

## **SECTION V - TECHNIQUES FOR IMPLEMENTING THE LOCAL WATERFRONT REVITALIZATION PROGRAM**

This section outlines how the Town of Southold proposes to implement its *Local Waterfront Revitalization Program*. As will be seen, the Town has already begun the process of implementation by way of adopting overall policy and key legislation and by initiating specific projects. Significant strides have been made or are underway already.

This section is divided into sections, each of which discusses different aspects of implementation. *Section A.* describes the implementation efforts that are in effect, as articulated through existing Town policy and legislation. Where relevant, the deficiencies in the existing policies, procedures and legislation will be highlighted. *Section B.* identifies specific new or amended policy, procedure and legislation that will be needed to further the implementation process. The deficiencies noted in *Section A.* will be addressed in *Section B.*

However, not all implementation will be achieved through policy, procedures and legislation. In some cases, either additional information is needed (in order to find a solution) or the solution is known and the remedy simply needs to be executed. Accordingly, *Section C.* details specific studies or projects that will redress specific issues or problems that have been identified within this document as being of high priority.

*Section D.* explores changes that are likely to be undertaken by the Town in order to facilitate the efficient and effective internal management or administration of the LWRP implementation process over the long haul. Within this section, a proposal for achieving consistency of federal and state actions with local goals and objectives is set forth. Finally, *Section E.* examines the financial resources that will be needed by the Town in order to implement the LWRP in its entirety from both a short and long-term perspective.

### **A. ADOPTED POLICIES, LOCAL LAWS AND PROCEDURAL REGULATIONS**

#### **1. Introduction**

The overall guiding principles behind the Town's Local Waterfront Revitalization Program were articulated earlier in the *Section II. Inventory and Analysis B. Planning Framework*. The reader is advised to refer to that section when reading this one, so as to ensure complete understanding of the context within which this LWRP was designed and that within which it will be implemented.

#### **2. Policies**

This LWRP is grounded in an unusual historical planning context. The Town's Vision for its existing and future development is found in a series of policy statements and reports that have been endorsed by the Town Board over a period of time.

The Town has used zoning powers since 1957 to regulate land uses within its borders. But, some of its resource and other management policies can trace their origin back to its early days during the 17<sup>th</sup> and 18<sup>th</sup> centuries. As will be seen below, some procedures, laws and regulations reflect issues of an earlier time in the Town's history before and during colonial rule. Nevertheless, they remain a lively part of the modern scene.

The short list of policies forming the framework for this LWRP documents (and the year of publication or adoption) are listed below:

Master Plan Update – Background Studies, 1983.  
Master Plan Update, 1985  
Fishers Island Growth Plan, 1984, 1987, 1994.  
United States/United Kingdom Stewardship Exchange Team Report, 1991.  
Southold Town Stewardship Task Force Final Report, 1994.  
Seaview Trails of the North Fork, 1995  
Southold Township 2000 Planning Initiative, 1997.  
Community Preservation Project Plan, 1998.  
County Route 48 Upzoning Report, 1999.  
Farm and Farmland Protection Strategy, 2000.  
Water Supply Management & Watershed Protection Strategy, 2000  
Scenic Byways Corridor Management Plan, 2001.

As noted earlier, each of these policies is explained in detail in *Section B. The Planning Framework*, within *Section II. Inventory and Analysis*.

For the purposes of this Section, it is sufficient for the reader to understand that the Town's goal is to preserve its unique character as evidenced in its history, development patterns, economy and environment. The common theme throughout each of these policies is one of protecting a resource that has been conserved through time down to the present. The Town retains a strong sense of place, dominated by development patterns that were largely set before pre-war suburban sprawl made its appearance on the rural American landscape. While elements of sprawl are part of the Town's design landscape; they are not, for the most part, dominant features.

The Town's aforementioned policies, taken together, present a cohesive blueprint for its future, but not a totally comprehensive one. This document is intended to bind the aforementioned policies in a more complete and coordinated way so that they reinforce one another in support of better coastal resource and land use management. Towards this end, this LWRP incorporates a broader, more inclusive view of resource management and land use than is typically found in previous planning policies of the Town of Southold. It is for that reason that some of the policies noted above, particularly those from 1997 onward, are treated as an integral part of the LWRP and its implementation.

### **3. Existing Local Laws & Regulations**

The Town of Southold has a fairly wide-ranging set of laws and regulations in place. The listing that follows includes only those that implement the policies of the LWRP. They are listed in the order of their appearance in the Town Code. It should be noted here that while most of this legislation predates the drafting of this LWRP document, some of it was amended recently to reflect the needs outlined earlier in this document. The reader will find that some of the legislation was written for an entirely different purpose than it presently serves. Where applicable or relevant, key deficiencies in the existing legislation and regulations are noted briefly and discussed further in *Section B. Proposed New Laws and Amendments to Existing Laws and Regulations To Implement the LWRP*. (Note: All chapter and section references noted below are from the *Code of the Town of Southold*.)

(i) **Chapter 6 Community Preservation Fund**

Adopted: 8-25-98

Intent: To establish a dedicated fund to conserve Town's remaining natural, scenic and historic treasures.

Method: The fund, established pursuant to Section 64-e of New York Town Law and Article 31-D of New York Tax Law, is financed by a two-percent real estate transfer tax on sales within the Town. The money can be spent to acquire fee simple, development rights or easements in order to conserve any of fourteen specified land conservation goals. Further, the long-term management of the acquired lands or interests thereof must allow compatible public use and enjoyment, preserve the native extant biological diversity of those lands, provide limited, passive access without degrading ecology or threatening essential habitat, and protect historic resources in accordance with accepted standards. The program is administered by the Town Board with mandated input from an appointed Advisory Board. Although this legislation was adopted in August of 1998, implementation did not begin to take place until after the November referendum. Transfers of taxes into the fund began in April of 1999. The Town Board appointed members of the extant Land Preservation Committee to serve concurrently as the Community Preservation Advisory Committee. (See Chapters 25 and 59 for details about the duties of the Land Preservation Committee.)

The funds generated under this program may be used only on specified properties listed and mapped under provisions of this legislation. The plan currently targets about 565 parcels encompassing about 12,419 acres. Beginning in 2001, the target list must be revised every three years for the duration of this program which ends in 2010.

Implementation: Although the legislation was adopted in August of 1998, implementation did not begin to take place until after the November referendum. Transfers of taxes into the fund began in April of 1999. The Town Board appointed members of the extant Land Preservation Committee to serve concurrently as the Community Preservation Advisory Committee. (See Chapters 25 and 59 for details about the duties of the Land Preservation Committee.) In July of 2000, a Land Preservation Coordinator was appointed to facilitate the administration of this program. Prior to this appointment, the Coordinator was a member of the Planning staff, therefore was familiar with the Town's policies and procedures in working with private property owners to facilitate preservation of open and agricultural lands. This program has been designed to assist in implementation of *Farm and Farmland Protection Strategy*, which is part of this LWRP. Between April of 1999 and December of 2000, more than 3 million dollars were either spent or earmarked for acquisitions (of either fee title or

development rights) to more than 260 acres of land. (These figures do not include other expenditures paid for out of bonded funds for land preservation.)

LWRP Policy:

Chapter 6 implements Policies 1, 2, 3, 4, 5, 6, 7, 9, 11, and 12.

preventing the loss of prime agricultural acreage to residential development. The retention of prime farming soils in cohesive blocks has the net effect of helping the agricultural economy remain viable, as well as protecting the unique vistas that characterize Southold. Some CPPP money is being used to protect historic sites and structures and natural drainage swales, along with other sensitive open space elements such as wetlands and land over sole source aquifers.

(ii) **Chapter 18 Police**

Adopted: 9-29-64

Intent: To establish a police department.

Method: The Town Board defines the composition, responsibilities and administration of the Town's Police Department.

Implementation: The Bay Constables operate as enforcement officers under the aegis of the Police Department. Enforcement of Town laws pertaining to surface waters and wetlands and all Trustee-regulated activities is carried out by the Bay Constables.

LWRP Policy: Chapter 18 enables enforcement activities essential to implementing Policies 4, 5, 6, 8, and 11 as well as existing and future harbor management plans.

(iii) **Chapter 22 Transportation Access Management**

Adopted: 3-14-00

Intent: To mitigate the impact of tourism on the town's rural ambience by assisting in finding solutions to increase transportation efficiency and to create alternatives to automobile travel so as to preserve the scenic and historic attributes of roadways within Southold.

Method: The previously extant Transportation Committee was elevated from advisory to Commission status. It was given a charge to develop and implement a Transportation Access Management Plan "which addresses the use and protection of local resources for recreational and economic benefit" through the use of innovative alternative transportation modes while maintaining the scenic, historic and rural characteristics of Southold. Membership in this nine-member commission must include representatives of the Planning, Highway and Police departments, civic groups, residents and different sectors of the business community. The Commission is charged with advising the Town Board with respect to the following tasks:

- A. *"Create a framework to coordinate transportation plans and programs for the town among all related local and*

*regional transportation agencies, groups, service providers and the private sector.*

- B. Develop innovative transportation strategies through improvements in transit options; linkages between transportation modes; travel demand management techniques; enforcement mechanisms; public and private transit operations; and vehicle occupancy.*
- C. Improve transportation service and efficiency within the town through improvements in traffic flow; speed limits; traffic safety; pedestrian and bicycle safety; parking design and location; and roadway lighting, signage and traffic signals.*
- D. Maintain and improve the rural quality of life through reductions in impacts on water quality and noise; vehicular trip generation; and excessive lighting, signage and roadside litter while keeping New York State Route 25 a scenic route and County Road 48 a through-route within the town.*
- E. Develop a fiscally feasible, acceptable integrated capacity/mobility/safety plan for the town as well as formal evaluation monitoring and update procedures to be presented to the Town Board for incorporation in the town's comprehensive planning and funding by related agencies.*
- F. Promote use of alternative transportation solutions through educational activities and solicit public input on an ongoing basis in discharging the above duties.*
- G. Coordinate these alternative transportation solutions with other East End towns and villages through the East End Transportation Council to effect a unified regional transportation strategy.*
- H. Perform such other duties and functions as may, from time to time, be directed by the Town Board.” (Section 22-5)*

Implementation:

The Commission is active in resolving local transportation problems, as well as engaged in a working dialogue with the State Department of Transportation, the County Department of Public Works, and the Long Island Rail Road to address existing and projected transportation congestion problems. Special attention is being paid to reducing the direct discharge of stormwater runoff from State and County roads onto local wetlands, creeks, inlets and bays. The Commission has also been an active participant in the North Fork Recreational Travel Needs Assessment, a cooperative study including towns of Riverhead, Southold, Shelter Island and the Village of Greenport, along with technical support by the New York State Department of Transportation, the Suffolk County Department of Public Works, and the Long Island Rail Road.

LWRP Policy

Chapter 22 facilitates implementation of Policies 1, 3, 5, 7, 9 and 13 by promoting more efficient use of the transportation infrastructure, and fostering better land use-transportation decisions, thereby minimizing adverse effects of new development and growth. This chapter also promotes scenic byways corridor management so as to protect scenic resources and enhance community character. The emphasis on facilitating alternate transit modes and intermodal transportation hubs will result in wise use of energy resources and a reduction in potential future air pollution. Finally, this chapter encourages the active remediation of stormwater runoff problems caused by state and county roads.

(iv) **Chapter 25 Agricultural Lands Preservation**

Adopted: 3-13-84

Amended: 6-18-91

Intent: To acquire development rights of lands used in agricultural production so as to “*conserve, protect and encourage the improvement of prime agricultural lands, both for the production of food and the preservation of open space...*” (Section 25-20)

Method: The Town Board may purchase development rights from property owners who voluntarily chose to offer them for sale. The purchase price is determined by appraisal. The fund from which these purchases are made is financed by bonds that are in an amount determined by a referendum at a regular election.

The Town Board is advised by a Committee. In 1991, the Agricultural Preservation Committee was merged with the Open Space Preservation Committee (*Chapter 59*) and renamed the Land Preservation Committee. This amendment streamlined the process of land preservation by consolidating all review of land acquisition into one Committee. (See commentary on *Chapters 6* and *59* also.)

The Land Preservation Committee is charged with the following duties:

[1] *To recommend to the Town Board agricultural lands in which the development rights should be acquired by the town.*

[2] *To review all matters relevant to development rights and the agricultural economy in general.*

[3] *To serve as a review board for the granting of permits for the construction, reconstruction and additions of and to structures in or on agricultural lands in which the development rights have been acquired by the town.*

[4] *To promulgate such rules and regulations as may be deemed necessary to govern the administration, procedures and duties of the Committee, which rules and regulations shall not become effective until approved by the Town Board.*

[5] *To prepare, amend and maintain appropriate maps delineating agricultural lands, lands in which development rights*

*have been acquired, agricultural lands in which development rights are proposed to be acquired and such other information as may be deemed appropriate.*

*[6] To perform such other duties and functions as may, from time to time, be directed by the Town Board.” (Section 25-50.C.(2)(a))*

Implementation: Under this program, more than 7.9 million dollars have been spent to acquire the development rights to more than 1,076 acres of agricultural land up through December 2000. The funds used by this Committee were authorized by the voters in separate referendums.

LWRP Policy: Chapter 25 implements Policies 1, 3, 5 and 12 by promoting conservation of the agricultural land resource, maintaining open space vistas keeping land over sole source aquifers from being developed and protecting the agricultural industry.

**(v) Chapter 28 Bicycles**

Adopted: 10-2-1915

Intent: To promote public safety when bicycles first became a popular method of transit during the early 20<sup>th</sup> century.

Method: This regulation sets standards governing the use of bicycles on public properties. These standards include requirements for operation of the bicycle including speed limits and mandatory use of lights and bells.

Implementation: Most of the requirements set forth in this chapter have become standard, common sense, rules of the road for bicyclists within New York State.

LWRP Policy: Chapter 28 fosters Policies 1, 9 and 13 by promoting efficient use of transportation infrastructure and promoting public access to roads.

**(vi) Chapter 33 Boats, docks and wharves**

Adopted: Article I: 5-18-59  
Article II: 6-28-35  
Article III: 10-4-60  
Article IV: 9-24-85  
Article V: 6-23-81

Amended: Various and extensively.

Intent: To regulate the use of Town waters and the use of access points to those waters over public landing places, docks and wharves.

Method: This Chapter is implemented primarily by the Board of Trustees through the issuance of permits and enforcement of violations. The Building Department and Zoning Board of Appeals play selective roles.

**Article I** governs use of town waters. It prohibits placement of any objects in or any town waters or public lands under town waters except by permit. The removal of sand, gravel and other material from underwater land, thus dredging, also require Trustee approvals. Trustee- designated “restricted areas” at the end of local highways (where they meet the shoreline) may not be used for the mooring, anchoring or placement of boats.

**Article II** governs the use of public docks. It prohibits the monopolization (to the exclusion of others) of any public bulkhead, dock or landing owned or controlled by the Town by any person, co-partnership, society, association, joint-stock company, club, or corporation.

**Article III** governs the use of boats within town waters and within 1,500 feet of the shoreline, except around Fishers Island and the Village of Greenport. This article includes a polyglot of regulations, such as:

The dumping of oil, refuse, garbage, sewage and waste is prohibited.

The safe operation of boats on ramps is required.

The operation of motor boats, personal watercraft and wind surfers within 100 feet of beaches or a line demarcating swimming areas is prohibited.

Safe speed limits are set within specified distances of moored boats, swimmers and navigational channels so as to protect life and property.

Operators of boats must be either 18 years of age or, if younger, recipient of a boating safety certificate issued pursuant to New York State Navigation Law, Section 78. Operating a vessel while intoxicated or under the influence of alcohol or drugs is prohibited. Adherence to U.S. Coast Guard safety regulations is required.

The use of internal combustion engines on inland fresh water lakes within the Town is prohibited except for emergency or rescue operations.

Use of Town waters for aquatic events and boat races requires a Town Board permit.

Dangerous waters, such as in the mouth of Mattituck Inlet are off-limits to swimming, scuba diving and windsurfing. Regulations govern safe use of waters for spear fishing, scuba diving mooring, anchoring.

Mooring regulations define who may moor within town waters, and sets fees for same.

**Article IV** governs floating homes, which are defined as *Any vessel...used, designed or occupied as a permanent dwelling unit, business office or...any occupation, or for any private or social club..., including but not limited to a structure constructed upon a barge...and whether such vessel is self-propelled or not...Section 32-41.*

Use of a boat for a floating home is prohibited within Southold. Further, *no person shall operate or cause to be operated a floating home marina or rent or hold out for rent or sell or offer to sell any site, berth or space for the accommodation of a floating home marina...Section 32-42.* This Article extends to all tidal waters to a point seaward of a point 100 feet from the mean high-water line. **Article V** governs administration and enforcement powers and delegates these to the Bay Constables., with right of appeal granted to the Trustees.

Implementation:

The Board of Trustees bears primary responsibility for the administration of this ordinance. However, enforcement of the various provisions of the ordinance falls primarily on the Bay Constables. There have been unusual incidences where the determination of the Building Department and the Zoning Board of Appeals has been solicited as to whether a structure falls under the provenance of this ordinance. Enforcement of this Chapter requires extensive patrolling of town waters during summer months.

LWRP Policy:

This ordinance facilitates implementation of Policies 1, 5, 9 and 11 by promoting safe, efficient access to the waterfront and of town waters, and by maximizing effective moorage space. The ordinance sets standards for safe public use of the surface waters for recreational purposes by boats, personal watercraft, scuba divers and swimmers.

(vii) **Chapter 33 Fishers Island Harbor Management**

Adopted: 7-22-97

Amended: 1-18-00

Intent: To manage the use of the waters of Fishers Island so as to accommodate the wide range of users of these waters.

Method: With this legislation, the Town Board created and appointed a Fishers Island Harbor Committee that is charged with recommending policies for all waters bounding Fishers Island, and, further, to assist in administering the terms of this chapter.

The chapter includes many specific provisions designed to ensure efficient use of harbor waters. These provisions include: restrictions on the rate of speed of vessels operating within harbors; the operating rules under which waterskiing may take place; the places and terms under which transient and permanent anchoring and mooring may take place; the use of vessels for live-aboard purposes on a temporary basis; the maintenance of moorings, the placement and use of moorings by guests of Island residents; the terms under which rafting of boats may occur; a prohibition against any discharge of refuse into harbor waters; and procedures for dealing with hazards to navigation. Further, specific enforcement powers are granted to the Bay Constables, the Fishers Island Constables, the New York State Police and other

law enforcement personnel to control waterborne traffic as specified in Chapters 32 and 33.

Implementation: The Harbor Committee meets at least twice a year before and after the boating season to discuss the effectiveness of the management procedures and determine if changes need to be made. Requests for amendments to Chapter 33 are directed to the Town Board on an as-needed basis.

LWRP Policy: Chapter 33 implements Policies 1, 6, 8, 9, and 11 by promoting efficient use of public infrastructure within the harbor, maximizing public access to water-related resources within the harbor, and protecting the marine environment from pollution and abuse.

**(viii) Chapter 36 Outdoor Burning**

Adopted: 5-21-57

Intent: To control incidences of outdoor burning by permit.

Method: The Town Board can enter into an agreement with the Board of Commissioners of any fire district to provide for issuance of permits for the burning of grass, leaves, brush, rubbish, refuse, buildings or other materials.

Implementation: The burning of a grass or brush field or pile of refuse is prohibited without a burning permit. Conditions may be attached to the permit over and above the requirement that the fire must be constantly attended by an adult and the burning must take place after sunrise and be extinguished by 8 p.m. Each incidence of burning requires a permit. Although the ordinance does not set forth any guidelines as to when permits may be issued, it has had the effect of sharply reducing the incidence of open air burning.

LWRP Policy: Although originally adopted for reasons of fire safety, Chapter 36 implements Policy 7 by severely restricting incidences of open air burning.

**(ix) Chapter 37 Coastal Erosion Hazard Areas Law**

Adopted: 10-8-91

Amended: 1-21-92

Intent: To assume local responsibility and authority to implement and administer a Coastal Erosion Management Program pursuant to Article 34 of NYS Environmental Conservation Law.

Method: This law is administered by the Board of Trustees, whose authority includes the right to issue Coastal Erosion Management permits for regulated activities, and to authorize enforcement. The Town Board is empowered to act as the Coastal Erosion Hazard Board of Review to hear appeals for variances from the standards of this law.

Implementation: The permitting process is flawed due to lack of sufficient field personnel to inspect sites regularly during construction. Consequently, there are problems with unauthorized work taking

place, even where permits for construction have been obtained from the Trustees. In some cases, severe damage has resulted to natural shoreline defenses.

LWRP Policy: Chapter 37 implements Policy 4 by ensuring that new construction does not take place within the coastal erosion hazard area line.

(x) **Chapter 41 Ducks**

Adopted: 5-24-49

Intent: To regulate the waste disposal of commercial enterprises involving raising or keeping of ducks, and of the private keeping of in excess of one hundred ducks.

Method: The Town Board may issue a permit and it shall be guided in its actions “*by all pertinent ordinances, local laws and regulations of the town, and in particular, the Zoning Ordinance.*” (Section 41-3.C.) Further, Section 41-4 specifically prohibits the deposit of waste matter resulting from the raising and keeping of ducks into any waters or onto any underwater lands under the control of either the Town or the Board of Trustees.

