

SECTION V

**TECHNIQUES FOR LOCAL IMPLEMENTATION
OF THE PROGRAM**

A. LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

1. Existing Laws and Regulations

- a. Environmental Quality Review-Chapter 153 of the Code of the City of Peekskill. See Appendix A.

(1) This Chapter of the City Code implements the State Environmental Quality Review Act (SEQRA). It establishes procedures necessary to assure full review of environmental impacts of proposed projects, actions, improvements and developments within the City of Peekskill.

(2) This Ordinance pertains to the majority of the policies included in the Local Waterfront Revitalization Program (LWRP), especially those dealing with development issues and the protection of important man-made and natural resources.

- b. Freshwater Wetlands - Chapter 176 of the Code of the City of Peekskill. See Appendix A.

(1) This Chapter of the City Code implements the New York State Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law) as it pertains to the City of Peekskill. The Ordinance gives the City the right to undertake and exercise its regulatory authority with regard to activities in freshwater wetlands subject to regulation under the Act.

(2) This Ordinance deals most closely with Policy 44, preservation of wetlands.

- c. Sanitary Sewer Code - Chapter 250 of the Code of the City of Peekskill. See Appendix A.

(1) This Ordinance provides for the proper design, construction, maintenance, operation, use and regulation of all main sewers, house connection sewers, trunk sewers, sewer connections, interceptors and related special structures.

(2) The Sanitary Sewer Code relates most closely with the policies concerning protection and conservation of water resources, more specifically Policies 30,

33, 38, 39 and 40 as well as Policy 8 which deals with the protection of fish and wildlife resources from hazardous wastes and other pollutants.

d. Soil Removal and Excavations - Chapter 261 of the Code of the City of Peekskill. See Appendix A.

- (1) This Ordinance provides for the proper use of land and regulates and/or prohibits excavation, removal of materials, filling, draining, cleaning, operating and using any land in a manner which: creates hazardous or dangerous conditions; creates or leaves unprotected banks or ledges of exposed earth; permits or creates conditions which cause the collection of water; impairs the usefulness or value of the subject property or any surrounding properties; causes soil erosion which depletes the land of vegetative cover and other organic materials; results in the washing of soil, erosion or the interference of normal drainage; and/or interferes with or overloads any existing or planned drainage facilities of the City.
- (2) This Ordinance relates most closely with LWRP Policy 12, on protection of natural features and Policy 15, on excavation in coastal waters. Both Policies concern protection against or minimizing potential erosion and flood hazards.

e. Streams and Watercourses - Chapter 267 of the Code of the City of Peekskill. See Appendix A.

- (1) This Ordinance regulates and provides for the protection of streams and watercourses within the City of Peekskill by requiring that any person, firm or corporation obtain a permit from the Common Council before filling or diverting any streams or watercourses, except where authorized by a State or Federal agency. The ordinance gives the Common Council the authority to deny, at its discretion, any permit if it determines that a proposed filling or diversion is detrimental to local drainage or to the general welfare of the City.
- (2) This Ordinance deals with a number of LWRP Policies. The Policies most closely associated with this Ordinance are: Policies 15, mining, excavation or dredging in coastal waters as they relate to natural, coastal processes and erosion; Policy 35, dealing with dredging and dredge spoil disposal and the protection of natural and man-made resources; Policy 37, dealing with

minimizing the discharge of excess nutrients, organics and eroded soils into coastal waters; and Policy 44, the protection of wetlands. The Ordinance also helps to implement Policies 18 and 25, safeguarding vital economic, social and environmental interests and protecting natural and man-made resources.

f. Subdivision of Land - Chapter 278 of the Code of the City of Peekskill. See Appendix A.

(1) This Ordinance ensures the orderly growth and development of the City; the conservation, protection and proper use of land; the provision of adequate housing, recreation, circulation, utility, and service facilities; and safeguards the City from unnecessary expenditures for the maintenance of streets, utilities and public space by regulating the layout, design, and development of subdivisions.

