters and underwater lands, and acknowledged the need to control uses, projects and structures in or over these areas. The Legislature specifically identified the regulation of such projects and structures as necessary to meet the State' s obligations, founded principally on the Public Trust Doctrine, to responsibly manage the State's proprietary interests, protect vital assets held in the name of the People of the State, and guarantee common law and sovereign rights. To this end, the Legislature declared that the reasonable exercise of riparian or littoral rights by waterfront owners shall be consistent with the public interest in reasonable use and responsible management of navigable waters and lands underwater for purposes of navigation, commerce, fishing, bathing, recreation, environmental and aesthetic protection, and access. Along with recognizing the importance of State agency actions in fulfilling these obligations, the Legislature also recognized the significant role New York's cities, towns and villages are capable of taking in the regulation and management of activities in or over the State's navigable waters and underwater lands if granted clear authority to regulate these areas. Accordingly, the Legislature has provided for the development and approval of local comprehensive harbor management plans (HMPs) and the local laws or ordinances necessary to implement these plans. It is the intention of this Part to enable cities, towns and villages to exercise this new authority in a manner which meets local needs while accommodating the significant interest of the State, on behalf of the public, in lands underwater and navigable waters. It is the purpose of this Part to provide the procedural and substantive requirement for approval of HMPs and local laws and ordinances necessary to implement these plans.

603.2 Eligibility and authority.

Subject to review and approval by the Secretary of State:

(a) (1) A city, town or village may adopt an HMP to regulate the surface waters and underwater lands within the city, town or village, or bounding it to a distance of 1,500 feet from shore, whichever is greater.

(2) Determination of the line from which the 1,500 feet shall be measured shall be made as follows:

(i) where the shore is generally even, the 1,500 feet shall be measured from the mean low water line;

(ii) where the shore is uneven because of indentations such as coves, small bays, inlets or similar conditions, the 1,500 feet shall be measured from a straight line drawn across the indentation from the two points representing the furthest waterward extent of the mean low water line on either side of the indentation. Any water area and underwater lands landward of this line will, however, be subject to harbor management planning and regulation pursuant to this Part;

(iii) where an offshore island is part of a municipality, the 1,500 feet shall be measured from the mean low water line surrounding the island;
(iv) in all instances, the area between the mean low water and mean high water lines shall also be subject to HMP coverage; and
(v) whenever necessary the Secretary shall make a determination of the bounds of an HMP area, based upon written findings which take into account the size of the waterbody; existing municipal regulation of waters and underwater lands; the avoidance of conflicts among local, State and Federal governments; and other relevant considerations.

(b) Subject to the written approval of the Secretary of State, the local legislative body of such city or town may adopt, amend and enforce local laws or ordinances, and a village may adopt, amend and enforce local laws to implement the HMP. Such local laws or ordinances may provide fees for reasonable expenses incurred in carrying out this authority. Proposed local laws and ordinances to implement the HMP shall be submitted to the Secretary of State for approval in accordance with the provisions of section 922 of the Executive Law and section 603.5 of this Part.

(c) (1) Municipalities on lakes, excepting those on lakes identified in section 911(4) of the Executive Law, may develop cooperative lakewide LWRPs and HMPs, and may adopt, amend and enforce local laws or ordinances to implement such plans.

(2) In the absence of a cooperative lakewide LWRP and HMP prepared by all of the municipalities on such lake, a municipality may still adopt and have approved an LWRP and HMP, and may adopt, amend and enforce local laws or ordinances to implement the HMP, provided the Secretary of State finds, in approving such local laws or ordinances, that it is consistent with the management of the lake by, and the interests of, the lake residents and its municipalities as a whole.

(3) Such local laws or ordinances shall also be consistent with the plans of any organization created by statute to provide lakewide planning or regulation.

(d) As provided in section 119-o of the General Municipal Law, other municipalities may adopt cooperative HMPs and may adopt, amend and enforce local laws or ordinances to cooperatively implement such plans.

603.3 Contents.

At a level of detail and to the extent commensurate with the particular circumstances of the local government(s), an HMP shall contain the following, either in a separate document prepared to augment an LWRP, or integrated into an LWRP in an identifiable manner:

(a) identification of the HMP boundary area;
(b) an inventory and analysis of existing uses, features and conditions in this area;
(c) identification and discussion of issues of local importance;
(d) identification and discussion of issues of regional importance;
(e) discussion of opportunities, long and short-term goals and objectives;
(f) identification of conditions which operate as constraints on utilization of underwater lands and navigable waters by the public;
(g) discussion of water dependent uses;
(h) identification and discussion of economic, cultural and social considerations fundamental to responsible management of underwater lands and navigable waters;
(i) a water use plan;

(j) specification of policies concerning present and future use and management of such areas;
(k) identification of capital projects necessary to implement the HMP;
(l) specification of existing and proposed techniques and authorities to implement the HMP; and
(m) to the extent commensurate with the particular circumstance of the city, town or village, an HMP shall address the following considerations:
(1) conflict and competition for space among the uses and users of harbors, surface waters and underwater lands;
(2) regulation of the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters or other structures, whether temporary or permanent;
(3) regional needs for any of the various uses or users likely to be attracted to the particular qualities of the area; and
(4) where applicable:
(i) commercial shipping;
(ii) recreational boating;
(iii) commercial and recreational fishing and shellfishing;
(iv) aquaculture and mariculture;
(v) waste management;
(vi) mineral extraction;
(vii) dredging;
(viii) public access;
(ix) recreation;
(x) habitats and other natural resource protection;
(xi) water quality;
(xii) open space;
(xiii) aesthetic values;
(xiv) water dependent uses;
(xv) common law riparian or littoral rights; and
(xvi) public interests, including interest under the Public Trust Doctrine; and
(n) HMPs shall also consider other circumstances determined to be of significance by the Secretary of State, and HMPs may also consider those determined to be of significance by the city, town or village.

603.4 Development.
(a) HMPs shall be developed with the participation of the public, and Federal, State and local governments and agencies.
(b) Within the limits of appropriated funds, the Department of State will be available for guidance and assistance.
(c) A schedule for incremental completion, submission of work products and final adoption and submission of the HMP shall be agreed to between the participating city, town or village and the Department of State.

603.5 Review and approval.
(a) HMPs shall be reviewed and approved in accordance with Part 601 of this Title.

(b) (1) Local laws or ordinances to implement the HMP shall be developed with the secretary, and shall be submitted for review and comment a reasonable time prior to the scheduling of any public hearing on any such local law or ordinance.

(2) In order to ensure the effectiveness of such local laws or ordinances under section 922 of the Executive Law and whatever general or specific authority pursuant to which they are enacted, the secretary shall approve and the municipality shall adopt any local laws or ordinances in a coordinated manner.

603.6 Participation by municipalities with approved LWRPs or LWRPs near approval.

(a) Cities, towns or villages with approved LWRPs on the effective date of this Part may develop and submit an HMP for review and approval. However, any city, town or village which seeks to amend an approved LWRP must include a HMP for approval in any such amendment. This requirement may be waived by the secretary to the extent commensurate with the particular circumstances of the local government proposing the LWRP amendment.

(b) Cities, towns or villages which have completed the review period provided in section 601.4(b) of this Title before July 1, 1994 shall not be required to submit an HMP as a precondition to approval of an LWRP.

603.7 Practical considerations.

(a) A number of cities, towns and villages in the coastal area of New York State possess either several distinctive harbor areas, or have the clear need to engage in some level of cooperative intermunicipal HMP development and implementation, or both. Resources, public access and other interests may suffer unless the planning process engaged in by these municipalities results in expeditious measures to address significant existing and projected conditions in or over navigable waters and underwater lands.

(b) To accommodate the realities of size, complexity, location or other uniqueness and the need for action, such a municipality may submit a written request to the secretary for permission to prepare an expedited HMP. Any request shall specify those circumstances which justify approval of such a request.

(c) The secretary shall advise the appropriate municipal officials in writing of his or her decision on the request, and of the terms and conditions applicable to the permission to develop an expedited HMP. The secretary shall also specify any additional requirements for approval of the program and implementing laws.

Appendix 3

GUIDELINES FOR THE PREPARATION OF HARBOR MANAGEMENT PLANS

NEED FOR HARBOR MANAGEMENT

Dramatic increases in the State's recreational boating fleet and other changes in the use of harbors has resulted in competition for space within and along the shores of the State's harbors and nearshore waters. Conflicts have increased between recreational boating and other recreational uses of harbors, between recreational and commercial activities, and between all uses and natural and cultural resources. These conflicts and a lack of clear authority to solve them have degraded the natural and cultural characteristics of many harbors and their ability to support a range of appropriate uses. The ability of municipalities to take advantage of potential growth in water-dependent recreation, without destroying the viability of other water dependent uses and important natural or cultural resources, has been constrained by a lack of clear municipal authority to regulate the wide range of uses and activities occurring in harbor and nearshore areas.

Despite growing problems associated with the use of harbors, municipal regulation within harbors and nearshore areas has been limited primarily to regulating vessel use, speed, anchoring, and mooring. Municipal regulation of other in-water uses and activities on underwater lands has varied by region of the State, and is different for cities, towns, and villages. For example, special State enabling legislation authorizes specific municipalities to regulate structures such as boathouses and docks. However, until recently, there had been no clear State enabling legislation authorizing all municipalities to regulate all uses and activities occurring in harbor and nearshore areas. This lack of clear enabling legislation, and overlaps in federal, State, and local government regulatory authority, severely hampered the ability of the State and local governments to comprehensively manage activities in harbor and nearshore areas, and to resolve conflicts and other issues in these intensely used and important areas.

In order to resolve these issues, Chapter 791 of the Laws of 1992 was enacted, amending Article42 of the Executive Law (Waterfront Revitalization and Coastal Resources Act) to provide local governments with the clear authority to comprehensively manage activities in harbor and nearshore areas by developing comprehensive harbor management plans and laws to implement those plans.

Article 42 of the Executive Law and Department of State regulations (19 NYCRR Part 600, 601.1, and 603) contain procedures for the development and approval of harbor management plans and their local implementing legislation. Harbor Management plans are to be developed with the participation of the public and federal, State and local governments and agencies. The Department of State provides information, technical, and financial assistance to municipalities for the development of Harbor Management Plans as components of their Local Waterfront Revitalization Programs.

RELATIONSHIP OF HARBOR MANAGEMENT PLANS TO THE LOCAL WATERFRONT REVITALIZATION PROGRAM

Harbor management plans are to be undertaken as part of a Local Waterfront Revitalization Program (LWRP). To date, LWRPs have primarily been developed to address land uses in the coastal area and have not fully addressed water use issues. Harbor management plans address the problems of conflict, congestion, and competition for space in the use of harbors, surface waters and underwater lands within a city, town or village, or bounding a city, town or village to a distance of fifteen hundred feet from the shore. They can be viewed as extensions of traditional land use planning and zoning concepts to the "wet side" of the coastal area.

Harbor management plans and their local implementing legislation are integral components of LWRPs and are now required for a Local Waterfront Revitalization Program to be approved. LWRPs approved prior to July 1994 or for which a Draft Environmental Impact Statement has been prepared prior to July 1994 are not required to include harbor management plans, municipalities without harbor management plans are encouraged to amend their LWRP to include harbor management plans, and substantial amendments to a LWRP must include a harbor management plan. Municipalities must submit harbor management plans and the necessary implementing laws to the Secretary of State for approval as part of, or as an amendment to, a municipality's approved LWRP.