Implementation: With the decline of the duck industry, the Town no longer has any extant permits under this ordinance. However, should the industry make a comeback, this ordinance would benefit from the introduction of specific guidelines for waste management and pollution control. Further, site plan and drainage review by the Planning Board should be required.

LWRP Policy: Chapter 41 implements Policy 5, 6 and 11 by regulating large concentrations of ducks in surface waters and by prohibiting the deposit of waste matter from the ducks into those waters.

(xi) **Chapter 44 Environmental Quality Review**

Adopted: 5-9-78

Amended: 4-2-96

Intent: To implement environmental quality review in accordance with Article 8 of NYS Environmental Conservation Law and Part 617 of Title 6 of NYCRR.

Method: All town agencies with authority to take action, and issue permits or other approvals are charged with following specified protocols.

Implementation: The Town Board, the Planning Board and the Board of Trustees conduct SEQRA review on all applications or actions. The town follows state guidelines for the implementation of this law. Applications before the Zoning Board of Appeals typically are found to be Type II actions. There are no Town-designated Critical Environmental Areas.

One provision of Title 6 NYCRR exempts from review commercial construction of less than five thousand square feet in floor area. This provision is felt to be detrimental to the town’s goal of mitigating impacts of development on its waterfront.

LWRP Policy: Chapter 44 helps implement each of the Policies by

requiring Town officials take a hard look at potential environmental impacts of proposed activities.

(xii) **Chapter 45 Fire Prevention and Building Code**

Adopted: 7-17-84

Amended: 3-3-98, 11-24-98, 12-8-98, 10-26-99

Intent: To administer and enforce the Uniform Fire Prevention and Building Code pursuant to Article 18 of Executive Law of the State of New York.

Method: The Building Inspector, the Code Enforcement Officer and the Engineering Inspector are charged with reviewing permits and construction for compliance with the ordinance.

Implementation: The ordinance specifically exempts from the permit requirements the following actions:

(a) *Necessary repairs which do not materially affect structural features.*

(b) *Alterations to existing buildings, provided that the alterations:*  
[1] *Cost less than \$10,000;*  
[2] *Do not materially affect structural features;*  
[3] *Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;*  
[4] *Do not involve the installation of electrical systems;*  
[5] *Do not include the installation of solid-fuel burning heating appliances and associated chimneys and flues.*

(c) *Small noncommercial structures less than 100 square feet in floor area not intended for use by one or more persons as quarters for living, sleeping, eating or cooking; for example, a small storage building.*

*Section 45-8. A. (1)*

Violations of this provision are not noticed unless reported by neighbors or at the time a property is sold, assuming an updated certificate of occupancy is requested by the buyer.

Additional restrictions include the following:

1. *No permit may be issued for any lot without access to a street of highway under Section 280 of NYS Town Law.*
2. *No permit may be issued for a use requiring a Special Exception unless such approval has been granted.*
3. *No permit may be issued for a use requiring site plan unless such approval has been granted.*
4. *No permit may be issued until approval has been received from the Suffolk County Department of Health Services for the proposed water supply and sewage disposal system.*

*Section 45-8. D., E., F., and G.*

There have been disagreements between the Planning Board, its staff and the Building Department as to whether a use requires site plan and/or Health Services approvals. The disagreements typically arise over interpretation of the intent of the Site Plan

ordinance (*Section 100-250*) and the intent of the Suffolk County Sanitary Code.

Although applications are reviewed for conformance with Chapter 37, Coastal Erosion Hazard Area Law, there is no explicit reference requiring conformance with its provisions. Additionally, there is no requirement for either the development or review of grading and on-site stormwater drainage plans for residential properties.

There also is no requirement that a property owner apply for a Certificate of Occupancy within a specified time of completion of construction. Consequently, sometimes there is no follow-up after the final inspection to ensure that the building (whether residential or commercial) is constructed and used in conformance with Town Law. Nor does the law specifically require the issuance of NYS Department of Environmental Conservation or Board of Trustee approvals prior to the issuance of building permits. Finally, while demolition permits for historic structures must be reviewed by the Landmark Preservation Commission pursuant to *Section 56 Landmark Preservation Law*, this Chapter does not reference *Section 56*.

LWRP Policy:

Chapter 45 helps implement Policies 1, 2, 3, 4 and 5 by requiring review of certain aspects of construction by governing agencies with specific oversight or jurisdiction prior to the issuance of a building permit.

(xiii) **Chapter 46 Flood Damage Prevention**

Adopted: 8-10-93

Amended: 5-12-98

Intent: To minimize the threat of damage to public and private properties from flooding and erosion.

The purpose of this chapter is to accomplish six things:

- A. *Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.*
- B. *Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage.*
- C. *Control the alteration of natural floodplain, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.*
- D. *Control filling, grading, dredging and other development which may increase erosion or flood damages.*
- E. *Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.*
- F. *Qualify for and maintain participation in the National Flood Insurance Program.*

*Chapter 46-2.*

Method: The Code Enforcement Officer, the Building Inspector and the Engineering Inspector are responsible for administering and implementing this Chapter by granting or denying floodplain development permits in accordance with its provisions. Appeals for variances from the Building Inspector's decision are heard by the Zoning Board of Appeals. The provisions of this Chapter cover all construction within a special flood hazard area, whether residential or commercial in nature.

Implementation: The intent of the ordinance includes the regulation of uses that may increase erosion or flood heights or velocities; control over alteration of natural floodplains and barriers; control of filling, grading, dredging or other development activities that may increase erosion or flood damage, and the regulation of flood barriers that may divert floodwaters or increase flood hazard to other properties. In reality, however, the ordinance only provides for the review of individual permits for permission to construct in areas of special flood hazard as identified and defined in specified documents prepared by the Federal Emergency Management Agency. Detailed standards and review procedures are set forth for use in determining whether to grant or deny the permit requested. The Town's building inspectors undergo ongoing training in the application of these standards. A regional representative of the Federal Emergency Management Act is readily available (and is utilized often) for consultation on case-by-case evaluations. The recent increase in waterfront development has led to an increase in the number of floodplain permits under review.

LWRP Policy: Chapter 46 helps implement Policies 1, 2, 4 and 5 by ensuring that new or rehabilitated structures in special flood hazard areas are protected from flooding and erosion damage. The public benefits include protection of public infrastructure, minimization of adverse impacts of development, protection of historic structures from damage, and minimizing loss or threat to life, structures and ultimately, natural resources from development activities. However, Chapter 46 might be more effective if it included general guidelines for the protection and enhancement of existing natural floodplains and buffer zones within high flood zones and immediately adjacent.

(xiv) **Chapter 47 Farm Stands**

Adopted: 5-13-97

Intent: To ensure that farm stands remain an adjunct to agricultural uses and do not become significant commercial operations in rural and residential areas. *Chapter 47-1.*

Method: Farm stand permits are required for any stand in excess of a total of 20 square feet in area. The proposed farm stand must be located on a minimum of five tillable acres (excluding any house or

agricultural buildings). If ownership or lease of at least five tillable acres of land within the Town can be established, a farm stand may be sited on a lot of at least two acres in size (excluding any house of agricultural buildings). On-site parking must be provided off the road. Farm stands may not exceed one thousand square feet in area without site plan approval from the Planning Board and a Special Exception from the Zoning Board of Appeals. Non-conforming stands in existence at time this chapter was adopted are exempt.

Implementation: The Building Department makes the determination whether to issue a permit. However, there are no guidelines in place as to how to determine whether “At least 80% of the produce, plant stock or products must come from the owner’s or tenant farmer’s own farming operations.” *Chapter 47-3*. As a result, at least one permit has been issued for a farmstand where there is no discernable farming operation in existence on the surrounding land.

LWRP Policy: Chapter 47 helps implement Policies 1, 3 and 12 by setting parameters on the size and location of new farmstands so as to protect the visual quality of the roadside experience, while providing for safe public access. This Chapter also was intended to protect and assist the agricultural industry by permitting farmers to sell produce grown on the site. However, a permit for a farmstand has been granted to a person whose land was not under active cultivation at the time of issuance

(xv) **Chapter 48 Garbage, Rubbish and Refuse**

Adopted: 3-23-48

Amended: Variously and extensively.

Intent: Although lacking a specific statement of intent, the entire chapter deals with regulations governing the way in which garbage, rubbish and refuse may be disposed of within the Town of Southold, whether at the Town’s sanitary landfill or a licensed transfer station. Dumping is prohibited.

Method: The Town Board administers this chapter. The Town Clerk is responsible for issuing permits to use town disposal facilities. The Town Board may revoke permits and licenses if persons/establishments are found to be violating this chapter.

Implementation: Although the staff at the Town disposal facility make every effort to ensure that waste disposal and recycling take place in accordance with this chapter, this basically is an honor system. Residents are permitted to enter the facility to dispose of their garbage or to recycle materials. Commercial carters also access the site.

While disposal activity takes place under the observation of equipment operators and attendants, there is limited oversight of the actual contents of closed containers and bags to determine

compliance with the mandatory recycling requirements of this Chapter. Based on respective separately weighed tonnage, residential recycling rates are relatively high, i.e., equal to or better than surrounding communities. (Overall responsibility for enforcement is not spelled out by the code, although the current procedure is for landfill attendants to collect the pertinent information and relay it to the Building Department for follow-up or to notify the Police Department.)

Adherence to recycling rules by commercial waste generators is less certain. The Town cannot compel commercial waste generators to use the Town facility. Many commercial generators chose to send their waste and recyclables to facilities out-of-town for disposal and/or processing. This situation is largely due to Code requirements that recyclables be “source-separated”, that is, sorted not just from the trash, but from other recyclables. This provision allows the Town to avoid the cost of sending mixed recyclables to an intermediate facility for sorting. Commercial waste generators avoid having to source-separate their recyclables by shipping the material directly to an intermediate facility.

LWRP Policy:

Chapter 48 implements Policies 5 and 8 by mandating recycling and imposing penalties for lack of compliance.

Better tracking of the commercial waste stream through a permitting process may enable the town to improve its waste management efforts. Allowing the co-mingling of recyclables also may increase commercial recycling activity at the town facility. More definitive enforcement protocols might implement this Chapter more effectively.

(xvi) **Chapter 54 Junkyards**

Adopted: 8-10-65

Intent: To regulate, control and license the activities of businesses known as auto “graveyards”, junkyards and secondhand parts collection areas. The intent in regulation is to protect public safety due to hazardous nature of materials stored in such yards and to mitigate their public nuisance aspects so as prevent their detracton from the value of surrounding property.

Method: A license is required to operate a junkyard. The Town Board may grant the license on a yearly basis. The license is personal and does not run with the land. It may be revoked by the Town Board after a public hearing. Specific standards are set forth regarding how the junkyard is to be operated under the terms of the license. Inspections to ensure compliance may be performed by the Town Police, the Town Clerk, the Town Board or any of its representatives.

Implementation: Under present zoning regulations, Chapter 100, the

introduction of new junkyards is prohibited. Further, existing junkyards are subject to standards set forth in Section 100-115 of Chapter 100.

LWRP Policy:

Chapter 48 helps implement Policies 1, 3, 5 and 8 by establishing standards for the operation of junkyards that mitigate its potential negative impacts on the surrounding community. The restriction of future junkyards to Light Industrial zones subject to groundwater protection controls would enable the Chapter to be effective

**(xvii) Chapter 56 Landmark Preservation Law**

Adopted: 1-18-83

Amended: 11-26-91, 4-5-94, 1-18-00

Intent: To conserve, protect and preserve architectural character of Southold and to contribute to its aesthetic value by establishing a Landmark Preservation Commission and setting forth procedures whereby it can assist in the conservation, protection and preservation of historic places, sites, buildings and structures.

Method: An appointed, seven member Commission is charged with the following duties:

- A. *“Encourage the preservation of landmarks through educational activities.*
- B. *Recommend places, sites, buildings, structures and historic districts to the Town Board for landmark designation in accordance with the provisions of Section 56-6 hereof.*
- C. *Review and, where appropriate, give advisory recommendations with respect to all applications for building permits involving alterations of the exterior of designated landmarks in accordance with the procedures set forth in Section 56-7 hereof.*
- D. *Cooperate with civic and professional organizations interested in landmark preservation.*
- E. *Offer advice and suggestions to or at the request of owners of the Town Board to implement the purposes of this chapter.*
- F. *Promote and encourage historic awareness and judicious concern for designated landmarks.”*  
*Section 56-5.*

This Chapter also sets standards for the designation of Town landmarks or historic districts. Each proposal to reconstruct, alter, add to or demolish a designated local, state or federal landmark, or a property identified by the Society for the Preservation of Long Island Antiquities as having historical significance, must be reviewed by the Commission prior to issuance of a building or demolition permit by the Building Department. The Commission may make recommendations to protect the exterior architectural integrity of the structure, and may suggest alternative methods, approaches, and treatments in order to maintain that integrity.

Implementation: This ordinance has been added to and strengthened over the years. The degree of implementation depends on two factors. One is the effectiveness of the Commission in educating property owners and convincing them to agree voluntarily to a landmark designation. The other is coordination/cooperation between Building and Planning Department staff and the Commission to ensure adequate and timely review of development or redevelopment applications. However, since no incentives are provided to property owners to maintain historic properties, too often older structures are left to deteriorate beyond the point of economically feasible repair, *thereby resulting in their demolition.*

The voluntary nature of the designation procedure means that out of the more than 1500 structures or sites inventoried by the Society for the Preservation of Long Island Antiquities, only 55 of them are “protected” by the Chapter and that protection is of limited nature. Further, the Commission’s recommendations on pending applications for either building or demolition permits are only advisory. They can be disregarded by the Building Department upon objections by the property owner. Experience has shown that the degree of protection offered by this Chapter is almost non-existent.

LWRP Policy: Nominally, Chapter 56 helps implement Policies 1 and 2 by encouraging the conservation, protection and preservation of architecturally or historically significant sites or structures. Preservation of significant blocks of these sites or structures contributes to the visual quality of the town and helps protect its scenic resources as set forth in Policy 3.

**(xviii) Chapter 57 Littering**

Adopted: 7-31-73

Intent: To prohibit the deposition or tossing of any litter (defined as including garbage, refuse, rubbish and all other waste material, including handbills) on any street, sidewalk, public place, park, beach, surface waters and private property is prohibited.

Method: Specific prohibitions against littering are spelled out. Where public or private receptacles have been provided in accordance with this Chapter, litter may be deposited therein.

Implementation: Although no express reference is made as to which agency has enforcement responsibility for this Chapter, it is generally recognized as being within the jurisdiction of the Police Department. Fines and/or imprisonment can be levied upon convicted offenders. Each day the offense is continued is a separate and distinct offense.

LWRP Policy: Chapter 57 helps implement Policies 3, 5, 6 and 8 by preventing blight of the town’s visual quality and by protecting surface waters from being used as dumping or littering sites.

(xix) **Chapter 59 Open Space Preservation**

Adopted: 3-2-88

Amended: 6-18-91

Intent: To acquire open space because preservation of that open state is in the public interest.

*Any space or area characterized by natural scenic beauty or whose existing openness, natural condition or present state of use, if retained, would maintain or enhance the conservation of natural or scenic resources. Section 59-30.*

Method: An appointed, seven-member Land Preservation Committee is charged with the following duties:

*[1] To recommend to the Town Board lands in which the fee or any lesser interest or rights should be acquired by the town.*

*[2] To review all matters relevant to open space or open areas.*

*[3] To serve as a review board for the granting of permits for the construction, reconstruction and additions of and to structures in or on the lands in which the fee or any lesser interest or rights have been acquired by the town.*

*[4] To promulgate such rules and regulations as may be deemed necessary to govern the administration, procedures and duties of the Committee, which rules and regulations shall not become effective until approved by the Town Board.*

*[5] To prepare, amend and maintain appropriate maps delineating open space or open area lands, lands in which the fee or any lesser interest or rights are proposed to be acquired and such other information as may be deemed appropriate.*

*[6] To perform such other duties and functions as may, from time to time, be directed by the Town Board.*

*Chapter 59-50.*

This Chapter sets forth procedures whereby offers for sale, land appraisals and offers to purchase are to be handled by the Town. The 1991 amendment effectively combined the Open Space Preservation Committee with the Agricultural Preservation Committee (*Chapter 25*) and created a Land Preservation Committee whose responsibilities are delineated in Chapters 6, 25 and 59.

Implementation: The Land Preservation Committee oversees, in an advisory capacity, all land preservation activity in coordination with the Town Board, the Planning Board and the Land Preservation Coordinator. The total amount spent on the acquisition of slightly more than 130 acres (fee title) of open space through December 2000 is in excess of 3.8 million dollars.

LWRP Policy: Chapter 59 helps implement Policies 1, 2, 3, 5, 6, 9 and 12 by preserving open space that minimizes the effects of development and enhances community character. Land purchased under this Chapter includes land of great scenic quality, land containing

prime farm soils, environmentally sensitive lands and sites of significant significance to the community.

**(xx) Chapter 62 Parks and Recreation Areas**

Adopted: 2-10-81

Intent: To specify the uses, operating hours and conduct that may take place at town parks and recreation areas.

Method: The chapter sets forth a listing of uses and operating procedures for town parks and recreation areas. For instance, among other things, the regulations prohibit the damage of property or equipment, hunting or injuring animals, littering, driving motor vehicles outside of designated parking areas and roads, undressing on the beach, operating boats at (or fishing from) designated bathing beaches, careless use of picnic barbecues, the playing of active sports except on appropriate playing fields and courts and the unrestrained running of dogs. Large or organized events require permits and disorderly behavior is discouraged.

The Superintendent of the Department of Public Works is given the responsibility of being in charge of all parks and recreation areas, including the setting down of rules and regulations that may be deemed proper to maintain the safety and welfare of persons using those properties. Enforcement is delegated to the Superintendent, designated recreation staff and the Police Department.

Implementation: The Parks and Beaches Committee works under the Supervisor's direction to oversee the capital improvements and maintenance of all town parks, including landscaping, refurbishing of facilities and beach nourishment. Town parks and beaches are heavily used in season, and receive high marks for accessibility, amenities and cleanliness.

LWRP Policy: Chapter 62 helps implement Policies 3 and 9 by providing for the safe and orderly use of public properties throughout Southold and maintaining them attractively.

**(xxi) Chapter 65 Parking at Beaches**

Adopted: 4-7-70

Amended: Various and extensively, mostly to add/delete parking areas or road ends for which permits are required to park a car and to set fees for the permits.

Intent: To protect residents' access to bathing beaches and recreational facilities by setting aside permitted parking areas. This chapter also helps mitigate the impact of summer parking on neighborhoods adjoining beaches.

Method: This chapter lists where parking is permitted by Southold Town permit only. It also sets the permit fees for residents and their guests, including hotel guests. Non-resident permits for daily or

seasonal use also are available. Some of the fees include boat trailers.

Implementation:

Permits are valid only for the year issued and are obtainable from the Town Clerk’s office in person or by mail. They can be used at seven town beaches, fifty-five road ends and thirteen boat ramps. Permits are required year-round for road ends and boat ramps. For the beaches, they are only required during Memorial and Labor Day.

During the bathing season, parking permits also can be obtained at three designated beaches operated by the town. Two of these are on the bay, the other on the sound. Proof of residency or lease is required for these permits.

Hotels and other such establishments are able to obtain seasonal guest permits for their clients. One day, non-resident permits also are available at beaches or can be purchased by recreational businesses, such as bike and kayak rentals and fishing stations, for their clients. Similar but different regulations apply to Race Point on Fishers Island.

The permit fees as of 2001 are as follows:

Parking/Beach Permits (per year unless noted):

<i>Resident</i>	<i>\$ 6.00 per vehicle</i>
<i>Guest/Lessee</i>	<i>\$ 30.00 per vehicle</i>
<i>Non-Resident</i>	<i>\$100.00 per vehicle</i>
<i>Daily</i>	<i>\$ 12.00 per vehicle</i>

Enforcement is provided by the Town Police, except on Fishers Island where enforcement can be provided by either the Fishers Island constables or the New York State Troopers.

LWRP Policy:

Chapter 65 helps implement Policy 9 and 10 by providing for orderly public access to public lands and waters by vehicle in a manner that will not destroy neighboring community character through overuse.

**(xxii) Chapter 69 Peddlers, Solicitors & Transient Retail Merchants**

Adopted: 2-26-91

Amended: 3-24-92

Intent: To prevent business practices of peddlers, solicitors and transient retail businesses from existing within Southold, with certain exceptions.

Method: Permits are required for peddlers and solicitors of ice cream, milk, dairy products, food items customarily found on hot dog vending and coffee trucks. Places and terms of operation also are clearly defined.

Implementation:

The Town Clerk’s office is authorized to grant permits on an annual basis subject to a detailed application procedure and a background check by the Police Department. Licensed operators may not sell after 8 p.m. or before 9 a.m. No noise devices may be used to attract clients, nor may solicitation take place within

five hundred feet of any school during school days. No peddling or soliciting may take place at town recreational facilities, except where there is a lack of an approved concession stand. The Town Police Department is charged with enforcement.

LWRP Policy:

Chapter 69 helps implement Policy 1 by focusing business activity within business-zoned districts where sufficient infrastructure exists to provide adequate parking, sanitation and other public services. Open spaces and recreational facilities are not marred by the operations and wares of transient retail businesses, but can be serviced by licensed food purveyors in the form of hot dog or coffee vendors. The Chapter also helps protect visual quality and scenic resources (Policy 3).