(2) This Ordinance relates most directly to the development and redevelopment Policies and Policies concerning development in areas where the infrastructure is adequate, i.e., Policies 1, 2, and 5 of the LWRP.

g. Riverfront Green - Chapter 241 of the Code of the City of Peekskill. See Appendix A.

(1). This Ordinance regulates the use of the City of Peekskill Riverfront Green. It outlines prohibited activities; penalties for offenses; permit requirements and restrictions; and use requirements.

(2) This Ordinance relates most directly to those Policies concerning recreation and public access; especially Policy 19, protecting, maintaining and increasing the levels and types of access to public water-related recreation resources and facilities; Policy 20, providing access to the publicly owned foreshore; and Policy 21, encouraging and facilitating water-dependent and water-enhanced recreation.

- h. **Parks - Chapter 224 of the Code of the City of Peekskill. See Appendix A.**

 - (1) This Ordinance regulates all activities within and uses of, all parks, reservations, playgrounds, recreation centers and/or all other areas owned or used by the City for active or passive recreation. The Ordinance includes listings of prohibited uses and activities such as loitering, camping or lodging in undesignated areas and the drinking of alcoholic beverages; and regulates activities such as bathing or swimming, boating, games and picnics, meetings and performances. The Ordinance also includes regulations that protect property, fish and wildlife, and prohibit and monitor pollution and litter.
 - (2) This Ordinance deals most closely with the LWRP Policies relating to public access, recreation, and the protection of fish and wildlife. More specifically, Policies 19, 20 and 21, dealing with the protection, maintenance and expansion of recreation resources and the levels and types of access to them, and Policies 7, 8 and 9 concerning the protection of fish and wildlife resources from the introduction of hazardous wastes and other pollutants, and the expansion of recreational usage of fish and wildlife resources, respectively are addressed by this Ordinance.

- i. **Littering - Chapter 197 of the Code of the City of Peekskill. See Appendix A.**

 - (1) This Ordinance was designed to prohibit the throwing or depositing of litter in any park, public place, fountain, and body of water or vacant lot.
 - (2) This section of the Municipal Code is most closely associated with the LWRP Policy 8, the protection of fish and wildlife resources from the introduction of hazardous wastes and other pollutants; Policy 34, the limitation of the discharge of waste materials from vessels so as to protect fish and wildlife habitats, recreational areas and water supply areas; and Policy 38, the conservation and protection of surface water and groundwater supplies.

- j. **Solid Waste Disposal Ordinance - Chapter 264 of the Code of the City of Peekskill. See Appendix A.**

 - (1) The purpose of this Ordinance is to provide for the disposal of all solid waste in compliance with Federal and State standards, and for the control of air,

water and ground pollution through participation in the Plan for Solid Waste Management in Westchester County, New York.

- (2) This Ordinance is most applicable to fish and wildlife protection Policies 7 and 8; Policy 25, the protection of natural and man-made resources; Policy 30, which ensures that municipal, industrial and commercial discharge of pollutants into coastal waters conform to State and Federal water quality standards; Policy 34, the limitation of waste material discharge from vessels into coastal waters; Policy 36, concerning the shipment of petroleum and other hazardous materials; Policy 38, the conservation and protection of surface water and groundwater supplies; and Policy 39, concerning the transport, storage, treatment and disposal of solid wastes.

k. Flood Damage Prevention Program - Chapter 170 of the Code of the City of Peekskill. See Appendix A.

- (1) This Chapter of the City Code includes provisions designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. It includes methods and provisions for restricting or prohibiting uses which are dangerous due to water or erosion hazards or which result in damaging increases in erosion, in flood heights or velocities; requiring that uses vulnerable to floods be protected at the time of initial construction; controlling the alteration of natural floodplain, stream channels and natural protective barriers; controlling filling, grading, dredging and other activities which may increase flood damage; and preventing and/or regulating the construction of flood barriers which will unnaturally divert floodwater or increase flood hazards.
- (2) This Ordinance deals most closely with Policies 1 and 2 which relate to development and redevelopment activities in the waterfront area and Policies which relate to flood and erosion hazards and related protective features including: Policy 11, siting structures to minimize damage; Policy 12, protection of natural protective features; Policy 14, preventing increases in flooding; Policy 15, control of alteration of coastal waters; and Policy 17, use of non-structural measures to minimize damage from flooding.