BENEFITS OF A HARBOR MANAGEMENT PLAN

The benefits of a harbor management plan to a municipality are similar to those of an approved LWRP. In coastal waters, the State and federal government have the authority to regulate in- water activities, and most municipalities have little or no authority to regulate structures and uses of surface waters and underwater lands other than vessel uses. Harbor management plans enable local governments to address a wide range of uses in harbor and nearshore areas in full partnership with the State's Coastal Management Program. These benefits include:

- determining the status of harbor areas and developing a strategy to achieve goals for harbor areas;
- requiring state and federal adherence to harbor management plans (see Consistency of Federal, State and Local Actions below);
- technical assistance from the Department of State in addressing harbor management issues;
- financial assistance for small-scale construction and land acquisition projects;
- research, design and other preconstruction activities that implement the harbor management plan;
- addressing harbor and nearshore issues that transcend local boundaries.

An important additional benefit is that when a harbor management plan is approved by the Secretary of State as a component of a LWRP, a municipality is delegated the authority to regulate all structures and uses of waters and underwater lands. A municipality may then directly regulate the construction, size and location of structures in, on or above waters and the use of surface waters and underwater lands

within the municipality or bounding the municipality to a distance of fifteen hundred feet from the shore. They may impose fees for reasonable expenses incurred by the municipality in carrying out this regulatory authority.

This new authority does not limit or change any existing authority a municipality may now have to regulate certain harbor uses and activities. If a municipality is regulating any harbor use or activity based on an authority not derived from Article 42 of the Executive Law, the exercise of that authority, even if used to implement the municipality's harbor management plan, is not subject to the Secretary of State's approval.

Consistency of Federal, State and Local Actions with Harbor Management Plans

Upon approval of a harbor management plan as a component of an LWRP by the Secretary of State and the federal Office of Ocean and Coastal Resource Management, federal and state actions, such as funding, permit, approval and direct actions by agencies are required to be undertaken in a manner consistent with the approved LWRP and harbor management plan. Where a harbor management plan includes standards for the siting or construction of in-water structures and the use of surface waters and underwater lands, no federal or state agency may undertake or permit any actions that are inconsistent with those standards.

The consistency benefit is particularly significant with regard to harbor management, since little or no activity occurs over or in surface waters without federal or state involvement.

As with LWRPs, in exchange for federal and state consistency with approved harbor management plans, local governments must bind themselves to the harbor management plan. Usually, the vehicle is the same local consistency law that binds the local government's regulatory, approval, direct and funding actions to the policies and purposes of the LWRP.

PREPARING THE HARBOR MANAGEMENT PLAN

Harbor management plans must be comprehensive. They must consider regional needs and, as applicable, the competing needs of commercial shipping and recreational boating, commercial and recreational fishing and shellfishing, aquaculture, waste management, mineral extraction, dredging, public access, recreation, habitat and other natural resource protection, water quality, open space needs, aesthetic values, common law riparian or littoral rights and the public interest in underwater lands. Harbor management plans must cover all surface waters within or adjacent to a municipality. These include in-water areas adjacent to open shorelines as well as actively used enclosed bays or harbors. The harbor management plan provides a rational basis for the allocation and use of space within a harbor or nearshore area. A harbor management plan and its implementing local laws effectively zone surface water areas and underwater lands for specific uses or a range of specific uses in order to avoid conflicts or improve conditions within harbor or nearshore areas.

A harbor management plan may consist of a single document prepared as an appendix or supplement to a Local Waterfront Revitalization Program, or it may be integrated into a LWRP. If integrated into a LWRP, a harbor management plan would consist of the "wet side" components of the following LWRP sections: boundaries (Section 1), inventory and analysis (Section II), policies (Section ill), proposed land and water uses (Section IV), techniques for implementation (Section V), and other federal and state actions necessary to advance a Local Waterfront Revitalization Program (Section VI.B).

If the harbor management plan is a separate part of the LWRP, then the policy section of the LWRP must include policy standards referencing the harbor management plan and the standards found in the harbor management plan's implementing legislation.

CONTENTS OF A HARBOR MANAGEMENT PLAN

The basic components of a harbor management plan should include the following components. The text also indicates how a harbor management plan may be integrated into a LWRP.

Inventory

The inventory identifies and describes the existing natural and cultural resources, physical features, and uses of the surface waters and underwater lands for which the plan is being developed. The inventory should include the following subjects and be supplemented by maps indicating their location and extent.

- commercial, industrial, and recreational water-dependent uses (such as marinas, boat yards, transshipment facilities, swimming areas, commercial or recreational fishing or shellfishing, types of vessel activity (commercial vessel or recreational vessel traffic) and vessel anchorage or mooring areas;
- water quality classifications and use standards;
- wetlands and significant habitats;
- the general pattern of public and private ownership of underwater lands;
- historic underwater sites or structures, such as shipwrecks, historic dry docks, or archaeological sites, if any;
- hazards to navigation, such as abandoned barges and deteriorated pilings;
- underwater cables or pipelines; and
- existing infrastructure, such as navigation channels and basins, bulkheads, docks and docking facilities, sewage treatment and vessel waste facilities, public water supplies, and roadways supporting the harbor area;
- a description of adjacent existing land uses and zoning; and
- a description of the scenic quality of the harbor, including positive and negative features.

This material may be incorporated in the text and maps of Section II-Inventory and Analysis of a LWRP.

Issues

A summary of issues of local and regional importance that should be addressed in the harbor management plan, such as:

- interference with existing navigation channels by structures such as docks, floats or anchored or moored vessels;
- public health and safety, such as conflicts between shellfishing and vessel anchorage or mooring areas, the operation of vessels in or near swimming areas, and general boating congestion;
- substandard water quality and a need to improve water quality for a range of desired uses, such as fishing, swimming, or year-round or seasonal shellfishing;
- degraded or threatened natural areas such as wetlands or significant coastal fish and wildlife habitats;
- a need to maintain or provide harbor infrastructure such as roadways, navigation channels, bulkheads, boat ramps, docks, sewage treatment and vessel waste pumpout facilities;
- limits on public access to the harbor or public use of the harbor area;
- a high demand for, but a lack of, appropriate commercial vessel support facilities or sufficiently maintained navigation channel or basin depths;
- problems related to dredging and dredged material disposal;
- the need to protect important water-dependent uses in appropriate areas within the harbor; and
- adverse impacts on scenic quality and visual access to the harbor.

The narrative should also provide a brief description of any conflicts between existing land or water uses and existing zoning standards. Such conflicts might include:

- existing nonconforming water-dependent uses in areas appropriate for water-dependent uses, but zoned for non-water dependent uses; or
- intertidal wetland areas, bays or other offshore or intertidal areas that are used or zoned for residential or other inappropriate uses in these areas.

This material may be incorporated in or included under a separate heading for harbor management issues in the summary of issues at the end of Section II of a LWRP.

Existing Authorities

A summary of the existing roles and responsibilities and existing authorities of federal, state and local agencies in the harbor area, including those of another local government which regulates or has the authority to regulate activities within 1500 feet of the municipality's shore. Examples of the agencies with the greatest roles in advancing or implementing harbor management plans that should be addressed in this summary include:

- the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, the U.S. Army Corps of Engineers, and the Department of Interior;
- the State Departments of State, Environmental Conservation, and Transportation, and the Office of General Services and the Office of Parks, Recreation, and Historic Preservation;

- agencies of the city, town, or village, or a county if the county regulates activities in the harbor area;
- in certain towns, the trustees of the towns responsible for managing harbor or foreshore areas; and
- the local harbormaster, bay constable, police department or county sheriff's office.

This material may be included in the Inventory and Analysis in Section II of a LWRP. The existing authorities of local agencies that are necessary to implement or advance the harbor management plan should be identified in Section V-Techniques to Implement the Program, including necessary implementing legislation, intermunicipal legislation, memoranda of understanding, or other agreements.

Opportunities

A narrative summary of opportunities to resolve issues or advance desired projects or uses in harbor areas, such as:

- land available for water-dependent uses;
- wetland restoration projects;
- public access projects;
- redevelopment of underutilized or deteriorated areas for projects that advance harbor management efforts.

This material may be incorporated in Section II of a LWRP.

Objectives

A summary of the overall objectives of the harbor management plan that can be accomplished through enforceable policies or capital/construction projects, such as:

- protecting existing or providing for new water-dependent uses such as marinas, boat yards, yacht clubs, port facilities, swimming beaches, or shellfishing;
- providing necessary commercial fishing support facilities such as a vessel loading and offloading platfom1 or dock at a specific publicly owned site;
- protecting water quality by providing sufficient vessel waste pumpout and waste reception facilities to support designation of a harbor as a vessel waste no-discharge zone;
- providing a balance among the various uses of a harbor, by indicating what primary uses are to be supported in a harbor area;
- indicating goals regarding public access and use of the harbor; and
- indicating how scenic quality can be improved.

This material should be reflected in the policy statements and explanations of policy in Section III of a LWRP.

Harbor Management Plan

The harbor use plan for the harbor management area must be shown on a map that includes both the surface water area and the adjacent uplands that are integral to the use and management of surface waters and underwater lands.

A map depicting proposed water uses within harbor area should be included in Section IV-Proposed Land and Water Uses of a LWRP.

Mapping Requirements

The harbor management plan map should be of sufficiently large scale to illustrate all of the information necessary. All use zones, infrastructure and special projects should be shown on the large scale harbor management plan map. A map key should explain each zone, infrastructure type and project. A smaller scale map that shows all offshore areas within or adjacent to the municipality should be included as a component of the plan, but need not show discrete water use zones unless specific areas offshore are designated for specific uses.

Many municipal boundaries, especially on the north shore of Long Island and in the Great Lakes region, extend offshore for several miles. It is not necessary to show large expanses of offshore open water areas on the large scale harbor management plan map. However, all of the surface waters within a municipality or within 1500 feet from a municipality whose corporate limits end at the shore should be shown on a map that supplements the large scale harbor management plan map. The large scale, detailed harbor management plan map will usually only be necessary for nearshore areas such as harbors, bays, and rivers; small lakes or embayments within lakes.

Geographical Extent of a Harbor Management Area

In order to adequately represent the geographical extent of a municipality's harbor management area on a map, the map must show existing waterside municipal boundaries as well as any extraterritorial area in which the State has delegated regulatory authority to the municipality.[1] This may occur under

[1] Section 46-a of the Navigation Law and Section 130.17 of the Town Law provide municipalities with the authority to regulate certain vessel uses upon waters within a municipality, or bounding a municipality to a distance a 1500 feet from shore. These enabling statutes only apply to the regulation of the over-water use of vessels. Where a municipality's corporate limits end at the shore, Sections 46-a of the Navigation Law and Section 130.17 of the Town Law provides municipalities with the extraterritorial authority to regulate the over-water use of vessels up to 1500 feet from shore. However, Section 130.17.(3) of the Town Law prohibits a town from regulating the over-water use of vessels upon waters within a village, or within 1500 feet from the shore of a village.