**(xxiii) Chapter 71 Public Entertainment & Special Events**

Adopted: 6-2-87

Amended: 9-20-94

Intent: To preserve public peace and good order.

Method: Tumultuous assemblages, all public outdoor shows and entertainment, including but not limited to bazaars, fairs, carnivals and circuses, are prohibited without a permit from the Town Clerk. Further, the events must be under the "*sole management and for the profit of local fraternal, charitable or religious organizations.*" *Section 71-1.B.*

Wineries holding outdoor events for profit, at which the expected attendance will exceed the maximum allowable occupancy of the public area within the winery building(s), must first obtain approval from Zoning Board of Appeals. The wineries are further restricted by being required to provide adequate off-street parking and traffic control, sanitary facilities, and where more than three hundred people are expected, file a traffic control plan. All food served at the event must be prepared off-site and catered.

Implementation:

Since most events coming under the provisions of this Chapter take place on the weekends, enforcement is left up to the discretion of the Police Department. There are no sanctions for violating this Chapter. In response to complaints from residential neighbors of wineries that host large events, the Town has appealed to the winery industry for more cooperation and compliance. Currently, the ordinance lacks sufficient guidelines and stipulations that would make it more effective. The industry has responded by creating self-imposed guidelines.

LWRP Policy:

Chapter 71 would help implement Policy 1 by helping to minimize the adverse traffic impacts that may result from multiple events taking place within an area.

**(xxiv) Chapter 74 Salvaging Centers**

Adopted: 5-3-94

Intent: To regulate the siting and operation of salvage centers,

which are defined as “Any location where a private collection of items, exclusive of municipal recyclables, is gathered, reused, recycled, reclaimed and processed for eventual disposal off site.” Section 74-1.

Method: A permit is required from the Town Board. In reviewing the application, the Board can specify the extent of the permit’s life. The permit also “shall contain such conditions as may be necessary to ensure that the proposed operation will not have an adverse effect on the environment, the character of the area of the operations of the town.” Section 74-5. Failure to comply with the terms of the permit and all other state, federal or county permits shall be a basis for immediate revocation of the permit.

Implementation: The Town has granted just one permit. Although penalties can be imposed, they are undefined under this chapter. The ordinance is flawed in that it does not provide for periodic inspections to ensure compliance. Nor is it clear who is responsible for enforcement. A salvage center is not expressly permitted under the Zoning Code, which essentially grants the Town Board enormous discretion to issue a permit anywhere within the Town regardless of zoning.

LWRP Policy: If revised, Chapter 74 could help implement Policies 1, 5, 6, 8, and 12 by ensuring that salvage centers are properly designed and located only in industrial zones, and are site away from sensitive environmental areas such as wetlands, prime farm soils, surface waters and groundwater recharge areas.

**(xxv) Chapter 75 Scavenger Wastes Disposal**

Adopted: 7-30-85

Amended: 3-22-88

Intent: To protect the ground and surface waters within the Southold Wastewater Disposal District from contamination by providing a scavenger wastewater pretreatment facility at the site of the sewer treatment plant of the Village of Greenport. Scavenger waste is defined as the solid and liquid material removed from a cesspool or septic tank. The Southold Town Wastewater Disposal District includes all property within the Town except Fishers Island and those lots hooked up to the Greenport Sewer System. (Correspondence: Linda Cooper, Deputy Town Clerk, January 24, 2001.)

Method: This Chapter sets forth a series of regulations governing the pumping, transport and disposal of scavenger waste by carters who must be licensed by the Town. A record of each pump-out of a cesspool or septic tank must include the date and location of same, and must be submitted to the Town Clerk prior to disposal of the waste at the pretreatment facility.

A permit from the Town Clerk must be obtained within five business days prior to the construction, modification, repair or replacement of any septic tank or cesspool, or part thereof.

A separate permit and fee for operating an on-site sewage disposal system also is required. This requirement applies to both new and existing systems.

Construction requirements stipulate that the design and location of on-site systems must conform to the Standards for Sewage and Waste Disposal Systems as established by the Suffolk County Department of Health Services in their Sanitary Code. Systems must be located where they can be pumped without trespassing on land in other ownership, unless an express easement for that purpose is obtained. Further, the covering of systems shall permit inspection without the removal of grass, dirt or other similar landscaping. *Article VI. Section 75-6.1 through 6.3.*

Three years after the issuance of an operation permit, or sooner, the system shall be inspected (upon written notice unless an emergency exists) by qualified inspectors employed by the Town Board.

On-site systems must be pumped by the owner every three years, unless the town Inspector determines that due to size, type, location and/or frequency of use, the system does not need to be pumped every three years.

Repairs to a malfunctioning system with an operating permit are required to be made by the owner. If that person refuses, the town may do the work and bill the owner. Carters are charged set fees for disposal of the scavenger waste at the Pretreatment Facility.

Dumping of scavenger waste removed from any septic tank or cesspool in locations other than the Pretreatment Facility is prohibited.

The discharge of certain wastes into on-site wastewater disposal systems is prohibited. These include:

- A. *Industrial waste.*
- B. *Automobile oil and other noncooking oils.*
- C. *Drainage from basement floors, footings or roofs.*
- D. *Toxic or hazardous substances and chemicals, including but not limited to pesticides, acids, paints, paint thinner, herbicides, solvents, photographic chemicals and water-softening agents.*
- E. *Cesspool cleaning and drain opening products which are prohibited by Article 39 or the New York State Conservation Law, or Suffolk County Local Law No. 12-1980.*

Enforcement is to be provided by the Sanitation Inspector. Penalties, imprisonment and court action are possible punishments for violators.

Implementation:

The Building Department requires applications for new construction to include a Cesspool/Septic Construction/Alterations permit from the Town Clerk prior to issuance of a building permit. Inspections are performed by the Building Inspector. Currently

there is no enforcement of the requirement that existing on-site systems be pumped every three years. The Sanitation Inspector's position does not exist.

Scavenger wastes are currently held in holding tanks certified by the State Department of Environmental Conservation, whereupon they are trucked to the Suffolk County Sewage Treatment Center at Bergen Point for proper treatment. In 2006, the town's lease on the land where the holding tanks are located will run out and an alternative site is needed. No Sanitation Inspector has ever been appointed, so enforcement is handled on an ad hoc basis. Further, there is no ongoing education program to remind residents, particularly those who relocate here from areas where sewage is handled by sewage treatment plants, that certain substances should not be disposed of in their on-site systems.

LWRP Policy:

Chapter 75 helps implement Policies 1, 5, 6, and 8 by minimizing the adverse impact of on-site sewage disposal systems in developed areas, by protecting the groundwater from contamination and by protecting surface waters from overflowing septic systems. This chapter further implements the policies by providing for the proper disposal of scavenger wastes, and mandating the systematic pump-out of on-site waste disposal systems.

**(xxvi) Chapter 76 Sewers**

Adopted: 3-25-86

Amended: 11-15-88, 12-11-90, 11-24-92

Intent: To assure proper disposal of sewage and wastewaters, and the proper operation and maintenance of public sewers, the sewage treatment facility and other sewage works within the Fishers Island Sewer District (FISD).

Method: Specific regulations govern the disposal of any and all waste, solid or liquid, on Fishers Island. Dumping of any waste is prohibited. The discharge of sanitary sewage, industrial waste or other polluted waters to natural outlets or storm sewers is prohibited unless suitably treated in accordance with this Chapter.

No on-site sewage disposal system is permitted if public sewage is available.

Private systems require the approval and inspection of the Superintendent of FISD. The Superintendent is charged with implementing recommendations and guidelines of Department of Public Health of the State of New York and the Suffolk County Sanitary Code.

The discharge to sanitary sewers of stormwater, surface or ground waters, roof runoff, subsurface drainage, cooling water, air-conditioning and refrigeration wastewaters, and industrial process or cooling waters of any kind is prohibited. Further, the introduction of flammable or explosive substances, toxic,

radioactive or poisonous materials, corrosive wastes (of lower than 6.5 or higher than 9.0 pH), excessive hot water and any substance capable of manually or chemically interfering with the operation of either the sewer or the wastewater facility itself, is prohibited.

Modest connection fees are levied to defray operation costs. Only licensed drain layers may install sewer systems and connections. New sewers must be built according to standards. Enforcement of this chapter is provided by the Superintendent, duly authorized employees of the FIRD, the U.S. Environmental Protection Agency, and the State Department of Environmental Conservation. Penalties for violation may include disconnection, fines and/or imprisonment.

Implementation: The administration and implementation of this chapter seem to be taking place effectively.

LWRP Policy: Chapter 76 helps implement Policies 5 and 6 through careful management and treatment of waste water generated on Fishers Island.

### **(xxvii) Chapter 77 Shellfish**

Adopted: 6-29-33

Amended: Various and extensively.

Intent: *“To regulate the harvesting of shrimp, shellfish and eels. More specifically, the purpose of Article II is “to provide for the protection, the preservation and the proper use and maintenance of town waters and lands under town waters, to minimize damage thereto and to enhance their use for the propagation of shellfish and other beneficial marine organisms and thereby protect and promote the public health, safety and welfare...”*

Method: Non-residents are prohibited from taking shrimp from all creeks and inland waters within the town. For shrimp, a minimum residency of six months is required.

Commercial and recreational shellfishing by permanent residents is permitted. Junior licenses cover 12 and 13 year olds. Temporary resident permits also are available.

Strict limits are set forth for the minimum size of shellfish that may be harvested, as well as the amount per permit-holder, including a guest.

Scallop harvesting is closely restricted by resolution of the Town Trustees yearly, with separate dates set for commercial and noncommercial harvesting. Additional regulations set forth size and harvest limits as well as prohibitions against mechanical dredging of same, among others.

Similar restrictions are set forth for hard and soft or steamer clams, oysters, blue claw crabs, mussels and eels. Culled shellfish must be returned to their home waters alive.

The removal of shellfish from conditionally uncertified waters is prohibited. The transplanting of shellfish is permitted by

authorization of the Trustees if such shellfish are in danger of destruction. The use of dredges, scrapes, ell dredges operated by mechanical power is prohibited in town waters unless authorized by the Trustees for scientific study. The removal of beach grasses or wetland vegetation is prohibited, as is covering same with dredged spoil without prior written approval by the Trustees. Penalties for violations may include fines and/or imprisonment.

Implementation:

Shellfish permits are issued annually by the Town Clerk's office. The permit fees as of 2001 are as follows:

<i>Resident Commercial</i>	\$ 35.00
<i>Resident Jr. Commercial</i>	\$ 17.50
<i>Resident Non-Commercial</i>	\$ 5.00
<i>Non-Resident Temporary</i>	\$ 10.00
<i>Resident Non Commercial/over 62 years of age</i>	<i>Free</i>

Enforcement responsibilities are not defined in this Chapter, but typically are carried out by the Bay Constables under the aegis of the Police Department. With regard to enforcing the prohibition against taking undersized shellfish or from uncertified waters, the town is aided by State Environmental Conservation officers.

LWRP Policy:

Chapter 77 helps implement Policies 3, 6, 9 and 11 by preventing the harvesting of undersized shellfish and by setting limits to when shellfish may be harvested, all of which serve to protect the fishery resource from over-harvesting. Further, this Chapter provides for the transplanting of shellfish to either more productive or certified waters. It provides for controlled public access in a manner befitting the limited nature of the resource. However, the Town recognizes that marine species such as blue claw crabs, shrimp and eels are not under its authority. These species are migratory, are subject to state regulation and management.

**(xxviii) Chapter 81 Soil Removal**

Adopted: 2-16-65

Amended: 11-9-71, 7-2-91

Intent: To protect and prevent serious and irreparable damage to the public health, safety and general welfare by regulation and control of the general regrading of land, extraction and removal of earth products and other excavations. The regulations are designed to prevent the following:

- A. *The interruption and diversion of natural watersheds and drainage lines, resulting in inadequate and improper surface water drainage.*
- B. *The erosion of soil by water and wind.*
- C. *The decrease in or destruction of fertility of the land.*
- D. *The removal of lateral support of abutting streets, lands and premises.*

- E. The creation of dust storms and mosquito breeding places.*
  - F. The creation of dangerous banks, depressions or pits.*
  - G. The interruption of suitable access roads to other lands and the disruption of the future road pattern.*
  - H. The rendering of lands unfit or unsuitable for their most appropriate uses.*
  - I. The depreciation of property values.*
  - J. The creation of other deterrents to the coordinated and harmonious physical development of the Town of Southold.*
- Section 81-2.*

Method: A permit from the Town Board is required for the operation of sand and gravel pits, for the excavation or removal of sand, gravel, stone or other minerals, for the stripping and removal of topsoil including sod farming except where two inches or less are removed annually. The application form requires submission of a detailed statement of the proposed operation, an estimate of the public yardage to be removed, a survey by a licensed engineer or surveyor and a rehabilitation plan for the site

Implementation: Prior enforcement of this Chapter has been difficult, and, not particularly effective due to lack of enforcement personnel to monitor these types of activities during weekends or after hours. The lack of specified guidelines and monitoring standards to prevent abuses adds to the difficulty of enforcement.

LWRP Policy: Chapter 81 helps to implement Policies 1, 3, 4, 5, 8 and 12 by requiring permits for the removal of sand and gravel from the town and provides a mechanism for mitigating environmental damage from such activities.

**Chapter 83 Highway Street Excavations**

Adopted: 7-16-85

Intent: To prevent the undermining or damage of public highways.

Method: A permit from the Highway Superintendent is required to undertake any excavation in or under a highway, as well as to remove or deposit material on same. Insurance and performance and/or maintenance bond also are required. Fees for permits vary depending on type of excavation and depth.

Excavators are required to provide for public safety. Permit requirements define the nature of construction and excavation activities that are permitted. Penalties for violations include revocation of permit, fines and/or imprisonment.

Implementation: The Highway Superintendent oversees all activity under this Chapter. However, the requirements do not include measures to protect sensitive habitat that may lie within one hundred feet of the excavation. This chapter does not cover adjacent road or driveway construction that may negatively impact a town roadway.

LWRP Policy: Chapter 83 helps implement Policy 1 by ensuring efficient use of the highway infrastructure and minimizing the adverse effects of development. If additional guidelines to protect sensitive habitat within 100 feet of the excavation and to control stormwater runoff from private property onto local roads were included, then this Chapter would help implement Policies 5 and 6 as well.

**(xxix) Chapter 88 Tourist and Trailer Camps**

Adopted: Article I, 6-30-53  
Article II, 6-20-78

Amended: Article I, 4-14-58, 9-24-58, 11-9-71, 7-31-73

Intent: To regulate the siting and operation of tourist and trailer camps.

Method: Under **Article I** a permit from Town Board is required for the siting of a tourist camp which is defined as “*Any lot, piece or parcel of ground where two or more tents, tent houses, camp cottages, house cars or trailers used as living or sleeping quarters are located.*” A Camp Cottage is defined as “*Any small building...having not less than one hundred nor more than four hundred fifty square feet of enclosed floor area and used as living or sleeping quarters and constructed and equipped only for seasonal occupancy.*” *Section 88-1.*

Each application for a permit must be accompanied by a site plan showing location of proposed roadways, site drainage, sewage disposal, water supply, lighting and siting of tents, etc. Additional regulations govern the minimum allowed size of tent units, the minimum allowed spacing between units, road construction and lighting specifications, and so on, as well as management responsibilities to provide for public health, safety and welfare.

**Article II** sets forth a separate set of regulations for recreational vehicle parks, which take into account the greater maneuvering room that these vehicles need. These parks are only permitted to operate between April 1 and November 30. Permit requirements are the same as for tourist camps. Violators can be fined or imprisoned.

Implementation: The Town currently issues only two permits; one for ELI Kampgrounds in Greenport; the other for a trailer park on School House Lane in Cutchogue. These permits are renewed regularly, but without benefit of inspections for conformance with Code.

LWRP Policy: Chapter 88 helps provide affordable public access to the coast as well as a different recreational experience, thereby helping implement Policy 9.

**(xxx) Chapter 90 Unsafe Buildings**

Adopted: 9-9-80

Amended: 3-26-91

Intent: To promote the conservation of property and property values and to eliminate hazards to public safety and health.

Method: Unsafe buildings and premises are prohibited. The Building Inspector is authorized to inspect buildings that constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment; and premises that suffer from neglect or which do not provide for adequate access by emergency and/or fire rescue vehicles. The Inspector may require repair, rehabilitation or demolition.

Implementation: While this Chapter has been invoked to force property owners to install proper fire prevention measures, it more often results in the demolition rather than the repair and rehabilitation of buildings. Unfortunately, historically significant structures on the SPLIA Inventory have been lost to demolition because they were allowed to deteriorate to the point where repair and rehabilitation were no longer economically practicable.

LWRP Policy: Chapter 90 helps implement Policy 1, but in a nominal fashion. With revisions, it could help protect historic resources (Policy 2).

**(xxxi) Chapter 97 Wetlands**

Adopted: 6-29-71

Amended: 8-26-76, 11-15-83, 6-5-84, 3-26-85, 5-3-88, 1-21-92, 11-10-98, 9-12-00

Intent: To provide for the *“protection, preservation, proper maintenance and use of wetlands in order to minimize damage from erosion, turbidity or siltation, saltwater intrusion, loss of fish, shellfish or other beneficial marine organisms, aquatic wildlife and vegetation and the destruction of the natural habitat thereof, to minimize danger of flood and storm-tide damage and pollution, and to otherwise protect the quality of wetlands, tidal waters, marshes, shore lines, beaches and natural drainage systems for the conservation, economic, aesthetic, recreational and other public uses and values, and, further, to protect the potable fresh water supplies...from drought, overdraft, pollution from saltwater intrusion and misuse or mismanagement.”* Section 97-11.

Method: A permit from the Board of Trustees is required for any “operations” conducted on or within 100 feet of either fresh or tidal wetlands. “Operations” are defined as including the following: the removal from, or deposit of, material (such as soil, sand, gravel, clay, bog, peat, mud or any other material, organic or inorganic. The term also includes the *“erection, construction, alteration or enlargement of any building, dock, pier, wharf, bulkhead, jetty, groin or other structure, temporary or permanent,...”* The permit may be issued only if the proposed “operations will not substantially:

- A. *Adversely affect the wetlands...*
- B. *Cause damage from erosion, turbidity or siltation.*
- C. *Cause saltwater intrusion into the fresh water resources...*

- D. Adversely affect fish, shellfish or other beneficial marine organisms, aquatic wildlife and vegetation or the natural habitat thereof.
- E. Increase the danger of flood and storm-tide damage.
- F. Adversely affect navigation on tidal waters of the tidal flow of the tidal waters....
- G. Change the course of any channel or the natural movement or flow of any waters.
- H. Weaken or undermine the lateral support of other lands in the vicinity.
- I. Otherwise adversely affect the health, safety and general welfare....”

Section 97-28.

Enforcement after permit is issued is by Bay Constables. The Trustees are charged with holding hearings on appeals on violations.

Implementation:

Each application is reviewed by both the Board of Trustees and the Conservation Advisory Council in the field. After an advertised public hearing, the Board may either issue the permit or deny it. It also may impose a range of conditions on the permit. The Board typically does not permit any encroachment into the mandated buffer zone, which was increased from 75 to 100 feet in September of 2000. In the rare case where construction activity or a structure must take place within the mandated buffer for reasons of hardship or extenuating circumstances, the Trustees typically impose construction mitigation measures to protect the wetland, and if necessary, restore it.

However, once a permit is issued, there is no program of timed inspections of the work in progress. Violations may be called in by neighbors, if not noted first by the Constables or the Trustees.

This Chapter does not refer the holder of a Trustee permit to the Building Department for proper permits

LWRP Policy:

Chapter 97 helps implement Policies 1, 3, 4, 5, 6, and 9 by protecting the wetlands, proper, as well as a one hundred foot radius around their perimeter. The ecological integrity of the wetland is not only safeguarded, but its scenic qualities also are retained.

**(xxxii) Chapter 100 Zoning**

Adopted: 4-9-57

Amended: 11-23-71 in its entirety, and subsequently, variously and extensively.

Intent: To accomplish, among other things:

- A. The facilitation of the efficient and adequate provision of public facilities and services.
- B. The assurance of adequate sites for residence, industry and commerce.

- C. *The provisions of privacy for families.*
- D. *The prevention and reduction of traffic congestion so as to promote efficient and safe circulation of vehicles and pedestrians.*
- E. *The maximum protection of residential and historic areas.*
- F. *The gradual elimination of nonconforming uses.*
- G. *The enhancement of the appearance of the Town...as a whole, particularly its open and rural environment.*
- H. *The encouragement of flexibility in the design and development of land ....to produce the most appropriate use....to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.*
- I. *The fostering and protection of agriculture and fisheries.*
- J. *To make provision for...the accommodation of solar energy systems and equipment and access to sunlight...*
- K. *The protection of the subsurface water supply and surface waters.*
- L. *The protection and enhancement of he coastal environment.*

*Section 100-10.*

Method:

This chapter attempts to maintain the traditional hamlets within the town through a zoning categorization that concentrates mixed uses within the hamlet centers. The following zoning districts and the minimum required acreage per buildable lot are listed below:

- A-C Agricultural-Conservation (80,000 sq.ft.)
- R-400 Residential (400,000 sq.ft.)
- R-200 Residential (200,000 sq.ft.)
- R-120 Residential (120,000 sq.ft.)
- R-80 Residential ( 80,000 sq.ft.)
- R-40 Residential ( 40,000 sq.ft.)
- RO Residential Office ( 40,000 sq.ft.)
- RR Resort Residential ( 20,000 sq.ft.)
- HD Hamlet Density \*
- AHD Affordable Hamlet Density \*
- LB Limited Business ( 80,000 sq.ft.)
- B General Business ( 30,000 sq.ft.)
- HB Hamlet Business ( 20,000 sq.ft.)
- MI Marine I Business ( 40,000 sq.ft.)
- MII Marine II Business( 80,000 sq.ft.)
- LI Light Industrial ( 40,000 sq.ft.)
- LIO Light Industrial/Planned Office Park  
(120,000 sq.ft.)