- (3) This Ordinance applies also to all flood hazard areas delineated on Federal Emergency Management Agency Flood Insurance Rate Map and includes methods and provisions for:
 - (a) Restricting or prohibiting 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) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 - (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
 - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.
- (4) Any development within special flood hazard areas, as demarcated on the Federal Emergency Management Agency's Flood Insurance Rate Map, is required to be built in compliance with the City's Flood Damage Prevention Law.

1. Zoning Ordinance. See Appendix A.

The City of Peekskill's Zoning Ordinance regulates how land can be used, and at what intensity and under what conditions development can occur. This Ordinance deals most closely with Policies 1 and 2 that relate to development and redevelopment activities in the waterfront area. The Zoning Ordinance has been amended in recent years to Implement recommendations included in the Waterfront Redevelopment Plan (WF-1, WF-2 and WF-PRD) Districts and the conceptual plan for the lower South Street Area (M-2A District).

WF-1 District

The WF-1 District is intended to provide for public access and easements to the shore. The only uses permitted as-of-right in this district are municipal parks. With special permits, a limited number of uses (marinas, enclosed structures for boats, transportation services, hotels, museums, annual membership clubs and restaurants) are enabled only where the conditions of the land warrant such activity. The Waterfront Redevelopment land use plan identified Travis Point as a location that would warrant commercial development, such as a hotel or restaurant on a City owned parcel. The Zoning Ordinance and the plan for this district mandates that increased public access to the shoreline be facilitated through the development of any new projects located in this area.

WF-2 District

The WF-2 District is intended to provide dense mixed commercial and residential development in the Waterfront District. The intent of the sub-area is to continue historic development trends for inland parcels located in the waterfront district. The WF-2 District is traversed by Central Avenue, which leads to the Central Business District (CBD) of the City. Another goal of the plan and this district is to link the Central Business District to the waterfront through the development of underutilized parcels that exist on Central Avenue.

WF-PRD District

The WF-PRD district is located on the grounds of the existing St. Joseph's property. The WF-PRD district has been designed to allow for multiple-family uses meeting specific design guidelines on this largely vacant site within the waterfront area.

M-2A District

The M-2A District permits many of the same uses as the M-2 District but imposes additional performance standards regarding outdoor storage, height of structures, height of materials stored outside and screening of outdoor storage. In addition, a detailed set of design guidelines are included in the Ordinance to be used during review of the plans in the district.

- m. Building Construction - Chapter 125 of the Code of the City of Peekskill. See Appendix A.
 - (1) This Ordinance regulates development activities within the waterfront area. It establishes rules and regulations pertaining to the construction, alteration, removal, demolition, use, occupancy, maintenance and location of buildings and other structures.
 - (2) This Ordinance is most closely associated with Policies 1 and 2 that concern development and redevelopment within the LWRP area.
2. New or Revised City Laws and Regulations

- a. Revision to the City's Environmental Quality Review Act.

This Act will be revised to assure consistency of proposed actions with the LWRP's Policies and Plan. See Appendix A-1.

- b. Revisions to the Zoning Ordinance

Revisions to the Zoning Ordinance with regard to the LWRP include the revision of the Charles Point Industrial Park Area regulations to reflect existing trends toward mixed light industrial, commercial and water dependent recreational uses. Similar zoning revisions will be necessary for the Annsville Creek Industrial District. See Appendix A-2.

- (1) Charles Point

New zoning language for Charles Point Area should establish a concise set of desired permitted uses. A listing of permitted uses such as commercial, recreational-water related and light industrial should to be developed. Further, the language for this district should mandate that public access to the shore be incorporated into all plans for proposed projects, commensurate with the intensity of the action, and if practicable and feasible.

