

State and federal actions will affect and be affected by implementation of a Local Waterfront Revitalization Program (LWRP). Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the local waterfront area must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identify those elements of the program which can be implemented the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal management Program and by the implementing regulations of the U.S. Coastal Zone Management Act.

The second part of this section is a more focused and descriptive list of State and federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and federal assistance needed to implement the LWRP.

**A. State Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP**

**1. STATE AGENCIES**

**ADIRONDACK PARK AGENCY (regional agency)**

- 1.00 Regulation of land use and development on private lands pursuant to the Adirondack Park Land Use and Development Plan.
- 2.00 Administration of the NYS Wild, Scenic and Recreational Rivers System Act within the Adirondack Park.
- 3.00 Administration of the NYS Freshwater Wetlands Act within the Adirondack Park.
- 4.00 Approval of local government land use plans within the Adirondack Park.

**OFFICE FOR THE AGING**

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

**DEPARTMENT OF AGRICULTURE AND MARKETS**

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs.
- 4.00 Permit and approval programs:
  - 4.01 Custom Slaughters/Processor Permit
  - 4.02 Processing Plant License
  - 4.03 Refrigerated Warehouse and/or Locker Plant License

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY**

- 1.00 Permit and Approval Programs:
  - 1.01 Ball Park - Stadium License

- 1.02 Bottle Club License
- 1.03 Bottling Permits
- 1.04 Brewer's Licenses and Permits
- 1.05 Brewer's Retail Beer License
- 1.06 Catering Establishment Liquor License
- 1.07 Cider Producer's and Wholesaler's Licenses
- 1.08 Club Beer, Liquor, and Wine Licenses
- 1.09 Distiller's Licenses
- 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
- 1.11 Farm Winery and Winery Licenses
- 1.12 Hotel Beer, Wine, and Liquor Licenses
- 1.13 Industrial Alcohol Manufacturer's Permits
- 1.14 Liquor Store License
- 1.15 On-Premises Liquor Licenses
- 1.16 Plenary Permit (Miscellaneous-Annual)
- 1.17 Summer Beer and Liquor Licenses
- 1.18 Tavern/Restaurant and Restaurant Wine Licenses
- 1.19 Vessel Beer and Liquor Licenses
- 1.20 Warehouse Permit
- 1.21 Wine Store License
- 1.22 Winter Beer and Liquor Licenses
- 1.23 Wholesale Beer, Wine, and Liquor Licenses

**DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES**

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
  - 3.01 Letter Approval for Certificate of Need
  - 3.02 Operating Certificate (Alcoholism Facility)
  - 3.03 Operating Certificate (Community Residence)
  - 3.04 Operating Certificate (Outpatient Facility)
  - 3.05 Operating Certificate (Sobering-Up Station)

## **COUNCIL ON THE ARTS**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

## **DEPARTMENT OF BANKING**

- 1.00 Permit and approval programs:
  - 1.01 Authorization Certificate (Bank Branch)
  - 1.02 Authorization Certificate (Bank Change of Location)
  - 1.03 Authorization Certificate (Bank Charter)
  - 1.04 Authorization Certificate (Credit Union Change of Location)
  - 1.05 Authorization Certificate (Credit Union Charter)
  - 1.06 Authorization Certificate (Credit Union Station)
  - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
  - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
  - 1.09 Authorization Certificate (Investment Company Branch)
  - 1.10 Authorization Certificate (Investment Company Change of Location)
  - 1.11 Authorization Certificate (Investment Company Charter)
  - 1.12 Authorization Certificate (Licensed Lender Change of Location)
  - 1.13 Authorization Certificate (Mutual Trust Company Charter)
  - 1.14 Authorization Certificate (Private Banker Charter)
  - 1.15 Authorization Certificate (Public Accommodation Office - Banks)
  - 1.16 Authorization Certificate (Safe Deposit Company Branch)
  - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
  - 1.18 Authorization Certificate (Safe Deposit Company Charter)
  - 1.19 Authorization Certificate (Savings Bank Charter)
  - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
  - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
  - 1.22 Authorization Certificate (Savings and Loan Association Branch)
  - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
  - 1.24 Authorization Certificate (Savings and Loan Association Charter)
  - 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
  - 1.26 Authorization Certificate (Trust Company Branch)
  - 1.27 Authorization Certificate (Trust Company-Change of Location)
  - 1.28 Authorization Certificate (Trust Company Charter)
  - 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
  - 1.30 Authorization to Establish a Life Insurance Agency

- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

**OFFICE OF CHILDREN AND FAMILY SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children's Services)
  - 3.03 Operating Certificate (Enriched Housing Program)
  - 3.04 Operating Certificate (Home for Adults)
  - 3.05 Operating Certificate (Proprietary Home)
  - 3.06 Operating Certificate (Public Home)
  - 3.07 Operating Certificate (Special Care Home)
  - 3.08 Permit to Operate a Day Care Center

**DEPARTMENT OF CORRECTIONAL SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

**EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION**

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

## **EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certification of Incorporation (Regents Charter)
  - 2.02 Private Business School Registration
  - 2.03 Private School License
  - 2.04 Registered Manufacturer of Drugs and/or Devices
  - 2.05 Registered Pharmacy Certificate
  - 2.06 Registered Wholesale of Drugs and/or Devices
  - 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
  - 2.08 Storekeeper's Certificate

## **NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

## **DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities

- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

#### Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

#### Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

#### Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals

- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.23 Permit - Article 24, (Freshwater Wetlands)

#### Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

#### Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

#### Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel
- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to Take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit
- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit - Article 25, (Tidal Wetlands)



### Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

### Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

### Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
  - 9.50 Certificate of Approval of Realty Subdivision Plans
  - 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
  - 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
  - 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
  - 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
  - 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
  - 9.56 Approval - Drainage Improvement District
  - 9.57 Approval - Water (Diversion for) Power
  - 9.58 Approval of Well System and Permit to Operate
  - 9.59 Permit - Article 15, (Protection of Water) - Dam
  - 9.60 Permit - Article 15, Title 15 (Water Supply)
  - 9.61 River Improvement District Approvals
  - 9.62 River Regulatory District Approvals
  - 9.63 Well Drilling Certificate of Registration
  - 9.64 401 Water Quality Certification
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- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
  - 11.00 Preparation and revision of Continuous Executive Program Plan.
  - 12.00 Preparation and revision of Statewide Environmental Plan.
  - 13.00 Protection of Natural and Man-made Beauty Program.
  - 14.00 Urban Fisheries Program.

15.00 Urban Forestry Program.

16.00 Urban Wildlife Program.

### **ENVIRONMENTAL FACILITIES CORPORATION**

1.00 Financing program for pollution control facilities for industrial firms and small businesses.

### **FACILITIES DEVELOPMENT CORPORATION**

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

### **OFFICE OF GENERAL SERVICES**

1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.

2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.

3.00 Facilities construction, rehabilitation, expansion, or demolition.

4.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.

5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.

### **DEPARTMENT OF HEALTH**

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

- 2.00 Permit and approval programs:
  - 2.01 Approval of Completed Works for Public Water Supply Improvements
  - 2.02 Approval of Plans for Public Water Supply Improvements.
  - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
  - 2.04 Certificate of Need (Hospitals)
  - 2.05 Operating Certificate (Diagnostic and Treatment Center)
  - 2.06 Operating Certificate (Health Related Facility)
  - 2.07 Operating Certificate (Hospice)
  - 2.08 Operating Certificate (Hospital)
  - 2.09 Operating Certificate (Nursing Home)
  - 2.10 Permit to Operate a Children's Overnight or Day Camp
  - 2.11 Permit to Operate a Migrant Labor Camp
  - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
  - 2.13 Permit to Operate a Service Food Establishment
  - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
  - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
  - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
  - 2.17 Shared Health Facility Registration Certificate

**DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES  
AND AFFILIATES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
  - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
  - 2.02 Housing Development Fund Programs
  - 2.03 Neighborhood Preservation Companies Program
  - 2.04 Public Housing Programs
  - 2.05 Rural Initiatives Grant Program
  - 2.06 Rural Preservation Companies Program
  - 2.07 Rural Rental Assistance Program
  - 2.08 Special Needs Demonstration Projects
  - 2.09 Urban Initiatives Grant Program
  - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

## **HOUSING FINANCE AGENCY**

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

## **JOB DEVELOPMENT AUTHORITY**

- 1.00 Financing assistance programs for commercial and industrial facilities.

## **MEDICAL CARE FACILITIES FINANCING AGENCY**

- 1.00 Financing of medical care facilities.

## **OFFICE OF MENTAL HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Operating Certificate (Community Residence)
  - 2.02 Operating Certificate (Family Care Homes)
  - 2.03 Operating Certificate (Inpatient Facility)
  - 2.04 Operating Certificate (Outpatient Facility)

## **OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Establishment and Construction Prior Approval
  - 2.02 Operating Certificate Community Residence
  - 2.03 Outpatient Facility Operating Certificate

## **DIVISION OF MILITARY AND NAVAL AFFAIRS**

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

## **NATURAL HERITAGE TRUST**

1.00 Funding program for natural heritage institutions.

## **OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commission)**

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
  - 7.01 Floating Objects Permit
  - 7.02 Marine Regatta Permit
  - 7.03 Navigation Aide Permit
  - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.