*(\* variable depending on availability of public water and sewage treatment.)*

Further, the code includes sections that specifically deal with the following topics: wireless communication facilities; cluster development in subdivisions; parking and loading areas; signs; landscaping, screening and buffering; Farmland bill of rights; nonconforming uses and buildings; site plans; special exceptions; Board of Zoning Appeals; and a number of miscellaneous supplementary regulations. It also provides for architectural review of commercial buildings and associated signage.

Implementation: As with any traditional Zoning Code based on State Enabling legislation, Chapter 100 provides for implementation through the offices of the Planning Board, and the Building Department, with appeals heard by the Zoning Board. This chapter reinforces, or is reinforced by, other sections of the Town Code.

LWRP Policy: Chapter 100 ultimately helps implement each of the thirteen policies of the town's program. The chapter governs more than just the siting of permitted uses, and the prohibition against others. It sets standards for new development that facilitate its compatible integration with the existing community infrastructure.

### **(xxxiii) Chapter A106 Subdivision Regulations**

Adopted: 8.24.04

Intent: *...to provide for the orderly growth and coordinated development of the Town, to protect the comfort, convenience, safety, health and welfare of its people and to insure that the review and approval of subdivisions is based on the following considerations:*

- A. *Preservation of certain lands, including farmland, open space and recreational landscapes.*
- B. *Preservation of the rural, cultural and historic character of the Town's hamlets and surrounding countryside.*
- C. *Preservation and protection of the Town's remaining natural environment.*
- D. *Encouragement of a range of housing and business opportunities to support socio-economically diverse communities.*
- E. *Promotion of transportation efficiency, intermodal transportation hubs and attractive alternatives to automobile travel, while preserving the scenic and historic attributes of roadways in the Town.*
- F. *Creation of affordable housing opportunities for residents of the Town.*

*Chapter A106-2. Purpose.*

Method: The Planning Board is charged with following the guidelines, standards and procedures outlined in this Chapter.

Implementation: This legislation is designed to encourage landowners to conserve prime farm soils and sensitive habitat through limited development on either 25 or 20 percent of the land area. Known as *conservation*

*subdivisions*, the legislation provides incentives for the reduction in potential density to either 75 or 60 percent of the total permissible yield. Full-development subdivisions are required to provide affordable housing up to 25 percent of the total yield, or failing that, to pay into a designated fund for the creation of such housing.

LWRP Policy:

Chapter A106 helps implement all the Policies because the Planning Board undertakes a very broad-based review of proposed subdivisions of residential, commercial and industrial land.

**(xxxiv) Chapter A108 Highway Specifications**

Adopted: 4-20-93

Intent: To provide construction requirements for developers and to provide incentives for limited density in subdivisions.

Method: Graduated standards for width and base construction of new subdivision roads are set forth depending on the overall future carrying potential of the proposed road. Incentives are provided to residential developers to reduce density in order to reduce the degree construction specifications, hence the overall cost of building the road. The standard required road width for a residential street was reduced from 35 feet to 24 feet. In 1993, the Standard Width in commercial or industrial subdivisions was reduced to 28 feet. Reduced density to the equivalent of five acre (R-200) can result in a drop of road width to 20, 16 and 12 feet depending on circumstances. Refer to chart on next page.

Number of Lots Served by Road	Zoning District (feet)	Minimum Right-of-Way Width	Road Width (feet)
1 to 2	All R Districts (A-C, R-40, R-80, R-120, R-200 and R-400)	25 (see Note 1)	12 (see Notes 2 and 3)
3 to 4	All R Districts (A-C, R-40, R-80, R-120, R-200 and R-400)	25 (see Note 1)	16 (see Notes 2 and 3)
5 and over	A-C, R-40, R-80 R-120, AHD and HD	50	24
5 and over	All R Districts (When developed at a density of R-200 or less.)	50	3 16
2 and over	All Business Marine And Industrial Districts (RR, RO, LB, HB, B, MI, MII, LI04 and LI4)	50	28

**NOTES:**

1. Where the potential to resubdivide into a total of five (5) or more lots exists or the road provides access to five (5) or more lots, whether those lots are part of the proposed subdivision or not, a fifty-foot right-of-way shall be required.
  2. Upon the recommendation of the Planning Board, the Superintendent of Highways may require wider roads when the potential for resubdivision exists or the road services more than five (5) lots (some of which may be outside the subdivision). If the proposed road connects with an existing paved road, such road shall conform with the specifications listed herein, whichever is greater.
  3. This construction type is not acceptable for dedication to the Town of Southold.
  4. On-site parking is required.
- General note. On-site parking is required for all lots in all subdivisions containing roads with less than a twenty-eight-foot-wide pavement surface. No on-street parking will be permitted.

This chapter also sets forth standards for the design of stormwater retention facilities for new roads including landscaped buffers for same, for street lighting, and street trees. The chapter provides alternative recharge designs utilizing bubble basins, diffusion wells and leaching basins.

Implementation:

The Planning Board works closely with the Highway Superintendent and the Engineering Inspector to ensure that the provisions of this chapter are followed for all proposed roads in residential and commercial subdivisions, as required by Chapter A106, Subdivision Regulations. However, the Zoning Board of Appeals is not required to use the road specifications outlined in

this chapter, and they have been known to require alternative specifications. The Planning Board has been encouraging developers to retain and, where possible, enhance existing natural drainage swales in lieu of constructing basins. The lack of standard professional guidelines for natural swales and retention areas has sometimes proved to be a problem.

LWRP Policy:

Chapter A108 helps implement Policies 1, 5, 6, and 13 through its emphasis on developing a more efficient transportation infrastructure, particularly by reducing the amount of excessive paved area. This chapter also provides for the channeling of stormwater runoff into basins designed to permit filtration of water before its entry into either the groundwater or surface waters. The emphasis on alternative recharge designs has helped protect scenic vistas as well as protect sensitive sites and valuable farmland. Finally, the incentives to reduce density through lowered road construction costs has helped preserve farmland and other large tracts lacking substantial road access.

**B. PROPOSED POLICIES, LOCAL LAWS, PROCEDURAL REGULATIONS and LAND USES FOR IMPLEMENTATION**

**1. Introduction**

Review of existing policies, local laws, regulations and land uses within the Town of Southold revealed a list of changes that need to be made in order to more effectively implement the proposed *Local Waterfront Revitalization Program*. The deficiencies that were revealed during this review are discussed below, followed by a listing of changes that have been made to policy, legislation and procedures, along with recommendations for further changes that will be needed in the near future. Specific projects are noted in the next subsection, *C. Proposed Studies and Projects, Including Harbor Management Plans, For Implementation*.

Where procedural problems or legislative deficiencies exist, conceptual solutions are proposed. The Town Board recognizes these problems and differences. However, other than the proposed *Local Consistency Law*, in the Addendum of this section, no other draft legislation is appended to the LWRP. The Town Code Committee is an arm of the Town Board and it is charged with the drafting of legislation to implement the Town Board's directives as proposed in this document.

**2. Analysis of Effectiveness of Existing Local Laws and Procedural Regulations**

During the development of the LWRP, discussions about the effectiveness of existing legislation and procedures amongst department heads or board chairmen revealed common concerns about three core issues: *enforcement, staff (coordination and training), and gaps in legislation*.

Enforcement

The first issue, enforcement, was perceived as being difficult, time consuming and, often, an ineffective deterrent. Effective enforcement requires some key components: sufficient manpower relative to the number of violators, enforcement presence when and where the violations tend to occur; enforceability; and sufficient incentive to discourage violations.

As a small town, Southold possesses limited staff and financial resources. This situation is not likely to change, even as development pressures and violations increase. Some of the Town's legislation regulates activity that can occur anywhere along the Town's extensive shoreline, which is conservatively estimated as being more than 160 miles long, not including fresh water shorelines. While most local residents may be law abiding citizens, the fact remains that the Town is a second home and resort community and it has many part-time and seasonal visitors who may not know or understand the local regulations. It has been estimated that during the height of the resort season, the Town's population doubles. While most people comply after a verbal warning, there are cases where formal, written enforcement procedures must be followed. Thus the magnitude of the enforcement problem tends to increase during the high season.

However, with the key exception of the Police Department and the Bay Constables, the rest of the Town's enforcement personnel are on duty only during weekday working hours. (They may be "on call" in cases of emergency.) As a result, some questionable or illegal activities, particularly those involving regrading or soil excavation and construction, can result in a significant amount of damage before caught and stopped. This had been observed as being a particular problem on waterfront lots where property owners or their contractors work within the Coastal Erosion Hazard Area or within 100 feet of a shore or wetland line. (Departmental Meeting, November 1, 2000)

In some cases, disputes arose when the wording of the Town Code was either too vague or too ambiguous. In other cases, there were disagreements between the agency that issued the permit and the agency charged with the enforcement of the permit as to the interpretation of the terms of that permit and the determination as to whether a violation had occurred or not. Finally, there were repeat violators and, in the judgment of some department heads, a trend whereby people knowingly violated the code and proceeded without proper permits. There was a perception that perhaps the penalties were so low or so minor as to be an insufficient deterrent. (Departmental Meeting, November 1, 2000)

In response, a number of internal procedural changes have been made to the whole process of enforcement. Complaints and violation notices about items under the jurisdiction of the Trustees are entered into the Police Department's tracking system. These reports are reviewed at joint bi-weekly meetings of the Town Attorney, the Bay Constable, the Clerk to the Trustees and the Director of Code Enforcement.

Violations to other sections of the Code are dealt with on an as-needed basis between the Director of Code Enforcement and the Town Attorney. These violations are not tracked by the Police Department at this time. The violations under the jurisdiction of the Director of Code Enforcement cover a wider range of issues, from variances, Special Exception permits, site plan approvals and conditions of subdivision approval, not to mention violations of environmental mitigation requirements and building and fire codes.

#### Staff

The second issue, the need for more staff support, included the topics of the need for better coordination and, in some cases, on-going or periodic training. Coordination on enforcement issues revealed some other deficiencies, such as the lack of full-time professional staff to assist some of the boards in their review of applications, to develop standardized language for their

approvals and to ensure that conditions of variances or permits are being followed in the field, particularly where sensitive environmental sites were of concern. Most of the Town's environmental review work is contracted out to an environmental consultant, which ensures that a "hard look" is taken, but does not guarantee that the environmental mitigation measures are actually implemented. It has become evident that inspections in the field are necessary during the construction phase of a project to ensure that environmentally-related permit conditions are being implemented.

Another aspect of the coordination issue is that of coordination between town government officials and those of other governmental levels, such as county and state. For many years there was a serious disconnect, whereby county and state agencies, and even federal agencies, operated according to a different set of standards from local government. The development of this LWRP for the Town of Southold has given impetus to efforts by the Town to foster more constructive dialogues with county, state and federal agencies in order to encourage more cohesive decision-making at the local level. While, great strides have been made in developing this dialogue with county, regional and state transportation agencies on issues of road maintenance, stormwater drainage, and traffic calming, to name a few topics of concern, more progress is needed. The adoption of this LWRP is seen as a mechanism to effect a greater level of inter-governmental cooperation and cohesiveness regarding key issues within Southold Town.

### Legislation

The third issue underlined the fact that while procedures must be assessed on a periodic basis to ensure their effectiveness, there is a corresponding need to periodically evaluate the Town Code as to its relevancy to modern life and the latest technological and scientific changes. As was pointed out elsewhere in this document, a significant number of changes have been made in recent years to Town policies and legislation. The legislative, as well as procedural, changes that still need to be addressed are discussed here, and listed, briefly, in the next section.

Aside from updating existing legislation, the development and adoption of standardized *Best Management Practices* is perceived as a much needed aid for Town officials and property owners alike. The remainder of this subsection explores this topic in more detail.

- *Management measures for stormwater runoff*  
There are several ways to manage stormwater runoff. The impact of stormwater runoff on surface water quality can be mitigated to a large degree by the use of structures, such as catch basins, leaching pools, retention basins, and reed beds, each of which serve the multiple purposes of storing a specific volume of stormwater, allowing the stored water to be recharged to ground, and creating conditions by which sediment particles can settle out of suspension. The sedimentation function of stormwater management structures is particularly important, since most contaminants, including coliform bacteria, are attached to fine-grained sediment particles. As sediment is removed from the stormwater, therefore, so too is a large fraction of the associated contaminants. Depending on the residence time (i.e. the time water spends in the basin before flowing out), there can also be a significant natural die-off of pathogens. Over time, the accumulation of sediment reduces the capacity of stormwater retention structures. Therefore, unless these structures are properly maintained through the periodic removal of sediment deposits, their effectiveness will gradually diminish.

New streets can be designed to minimize runoff problems through appropriate design and layout relative to the contour of the land and the use of landscaped buffer strips and settling or infiltration basins to retain rainwater long enough for sediments and particulate matter to be filtered out. Once built, streets and drainage facilities need to be cleaned periodically (basin vacuuming or street sweeping) and maintained.

Although it is more difficult and often more expensive, it is also possible to significantly reduce problems from existing streets. Subdivisions designed prior to the 1970s typically did not include stormwater management structures. Therefore the runoff generated in these developments often is discharged directly to the Town's surface waters and wetlands. In some cases, where the land is available, landscaped buffer strips or other "hard" technology can be built. In other instances, shifts in management practices such as increases in frequency or efficacy of street sweeping, or decreases in amounts of deicing materials applied, can result in marked improvements. In Southold, some subdivisions were designed with drainage swales that were located parallel to the road bed, but on private property. However, the Town stopped approving this design because once the lots were developed, many homeowners filled the swales in, thereby undoing the stormwater drainage system.

Even in newer developments, there will be times when the volume of stormwater runoff from the most severe rainfall events will exceed the design capacity of the storage and recharge systems. Thus, even where structural mitigation is present, the impact to the water quality of the receiving waters caused by development is never completely eliminated.

The average property owner may not be aware of the impact of their usual land use practices. The development and adoption of *Stormwater Best Management Practices* for home owners and businesses would eliminate confusion and guesswork and give individuals more information with which to make better land use decisions.

- *Management measures for development and construction activities*

Pollution and erosion problems resulting from construction can be minimized. The location and design of new buildings and roadways or paved areas on a site is critical to preventing erosion and flooding. Controlling runoff from steep slopes or clayey soils is much more difficult than from flat land with sandy soils. Regrading of sites has the effect of removing vegetation and sometimes, significantly changing natural runoff patterns, thereby creating the potential for erosion and increased sedimentation.

There are a whole series of *best management practices* that can be applied to development and construction activities to reduce erosion. These include limiting amount of construction permitted on steep slopes; staging construction in phases; encouraging use of permeable over impermeable surfaces; limiting the amount of native vegetation that may be cleared; protecting remaining natural vegetation; using erosion control structures, such as sedimentation basins and filter strips; and stabilizing disturbed areas as rapidly as possible. In addition, grassed median strips, artificial wetlands, retention basins, and other roadside drainage areas can be engineered to improve pollution control during and after road and bridge construction.

The average property owner or contractor may not be aware of the impact of their usual construction practices. The Town has not developed *Development and Construction Best Management Practices* for home owners and businesses.

- *Management measures for on-site waste water treatment systems*

With the exception of the Village of Greenport and a few institutions outside its boundaries, the entire town is served by individual septic systems. The Village has no plans to expand the capacity of its sewage treatment plant, and population density elsewhere in the town does not presently support the construction of new sewage treatment plants. All of the water in these on-site systems eventually filters into the ground or surface waters. There are three issues of concern with on-site wastewater treatment systems: design and placement, maintenance, and use.

Given the highly porous nature of most soils in Southold, it would be appropriate to re-examine existing standards, such as minimum allowable depth to groundwater, particularly within, along the shoreline or near wetlands. The seasonal fluctuation in water table should be taken into account. In areas with nitrogen loading problems, perhaps on-site wastewater treatment systems should be required to have additional denitrification capacity, and (where sufficient land is available) the use of artificial wetlands, sand and anaerobic filters required. In extreme cases, such as Marion Lake, where existing development is located on undersized lots (less than 40,000 sq.ft.) and the lake is suffering from nutrient loading, it may be necessary to require the installation of holding tanks that have to be pumped periodically. Because of the difficulty in assuring proper maintenance of such systems, it may be advisable to explore other options such as clivus multrum or dry systems. Revisions to the New York State Department of Health *Part 75A* regulations governing design, siting, and construction of new systems may be necessary and their applicability to Southold evaluated. It should be noted that alternative systems used within Southold must comply with the requirements of the Suffolk County Sanitary Code and the relevant construction standards for water supply and sewage disposal. In the event that anything other than a conventional system is approved by the County Office of Wastewater Management, the Department typically requires that a conventional subsurface sewage disposal system also be provided that is capable of meeting the standards for residential construction.

As residents along enclosed portions of the waterfront complain about deteriorating water quality, a tougher stance is going to have to be taken with regard to applications to expand residences on undersized waterfront lots. In the interest of maximizing public enjoyment of a limited coastal resource without destroying it, it may be necessary to require that increased on-site septic flows be mitigated by relocation of the cesspools further away from the water's edge or failing that, the conversion to alternative systems, such as those discussed above.

Although traditional septic systems are designed to be low maintenance, they are frequently assumed by homeowners to be zero maintenance. Regular maintenance requires periodic pumping to remove the sedimentation. Although the Town has had a law on the books regarding this (Chapter 75) since 1985, it is not enforced. No public education efforts are directed towards this either.

Whatever the circumstances, the average property owner may not be aware of the impact of their decisions regarding land development and property maintenance. The Town has not developed and adopted an *On-Site Waste Water Treatment Best Management Practices* for home owners and businesses

- *Management measures boating and marina - specific pollution*

Because our marine waters are so fundamentally central to the Town's quality of life and economic vitality, protection of the water quality is critically important. The town has been supportive of the educational outreach efforts of the *Peconic Estuary Program*, the Peconic Bay Keeper, and leaders in the marine industry to inform boaters and marina operators about the importance of preventing water pollution.

Numerous opportunities exist for pollution management and prevention at marina facilities. These include a wide range of measures including improving safety at fueling stations, increasing ease of access to pump-out stations, and boater education. In creeks with a Harbor Management Plan in place, overall pollution management of all point and non-point sources would be integrated into the HMP, along with all the other harbor management elements discussed earlier in *Section IV*.

Currently, the Trustees and the Planning Board, through their respective permitting and site plan review procedures, require the retention and filtration of all stormwater runoff from new construction within existing marinas. Typical permit/approval conditions have included: the installation of dry wells, boat washdown containment basins, gravel parking lots bordered by French drains and landscaping between the bulkhead and the parking areas. While these do not remove all pollutants generated on-site, particularly on some of the more-intensively developed marinas, they do reduce the overall amounts of pollution that will reach adjacent surface waters.

The Town's new and comprehensive wetlands law (Chapter 97) provides for careful scrutiny by the Trustees over building and development within marine zones. Site plan applications for marinas are reviewed in a careful and coordinated manner by the Planning Board and the Trustees. However, the Town is in the process of re-evaluating all of its site plan standards, and in that process will address the standards to be applied to site plan applications for marina uses.

The town has been supportive of the educational outreach efforts of the Peconic Estuary Program, the Peconic Bay Keeper, and leaders in the marine industry to inform boaters and marina operators about the importance of preventing water pollution. The Town has supported designation of the Peconic Estuary as a *No Discharge Zone*. But the Town has not incorporated accepted *Boating and Marina Best Management Practices* into its own policies and legislation.

- *Management measures for agriculture*

Because of gentle slopes characterizing much of Southold's agricultural land, soil erosion is generally not a significant concern. However, there are areas where heavy rainfall can wreak havoc as natural drainage swales become overwhelmed by the volume of water. The U. S. Department of Agriculture's Natural Resources Conservation Service and the Suffolk

County Soil Conservation Service provides farmers with erosion control and soil conservation expertise. The Planning Board works closely with the USDA to avoid creating new drainage problems and to mitigate existing problems when working with property owners on their subdivisions. In certain situations, the Planning Board has, as a condition of subdivision approval, required the filing of a conservation management plan acceptable to the USDA.

Most agricultural operations involve some use of fertilizers and pesticides at certain times during the growing season. The sandy soils that characterize much of Southold's farmland means that excessive or ill-timed applications can result in loss of nutrients and chemicals to the ground or surface water. Not only is there the potential economic loss of product, but also a distinct potential pollution threat to the ground or surface waters. Most farmers are aware of this and keep themselves informed of the latest *best management practices* advocated by the Cornell Cooperative Extension Service.

The Town's *Farm and Farmland Protection Strategy*, incorporated into this LWRP, advocates the use of best management practices, particularly that governed by the principles of Integrated Pest Management, or IPM. In this approach, pesticide use is considered only one of several pest management options. If pesticides are to be used, the farmer is advised to choose the product that is least likely to present negative side effects (toxicity, persistence, toxic degradation products). Application is done with calibrated equipment, following established dosages, and under conditions that will minimize losses due to spray drift, wash-off, and other factors. Soil and site characteristics are taken into account also.