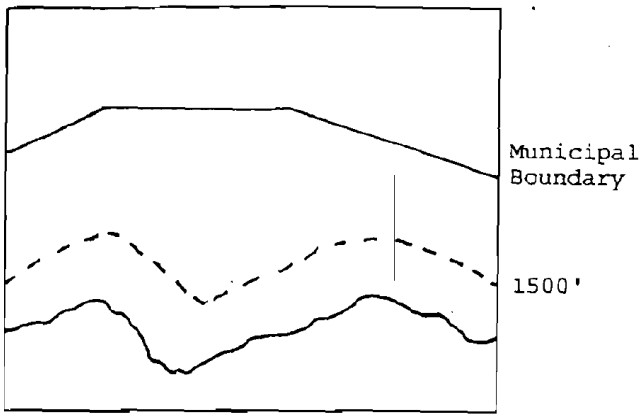
Section 46-a.(2) of the Navigation Law specifically names certain towns and villages that are authorized to regulate the construction and location of boathouses, moorings and docks in any waters within or bounding the specifically named municipalities. Similar authority, including the authority to control all structures within certain water bodies, is granted to certain municipalities in Niagara County by Section 32-e of the Navigation Law.

circumstances where a municipality's boundary coincides with the shore or is less than 1500 feet from shore.

Section 922 of Article 42 of the Executive Law enables cities, towns, and villages to regulate all structures in, on, or above surface waters and all uses of surface waters and underwater lands within a city, town, or village's municipal limits, or, where a city, town, or village's municipal limits end at the shoreline, to 1500 feet from shore, whichever distance from shore is greater. Thus, whether or not a municipality has already obtained some extraterritorial jurisdiction, where a municipality's corporate limits end at the shoreline or are less than 1500 feet from the shore, the map should indicate the offshore 1500 feet extraterritorial limit.

If a municipality's corporate limits extend more than 1500 feet from the shore, the map should indicate that the waterward limits of the municipality's harbor management area coincide with the waterward limits of the municipality's corporate limits (Figure 1).

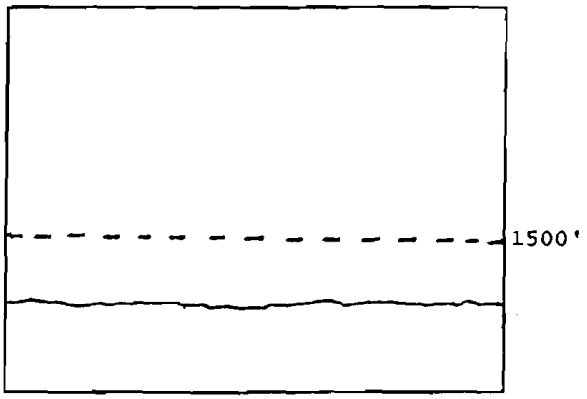
Figure 1



Where a municipality's corporate limits end at the shoreline or are less than 1500 feet from shore, the 1500 feet offshore extraterritorial limit is measured in the following manner:

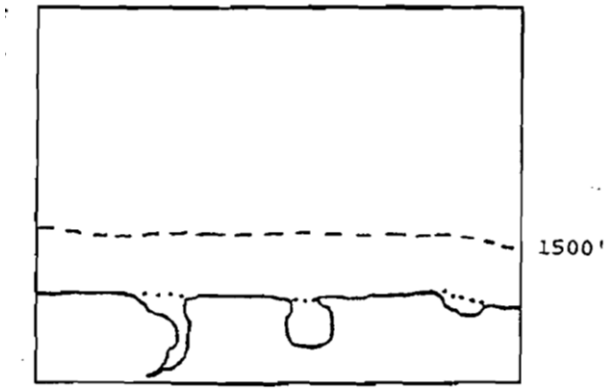
- where the shore is generally even, the 1500 feet is measured from the mean low water line (Figure 2).

Figure 2



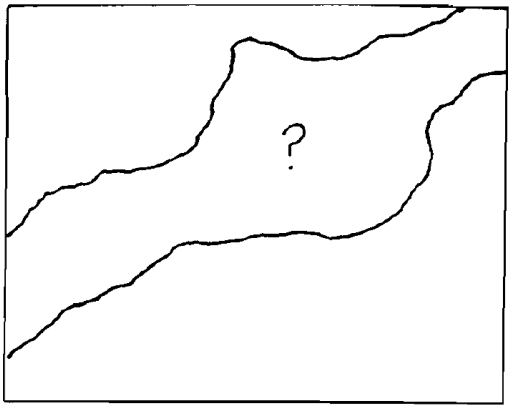
- where the shore is uneven because of indentations such as coves, small bays, inlets or similar conditions, the 1500 feet is measured from a straight line drawn across the indentation from the two points representing the furthest waterward extent of the mean low water line on either side of the indentation (Figure 3).

Figure 3



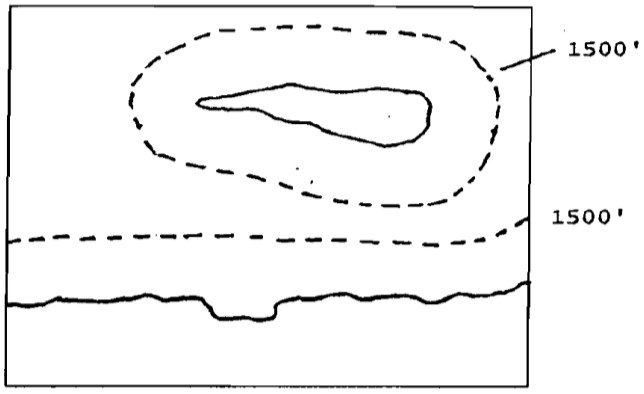
- where municipalities share a water body that is less than 3000 feet wide, the Department of State will advise where the offshore limit of the area should be (Figure 4).

Figure 4



- where an offshore island is part of a mainland municipality, and the municipality's corporate limits do not encompass the water area between the mainland and the island or surrounding the island, the 1500 feet distance from the shore of the island is measured from the mean low water line surrounding the island (Figure 5).

Figure 5



Harbor Use or Water Use Zones

The harbor management plan map is a graphic depiction of the types of uses allowed and in which harbor areas the uses are and are not allowed. A harbor management plan map is similar to a zoning map, and needs to be supported by a single law or ordinance or a group of special purpose laws or ordinances, just as a zoning map is implemented by a zoning law or ordinance. Laws or ordinances and descriptions of physical projects describe what the map shows and make the map "work" by regulation.

The map should depict areas representing surface waters and underwater lands that will be designated for certain uses, such as:

- existing or proposed navigation channels, fairways, or access ways over the water's surface;
- open water areas;
- mooring or anchorage areas;
- special use zones, e.g. areas set aside for or periodically designated for water skiing, races, or other special events;
- buffer areas between water surface uses;
- swimming areas;
- harbor or pierhead lines, and bulkhead lines;
- perimeter permit areas;
- major structures such as groins, jetties, seawalls, bulkheads, and piers;
- sensitive habitat or shellfishing areas;
- marinas; and
- upland areas adjacent to the water body where water-dependent uses are proposed.

The map should also depict important proposed public improvements, such as public docks or vessel waste disposal facilities, launching ramps and parking areas.

The harbor management plan map should be included in Section IV of a LWRP.

Techniques to Implement the Harbor Management Plan

The harbor management plan must identify appropriate techniques to address issues described in the summary of issues and to implement the harbor management plan and map. These techniques may include:

Local Laws or Ordinances

The adoption of local laws or ordinances that implement the harbor management plan map by regulating vessels, structures, and uses within the harbor management area, such as:

- the use, operation, speed, and anchoring and mooring, and other uses of or activities associated with vessels;
- the siting and construction of docks, piers, bulkheads or other in-water structures;
- activities allowed or prohibited in sensitive areas such as highly productive wetlands and significant habitats, or in areas such as swimming areas where public safety is of concern;
- dredging and dredged material disposal and the mining or excavating of subsurface materials;
- swimming, SCUBA diving or other primary contact in-water recreational activities; and
- adopting new or amending ex1stmg zoning laws or ordinances, where appropriate favoring water-dependent uses, or allowing limited water-enhanced or non-water- dependent uses that support water-dependent uses.

These local laws or ordinances should describe the allowable uses of areas as shown on the harbor management plan map, and should include standards for these uses. In effect, these laws are much like the text of a traditional zoning law or ordinance that provides the narrative text and standards to implement a standard zoning map.

Existing laws or ordinances, if any, that implement portions of the harbor management plan; and proposed amendments to existing laws or ordinances and proposed new laws or ordinances to implement the harbor management plan, should be included in Section V -Techniques for Implementation of the Program under the heading of Local Laws or Ordinances and Regulations Necessary to Implement the LWRP.

Procedural Actions

Procedural actions are actions that change how activities in harbor areas are managed, create special districts, or establish responsibilities to manage activities in harbor areas, such as:

- Harbor Improvement Districts - establishing harbor improvement districts pursuant to Section 190 of the Town Law to provide a funding mechanism for public projects and physical improvements in and adjacent to the harbor area, such as: water quality improvement projects; studies; construction and maintenance of public launching ramps, docks, vessel waste pumpout and waste reception facilities; land acquisition; and dredging;
- Management - appointing a harbor manager to administer the plan, or providing a harbormaster or other person with the training and authority necessary to administer the plan; designating the harbor responsibilities of existing officials and boards;

- Enforcement - appointing a harbormaster or bay constable to enforce the plan's regulations, or improving the ability of a harbormaster, bay constable, the sheriff's office or police department to enforce the plan;
- Education - providing information to recreational boaters and other users of the harbor area, such as tourists, regarding harbor safety and public health, maritime history, uses of the harbor area, natural resources, or other information that increases public awareness of harbor issues.

These procedural actions should be included in Section V of a LWRP.

Studies and Research

Special studies, design projects, or research necessary to advance or refine a harbor management plan or a component of it, such as:

- detailed studies of the extent of grants, leases or easements of underwater lands, in order to determine the extent of public and private rights in and to underwater lands where information is not readily available or sufficiently detailed to be included in a harbor management plan;
- water quality, pollutant transport, or sedimentation studies;
- needs assessment, design or other specific assessments relating to commercial fishing facilities, recreational fishing facilities, or public access facilities;
- conceptual or detailed design studies of harbor infrastructure needs such as docks, drainage facilities and water quality improvements;
- design of landscaping and other treatments which would improve the scenic quality of the harbor area.

These studies and projects should be included in Section IV of a LWRP.

Capital Projects

Capital improvement or construction projects that are necessary to maintain or improve uses or conditions within a harbor area, such as:

- providing public commercial or recreational fishing docks, public docking facilities, or vessel waste pumpout and disposal facilities, and the maintenance of public navigation channels;
- dredging and dredged material disposal;
- improvements to street drains to treat runoff and improve water quality in harbor areas;
- public access walkways, improved lighting, viewing points;
- other harbor infrastructure improvement projects.

These studies and projects should be included in the proposed projects in Section IV of a LWRP, and in Section V of a LWRP, under the heading of Other Public and Private Actions Necessary to Implement the Program.

Other Implementation Actions Necessary

Actions by federal and State agencies are often necessary in order to fully implement and advance projects in harbor areas. These actions may include approving anchorage and mooring areas prior to designation, designating vessel waste no-discharge zones, dredging or maintaining major navigation channels and basins, constructing or maintaining breakwaters, funding certain studies, or providing technical assistance. These necessary actions should be described in the harbor management plan.

The actions of federal and state agencies, such as the acquisition of land, capital funding, conducting special studies or providing technical assistance necessary to further advance the program, should be included in Part B of Section VI of a LWRP.