## **POWER AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

## **NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

## **DEPARTMENT OF STATE**

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
  - 4.01 Billiard Room License
  - 4.02 Cemetery Operator
  - 4.03 Uniform Fire Prevention and Building Code

## **STATE UNIVERSITY CONSTRUCTION FUND**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

## **STATE UNIVERSITY OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

## **DEPARTMENT OF TRANSPORTATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
  - (a) Highways and parkways

- (b) Bridges on the State highways system
  - (c) Highway and parkway maintenance facilities
  - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
- 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
  - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
- 4.01 Approval of applications for airport improvements (construction projects)
  - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
  - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
  - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
  - 4.06 Highway Work Permits
  - 4.07 License to Operate Major Petroleum Facilities
  - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
  - 4.09 Real Property Division Permit for Use of State-Owned Property

- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

**URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates**

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
  - (a) Tax-Exempt Financing Program
  - (b) Lease Collateral Program
  - (c) Lease Financial Program
  - (d) Targeted Investment Program
  - (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects.
- 4.00 Administration of State-funded capital grant programs.

**DIVISION OF YOUTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.



**B. STATE ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP.**

**OFFICE OF GENERAL SERVICES**

Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

**DEPARTMENT OF STATE**

Provision of funding for the implementation of an approved LWRP

- o Minimum Shoreline Building Setback (excluding docks and boathouses): 50 feet for EH; 75 feet for all other districts

2.1-1-1 Septic System Setbacks: The minimum setback for any on-site sewage system leach field or drainage field shall be 100 feet from the mean high water mark irrespective of zoning district or land use classification. The setback is measured along the shortest distance from the mean high water mark to the closest point of the leaching facility. The Zoning Officer, Planning Board, or the Adirondack Park Agency shall have the authority to require a greater setback than that set forth above if it is determined that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of Lake Champlain.

Any new on-site sewage disposal system must also comply with NYS Department of Health standards, including that it:

shall not be located on slopes in excess of 15%;  
shall not be closer than 100 feet from the source of any water supply system.

Standards:

In addition to the standards set forth throughout this Zoning Law, the following standards shall apply throughout the Shoreline Overlay District:

Construction on any land located in the Shoreline Overlay District shall be carried out in such a manner so as to minimize the erosion that may be caused by such activity. Construction and excavation activities shall be carried out in the shortest time possible.

Shoreline areas, excepting beaches, shall not be exposed (without vegetation) for longer than the time period designated by the Planning Board, and when exposed for such allowable time period, shall adequately be protected from erosion.

All structures, except docks and boathouses, shall be screened by vegetation or landscaped or placed in such a manner so that the view of the structures from the water and to the water is filtered or obscured and the visual impact is minimized.

All parking, loading, access driveways or service areas shall be constructed of permeable materials where practicable.

Lighting devices shall be oriented and limited so as to minimize disturbances on surrounding properties and so as not to unreasonably diminish or obstruct views from the water or to the water.

Wharves, docks, moorings and other in-water structures. No person shall construct or expand any in-water structure, including but not limited to docks, piers, wharves, or jetties without first obtaining a special permit from the Planning Board pursuant to the Town of Essex Waterways and Harbor Management Law.

Shoreline Alteration: No person shall construct, place, expand, or alter or replace any retaining wall or bulkhead without first applying for, and obtaining, a special permit from the Planning Board. In addition, a special permit is required for any filling, grading, lagooning, dredging, ditching and/or excavating within the Shoreline Overlay District where such activities affect an area greater than 200 square feet. The following standards shall apply to the foregoing activities:

General standards:

The activity shall not alter the natural contours of the shoreline.

The activity shall not disturb shoreline vegetation except in a minimal way. Where vegetation is destroyed, harmed or removed, it shall be restored or replaced with indigenous vegetation. Stabilization shall be in accordance with the U.S. Soil Conservation Service Engineering standards and specifications.

The activity shall be carried out in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.

The activity shall be designed and carried out to preserve or enhance the aesthetic features of the shoreline area to be disturbed and the shoreline and not aesthetically detract from the shoreline areas in the immediate vicinity of the area to be disturbed.

All applicable federal, state and other governmental agency permits shall be obtained.

Specific Standards:

Filling. No fill shall be placed in the Shoreline Overlay District except as associated with shoreline protective structures, beach replenishment, agricultural uses or other uses approved by the Planning Board. Any fill placed in the Shoreline Overlay District shall be protected against erosion.

Dredging. There shall be no removal or rearrangement of materials in the water, except at those locations where such removal or rearrangement is found to be beneficial to existing shoreline conditions, uses, and water quality and clarity. Where dredging is permitted by the Planning Board, soil materials shall not be deposited in the Shoreline Overlay District unless approved by the Planning Board.

Retaining Walls/Bulkheads. The addition, expansion or replacement of any type of retaining wall or bulkhead shall be discouraged, except in the case where the alternative of shoreline restoration to a natural state is impossible due to excessive slope or severe erosion problems, a condition to be determined by the Planning Board. Construction of retaining walls or bulkheads shall not be allowed when proposed for only aesthetic purposes.

Tree cutting and land clearing regulations.

The purpose of the tree cutting and land clearing regulations is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreline area. These provisions shall not apply to the removal of dead, diseased or dying trees or to other vegetation that in the opinion of the Zoning Officer, present safety or health hazards. Within the Shoreline Overlay District, the removal of vegetation, including trees, shall be permitted on shorefront lots provided a Zoning Permit is issued by the Zoning Officer and the following standards are met:

Within 35 feet extending inland from all points along the mean high-water mark no more than 30 percent of the trees in excess of six inches diameter at breast height (4 ½ feet above ground) existing at any time may be cut over any ten-year period.

Within six feet inland of the mean high-water mark no more than 30 percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to Subsection (1) above.

The general exception to the above standards shall be an allowance for lake access and beaches. The creation of a contiguous clear-cut opening in the buffer strip shall not exceed 20 percent of the shoreline frontage on any individual lot or a maximum of 50 linear feet, whichever is less. The clear-cut should be angled across the lot so as to allow for a view and access, but reduce runoff. The pathway created should be constructed or surfaced to be effective in controlling erosion.

As an alternative to the above standards, a cutting plan allowing greater or different cutting may be permitted by the Zoning Officer by review and approval of a cutting plan. Such plan shall include a sketch of the lot and provide information on the topography and existing vegetation of the area in question, a proposed cutting plan and proposed re-vegetation plan. The Zoning Officer may request the Planning Board, Soil Conservation Service or other agency for input and recommendations. The Zoning Officer may grant such permit only if it is determined that the cutting plan:

Will not cause undue erosion or destruction of scenic beauty;

Will provide that natural vegetation is preserved as far as practicable and, where removed, is replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty;

Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the Zoning Officer may require the submission of a bond which will guarantee the performance of the replacement plantings by the lot owner.

Will not violate the standards of the shoreline restrictions of the Adirondack Park Agency or other governmental agency, if applicable.

## APPENDIX A

### Shoreline Overlay District Regulations

#### Section 3.1-8 Shoreline Overlay District

2.1-7-1 Location and Applicability. The Shoreline Overlay District is superimposed over the basic zoning districts as set forth on the zoning map of the Town of Essex. The regulations presented in this Section shall only apply to those lands located within the boundaries of the Shoreline Overlay District as depicted on Schedule C and as overlaid on the Town of Essex Zoning Map. In the overlay district, proposed land uses are subject to the requirements set forth in this Section, in addition to those requirements and standards ordinarily applicable to the underlying districts. In case of conflict, the more restrictive regulation requirements shall apply.

2.1-7-2 Purpose. The Shoreline Overlay District regulations are intended to provide additional protection to the lakefront and shorelines of the Town of Essex so that uses of land and structures are arranged, constructed and operated in a manner that conserves the natural beauty and environmental integrity of this area of the Town. As stated in the Town of Essex Shoreline study, "the overall intent in creating this overlay district is to encourage growth that does not detract from the community character or degrade the natural environment near the Town's shoreline."

2.1-7-3 Effect on Schedule A. The schedule of uses permitted or allowed by site plan or special permit in each of the underlying zoning districts remains in effect in the Shoreline Overlay District except that all permitted and special permit uses shall also require site plan review and approval. Thus, at a minimum, no new structure or use, or expansion or change to an existing structure or use, shall be allowed in the Shoreline Overlay District without first applying for, and obtaining, site plan approval together with the other approvals required in the underlying zoning district. In addition, site plan approval is required for all retaining walls, wharfs, bulkhead and/or any other structure, landscaping or any other alteration of the shoreline prior to its construction. The following uses are prohibited in the Shoreline Overlay District even though such uses may be permitted or allowed in the underlying zoning district: Mobile home parks, junkyards, large-scale manufacturing, hospitals and stand alone telecommunication towers in excess of 25 feet in height.

2.1-7-4 Dimensional Requirements: The minimum dimensional requirements applicable for the underlying zoning districts apply with the following additions (where conflict occurs, the stricter requirements apply).

#### For Residential Uses:

- o Minimum Shoreline Width: 75 feet for EH, 150 feet for all other districts
- o Minimum Shoreline Building Setback (excluding docks eight feet or less in width and bathhouses): 50 feet for EH, and R-II districts; 75 feet for all other districts.