The pumping of groundwater by large irrigation pumps can affect local groundwater tables and thus the flow (quantity and direction) of groundwater in the area. And, excessive irrigation can result in nutrients and pesticides flowing off the land to surface waters. As with pesticide and fertilizer use, there are times when irrigation is necessary. Most farm owners are aware of *Agricultural Best Management Practices*, but the Town could continue to promote their use.

- *Management measures for lawn and garden chemicals*  
Excessive use of fertilizers and chemicals for home or business lawns, golf courses, gardens, and other green spaces is a known source of urban non-point pollution. This aspect of surface and ground water pollution is of concern to the Town, because it has resulted in the closure of some productive shellfishing areas.

Golf courses are considered another prime target for *Lawn Best Management Practices*. New courses in Southold must be designed and operated in accordance with strict guidelines developed to minimize any potential threat to the groundwater. Existing courses can only be encouraged to follow suit.

Management of this problem is complicated by the fact that typically many individual property owners are involved, with each single source representing a small portion of the total problem. The main approach to addressing this is through greater public education of the cumulative impacts of individual decisions on lawn care and property maintenance.

While the Peconic Bay Keeper and the North Fork Environmental Council have mounted public education workshops to get this message out, the Town does not have a standardized *Lawn Best Management Practices* to assist the average property owner in making lawn care decisions.

A Lawn BMP would address, among other things, maximum percentages of turf permitted per built lot, and lot clearing restrictions, with the intent being to minimize the need for applying fertilizers and pesticides to the ground, thereby reducing the potential for groundwater contamination. The Town has applied some of these restrictions during the subdivision review process when environmental concerns and mitigation requirements dictated their application. The Town also has required that a new golf course be designed and built to be operated in an environmentally-sensitive way so as not to impact negatively on groundwater quality and private drinking water wells.

In closing this discussion on the effectiveness of existing local laws and procedures, it should be noted that the County of Suffolk has a number of initiatives underway that will ultimately help Southold Town address some of the problems that were noted here. These initiatives will provide the Town with scientific data and recommendations that will help in the creation of more effective legislation, practical procedures and better permitting decisions. Three are worth special mention here. The Peconic Estuary Program (PEP), under the jurisdiction of the County's Department of Health Services, Division of Environmental Quality, contains a component known as the Critical Lands Protection Plan (CLPP). The CLPP is designed to serve as a tool for State and local agencies engaged in land acquisition for open space purposes. It sets forth criteria that would be used to determine acquisition priorities, such as properties located within the following areas:

- PEP Critical Natural Resource Areas
- US Fish and Wildlife Service 1994 National Wetlands Inventory
- Within 1000-foot of freshwater streams and bay coastlines
- Within the groundwater contributing area to nitrogen-stressed sub-watersheds as defined in Chapter 3 of the PEP Comprehensive Conservation Management Plan

Suffolk County's Department of Health Services (SCDHS) is also updating the County's Comprehensive Water Resources Management Plan. An updated plan is anticipated to be of assistance in strengthening current groundwater protection regulations and wastewater management. In addition, the SCDHS has begun developing the Suffolk County North Shore Watershed Management Program as part of the Long Island Sound Study (LISS). The ultimate goal of this program is to develop effective management strategies to limit point and non-point source inputs to Long Island Sound in accordance with the goals set forth in the LISS.

### **3. Potential Solutions**

The preceding section identified generic problems and general deficiencies with existing policy legislation and procedures, both on the local level and on other governmental levels. This section outlines potential solutions. The Town Board recognizes the issues and has agreed to address them. The potential solutions noted here are suggestions and do not preclude the Town Board's consideration of other tools and/or methods.

### Enforcement

Potential solutions to enforcement issues are:

- Revise legislation to make legislative intent clearer, redefine review and inspection procedures, clarify enforcement procedures and responsibilities, increase disincentives to violate, and where environmental damages have occurred, require repair and restoration.
- Appoint a code enforcement officer to work weekends on a rotating basis.
- Make sure permits and conditions of approval are clearly written and that property owners understand them. Develop standardized permit language and definitions.
- Adopt an ongoing program of public education to explain the reasons behind the regulations.
- Institute periodic training on latest environmental protection or mitigation techniques planning, administrative and law enforcement personnel.

### Staff Assistance and Coordination

- Encourage biweekly meetings of key department staff to improve on coordination measures.
- Continue ongoing dialogue with other levels of government to improve coordination.
- Hire a staff person with the requisite environmental background to review environmental impact statements, advise Town officials, conduct field inspections, oversee environmental restoration projects and support the Trustees.
- Establish a parallel inspection process for projects receiving approval from Trustees, ZBA and Planning to ensure conformance with conditions of approval, particularly where environmentally sensitive site conditions are extant.
- Initiate more public outreach and education efforts.

### Legislative Changes

The following legislative changes are recommended.

- Revise *Chapter 18, Police* to further define duties of Bay Constables, e.g. in enforcing Harbor Management Plans.
- Revise *Chapter 36, Outdoor Burning* to prohibit open air burning as per Part 36 of NYCRR. (2000 Census indicates year round population is more than 20,000 people.) Delete Chapter 36 and let State regulations be substituted.
- Revise *Chapter 37 Coastal Erosion Hazard Area* to require periodic inspections to ensure work is being done in accordance with permit. Designate responsibility for inspections of work prior to completion of construction. Mandate restoration of bluff face when damaged due to poor or illegal construction practices.
- Revise *Chapter 38, Dogs* to create a modified pooper-scooper clause to prevent deposition of dog wastes on beaches, road ends, wetlands and drainage swales

leading to surface waters, (and up to 200 feet therein) by requiring curbing by dog owners.

- Revise *Chapter 45, Fire Prevention and Building Code* to require submission of drainage and grading plans prepared by a licensed engineer with building plans for residential construction. Require site inspections of drainage and grading by Engineering Department prior to completion of construction; Require Health Department review of waste water for all proposed expansions to business properties; Require issuance of NYSDEC and Trustee permits in advance of building permits for all residential permits on the waterfront; Require internally-coordinated review of residential building permit applications by Highway and Engineering departments, and ZBA and Planning Board to ensure compliance with all outstanding variances, approvals, regulations, standards and best management practices.
- Require the Building Department to copy the Trustees and the Town Engineer (and where relevant, the Zoning Board of Appeals) with applications for residential construction within 100 feet of the landward side of the Coastal Erosion Hazard Area line, a flood zone or a wetland. Require coordinated review and inspection of residential waterfront development by Building Department, the Engineering Department, the Trustees (and where relevant, the Zoning Board of Appeals) during construction to ensure conformance with all applicable permits and other approvals or conditions thereof.
- Revise *Chapter 46, Flood Damage Prevention* to include Best Management Practices for Development and Construction and require contractors and property owners to adhere to them in proposed plans and during construction.
- Revise *Chapter 48, Garbage, Rubbish and Refuse* to require tracking of the commercial waste stream so Town can improve waste management decisions. Allow co-mingling of recyclables to make recycling more attractive to businesses.
- Revise *Chapter 54, Junkyards* to permit the use only in Light Industrial zones and subject to strict groundwater protection protocols. Require annual renewal and inspection.
- Revise *Chapter 56 Landmark Preservation Law* to ensure that demolition and review procedures are followed.
- Revise *Chapter 74, Salvaging Centers* to permit the use to be located only in Light Industrial zones, away from sensitive environmental features such as wetlands, prime farm soils, surface waters and groundwater recharge areas. Include performance standards to ensure adequate environmental protection measures are followed and installed. Require annual renewal of license and inspection.

- Revise *Chapter 75, Scavenger Wastes Disposal* to require owners of septic systems located within 150 feet of water or wetlands to be pumped every three years, and to submit proof thereof.
- Revise *Chapter 77, Shellfish* to state that enforcement responsibilities lie with Bay Constables pursuant to Chapter 18, Police; to remove migratory fish and crustaceans from Town regulation since these are subjects of State regulation and management. (This will be done during the upcoming rewrite of this local law.)
- Revise *Chapter 81, Soil Removal* to include Best Management practices for removal of soil and regrading, particularly near bluffs, steep slopes, wetlands and shoreline areas. Charge a fee commensurate with inspection costs. Clarify language so that Chapter 81 only applies to mining activities that fall below the statutory threshold of the State Mined Land Reclamation Law and its implementing regulations. Determine whether to permit mining at all.
- Revise *Chapter 83, Highway (Street) Excavations* to set construction and stormwater drainage standards for driveways and other property access points with local roads. Control access points with Town roads by requiring curb cut permits from Highway Superintendent for construction or relocation of new or existing access points for residential and commercial sites. Incorporate Best Management Practices for Road Construction for use on all driveway and road construction within 100 feet of sensitive habitat, steep slopes, wetlands and any surface waters.
- Revise *Chapter 90, Unsafe Buildings* to reference revised version of *Chapter 56 Landmark Preservation Law*.
- Revise *Chapter 97, Wetlands* to enable the Trustees to ensure better environmental protection, including but not limited to:
  - Ensuring greater setbacks for structures from bluffs by defining specific criteria for issuance of variances.
- Revise Chapter 100, Zoning as follows:
  - Amend definitions for clustering, buildable land (exclude dunes, bluff faces, beaches, wetlands and surface waters, illegally-filled land, underwater land).
  - Require that all private streets and access to developed lots conform to *Chapter A108 Highway Specifications*. Require all boards and departments to issue permits or variances in compliance thereof.
  - Restrict total square footage of expansion or constriction of structures on small or non-conforming lots.
  - Amend site plan ordinance to require the review of solid waste connected with new proposed development.
  - Require deduction of wetland areas when computing density for buildable land in subdivisions, cluster subdivisions and site plans.

- Amend site plan section to include provisions regarding additional standards to be applied to marine uses.
- Revise *Chapter A108 Highway Specifications* to include standards where driveways meet town roads to ensure proper drainage. Also include specifications for alternative stormwater retention facilities such as reed beds, filtration basins, vegetated swales.
- Create a Watershed Protection Overlay District (and adopt density restrictions and BMPs) to protect the groundwater quality within the Town's Special Groundwater Protection Areas.
- Adopt standardized best management practice for:
  - stormwater runoff
  - development and constriction
  - on site wastewater treatment systems
  - boating and marinas
  - agriculture
  - lawn and garden chemicals
  - road construction (including driveways)

The adoption of these BMPs in the form of legislation or policies would help the Town protect its natural resources from the detrimental impacts that sometimes occur as a result of development activity. When used in conjunction with other tools, such as clustering, BMPs can help protect environmentally sites such as Marion Lake (Reach 5), Hashomomack Pond (Reach 6), New Suffolk (Reach 8) and Horton Creek (Reach 9); all of which were targeted in the Inventory as requiring extra concern.

In addition, the Inventory noted specific problems in need of resolution and suggested potential solutions. These included.

- preserving views along Oregon Road in Reaches 1 and 2
- restricting expansion of dwellings on non-conforming lots around Marion Lake (in Reach 5) and Hashomomack Pond (in Reach 6) prevent further deterioration of water quality
- recreational zoning for Island' End Golf Club in Reach 3.
- controlling development on Husing Estate in Horton Creek in Reach 9 to protect water quality of the creek
- rezoning the Moore's Drain area in Reach 6 which is currently zoned Light Industrial Office.

As noted earlier, these issues will be addressed by the Town Board.

#### **4. Proposed land uses**

The anticipated long-term effect of implementing the Town's LWRP will be to retain and reinforce the existing character of Southold with its alternating villages and countryside

surrounded by productive and clean marine waters. The Town's Vision for itself, as explained throughout this document, has been to maintain its unique small town character by absorbing limited amounts of growth, principally within its hamlets, in an environmentally and aesthetically compatible way.

It is anticipated that the LWRP will result in the retention of most of the Town's agricultural zoned land in agricultural use. This working landscape incorporates an estimated ten thousand acres, slightly less than one third of the Town's total acreage. That acreage remains in private hands and contributes to the local and regional economy, while providing significant public benefits to the community.

The LWRP will strengthen the existing working waterfront in use as marinas and other public access while also mitigating negative environmental impacts.

Key open space acquisitions will maintain ecologically sensitive or unique habitat and scenic vistas of local and regional renown. Privately-held conservation easements will complement public open space and development rights purchases. Much of the land that is zoned R-40 will become developed as single family residences. Some of the land that is zoned R-80 will be developed as single family residences, but a number of parcels will stay in agricultural use, providing a transition between the hamlets and the countryside.

In the distant future, if Plum Island returns to local ownership it could be converted to open space. If the map adopted pursuant to the *Community Preservation Project Plan* is used as a guide, additional acreage throughout the Town will continue to be purchased and set aside for stormwater retention and recharge, thereby protecting to aesthetics as well. Over twelve thousand acres of land were targeted in 1998 by the CPPP. Since that time, the Town has aggressively leveraged its CPPP funds along with other financial resources to maximize its acquisitions.

*Map V-1* indicates the proposed land use that will result from implementation of this LWRP.

### **C. PROPOSED STUDIES AND PROJECTS, INCLUDING HARBOR MANAGEMENT PLANS, FOR IMPLEMENTATION**

The material in this subsection is intended to identify the specific studies or projects that will implement the policies and objectives of this LWRP. These actions are categorized, first, Town-wide, and then by Reach. The information in this subsection reflects the key issues and areas of special concern and key issues that were identified and highlighted earlier, in *Section II. K. Inventory and Analysis – Summary and Conclusions*.

The items listed under *Town-wide actions* can be presumed to have benefits for the entire Town. Activities that pertain to the entire sound or bay front of the Town were listed under *Town-wide actions* in order to avoid undue repetition of projects within the document. Actions listed under a specific *Reach* tend to be more localized in their extent. However, actions or projects listed within a Reach should *not* be presumed to be of lesser importance or significance than projects listed as being of Town-wide import.

The Policy that would be implemented by the Proposed Study or Project is noted alongside the description. Where multiple policies would be addressed, they are ranked in order of descending relevance. A summary of the Town's thirteen LWRP policies precedes the listing to assist the reader.

Finally, the inclusion of actions such as the purchase of development rights is meant to emphasize the importance of continuing these currently ongoing programs. It also is intended to inform other agencies, whose actions must be consistent with the Town of Southold's LWRP, of the importance the Town attaches to these programs.

A few of the Studies/Projects seem to repeat or include recommended legislative changes that were noted earlier, under *V.B.3. Legislative Changes*. The reason is that while specific changes are needed, they probably should occur within a careful assessment or overview of the existing legislation as a whole. Therefore, adoption of this LWRP should not be held contingent upon enactment of all the recommended legislative changes noted in *Section V.B.3*. The Town has moved steadily within the last decade to update its legislation and will continue to do so. The studies and projects listed herein will be tackled as staff and financial resources can be leveraged with outside resources, particularly implementation grants.

The following is a summary list of Southold Town's LWRP policies:

- Policy 1 Foster a pattern of development in the Town of Southold 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 2 Preserve historic resources of the Town of Southold.
- Policy 3 Enhance visual quality and protect scenic resources throughout the Town of Southold.
- Policy 4 Minimize loss of life, structures, and natural resources from flooding and erosion.
- Policy 5 Protect and improve water quality and supply in the Town of Southold.
- Policy 6 Protect and restore the quality and function of the Town of Southold's ecosystem.
- Policy 7 Protect and improve air quality in the Town of Southold.
- Policy 8 Minimize environmental degradation in the Town of Southold from solid waste and hazardous substances and wastes.
- Policy 9 Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Town of Southold .
- Policy 10 Protect the Town of Southold's water-dependent uses and promote siting of new water-dependent uses in suitable locations.
- Policy 11 Promote sustainable use of living marine resources in the Town of Southold.
- Policy 12 Protect agricultural lands in the Town of Southold.
- Policy 13 Promote appropriate use and development of energy and mineral resources.

Following is a list of proposed Town-wide studies or projects to implement the LWRP. These actions will be undertaken on a prioritized, systematic basis as funding and staff resources permit at the direction of the Town Board. A brief description can be found at the end of this section.

**List of proposed Town-wide studies or projects to implement the LWRP:**

<b><i>Policy Implemented</i></b>	<b><i>Proposed Town-wide Study/Project</i></b>
1-13	General code rewrite
1-13	LWRP Education
1-13	GIS Update
1	Advocate for establishment of alternative sites for ferry service
1	Hamlet Revitalization Plans including Gateway and Streetscape Elements
1	Transportation Access Management
1, 13	Emergency Management Planning (Plum, Fishers and other)
1- 3, 5-7, 9, 11, 12	Revise Subdivision Regulations
2, 1	Inventory of Historical Sites and Structures
2	Inventory of Archeological Sites
2, 1, 3	Incentive Program for ReUse, Renovation & Restoration of Historical Buildings
2, 1, 3	Legislation to Protect Historic Buildings and Sites
3, 1	Scenic Byways: Inventory and Management Program
3, 1	Undergrounding of Utility Lines
4	Hazard Mitigation Plan
4, 6	Shoreline Defense and Structural Inventory
4, 6	Erosion Monitoring
4, 6	Best Management Practices <ul style="list-style-type: none"> <li>• for Development and Construction</li> <li>• for Stormwater Runoff</li> <li>• for On-site wastewater treatment</li> <li>• for Boats and Marinas</li> <li>• for Agriculture</li> <li>• for Protecting Ground Water Quality</li> </ul>
5, 6	Septic Waste Remediation
5, 6	Groundwater Protection
6	Water Quality Monitoring
6, 4	Erosion and Sediment Control Law/Standards for Grading and Drainage
6, 4	Watershed-based Stormwater Management Plan (for Local Roads as well as ongoing cooperative programs with county and state through their Water Quality Protection and Restoration and Environmental Initiative programs)
6, 8	No Discharge Zone
6, 9	Maintenance and Improvements to Road Ends
6, 11	Open Marsh Water Management
9	Maintain and Expand Sea View Trails network
<b><i>Policy Implemented</i></b>	<b><i>Proposed Town-wide Study/Project</i></b>
9, 6	Bay Mooring Plan
1,3,9, 10	Park and Recreation Plan
9, 10, 4, 6	Dredging and Spoil Deposition Plans
9, 10, 6, 11	Harbor Management Plans

10, 9	Review of Marine Zoning and private docks
11	Develop a Strategy for Regional Management of Significant Habitat
11	Develop an Underwater Land Management Strategy
11, 6	Local Resource and Habitat Management Plans
12, 1	Agricultural economic incentives
12, 3	Purchase of Development Rights

Following is a list of proposed Reach-specific studies or projects to implement the LWRP. These actions will be undertaken on a prioritized, systematic basis as funding and staff resources permit at the direction of the Town Board. A brief description can be found at the end of this section.

**List of Proposed Reach-specific projects**

<u><i>Reach Policy Implemented</i></u>		<u><i>Proposed Project</i></u>
<b>1</b>	1	Revitalize the Inlet Mouth
	3, 2	Preservation of Character of Oregon Road
	4	Redress erosion downdrift of Mattituck Inlet jetties
	6	Watershed Management Plan for Mattituck Creek
	9, 10, 6, 11	Harbor Management Plan for Mattituck Creek
<b>2</b>	3, 2	Preservation of Character of Oregon Road
	4	Mitigate erosion between Goldsmith's Inlet to Kenney's Beach
	4, 6	Watershed Management Plan for Goldsmith's Inlet
	6, 9	Protection of Peconic Dunes and Park Stewardship
<b>3</b>	2, 3	Restore Brecknock Hall
	9, 6	Protection and Stewardship of Town Beach
	9, 6	Protection and Stewardship of Clark's Beach/Inlet Pond County Park
	9, 3	Preservation of Island's End Golf Club
<b>4</b>	9, 6,	Protection and Stewardship of Trumans Beach
	9, 6,	Protection and Stewardship of Orient Point County Park

<u><i>Reach Policy Implemented</i></u>		<u><i>Proposed Project</i></u>
<b>5</b>	2, 4, 3	Preservation of Plum Island Lighthouse
	4, 6	Watershed Management Plan for Long Beach Bay
	9, 10, 6, 11	Orient Harbor Management Plan
	3, 4, 6, 8, 9	Protection and Stewardship of Orient Harbor and Causeway
	6, 3, 9	Rehabilitation, Protection and Stewardship of

	10, 9, 8 9, 10, 6, 11 9, 10, 6, 11	Marion Lake Rehabilitation of Cleaves Point Marina Gull Pond Inlet Harbor Management Plan Stirling Basin Harbor Management Plan
<b>6</b>	6, 3, 9  6, 5, 11  6, 5, 11  9, 10, 6, 11	Acquisition and Stewardship of Arshamomaque Preserve Watershed Management Plan for Hashamomuck Pond Watershed Management Plan for Moores Drain, Pipes Neck Budds Pond/Mill Creek/Brickyard Cove Harbor Management Plan
<b>7</b>	9, 10, 6, 11, 4  11, 6, 9, 10 11, 6, 9, 10 11, 6, 9, 10 11, 6 9, 11	Town/Jockey Creek Harbor Management Plan and Harbor Defense Analysis Goose Creek Harbor Management Plan Corey Creek Harbor Management Plan Richmond Creek Harbor Management Plan Watershed Management Plan for Richmond Creek Stewardship of Cedar Beach Park
<b>8</b>	1, 2, 3, 9, 10  11, 6, 9, 10	Revitalization of New Suffolk Waterfront and Community Development Cutchogue Harbor Harbor Management Plan
<b>9</b>	11, 6, 9, 10  6, 11	James Creek Harbor Management Plan Watershed Management Plan for James Creek Watershed Management Plan for Horton Creek
<b>10</b>	1, 2, 3, 9, 10 11, 9 1, 5	Revitalization of Fort Wright and Silver Eel Pond Regional Habitat and Fisheries Management Plan Ongoing Protection of Water Supply and Watershed

*Map V- 2.* illustrates the general location of the proposed actions

### **MAP V - 2 Proposed Projects**

See appropriate Reach discussion in Section II.J. Reach Analysis for details; also see project descriptions earlier in this Section V.