(2) Annsville Creek

The manufacturing uses located at Annsville Creek need to have one consistent zoning designation. Again, a range of permitted uses needs to be established for this new district. The scope of permitted uses should be more intense than that which is permitted at Charles Point, yet less intense than that which will be permitted in the Lower South Street area. The area should encourage light manufacturing, office buildings, and wholesale storage and warehousing. Zoning should be developed that will mandate that public access be provided for parcels abutting Annsville Creek.

Copies of these proposed zoning revisions are included in Appendix A-2. The law includes a provision that a natural vegetation buffer will be added along water crosses as a mitigation measure and to afford greater protection of natural resources.

- c. Revisions to the local Site Plan Review Procedures should include the requirement of the disclosure or identification by the applicant of hazardous wastes or materials to be associated with the proposed occupancy and/or use of nonresidential properties. If such materials are to be present, then the applicant must present evidence that all necessary permits and approvals have been or are in the process of being obtained. The applicant must also demonstrate that the materials will be contained or managed in a conscientious manner. See Appendix A-3.
- d. Revisions to the local Site Plan Review Procedures will also require consistency and conformance with the Plans and Policies of the LWRP before a site plan is approved. See Appendix A-4.

Appropriate Federal and State environmental regulation for water quality will be required for new or expanded industrial, energy, transportation, or commercial facilities.

- e. Consistency Law:

This law will provide for the protection and appropriate usage of the man-made and natural resources within the City's Local Waterfront Revitalization Area by ensuring that actions proposed or approved by City agencies will be undertaken in

a manner consistent with the Policies and plans of the Local Waterfront Revitalization Program. See Appendix A-5.

B. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

1. Continued Marketing and Promotion of Charles Point Industrial Park.

Through this effort the City will encourage the development of water dependent and water-enhanced uses where consistent with City planning and economic development objectives.

2. Public Parcel Reuse Study.

This study is necessary to determine the re-use potential of the municipal sites located on the northern side of Louisa Street near Charles Point. Relocation of the existing uses will be necessary if the parcels are to be marketed for usage in connection with the Charles Point Industrial Park. This study will determine relocation alternatives for the existing municipal uses and investigate the most appropriate future usage of the sites.

3. Implement Waterfront Trail Development

The City of Peekskill will carry out all phases of the 18-segment plan to provide continuous access throughout the Waterfront area. See the trail information in Appendix A-6.

In addition, the City will investigate the potential for and make appropriate physical improvements to the vacant area west of the St. Mary's Property.

A planning and engineering study is needed to assess the feasibility of utilizing the City-owned vacant land area along Annsville Creek for intensive or more active recreational usage. This study should be conducted before any physical improvements are made.

4. Physical Improvements/Clean-up of South Street

A combined public and private effort is needed to clean up the existing blighting conditions along Lower South Street. Activities will include landscaping improvements, the clean up or screening of the scrap metal yards and general streetscape improvements. These activities are necessary because South Street is a major access to Charles Point Industrial Park. A visitor's first time impression of both the City of Peekskill and Charles Point is affected by the condition of this area that is highly visible from US Route 9.

Improvements made along Lower South Street will help to promote Charles Point, the LWRP area, and the City of Peekskill as a whole.

5. Marina Expansion - Peekskill Yacht Club

The expansion of the Peekskill Yacht Club would include the provision of more docking facilities, improved support facilities and adequate parking. This activity will serve to increase public access to the water.

6. Provide connection from the CBD (or BID) to the waterfront along Central Avenue (Landscaping/Facade Improvements)

This activity includes the recruitment of new infill development; physical improvements including maintenance of existing structures, facade treatment, and landscaping; the development of a pedestrian link or walkway and the conformity of new projects with the design guidelines set forth in the Peekskill Waterfront Redevelopment Plan.