#### For Non-Residential Uses:

- o Minimum Shoreline Width: 100 feet for EH; 150 feet for all other districts

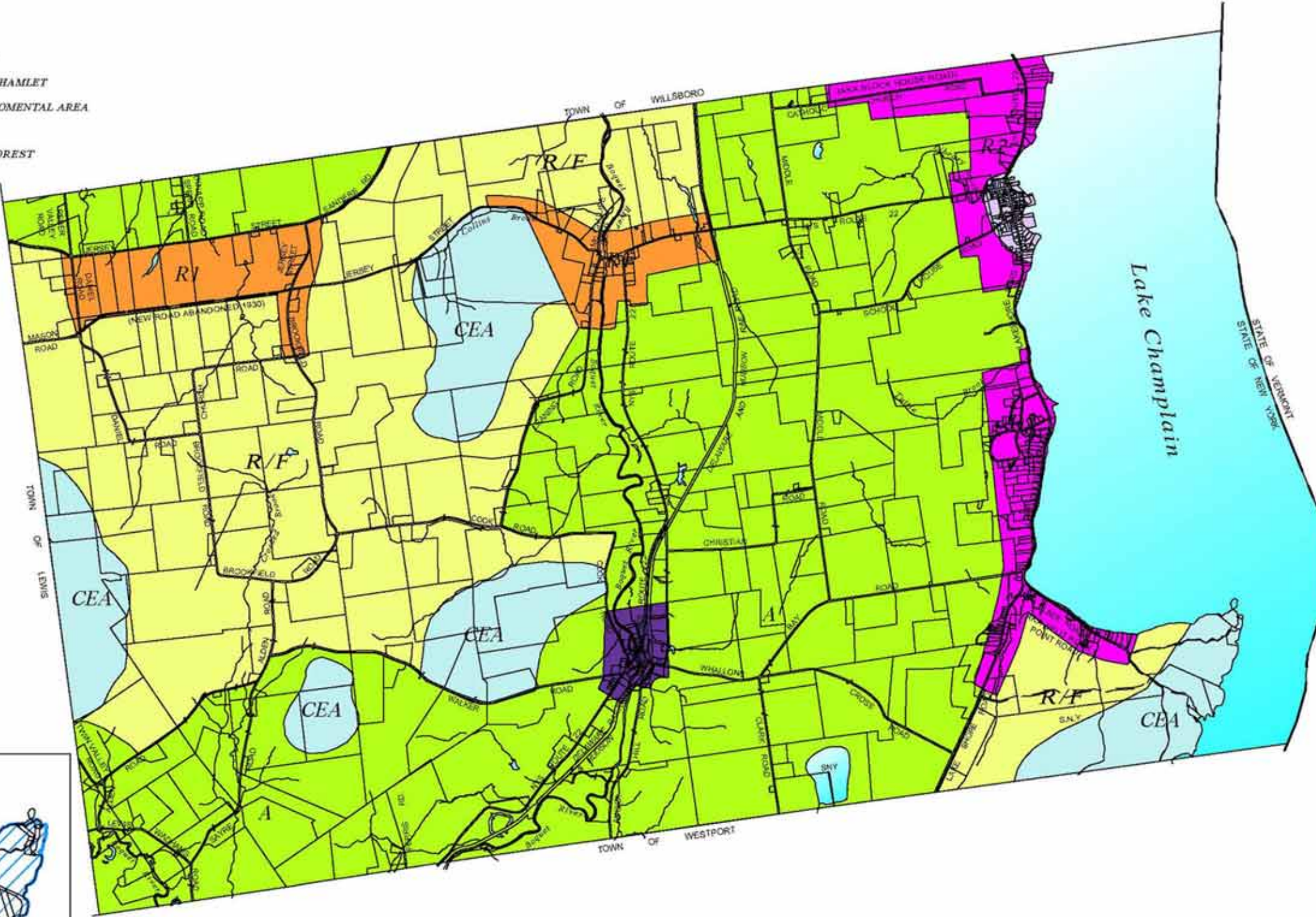


Town of Essex  
ZONING CLASSIFICATIONS

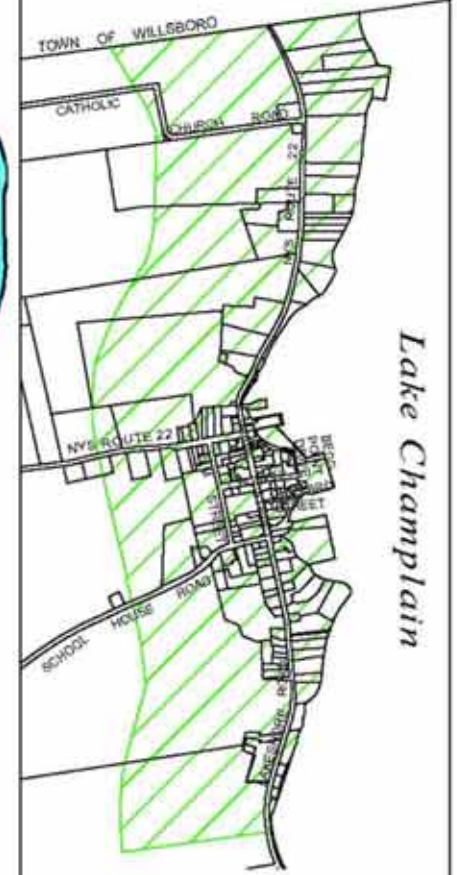
- R1-RESIDENTIAL 1
- R2-RESIDENTIAL 2
- EH- ESSEX HAMLET
- WH- WHALLONSBURG HAMLET
- CEA- CRITICAL ENVIROMENTAL AREA
- A- AGRICULTURE
- R/F- RECREATION/FOREST



SHORELINE PROTECTION  
OVERLAY DISTRICT



TOWN OF ESSEX  
HISTORIC DISTRICT  
BOUNDARY



NO	DESCRIPTION	DATE

**AES**  
NORTHEAST  
1012 CITY HALL PLACE  
PLATTSBURGH, NEW YORK 12001  
TEL: (518) 531 1593  
FAX: (518) 531 1890  
www.aesnortheast.com

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<p>DRAWING TITLE</p> <h1>ZONING CLASSIFICATIONS FOR THE TOWN OF ESSEX</h1> <p>ESSEX COUNTY, NY</p>	DATE: 5/13/2009
	DRAWN BY: J. BURIS
	CHECKED BY: S. ALLEN
	PROJECT NO: 285



## APPENDIX B

### Shoreline Protection Overlay District Description

Please refer to the Shoreline Protection Overlay District Map for an illustration of the Shoreline Protection Overlay District. From the north, the Overlay District begins at the Town of Essex line. The eastern edge of the district is defined by the Lake Champlain shoreline, bordering Whallons Bay, and Split Rock Point before turning south again to meet up with the south side tax parcel 49.04-1-6.200. The overlay district boundary follows the backside of tax parcel 49.04-1-6.200 until it intersects with the road that parallels the Whallons Bay shoreline. The boundary follows this roadway along the ridgeline and then tracks the eastern boundaries of tax parcels 49.04-1-9.100 and 49.04-1-1.00 before meeting up with Lake Shore Road.

At this point the district boundary heads northward along Lake Shore Road before following the southern edge of tax parcel 49.15-1-19.000, then turning northward to line the western edges of several parcels that sit to the west of Lake Shore Road. At the northwest corner of tax parcel 49.11-1-2.000 the district boundary continues northward paralleling Lake Shore Road at a distance of 2,250 feet until it heads due east to meet up with the southwest corner of tax parcel 40.81-3-10.000.

Continuing to head northward the boundary borders the west side of the first row of parcels lining the west side of Lake Shore Road until it meets with tax parcel 40.73-5-3.100. It then runs along the south border of tax parcel 40.73-5-3.100, meets Elm Street and follows it to County Route 22.

The district boundary then follows County Route 22 westward before lining the west edge of tax parcel 40.3-2-11.000. At this location the boundary then again parallels Lake Shore Road at a distance of 1,300 feet before meeting up it Blockhouse Road. Blockhouse Road eastward, the district boundary lines the west and north boundaries of tax parcel 40.57-1-2.000 before continuing along Lake Shore Road to the Essex Town line.