1. Revitalize the Mattituck Inlet – Reach 1
2. Redress erosion downdrift of Mattituck Inlet jetties – Reach 1
3. Watershed Management Plan for Mattituck Creek – Reach 1
4. Harbor Management Plan for Mattituck Creek – Reach 1
5. Preservation of Character of Oregon Road – Reach 1 & Reach 2
6. Watershed Management Plan for Goldsmith’s Inlet – Reach 2
7. Mitigate erosion between Goldsmith’s Inlet and Kenney’s Beach – Reach 2

8. Protection of Peconic Dunes and Park Stewardship – Reach 2
9. Protection and Stewardship of Town Beach – Reach 3
10. Protection & Stewardship of Clark’s Beach/Inlet Pond County Park – Reach 3
11. Restore Brecknock Hall – Reach 3
12. Preservation of Island’s End Golf Club – Reach 3
13. Protection & Stewardship of Truman’s Beach – Reach 4
14. Protection & Stewardship of Orient Point County Park – Reach 4
15. Preservation of Plum Island Lighthouse – Reach 5
16. Watershed Management Plan for Long Beach Bay – Reach 5
17. Orient Harbor Management Plan – Reach 5
18. Protection & Stewardship of Orient Harbor and Causeway – Reach 5
19. Rehabilitation, Protection & Stewardship of Marion Lake – Reach 5
20. Rehabilitation of Cleaves Point Marina – Reach 5
21. Gull Pond Inlet Harbor Management Plan – Reach 5
22. Stirling Basin Harbor Management Plan – Reach 5
23. Watershed Management Plan for Moore’s Drain, Pipes Neck – Reach 6
24. Acquisition & Stewardship of Arshamomaque Preserve – Reach 6
25. Watershed Management Plan for Hashamomuck Pond – Reach 6
26. Budds Pond/Mill Creek/Brickyard Cove Harbor Management Plan – Reach 6
27. Town/Jockey Creek Harbor Mgmt. Plan & Harbor Defense Analysis – Reach 7
28. Goose Creek Harbor Management Plan – Reach 7
29. Stewardship of Cedar Beach Park – Reach 7
30. Corey Creek Harbor Management Plan – Reach 7
31. Richmond Creek Harbor Management Plan – Reach 7
32. Watershed Management Plan for Richmond Creek – Reach 7
33. Cutchogue Harbor Harbor Management Plan – Reach 8
34. Revitalization of New Suffolk Waterfront & Community Dev. – Reach 8
35. James Creek Harbor Management Plan – Reach 9
36. Watershed Management Plan for James Creek – Reach 9
37. Watershed Management Plan for Horton Creek – Reach 9
38. Revitalization of Fort Wright and Silver Eel Pond – Reach 10
39. Regional Habitat and Fisheries Management Plan – Reach 10
40. Ongoing Protection of Water Supply and Watershed – Reach 10

The following text provides brief descriptions of the proposed studies and projects. Further details and background information may be found in *Section II.J. Reach Analysis* and *Section II.K. Summary and Conclusions*.

**Study and Project Descriptions**

**Policy Implemented**

1-13

**Proposed Project**

General code rewrite

As mentioned earlier, this is an ongoing project to continue to facilitate implementation of the LWRP through improved legislation.

1-13                    LWRP Education  
The Southold LWRP relies on the active participation of the Town's residents to help implement the LWRP. Therefore, an ongoing program of public outreach and education and feedback is an integral part of this LWRP. The Town will receive some funding for this project upon adoption of this LWRP.

1-13                    GIS Update  
The development and update of the Town's Geographic Information System was facilitated by State grants through the LWRP program. Additional assistance will be needed in order to finish creating a Natural Resources Inventory and Database, which will be needed in order to implement certain of the resource management aspects of this LWRP.

1                        Advocate for establishment of alternative sites for ferry service  
This is essentially an advocacy project to urge regional officials charged with transportation planning to respond to the increasing demand for ferry service by examining alternative sites for new ferry routes outside of Southold Town. In March of 1999, the Town hosted a seminar focused on the land-based challenges of ferry based transportation services. This effort was supported by the State in order to help raise general awareness of the issues, but follow-up is needed.

1, 2                    Hamlet Revitalization Plans including Gateway and Streetscape Elements  
In order to maintain the character of Southold's villages, it is essential to integrate new development in a compatible fashion. Automobiles must not be allowed to override the pedestrian-friendly qualities of the traditional hamlet centers. Yet, the economic vitality of these business districts must be enhanced in aesthetically attractive ways. In Mattituck and Cutchogue

**Policy Implemented**

**Proposed Project**

business groups have already stepped to the plate by initiating streetscape projects in public/private partnerships with the Town and other public agencies.

1                        Traffic Access Management  
Traffic congestion and speeding are perhaps two of the most troubling aspects of increased population growth and development. The Town's Transportation Commission is working actively to develop a Transportation Access Management Plan, but funding will be needed to carry out this charge fully. There are a number of issues that need to be examined, including finding ways to retain speeding fines collected on state and county roads through local police enforcement efforts. Currently the Transportation

Commission, a group of appointed volunteers working without compensation, is negotiating the installation of traffic calming measures into proposed upgrades of State Route 25 and County Route 48.

1, 13

Emergency Management Planning (Plum, Fishers and other)

The Town has taken an aggressive stance within the past two years regarding the state of emergency management planning as undertaken by private energy generation facilities and government laboratories. The Town itself has a strong Emergency Preparedness Plan for storms and other issues common to coastal areas. However, until recently, the Town was not included fully in the preparation of plans for the Millstone Nuclear Power Station and the Plum Island Animal Disease Center. Coordination efforts at the Town level may require additional resources.

2

Inventory of Historical Sites and Structures

A comprehensive and detailed update of the Town's wealth of historic structures and sites is needed. Such an update should go beyond a simple inventory of existing structures and sites, and include a video library and historical research into the significance of the structures and sites. An oral history component would complement the Town Historian's attempts to compile a more complete social and cultural documentation of the Town.

2

Inventory of Archeological Sites

There is no known comprehensive inventory, map or analysis of the Town's tremendous archeological trove of prehistoric artifacts and sites. A great deal of archeological information and

**Policy Implemented**

**Proposed Project**

artifacts have been documented by the New York Archeological Society's Museum in Southold, but the information is not available in a format whereby the Town could ensure the protection of those sites during development.

2, 1, 3

Incentive Program for ReUse, Renovation & Restoration of Historical Buildings

In order to encourage retention of historic structures, it may be necessary to design financial and other incentives to encourage their renovation and re-use in economically feasible, as well as architecturally and historically compatible ways.

2, 1, 3

Legislation to Protect Historic Buildings and Sites

The current legislation does not provide sufficient protection to historic structures and sites. Draft legislation is being written as of present, June 2001.

3, 1	<p><u>Scenic Byways: Inventory and Management Program</u> Implementation of the proposed Scenic Byways Corridor Management Program will require some additional groundwork.</p>
3, 1	<p><u>Undergrounding of Utility Lines</u> Although this is technically a component of the Scenic Byways Corridor Management Program, it is such an important issue to the Southold LWRP for reasons other than aesthetics (e.g. public safety and storm preparedness) that it is highlighted separately here. The Town has staked out a clear position with the Long Island Power Authority that upgraded power lines should be buried, but continued advocacy and research will be needed in support of the Town's arguments.</p>
4	<p><u>Hazard Mitigation Plan</u> Lack of staff and resources hampered Town's past efforts to develop a coordinated emergency preparedness and hazard mitigation plan. As development increases and population growth occurs, it will be prudent to shift from simply developing response plans to coastal storm events to finding ways to mitigate the potential damage through more careful infrastructure planning and construction.</p>
4, 6	<p><u>Shoreline Defense and Structural Inventory</u> A video and GPS-based inventory could be used by the Trustees, the Bay Constable, the Building Department and the Planning and</p>
<b><u>Policy Implemented</u></b>	<p><b><u>Proposed Project</u></b> Zoning Boards as well as by and Emergency Preparedness Officers for a number of purposes.</p>
4, 6	<p><u>Erosion Monitoring</u> Equipment and consulting services will be needed to undertake monitoring of key sites requiring long-term monitoring. The effects of dredging and the deposition of spoil in selected sites can be analyzed to determine the best management practices.</p>
4, 6	<p><u>Best Management Practices</u> The design and adoption of guidelines for property owners and developers will also assist Town officials in implementing the LWRP more effectively. The following topics are considered likely targets of BMP guidelines.</p> <ul style="list-style-type: none"> <li>• Development and Construction</li> <li>• Stormwater Runoff</li> <li>• On-site wastewater treatment</li> <li>• Boats and Marinas</li> <li>• Agriculture</li> <li>• Protecting Ground Water Quality</li> </ul>

- Protection Trees, Wetlands and other Native Vegetation

5, 6

Septic Waste Remediation

A Town-wide survey to determine where failing septic systems are the cause of ground or surface water quality impairments should be accompanied by a search for financial and other incentives to remediate these problems on private property. Alternative on-site wastewater treatment options also need to be explored with the cooperation of the Suffolk County and New York State departments of Health.

5, 6

Groundwater Protection

Continued implementation of the Water Supply Management and Watershed Protection Strategy will require adoption of legislation to protect the Special Groundwater Protection Areas and to develop guidelines and or restrictions for land uses within the SGPA. Reduction in population density and other measures may be needed to protect the supply and the quality.

6

Water Quality Monitoring

Monitoring efforts for shellfishing areas could be expanded in connection with a Septic Waste Remediation Program to target waterfront areas where remediation efforts would improve the

**Policy Implemented**

**Proposed Project**

surface water quality and protect marine habitat. A pilot program could be initiated in Marion Lake.

6, 4

Erosion and Sediment Control Law/Standards for Grading and Drainage

Revising the Town Code to require the review of grading and drainage plans on residential properties means developing clear cut standards that can be followed by engineers and contractors.

6, 4

Watershed-based Stormwater Management Plan

Currently the Town works with the State Department of Transportation (Environmental Initiative Program) and the County Department of Public Works (Water Quality Protection and Restoration Program) to introduce stormwater retention and filtration facilities to treat water coming off state and local roads before it reaches our creeks and lakes. A Plan was just developed for Mattituck Creek, and should be used as a guide to develop similar plans for other creeks, lakes and local roads. A plan coupled with a capital budget may facilitate outside funding to assist the Town in expediting the construction of stormwater runoff facilities. Outside funding is needed to assist in the design of natural or wetland type systems, as opposed to standard, trench recharge basins surrounded by chain link fencing.

6, 8	<p><u>No Discharge Zone</u> Initiate applications for NDZ on Mattituck Creek and all the waters within Reach 10, Fishers Island. The Mattituck application will require preliminary work in order for the Creek to meet the federal qualifications for designation. Assistance in enforcing the use of pump-outs by boaters and marina operators may be necessary if voluntary compliance is not forthcoming.</p>
6, 9	<p><u>Maintenance and Improvements to Road Ends</u> This is an ongoing project within Southold, for which funding has been successfully obtained on a limited basis. The large number of road ends and the extensive shoreline requires that the Town continue with this program for the foreseeable future.</p>
6, 11	<p><u>Open Marsh Water Management</u> The Town has successfully partnered with or supported efforts to restore and manage open marsh. Currently the Orient marshes are the focus of a management project. This program needs to be extended to other open marsh areas within town.</p>
<b><u>Policy Implemented</u></b>	<b><u>Proposed Project</u></b>
9	<p><u>Maintain and Expand Sea View Trails Network</u> The implementation of this trail network has been a continuing project of the Transportation Commission courtesy of a federal grant (ISTEA). However, lack of professional staff and equipment has been a major obstacle to the Commission, particularly in the design and construction of off-road trails and water trails.</p>
9, 6	<p><u>Bay Mooring Plan</u> Qualified staff assistance will be required to develop a Bay Mooring Plan and to set up a management process to oversee it. This plan should be developed using the GIS system to facilitate mooring siting and maintenance, permit tracking, enforcement and other administrative tasks.</p>
1,3, 9, 10	<p><u>Park and Recreation Plan</u> An updated plan would assist in long-term capital budgeting as well as the land acquisitions strategy.</p>
9, 10, 4, 6	<p><u>Dredging and Spoil Deposition Plans</u> This project would flow from the Shoreline Inventory and the Erosion Monitoring projects mentioned earlier. The data from the other projects would help develop a regular program of maintenance dredging and guide the deposition of spoil to areas that would benefit from beach nourishment.</p>

9, 10, 6, 11	<p><u>Harbor Management Plans</u> The town's priority list for HMPs and the format for those HMPs is discussed in detail in <i>Section IV</i> and referenced here.</p>
10, 9	<p><u>Review of Marine Zoning and private docks</u> A key component of a successful HMP will be the wise use of limited marine-zoned land. Relative to the length of shoreline, there are limited opportunities for the creation of new or the expansion of existing marinas within Southold. An in-depth review of the uses permitted within the Marine Business districts should focus on uses integral to the success of marinas, as opposed to accessory uses purely incidental to some pre-existing marina operations. The Town already has revised its Zoning Code to permit marine-related operations that do not require a waterfront location to take place in other commercial districts. In addition, the degree to which private property owners may develop residential waterfront for the purposes of dockage,</p>
<b><u>Policy Implemented</u></b>	<p><b><u>Proposed Project</u></b> whether for private use or to lease, needs to be studied more closely.</p>
12	<p><u>Regional Management of Significant Habitat and Fishery Resources</u> The management of the fisheries in Reach 10, around Fishers Island, is a top priority, but due to legal and political difficulties, will require considerable time and effort to hammer out regional and inter-agency agreements that work to the benefit of the resource.</p>
11, 6	<p><u>Local Resource and Habitat Management Plans</u> There are smaller habitat areas within the Town that may benefit from a more structured management of the habitat and fisheries resources, particularly if under heavy harvesting pressure.</p>
12, 1	<p><u>Agricultural economic incentives</u> This is a key recommendation of the Farm and Farmland Protection Strategy. The Town could use staff assistance in working with the agricultural industry development of incentives in a fast-changing market.</p>
12, 3	<p><u>Purchase of Development Rights</u> This is an ongoing program that is strongly supported by the Town's residents, not only politically, but financially. However, the Town will need to leverage those funds in order to retain most of its agriculture acreage in farming.</p>

The following synopsis of Reach projects does not provide details. Those can be obtained by referencing *Sections II. J. Reach Inventory and Analysis* and *II. K. Summary and Conclusions*. The location of the proposed projects is shown on [Map V-2](#).

<b><i>Reach Policy Implemented</i></b>	<b><i>Proposed Project</i></b>
1	<u>1, 9</u> <b>Revitalize the Inlet Mouth</b> Acquire, clean-up and redevelop formerly commercial properties at the entrance to the Inlet to provide scenic and recreational amenities.
	<u>3, 2</u> <b>Preservation of Character of Oregon Road</b> Develop a strategy for maintaining visual character of this scenic route using principles of Scenic Byway Corridor Management Plan.

<b><i>Reach Policy Implemented</i></b>	<b><i>Proposed Project</i></b>
	<u>4</u> <b>Redress erosion downdrift of Mattituck Inlet jetties</b> Work with U.S. Army Corps of Engineers to solve this problem and prevent future reoccurrences.
	<u>6</u> <b>Watershed Management Plan for Mattituck Creek</b> Implement Phase 2 (capital projects and recommendations).
	<u>9, 10, 6, 11</u> <b>Harbor Management Plan for Mattituck Creek</b> Develop and implement.
2	<u>3, 2</u> <b>Preservation of Character of Oregon Road</b> Develop a strategy for maintaining visual character of this scenic route using principles of Scenic Byway Corridor Management Plan.
	<u>4</u> <b>Mitigate erosion between Goldsmith's Inlet to Kenney's Beach</b> Resolution of this is presently under discussion.
	<u>4, 6</u> <b>Watershed Management Plan for Goldsmith's Inlet</b> Develop and implement.
	<u>6, 9</u> <b>Protection of Peconic Dunes and Park Stewardship</b> Work with County to protect this unique park while developing its recreational capabilities.
3	<u>2, 3</u> <b>Restore Brecknock Hall</b>

Facilitate public/private partnership to preserve this mansion.

9, 6 Protection and Stewardship of Town Beach  
Work with County to protect this park.

9, 6 Protection and Stewardship of Clark's Beach/Inlet Pond County Park and Village of Greenport  
Work with County to protect this park.

9, 3 Preservation of Island's End Golf Club  
Provide assistance, if needed, to aid in acquisition of property.

**Reach Policy Implemented**      **Proposed Project**

**4**    9, 6      Protection and Stewardship of Trumans Beach  
Work with State and Park District to protect and enhance this park.

9, 6      Protection and Stewardship of Orient Point County Park  
Work with County to develop and protect this park.

**5**    2, 4, 3      Preservation of Plum Island Lighthouse  
Work with U.S.D.H.S. to preserve this lighthouse.

4, 6      Watershed Management Plan for Long Beach Bay  
Develop and implement.

9, 10, 6, 11      Orient Harbor Management Plan  
Develop and implement.

3, 4, 6, 8, 9      Protection and Stewardship of Orient Harbor and Causeway  
Work with State of New York Transportation Department and Long Island Power Authority to underground the overhead lines, install stormwater retention and filtration basins and buffer landscaping.

6, 3, 9      Rehabilitation, Protection and Stewardship of Marion Lake  
Develop a plan and implement.

10, 9, 8      Rehabilitation of Cleaves Point Marina  
Consider public acquisition, clean-up and development of recreational potential.

- |   |                     |   |
|---|---------------------|---|
|   | <u>9, 10, 6, 11</u> | <u>Gull Pond Inlet Harbor Management Plan</u><br>Develop and implement.   |
|   | <u>9, 10, 6, 11</u> | <u>Stirling Basin Harbor Management Plan</u><br>Develop and implement in cooperation with Village of Greenport. |
| 6 | <u>6, 3, 9</u>      | <u>Acquisition and Stewardship of Arshamomaque Preserve</u><br>Work with The Nature Conservancy to implement.   |

**Reach Policy Implemented**                      **Proposed Project**

- |   |                        |  |
|---|------------------------|--|
| 6 | <u>6, 5, 11</u>        | <u>Watershed Management Plan for Hashamomuck Pond</u><br>Develop and implement.  |
|   | <u>6, 5, 11</u>        | <u>Watershed Management Plan for Moores Drain, Pipes Neck</u><br>Develop and implement.                                    |
|   | <u>9, 10, 6, 11</u>    | <u>Budds Pond/Mill Creek/Brickyard Cove Harbor Management Plan</u><br>Develop and implement.                               |
| 7 | <u>9, 10, 6, 11, 4</u> | <u>Town/Jockey Creek Harbor Management Plan and Harbor Defense Analysis</u><br>Develop and implement.                      |
|   | <u>11, 6, 9, 10</u>    | <u>Goose Creek Harbor Management Plan</u><br>Develop and implement.  |
|   | <u>11, 6, 9, 10</u>    | <u>Corey Creek Harbor Management Plan</u><br>Develop and implement.  |
|   | <u>11, 6, 9, 10</u>    | <u>Richmond Creek Harbor Management Plan</u><br>Develop and implement.   |
|   | <u>11, 6</u>           | <u>Watershed Management Plan for Richmond Creek</u><br>Develop and implement.  |
|   | <u>9, 11</u>           | <u>Stewardship of Cedar Beach Park</u><br>Work with County to protect and enhance.   |
| 8 | <u>1, 2, 3, 9, 10</u>  | <u>Revitalization of New Suffolk Waterfront and Community Development</u><br>Work with community to develop and implement. |

	<u>11, 6, 9, 10</u>	<u>Cutchogue Harbor Harbor Management Plan</u> Develop and implement.
9	<u>11, 6, 9, 10</u>	<u>James Creek Harbor Management Plan</u> Develop and implement.
<b><i>Reach Policy Implemented</i></b> <b><i>Proposed Project</i></b>		
9	<u>6, 11</u>	<u>Watershed Management Plan for James Creek</u> Develop and implement.
	<u>6, 11</u>	<u>Watershed Management Plan for Horton Creek</u> Develop and implement
10	<u>1, 2, 3, 9, 10</u>	<u>Revitalization of Fort Wright and Silver Eel Pond</u> Work with Fishers Island community to develop and implement.
	<u>11, 9</u>	<u>Regional Habitat and Fisheries Management Plan</u> Work with Fishers Island and States of New York and Connecticut to develop and implement.
	<u>1, 5</u>	<u>Ongoing Protection of Water Supply and Watershed</u> Provide assistance to Fishers Island Water Utility as needed.

