

**SECTION V**

**LOCAL IMPLEMENTATION OF THE PROGRAM**

The Local Waterfront Revitalization Program for the Town of Essex represents a program that impacts not only the waterfront of the community, but the Town in its entirety. Those projects and policies discussed and set forth in this document will impact the future development and quality of life for all who live in the Town for years to come.

### **Lead Agency**

The Town of Essex Planning Board will be the local agency responsible for the administration and oversight of this program. The members of the Town of Essex Planning Board are active community leaders who are in a position to monitor not only the development of their jurisdiction, but also intimately understand the problems and limitations of their community.

### **Zoning**

Coincident with the development of this program, the Town updated its Comprehensive Plan and Zoning Law. The previous Zoning Law did not adequately address for land use and development activities within the waterfront. The Town's revised Zoning Law and related land use controls constitute the Town's foremost means of implementing and enforcing the Local Waterfront Revitalization Program.

A Shoreline Protection Overlay District (Appendix A and Appendix B), which supplements the underlying zoning district regulations in the waterfront area, was incorporated into the revised Zoning Law adopted in June 2003. The Shoreline Protection Overlay District regulations apply to all land within the Shoreline Protection Overlay District and require that all new construction and additions to existing structures located obtain site plan approval from the Planning Board.

### **Harbor Law**

The Town Board adopted the Town of Essex Waterways and Harbor Management Law (Appendix C) in March 2003, which delineates uses on the water side of the Shoreline Overlay Protection Overlay District.

### **Consistency Process**

The Town also adopted a local Waterfront Consistency Review Law (Appendix D) as part of this program. This law parallels the State law requiring that State actions be consistent with the Town's LWRP by requiring that the Town also act consistent with its LWRP. For Planning Board actions the Planning Board will determine consistency with the LWRP as an integral part of its existing decision making process. For actions not subject to the Planning Board the Town Board will determine the consistency of any Town actions.

All State and Town activities within the mapped waterfront zone boundary must be found consistent with the policies and purposes of this LWRP. A proposed action or project is deemed consistent with the LWRP when it will not substantially hinder the achievement of any of the policies and, where practicable, will advance one or more of the policies. The action must be found consistent with the LWRP before it can be approved. However, a determination of consistency does not itself authorize or

require the issuance of any permit, license, certification or other approval of any grant, loan or other funding assistance by the federal, state or local agency having jurisdiction pursuant to other provisions of law.

Also included in this local program are Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect (Appendix E).

### **Locational Considerations and Policy Applicability**

The LWRP policies set general goals for the Town's waterfront as whole, and specific goals for portions of the waterfront that have notable characteristics. A proposed project is reviewed to determine its consistency with the policies applicable to its specific waterfront location. The program recognizes that the relevance of each policy may vary depending upon the project type and where it is located.

When a policy is not relevant to the proposed project and its location, the policy would not be considered in the consistency review.

### **Inherently Consistent Actions**

Some proposed projects directly foster the goals set for each of the waterfront functional areas. In addition, actions with a limited scope are not reviewed for LWRP consistency unless the project requires a federal or state permit.

### **Findings of Inconsistency with LWRP Policies**

In cases where a project does not appear consistent with one or more of the relevant policy standards and criteria, consideration is given to any practical means of altering the project to make it consistent with such standards and criteria. If a project is not so altered and therefore hinders the policies and intent of the LWRP, it may be found inconsistent by the Town Planning Board or the state agency with jurisdiction.

When a project is not consistent with one or more of the policies and cannot be modified, the state regulations (NYCRR 600.4(b)) allow the project to be found consistent only if the State agency certifies that the project satisfies the following four requirements: (The Town Consistency Law includes similar provisions)

1. No reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy;
2. The action taken will minimize all adverse effects on such policies to the maximum extent practicable;
3. The action will advance one or more of the other waterfront policies; and
4. The action will result in an overriding regional or statewide public benefit.