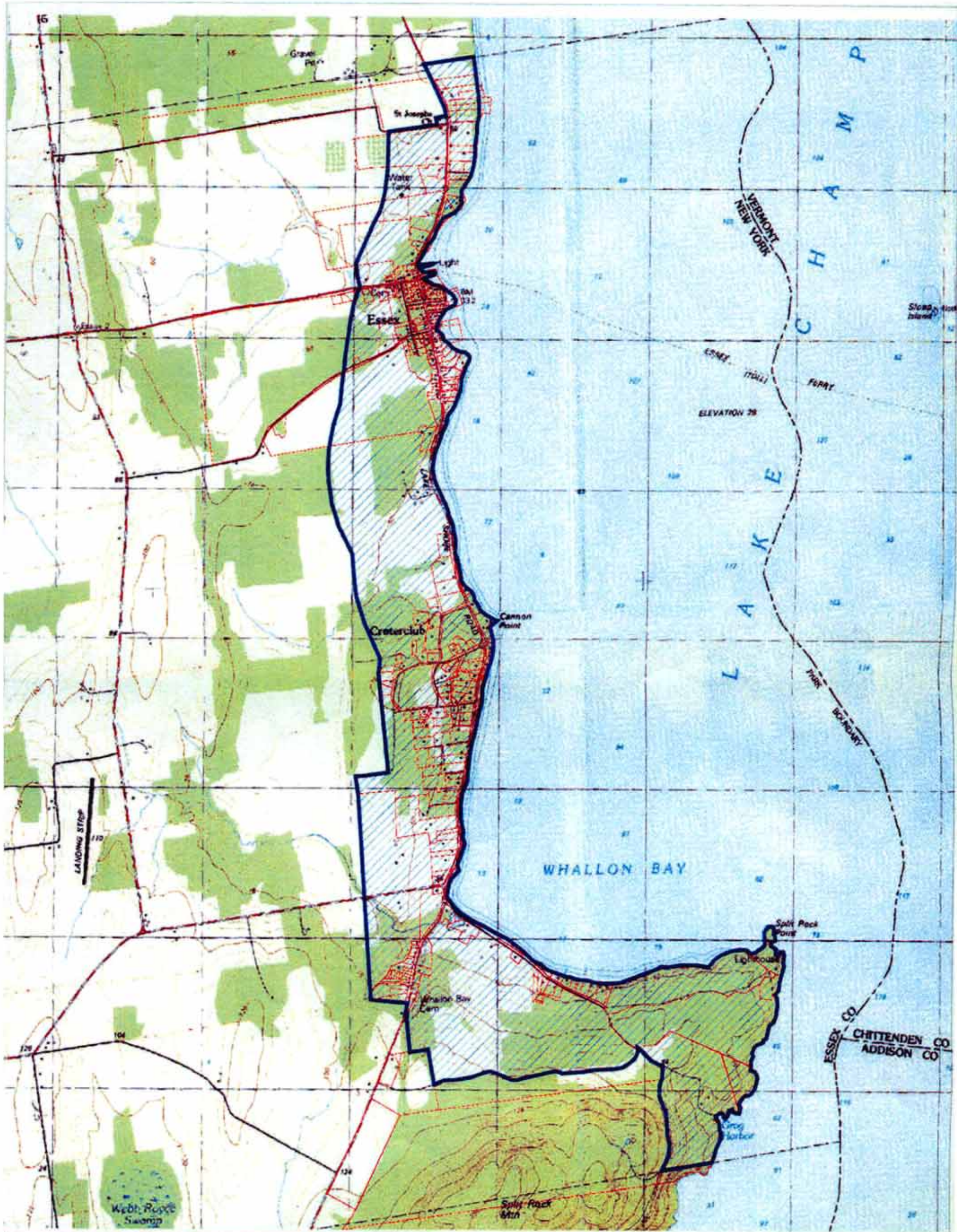
#### Justification for the Western Edge of the Shoreline Protection Overlay District

In dealing with zoning district boundaries, it is common planning practice to follow physical and distinct boundaries such as roads, streams, or parcel boundaries. Where physical features are not located in a manner that can serve this purpose, it is common to specify a distance from a roadway. In Essex, the proposed Shoreline Protection Overlay District roughly parallels the shoreline and there are very few physical features that also parallel the shoreline making it difficult to use them to form the western boundary. Where the possibility existed, a feature such as a road or tax parcel was used. Where there were no parallel features to the shoreline, a specific distance was used. An example of this situation can be found on the property commonly referred to as the South Farm.

To determine the distance in this example, a visual and topographic analysis was completed to determine where the ridgeline formed the top of the hill. This methodology was employed so that lands subject to development in highly visible areas could be included in the Shoreline Protection Overlay District. The distance determined for this area is 2,250 feet from Lake Shore Road.



# ESSEX HAMLET WATERFRONT PLAN



## SHORELINE PROTECTION OVERLAY DISTRICT

Shoreline Protection Overlay District

Parcel Boundaries



March 2000

THE SARATOGA ASSOCIATES

LANDSCAPE ARCHITECTS, ARCHITECTS, ENGINEERS AND PLANNERS, P.C.  
SARATOGA SPRING, NEW YORK CITY 12158-1000



## APPENDIX C

### Waterways and Harbor Management Law

**Findings:** Lake Champlain within the Town of Essex supports a wide range of public and private in-water uses. These uses include recreational and commercial boating, anchorage and mooring areas, recreational fishing and swimming, marinas, public and private docks, special aquatic events, and ferry service. The Town of Essex finds that to manage the efficient use of Lake Champlain that lies within the Town, promote the safety of commercial and recreational navigation, provide for the equitable allocation of the water's surface for a variety of uses, and to protect the natural and cultural resources upon which many of these uses depend, this Local Law is hereby enacted for these purposes and to implement the Town's Local Waterfront Revitalization Program.

#### Section 1.0 Authority:

1.1 This law is adopted pursuant to §130.17 of New York State Town Law, §922 of the New York State Executive Law, §10 the Municipal Home Rule Law; and Article IX of the New York State Constitution.

1.2 The provisions of this law shall, except when prohibited by the laws of the United States, apply to all the waters of Lake Champlain that lie within the Town of Essex.

#### Section 2.0 Definitions: As used in this law, the following terms shall have the meaning indicated.

**ANCHOR:** To secure a vessel temporarily to the bottom of a water body by dropping an anchor or anchors or other ground tackle from a vessel for a period of no longer than seventy-two (72) consecutive hours.

**ANCHORAGE AREA:** The areas designated by the Town of Essex, as depicted on the Harbor Management Chart, that are reserved specifically for the anchoring of vessels.

**AQUATIC EVENT:** Any public or private organized activity including but not limited to a regatta, boat race, boat show, water skiing competition or demonstration, or firework display, which uses a defined area of the water for set period of time.

**BEACH:** All public beaches (of all jurisdictions), private membership club beaches, and private homeowners' association beaches, as depicted on the Harbor Management Chart.

**BULKHEAD:** Any structure, except a building, positioned parallel to the shoreline, the primary function of which is to retain soil or any other material from eroding into a waterway or to protect the land from wave damage.

**CHANNEL:** Water areas specifically reserved for unobstructed movement of vessels and which may be marked in the water by aids to navigation. Channels are depicted on the Harbor Management Chart.

**DOCK:** Any permanent structure, except a building, connected to a bulkhead or the upland and extending over the water's surface designed to secure vessels and provide access from the shore to a water body. The term dock includes the term pier, attenuation dock, quay, wharf, crib dock, stake dock, floating dock and all other similar structures.

**DOCK-COMMERCIAL:** A dock or portion of a dock which accommodates more than three (3) vessels, excepting canoes or row boats and sailboats under eighteen (18) feet.

**DOCK-PRIVATE:** A dock which accommodates up to three (3) vessels, owned by the property owner, excepting canoes, and row boats and sailboats under eighteen (18) feet.

**DOCKMASTER:** See Harbormaster.

**FAIRWAY:** An area in the harbor, other than a federally or locally designated channel, commonly used as an open access way between marine structures or designated channels, buffers areas, and mooring areas.

**FERRY APPROACH AREA:** The area designated on the harbor management chart which is used by the cross lake ferry in arriving and departing from the shore.

**FLOAT:** Any structure buoyant on the water surface affixed and secured in place to underwater lands which provides an offshore surface, for swimmers, or other purposes.

**HARBOR MANAGEMENT AREA:** All surface waters, inlets, bays, and coves of Lake Champlain within the Town of Essex.

**HARBOR MANAGEMENT CHART:** The water surface map adopted by the Town of Essex as part of this local law.

**HARBORMASTER:** The person appointed by the Town Board to ensure enforcement of laws, regulations, and policies governing navigable waters within the Town of Essex. For purposes of this Local Law, the term Harbormaster shall include the position of Dockmaster or any such person authorized by the Town Board to carry out the provisions of this Local Law.

**JET SKI:** A ski propelled by machinery and designed to travel over water. (See Personal Watercraft)

**LAKE CHAMPLAIN WITHIN THE TOWN OF ESSEX:** That part of Lake Champlain that extends to the east to the center of the Lake and north and south to the Essex Town boundary lines.

**LIVE-ABOARD VESSEL:** Any vessel used, designed, or occupied as a dwelling unit, business office or any commercial use, or for any private or social club of whatsoever nature, including but not limited to a structure constructed upon a barge while the same is moored or docked within the harbor management area of the Town of Essex.

**MARINA:** Any waterfront facility which provides accommodation services for vessels by engaging in any of the following: (1) the sale of marine products or services; (2) the sale, lease, rental, or charter of vessels of any type; (3) the sale, lease, rental or any other provision of storage, wharf space, or mooring for vessels not registered to the riparian property owner's immediate family, the owner or lessee of the property, members of the lessee's immediate families, or an overnight guest on said property.

**MOOR:** To attach a vessel to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

**MOORING AREA-PUBLIC:** The areas designated by the Town of Essex as depicted on the Harbor Management Chart that are reserved specifically for the mooring of vessels.

**MOORING DEVICE:** a permanent or semi-permanent vessel-anchoring device and its associated tackle, such as chains, buoys, and other equipment, other than a common anchor, manufactured and used specifically for the permanent or semi-permanent mooring of vessels.

**PERSONAL WATERCRAFT OR SPECIALTY PROP CRAFT:** A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power or is powered by an outboard motor or a propeller drive motor, and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

**PERSON:** An individual, partnership, corporation, association, and any other legal entity subject to the provisions of this chapter.

**PIERHEAD LINE:** A line, as depicted on the Harbor Management Chart, beyond which no structure may extend out into navigable waters.