**D. PROPOSED ADMINISTRATION FOR IMPLEMENTATION, INCLUDING CONSISTENCY REVIEW**

**1. General Administrative Issues**

The Town intends for waterfront revitalization and coastal management to take place in a consistent and coordinated manner. A proper balance needs to be struck between protection of the natural resources and the economy. Administration of the LWRP, including consistency review, will require a coordinated internal management approach. The Town has a system of integrated management, but it recognizes that this system will have to evolve in order to respond to the challenges posed by increased levels of development, the need to draft and implement new LWRP-related legislation, and, particularly, the consistency review requirements of this program.

For the most part, it is anticipated that implementation of the approved LWRP will be carried out within existing planning, zoning and permitting procedures that currently lie within the jurisdiction of the following departments or boards: Town Board, Trustees, Zoning, Planning, and Building. These procedures will be modified or enhanced as circumstances require in order to execute successfully, LWRP evaluations, policy directives, tasks and projects.

Oversight of the implementation process will remain in the hands of the Supervisor and the Town Board. It is anticipated that the Town Board will convene quarterly meetings with key

Boards and departmental staff to whom responsibility for implementation will be delegated. Said group is referred to in this document as the *LWRP Coordinating Committee*. The Town Board has the authority to appoint a non-governmental person to serve voluntarily on this committee.

The Town Board, will delegate responsibility and oversee the writing of the annual report on the implementation process, as well as the capital budgeting process for Priority Projects set forth in *Section C*. above.

**2. Relationship of Program Areas to Agency Jurisdiction**

The following Table V-I provides a brief overview of the key program areas within the LWRP and the department or boards that have jurisdiction within those program areas:

**Table V-I Program Organization, Town of Southold, 2002**

PROGRAM AREAS	DEPARTMENTS/AGENCIES
<i>Surface Water Protection</i>	
<ul style="list-style-type: none"> <li>• Stormwater runoff</li> <li>• Erosion Control</li> </ul>	<ul style="list-style-type: none"> <li>Supervisor               <ul style="list-style-type: none"> <li>• Fishing and Farming Advisory Committee</li> </ul> </li> <li>Town Board               <ul style="list-style-type: none"> <li>• Transportation Commission</li> <li>• Shellfish Advisory Committee</li> </ul> </li> <li>Board of Trustees</li> <li>Highway Department</li> <li>Engineering Inspector</li> <li>Building Department</li> <li>Planning Board</li> <li>Planning Department</li> <li>Community Development Office</li> </ul>
<i>Groundwater Protection</i>	
<ul style="list-style-type: none"> <li>• Core ground watershed protection</li> </ul>	<ul style="list-style-type: none"> <li>Town Board and Department</li> <li>Planning Department</li> <li>Solid Waste Department</li> </ul>
<i>Open Space Protection</i>	
<ul style="list-style-type: none"> <li>• Acquisition or acceptance of fee simple, development and other rights and conservation of other easements</li> <li>• Clustered subdivisions</li> </ul>	<ul style="list-style-type: none"> <li>Town Board               <ul style="list-style-type: none"> <li>• Land Preservation Advisory Committee</li> </ul> </li> <li>Land Preservation Coordinator</li> <li>Planning Board and Department</li> <li>Community Development Office</li> </ul>

*Recreation*

- Development and management of parks, beaches and trails  
Town Board
  - Parks, Beaches and Recreation Committee
  - Transportation Commission
- Development and maintenance of boat launches  
Board of Trustees
- Management and regulation of moorings  
Community Development Office

*Historic Preservation*

- Landmark Designation/Protection  
Town Board  
Landmark Preservation Committee  
Planning Board and Department  
Building Department

*Transportation*

- Scenic Byways Corridor Management  
Town Board
  - Transportation Commission
- Traffic Calming  
Planning Board and Department
  - Highway Superintendent

*Economic Development*

- Town Board
  - Agricultural Advisory Committee

*Housing*

- Supervisor
  - Affordable Housing Advisory Committee
- Community Development Office

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**3. Agency Jurisdictional Responsibilities**

The following list provides a brief synopsis of the responsibilities of agencies (department or boards) within the Town relative to environmental review and LWRP implementation.

The responsibility for conducting consistency review, pursuant to this LWRP, shall lie with the lead agency with respect to the requirements of SEQRA. The listing below summarizes Town agency responsibilities with respect to SEQRA review and LWRP consistency review.

***Southold Town Board*** – issues final determination/findings for all actions involving Town Board approval (e.g., applications for zoning changes, allocation of Town funds, adoption of planning documents and policy statements, amendments to Town law, etc.), based on recommendations made by the Southold Board of Trustees, the Department of Planning, the Building Department and other departments as determined by the Town Board.

***Southold Board of Trustees*** – regulates activities which occur on certain underwater and private lands within the Town; and are responsible for wetlands and coastal erosion management permits. Permit approval decisions may include recommendations provided by the Conservation Advisory Council. This board also regulated boat mooring activities

and navigation in Town creeks, residential and marina dock construction and shellfish harvesting. The Trustees work with the Bay Constables to manage over 2,000 acres of public underwater land within the Town.

**Planning Board** – issues final determination/findings for all subdivision applications and commercial site plans based on recommendations made by the Department of Planning and other coordinating agencies at Town, County and State levels of government.

**Zoning Board of Appeals** – hears and decides on appeals from and reviews any orders, determinations, requirements, or decisions made by the Building Inspector; authorizes special exceptions, interprets the meaning of any provision of the zoning ordinance or zoning map delineations; and issues final determination/findings for all zoning variances.

The following agencies operate in an administrative and sometimes in an advisory capacity to the first four, each of which must act pursuant to Chapter 44 Environmental Quality Review of the Town Code

**Department of Building** – administers and coordinates reviews for all building permit applications, and issues final determination/findings on building permits and Certificates of Occupancy.

**Planning Department** – administers and coordinates SEQRA reviews and LWRP consistency reviews for private development applications submitted to the Planning Board, and makes recommendations to the Planning Board on these matters. Department staff also advises the Town Board, the Zoning Board of Appeals and the Board of Trustees on planning aspects of applications before those board, including but not limited to: change of zone petitions, Special Exceptions and variances.

**Highway Department** – maintains Town roadways including stormwater runoff and drainage control by installation of drainage basins, catch basins and culverts.

**Engineering Department** – reviews all proposed drainage and grading plans for subdivisions, site plans and other Town sponsored projects for compliance with the Town Code. Advises Planning Board, Highway Department and Town Board.

**Conservation Advisory Committee** – reviews wetland permit applications and other materials for the Board of Trustees and undertakes various other environment – related projects.

#### **4. Local Consistency Procedures**

The management framework of the LWRP is proposed to be institutionalized in the Town Code through the Local Consistency Review law, a copy of which is included at the end of the Section under *F. Final Legislation*. It is anticipated that the management process itself will be evaluated in the annual review by the Supervisor and the Town Board.

The following table provides a general outline of the anticipated tasks and jurisdictional assignments in implementing this LWRP in accordance with the Consistency requirements.

**Table V-II Overview of LWRP Consistency Review and Implementation**

**Task**

**Jurisdiction**

Consistency Review

Since the LWRP applies to the entire Town, the environmental assessment forms (EAF) for all proposed actions within the Town's boundaries will be reviewed in conjunction with this document. (Where necessary, the EAF will be modified to solicit information relative to the LWRP.) The review will be conducted and coordinated by a staff person appointed by the Town Board to perform this function. This person, referred to here as the *LWRP Coordinator*, will review the EAF, then advise the Board or Department responsible for handling said application whether the proposed action is consistent with the policies and goals of the LWRP. The Board or Department handling subject application must factor the LWRP Coordinator's recommendation into its determination, and must justify its decision (whether accepted, denied or modified) in its resolution of determination. If an action requires the approval of more than one Board or Department, the LWRP Coordinator will recommend which of the parties should be lead agency in conducting the consistency review. Once agreement is reached among the potential agencies as to which will assume lead agency status, only one coordinated review will be undertaken per action.

Coordination

The Town Board will hold quarterly coordination meetings with the LWRP Coordinating Committee, which will consist of the heads of those department and Boards that will be held responsible for implementing the LWRP. The Coordinating Committee shall be charged with facilitating coordination between relevant departments/boards, evaluating the efficiency of the in-house coordination procedures, gauging the effectiveness of implementation and overseeing projects integral to the implementation of the LWRP. Disputes between departments/boards are to be resolved within this Committee, or,

**Task**

**Jurisdiction**

failing that, brought to the Town Board for resolution. A year-end report will be submitted to the Town Board; said report to include an assessment of the applications reviewed, the progress made, the problems still to be addressed, and new projects to be initiated for the coming year.

The membership of the Coordinating Committee should include the LWRP Coordinator and the Chairman or Department Head (or as permitted by the Supervisor, an appointed representative of same) of the following Boards and departments:

- Town Board
- Board of Trustees
- Zoning Board of Appeals
- Planning Board
- Building Department
- Engineering Department
- Highway Superintendent
- Police Department
- Planning Department

Additional members of standing advisory committees to the Supervisor or the Town Board may be asked to contribute input to the LWRP Coordinating Committee, as determined to be necessary by the Town Board of the LWRP Coordinating Committee. Current standing committees of the Town Board that may have partial jurisdiction in LWRP related issues include:

- Shellfish Advisory Committee
- Conservation Advisory Council
- Parks, Beaches & Recreation Committee
- Goldsmith's Inlet/Kenney's Beach Committee
- Agricultural Advisory Committee
- Landmark Preservation Committee
- Transportation Commission
- Land Preservation Committee
- Land Preservation Coordinator

The above-noted list is neither inclusive nor exclusive. The number and charges of advisory committees are subject to the discretion of the Supervisor and the Town Board.

**Task**

**Jurisdiction**

Oversight	The Town Board will review and oversee the implementation of the LWRP through the annual report and the quarterly meeting summaries as presented by the LWRP Coordinator.
Projects	Proposed projects, as noted earlier, in the prior <i>Section C.</i> , will be carried out under the direction of the Town Board.
Grants	The writing and administration of grant applications to implement LWRP projects will be prepared at the direction of the Town Board. The applications will be written either in-house or by consultants at the Board's discretion. Administration of the grants will be overseen by the Town Board, the LWRP Coordinator and the Town Comptroller.
Amendments	If the Town Board determines that the LWRP document must be amended, the responsibility for drafting the proposed amendment(s) will be delegated to the LWRP Coordinator, who shall consult with the Planning Department and coordinate with the New York State Department of State in order to fulfill the requirements of the State and federal regulations pertaining to coastal zone management.
Public Education	The Town Planner shall be responsible for initial briefings of the various boards, departments and committees/commissions of the Town, as well as the public presentations up to the time the Town Board and the State adopt this LWRP. Subsequent public education efforts may be contracted out to a consultant or delegated to other staff on an as-needed basis by the Town Board. Public education is one of the Priority Projects listed earlier, in <i>Section C.</i>
Local Involvement & Commitment	Ongoing local, public input and support of the LWRP and its implementation will be fostered through partnerships with community groups for specific projects, dissemination of the annual and quarterly reports and other public information methods on an as-needed basis.

**5. Procedures to Review State Actions for Consistency with the LWRP**

When a State agency is considering an action, the State agency shall notify the Town of Southold LWRP Coordinator. The notification of a proposed action by a State agency shall fully describe the nature and location of the action; by use of either the State Clearinghouse, other existing State agency notification procedures, or any alternative procedure agreed upon by the State agency and the Town. The information shall be provided to the LWRP Coordinator as early in the planning stages of action as possible, but in any event, at least 30 days prior to the agency's decision on the action. If the proposed action will require the preparation of a draft

environmental impact statement, the filing of this draft document with the Town's Supervisor and the LWRP Coordinator will serve as the State agency's notification to the local government.

Upon receipt of notification from a State agency, the Town Board (through the LWRP Coordinator) will be responsible for reviewing the proposed action for consistency with the policies and purposes of the Town's approved LWRP. If the LWRP Coordinator cannot identify any conflicts between the proposed action and the applicable policies and purposes of the approved LWRP, the Coordinator shall inform the Town Board which shall inform the State agency in writing of this finding. Upon receipt of the findings, the State agency may proceed with its consideration of the proposed action in accordance with *19 NYCRR Part 600*.

If the State agency does not receive written notification of the Town's findings 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 Town's approved LWRP.

If the State agency does receive written notification that the proposed action conflicts with the policies and/or purposes of the Town's approved LWRP, the State agency shall not proceed with the action for a period of 90 days or until the identified conflicts have been resolved, whichever is earlier. A copy of the identified conflicts will be forwarded by the Town Board to the Secretary of State at the time that the State agency is notified. When notifying the State agency, the Town must identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

In accordance with procedural guidelines issued by the Department of State, the following procedure will apply whenever the Town of Southold 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 the Town that a proposed action conflicts with its approved LWRP, the State agency and should contact the Supervisor or the LWRP Coordinator to discuss the content of the identified conflicts and the means for resolving them. A meeting of State agency and Town of Southold 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 Town.

(2) If the discussion between the Town and the State agency results in the resolution of the identified conflicts, the State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600. The Town will notify the State agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved.

(3) If the consultation between the Town 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 of State within 15 days following the discussion between the Town of Southold and the State agency. The party requesting the assistance of the Secretary of State will forward a copy of their request to the other party.

(4) Within 30 days following the receipt of a request for assistance, the Secretary of State 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 the Town.

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

(6) The State agency shall not proceed with the proposed action until either the Secretary's findings and recommendations have been received, or 90 days from the date a notification of a conflict was received from the Town, whichever is earlier.

#### **6. Procedures for the Review of Federal Actions for Consistency with the LWRP**

The Department of State (DOS) will acknowledge the receipt of an applicant's consistency certification and application materials, and at that time forward a copy of the submitted documentation to the Town Board and the LWRP Coordinator. Within 30 days of receiving such information, the LWRP Coordinator will contact the assigned DOS reviewer to discuss the need to request additional information for review purposes and any possible problems pertaining to the consistency of a proposed action with local coastal policies. When the DOS and the Southold LWRP Coordinator agree that additional information is necessary, the DOS shall request the applicant to provide the information. A copy of this information shall be provided to the LWRP Coordinator upon receipt by the State.

Within 30 days of receiving the requested additional information or discussing the potential problems of the proposed action with the DOS reviewer (whichever is later), the LWRP Coordinator will notify DOS of the reason(s) why the action may be inconsistent or consistent with Town coastal policies. After such notification, the LWRP Coordinator will submit written comments and recommendations on the proposed action to the DOS before or at the conclusion of the official 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 Town of Southold has "no opinion" on the consistency of the proposed action with Town coastal policies. If the DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town of Southold, DOS will contact the LWRP Coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objections" to the applicant. A copy of DOS "concurrence" or "objections" letter will be forwarded to the LWRP Coordinator.

After acknowledging the receipt of a consistency determination and supporting documentation from a Federal agency, DOS will forward copies of the determination and supporting documentation and any other descriptive information on the proposed direct action to the Town Board, the LWRP Coordinator and other interested parties. This notification will state the date by which all comments and recommendations must be submitted to DOS and will identify the assigned DOS reviewer. The review period will last approximately 25 days. If comments and recommendations are not received by the end of the established review period, DOS will presume that the Town of Southold has "no opinion" on the consistency on the proposed direct Federal agency action with Town coastal policies. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the LWRP Coordinator,

DOS will contact the Director to discuss any differences of opinion or questions prior to agreeing or disagreeing with the Federal agency's consistency determination on the proposed direct action. A copy of DOS agreement or disagreement letter to the Federal agency will be forwarded to the Town Board and the LWRP Coordinator.

In cases involving financial assistance, DOS will request information on the proposed financial assistance action from the applicant (State or Town agency) for consistency review purposes. A copy of this letter will be forwarded to the Town's LWRP Coordinator and will serve as notification that the proposed action may be subject to review. If the applicant is a Town agency, the LWRP Coordinator will contact the agency and request copies of any application documentation for consistency review purposes. If the proposed action has already been reviewed by the Town for consistency with the LWRP, the Coordinator will notify the DOS of the outcome of the review. The Town Board will be copied with all correspondences.

If the applicant is a State agency, DOS will request the agency to provide a copy of the application documentation to the Coordinator. The DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Coordinator. The review period will conclude 30 days after the date on either the LWRP Coordinator's or DOS' letter of acknowledgement.

The LWRP Coordinator must submit comments and recommendations on the proposed action to the DOS within 20 days from the start of the review period. If comments and recommendations are not received within that 20 day period, DOS will assume that the Town of Southold has "no opinion" on the consistency of the proposed financial assistance action with Town coastal policies. If the DOS does not fully concur with or has any questions on the comments and recommendations submitted by the Town, the DOS will contact the Town Board to discuss any differences of opinion prior to agreeing or objecting to the Federal agency's consistency determination on the proposed financial assistance or action. A copy of the DOS' *no objection* or *objection* letter to the applicant will be forwarded to the Town of LWRP Coordinator who will forward it to the Town Board upon receipt.

#### **E. FINANCIAL RESOURCES NECESSARY FOR IMPLEMENTATION**

The development and implementation of Southold's LWRP up to this point has required a significant commitment of staff and financial resources, principally within the Planning Department. Continued implementation of the program will require a continued and enhanced commitment of staff and resources. The nature of that commitment can be categorized as having two aspects. The first is the ordinary administrative process of implementing a program. The second is the more targeted commitment of designing, constructing and maintaining capital projects that must be built in order to implement the goals of the LWRP.

With regard to the first aspect, it is anticipated that the personnel and other costs associated with management, administration and routine review will be met by the Town through its standard budgeting process. The assignment of staff to handle the additional workload that may be generated by the LWRP will be determined by the volume of additional work that may be required to implement the LWRP in an effective and efficient manner. Additional responsibilities or tasks that are likely to result from the adoption of this LWRP will include, but not be limited to:

- reviewing and coordinating consistency reviews in a timely fashion;
- providing qualified environmental expertise to departments/boards;
- writing the annual status report;
- establishing and maintaining records;
- engaging in conflict resolution when disagreements arise over coordination or consistency requirements.

The cost of additional personnel or of providing additional services in order to implement the LWRP may require the upward adjustment of selected application fees. Currently, environmental review fees for change of zone, subdivision and site plan review applications are borne entirely by the developer. This practice is likely to continue and be extended to LWRP-related project review.

With regard to the second aspect, given its limited labor and financial resources, it is anticipated that the Town will seek to implement priority projects in a cost-effective manner by leveraging those resources through partnership agreements with other public agencies and with private organizations (or individuals). The Town's ability to create partnerships will be crucial to the ultimate implementation of the LWRP.

But, the Town's efforts are not the whole story. Consistent and cooperative action by federal and state agencies, including county agencies using federal or state funds, and agencies in the State of Connecticut, will also be required if the Southold LWRP is to be implemented successfully. As mentioned earlier, the Town has identified a number of projects or studies that would ensure that the goals of the LWRP are met. *Section VI. State and Federal Actions and Programs Likely to Affect Implementation*, goes one step further, and identifies specific state and federal actions that must be coordinated with Southold's LWRP. State and federal agencies that administer programs and grants should tailor their actions to assist and supplement Southold's actions to implement the LWRP.

No cost estimates were prepared for the proposed projects or studies itemized earlier, in *Section C*. Preliminary estimates will be developed as opportunities for implementation arise. Although the Town will take the lead in initiating these projects or studies, the timing and extent of each project will depend on the Town's ability to put together a package of financial and labor resources sufficient to do the job. Due to the Town's limited resources, it is highly likely that implementation of the LWRP will be done on a project basis; and that consultants and contractors may be hired to do the work.

In addition to working with state and federal agencies in the context of existing programs, Southold will pursue a number of other direct funding sources. The list below contains the most likely sources of different types of funds and partnership arrangements, but it should not be considered inclusive of all potential sources.

1. Suffolk County's Water Quality Protection and Restoration Program
2. New York Clean Water/Clean Air Bond Act
3. New York State Environmental Protection Fund
4. Empire State Development Program
5. New York State Agriculture and Markets Department

6. Rural New York Program
7. TEA-21 Transportation Enhancement Access for the 21<sup>st</sup> Century
8. U.S. Department of Agriculture
9. U.S. Department of Commerce
10. U.S. Department of Defense
11. U.S. Department of Interior
12. U.S. Environmental Protection Agency
13. National Oceanic and Atmospheric Administration/ Peconic Estuary Program
14. Federal/State Emergency Management agencies
15. Private foundations and Individual Donations
16. Regional utilities and authorities, such as the Suffolk County Water Authority, Key Span-Long Island Power Authority, the Metropolitan Transit Authority-Long Island Rail Road

It is worth noting that the County's program provides funding for a wide range of eligible projects in the following areas: 1) Non-point source abatement and control. 2) Aquatic habitat restoration. 3) Agricultural non-point source abatement and control. 4) Pollution prevention initiatives. 5) Implementation of "No-Discharge Zones". 6) Education and outreach programs. 7) Other non-point source pollution remediation projects.