PROCEDURAL REQUIREMENTS

Approval

Harbor management plans will be reviewed and approved by the Secretary of State in the same manner as a LWRP or an amendment to a LWRP.

For a harbor management plan to be approved, it must incorporate, to an extent commensurate with the circumstances of the municipality seeking approval, those elements described earlier in the contents section of these guidelines.

Local laws or ordinances to implement the harbor management plan are to be developed in consultation with the Department of State, and are to be submitted to the Department of State for review and comment a reasonable time prior to the scheduling of any public hearing concerning such local law or ordinance.

In order to ensure the effectiveness of local laws or ordinances to implement a harbor management plan developed under the delegation authority of Section 922 of the Executive Law, it is necessary for the Secretary of State and municipalities to approve and adopt local laws and ordinances in a coordinated manner. Prior to submitting a harbor management plan for the Secretary of State's approval, the local laws or ordinances necessary to fully implement the harbor management plan should be adopted by municipalities. However, these local laws or ordinances will not become effective unless and until they are approved by the Secretary of State. Therefore, it is suggested that the effectiveness of the laws or ordinances and the Secretary's approval be concurrent, i.e., the laws or ordinances should be written so that they become effective immediately upon approval by the Secretary of State.

Amendment of an Approved Harbor Management Plan

Harbor management plans may be amended in the same manner as an amendment to a LWRP.

Withdrawal of an Approved LWRP or Harbor Management Plan

If a municipality decides to withdraw from the Local Waterfront Revitalization Program or decides to withdraw its approved harbor management plan, all of the benefits to the local government derived from the Secretary of State's approval of the LWRP and the harbor management plan will be terminated. The benefits that will be terminated include, but are not limited to:

- any funding or technical assistance
- the effect of any authority delegated to the local government to implement the harbor management plan by local laws or ordinances or portions of local laws or ordinances that required approval of the Secretary of State

For example, if a municipality did not have the authority to regulate in-water structures prior to approval of the harbor management plan, and the Secretary of State approved a harbor management plan and the local laws necessary to implement the plan by regulating in-water structures, the Secretary of State's approval of those laws is automatically withdrawn, and the force and effect of the local laws are terminated. All of the benefits of federal and State consistency with the LWRP and harbor management plan will also be terminated.

Special Circumstances

Expedited Harbor Management Plan

To accommodate the realities of size, complexity, location or other uniqueness and the need for timely action, municipalities may submit a written request to the Secretary of State for permission to prepare an expedited harbor management plan. Such a request is required to specify the circumstances that would justify approval of such a request. If the Secretary approves such a request, the approval may include terms and conditions applicable to the permission to develop an expedited harbor management plan, and will specify additional requirements for the approval of the harbor management plan and its implementing legislation. The following two circumstances are ones which might warrant such a request:

1. **Multiple Harbor Areas in a Single Municipality**
   Some cities and towns possess several discrete harbors. It may not be practical to develop a detailed harbor management plan as outlined above for all these areas in a reasonable period of time. Therefore, a municipality may submit a LWRP with a harbor management plan component that is more general in nature. Such a component should establish general policies with regard to the use of surface waters and regulation of in- water structures. A schedule should be included for the development of more detailed harbor management plans for each of the municipality's harbors.

2. **More Than One Municipality in a Harbor Area**
   Many harbor areas are shared by several municipalities. An ideal harbor management plan for these harbors would of necessity require the participation and cooperation of all municipalities sharing the harbor area. Such a cooperative harbor management plan is strongly encouraged.

However, in order to avoid undue delay in completing a LWRP where the possibility of cooperative harbor management among several municipalities is foreseeable but not immediate, a municipality may submit a general harbor management be developed as part of an intermunicipal cooperative effort.

More than One Municipality with Regulatory Authority in the Same Harbor Area

In some circumstances another municipality may regulate, or have the authority to regulate, harbor activities within 1500 feet of the shore of the municipality that is preparing a harbor management plan. This situation is most likely to occur in Nassau and Suffolk Counties. There, a town may have authority to regulate certain harbor activities, such as docks or other structures in water, within 1500 feet of the shore of a city, village, or town of which the corporate boundary is located at the shoreline or less than 1500 feet from shore. In these circumstances it is necessary to avoid having potentially conflicting laws apply. To achieve this, the municipality preparing the harbor management plan may either avoid regulating the activities subject to the other municipality's jurisdiction or it may enter into an intermunicipal agreement that spells out how the municipalities will share responsibilities for regulating the activities. The latter is encouraged.

It is important to note that the need to avoid a conflict applies to regulation arising from a municipality's police powers, and not to regulation based solely on a municipality's proprietary interests, that is, from ownership of underwater lands. Nevertheless, to avoid conflicting regulation under the latter circumstances as well, it is strongly encouraged that the municipalities agree on cooperative management. This problem of conflicting laws is not likely to occur elsewhere in the State because State law does not allow towns to regulate within 1500 feet of a city or village, it generally does not provide authority to regulate docks• or other structures in water, and towns generally do not own underwater lands outside of Nassau and Suffolk Counties. The Department of State will advise a municipality that is initiating a harbor management plan whether the potential for a conflict of laws is present and with regard to what activities.

TERMS AND DEFINITIONS

The following is a general guide to the definitions of some of the terms used in these guidelines, and except for the terms "comprehensive harbor management plan", "harbor management plan", and "water-dependent use" are not legal definitions or definitions found in any overriding federal or State statutes. Many of these terms and definitions may be changed or used differently in harbor management plans and their implementing legislation.

Comprehensive Harbor Management Plan - a plan to address the problems of congestion and competition for space in the use of harbors, surface waters and underwater lands of the State within a city, town or village or bounding a city, town or village to a distance of fifteen hundred feet from shore.

Harbor or Pierhead Line - a line designated by the local legislative body of a city, town or village, by the State or federal government or by an agency of the State or federal government, and represented on a harbor management plan map, indicating the waterward limit of any in- water structure such as docks, piers, gangways, ramps, groins, jetties or any other structure projecting from the shoreline.

Bulkhead Line - a line designated and represented in the same manner as a harbor or pierhead line, but indicating the waterward limit of any bulkhead, seawall, fill material, revetment, or similar structure.

Harbor Management Area - all surface waters and underwater lands lying within a city, town or village and, where the municipal limits of a city, town or village end at the water's edge, all surface waters and underwater lands within 1500 feet of the shore of a city, town or village.

Perimeter Area - a boundary of a docking facility, mooring area or other in-water use area consisting of a series of connected imaginary lines on a plan or map, drawn generally perpendicular and parallel to the shore, that encompasses all related structures or uses such as docks, bulkheads, breakwaters, pilings, floats, piers, platforms, moorings, or swimming or boating areas, that function to create a facility or area for specific uses.

Water-dependent Use- an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

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Appendix 4: LWRP Maps Guidance

This appendix provides guidance on maps to be included in the LWRP. Maps shown as **bold text** in the list below are required: #1, 3, 5, 8, 9, 10 and 12. The section numbers indicate the LWRP section(s) where each map should appear, and refer to the sections of the LWRP described in the LWRP Preparation Guidance Manual. Other maps are suggested and may be included to show the location of important natural and man-made features of the waterfront area, and proposals of the LWRP. Those that are not relevant to the LWRP can be eliminated, for example if there are no Agricultural Districts, or there will not be any proposed Zoning changes, or there are no Waste and Toxic Sites in the WRA, Maps #7, #10, and #20 may be left out as applicable. Two maps may be combined into one if the presentation of the data is still clear, distinct and legible. All maps should have TOADS: Title, Orientation (N/S arrow), Author, Date, and Scale. All maps should reflect the content and be referenced in the narrative of the LWRP.

The following pages list required and suggested data sets for each map as well as line and polygon types and colors. Using these graphics provides a standardized format for all maps developed for the LWRP. While the format is not required, it is recommended that the map designer uses similar graphics between maps for common elements such as the existing coastal area boundary, proposed Local Waterfront Revitalization Area boundary and municipal boundaries.

1. **Proposed Waterfront Revitalization Area Boundary Map (Section 1)** 2
2. WRA Subareas Maps – If applicable (Section 1 and Section 2) 3
3. **Existing Land Use Map(s) (Section 2)** 3
4. Land Ownership Map(s) (Section 2 and Section 4) 3
5. **Proposed Land Use Map(s) (Section 4)** 3
6. Existing Underutilized Sites and Structures (Section 2) 3
7. Agricultural Districts Map(s) (Section 2) 4
8. **Water Uses/Harbor Management Area Boundary Map(s) (Sections 2 and 4)** 4
9. **Existing Zoning Districts Map(s) (Sections 2 and 4)** 4
10. **Proposed Zoning Districts Map(s) – If applicable (Section 5)** 4
11. Proposed Projects Map(s) (Section 4) 5
12. **Parks and Recreation Sites and Facilities Map(s) (Section 2)** 5
13. Scenic Resources (Section 2) 5
14. Historic and Cultural Features Map (Section 2) 5
15. Land Cover Map (Section 2) 5

16. Surficial Geology and Soils (Section 2) 6
17. Wetlands and Floodplains Map(s) (Section 2) 6
18. Sensitive Environmental Features Map (Section 2) 6
19. Public Services Utilities and Infrastructure Map(s) (Section 2) 7
20. Waste and Toxic Sites Map(s) (Section 2) 7

Suggested Data and Graphic Formats for LWRP Maps

There are a several sources that can be searched to obtain data for LWRP maps. Data can be downloaded from the Department of State's Geographic Information Gateway at: http://opdgig.dos.ny.gov/#/home. Data is also available from the New York State Geographic Information System (GIS) Clearinghouse at: https://gis.ny.gov/. County departments of planning and development, information systems, and real property tax usually have GIS data available. Some local governments may have their own GIS departments with locally-developed data.

All maps should be prepared as standalone high-resolution PDFs. In addition, electronic data for all GIS-based mapping products must be prepared and provided in ArcGIS format or other product acceptable to DOS OPD so that the OPD GIS unit can use the data in electronic applications, and to revise the Coastal Boundary database when changes to the boundary are made as part of an approved LWRP. ALL maps must be drawn on the same base map and include two required data layers: the existing coastal area boundary (if a new LWRP), and the proposed Local Waterfront Revitalization Area boundary. Additional data sets are recommended below for the LWRP maps, with suggested graphic formats for each data layer. These exact graphic formats are not required, they are shown to illustrate the goal of having a consistent set of colors and lines that will be used in all of the LWRP maps.

Required maps are shown in **bold text** in the list below:

1. **Proposed Waterfront Revitalization Area Boundary Map (Section 1)**
    a. White or off-white background
    b. Labeled Streets/Roads (centerline): _____
    c. Labeled Streams (centerline): _____
    d. Labeled Waterbodies: 
    e. Labeled Municipal Boundary: ----------
    f. Parcels:
    g. Neighboring municipalities showing just main roads: 
    h. REQUIRED: Existing coastal area boundary or WRA boundary: _____

(Note: The existing coastal boundary should be the top layer of the map, which will make its removal easy when the proposed WRA boundary becomes current with the local adoption of the LWRP. If the municipality is preparing maps for an amendment to its LWRP, it will be an existing WRA boundary.)

i. REQUIRED: Proposed WRA boundary: ----------
j. Proposed Harbor Management Area (waterside area of WRA)
k. Labels
l. Legend

2. WRA Subareas Maps – If applicable (Section 1 and Section 2)

   Maps should be developed for each subarea if the narrative of the LWRP is also described by using subareas.