**SHORELINE:** The line of the shore as generally depicted on the Harbor Management Chart.

**SPEED:** The speed of a vessel over the water's surface as measured in miles per hour.

**SWIMMING AREA:** A water area designated on the Harbor Management Chart set aside for swimming.

**TOWN BOARD:** The Town Board of the Town of Essex.

**UNREGISTERED VESSEL:** A vessel that is not registered as required by New York State Law.

**VESSEL:** Includes every description of a motorized vessel and watercraft or other contrivance used or capable of being used as a means of transportation in or on the water, including aircraft, and personal watercraft.

VESSEL OWNER: The person under whose name the vessel was last registered in accordance with the provisions of Section 46, United States Code on Chapters 121-125 of the NYS Motor Vehicle and Traffic Law and, in any other case, the last known owner or person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him/her to such possession.

### Section 3.0 Vessel Operations:

3.1 Dangerous operation prohibited. No person shall operate a vessel at a speed greater than is reasonable or prudent, including, without limitation, the throwing of its wake, so as to:

- a. endanger the life or limb of another person using Lake Champlain under the conditions and having regard to the actual and potential hazards then existing; or to
- b. disturb the reasonable comfort or endanger a person on or operating another vessel or cause damage to another vessel, structure, shoreline property, the environment, or interfere with the free and proper use of the waters of any channel.

3.2 Speed of vessels:

- a. No person shall operate any vessel at a speed in excess of that posted by speed markers. The Town may, from time to time, by resolution, establish maximum speed limits for any portion of waters or waterways subject to this law and provide for the posting of speed markers, or signs at conspicuous locations.

No person shall operate a vessel at speeds greater than five (5) miles per hour within congested areas within the jurisdictional limits of the Town, which shall include marinas, anchorage areas, mooring areas, fairways, channels, the north and south bays adjacent to the hamlet of Essex or other areas within feet of the shoreline, except to enable a water skier to take off or land in areas outside the waters adjacent to the hamlet.

The Town Board may, by resolution, from time to time and for periods stated in such resolution, suspend the enforcement of this section with respect to any portion or portions of waters or waterways and designate such areas by the location of appropriate speed markers.

No person shall operate a vessel at speeds greater than five (5) miles per hour within one hundred fifty (150) feet of swimmers, bathing floats, a regulation red diving flag, or lifelines.

No person shall operate a vessel within one hundred fifty (150) feet of any area marked for skin or scuba diving by the placement a regulation red diving flag except a vessel being used to support such diving.

3.3 Identification and Vessel Registration:

No person shall operate an unregistered vessel upon the waters of the Town. Vessel operators shall identify themselves and produce the vessel's registration to Town, county, state or federal law

Where a shoreline lot owner violates this Section, the Zoning Officer may require total re-vegetation so as to create a buffer strip area which is in compliance with this Section.

APA Standards should be met if they are stricter than the above.

Provisions for Access: Within the Shoreline Overlay District, the following minimum shoreline frontages shall be required for deeded, easement, right-of-way, or other contractual access to the shoreline of Lake Champlain for three or more lots, parcels, or sites or multi-family dwelling units not having separate and distinct ownership of shore frontage:

Site plan review and approval by the Planning Board pursuant to the standards below.

A plan shall be submitted showing areas for swimming, recreation, docking, building placement, parking and landscaping.

Compliance with the Town of Essex Waterways and Harbor Management Law and the provisions of this Section and this zoning law.

Such use shall not significantly impair the natural appearance of said parcel; shall not overcrowd the parcel or the adjacent water surface; shall not produce unreasonable noise or glare to the surrounding properties; and shall not pose any substantial hazards.

The first three (3) lots, sites or dwelling units shall require a total of not less than 75 feet and each additional lot, site or dwelling unit shall require an additional five (5) feet of shoreline frontage.

Waterfront parcels may be developed for contractual access for five (5) or more lots or units only if those lots or units are part of an overall development plan for land that is located adjacent to the waterfront parcels.

Each parcel used for contractual access shall measure at least the minimum lot area for the zoning district where the access is proposed and shall measure an average depth of 100 feet from the mean high water mark.

No structures other than toilets in compliance with NYS Dept. of Health regulations, pump houses, changing facilities, and picnic shelters shall be constructed on the waterfront parcel. The total combined square footage of all structures shall not exceed 1000 square feet.

Commercial activities of any kind are prohibited.

Parking areas shall be landscaped and shall be set back from the shoreline a minimum of 75 feet.

### 3.1-8-10 Exemption for Emergency Conditions

The shoreline restrictions shall not apply to any emergency land use or development which is immediately necessary for the protection of life or property as defined by the Adirondack Park Agency in its rules and regulations as authorized in Section 809 of the Adirondack Park Agency Act.

enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of the operation of an unregistered vessel and a violation of this section. Required equipment: No person shall operate a vessel which does not meet all duly adopted and published requirements of the State Navigation Law with regard to safety equipment to be carried or incorporated into vessels of its type.

### 3.5 Prohibited discharges.

No person on or operating a vessel shall dump refuse, or garbage, or discharge treated or untreated sanitary waste to the water.

### Section 4.0 Personal Water Craft (PWC):

No person shall operate a PWC within five hundred (500) feet of shore at a speed greater than five (5) miles per hour except that such five (5) mile per hour speed limit shall not apply when operating at safe headway speed in a straight line to or from shore or to of from an area five hundred (500) feet from shore.

No person shall operate a PWC within the Town so as to knowingly annoy, disturb, injure or endanger the health, comfort, repose, or peace of another person.

No person shall operate a PWC between the hours of 7:00 p.m. or sunset, whichever is earlier and 8:00 a.m.

### Section 5.0 Aquatic Events:

No person shall conduct organized aquatic events without obtaining a permit for such event from the Town Board.

No person shall operate a vessel to tow water skiers, nor shall any person water ski in or across navigation channels at any time within five hundred (500) feet of any bather, diver, pier, wharf, float, mooring, other boat or the shore. Water skiing includes riding on, operating, or being towed by motor-propelled surfboards and water bikes, and the towing or manipulation of a surfboard or similar devices behind a motorboat. Such devices, which are defined as vessels in accordance with the State Navigation Law, may be operated along the outside lines of navigation channels to reach and return from open waters where their operation is permitted, but shall not interfere with the operation of other vessels.

### Section 6.0 Mooring Areas:

Location of Mooring: The location of public mooring areas are indicated on the harbor management chart, the use thereof, and the types of mooring permitted are subject to standards adopted by the Town Board. Location and use conditions will be stated on the mooring permit.

## Mooring Permits:

No person shall place a mooring or mooring tackle, or moor a vessel, without first obtaining a mooring permit. Such permit shall be applied for on forms to be supplied by the Town and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Town Board.

Upon receipt of a properly prepared application, the Harbormaster shall determine if the application is complete, and if so, shall process the application. No application shall be deemed complete until the permit fee is paid. A mooring permit shall be deemed expired if the mooring is not installed within two years of the date it was issued. The applicant shall have six months to file an application for renewal of the expired permit.

Permits for the use of individual private moorings in public mooring areas shall be issued to the owner of the vessel to be moored. These moorings shall not interfere with egress or access to new or existing fairways or new and existing public access to the waterfront.

Permits for moorings accessory to a waterfront residential use shall be issued to the riparian property owner or lessee. Two moorings are allowed per riparian residential property dependent on conditions and available water surface area. These moorings should not limit access to adjacent properties. All such permits shall be non-transferable.

### 6.3 Mooring within the Harbor Management Area:

No person shall moor any vessel except in a designated mooring area as shown on the Harbor Management Chart unless the vessel is moored at a marina, yacht club, or at a mooring accessory to a lodging, restaurant, or waterfront residential use.

No person shall moor any vessel so that it lies within the lines of any channel, swimming area, fairway, or ferry approach access channel.

No person shall place a mooring, nor shall any mooring be placed so that a vessel moored to it, at the full swing of its' mooring line, will be closer than twenty (20) feet to the projection of the property lines extended into the lake as determined by the Harbormaster in accordance with commonly accepted convention and practices for such determinations.

No person shall fail to anchor or moor a vessel in such manner as to be secure at all times and under all conditions. Any vessel that becomes a menace to navigation or is un-seaworthy or sinks, grounds, or otherwise becomes disabled, shall be removed by the owner or person in charge of such vessel. If such vessel is not removed within a reasonable period of time after a lawful order to remove it, it may be removed by or at the direction of the Town Board at the expense of the owner or person in charge of said vessel. It shall be a violation of this section if any person fails to remove such vessel after ordered to remove it.

### Section 7.0 Anchoring:

No person shall anchor in a channel, fairway, mooring area, ferry access channel or within 100 feet of shore except in a designated anchorage area.

No person shall anchor at night without displaying lights except in an anchorage area designated on the Harbor Management Chart.

No person may anchor a vessel for more than seventy two (72) hours without obtaining a permit from the Harbormaster.

A person owning, operating, or in control of such vessel may leave a vessel temporarily to go ashore, but must be available to tend the vessel in the event of inclement weather. It shall be the vessel owner's and/or operator's responsibility to remain clear of all moored vessels and other structures.

### Section 8.0 Floats:

No person shall anchor or moor any float without a permit from the Harbormaster.

Issuance of permits shall take into account safety, day and night navigation, water depth and bottom conditions, tackle, access, and compliance with the Local Waterfront Revitalization Program. No float shall interfere with the use of channels or fairways. Permit shall only be issued to a riparian property owner.