In addition, local sponsorship of specific projects may be sought from the business and civic communities, such as Business Improvement Districts, Chambers of Commerce, environmental organizations and civic associations. If feasible, partnerships involving in-kind services also will be pursued with agencies and local or regional advocacy groups concerned with stewardship, preservation and conservation issues. The following listing identifies potential groups. It is not intended to be either inclusive or exclusive:

1. The Peconic Land Trust
2. North Fork Environmental Council, The Nature Conservancy, Audubon Society, Save the Bays, Peconic Bay Keeper
3. Suffolk County
4. Cornell University Cooperative Extension (Agricultural and Marine divisions)
5. Not-for-profit agencies such as Historical Societies
6. Educational institutions, such as the State University and other local colleges
7. Service organizations such as Scouts, Rotary, Kiwanis, Lions, Elks, Moose, American Legion, etc.
8. Corporations

The Town will seek to develop constructive partnerships whereby it can leverage money, equipment or in-kind services. The Town's three year capital planning and budgeting process will facilitate this process of maximizing limited financial and labor resources to the fullest. Finally, as it has over the last decade, Southold Town will work closely with the New York State Department of State's Division of Coastal Resources and Waterfront Revitalization, to identify all potential funding sources and partnerships.

F. FINAL LEGISLATION

December 2009 Waterfront Consistency Review Law Amendment

In December 2009, the Town adopted Local Law #15 of the year 2009 entitled "A Local Law in relation to Amendments to the Minor Exempt Actions List of the Waterfront Consistency Review Law." The Local Law is as follows:

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET

***Local Law Filing***

ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City
- Town of SOUTHOLD
- Village

Local Law No. 15 of the year 2009.

A Local Law entitled, "A Local Law in relation to Amendments to the Minor Exempt Actions List of the Waterfront Consistency Review Law"

Be it enacted the Town Board of the:

- County
- City
- Town of SOUTHOLD
- Village

I. Purpose. The amendments to this local law are 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). It is intended that, by making additions to the "minor actions" exempt list, certain actions that by their nature will not have an adverse effect on the coastal area and resources will not require a review under this law, which will result in a more efficient review process.

II. Chapter 268 of the Code of the Town of Southold is hereby amended as follows:

§ 268-3. Definitions.

LANDSCAPED BUFFER - a land area of a certain length and width which is planted with indigenous, drought tolerant, vegetation similar to that found within the immediate proximity of the parcel. Vegetation shall be installed in sufficient densities to achieve ninety-five (95) percent ground cover within two years of installation. Survival of planted vegetation shall be ninety (90) percent for a period of three years. Maintenance activities within the buffer are limited to removing vegetation which are hazardous to life and property, trimming tree limbs up to a height of fifteen feet (15') to maintain viewsheds, replanting of vegetation and establishing a four foot (4') wide access path constructed of pervious material for access to the water-body.

MINOR ACTIONS - Include the following actions, which are not subject to review under this chapter:

- A. Maintenance or repair involving no substantial changes in an existing structure or facility;

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

- B. Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site (in-place), including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit and shoreline erosion control structures (including, but not limited to, groins, jetties, bulkheads, filled piers) located within Great Peconic Bay, Cutchogue Harbor, Little Peconic Bay, Hog Neck Bay, Noyack Bay, Southold Bay, Shelter Island Sound, Pipes Cove, Orient Harbor, Gardiners Bay, Long Island Sound, Fishers Island Sound and Block Island Sound [excluding all creeks];
- C. Repaving or widening of existing paved highways not involving the addition of new travel lanes;
- D. Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- E. Maintenance of existing landscaping or natural growth, that is not located within 100 feet of the boundary of a natural protective feature, or within significant coastal fish and wildlife habitat areas;
- F. Granting of individual setback, lot line and lot area variances, except in relation to a regulated natural feature or a bulkhead or other shoreline defense structure or any activity within the CEHA;
- G. Minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- H. Installation of traffic control devices on existing streets, roads and highways;
- I. Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- J. Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- K. Official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code;
- L. Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- M. 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;
- N. Collective bargaining activities;
- O. Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- P. Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- Q. Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- R. Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- S. Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this chapter have been fulfilled;
- T. 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;
- U. Adoption of a moratorium on land development or construction;
- V. Interpreting an existing code, rule or regulation;
- W. Designation of local landmarks or their inclusion within historic districts;
- X. Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related

to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this chapter;

- Y. Local legislative decisions such as rezoning where the Town Board determines the action will not be approved;
- Z. Split rail fences or fences used to control nuisance wildlife that do not interfering with the public's rights of passage along the foreshore;
- AA. Removal of a structure greater than 75 feet from a wetland;
- BB. Additions to an existing dwelling constituting less than 25 percent of the existing structure where the addition is greater than 75 feet from a natural protective feature, except where the parcel is located in a Coastal Erosion Hazard Area;
- CC. Structures less than 250 square feet in size that are accessory to existing permitted primary structures, and which accessory structures are greater than 50 feet from a boundary of a natural protective feature, and freshwater or tidal wetlands;
- DD. Construction or improvements of pervious residential driveways, parking areas or walkways greater than 50 feet from a tidal or freshwater wetland;
- EE. Upgrades to existing fuel tanks provided that erosion control measures are implemented;
- FF. Cutting phragmites to greater than 12 inches and vegetative restoration provided that native wetland vegetative species are not affected or disturbed in any manner;
- GG. Within all Town Creeks, replacement of existing bulkhead on the applicant's property in the same location with a silt curtain deployed prior to and during construction;
- HH. Lot line changes, provided that the lot line change will not permit new development that may have undue adverse impacts on wetlands, tidal waters or natural protective features;
- II. Additions to an existing building or rebuilt residential structure which results in no-net increase in ground area coverage, except where the parcel is located in a Coastal Erosion Hazard Area;
- JJ. Construction or installation of drainage improvements for the retention of storm water runoff in accordance with Chapter 236.

**NATURAL PROTECTIVE FEATURE** - A nearshore area, beach, bluff, primary dune, secondary dune or wetland and their vegetation.

**NATURAL VEGETATED BUFFER** - a land area of a certain length and width where existing vegetation occurs prior to the commencement of any grading or clearing activity. Vegetation shall be maintained to achieve a minimum percent ground cover of ninety-five (95%) percent. To achieve the percent ground cover indigenous, drought tolerant vegetation shall be planted. Survival of planted vegetation shall be ninety (90%) percent for a period of three (3) years. Maintenance activities within the buffer are limited to removing vegetation which are hazardous to life and property, trimming tree limbs up to a height of fifteen feet (15') to maintain viewsheds, replanting of vegetation and establishing a four foot (4') wide access path constructed of pervious material for access to the water-body.

**NEW YORK SCENIC BYWAY (North Fork Trail)** - all that portion of the State highway system known as State Route 25 in the Town of Southold, Suffolk County, beginning at the boundary between the Town of Riverhead and the Town of Southold, continuing northeasterly to Orient Point and to the end of State Route 25, and all that portion of the local highway system known as Sound Avenue beginning at the boundary between the Town of Riverhead and the Town of Southold continuing easterly to the overlap of Sound Avenue and County Route 48 and continuing along County Route 48 generally northeasterly to the intersection of County Route 48 and State Route 25 north of the Village of Greenport, Suffolk County.

**NUISANCE WILDLIFE** - Wildlife that is destructive and capable of damaging property such as buildings, crops, pets, livestock, gardens, or public areas. Wildlife may threaten human health or safety by spreading

diseases, through direct attacks, or accidentally.

**PERVIOUS NONTURF BUFFER** - a land area of a certain height and width comprised of sand, stone or permeable pavers arranged in such a manner to allow for maximum percolation of storm water runoff into the soil.

**PRIORITY WATER-BODY** - a water-body within the jurisdictional boundaries of the Town of Southold listed by the New York State Department of Environmental Conservation on the Water-Body Inventory/Priority Water-Bodies List, as amended.

**SIGNIFICANT FISH AND WILDLIFE HABITAT** - those habitats which are essential to the survival of a large portion of a particular fish or wildlife population; support rare or endangered species; are found at a very low frequency within a geographic area; support fish or wildlife populations having significant commercial or recreational value; or that would be difficult or impossible to replace.

### III. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### IV. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 15 of 20 09, of the ~~(County)(City)(Town)(Village)~~ of SOUTHOLD was duly passed by the TOWN BOARD on December 15, 20 09, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or re-passage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved)(re-passed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) \_\_\_\_\_ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or Includes the chief executive officer of a county elected on a county-wide basis or, If there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph  1 , above.

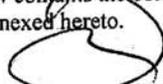
(Seal)

  
Clerk of the County legislative body. City, Town or Village Clerk or officer designated by local legislative body  
**Elizabeth A. Neville, Town Clerk**  
Date:  February 12, 2010

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF  SUFFOLK

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
\_\_\_\_\_  
Signature  
**Martin D. Finnegan, Town Attorney**  
**Jennifer Andaloro, Esq., Assistant Town Attorney**  
Title  
County \_\_\_\_\_  
City \_\_\_\_\_  
Town of  SOUTHOLD   
Village \_\_\_\_\_  
Date:  February 12, 2010

## **Chapter 268 of the Town Code - Waterfront Consistency Review Law**

With the adoption of Local Law #15 of 2009, the "Town of Southold Local Waterfront Revitalization Program (LWRP) Consistency Review Law", as amended, reads as follows:

### Chapter 268, WATERFRONT CONSISTENCY REVIEW

#### § 268-1. Title.

This chapter will be known as the "Town of Southold Local Waterfront Revitalization Program (LWRP) Consistency Review Law."

#### § 268-2. Authority and purpose.

- A. This chapter 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 chapter is to provide a framework for agencies of the Town of Southold to incorporate the policies and purposes contained in the Town of Southold Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the coastal area; and to assure that such actions and direct actions by the Town are consistent with the LWRP policies and purposes.
- C. It is the intention of the Town of Southold that the preservation, enhancement and utilization of the unique coastal area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this chapter is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss and degradation of living coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural coastal processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this chapter shall only apply while there is in existence a Town of Southold Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

#### § 268-3. Definitions.

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

**ACTIONS** -- Include all the following, except minor actions:

- A. Projects or physical activities, such as construction or any other activities that may affect natural, man-made or other resources in the coastal area or the environment by changing the use, appearance or condition of any resource or structure, that:
  - (1) Are directly undertaken by an agency; or
  - (2) Involve funding by an agency; or
  - (3) Require one or more new or modified approvals, permits, or review from an agency or agencies;

- B. Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
- C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and
- D. Any combination of the above.

AGENCY -- Any board, agency, department, office, other body, or officer of the Town of Southold.

COASTAL AREA -- 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 of Southold, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Town of Southold Local Waterfront Revitalization Program (LWRP). In Southold this area is inclusive of the entire Town.

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

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

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

ENVIRONMENT -- All conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the coastal area.

LANDSCAPED BUFFER - a land area of a certain length and width which is planted with indigenous, drought tolerant, vegetation similar to that found within the immediate proximity of the parcel. Vegetation shall be installed in sufficient densities to achieve ninety-five (95) percent ground cover within two years of installation. Survival of planted vegetation shall be ninety (90) percent for a period of three years. Maintenance activities within the buffer are limited to removing vegetation which are hazardous to life and property, trimming tree limbs up to a height of fifteen feet (15') to maintain viewsheds, replanting of vegetation and establishing a four foot (4') wide access path constructed of pervious material for access to the water-body.

LOCAL WATERFRONT REVITALIZATION PROGRAM or LWRP -- The Local Waterfront Revitalization Program of the Town of Southold, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Southold.

MINOR ACTIONS -- Include the following actions, which are not subject to review under this chapter:

- A. Maintenance or repair involving no substantial changes in an existing structure or facility;
- B. Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, (in-place), including upgrading buildings to meet building or fire codes, except

- for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit and shoreline erosion control structures (including, but not limited to, groins, jetties, bulkheads, filled piers) located within Great Peconic Bay, Cutchogue Harbor, Little Peconic Bay, Hog Neck Bay, Noyack Bay, Southold Bay, Shelter Island Sound, Pipes Cove, Orient Harbor, Gardiners Bay, Long Island Sound, Fishers Island Sound and Block Island Sound [excluding all creeks];
- C. Repaving or widening of existing paved highways not involving the addition of new travel lanes;
  - D. Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
  - E. Maintenance of existing landscaping or natural growth, that is not located within 100 feet of the boundary of a natural protective feature, or within significant coastal fish and wildlife habitat areas;
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  - G. Minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
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  - I. Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
  - J. Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
  - K. Official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code;
  - L. Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
  - M. 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;
  - N. Collective bargaining activities;
  - O. Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
  - P. Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
  - Q. Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
  - R. Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
  - S. Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor

- to commence the action unless and until all requirements of this chapter have been fulfilled;
- T. 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;
  - U. Adoption of a moratorium on land development or construction;
  - V. Interpreting an existing code, rule or regulation;
  - W. Designation of local landmarks or their inclusion within historic districts;
  - X. Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this chapter;
  - Y. Local legislative decisions such as rezoning where the Town Board determines the action will not be approved;
  - Z. Split rail fences or fences used to control nuisance wildlife that do not interfere with the public's rights of passage along the foreshore;
  - AA. Removal of a structure greater than 75 feet from a wetland;
  - BB. Additions to an existing dwelling constituting less than 25 percent of the existing structure where the addition is greater than 75 feet from a natural protective feature, except where the parcel is located in a Coastal Erosion Hazard Area;
  - CC. Structures less than 250 square feet in size that are accessory to existing permitted primary structures, and which accessory structures are greater than 50 feet from a boundary of a natural protective feature, and freshwater or tidal wetlands;
  - DD. Construction or improvements of pervious residential driveways, parking areas or walkways greater than 50 feet from a tidal or freshwater wetland;
  - EE. Upgrades to existing fuel tanks provided that erosion control measures are implemented;
  - FF. Cutting phragmites to greater than 12 inches and vegetative restoration provided that native wetland vegetative species are not affected or disturbed in any manner;
  - GG. Within all Town Creeks, replacement of existing bulkhead on the applicant's property in the same location with a silt curtain deployed prior to and during construction;
  - HH. Lot line changes, provided that the lot line change will not permit new development that may have undue adverse impacts on wetlands, tidal waters or natural protective features;
  - II. Additions to an existing building or rebuilt residential structure which results in no-net increase in ground area coverage, except where the parcel is located in a Coastal Erosion Hazard Area;
  - JJ. Construction or installation of drainage improvements for the retention of storm water runoff in accordance with Chapter 236.

**NATURAL PROTECTIVE FEATURE** - A nearshore area, beach, bluff, primary dune, secondary dune or wetland and their vegetation.

**NATURAL VEGETATED BUFFER** - a land area of a certain length and width where existing vegetation occurs prior to the commencement of any grading or clearing activity. Vegetation shall be maintained to achieve a minimum percent ground cover of ninety-five (95%) percent. To achieve the percent ground cover indigenous, drought tolerant vegetation shall be planted.

Survival of planted vegetation shall be ninety (90%) percent for a period of three (3) years. Maintenance activities within the buffer are limited to removing vegetation which are hazardous to life and property, trimming tree limbs up to a height of fifteen feet (15') to maintain viewsheds, replanting of vegetation and establishing a four foot (4') wide access path constructed of pervious material for access to the water-body.

NEW YORK SCENIC BYWAY (North Fork Trail) - all that portion of the State highway system known as State Route 25 in the Town of Southold, Suffolk County, beginning at the boundary between the Town of Riverhead and the Town of Southold, continuing northeasterly to Orient Point and to the end of State Route 25, and all that portion of the local highway system known as Sound Avenue beginning at the boundary between the Town of Riverhead and the Town of Southold continuing easterly to the overlap of Sound Avenue and County Route 48 and continuing along County Route 48 generally northeasterly to the intersection of County Route 48 and State Route 25 north of the Village of Greenport, Suffolk County.

NUISANCE WILDLIFE - Wildlife that is destructive and capable of damaging property such as buildings, crops, pets, livestock, gardens, or public areas. Wildlife may threaten human health or safety by spreading diseases, through direct attacks, or accidentally.

PERVIOUS NONTURF BUFFER - a land area of a certain height and width comprised of sand, stone or permeable pavers arranged in such a manner to allow for maximum percolation of storm water runoff into the soil.

PRIORITY WATER-BODY - a water-body within the jurisdictional boundaries of the Town of Southold listed by the New York State Department of Environmental Conservation on the Water-Body Inventory/Priority Water-Bodies List, as amended.

SIGNIFICANT FISH AND WILDLIFE HABITAT - those habitats which are essential to the survival of a large portion of a particular fish or wildlife population; support rare or endangered species; are found at a very low frequency within a geographic area; support fish or wildlife populations having significant commercial or recreational value; or that would be difficult or impossible to replace.

§ 268-4. Management and coordination of LWRP.

A. The Town Board shall be responsible for overall management and coordination of the LWRP. In performing this task the Town Board or designated staff person shall:

- (1) Inform the Town Board, Town Trustees and other Town agencies or boards 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 agencies and departments, including but not limited to the Town Board, Town Trustees, Planning Board, Zoning Board of Appeals, Planning staff, Police Department, Highway Superintendent and Engineering Departments of the Town, and with other nongovernmental bodies, to further implementation of the LWRP.

- (4) 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 agency or the Town Board.
  - (5) Perform other functions regarding the coastal area and direct such actions or projects as are necessary, or as the Town Board may deem appropriate, to implement the LWRP.
- B. In order to foster a strong relationship and maintain an active liaison among the Town agencies responsible for implementation of the LWRP, the Town Board shall convene at least quarterly a Town LWRP coordinating council, including but not limited to representatives of the Town Board, Town Trustees, Planning Board, Zoning Board of Appeals, Highway Department, Police Department, Engineering Department, Planning Director and such other Town departments or individuals charged with LWRP implementation as may be designated.

§ 268-5. Review of actions.

- A. Whenever a proposed action is located within the Town's coastal area, each agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in § 268-1 herein. No action in the coastal area shall be approved, funded or undertaken by an agency without such a determination.
- B. The Town Board shall designate a staff person to be the "LWRP Coordinator," who shall be responsible for coordinating review of actions in the Town's coastal area for consistency with the LWRP, and will advise, assist and make consistency recommendations for other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program. The LWRP Coordinator will also coordinate with NYS DOS regarding consistency review for actions by state or federal agencies.
- C. Whenever an agency within Southold 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 coastal area, the applicant or, in the case of a direct action, the agency, shall prepare a coastal assessment form (CAF) to assist with the consistency review. The agency shall refer a copy of the completed CAF to the LWRP Coordinator within 10 days of its submission and prior to making its determination, shall consider the recommendation of the Coordinator with reference to the consistency of the proposed action.
- D. After referral from an agency, the LWRP Coordinator shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in § 268-1 herein. The LWRP Coordinator shall require the applicant to submit all completed applications, CAF's, and any other information deemed necessary to its consistency recommendation. The LWRP Coordinator shall render its written recommendation to the agency within 30 days following referral of the CAF from the agency, unless extended by mutual agreement of the Coordinator and the applicant or, in the case of a direct action, the agency. The LWRP Coordinator's recommendation shall indicate whether 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 LWRP Coordinator shall, along with a 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.
- 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 CAF per action will be prepared. If the agencies cannot agree, the LWRP Coordinator shall designate the consistency review agency.
  - F. Upon recommendation of LWRP Coordinator, the designated agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in § 268-1 herein. Prior to making its determination of consistency, the designated agency shall consider the consistency recommendation of the LWRP Coordinator. The agency shall render a written determination of consistency based on the CAF, the LWRP Coordinator recommendation and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the coastal 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 chapter. The Zoning Board of Appeals shall consider the written consistency recommendation of the LWRP Coordinator 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 chapter.
  - 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 draft EIS and is located in the coastal area until the agency has made a written finding regarding the consistency of the action with the local policy standards referred to in § 268-1 herein.
  - H. In the event the LWRP Coordinator'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 state the manner and extent to which the action is consistent with the LWRP policy standards.
  - I. Actions to be undertaken within the coastal 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 of Southold LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies that undertake direct actions shall also consult with § 268-5, in making their consistency determinations. The action shall be consistent with the policies to:
    - (1) General policies.
      - (a) Policy 1: foster a pattern of development in the Town of Southold 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.
      - (b) Policy 2: preserve historic resources of the Town of Southold.
      - (c) Policy 3: enhance visual quality and protect scenic resources throughout the Town of Southold.

- (d) Policy 4: minimize the loss of life, structures, and natural resources from flooding and erosion.
  - (e) Policy 5: protect and improve water quality and supply in the Town of Southold.
  - (f) Policy 6: protect and restore the quality and function of the Town of Southold ecosystem.
  - (g) Policy 7: protect and improve air quality in the Town of Southold.
  - (h) Policy 8: minimize environmental degradation in the Town of Southold from solid waste and hazardous substances and wastes.
- (2) Public coast policies.
    - (a) Policy 9: provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Town of Southold.
  - (3) Working coast policies.
    - (a) Policy 10: protect the Town of Southold's water-dependent uses and promote siting of new water-dependent uses in suitable locations.
    - (b) Policy 11: promote sustainable use of living marine resources in the Town of Southold.
    - (c) Policy 12: protect agricultural lands in the Town of Southold.
    - (d) Policy 13: promote appropriate use and development of energy and mineral resources.
- J. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the LWRP Coordinator. Such files shall be made available for public inspection upon request.

§ 268-6. Enforcement.

The Town Building Inspectors, Town Attorney, Code Enforcement Officers and Police Department/Bay Constables shall be responsible for enforcing this chapter. No action within the Southold coastal area which is subject to review under this chapter shall proceed until a written determination has been issued from the designated agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this chapter or any conditions imposed there under, the Building Inspector or any other authorized official of the Town 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.

§ 268-7. Penalties for offenses.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this chapter shall have committed a violation, punishable by a fine not exceeding \$250 for a conviction of a first offense and punishable by a fine of \$2,000 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.