

Introduction

The New York Department of State, Division of *Coastal Resources*, recognizes that local governments are in the best position to determine their waterfront needs. The Division of *Coastal Resources* encourages waterfront communities to guide the beneficial use, revitalization, and protection of their waterfront resources by preparing Local Waterfront Revitalization Programs.

What is a Local Waterfront Revitalization Program?

A Local Waterfront Revitalization Program is a locally prepared, comprehensive land and water use plan for a community's natural, public, working waterfront and for its developed resources. It provides a comprehensive framework within which critical waterfront issues can be addressed. In partnership with the Division of *Coastal Resources*, a municipality develops community consensus regarding the future of its waterfront and refines State waterfront policies to reflect local conditions and circumstances. Once approved by the New York Secretary of State the Local Program serves to coordinate state and federal actions needed to achieve the community's goals for its waterfront.

BENEFITS OF A LOCAL WATERFRONT REVITALIZATION PROGRAM

- **Clear direction** - A Local Waterfront Revitalization Program reflects community consensus regarding use of its waterfront. As such, it can significantly increase a community's ability to attract appropriate development that will take best advantage and respect the unique cultural and natural characteristics of its waterfront.
- **Technical assistance** - A Local Waterfront Revitalization Program establishes a long-term partnership between local government and the state, providing a source of technical assistance to prepare and implement a Local Program.
- **State consistency** - State permitting, funding, and direct actions must be consistent with an approved Local Waterfront Revitalization Program. This "consistency" provision is a strong tool that helps ensure all government levels work in unison to build a stronger economy and a healthier waterfront environment.
- **Financial assistance** - A Local Waterfront Revitalization Program presents a unified vision for the waterfront; it therefore, increases a community's chances to obtain public and private funding for waterfront projects. Funding for both the development and implementation of Local Waterfront Revitalization Programs is available from the New York State Environmental Protection Fund.

The Town of Essex Local Program

The *Town of Essex Local Waterfront Revitalization Program* (LWRP) is the Town's principal waterfront management tool. As proposed here, it establishes the Town's policies for development and use of the waterfront and provides the framework for evaluating the consistency of all discretionary actions in the waterfront zone with those policies. The guiding principle of the LWRP is to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among these objectives. Through the direct actions of the Town, State assistance, and individual project review, the LWRP aims to promote activities appropriate to various waterfront locations. The program is designed to coordinate activities and decisions affecting the shoreline when there are overlapping jurisdictions or multiple discretionary actions. When a proposed project is located within the shoreline zone and requires a local or state discretionary action, a determination of the project's consistency with the policies and purposes of the LWRP must be made before the project can move forward.

The *Town of Essex Local Waterfront Revitalization Program* was adopted as a local plan. It incorporates the major state policies, and delineates a shoreline zone to which the policies will apply. Pursuant to state regulations, the LWRP was approved by New York State. As a result of this approval, state discretionary actions within the Town's waterfront zone must be consistent to the maximum extent practicable with the LWRP and the Town must be given the opportunity to comment on all state projects within its waterfront zone.

Under the LWRP, local discretionary actions, including those subject to the Town's land use review, and environmental (SEQR) procedures, are reviewed for consistency with the LWRP policies. LWRP review of local actions is coordinated with existing regulatory processes and in most instances occurs concurrently. For local actions requiring approval by the Town Planning Board, the Planning Board makes the consistency determination. The full process for assuring that government actions are consistent with the Town's plan is described later.

New York State Waterfront Revitalization Program

Consistency with local waterfront policies is a key requirement of the waterfront revitalization program established in New York State's *Waterfront Revitalization of Coastal Areas and Inland Waterways Act* of 1981. The New York State Department of State administers the state's waterfront program and is responsible for advising State agencies whether their actions are consistent with the waterfront policies. For actions undertaken by State agencies, including permitting, funding assistance, land transactions and development projects, the State agency with jurisdiction makes the consistency determination, which is filed with the Department of State. If there is any disagreement between a State agency and the Town regarding the consistency of an activity, either the Town or the State agency may seek the mediation of the Secretary of State.

Related Regulations

The New York State Department of Environmental Conservation (DEC) is responsible for management and protection of natural resources and environmental quality. The DEC regulates activities that may have an effect on water quality. Activities such as draining, filling or building structures within a waterway may be undertaken only if DEC has granted a permit. In granting a permit, the DEC is empowered to place conditions and restrictions on an activity which can include mitigation measures.

The Army Corps of Engineers (ACOE) is responsible for the protection and management of the nation's waterways and wetlands. Like the DEC, ACOE is empowered to review and issue permits for activities occurring in navigable waters and in tidal or freshwater wetlands that meet the national designation criteria. These activities include dredging, filling, bulkheading, and placement of structures in the water. A central mandate of the ACOE is to maintain navigable channels and the general functioning of the waterways of commerce. In reviewing projects, the ACOE consults with other federal agencies including the U.S Fish and Wildlife Service, the Coast Guard and the Environmental Protection Agency.

The Adirondack Park Agency (APA) provides for the protection of the quality of the lakes, ponds, rivers, wetlands, and streams of the Park and the qualities of their shorelines. Regulations under the APA Act provide for the review of any project that involves any shoreline within the Park.

Much of the development occurring in or near New York's waterways requires permits from the DEC, APA, and the ACOE. To receive permits from the State agencies, a proposed project must be consistent with the Town's LWRP. Because of their differing mandates and missions, all the agencies involved in waterfront issues may have varying permitting requirements. The Division of *Coastal Resources* will also assist the Town in obtaining the cooperation of the ACOE and other federal agencies in achieving the policies of the LWRP. As part of its coordination role, the LWRP consistency review can help to resolve these conflicts and to ensure that the Town's policies and plans are considered by all permitting agencies.

Planning Context for the LWRP

The LWRP builds on, and is a direct outcome of, numerous waterfront planning efforts. These plans and studies have led to a more complete understanding of the Town's waterfront, calling attention to the need for a LWRP that reflects the different conditions, issues and priorities along the waterfront.

The *Town Comprehensive Plan* (the Plan) expresses the Town's long-range goals for the 21st century and beyond. The plan assesses local conditions and proposes short and long-term strategies to guide land use change, planning and coordination. The waterfront vision expressed by the Plan was incorporated into the policies of this LWRP and in the *Shoreline Overlay District Regulations* included in the Town's revised Zoning Law adopted in June 2003 (Appendix A).

The *Shoreline Overlay District Regulations* advance many of the Comprehensive Plan recommendations and incorporate LWRP goals and policies, such as requirements for public access and visual corridors in most new residential and commercial development. It also ensures that the scale of development is appropriate for the waterfront by controlling the height and bulk of waterfront buildings and pier structures. The *Shoreline Overlay District Regulations* contains provisions for water-dependent uses and allows for floating structures. Where LWRP policy goals and the *Shoreline Overlay District Regulations* overlap, the policies reference the *Shoreline Overlay District Regulations*.