### Section 9.0 Docks and Other In Water Structures:

No person shall construct or expand any structure including but not limited to docks, piers, wharves, boat lifts, breakwaters, or jetties, without obtaining a permit in compliance with the Town of Essex Zoning Law. Permits shall only be issued to a person with a riparian property interest by the Harbormaster.

Issuance of permits shall take into account safety, day and night navigation, effects on natural resources, cultural resources and water quality, public use of the water, and compliance with the Town's Local Waterfront Revitalization Program.

Docks accessory to a riparian residential use are limited to 100 feet in length or 8 feet of water depth, whichever is less, and 8 feet in width.

No dock or other structure may be constructed within 15 feet of a line that defines the area of riparian rights of a neighboring property, which line shall be determined in accord with commonly established conventions and practices for such determinations.

No structures shall be placed upon a dock that are not necessary for vessel access and safety.



No dock or other structure shall extend into a fairway, channel, ferry access channel, anchorage area, mooring area, or extend waterward of a pierhead line designated on the Harbor Management Chart.

A permit is not required for repairs to an existing dock, if such repairs do not alter the dock's size or shape.

#### Section 10.0 Living Aboard Vessels:

Except as hereinafter provided, no person shall live aboard any vessel or any floating or fixed structure over the water, nor shall any person or marina owner or operator permit any vessel to be used for living aboard when moored or docked within the harbor management area, except as outlined in Section 6.2 (Mooring Permits).

During the period April 15 to November 30, a vessel may be occupied as living quarters, provided that:

The vessel is of a type typically used for recreational boating and is suitable for general navigation on Lake Champlain under its own propulsion at any time during the period April 15 to November 30.

The vessel shall be moored or docked in a marina that has access to the lake for that boat, excluding periods of hazardous boating conditions.

The vessel is equipped with a Type III Marina Sanitation Device, in operational condition, and has access to a vessel waste pump facility.

#### Section 11.0 Enforcing Authority:

The Town Board, Harbormaster or any peace officer, are empowered to enforce the provisions of this Local Law. Every person in charge of a vessel shall at all times obey the lawful orders of a police or peace officer.

All appeals of decisions made by the Harbormaster shall be reviewed by the Town Board which shall be responsible for issuing a final determination.

The Harbormaster may recuse himself from the review of any application which represents a conflict of interest and may turn over any application he deems appropriate to the Town Board to rule on.

The Town Board shall have the final authority to enforce all provisions of this Local Law.

#### Section 12.0 Penalties for Offenses:

Any person violating any provision of this law shall be guilty of a violation and may, upon conviction, be punished by a fine not exceeding \$100. Each day that a violation under this law continues shall be deemed a separate offense.

#### Section 13.0 Waivers:

Upon request from the applicant, the Town Board may waive the numerical standards for docks and other in-water structures where strict compliance with the regulations for such structures results in an undue burden on the applicant, provided that such waiver will not have the effect of nullifying the intent and purpose of the Harbor Management Law.

#### Section 14.0 Miscellaneous Provisions:

Owners of the upland property shall completely remove any pilings, floats, or similar structures which are abandoned or fall into disuse.

No permit shall be issued for moorings or docks for commercial uses as defined in the Town zoning code unless or until the associated upland property has met the standards of the Town of Essex Zoning Law.

The Town Board shall have the power to establish standard contracts and contract terms and fees for the rental of public wharves, slips, docks, and moorings.

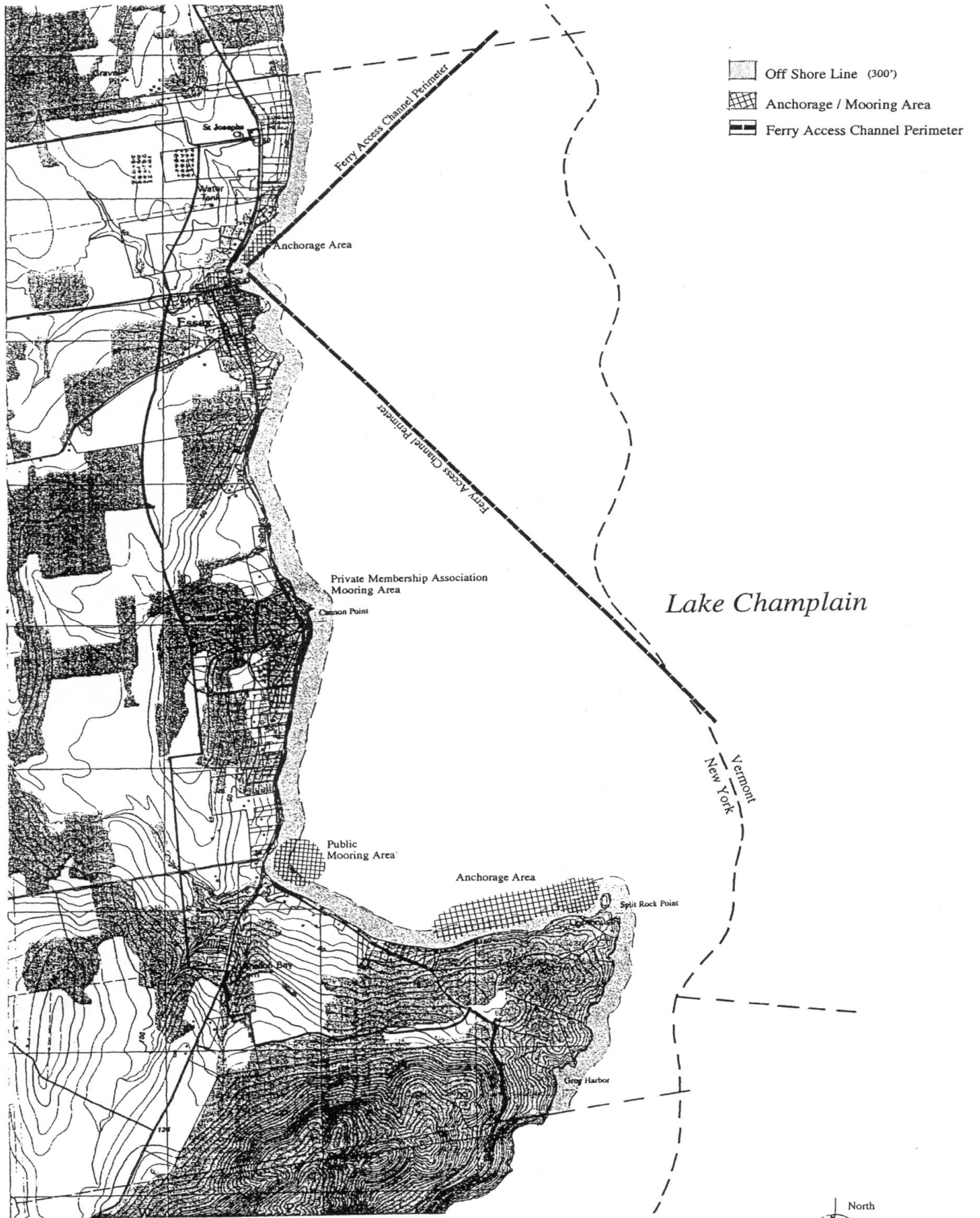
#### Section 15.0 Severability:




The provisions of this Local Law are declared to be severable and, if any section, sentence, clause, or phrase hereof shall for any reason be held to be invalid, ineffective, in conflict with regulations of state or federal authorities or unconstitutional, such decision shall not affect the validity of the remaining portions hereof, but such portions shall remain in full force and effect.

#### Section 16.0 Effective Date:

This Law shall take effect immediately upon its adoption by the Town of Essex and approval of the Harbor Management Plan as a component of the Town of Essex Local Waterfront Revitalization Program by the New York Secretary of State, according to the applicable provisions of law.

# Harbor Management Overlays



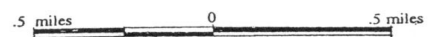
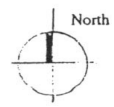
-  Off Shore Line (300')
-  Anchorage / Mooring Area
-  Ferry Access Channel Perimeter