   - Include all data elements in Map #1: a. through l.

3. Existing Land Use Map(s) (Section 2)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, k and l.
  - Also include:

    m. Agricultural uses:
    n. Residential uses:
    o. Business and Commercial uses:
    p. Recreation uses:
    q. Community/Public Services:
    r. Mixed Uses:
    s. Light Industrial/Offices:
    t. Industrial uses: (includes upland dredge material disposal area)
    u. Vacant Land:
    v. Transportation Services
    w. Utilities:

4. Land Ownership Map(s) (Sections 2 and 4)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, j, k, and l.
  - Also include:
    - Public ownership (local, county, state, federal)
    - Easements (utility, public, beach access, conservation, etc.)
    - Underwater lands (ownership/grants/leases)

5. Proposed Land Use Map(s) (Section 4)

- Include all data elements in Map #3: b, c, d, e, f, g, h, i, k and l, and m through w.

6. Existing Underutilized Sites and Structures (Section 2)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, k and l.
  - Also include:
    - Brownfields
    - Underutilized sites
    - Underutilized structures

7. Agricultural Districts Map(s) (Section 2)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l.
  - Also include:
    - New York State Agricultural Districts within the WRA

8. Water Uses/Harbor Management Area Boundary Map(s) (Sections 2 and 4)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, j, k and l. If the municipality's corporate limits end at the shoreline or are less than 1500 feet from the shore, the map should indicate the offshore 1500 feet extraterritorial limit.
  - Also include:
    - State -designated Significant Coastal Fish & Wildlife Habitats
    - Coastal Erosion Hazard Area (CEHA) – if these are not available digitally, provide a copy of the official maps
    - Public shoreline access
    - Swimming beaches
    - Designated swimming areas
    - Navigation channels
    - Bottom elevations (use NOAA's Nautical Charts)
    - Navigation obstructions
    - Mooring areas
    - Transient moorings on anchors
    - Special anchorage areas
    - Marinas and piers
    - Bulkhead or hardened shoreline
    - Boat launches
    - Kayak launches
    - Designated diving areas
    - Designated fishing areas (from shore or boat)
    - Pump-out facilities
    - Fisheries or shellfisheries
    - Cage fish culture and aquaculture research facilities
    - Commercial fishing and fishing support facilities
    - In-water dredge material disposal areas
    - Sewage treatment outfalls
    - Other in-water structures

9. Existing Zoning Districts Map(s) (Sections 2 and 5)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l.
  - Also include:
    - Existing Zoning Districts = as represented on the municipality's official Zoning Map

10. Proposed Zoning Districts Map(s) – If applicable (Section 5)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l.
  - Also include:
    - Proposed Zoning Districts necessary for implementing the LWRP

11. Proposed Projects Map(s) (Section 4)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l.
  - Also include:
    - Locations and names of proposed projects

12. Parks and Recreation Sites and Facilities Map(s) (Section 2)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l.
  - Also include:
    - Municipal parks
    - Trails (mixed use, hiking, snowmobile) _____
    - Camping areas
    - Picnic areas
    - Pocket parks
    - Public waterfront access (fishing, swimming, boating, kayaking)
    - Sites of active recreation (sports fields, courts, etc.)

13. Scenic Resources (Section 2)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l.
  - Also include:
    - Scenic Areas of Statewide Significance (SASS)
    - Locally important views to the water
    - Locally important views from the water

14. Historic and Cultural Features Map (Section 2)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, k and l.
  - Also include:
    - Historic districts, sites and structures
    - Archeologically sensitive areas
    - Cultural landmarks
    - Lighthouses, shipwrecks, dry docks, etc.

15. Land Cover Map (Section 2)

- Include the following data elements from Map #1: a, b, c, d, e, g, h, i, k and l

- Also include:
  - Water: 
  - Developed 
  - Mechanically disturbed 
  - Mining 
  - Naturally barren 
  - Forest 
  - Grassland/Shrubland
  - Agriculture 
  - Wetland 
  - Non-mechanically disturbed (by wind, floods, fire, animals) 

16. Surficial Geology and Soils (Section 2)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l
  - Also include:
    - Soils
    - Surficial Geology

17. Wetlands and Floodplains Map(s) (Section 2)

- Include the following data elements from Map #1: b, c, d, e, g, h, i, k and l
  - Also include:
    - Hydric soils
    - State wetlands
    - Federal wetlands
    - Locally delineated wetlands
    - Floodways
    - 100-year floodplains
    - Identified shoreline erosion areas
    - Sites of recurrent floods (by year)

18. Sensitive Environmental Features Map (Section 2)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, k and l.
  - Also include:
    - State -designated Significant Coastal Fish & Wildlife Habitats
    - Coastal Erosion Hazard Area (CEHA)/shoreline erosion
    - Designated or important bird areas
    - Natural protective features
    - Outstanding geologic features

        - Steep slopes
        - Landscape conservation areas

19. Public Services Utilities and Infrastructure Map(s) (Section 2)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, k and l.
    - Also include:
        - Transportation
        - Water supply, treatment, and distribution
        - Sewer system, wastewater treatment and outfalls
        - Stormwater and green infrastructure
        - Gas supply
        - Electrical grids
        - Telecommunications

20. Waste and Toxic Sites Map(s) (Section 2)

- Include the following data elements from Map #1: b, c, d, e, f, g, h, i, k and l.
    - Also include:
        - Landfills
        - Toxic sites
        - Hazardous waste sites

Appendix 5:

44 Policies of the New York State Coastal Management Program

All statements of policy should be "Bold Text"

STATE COASTAL MANAGEMENT POLICIES	
DEVELOPMENT POLICIES	
Policy 1	Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.
Policy 2	Facilitate the siting of water dependent uses and facilities on or adjacent to coastal water.
Policy 3	Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.
Policy 4	Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.
Policy 5	Encourage the location of development in areas where public services and facilities essential to such development are adequate.
Policy 6	Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.
FISH and WILDLIFE POLICIES	
Policy 7	Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.
Policy 8	Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.
Policy 9	Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.
Policy 10	Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.
FLOODING and EROSION HAZARDS POLICIES	
Policy 11	Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

Policy 12	Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.
Policy 13	The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.
Policy 14	Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.
Policy 15	Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.
Policy 16	Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.
Policy 17	Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.
GENERAL POLICY	
Policy 18	To safeguard the vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.
PUBLIC ACCESS POLICIES	
Policy 19	Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.
Policy 20	Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.
RECREATION POLICIES	
Policy 21	Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.
Policy 22	Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.
HISTORIC and SCENIC RESOURCES POLICIES	
Policy 23	Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.

Policy 24	Prevent impairment of scenic resources of statewide significance.
Policy 25	Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.
AGRICULTURAL LANDS POLICY	
Policy 26	Conserve and protect agricultural lands in the State's coastal area.
ENERGY and ICE MANAGEMENT POLICIES	
Policy 27	Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.
Policy 28	Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.
Policy 29	The development of offshore uses and resources, including renewable energy resources, shall accommodate New York's long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York.
WATER and AIR RESOURCES POLICIES	
Policy 30	Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.
Policy 31	State coastal area policies and management objectives of approved local Waterfront Revitalization Programs will 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.
Policy 32	Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.
Policy 33	Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.
Policy 34	Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.
Policy 35	Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Policy 36	Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.
Policy 37	Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.
Policy 38	The quality and quantity of surface water and groundwater supplies, will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.
Policy 39	The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.
Policy 40	Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.
Policy 41	Land use or development in the coastal area will not cause national or State air quality standards to be violated.
Policy 42	Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.
Policy 43	Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.
WETLANDS POLICY	
Policy 44	Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

Appendix 6:

13 Policies of the Long Island Sound Coastal Management Program

Long Island Sound Coastal Management Policies

The Long Island Sound Coastal Management Program policies consider the economic, environmental, and cultural characteristics of the Long Island Sound coastal region. They take the place of the 44-statewide policies of the New York State Coastal Management Program. The policies are comprehensive and reflect existing state laws and authorities. They represent a balance between economic development and preservation that will permit beneficial use of and prevent adverse effects on the Sound's coastal resources. The policies are the basis for federal and state consistency determinations for activities affecting the Long Island Sound coastal area. They are also a guide for development of new Local Waterfront Revitalization Programs and revisions to approved Local Waterfront Revitalization Programs. *Note: The following list contains the statements of LIS coastal policy, and does not include the explanation of those statements.*

DEVELOPED COAST POLICIES	
Policy 1	**Foster a pattern of development in the Long Island Sound coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.**
Policy 1.1	Concentrate development and redevelopment in or adjacent to traditional waterfront communities.
Policy 1.2	Ensure that development or uses take appropriate advantage of their coastal location.
Policy 1.3	Protect stable residential areas.
Policy 1.4	Maintain and enhance natural areas, recreation, open space, and agricultural lands.
Policy 1.5	Minimize adverse impacts of new development and redevelopment.
Policy 2	**Preserve historic resources of the Long Island Sound coastal area.**
Policy 2.1	Maximize preservation and retention of historic resources.
Policy 2.2	Protect and preserve archeological resources.
Policy 2.3	Protect and enhance resources that are significant to the coastal culture of the Long Island Sound.
Policy 3	**Enhance visual quality and protect scenic resources throughout Long Island Sound.**
Policy 3.1	Protect and improve visual quality throughout the coastal area.
Policy 3.2	Protect aesthetic values associated with recognized areas of high scenic quality.
NATURAL COAST POLICIES	
Policy 4	**Minimize loss of life, structures, and natural resources from flooding and erosion.**
Policy 4.1	Minimize losses of human life and structures from flooding and erosion hazards.
Policy 4.2	Preserve and restore natural protective features.
Policy 4.3	Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.
Policy 4.4	Manage navigation infrastructure to limit adverse impacts on coastal processes.
Policy 4.5	Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.
Policy 4.6	Consider sea level rise when siting and designing projects involving substantial public expenditures.

Policy 5	**Protect and improve water quality and supply in the Long Island Sound coastal area.**
Policy 5.1	Prohibit direct or indirect discharges which would cause or contribute to contravention of water quality standards.
Policy 5.2	Manage land use activities and use best management practices to minimize nonpoint pollution of coastal waters.
Policy 5.3	Protect and enhance the quality of coastal waters.
Policy 5.4	Limit the potential for adverse impacts of watershed development on water quality and quantity.
Policy 5.5	Protect and conserve the quality and quantity of potable water.
Policy 6	**Protect and restore the quality and function of the Long Island Sound ecosystem.**
Policy 6.1	Protect and restore ecological quality throughout Long Island Sound.
Policy 6.2	Protect and restore Significant Coastal Fish and Wildlife Habitats.
Policy 6.3	Protect and restore tidal and freshwater wetlands.
Policy 6.4	Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.
Policy 6.5	Protect natural resources and associated values in identified regionally important natural areas.
Policy 7	**Protect and improve air quality in the Long Island Sound coastal area.**
Policy 7.1	Control or abate existing and prevent new air pollution.
Policy 7.2	Limit discharges of atmospheric radioactive material to a level that is as low as practicable.
Policy 7.3	Limit sources of atmospheric deposition of pollutants to the Sound, particularly from nitrogen sources.
Policy 8	**Minimize environmental degradation in the Long Island Sound coastal area from solid waste and hazardous substances and wastes.**
Policy 8.1	Manage solid waste to protect public health and control pollution.
Policy 8.2	Manage hazardous wastes to protect public health and control pollution.
Policy 8.3	Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.
Policy 8.4	Prevent and remediate discharge of petroleum products.
Policy 8.5	Transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being, and general welfare of the public; the environmental resources of the state; and the continued use of transportation facilities.
Policy 8.6	Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.
PUBLIC COAST POLICIES	
Policy 9	**Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Long Island Sound coastal area.**
Policy 9.1	Promote appropriate and adequate physical public access and recreation throughout the coastal area.
Policy 9.2	Provide public visual access from public lands to coastal lands and waters or open space at all sites where physically practical.
Policy 9.3	Preserve the public interest in and use of lands and waters held in public trust by the state, New York City, and towns in Nassau and Suffolk counties.
Policy 9.4	Assure public access to public trust lands and navigable waters.