7. Restore and/or Revitalize commercial, industrial and residential structures throughout the Central Planning Area.

Through this effort the City will seek funding and provide technical assistance to private property owners as an incentive to upgrade their property. As funding becomes available, the City will provide financial assistance or installation of public improvements such as sidewalk and street improvements, signage, landscaping and drainage to encourage private investment and property maintenance.

The City will provide public access if determined feasible to the vacant land area along Annsville Creek.

8. Implement Peekskill Landing Project

This project includes the following components:

- The acquisition and development of the lands adjoining the City's waterfront park property;
- The acquisition and restoration of the "Lincoln" Train Station Building by the City and/or Lincoln Society for use as an information center and museum or a special non-for-profit will be formed;
- Site work including the development of parking, shoreline stabilization, landscaping, wave attenuator to protect an area of the site which will be used for excursion boats as well as other, related site improvements.

C. MANAGEMENT STRUCTURES NECESSARY TO IMPLEMENT THE LWRP

1. Lead Agency and Responsible Local Official

The Lead Agency for the management and implementation of the LWRP will be the City's Common Council. The local official responsible for the overall management and coordination of the LWRP will be the Director of Planning and Development.

The Peekskill Department of Planning and Development will be responsible for carrying out the Plans, Provisions and Policies outlined in the LWRP document. Long-range planning and consistency review will be the major activities.

2. Specific Responsibilities for Implementation and Management

All City departments, offices and agencies will retain their present responsibilities for programs, projects and regulation. The Director of Planning and Development, with the assistance of the Planning Department Staff will review public and private proposals for

development activities or actions within the waterfront area and will approve or deny applications for proposed land use activities.

The Director of Planning and Development will also recommend legislation, facilitate funding efforts and coordinate the City's implementation efforts within the waterfront area.

The City of Peekskill Common Council has the authority to approve and fund, or secure funding for, specific improvements necessary to implement the LWRP.

3. Procedures to Assure that Local Actions Comply with the LWRP

Any agency, group or individual proposing a "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA) will be required to complete a Coastal Assessment Form (CAF) in addition to an Environmental Assessment Form (EAF). Staff of the Department of Planning and Development will review the CAF in light of the policies and sub-policies outlined in the LWRP. Actions that are deemed to be consistent with the LWRP will be recommended to the Planning Commission and/or Common Council or other responsible agency for approval and those that are inconsistent will be so indicated and recommended for disapproval unless:

- a. No reasonable alternatives exist that would avoid or overcome any substantial hindrance;
- b. The action will minimize all adverse effects on the Policies or purposes of the LWRP to the maximum extent practicable; and
- c. The action will result in an overriding public benefit.

The CAF will be distributed to all agencies and made part of or attached to regular applications for projects within the City.

Once the LWRP is adopted, each agency of the City, including the Common Council, will have a copy and will be instructed to refer all development, regulatory, review or investment actions to the staff of the Department of Planning and Development for review and comment.

Staff from the Department of Planning and Development will review any proposed actions for consistency with the LWRP and will respond within 30 days of receiving the request.

- d. 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 City.
 - e. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
 - f. 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 City.
4. Procedures for Department of State and City of Peekskill Review of Federal Actions for Consistency with the LWRP.
- a. Permits and Licenses.
 - (1) 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 Department of Planning and Development (DPD).
 - (2) Within thirty (30) days of receiving such information, the DPD will contact the assigned DOS reviewer to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local Coastal Policies.
 - (3) When the DOS and the DPD agree that additional information is necessary, the DOS will request the applicant to provide the information. A copy of this information will be provided to the DPD upon receipt.