Lake Champlain

Vermont  
New York

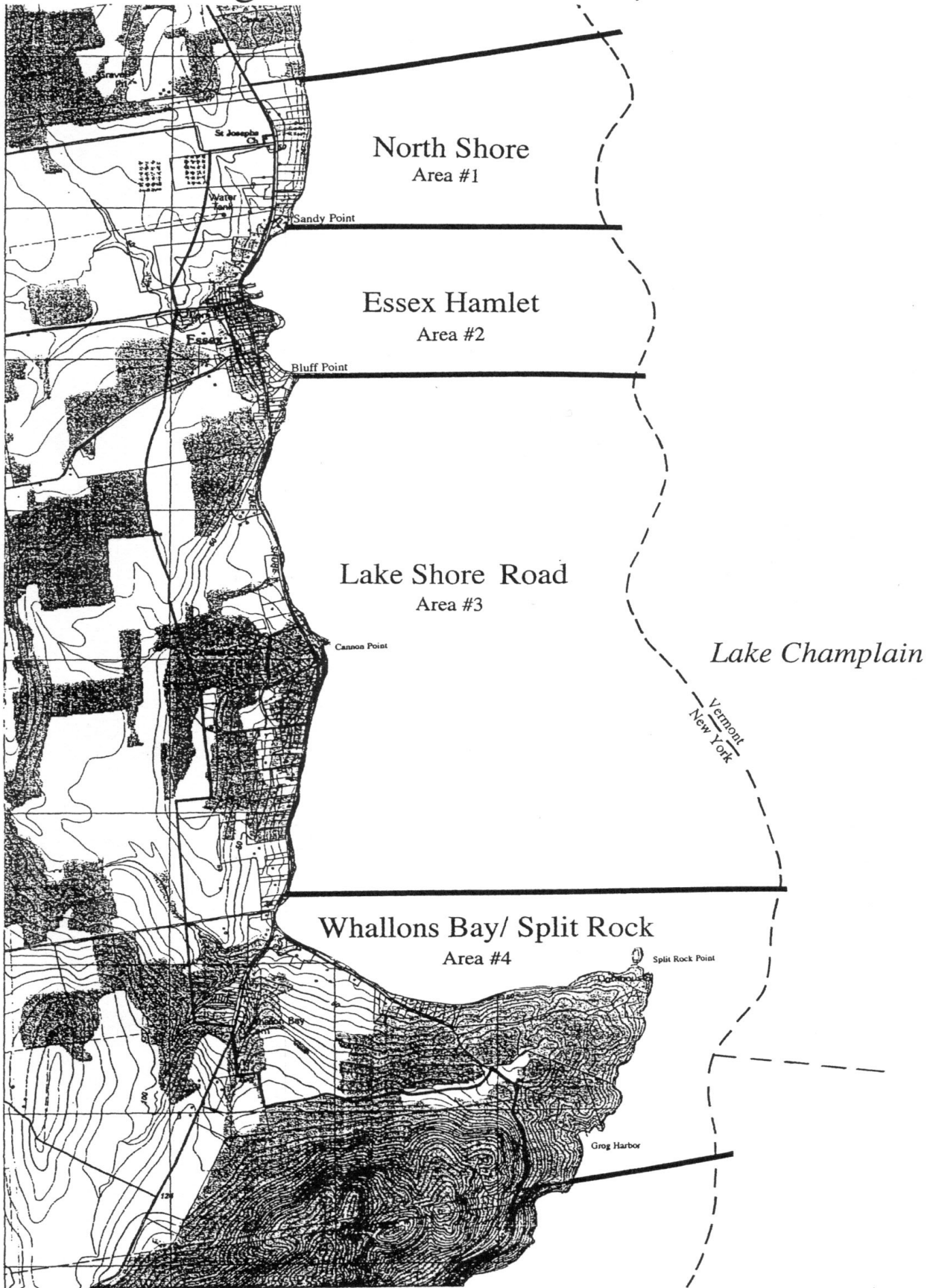
## Town of Essex Harbor Management Plan

Raycroft-Meyer Landscape Architecture and Planning  
21 North Street Bristol, Vermont 05443



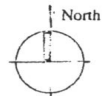
February 2002

# Harbor Management Areas



## Town of Essex Harbor Management Plan

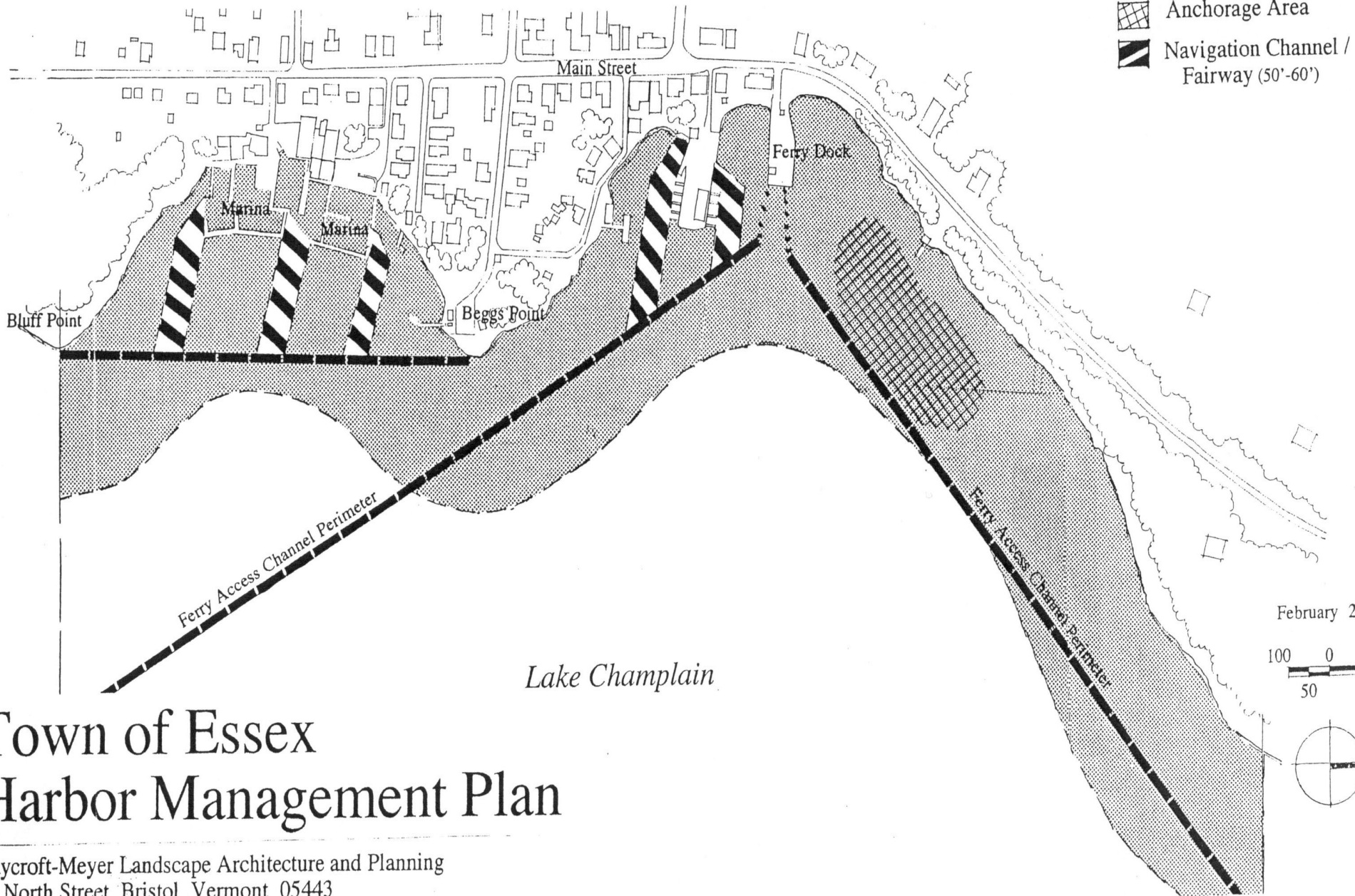
Raycroft-Meyer Landscape Architecture and Planning  
21 North Street Bristol, Vermont 05443



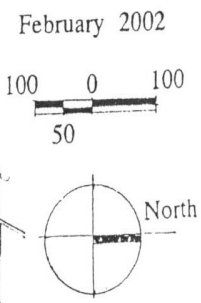
5 miles 0 .5 miles

February 2002

# Essex Hamlet Area



- Off Shore Line (300')
- Anchorage Area
- Navigation Channel / Fairway (50'-60')