WORKING COAST POLICIES	
Policy 10	**Protect Long Island Sound's water-dependent uses and promote siting of new water-dependent uses in suitable locations.**
Policy 10.1	Protect existing water-dependent uses.
Policy 10.2	Promote maritime centers as the most suitable locations for water-dependent uses.
Policy 10.3	Allow for development of new water-dependent uses outside of maritime centers.
Policy 10.4	Improve the economic viability of water-dependent uses by allowing for non-water-dependent accessory and multiple uses, particularly water-enhanced and maritime support services.
Policy 10.5	Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation, and maintain regionally important uses.
Policy 10.6	Provide sufficient infrastructure for water-dependent uses.
Policy 10.7	Promote efficient harbor operation.
Policy 11	**Promote sustainable use of living marine resources in Long Island Sound.**
Policy 11.1	Ensure the long-term maintenance and health of living marine resources.
Policy 11.2	Provide for commercial and recreational use of the Sound's finfish, shellfish, crustaceans, and marine plants.
Policy 11.3	Maintain and strengthen a stable commercial fishing fleet in Long Island Sound.
Policy 11.4	Promote recreational use of marine resources.
Policy 11.5	Promote managed harvest of shellfish originating from uncertified waters.
Policy 11.6	Promote aquaculture.
Policy 12	**Protect agricultural lands in the eastern Suffolk County portion of Long Island Sound's coastal area.**
Policy 12.1	Protect existing agriculture and agricultural lands from conversion to other land uses.
Policy 12.2	Establish and maintain favorable conditions which support existing or promote new coastal agricultural production.
Policy 12.3	Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land.
Policy 12.4	Preserve scenic and open space values associated with the Sound’s agricultural lands.
Policy 13	**Promote appropriate use and development of energy and mineral resources.**
Policy 13.1	Conserve energy resources.
Policy 13.2	Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.
Policy 13.3	Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.
Policy 13.4	Minimize adverse impacts from fuel storage facilities.
Policy 13.5	Minimize adverse impacts associated with mineral extraction.

Appendix 7: Local Waterfront Consistency Review Law and Waterfront Assessment Form

Note: Highlighted areas indicate where the municipality should insert local information.

TOWN/VILLAGE/CITY OF_____
Local Law # ___ of the Year 20__

Be it enacted by the Town Board/Village Board of Trustees/City Council of the Town/Village/City of _____ as follows:

General Provisions

I. Title.

This law may be known as the Town/Village/City of _____ Local Waterfront Revitalization Program (LWRP) 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 law is to provide a framework for the agencies of the Town/Village/City of _____ to incorporate the policies and purposes contained in the Town/Village/City of _____ Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront revitalization area; and to assure that such actions and direct actions undertaken by Town/Village/City agencies are consistent with the LWRP policies and purposes.

C. It is the intention of the Town/Village/City of _____ that the preservation, enhancement, and utilization of the unique waterfront revitalization area of the Town/Village/City occur in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate growth. Accordingly, this law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: degradation or loss of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic or historical resources; losses due to flooding, erosion, and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply while there is in existence a Town/Village/City of _____ Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions.

A. “Actions” include all the following, except minor actions:

(1) projects or physical activities, such as construction or any other activities that may affect natural, manmade, or other resources in the waterfront revitalization area, or the environment, by changing the use, appearance, or condition of any 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, permits, or review from an agency or agencies;

(2) agency planning and policymaking 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 waterfront resources or the environment; and
(4) any combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town/Village/City of _____.

C. “Waterfront revitalization area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town/Village/City of _____, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Town/Village/City of _____ Local Waterfront Revitalization Program (LWRP).

D. “Waterfront Assessment Form (WAF)” means the form, a sample of which is appended to this local law, used by an agency or other entity to assist in determining the consistency of an action with the Town/Village/City of _____ Local Waterfront Revitalization Program.

E. "Code Enforcement Officer" means the Building Inspector and/or Code Enforcement Officer of the Town/Village/City of _____

F. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

G. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rulemaking, procedure making and policy making.

H. “Environment” means all conditions, circumstances, and influences surrounding and affecting the development of living organisms or other resources in the waterfront revitalization area.

I. "Local Waterfront Revitalization Program” or “LWRP" means the Town/Village/City of _____ Local Waterfront Revitalization Program approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law), a copy of which is on file in the Office of the Clerk of the Town/Village/City of _____.

J. "Minor actions" include the following actions, which are not subject to review under this law:

(1) maintenance or repair involving no substantial changes in an existing structure or facility;

(2) replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by local law where structures may not be replaced, rehabilitated or reconstructed without a permit;

(3) repaving of existing paved highways not involving the addition of new travel lanes;

(4) street openings and right of way openings for the purpose of repair or maintenance of existing utility facilities;

(5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, and in Nature Preserves or within the Harbor Protection Overlay District (HPOD) *(or other special district)*;

(6) granting of individual setback and lot line variances, except in relation to a regulated natural feature;

(7) minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;

(8) installation of traffic control devices on existing streets, roads and highways;

(9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;

(10) 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 Type I or Unlisted action;

(11) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);

(12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;

(13) 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;

(14) collective bargaining activities;

(15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;

(16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

(17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;

(18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;

(19) 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 Part have been fulfilled;

(20) 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;

(21) adoption of a moratorium on land development or construction;

(22) interpreting an existing code, rule or regulation;

(23) designation of local landmarks or their inclusion within historic districts;

(24) 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 waterfront 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 Part;

(25) local legislative decisions such as rezoning where the Town Board/Village Board of Trustees/City Council determines the action will not be approved.

K. "Waterfront Advisory Committee" or "Committee" means the committee of the Town/Village/City of _____, as created pursuant to this law. (See V., below)

IV. Management and Coordination of the LWRP.

A. The Waterfront Advisory Committee/Planning Department shall be responsible for overall management and coordination of the LWRP. In performing this task, the Waterfront Advisory Committee/Planning Department shall:

(1) Inform the Town Board/Village Board of Trustees/City Council on implementation, priorities, work assignments, timetables, and budgetary requirements of the LWRP.

(2) Make applications for funding from State, federal, or other sources to finance projects under the LWRP.

(3) Coordinate and oversee liaison between Town/Village/City agencies and departments, to further implementation of the LWRP.

(4) The Committee will also coordinate with NYS Department of State (DOS) regarding consistency review for actions by State or federal agencies. Coordination shall include providing an informal opinion on the proposed action to DOS, at DOS's request, within 15 days of said request, regardless of any requirement for a local consistency decision.

(5) Prepare an annual report on progress achieved and problems encountered in implementing the LWRP, and recommend actions necessary for further implementation to the appropriate Town Board/Village Board of Trustees/City Council.

(6) Perform other functions regarding the waterfront revitalization area and direct such actions or projects as are necessary, or as the Town Board/Village Board of Trustees/City Council may deem appropriate, to implement the LWRP.

B. In order to foster a strong relationship and maintain an active liaison among the agencies responsible for implementation of the LWRP, the Waterfront Advisory Committee/Planning Department shall schedule at least semi-annually a LWRP coordinating council/assembly, including but not limited to representatives of the Town Board/Village Board of Trustees/City Council, Planning Board, Zoning Board of Appeals, Waterfront Advisory Committee, and such other departments or individuals charged with LWRP implementation.

V. Waterfront Advisory Committee.

** This is one option the Town/Village/City can use to assist in the implementation of the LWRP and this Local Consistency Review Law. The Community should choose whatever Committee, Department, Agency or position would best serve this function for the Town/Village/City.*

A. A Committee is created and shall be hereafter known as the "Waterfront Advisory Committee of the Town/Village/City of _____". The Committee shall meet monthly and shall advise the Town Board/Village Board of Trustees/City Council on LWRP implementation and on policy, project and budget priorities, as well as on amendments to the LWRP. The Committee may also perform other functions regarding the waterfront revitalization area as the Town Board/Village Board of Trustees/City Council may assign to it from time to time.

B. The Town Board/Village Board of Trustees/City Council is hereby authorized to appoint five (5) members to the Committee, all of whom shall be residents of the Town/Village/City of _____. Of the members of the Committee first appointed: one shall hold office for a term of one (1) year, one shall hold office for a term of two (2) years, one shall hold term for a term of three (3) years, one shall hold office for a term of four (4) years, and one shall hold office for a term of five (5) years from and after the expiration of the terms of their predecessors in office. Thereafter, all members shall be appointed for a term of five (5) years. Vacancies shall be filled by the Town Board/Village Board of Trustees/City Council by appointment for the unexpired term. Members may be removed by the Town Board/Village Board of Trustees/City Council for cause and after public hearing.

C. The Town Board/Village Board of Trustees/City Council shall annually appoint one (1) committee member to serve as chairperson of the Committee. Upon failure of the Town Board/Village Board of Trustees/City Council to appoint a Chairperson, the members of the Committee shall elect a chairperson.

D. The Committee may employ such member as may be needed, as authorized by the Town Board/Village Board of Trustees/City Council, and shall have the power to adopt rules of procedure for the conduct of all business within its jurisdiction.

VI. Review of Actions.

A. Whenever a proposed action is located in the waterfront area, each Town/Village/City agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in section **I.** below. No action in the waterfront area shall be approved, funded or undertaken by an agency without such a determination.

B. The Committee shall be responsible for coordinating review of actions in the Town/Village/City's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations for other Town/Village/City agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative, and other actions included in the program.

C. The Committee will assist each agency with preliminary evaluation of actions in the waterfront area, and with preparation of a WAF. 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 agency shall refer such application or direct action to the Committee, within ten (10) days of its receipt, for preparation of a WAF, a sample of which is appended to this local law.

D. The Committee shall require the applicant to submit all completed applications, EAFs, and any other information deemed necessary to its consistency recommendation. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and objectives and shall elaborate in writing the basis for its opinion. The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards and objectives or to greater advance them. Such recommendation shall go to the agency within thirty (30) days of receipt of the completed information submitted by the applicant.

E. If an action requires approval of more than one agency, decision making will be coordinated between agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one WAF per action will be prepared. If the agencies cannot agree, the Planning Director shall designate the consistency review agency.

F. Upon recommendation of the Committee, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in section **I**. herein. Prior to making its determination of consistency, the agency shall consider the consistency recommendation of the Committee. The agency shall render a written determination of consistency based on the WAF, the Committee recommendation and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the waterfront area without a determination of consistency. The designated agency will make the final determination of consistency.

   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 Committee 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.

G. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies and standards and include a discussion of the effects of the proposed action on such policy standards. No agency may make a final decision on an action that has been the subject of a final EIS and is located in the waterfront area until the agency has made a written finding regarding the consistency of the action with the local policy standards referred to in Section I. herein.

H. In the event the Committee's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and explain the manner and extent to which the action is consistent with the LWRP policy standards.

I. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policies, which are derived from and further explained and described in the Town/Village/City of _____ LWRP, a copy of which is on file in the Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV-Proposed Land and Water Uses and Projects of the LWRP, in making their consistency determination. The action shall be consistent with the policies to:

(Note: if the LWRP uses the 13 Long Island Sound policies this section will need to be revised accordingly)

(1) Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses (Policy 1).

(2) Retain, develop and promote water-dependent uses and facilities on or adjacent to coastal waters (Policy 2).

(3) Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people (Policy 3).

(4) Strengthen the economic base of small harbor areas by encouraging traditional uses and activities (Policy 4).

(5) Ensure that development occurs where adequate public infrastructure is available (Policy 5).

(6) Streamline development permit procedures (Policy 6).

(7) Protect, preserve and, where practical, restore significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 8).

(8) Expand recreational use of fish and wildlife resources by increasing access to existing resources, supplementing existing stocks, and developing new resources. (Policy 9).

(9) Maintain, promote and expand commercial fishing opportunities (Policies 10).

(10) Minimize flooding and erosion hazards through non-structural means, protecting natural protective features, construction of carefully-selected, long-term structural measures and appropriate siting of structures (Policies 11, 12, 13, 14, 16, and 17).

(11) Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16).

(12) Safeguard economic, social and environmental interests in the waterfront area when major actions are undertaken (Policy 18).

(13) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment and being compatible with adjoining uses (Policies 19 and 20).

(14) Encourage, facilitate and give priority to water-dependent and water-enhanced recreation (Policy 21).

(15) Encourage development, when located near the shore, to provide for water related recreation where compatible (Policy 22).

(16) Protect and restore historic and archeological resources (Policy 23).

(17) Prevent impairment to, protect, restore or enhance scenic resources (Policy 24, 25).

(18) Conserve and protect agricultural lands (Policy 26).

(19) 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 and in such a manner as to avoid adverse impacts when in operation (Policies 27, 29 and 40).

(20) Undertake ice management practices in a manner that avoids adverse coastal impacts (Policy 28).

(21) Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 35, 36, 37 and 38).

(22) Ensure that dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15 and 35).

(23) Ensure that any transportation, handling or disposal of hazardous wastes and effluent is undertaken in a manner which will not adversely affect the environment (Policies 8, 30, 36 and 39).

(24) Protect air quality (Policies 41, 42 and 43).

(25) Preserve and protect tidal and freshwater wetlands (Policy 44).

J. If the agency determines that an action will be inconsistent with one or more LWRP policy standards or objectives, such action shall not be undertaken unless modified to be consistent with the LWRP policies.

K. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such files shall be made available for public inspection upon request.

VII. Enforcement.

In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Building Inspector or any other authorized official of the Town/Village/City 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.

VIII. Violations.

A. A person who violates any of the provisions 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 ($500.00) for a

conviction of a first offense and punishable by a fine of one thousand dollars ($1000.00) 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 Town/Village/City 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.

IX. Severability.

The provisions of this law are severable. If any provision of this law is found invalid, such finding shall not affect the validity of this law as a whole or any law or provision hereof other than the provision so found to be invalid.

X. 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.

Town/Village/City of ____
Waterfront Assessment Form

A. INSTRUCTIONS

1. Applicants, or, in the case of direct actions, Town/Village/City agencies shall complete this Waterfront Assessment Form WAF for proposed actions which are subject to the LWRP Consistency Review Law. This assessment is intended to supplement other information used by a Town/Village/City agency in making a determination of consistency with the policy standards set forth in the LWRP Consistency Review Law.

2. Before answering the questions in Section C, the preparer of this form should review the policies and policy explanations contained in the Town/Village/City of _____ Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the offices of the [Town/Village/City] Clerk. A proposed action should be evaluated as to its beneficial and adverse effects upon the waterfront area and its consistency with the policy standards.

3. If any question in Section C on this form is answered "yes", the proposed action may affect the achievement of the LWRP policy standards contained in the Consistency Review Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. **DESCRIPTION OF SITE AND PROPOSED ACTION**

1 Describe nature and extent of action:

_____

_____

_____

_____

_____

_____

2. Type of Town/Village/City agency action (check appropriate response):

a. Directly undertaken (e.g. construction, planning activity, agency regulation, land transaction)

_____

_____

_____

b. Financial assistance (e.g. grant, loan, subsidy)

_____

_____

c. Permit, approval, license, certification

_____

_____

d. Agency undertaking action:

_____

_____

_____

3. If an application for the proposed action has been filed with a Town/Village/City, the following information shall be provided:

a. Name of applicant

_____

b. Mailing address:

_____

_____

c. Telephone number:
(_____)_____

d. Property tax number:

_____

e. Application number, if any:

_____

4. Will the action be directly undertaken, require funding, or approval by a State or federal agency?
Yes _____ No _____

If yes, which State or federal agency? _____
_____

1. Location of action (Street or Site Description and nearest intersection):
_____
_____

6. Size of site (acres): _____

7. Amount (acres) of site to be disturbed:_____

8. Present land use: _____

9. Present zoning classification: _____

10. Describe any unique or unusual landforms on the project site (i.e. bluffs, wetlands, other geological formations): _____

_____
_____
_____
_____

11. Percentage of site that contains slopes of 15% or greater: _____

12. Streams, lakes, ponds or wetlands existing within or continuous to the project area?

(a) Name _____
(b) Size (in acres) _____

13. Is the property serviced by public water? Yes _____ No _____

14. Is the property serviced by public sewer? Yes _____ No _____

C. WATERFRONT ASSESSMENT (Check either "Yes" or "No" for each of the following questions). If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

		YES	NO
1.	Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas found within the waterfront area as identified in the LWRP?	___	___
(a)	Significant fish or wildlife habitats?	___	___
(b)	Scenic resources of local or State-wide significance?	___	___
(c)	Important agricultural lands?	___	___
(d)	Natural protective features in a coastal erosion hazard area?	___	___
2.	Will the proposed action have a significant effect upon:		
(a)	Scenic quality of the waterfront environment?	___	___
(b)	Development of future or existing water-dependent uses?	___	___
(c)	Operation of the State's major ports?	___	___
(d)	Land or water uses within a small harbor area?	___	___
(e)	Designated State or federal freshwater wetlands?	___	___
(f)	Commercial or recreational use of fish and wildlife resources?	___	___
(g)	Existing or potential public recreation opportunities?	___	___
(h)	Structures, sites or districts of historic, archaeological or cultural significance to the Town/Village/City, State or nation?	___	___
(i)	Stability of the shoreline?	___	___
(j)	Surface or groundwater quality?	___	___
3.	Will the proposed action involve or result in any of the following:		
(a)	Physical alteration of land along the shoreline, underwater land or surface waters?	___	___

(b)	Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area?	___	___
(c)	Expansion of existing public services or infrastructure in undeveloped or low-density areas of the waterfront area?	___	___
(d)	Siting or construction of an energy generation facility not subject to Article VII or VIII of the Public Service Law?	___	___
(e)	Mining, excavation, filling or dredging in surface waters?	___	___
(f)	Reduction of existing or potential public access to, or along, the shoreline?	___	___
(g)	Sale or change in use of publicly-owned lands located on the shoreline or underwater?	___	___
(h)	Development within a designated flood or erosion hazard area?	___	___
(i)	Development on a beach, dune, bluff or other natural feature that provides protection against flooding or erosion?	___	___
(j)	Construction or reconstruction of erosion protective structures?	___	___
(k)	Diminished or degraded surface or groundwater quantity and/or quality?	___	___
(l)	Removal of ground cover from the site?	___	___

4. PROJECT		YES	NO
(a)	If a project is to be located adjacent to shore:		
	(1) Does the project require a waterfront location?	___	___
	(2) Will water-related recreation be provided?	___	___
	(3) Will public access to the foreshore be provided?	___	___
	(4) Will it eliminate or replace a water-dependent use?	___	___
	(5) Will it eliminate or replace a recreational or maritime use or resource?	___	___
(b)	Is the project site presently used by the community neighborhood as an open space or recreation area?	___	___
(c)	Will the project protect, maintain and/or increase the level and types or public access to water-related recreation resources or facilities?	___	___
(d)	Does the project presently offer or include scenic views or vistas that are known to be important to the community?	___	___
(e)	Is the project site presently used for commercial or recreational fishing or fish processing?	___	___

(f)	Will the surface area of any local creek corridors or wetland areas be increased or decreased by the proposal?	___	___
(g)	Is the project located in a flood prone area?	___	___
(h)	Is the project located in an area of high coastal erosion?	___	___
(i)	Will any mature forest (over 100 years old) or other locally important vegetation be removed by the project?	___	___
(j)	Do essential public services or facilities presently exist at or near the site?	___	___
(k)	Will the project involve surface or subsurface liquid waste disposal?	___	___
(l)	Will the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?	___	___
(m)	Will the project involve shipment or storage of petroleum products?	___	___
(n)	Will the project involve the discharge of toxics, hazardous substances or other wastes or pollutants into coastal waters?	___	___
(o)	Will the project involve or change existing ice management practices?	___	___
(n)	Will the project alter drainage flow, patterns or surface water runoff on or from the site?	___	___
(p)	Will best management practices be utilized to control storm water runoff into waterfront waters?	___	___
(q)	Will the project cause emissions that would exceed federal or State air quality standards or generate significant amounts of nitrates or sulfates?	___	___
(r)	Will the project affect any area designated as a tidal or freshwater wetland?	___	___
(s)	Will the project utilize or affect the quality or quantity of sole source or surface water supplies?	___	___

D. **REMARKS OR ADDITIONAL INFORMATION TO SUPPORT OR DESCRIBE ANY ITEM(S) CHECKED "YES"** (Add any additional sheets necessary)

_____

_____

_____

_____

If you require assistance or further information in order to complete this form, please contact the Town/Village/City Planning Department.

Please submit completed form, along with one copy of a site/sketch plan to:

Town/Village/City

Preparer's Name (Please print) :_____

Affiliation: _____

Telephone Number: (_____)_____

Date: _____

Appendix 8: Project Profile Template

(Name of Municipality)

Project Title

PROJECT DESCRIPTION

Summary description of the project (should be 5-7 sentences in length).

PROJECT LOCATION

Street address of the project/initiative or area of coverage.

LOCATOR MAP

Include a Locator Map. Alternatively, include one map showing locations of all proposed projects.

CONCEPTUAL DESIGN OR OTHER GRAPHIC

For capital projects, insert a conceptual design or other graphic that illustrates the project or site.

LWRP POLICIES

List the LWRP Policies that the project/initiative addresses.

COST ESTIMATE FOR IMPLEMENTING THE PROJECT

If known, break down costs by categories (such as engineering and permitting, site preparation, facility construction, additional site furnishings). If available, include the anticipated costs to sustain the project or initiative.

POTENTIAL FUNDING SOURCES

List potential funding sources, including: CFA funds, other State funds, federal funds, municipality and private funds.

BENEFITS

Describe the benefit or co-benefits anticipated to be derived from the project.