- (4) Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the DOS reviewer, whichever is later, the DPD will notify DOS of the reasons why a proposed action may be inconsistent or consistent with City Coastal Policies.
- (5) After that notification, the DPD will submit its written comments and recommendations on a proposed permit action to the DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the Department of Planning and Development has no opinion on the consistency of the proposed action with City's Coastal Policies.
- (6) If the DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the DPD on a proposed permit action, DOS will contact the DPD to discuss any differences of opinion prior to issuing its letter of "concurrence" or "objection" to the applicant.
- (7) A copy of DOS "concurrence" or "objection" letter to the applicant will be forwarded to the Department of Planning and Development.

b. Direct Actions

- (1) After acknowledging the receipt of a consistency determination and supporting documentation from a Federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the DPD and other interested parties.
- (2) This notification will state the date by which all comments and recommendations must be submitted to DOS and will identify the assigned DOS reviewer.
- (3) The review period will be about twenty-five (25) days. If comments and recommendations are not received by the end of the established review period, DOS will presume that the Peekskill DPD has "no opinion" on the consistency of the proposed direct Federal agency action with City's Coastal Policies.

- (4) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the DPD, DOS will contact the Department 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.
- (5) A copy of the DOS "agreement" or "disagreement" letter to the Federal agency will be forwarded to the Peekskill DPD.

c. Financial Assistance.

- (1) DOS will request information on a proposed financial assistance action from the applicant (State or City agency) for consistency review purposes. A copy of this letter will be forwarded to Peekskill DPD and will serve as notification that the proposed action may be subject to review.
- (2) If the applicant is a City agency, the DPD will contact the agency and request copies of any application documentation for consistency review purposes.
- (3) The DPD will acknowledge receipt of the requested information and send a copy to the DOS.
- (4) If the applicant is a State Agency, DOS will request the agency to provide a copy of the application documentation to the DPD.
- (5) The DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the DPD.
- (6) The review period will conclude thirty (30) days after the date on the DPD's or DOS" letter of acknowledgement.
- (7) The DPD must submit its comments and recommendations on the proposed action to DOS within twenty (20) days from the start of the review period. If comments and recommendations are not received within that twenty-day period, DOS will presume that the DPD has "no opinion" on the consistency of the proposed financial assistance action with local Coastal Policies.

- (8) If the DOS does not fully concur with or has any questions on the comments and recommendations submitted by the DPD, the DOS will contact the applicant to discuss any differences of opinion prior to agreeing or disagreeing with the Federal agency's consistency determination on the proposed financial assistance.
- (9) A copy of DOS' "no objection" or "objection" letter to the applicant will be forwarded to the DPD.

5. Guidelines for Notification and Review of State Agency Actions where Local Waterfront Revitalization Programs are in effect.

a. Purpose of Guidelines

- (1) The Waterfront Revitalization of Coastal Areas and inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRP). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- (2) The Act also requires that state agencies provide timely notice to the local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- (3) The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

b. Definitions

- (1) Action means:

- (a) A Type 1 or Unlisted action as defined by the State Environmental Quality Review Act (SERA);
 - (b) Occurring within the boundaries of an approved LWRP; and
 - (c) Being taken pursuant to a state agency program or activity which has been identified by the Secretary of Ste as likely to affect the policies and purposes of the LWRP.
- (2) Consistent to the maximum extent practicable means that an action will not substantially hinder that achievement of any of the policies and purpose of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, than the action must be one:
- (a) For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 - (b) That will minimize all adverse effects on the policies or purpose of the LWRP to the maximum extent practicable; and
 - (c) That will result in an overriding regional or statewide public benefit.
- (3) Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.
- c. Notification Procedure
- (1) When a state agency is considering an action as described in b. above, the state agency shall notify the affected local government.
 - (2) Notification of a proposed action by a state agency:

- (a) Shall fully describe the nature and location of the action;
- (b) Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
- (c) Should be provided to the local official identified in the LWRP of the local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- (d) If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the local government.

d. Local Government Review Procedure

- (1) Upon receipt of notification form a state agency, the local government will be responsible for evaluating a proposed action the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the local government with whatever additional with whatever additional information is available which will assist the local government to evaluate the proposed action.
- (2) If the local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- (3) If the local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.

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

e. Resolution of Conflicts

- (1) The following procedures apply whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - (a) Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
 - (b) If the discussion between the local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
 - (c) If the consultation between the local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be

received by the Secretary within 15 days following the discussion between the local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

- (d) Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and local government.
- (e) If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
- (c) The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures apply.