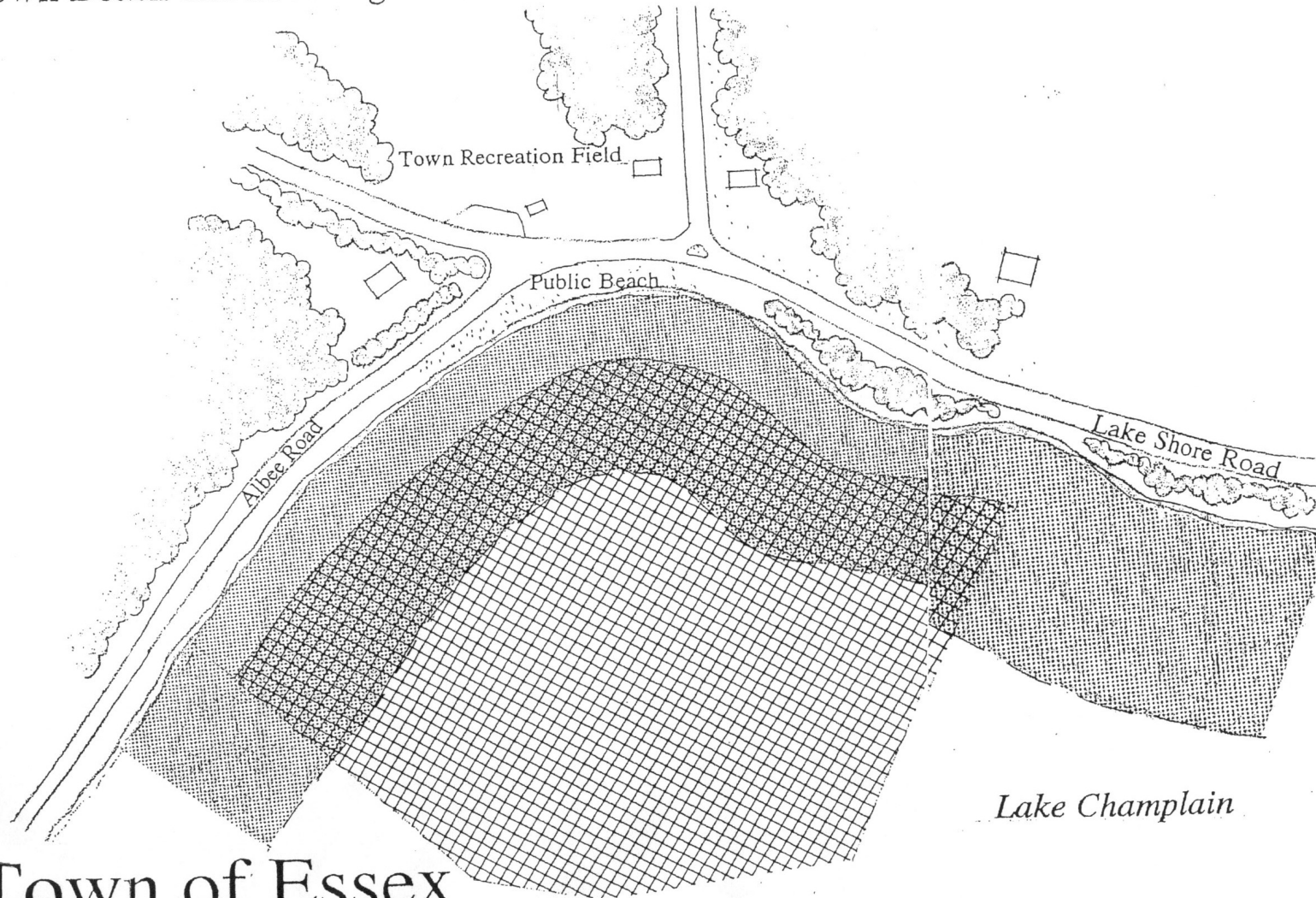




# Town of Essex Harbor Management Plan

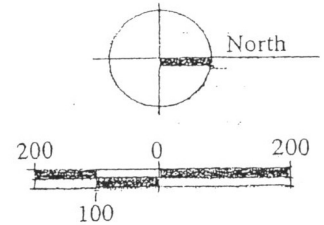
Raycroft-Meyer Landscape Architecture and Planning  
21 North Street Bristol, Vermont 05443

# Whallons Bay

Town Beach and Mooring Area



-  Off Shore Line (300')
-  Public Mooring Area



February 2002

## Town of Essex Harbor Management Plan

Raycroft-Meyer Landscape Architecture and Planning  
21 North Street Bristol, Vermont 05443

## APPENDIX D

### Waterfront Consistency Review Law

#### I. Title

This Local Law will be known as the Town of Essex Waterfront Consistency Review Law.

#### II. Authority and Purpose

1. This Local Law is adopted under the authority of Section 10 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).

2. The purpose of this Local Law is to provide a framework for agencies of the Town of Essex to consider the policies and purposes contained in the Town of Essex Local Waterfront Revitalization Program when funding, approving, or directly undertaking actions located in the waterfront area; and to assure that such actions are consistent with the said policies and purposes.

3. It is the intention of the Town of Essex that the preservation, enhancement, and utilization of the natural and historic resources of the unique waterfront area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural and historic resources and the need to accommodate reasonable population growth, economic development, and attract the traveling public. Accordingly, this Local Law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss of fish and wildlife resources; diminution of open space areas or public accesses to the waterfront; loss of historic resources; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

4. The substantive provisions of this Local Law shall only apply while there is in existence a Town of Essex Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

#### III. Definitions

1. "Actions" means any action other than a minor action, actions include:

projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the waterfront area by changing the use, appearance or condition of any resource or structure, that:

- (i) are directly undertaken by an agency; or
- (ii) involve funding by an agency; or
- (iii) require one or more new or modified approvals, permits, or review from an agency or agencies;



2. "Agency" means any board, agency, department, office, other body, or officer of the Town of Essex.

3. "Waterfront area" means any land or water area that lies within the Waterfront Boundary established in the Town of Essex Local Waterfront Revitalization Program.

4. "Consistent" means that the action will fully comply with the LWRP policies and purposes and, whenever practicable, will advance one or more of them.

5. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Essex, 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 Essex.

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

maintenance or repair involving no substantial changes in an existing structure, facility, or landscape;

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

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

official acts of a ministerial nature involving no exercise of discretion;

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

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;

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 Part.

"Planning Board" means the Planning Board of the Town of Essex.

#### IV. Review of Actions

##### A. Town Board Written Determination of Consistency



Whenever a proposed action is located within or affects the Town's waterfront area, a Town agency, other than the Planning Board, shall, prior to approving, funding, or undertaking the action, refer the proposed action to the Town Board for a determination whether it is consistent with the LWRP.

The Town Board may request any information reasonably necessary to make its consistency determination and may seek the advice of the Planning Board prior to making its determination.

The Town Board shall review the proposed action referred to it and make its consistency determination within 30 days of the first regular meeting of the Town Board following receipt of the referral and any necessary information the Board requested. If the Town Board has sought the advice of the Planning Board the time period for making its determination may be extended 30 days.

The Town Board's determination may be that the action is either:  
Consistent with the LWRP,  
Consistent with the LWRP if stated conditions are met, or  
Inconsistent with the LWRP.

If the Town Board determines that the action is inconsistent with the LWRP, it may suggest alternative actions that would be consistent.

#### B. Planning Board Written Determination of Consistency

Prior to making its decision to approve or disapprove any action located within or affecting the waterfront area, the Planning Board shall make a determination whether the action is consistent with LWRP.

The Planning Board may request from an applicant information reasonably necessary to make a determination of consistency with the LWRP.

The Planning Board shall as much as practical integrate its consistency determination into its existing decision making procedures.

The Planning Board's determination may be that the action is either:  
Consistent with the LWRP,  
Consistent with the LWRP if stated conditions are met, or  
Inconsistent with the LWRP.

If the Planning Board determines that the action is inconsistent with the LWRP, it may suggest alternative actions that would be consistent.

#### C. Consistency Standards

The Town Board's and the Planning Board's evaluation of consistency with the LWRP shall be in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Town of Essex LWRP, a copy of which is on

file in the Town Clerk's office and available for inspection during normal business hours. The action shall be consistent with the policies to:

Foster a pattern of development in the waterfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.

Protect water-dependent uses, promote siting of new water dependent uses in suitable locations, and support efficient harbor operation.

Protect agricultural lands.

Promote sustainable use of fish and wildlife resources.

Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.

Protect and improve water resources.

Minimize loss of life, structures, and natural resources from flooding and erosion.

Minimize environmental degradation from solid waste and hazardous substances.

Provide public access to and along the Town's coastal waters.

Protect scenic resources that contribute to the visual quality of the Essex Town waterfront.

Protect, preserve, and enhance resources significant to the historical, archeological, and cultural legacy of the Essex waterfront.

D. Determination That an Action is Not Consistent with the LWRP

If the Town Board or the Planning Board determines that an action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the Town Board or the Planning Board makes a written finding with respect to the proposed action that:

No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions.

The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions.

The action will advance one or more of the other LWRP policy standards and conditions: and

The action will result in an overriding Town, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policies and purposes.

#### V. Enforcement:

The Town Zoning Enforcement Officer shall be responsible for enforcing this Local Law. No work or activity on a project in the Waterfront area which is subject to review under this Local Law shall be commenced or undertaken until the Zoning Enforcement Officer has been presented with a written determination from the Town Board or Planning Board that the action is consistent with the Town's LWRP policies and purposes. In the event that an activity is not being performed in accordance with this Local Law or any conditions imposed thereunder, the Zoning Enforcement Officer 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.

#### VI. Violations:

A person who violates any of the provisions of, or who fails to comply with any conditions imposed by this Local Law shall have committed a violation, punishable by a civil penalty not exceeding one hundred dollars. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense. Thus, when a violation of any of the provisions of, or with any conditions imposed by, this Local Law is continuous, each day shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty of one hundred dollars a day.

The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this Local Law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Town may also enforce this Local Law by injunction or other civil proceeding.

For the purposes of enforcement and prosecution of violations of this Local Law, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.

#### VII. Severability:

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

#### VIII. Effective Date:

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

## APPENDIX E

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

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

The Act also requires that state agencies provide timely notice to the Town 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.

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.

### 2. Definitions

Action means

A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA); occurring within the boundaries of an approved LWRP; and being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

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

- 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 purposes of the LWRP to the maximum extent practicable; and
- c. That will result in an overriding regional or statewide public benefit.

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 the 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.

### 3. Notification Procedure

When a state agency is considering an action as defined above, the state agency shall notify the Supervisor (Planning Board Chairman) of the Town of Essex.

Notification of a proposed action by a state agency:

Shall fully describe the nature and locations of the action; Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through any alternative procedure agreed upon by the state agency and local government;

Should be provided to the Supervisor (Planning Board Chairman) 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 Supervisor (Planning Board Chairman) should be considered adequate notification of a proposed action.)

If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the Supervisor (Planning Board Chairman) can serve as the state agency's notification to the Town.

### 4. Local Government Review Procedure

Upon receipt of notification from a state agency, the Town will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the Supervisor (Planning Board Chairman), the state agency should promptly provide the Town with whatever additional information is available which will assist the Town to evaluate the proposed action.

If the Town 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.

If the Town 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 Section 5 below shall apply. The Town 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 Town shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

## 5. Resolution of Conflicts

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

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.

If the consultation between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs 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.

If the consolidation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either part 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 situs 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.

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 situs local government.

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.

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