TIMEFRAME

Include a general timeframe (for example 0-2 years, 2–5 years, 5+ years) and phasing (if applicable).

REGULATORY REQUIREMENTS

Identify reviews, approvals, and/or permits related to the project/initiative (local, State, federal), as applicable.

Appendix 9 Guidelines for Notification and Review of State Agency Actions; and Procedural Guidelines for Coordinating Consistency Review of Federal Agency Actions

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect

I. PURPOSES OF GUIDELINES

A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (the Act) (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.

B. The Act also requires that state agencies provide timely notice to the affected local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.

C. The New York State Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

A. **Action** means:

1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);

2. Occurring within the boundaries of an approved LWRP; and

3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

B. **Consistent to the maximum extent practicable** means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;

2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and

3. That will result in an overriding regional or statewide public benefit.

C. **Local Waterfront Revitalization Program** or **LWRP** means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

D. **Municipal chief executive officer** is the City Mayor, or City Manager in cities where an appointed city manager is the administrative head of the city; the Village Mayor; or the Town Supervisor. The NYS DOS Local Government Handbook provides more information about who would be considered the chief executive officer under various municipal executive structures.[1]

E. **Local program coordinator** of a municipality with an approved LWRP could be a designated person or a Committee responsible for the preliminary review of proposed actions within the

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[1] Excerpts from the NYS DOS Local Government Handbook 6th Edition (2009) related to chief executive officers:

I. Cities: "In general, city government falls into four broad categories:
   - council-manager, under which an appointed professional manager is the administrative head of the city, the council is the policymaking body and the mayor, if the position exists, is mainly a ceremonial figure. The manager usually has the power to appoint and remove department heads and to prepare the budget, but does not have veto power over council actions;
   - strong mayor-council, under which an elective mayor is the chief executive and administrative head of the city, and the council is the policy making body. The mayor usually has the power to appoint and remove agency heads, with or without council confirmation; to prepare the budget; and to exercise broad veto powers over council actions. This form sometimes includes a professional administrator appointed by the mayor and is then called the "mayor-administrator plan;"
   - weak mayor-council, under which the mayor is mainly a ceremonial figure. The council is not only the policy making body, it also provides a committee form of administrative leadership. It appoints and removes agency heads and prepares budgets. There is generally no mayoral veto power; and
   - commission, under which commissioners are elected by the voters to administer the individual departments of the city government and together form the policy making body. In some cases one of the commissioners assumes the ceremonial duties of a mayor, on a rotating basis. This plan sometimes includes a professional manager or administrator." P. 53

II. New York City: "The mayor serves as the chief executive officer of the city, and with the assistance of four deputy mayors, presides over many departments, offices, commissions and boards. The mayor may create, modify or abolish bureaus, divisions or positions within the city government. The mayor, who may be elected to serve a maximum of two four-year terms, is responsible for the budget and appoints and removes the heads of city agencies and other non-elected officials." P. 57

III. Towns: "The supervisor is more of an administrator than an executive. The supervisor's duties under law are to: act as treasurer and have care and custody of monies belonging to the town; disburse monies; keep an accurate and complete account of all monies; make reports as required; pay fixed salaries and other claims; and lease, sell, and convey properties of the town, when so directed by the town board." and "By delegating a few more specific powers, the Suburban Town Law gives the supervisor a bit more authority. Although designated as "chief executive officer," however, the Suburban Town supervisor has no major new executive powers." P. 62

IV. Villages: "The chief executive officer of most villages in New York State is the mayor." P. 70

waterfront area for consistency with an approved LWRP and consistency recommendations for the final determination of consistency that will be made by the local government.

III. NOTIFICATION PROCEDURE

A. When a state agency is considering an action as described in II.DEFINITIONS, the state agency shall notify the affected local government.

B. Notification of a proposed action by a state agency:

1. Shall fully describe the nature and location of the action;

2. Shall be accomplished by use of existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government; and

3. Should be provided to the local official identified in the LWRP of the affected local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. The timely filing of a copy of a completed Coastal/Waterfront Assessment Form with the municipal chief executive officer should be considered adequate notification of a proposed action.

C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the municipal chief executive officer can serve as the state agency's notification to the affected local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

A. Upon receipt of notification from a state agency, the affected local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local program coordinator identified in the LWRP, the state agency should promptly provide the affected local government with whatever additional information is available which will assist the affected local government to evaluate the proposed action.

B. If the affected local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

C. If the affected local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.

D. If the affected local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V. RESOLUTION OF CONFLICTS shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:

1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local program coordinator to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

3. If the consultation between the local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

4. Within 30 days following the receipt of a request for assistance, the Secretary, or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and local government.

5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.

6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

Procedural Guidelines for Coordinating NYS Department of State (DOS) and LWRP Consistency Review of Federal Agency Actions

I. DIRECT FEDERAL AGENCY ACTIVITIES

A. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed federal activities to the program coordinator and other interested parties.

B. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed federal activity.

C. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.

D. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed federal activity.

E. A copy of DOS' "concurrence" or "objection" letter to the federal agency will be forwarded to the local program coordinator.

II. ACTIVITIES REQUIRING FEDERAL LICENSES, PERMITS AND OTHER REGULATORY APPROVALS

A. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the local program coordinator and will identify the Department's principal reviewer for the proposed federal activity.

B. Within thirty (30) days of receiving such information, the local program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed federal activity with the LWRP policies.

C. When DOS and the local program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the local program coordinator upon receipt.

D. Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed federal activity with the principal reviewer for DOS, whichever is later, the local program coordinator will notify DOS of the reasons why a proposed federal activity may be inconsistent or consistent with the LWRP policies.

E. After the notification, the local program coordinator will submit the municipality's written comments and recommendations on a proposed federal activity to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.

F. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed federal activity, DOS will contact the local program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant.

G. A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the local program coordinator.

III. FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

A. Upon receiving notification of a proposed federal financial assistance, DOS will request information on the federal financial assistance from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the local program coordinator. A copy of this letter will be forwarded to the local program coordinator and will serve as notification that the proposed federal financial assistance may be subject to review.

B. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the local program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.

C. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major federal financial assistance.

D. The local program coordinator must submit the municipality's comments and recommendations on the proposed federal financial assistance to DOS within twenty days (or other time agreed to by DOS and the local program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal financial assistance with the LWRP policies.

E. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the local program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.

F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the local program coordinator.

Appendix 10

TABLE XV.A-2: LOCAL LAWS IMPLEMENTING COASTAL POLICIES

#	CATEGORY	IMPLEMENTING LEGISLATION
1 2 3 4 5 6	**Development Policies**	§22 Conservation Easements; §53 Building Construction; §75 SEQR; §79 Farmland Preservation; §103 Nature Preserve; §104 Natural Resources; §105 Planning; §110 Open Space Preservation; §118 Right to Farm; §131 Subdivision; §153 Zoning code, including §153-3-70 et al, Harbor Protection Overlay District, §153-4 Protection of Natural Features, §153-3-40 et al, Flood Hazard Overlay District, §153-5 Special Permit Uses, §153-6 Site Plan Review, §153-12 Use District Zoning Maps, §153-11-10 Use Tables, §153-11-88, Ferry Terminal, §149 Waterways & Boats
7 8 9 10	**Fish & Wildlife Policies**	§22 Conservation Easements; §43 Beaches and Parks, §43-40 Hunting on Town Parklands; §75 SEQR; §77-8 Dredging; §53 Building Construction; §103 Nature Preserve; §104 Natural Resources; §105 Planning; §110 Open Space Preservation; §125 Shellfish; §131 Subdivision; §149 Waterways & Boats, especially §149-30.1 Placement of fish traps; §153 Zoning, particularly §153-4, Protection of Natural Features, and §153-4.95(A) Use exemption for fishing, shellfishing, hunting and trapping; Town Trustee regulations; Solid Waste Management Plan
11 12 13 14 15 16 17	**Flooding & Erosion Policies**	§22 Conservation Easements; §43 Beaches and Parks, particularly §43-4 Prohibited Conduct, §43-5 Vehicles on the beach, §43-12 Temporary Closure; §53 Building Construction; §75 SEQR; §77-8 Dredging; §104 Natural Resources; §105 Planning; §131 Subdivision, especially §131-1.04 (cf.§153-1-20) Lot Area definitions, §131-1.05 General Policies; §153 Zoning, particularly §153-4 Protection of Natural Resources, §153-4-20 Natural Resource Special Permit, §153-4-20 (E) Bluff setbacks, §153-4-25 Emergency and minor maintenance, §153-4-30 Setbacks, §153-3-40 Flood Hazard Overlay District, §153-5-50 Coastal structure standards, §153-4-85 ref Town Trustee regulations for coastal structures
18	**General Policy**	§43 Beaches and Parks; §75 SEQR; §153 Zoning, especially §153-4 Protection of Natural Features; Solid Waste Management Plan

#	CATEGORY	IMPLEMENTING LEGISLATION
19 20	**Public Access Policies**	§22 Conservation Easements; §43 Beaches and Parks; §75 SEQR; §104 Natural Resources; §105 Planning; §110 Open Space Preservation; §131 Subdivision; §146-6 Parking Permit; §153 Zoning, particularly §153-4 Protection of Natural Features; Town Trustee regulations
21 22	**Recreation Policies**	§43 Beaches and Parks, §43-5 Vehicles on the beach; §75 SEQR; §77-8 Dredging; §103 Nature Preserves; §104 Natural Resources; §105 Planning; §110 Open Space Preservation; §125 Shellfish; §131 Subdivision; §146-6 Parking Permit; §147 All terrain vehicles; §149 Waterways and Boats; §153 Zoning, particularly §153-4 Protection of Natural Features; Town Trustee regulations
23 24 25	**Historic Resource and Visual Quality Policies**	Townwide regulations needed to protect scenic, cultural and historic features and buildings. Current laws include: §22 Conservation Easements; §75 SEQR; §110 Open Space; §131 Subdivision; §153 Zoning, particularly §153-7 Architectural and design review
26	**Agricultural Lands Policy**	§75 SEQR; §79 Farmland Preservation; §118 Right to Farm; §131 Subdivision; §153 Zoning; legislation needed to require mandatory farmland preservation in site plans within Agricultural Overlay District, and to consider farmland preservation in all site plans
27 28 29	**Energy & Ice Management Policies**	§75 SEQR; §151 Wind Energy Conversion Systems; §153-5-50 Public Utility; §153-6 Site Plan Review; §153-12 Uses and Dimensions; §153-11-72 Height
30 31 32 33 34 35 36 37 38 39 40 41 42 43 44	**Water & Air Resources Policies**	§22 Conservation Easements; §53 Building Construction; §75 SEQR; §77-8 Dredging; §104 Natural Resources; §105 Planning; §110 Open Space Preservation; §123 Scavenger waste; §125 Shellfish; §131 Subdivision; §149 Waterways and boats, particularly §149-2 Prohibited discharges and §149-34 Prohibition on floating homes; §153 Zoning, particularly §153-3-40 Flood Hazard Overlay District, §153-3-65 Water Recharge Overlay District, §153-3-70 Harbor Protection Overlay District, §153-4-20 Natural Resource Special Permits, §153-4-20(A) Wetland setbacks, and §153-6 Site plan review; Town Trustee regulations for structures, docks and mooring of boats on beaches and bottomlands in their ownership; Solid Waste Management Plan, including Stop Throwing Out Pollutants (STOP) program